



# Anti-money laundering and counter-terrorist financing measures

## The Cooperative Republic of Guyana

### Mutual Evaluation Report

July 2024



The Caribbean Financial Action Task Force (CFATF) is an inter-governmental body consisting of twenty-four member states and territories of the Caribbean Basin, Central and South America which have agreed to implement common countermeasures to address money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. For more information about the CFATF, please visit the website: [www.cfatf.org](http://www.cfatf.org).

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## *Executive Summary*

1. This report summarises the anti-money laundering/counter financing of terrorism (AML/CFT) measures in place in The Cooperative Republic of Guyana (“Guyana”) as at the date of the on-site visit from September 4<sup>th</sup> – 15<sup>th</sup> 2023. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Guyana’s AML/CFT system and provides recommendations on how the system could be strengthened.

### **Key Findings**

- a) Guyana has made significant efforts to improve its understanding of AML/CFT risk via the conduct of multiple risk assessments including (i) a national money laundering (ML) risk assessment in 2017, that was updated in 2021; (ii) a 2022 Non-Profit Organisation (NPO) terrorist financing (TF) risk assessment; (iii) a 2023 TF risk assessment; (iv) a 2023 sectoral risk assessment on the Extractive Industries; (v) a 2023 Legal Persons (LP) and Legal Arrangements (LP) risk assessment; and (vi) a 2023 Virtual Assets and Virtual Asset Service Providers risk assessment. However, the risk assessment on the Extractive Industries was not finalised and approved prior to the end of the onsite. Notwithstanding, Guyana has made significant strides in the implemented activities and objectives contained within the National Policy and Strategy Plan (NPSP) to address identified risks such as strengthening cooperation and coordination amongst CAs and enactment of new, as well as revisions, to key legislation.
- b) Guyana has a strong TFS-TF legislative framework and CAs have a general understanding of the TF risk profile established pursuant to the second NRA and the updated TF/PF Risk Assessment. However, there are shortcomings regarding the NPO sector, implementation of TFS without delay and the freezing of assets.
- c) CAs in Guyana are able to access a wide range of financial intelligence and other information in the conduct of ML, TF and other predicate offences investigations. The FIU of Guyana has access to a wide range of information including suspicious transactions reports (STRs), threshold transaction reports (TTRs) from reporting entities (REs), monthly currency declarations from GRA and monthly updates on basic and beneficial ownership from the Commercial and Deeds Registry. The FIU of Guyana has, notwithstanding the limited feedback to REs on the quality of the STRs, demonstrated through intelligence reports, feedback from LEAs and successful case studies, the good quality of the STRs received. While not all sectors are reporting, the work of the FIU of Guyana and the products produced, such as its operational and strategic analysis, support the work of LEAs and CAs.
- d) There are multiple LEAs in Guyana investigating associated predicate offences including GPF-CID, SOCU, CANU and GRA. All ML and TF investigations are done by SOCU. While CANU, GPF-CID and GRA demonstrated awareness of the requirement to submit associated predicate offences to SOCU for parallel ML investigations, the AT was unclear of the parameters used. There was no clear coordinated effort between the GPF-CID and SOCU for the conduct of parallel ML investigations. In relation to TF offences, Guyana has had limited TF investigations with no prosecutions or convictions, and as such the AT was

unable to determine whether sanctions for TF offences were effective, proportionate and dissuasive.

- e) Guyana pursues confiscation to some extent as a policy objective. Guyana has at its disposal both criminal and civil asset forfeiture and while all LEAs have demonstrated the use of confiscation measures, this was not done consistently. Guyana also does not have any mechanism in place to facilitate the repatriation, sharing and restitution of proceeds of crime nor does it have a policy to treat with the management of confiscated assets to ensure value is maintained.
- f) AML/CFT supervisors have been designated for FIs and DNFBPs in Guyana. Overall, risk-based supervision is at a developing stage. For the period of the mutual evaluation, there was no supervision of some DNFBP sectors (attorneys-at-law, notaries, accountants and non-financial TCSPs) while for the real estate sector, supervision was found to be progressing. There was no evidence of AML/CFT inspections or risk-based supervision of credit unions. For the FIs, the BOG and GSC have recently revised their respective supervision manuals for a more risk-based focus and have a range of supervision tools whereby entities are subject to supervision based on risk assessment or inspections. The GA, GGB and GGMC have all implemented a strong risk based supervisory framework.
- g) The BOG, GSC, GA, GGB and GGMC apply strong licensing, registration and other controls at market entry, and in some instances during license renewal, to prevent criminals and their associates from owning or controlling FIs and DNFBPs. There are adequate mechanisms to detect when FIs and some DNFBPs breach the licensing and registration requirements.
- h) Overall, FIs, with the exception of credit unions, have a good understanding of their ML/TF risk and AML/CFT obligations and apply mitigating measures to a large extent. The DPMS and casinos are adequately supervised and have demonstrated a good understanding of their ML/TF risk and AML/CFT obligations. There is need for improvement in the understanding and application of risk-based measures by credit unions, attorneys-at-law, notaries, accountants, real estate and non-financial TCSPs. STR reporting by the DNFBP sectors has been low, considering the sectors' ML/TF risk.
- i) There are measures in place to ensure that information on the creation of the types of legal persons (LPs) in Guyana is publicly available. However, no information is publicly available on the creation of legal arrangements (LAs). Also, Guyana is in the process of bolstering its AML/CFT regime inclusive of legislative amendments, digitization of systems and enhanced domestic cooperation to mitigate against the misuse of LPs and LAs.
- j) The Mutual Assistance in Criminal Matters Act (MACMA), the Fugitive Offenders Act and the AML/CFT Act provide a strong framework which enables the CAs in Guyana to seek and provide MLA, extradition and other forms of international cooperation to foreign counterparts. However, there is no guidance to CAs as to when either the MACMA or AML/CFT Act, 2009 should be utilized to facilitate timely international cooperation. Guyana has demonstrated its ability to seek and provide international cooperation. However, the case management system could not demonstrate that this was provided in a timely manner.

## Risks and General Situation

2. Guyana, with a landmass of 214, 969 km sq, is located on the north-eastern coast of the continent of South America. It is bordered by the Atlantic Ocean to the north, Suriname to the east, Venezuela to the west and Brazil to the south. The location of the country, with most of its borders situated in the heavily forested hinterland region, makes Guyana vulnerable to drug trafficking and smuggling of its minerals (such as gold and diamond) as well as wildlife and lumber. The 2021 NRA mentioned the high value of estimated proceeds from drug trafficking (US\$14.4 million) and gold smuggling (US\$2.2 million). These were among the predicate offences posing the highest ML threat along with tax evasion, fraud, corruption & bribery and human trafficking. However, the NRA noted that while there were no ML convictions related to these predicate offences, there were intelligence reports disseminated by the FIU of Guyana indicating suspicion of ML related to the predicates.
3. Guyana is not an international financial centre but its Gross Domestic Product (GDP) per capital is quickly increasing with the recently booming oil and gas activity. According to the NRA, in 2015 Guyana became one of the top 20 largest oil and gas reserve holders in the world following the discovery of oil. Since oil production commenced in 2020, the Guyanese economy registered growth of real oil and non-oil (mining and quarrying, construction, agriculture and forestry and the manufacturing sector) GDP of 62.3% and 11.5%, respectively. At the end of December 2022, the financial sector (comprising the banks, non-banks FIs, insurance brokers and companies, MTAs, cambios, and pension funds as well as securities companies and brokers) remained a significant contributor to GDP, with the total financial sector assets equivalent to 92.6% of Guyana's non-oil GDP. The banking sector's assets were equivalent to 60.5% of non-oil GDP.
4. With regard to terrorist financing, the NRA of 2021 rated this as medium risk given the absence of a national strategic framework for countering TF, minimum cooperation among the key agencies responsible for analysing, investigating and prosecuting TF and terrorism matters, and the need for improved legal and institutional frameworks for identifying and combatting TF. Since the 2021 NRA, Guyana has established a TF Strategy, CTF guidelines were issued, legislative amendments related to TF were enacted and the NCC sub-committee on TF and PF was established. Guyana also conducted an assessment of the PF risk. Both the TF and PF risk assessments were updated giving consideration to data for 2020 to July 2023 against data used for the 2021 NRA.

## Overall Level of Compliance and Effectiveness

5. Guyana has good results on technical compliance with the FATF Standards having made improvements since the 3<sup>rd</sup> Round assessment in 2010 (Report dated July 2011). The country made significant changes to its AML/CFT legislative regime in 2018, 2022 and in 2023. However, there remain deficiencies in relation to FATF Recommendations such as TFS, New Technologies, NPOs and Transparency and Beneficial Ownership of LPs. Guyana made changes and implemented efforts to improve effectiveness of its AML/CFT system subsequent to the AML/CFT legislative restructuring. There is a good understanding of its ML risk and fair understanding of TF risk and the jurisdiction has developed policies and structures to combat ML and TF. Domestically, there is good coordination and cooperation among CAs but there is need for improved coordination, particularly among some LEAs (GPF and SOCU). International cooperation is facilitated by a strong legislative framework, but timeliness was not demonstrated by the case management system. Risk-based AML/CFT supervision of FIs (except credit

unions) and some DNFBPs (DPMS, casinos and real estate) is evident and has started to show results, while it was incipient for credit unions and other DNFBP sectors such as attorneys-at-law, notaries, accountants and non-financial TCSP.

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

6. Guyana has demonstrated a good understanding of its ML risk and a fair understanding of its TF risks. Significant efforts were made since 2017 when the first NRA was conducted. Since then, the country has updated its risk assessment in 2021 and have completed topical risk assessments of the NPO sector in 2022, LPs and LAs and virtual assets/virtual asset service providers in 2023.
7. Emerging from the 2021 NRA, Guyana developed, and Cabinet approved the ML/TF/PF NPSP for the period 2021-2025 that outlined eight key objectives to address identified risks. The objectives sought to strengthen cooperation and coordination among CAs, improve the AML/CFT regime (legislative framework, CAs, etc), enhance regional and international cooperation and ensure transparency of LPs and LAs. By the end of the onsite visit, Guyana was well on the way to full achievement of these objectives. The AT observed the strong cooperation and coordination among domestic CAs (particularly in the extractive industries), a strong awareness of ML/TF risk by the FIs and DNFBPs and improvements in the operational procedures and resources to some agencies. The NPSP has since been updated with the conduct of topical risk assessments in 2022 and 2023.
8. Notwithstanding, minor deficiencies remain, as the country needs to have a better understanding of the ML/TF risk of DNFBPs, particularly that of the attorneys-at-law, accountants, notaries and TCSP sectors, the extractive industries and the NPO sector. Also, there are some action items of the NPSP that have not been achieved and domestic coordination and cooperation among domestic law enforcement agencies must be improved.

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

9. The FIU of Guyana is an administrative type of FIU with responsibility for requesting, receiving, analysing and disseminating STRs and other information relating to ML, TF or the proceeds of crime. The FIU of Guyana has access to a wide range of information to assist in the development of its products. LEAs in Guyana have access to a wide range of information to develop evidence and trace criminal proceeds. The work of the FIU of Guyana supports the operational needs of CAs, and Guyana has demonstrated good cooperation and exchange of information amongst CAs.
10. In Guyana, there are multiple LEAs involved in the investigation and prosecution of ML, TF and associated predicate offences including SOCU, GPF-CID, CANU and GRA. While LEAs are aware of the requirement to submit associated predicate offences to SOCU for parallel ML investigations and have submitted matters, clearer parameters should be developed to ensure relevant matters are submitted for parallel investigation. Guyana, to some extent, is investigating in line with its risk profile, and is not pursuing different types of ML, except third party ML. Guyana has had no convictions for ML in the jurisdiction and while Guyana has a wide range of forfeiture tools, alternative measures were not consistently pursued where ML convictions could not be secured.

11. LEAs in Guyana have demonstrated that they are pursuing confiscation to some extent, whether civil or criminal. However, this is not being consistently done. Guyana has legislation to facilitate the confiscation of falsely or undeclared cross border transactions of currency and BNI but has only been confiscating currency, as the inclusion of BNI was recently introduced. Guyana has no confiscations recorded for ML.

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

12. Guyana has had no convictions for TF during the period under review. Notwithstanding, Guyana has a strong legislative framework to criminalise TF and there is a general understanding by the CAs of the TF risk profile. TF matters in Guyana are investigated by SOCU based on reports from the FIU of Guyana and referrals from other entities. Prosecutions of TF matters are done by the DPP. The DPP, SOCU and the Judiciary require additional specialised training to treat with the investigation and prosecution of TF matters. Guyana to a limited extent demonstrated the use of alternative measures where a TF conviction is not possible.
13. Guyana has a TFS framework for TF and PF as evidenced in its AML/CFT Act. Some key CAs in Guyana have not demonstrated a good understanding of the TFS-TF regime. Notwithstanding, the FIs and DNFBPs within the regulated sectors have a good understanding of their obligations to implement TFS without delay and to screen against the respective UNSCR lists.
14. Guyana has implemented some measures to mitigate against the potential abuse of NPOs for TF purposes. However, there is no focused or proportionate regulation of the NPOs deemed vulnerable to TF abuse and substantial work remains as it relates to the conduct of a full NPO sector review, sustained and targeted outreach.

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

15. Preventive measures are applicable to all FIs, DNFBPs as well as VASPs, which were prohibited by the end of the on-site. The understanding of ML/TF risks and AML/CFT obligations varied among the FIs and DNFBPs. With regard to understanding ML/TF risks, banks, insurance providers, the sole payment service provider and securities sector have a good understanding based on the AML/CFT frameworks implemented and the implementation of AML/CFT controls, while for credit unions and some cambios, the understanding was limited. The DPMS and casino sectors demonstrated a good understanding of ML/TF risks but there was need for improvement among the other DNFBP sectors (real estate agents, attorneys-at-law, notaries, accountants and non-financial TCSPs).
16. Generally, FIs and DNFBPs understand the AML/CFT obligations and have applied mitigating measures at varied degrees depending on their maturity and international affiliation. FIs, with the exception of credit unions, have developed and implemented satisfactory AML/CFT frameworks and controls such as CDD procedures and the application of EDD with the use of technology and other tools. This was better among larger MTAs (with franchise operations). DPMS and casinos are applying mitigating measures commensurate to their risk. The assessment of implementation of preventive measures by attorneys-at-law, notaries, accountants and non-financial TCSPs sectors varies depending on affiliation and maturity of the entity.

17. FIs and DNFBP sectors (casinos and DPMS) have a good understanding and have implemented TFS screening to a good extent and there is general awareness of reporting obligations with practical measures implemented to prevent tipping off. While REs understand their reporting obligations and have controls, there is low STR reporting by the DNFBP sectors which was not commensurate with sector risk.

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

18. AML/CFT supervisors have been designated for all FIs and DNFBPs. However, AML/CFT supervision for attorneys-at-law, notaries, accountants and non-financial TCSPs was at a nascent stage with the recent designation of the Guyana Compliance Commission (GCC) via the Compliance Commission Act, 2023. There was limited supervision of the sectors during the assessment period, by way of outreach conducted by the FIU of Guyana. Supervision of the credit union sector by the CCD was at an infancy stage and risk-based supervision was developing.
19. There are licensing, registration and other market entry controls for FIs and DNFBPs. AML/CFT supervisors of the FIs, Casinos and DPMS (the BOG, GSC, GA, GRA, GGB and GGMC) have strong controls to prevent criminals and their associates from holding or being the BO of a significant or controlling interest in an entity. License renewals systems for DPMS and casinos allows for controls to be implemented on an ongoing basis. The BOG, GSC, GGB and GGMC have sound systems and sufficient resources to detect licensing breaches.
20. The BOG, GSC, GA, GRA, GGB and GGMC have developed and are implementing risk-based supervision mechanisms which reflect the ML/TF risks identified in the 2021 NRA, sectoral risk assessments (BOG) and entity assessments. The supervision framework is continuously improving as sectoral risk assessments are completed. Supervision includes onsite and offsite monitoring, training and publication of guidelines and sanctions. The SAs (BOG, GSC, GA, GRA, GGB and GGMC) have applied remedial action and sanctions (Table 6.6) to some extent, subsequent to the conduct of inspections or supervisory activities and have demonstrated consequential improvements in compliance. Supervisors in Guyana have not applied a wide range of effective, proportionate and dissuasive sanctions.
21. AML/CFT supervision of some DNFBP sectors will intensify with the institution of the GCC.

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

22. Guyana has various types of LPs that can be created. Guyana also has measures in place to ensure the collection and public availability of information on the creation of LPs but this does not exist for LAs. The Deeds and Commercial Registry Authority (DCRA) is the agency responsible for LPs created under the Companies Act. Information on other types of LPs formed under the Friendly Societies Act (Friendly Societies) and under the Cooperative Societies Act (Cooperatives) is maintained by the respective Registrars.
23. The Commercial Registry holds adequate, accurate and current basic information which is shared with CAs in a timely manner upon request. However, this requirement is not applied to other types of LPs (Friendly Societies and Cooperatives). CAs can obtain basic and BO information from FIs and DNFBPs on LPs and LAs and this has been accessed in a timely manner.
24. Guyana has demonstrated to some extent the application of effective, proportionate and dissuasive sanctions against persons who do not comply with information requirements.

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***International cooperation (Chapter 8; IO.2; R.36–40)***

25. International cooperation is facilitated by a strong legal framework in place in Guyana (the Mutual Assistance in Criminal Matters Act, Chap. 15:05 (MACMA), the Fugitive Offenders Act and the AML/CFT Act). The Minister of Home Affairs is the Central Authority for mutual legal assistance (MLA) and extradition in Guyana. The manual case management system utilised has not proven to be efficient to aid in demonstrating timely exchange of information. Also, the Treaty Office needs to be better resourced to improve the ability to provide and seek timely international cooperation.
26. Guyana has received MLA and extradition requests from regional and international jurisdictions relative to various predicate offences. While the overall quality and usefulness of the information provided could not be ascertained from the feedback provided by the global community, Guyana did receive positive feedback from some jurisdictions on the quality of assistance provided. Additionally, there is need to bolster the case management system (CMS) to ensure efficient management of international cooperation matters and to allow for sufficient details to assess efforts to seek and provide other forms of international cooperation.
27. CAs, such as the AML/CFT supervisors of FIs, FIU of Guyana and law enforcement agencies, have sought other forms of international cooperation via bilateral and multilateral agreements, networks and diplomatic channels. Similarly, there are mechanisms that provide for the CAs to provide other forms of international cooperation, and this was shared in an appropriate and timely manner. While there are mechanisms in Guyana to share basic and BO information with foreign counterparts, there were no instances where such requests were made.

## Priority Actions

Guyana should:

- a) Upon completion and approval of the extractive industries risk assessment, update the NPSP as well as develop or enhance the policies of the respective CAs. There should be continued implementation of the objectives outlined in the NPSP ensuring all outstanding activities are completed.
- b) Take the necessary measures to strengthen cooperation and coordination among law enforcement agencies responsible for the investigation of ML, TF and ML/TF related offences to ensure improved alignment of investigations.
- c) Prioritise ML investigations and ensure that all types of ML matters are investigated, in alignment with the risk profile.
- d) Ensure that LEAs are consistently pursuing confiscation in all matters.
- e) Provide specialised training on prosecuting TF matters to the ODPP and on treating with both ML and TF matters to the Judiciary.
- f) Establish measures to ensure information on the creation and types of LPs and LAs are publicly available; maintain adequate, accurate and current records of basic and BO information; and establish an effective framework to make such information available to CAs in a timely manner.
- g) Upon institution of the GCC and the Real Estate Authority, implement risk-based supervision of attorneys-at-law, notaries, accountants, Non-Financial TCSP sectors and efficient transition of risk-based supervision of the real estate sector.
- h) For DNFBPs, take measures (i) for supervisors to understand the ML/TF risk of all sectors and strengthen risk-based AML/CFT supervision; (ii) to improve the STR reporting by DNFBP sectors; and (iii) to enhance the sectors' understanding of ML/TF risk and application of AML/CFT obligations.
- i) Ensure that remedial measures and sanctions are proportionate and dissuasive and applied in a timely and effective manner to ensure a positive effect on compliance by FIs and DNFBPs.
- j) Provide the necessary resources and take steps to improve the maintenance of relevant statistics and records relating to all forms of international cooperation, investigations and prosecutions.
- k) Ensure that steps are taken to address all technical deficiencies related to TFS related to TF (including risk-based measures for the NPO sector) and PF and mechanisms are implemented to give effect to the mandatory freezing of assets and funds without delay.



## Effectiveness & Technical Compliance Ratings

**Table 1. Effectiveness Ratings**

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
SE	ME	ME	ME	ME	SE	ME	ME	ME	ME	ME

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

**Table 2. Technical Compliance Ratings**

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

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

## *MUTUAL EVALUATION REPORT*

### **Preface**

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.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 4<sup>th</sup> to 15<sup>th</sup> September 2023.

The evaluation was conducted by an assessment team (AT) consisting of:

- i. Casandra Seetahal, Senior Legal Counsel, Office of Attorney General and Ministry of Legal Affairs, Trinidad and Tobago (Legal Expert)
- ii. Teron Greenidge, Financial Investigator/Analyst, Royal Grenada Police Force, Grenada (Law Enforcement Expert)
- iii. Nikala Bazil, Senior Examiner, Financial Services Unit, Ministry of Finance, Dominica (Financial Expert)
- iv. Shaná Donovan, AML Chief Risk and Policy Officer, Cayman Islands Monetary Authority (CIMA), Grand Cayman (Financial Expert);

with the support from:

- i. Avelon Perry, Financial Advisor, CFATF Secretariat (Mission Leader) and
- ii. Sunita Ramsumair, Legal Advisor, CFATF Secretariat (Co-Mission Leader).

The report was reviewed by Tiffany Moss (The Bahamas), Susan Watson Bonner (Jamaica), Arindam Misra (India), Nazerke Zhampeiis (EAG Secretariat) and the FATF Secretariat.

Guyana previously underwent a FATF Mutual Evaluation in 2010, conducted according to the 2004 FATF Methodology. The [2010 evaluation](#) and the 2011 to 2016 [follow-up reports](#) have been published and are available at <https://www.cfatf-gafic.org/>.

The 2010 Mutual Evaluation concluded that the country was compliant with one (1) Recommendation; largely compliant with five (5); partially compliant with fifteen (15); and non-compliant with nineteen (19). Guyana had all sixteen Core and Key Recommendations rated partly compliant (PC) and non-compliant (NC) and was placed in expedited follow-up.

Guyana enacted several pieces of key legislation comprising statutes and regulations to strengthen its AML/CFT framework. In 2016, Guyana presented the Eleventh Follow-up report in which all the deficiencies identified in the Core and Key Recommendations, initially rated as PC/NC, were addressed. Having reached a level of compliance comparable to at least LC Guyana applied to exit the CFATF ICRG and the follow-up process, which was successfully approved by the CFATF Plenary in Providenciales, Turks and Caicos Islands in November 2016.

## Chapter 1. ML/TF RISKS AND CONTEXT

28. The Cooperative Republic of Guyana (“Guyana”) is the only English-speaking country on the continent of South America with a landmass of 214,969 square kilometres. It is bordered by Suriname on the east, Brazil on the south, Venezuela on the west, and the North Atlantic Ocean to the north and east.
29. Guyana is divided into three counties; Essequibo, Demerara and Berbice and has four geographical regions; the interior savannahs, the highland region, the hilly sand and clay area and the low coastal plain. For administrative purposes, Guyana is divided into ten regions. The country participates in Caribbean regional organizations, and its capital, Georgetown, serves as headquarters for the Caribbean Community (CARICOM). Guyana has a unicameral parliament known as the National Assembly. The head of state is an executive president indirectly elected as part of the party list system and is usually the leader of the majority party. The national assembly has 65 members elected for a five-year period: 40 elected by proportional representation and indirectly elected by regional assemblies. The presidential candidate of the party or coalition receiving the most votes becomes the President, who then appoints the Prime Minister and Cabinet.
30. The judicial system is based on English common law with elements of Roman-Dutch Law and is presided over by the Supreme Court. Appeals are to the High Court, then the Court of Appeal, and finally to the Caribbean Court of Justice.
31. Guyana has a small open economy largely based on agriculture and mining and the country’s three main export commodities are sugar, rice and minerals such as gold, diamond and bauxite. Other main sectors include fishing and forestry. Guyana’s development prospects have shifted significantly since the discovery of large offshore oil deposits in 2015. The commencement of oil production in early 2020 has significantly improved Guyana’s medium-and long-term outlook and this sector is projected to grow rapidly. Despite a global recession in 2020 as a result of the COVID-19 crisis, Guyana’s economy grew almost 44%, according to the International Monetary Fund (IMF). The economy grew 20.1% in 2021 and 62.3% in 2022; the forecast for 2023 is 37.2% growth. Following record real GDP growth in 2022, the IMF expects real GDP will continue to grow extremely fast in 2023 (38%) and sustained real non-oil GDP growth of 5.5% is projected.

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

#### 1.1.1 Overview of ML/TF Risks

32. Guyana indicated in the 2021 NRA, that the four (4) predicate offences posing the highest ML threat are smuggling (including gold smuggling), tax evasion, illicit trafficking (in narcotic drugs and psychotropic substances) and fraud. The estimated value of proceeds generated from these offences totalled just under US\$2.3 billion between 2016 and 2020. Corruption/bribery, terrorism and trafficking (in humans and migrant smuggling; illicit arms and ammunition) were also predicate offences identified in the NRA as having medium to medium/high risk. The overall ML threat was deemed medium-high risk, due to the significant estimated value of proceeds of crime generated from predicate offences committed in Guyana, as well as the lack of ML convictions.
33. As a result of its geographical location, Guyana is a transit country for cocaine destined to North America, Europe, West Africa and the Caribbean and is used by the major exporters of illegally caught and traded wildlife from the South American continent (such as birds, reptiles and wild cats

including the national animal-the jaguar). Due to the porous borders and remote airstrips and ports, Guyana is attractive to drug traffickers and smugglers.

34. The NRA identified the Dealers in Precious Metals and Stones (DPMS) sector as highly vulnerable to ML because of the cash intensiveness of the sector, the nature of business where transactions are conducted in the interior locations and the lack of adequate identification documentation by both customers and dealers.
35. The national TF risk is rated as medium in the 2021 NRA, given the absence of a national strategic framework for countering TF, minimum cooperation among the key agencies responsible for analysing, investigating and prosecuting TF and terrorism matters, and the need for improved legal and institutional frameworks for identifying and combatting TF. According to the 2023 updated TF/PF risk assessment, Guyana increased its understanding of the TF risk (*inter alia* conduct of NPO risk assessment and intensified outreach in 2023) and have implemented mitigation measures (for instance, Memoranda of Understanding [MOUs] to facilitate sharing among relevant CAs and enhanced scope of supervision). Notwithstanding, the TF risk remains medium.

### ***1.1.2 Country's Risk Assessment & Scoping of Higher Risk Issues***

36. Guyana's second NRA, which was completed in July 2021, was an update of the 2017 NRA. A working group (WG) which comprised seventy (70) key experts/professionals representing over forty (40) public and private sector organisations in Guyana was established to conduct the NRA. The WG utilized quantitative methods (such as questionnaires sent to key public and private sector organizations) and qualitative methods (such as focused group interviews and meetings) data to arrive at the findings. The NRA Report, which was published in August 2021, identifies vulnerabilities, threats and consequences associated with risks.
37. Notwithstanding challenges posed by the COVID-19 pandemic and responding emergency measures instituted by the government, the WG reorganized its work plan and utilized virtual platforms to obtain information from the private and public sector organisations and to finalize the report.
38. Additionally, Guyana conducted several topical risk assessments subsequent to the 2021 NRA: a risk assessment on NPOs (2022), Legal Persons and Arrangements (2023), Virtual Assets and Virtual Asset Service Providers (2023) and Extractive Industries (2023). Guyana also updated its TF/PF risk assessment which sets out how the implementation of several measures helped strengthen mitigation actions relative to TF and PF.
39. The assessors reviewed material provided by Guyana on its national ML/TF risks and information from reliable open sources (e.g., reports of other international organisations). As such, the AT focused on the following priority issues:
  - a. FIs and DNFBPs' implementation of AML/CFT obligations and risk-based supervision of the sectors: The financial sector in Guyana comprises the banks, non-banks FIs, insurance companies and brokers, MTAs, cambios, and pension funds, which are all regulated and supervised by Bank of Guyana (BOG); and securities companies and brokers which are regulated and supervised by the Guyana Securities Council (GSC). The banking sector comprises the largest contributor to the non-oil & gas GDP. The AT focused on the preventive measures implemented by FIs, particularly the banking and MTA sectors. The AT placed greater focus on the effectiveness of their CDD framework and their STR reporting mechanisms.

- b. The DNFBP sector in Guyana consists of Dealers in Precious Metals, Dealers in Precious and Semi-Precious Stones/Licensed Traders (*collectively referred to as Dealers in Precious Metals and Stones [DPMS]*), casinos, betting shops, lotteries, real estate (includes agents and developers), attorneys-at-law, accountants, notaries/Commissioners of Oaths to Affidavits, non-financial trust and company service providers (TCSPs), and used car dealers/car parts dealers. While the sectors are required to comply with AML/CFT/PF obligations, the true size and value of the various sectors (excluding casinos and DPMS) are unknown, and the attorneys-at-law and accountants are not subject to AML/CFT supervision. The AT focused on the development of the AML/CFT/PF risk understanding of the DNFBP sectors, the effectiveness of the preventive measures implemented and the supervisory framework, including the sanctions regime and extent of cooperation among SAs.
- c. Beneficial Ownership (BO) information: The Assessors examined the procedures in place to obtain and verify the accuracy of BO information at the Commercial Registry, the capacity of the Commercial Registry to carry out its functions, the mechanisms in place at supervised entities to obtain, verify and maintain accurate and up-to-date BO information and the CAs' ability to access such BO information in a timely manner.
- d. ML proceeds from Corruption: The AT focused on (i) the understanding of the ML risks associated with corruption offences; (ii) the extent to which CAs are identifying, tracing, confiscating and taking other provisional measures relative to proceeds generated from corruption offences; (iii) mitigation measures implemented by law enforcement authorities and other agencies responsible for corruption; (iv) the extent to which law enforcement authorities are conducting parallel financial investigations into corruption offences to identify ML offences; and (v) the alignment with resources provided for the investigation and prosecution of ML activities related to corruption and confiscation of illicit proceeds.
- e. ML proceeds from Drug Trafficking: Focus was placed on (i) CAs' understanding of the ML risks associated with the threat of drug trafficking and the implementation of risk mitigation measures; (ii) the extent to which CAs are conducting parallel investigations into drug trafficking offences to identify potential ML cases; and (iii) the extent to which CAs trace, seize/restrain and forfeit proceeds from drug trafficking. The extent and the level of effectiveness of domestic as well as international cooperation was also examined.
- f. Cross Border Smuggling: Guyana's borders continue to pose a challenge for the authorities who find it extremely difficult to monitor the borders linked to Suriname, Venezuela and Brazil. It is estimated that approximately 25% to 35% of the borders are effectively controlled and regulated by local authorities. On a national level, the army, border police, immigration officers and customs coordinate the country's border control and security. The Assessors examined Guyana's approach to border controls and mechanisms, including cooperation (domestic and international), to prevent, detect and prosecute the illegal cross border activities such as the smuggling of wildlife, migrants, gold and other minerals. There was also focus on the extent to which CAs are (i) conducting parallel investigations into these offences to identify potential ML cases and (ii) tracing, seizing/restraining and forfeiting proceeds from these offences. The extent and level of effectiveness of domestic and international cooperation regarding these offences was also considered.
- g. Human Trafficking: The AT focused on the risk mitigation measures and the effectiveness of CAs' ability and efforts to trace, seize/restrain and forfeit proceeds from human trafficking.

- h. Terrorist Financing (TF): TF was rated medium in the 2021 NRA and while Guyana had not yet completed a counter TF strategy, there are mechanisms in place to mitigate the risk. There are also ongoing investigations and persons/entities before the courts for terrorism and TF related offences. The AT focused on the effectiveness of Guyana's counter terrorism mechanisms (including the regulation of the NPO sector) as well as efforts to mitigate and prosecute TF.
40. Through the scoping exercise, the following area was identified for lesser focus:
- a. ML proceeds from tax evasion: While tax evasion is not a legislated offence, Guyana recognizes that it poses a high threat of ML. Over the period 2016 to 2019 the Guyana Revenue Authority (GRA) confiscated property in relation to offences such as failure to declare and dealing with goods to defraud revenue and duties. There were also reports that concealed precious metals are transported across Guyana's borders to avoid payment of the relevant taxes and duties. The focus of the AT was the legal framework for tax evasion, reporting on STRs related to the offence and the effectiveness of investigations, prosecutions and convictions related to tax evasion.
41. The following was identified as an emerging issue:
- a. Guyana completed its risk assessment of virtual assets (VA) and virtual asset service providers (VASPs) in August 2023 and took a policy decision to prohibit the activities in the jurisdiction. With the potential increase in foreign investors because of the growing oil and gas economy, it is likely that the use of VAs for payment of goods and services can emerge in Guyana. The Assessors examined this prohibition and the extent to which Guyana is effectively implementing the prohibition in practice to identify illicit VA/VASP activities.

## 1.2 Materiality

42. Guyana is an English-speaking country located on the north-eastern coast of the continent of South America with a total landmass of 214,969 square kilometres. Guyana shares borders with Venezuela, Brazil and Suriname. Most of the borders are situated in the hinterland region which is heavily forested. The banking sector comprises the largest contributor to the non-oil & gas GDP. By the end of December 2022, the financial sector remained a significant contributor to GDP with the total financial sector assets equivalent to 92.6% of Guyana's non-oil GDP. The banking sector assets were equivalent to 60.5% of non-oil GDP. The economy of Guyana, up until recently, has been largely based on agriculture and mining, with the country's three main export commodities being sugar, rice and minerals such as gold, diamond and bauxite. However, with the recent oil and gas activity, Guyana's GDP per capita is quickly increasing. The IMF has predicted that oil GDP can grow by approximately 30% on average per year during 2023 to 2026. According to the NRA, Guyana is named a transit point for illegal narcotics. The risk of illicit funds associated with illegal drug trade being transferred through the Guyana financial system is high, notwithstanding there are effective controls and mechanisms for official cross border money transfers. The value of transfers by the Money Transfer Agencies (MTA) sector amounted to USD\$388.8 million at the end of 2022 which was a 0.09% decrease from the previous year. It is noted that a typology published by the FIU of Guyana indicated MTAs are used to create layering of transactions to facilitate the distancing of illicit funds from its source through a series of complex transfers.

## 1.3 Structural Elements

43. Guyana has all the key structural elements required for an effective AML/CFT system, including political and institutional stability, governmental accountability, the rule of law, and an independent

judiciary. The independence of the judiciary is premised on the separation of powers, principles of natural justice and procedural fairness in the judicial process. The political hierarchy of the jurisdiction is committed to the improvement of the AML/CFT regime. Similarly, Guyana exhibited political and institutional stability which demonstrates a high-level commitment to addressing AML/CFT concerns and deficiencies.

#### **1.4 Background and Other Contextual Factors**

44. Guyana made significant changes to its AML/CFT legislative framework inclusive of amendments in 2010, 2015, 2016, 2017, 2018, 2022 and 2023 to the AML/CFT Act, 2009 and its Regulations; and enacted the (i) Combatting of Trafficking in Persons Act (which establishes a Counter-Trafficking in Persons Unit), (ii) the Compliance Commission Act, 2023 and (iii) the Real Estate Agents and Brokers Act, 2023. The latter two legislation introduced two (2) new SAs for DNFPB sectors (see section 1.4.6) to Guyana's AML/CFT regime. By the end of the on-site these two SAs were not yet constituted.
45. Guyana has low bank density and many remote communities without access to modern telecommunication and banking systems. Therefore, financial inclusion is critical to Guyana achieving its Sustained Development Goals and consequentially reducing the influence of the underground and informal delivery channels for financial services. A financial inclusion evaluation<sup>1</sup> of ML/TF risk new and existing products offered in Guyana, identified 8 financial inclusion product categories: micro-loans (pawnbroker loans), mobile payments, low-income mortgage, money remittance services, kid's savings accounts, passbook savings, senior citizens account and statement savings account. The evaluation sought to, among others, design risk-based approaches to CDD and regulation and to implement risk mitigating measures. Simplified due diligence can be permitted as a measure to remove some of the impediments to financial inclusion.

##### **1.4.1 AML/CFT strategy**

46. Guyana's National Policy and Strategy Plan (NPSP) is informed by the NRA of 2021. The NPSP which was approved by Cabinet on March 2, 2023, is a five-year plan (2021 – 2025) that aims to further enhance and improve Guyana's AML/CFT/PF regime. The fundamental objectives of the Strategy are to ensure that Guyana achieves a high level of compliance with the FATF Standards on combating ML, TF and PF. The document provides a guide to the AML/CFT CAs and agencies of actions required to improve the effectiveness of the AML/CFT framework.
47. The NPSP comprises eight (8) key objectives (See Box 1.1) and outlines the action items, timeframe and primary agency with responsibility. The Anti-Money Laundering/Countering the Financing of Terrorism/Proliferation Financing National Coordination Committee (NCC) is mandated to monitor progress and achievement of initiatives.

##### **1.4.2 Legal & institutional framework**

48. The principal laws relevant to Guyana's AML/CFT systems are as follows:

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<sup>1</sup> According to the NRA (2021) the evaluation followed the guidance of the World Bank's Financial Inclusion Product Risk Assessment Tool.

Table 1.1. Legislative Framework

Title of Legislation	Purpose
Anti-Money Laundering and Countering the Financing of Terrorism Act, 2009 (including subsequent amendments)	An Act to provide for the establishment and management of a Financial Intelligence Unit; to provide for unlawful proceeds of all serious offences to be identified, traced, frozen, seized and forfeited; to provide for comprehensive powers for the prosecution of money laundering, terrorist financing and other financial crimes; and the forfeiture of the proceeds of crime and terrorist property; to require REs to take preventive measures to help combat money laundering and terrorist financing; to provide for civil forfeiture of assets and for matters connected therewith.
Anti-Money Laundering and Countering Financing of Terrorism Regulation, 2010	Provides guidance to regulated entities
Anti-Money Laundering and Countering Financing of Terrorism Regulation, 2015	Provides guidance on targeted financial sanctions
Anti-Money Laundering and Countering the Financing of Terrorism (Miscellaneous) Regulations, 2023	Provides for miscellaneous changes <i>inter alia</i> risk-based approach to NPOs, issuance of beneficial ownership guidelines.
Anti-Terrorism and Terrorist Related Activities Act, 2015	An Act to criminalise terrorism, and terrorist related activities and to provide for the detection, prevention, prosecution, conviction and punishment of terrorism and terrorist related activities.
Compliance Commission Act, 2023	An Act to provide adequate supervision to REs for compliance with obligations under the Anti-Money Laundering and Countering the Financing of Terrorism Act; to enhance the compliance, guidance and training regime on money laundering, terrorism financing and proliferation financing in Guyana; to provide domestic and international cooperation; prohibition of VAs/VASPs; and to provide for other related matters.
Real Estate Agents and Brokers Act, 2023	An Act to provide for the registration and regulation of Real Estate Agents and Brokers in Guyana; to promote transparency, accountability and integrity in the Real Estate profession; to protect and assist persons engaged in transactions with Real Estate Agents and to assist in the detection and prevention of money laundering, terrorist financing and proliferation financing and to provide for other related matters.

49. The agencies responsible for the formulation and implementation of Guyana's AML/CFT system are as follows:

- a. **Ministry of Legal Affairs, Attorney General's Chambers:** The Attorney General's Chambers and Ministry of Legal Affairs is the Ministry of the Government of Guyana with the responsibility of being the Government's Chief Legal Advisor; being the Prime Contact for Guyana in AML/CFT/CPF related matters and facilitating the Secretariat of the NCC.
- b. **Ministry of Natural Resources (MNR):** The MNR is responsible for developing, implementing and overseeing policies for the responsible exploration, development and utilisation of natural resources. This includes petroleum resources, precious metals and stones and forest products. The MNR provides policy direction and guidance to the Guyana Geology and Mines Commission, the Guyana Gold Board and the Guyana Forestry Commission.
- c. **Ministry of Home Affairs (MOHA):** The MOHA oversees the following agencies- Guyana Police Force, Guyana Fire Service, Guyana Prison Service, General Registrar Office, Juvenile Justice Department, Customs Anti-Narcotic Unit, Guyana Forensic Science Lab, National Community Policing of Guyana and Immigration Support Services. The Minister



of Home Affairs is the central authority for Guyana and was established under the Mutual Assistance in Criminal Matters Act 2009 which is an Act to give effect to the scheme relating to Mutual Assistance in Criminal matters within the commonwealth; and to provide for mutual assistance in criminal matters between Guyana and countries that have a treaty with Guyana concerning assistance.

- d. ***Office of the Director of Public Prosecutions (ODPP)***: The ODPP is a constitutional body established under Article 116 of the Constitution of Guyana with its functions set out under Article 187 of the Constitution. Such functions include: (a) instituting and undertaking criminal proceedings against any person before any court other than a court-martial, in respect of any offence against the laws of Guyana; (b) taking over and continuing any such criminal proceedings that may have been instituted by any other person or authority; and (c) discontinuing, at any stage before judgement is delivered, any such criminal proceedings instituted or undertaken by the Director of Public Prosecutions or any other person or authority.
- e. ***Guyana Police Force (GPF)***: The GPF is an agency established under the Police Act 1957 and is a CA in relation to the fight against crime and the protection of life, and preservation of law and order in Guyana. The Immigration Department is part of the GPF with responsibility for passport and other services at the various ports of entry.
- f. ***Financial Intelligence Unit of Guyana (FIU of Guyana)***: The FIU of Guyana is established under section 9(1) of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009, as an agency responsible for requesting, receiving, analysing suspicious transaction reports and dissemination of financial intelligence reports and other information relating to money laundering, terrorist financing or proceeds of crime, and associated serious offence.
- g. ***Customs Anti-Narcotic Unit (CANU)***: The CANU is a body established by Cabinet Decision in 1994 which was implemented in 1995 and empowered to discharge various functions under the Narcotic Drugs and Psychotropic Substances (Control) Act 1998, Cap 10:10 as amended. This body deals with the fight against drug trafficking and effects seizures of such and its instrumentalities.
- h. ***Special Organised Crime Unit (SOCU)***: The SOCU is a unit of the Guyana Police Force and a CA appointed under the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009 to carry out investigation into money laundering, terrorist or proliferation financing, serious offences or proceeds of criminal activity.
- i. ***The Deeds and Commercial Registries***: The Deeds and Commercial Registries Authority is a corporate body established under the Deeds and Commercial Registries Authority Act 2013 with functions assigned to the Registrar of Deeds; and the Registrar of the Commercial Registry under Section 4 of the Act. The Purpose of the Deeds and Commercial Registry is to efficiently and expeditiously administer the laws enacted by Parliament affecting land, whether by way of transport, leases, mortgages or any other alienation thereof; as well as those laws relating to trademarks, patents and designs, geographical indications, copyrights, trade unions, companies, partnerships, business names, powers of attorney, bills of sale contracts and other deeds.
- j. ***Bank of Guyana (BOG)***: The BOG is established under section 3 of the Bank of Guyana Act No. 19 of 1998 as an autonomous institution governed by the Act. The BOG may

exercise any of its functions entrusted to it by or in accordance with the Act or any other Act or by or under any international agreement to which Guyana is a party or which is otherwise binding on Guyana and may do any other banking business incidental or ancillary to or consequential upon the performance of its functions. The BOG is the prudential supervisor for banks licensed under section 4 of the Financial Institution Act 1995; insurance businesses licensed under section 40 of the Insurance Act No. 17 of 2016; money transfer agencies registered under section 4(1) of the Money Transfer Agency (Licensing) Act No. 20 of 2009; dealers in foreign currency licensed under section 4(1) of the Dealers in Foreign Currency (Licensing) Act 1989 (No. 19 of 1989); payment service providers licensed under sections 10 and 11 of the National Payment Systems Act No. 13 of 2018. The BOG is the AML/CFT SA for banks, insurance companies (including pensions), money transfer agencies, dealers in foreign currency (cambios), and payment service providers.

- k. ***Guyana Revenue Authority (GRA)***: The GRA was established on January 27, 2000, following the merger of the Inland Revenue and Customs & Excise Departments and draws its overall mandate from the Revenue Authority Act, the Customs Act and the Income Tax Act of Guyana. As Guyana's tax authority, the GRA has responsibility for, amongst other things, collecting domestic and customs tax revenues, issuing licences, and collecting fees for other agency functions. The Customs, Excise and Trade Operations of the GRA has the responsibility for facilitating trade while effectively administering the Customs, Trade and Borders Laws of Guyana. It has a Customs Division responsible for the administration of import and export of goods, and application of a tariff regime according to the laws of Guyana and its international obligations under various agreements. GRA also functions as the AML/CFT SA for used car dealers, real estate agents and pawnbrokers.
- l. ***Guyana Geology and Mines Commission (GGMC)***: The GGMC was created in 1979 from the Department of Geological Surveys and Mines which itself was the successor to the Geological Survey of British Guiana. Currently the GGMC is divided into the following technical divisions- Geological Services, Mines, Environment, Petroleum and Land Management. The GGMC issues licences to trade in valuable minerals and precious stones and is the AML/CFT SA for Dealers in Precious and Semi-Precious Stones referred to in Guyana as Diamond Dealers and Licensed Traders.
- m. ***Gaming Authority of Guyana (GA)***: The GA was launched on December 1, 2008. The functions of the Gaming Authority as a Regulatory body in keeping with the Gambling Prevention Act, Cap 9:02 (As Amended by The Gambling Prevention (Amendment) Act No. 5 of 2007, and under the Gambling Prevention (Establishment of Gaming Authority) Regulations 2008 are as follows: Issuance of Licenses under Section 32 of the Act; monitoring of Casino Operators in Guyana; administration of regulations made under the Act; advising the relevant Minister with respect to the administration of the regulation; and any other relevant matter. The Gaming Authority is the AML/CFT SA for the following REs- Casinos, Lotteries and Betting Shops.
- n. ***Guyana Gold Board (GGB)***: The GGB was established pursuant to the Guyana Gold Board Act as the agency responsible for issuing licences to dealers to sell, buy and export gold. The Board was established primarily to carry on the business of trading in gold and regulate the purchase and sale of gold in Guyana. Under the Act, all gold produced in Guyana must be sold to the Board or an authorised dealer. The Guyana Gold Board is the AML/CFT SA for Dealers in Precious Metals referred to as Gold Dealers, in Guyana.

- o. **Guyana Securities Council (GSC):** The GSC is the regulatory body established under the Securities Industry Act 1998 (SIA) as amended, to ensure orderly growth and development of the securities market. The GSC is the AML/CFT SA for securities companies related activity as set out in the Fourth Schedule of the AML/CFT Act.
- p. **Department of Cooperative & Friendly Societies:** The Chief Cooperative Development Officer (CCDO) and Registrar of Friendly Societies (RFS) are appointed as a SA under the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009. Under the Cooperatives and Friendly Societies Act, Friendly Societies and Cooperatives are registered subject to fulfilling the necessary conditions.
- q. **Guyana Wildlife Conservation and Management Commission:** The Guyana Wildlife Conservation and Management Commission is a body corporate established under the Wildlife Conservation and Management Act 2016 and is responsible for the protection, conservation, management, sustainable use, internal and external trade of Guyana's wildlife.

#### 1.4.3 Financial sector, DNFBPs and VASPs

- 50. This section gives general information on the size and make-up of the financial institutions (FIs) and Designated Non-Financial Businesses and Professionals (DNFBPs) in Guyana. Not all sectors are of equal importance given Guyana's risks and context.
- 51. The AT ranked the sectors based on their relative importance based on their importance, materiality and level of ML/TF risks, as well as Guyana's contextual factors. Rankings were used to inform the Assessor's conclusions throughout this report, weighting positive and negative issues more heavily for important sectors than for less important sectors. This approach applies throughout the report but is most evident in Chapters 6 (IO.3) and 5 (IO.4).
- 52. Banks, MTAs and DPMS were weighted **highly important** based on the following factors:
  - a. Banking sector: The banking sector comprises six (6) commercial banks and accounts for 65% of financial sector assets. The sector, regulated by the BOG, offers a wide range of products and services and serves a broad spectrum of corporate and individual customers, including higher-risk customers such as politically exposed persons (PEPs). In the 2021 NRA the sector risk was rated Medium.
  - b. Money Transfer Agencies (MTAs): MTAs are FIs licensed under the Money Transfer Agencies (Licensing) Act, to carry on the business of money transfers. As such, an MTA performs the activities of Money Value Transfer Services (MVTS) defined in the FATF Standards. There were three (3) MTAs licensed to operate in Guyana as at December 31, 2022. MTAs in Guyana can have agents. The Guyana Post Office operates as an agent for one of the licensed MTAs. The client base of MTAs includes local as well as foreign natural and LPs as well as PEPs. The level of cash activity by MTAs is high and the aggregated value of transfers by MTAs at the end of 2019 amounted to USD 282.1 million. The sector risk was rated Medium in the NRA (2021).
  - c. DPMS: The DPMS sector in Guyana is made up of (i) dealers in precious metal (gold dealers), licensed by the GGB, (ii) dealers in precious and semi-precious stones and (iii) traders in valuable minerals and precious stones which comprise dealers in precious metals and/or dealers in precious and semi-precious stones, licensed by the GGMC. The dealers trade in gold, smelted gold, rough diamonds and other minerals. Their suppliers are mainly miners, and the customers include refineries in countries such as Belgium, Dubai and India.

In order to export gold, precious stones and minerals, a certificate from the GGB and GRA must be presented at the port and an inspection of the goods conducted. The NRA indicated one major concern with the sector was that transactions are conducted in interior locations, under conditions where miners and/or licensed traders may not always have (in their physical possession), their identification documents. This makes it difficult for some dealers to establish business relationships in the absence of customer identity. The sub-sectors' risks were rated (i) Medium, (ii) Medium Low and (iii) Medium in the NRA respectively.

53. Real estate, casinos, cambios, attorneys-at-law, accountants, notaries, non-financial trust and company service providers and credit unions were weighted ***moderately important*** based on the following factors:

- a. Real Estate: In Guyana, real estate business falls into the category of informal economic activities nonetheless to a lesser extent than other businesses. The GRA issues house agent licences pursuant to S.29 of the Tax Act, Cap 81:01 to every person who acts as or carries on the business of a house agent or commission agent for the sale of houses, tenements or immovable property. The number of real estate market participants is approximately sixty-five (65). Based on tax and financial information, the real estate sector contributed 0.3% to total tax revenue in 2022. It was noted, however, that the real estate market is experiencing a surge with the new economic activity resulting from oil and gas production. The sector risk was rated Medium in the NRA, notwithstanding the sector's lack of participation.
- b. Casinos: Casinos are licensed by the Gaming Authority, with a total asset size of US\$12,777,439 as of 2021, providing both table and slot machines games. Notwithstanding the attraction and ML/TF threats and vulnerabilities applicable to casino operations, the sector in Guyana is not as attractive given the low tourist traffic and domestic customer base. There are two (2) casinos licensed to operate in Guyana. The sector risk was rated Medium Low in the NRA.
- c. Cambios: Cambios are businesses authorized to buy and sell foreign currencies pursuant to Regulation 13 of the Dealers in Foreign Currency [Licensing] Act. Cambios do not use agents and their customer base includes local as well as foreign natural and LPs including PEPs. The majority of currency transactions involve the USD. A precautionary measure instituted by the BOG is to ensure that no one person can be licensed as an MTA and a Cambio Dealer at the same time. The sector risk was rated Medium in the NRA.
- d. Attorneys-at-Law: The Legal Practitioners' Act, Cap 4:01 provides for the acceptance of an eligible person to the Bar. There is an average of one thousand, one hundred and twenty (1,120) attorneys-at-law registered on the court's roll (inclusive of deceased, members of the judiciary, migrated, in public and private practice) and one hundred and fifty-seven (157) law firms registered with the Commercial Registry. However, the number of attorneys-at-Law in Guyana who perform the activities defined in the FATF Standards is unknown. While the sector did not participate in the 2021 NRA, the sector was rated in the NRA considering that three (3) attorneys-at-law were subject to ML investigations and the sector has a medium-high ML vulnerability. In the absence of information about the nature of the sector (activities and services provided, types of clients serviced, asset size or contribution to GDP, etc), the sector risk was rated Medium in the NRA. The AT also noted that the sector was not supervised for AML/CFT compliance during the assessment period.
- e. Accountants: To provide accounting/auditing services as a public practitioner, the practitioner must be Association of Chartered Certified Accountants (ACCA) qualified. The

Institute of Chartered Accountants of Guyana (ICAG) grants a practice certificate to members who are eligible to provide public accounting or auditing services. The number of accountants performing the activities as per the definition in the FATF Standards is unknown. However, the ICAG reported a total of one hundred and forty-nine (149) members in its 2019 annual report. It was noted that 33% of the members are actively in practice. The sector risk was rated Medium High in the NRA.

- f. Notary Public: Notaries are appointed by warrant under seal by the President of Guyana in accordance with the Public Notaries Act, Cap 4:02. A notary must be a legal practitioner for ten years to be appointed but notarial services are different from those provided by attorneys-at-law. Services include: authenticate, by their signature and official seal or stamp, and certify the due execution in their presence of some deed or document (powers of attorney and Deed Polls for name change); prepare certain instruments and agreements for clients (legal and natural persons); or verify something done in their presence. Based on the 2017 NRA, there are approximately twenty-nine (29) notaries public. Table 1.3 shows the number believed to be operating at December 2022. The sector risk was rated Medium Low in the 2021 NRA.
  - g. Non-Financial Trust and Company Services Provider (TCSP): At the time of the 2021 NRA, the size of this sector was unknown and an AML/CFT supervisor was not appointed. The AT was informed during the onsite that one or more of the services are usually performed by attorneys-at-law and accountants. These entities are not FIs. The Compliance Commission Act (2023) makes provision for the registration of the entities, AML/CFT supervision of the sector and describes the nature of activities performed, which aligns with the FATF definition of Trust and Company Service Provider. The ML/TF risk of the sector was rated as Medium in the NRA.
  - h. Credit Unions: A credit union is a financial cooperative society established according to the Cooperative Societies Act. credit unions contribute a minor fraction to the country's GDP. The number cooperatives registered in Guyana includes 26 credit unions as at December 2022. The majority of credit unions are closed bond, with a large segment of the membership as employees of the affiliated organisation, and a few with an open bond making the sector one of low cash intensiveness. Upon retirement or resignation, the employee has the option to remain a member or close their accounts. As such, contributions and payments by members are made via standing orders with the company. Guyana does not deem credit unions as FIs and they are not treated as such. The Office of the Chief Cooperative Development Officer (CCDO) is the appointed AML/CFT supervisor. However, there is limited AML/CFT supervisory framework in place nor does the CCDO have an understanding of the ML/TF threats, vulnerability or risks to the sector. The sector risk was rated Low in the NRA.
54. Building Society, Insurance and Pension sector, Payment Service Providers and Securities and Trust Company were weighted of ***least importance*** based on the following factors:
- a. Building Society: There is one building society in Guyana that provides services to members such as mortgages, purchasing of real estate, and deposits which members apply towards shares within the society. The activities in this sector are not significant. The sector risk was assessed with banks and collectively rated as Medium.
  - b. Insurance and Pensions: The insurance sector provides traditional insurance. At the end of 2022, there were seventeen (17) companies licensed to conduct insurance business in

Guyana with six (6) licensed brokers. Assets accounted for 8.9% of total financial assets and 10.9% of the national GDP. Five (5) of the companies were licensed to conduct life / long-term insurance business, while the other eleven (11) were licensed for general insurance business. The insurance companies are locally incorporated, except for the operation of two foreign branches. Cash payment of premiums was lower for all insurance products. The sector risk was rated Medium Low in the NRA.

- c. **Payment Service Provider (PSP):** There is one entity licensed by the BOG, under the National Payments System Act of 2018, to provide “payment services (i.e. services of enabling cash deposits and withdrawals, execution of payment transactions, issuing or acquisition of payment instruments, the provisions of money transfer services or any other service functional to the transfer of money and includes the issuance of electronic money and electronic funds transfers but does not include the provision of solely online or telecommunication services or network access). The sole PSP is a subsidiary of a utility company. However, it was noted that the 6 banks are exempt from licensing and shall be a direct participant under the National Payments Systems Act. The sector was not assessed in the 2021 NRA.
- d. **Securities and Trust Company:** There are 6 companies that offer securities services within the sector and provide brokerage, investment advisory services, underwriting and securities companies dealing, which are regulated by the GSC. The NRA indicated that the volume of trades on the Stock Exchange is relatively small as it represents 0.11% of the GDP of Guyana as at 2019. The securities sector was risk rated Medium Low. The trust company is a FI licensed by the GSC that also performs TCSP, cambio, pension administration, loans and property management services.

**Table 1.2. Financial Sector and DNFBP Type, Number of entities and weight**

Sector	Number of entities	Asset Size (as at Dec 2022)	Weighting
<b>Financial Institutions</b>			
Banks	6	GUY\$ 801,886,107 US\$ 3,845,977	High Importance
Building Society	1	GUY\$ 81,317,189 US\$ 390,010	Least Importance
Money Transfer Agencies	3	GYD 6,288,683,252 USD 30,161,550	High Importance
Cambios	13	GYD 19,256,144,442 USD 92,355,609	Moderate Importance
Insurance	17	G\$146,958,400	Least Importance
Insurance Brokers	11	US\$704,836	Least Importance
Pension	-	-	Least Importance
Payment Service Providers	1	GYD 807,352,595 USD 4,036,763	Least Importance
Securities	6	GYD 3,871,450,889 USD18,568,110	Least Importance
Trust Company	1	G\$ 11,534,339 US\$ 55,321	Least Importance
Credit Unions	26	GYD 8,886,417,618 USD 2,620,708	Moderate Importance

Sector	Number of entities	Asset Size (as at Dec 2022)	Weighting
<b>DNFBPs</b>			
Real Estate	65		Moderate Importance
Casino	2	GYD 2,555,487,802 <b>USD 12,256,536.22</b>	Moderate Importance
Dealers in Precious Metals	7	GYD 134,519,616,153 USD 646,795,002.63	High Importance
Dealers in Precious and Semi-Precious Stones	10	Gold GYD 688,666,671 Diamonds GYD 739,970,428.05 USD 3,549,018.84	High Importance
Dealers in Precious Minerals/Licensed Traders	50	Gold GYD 18,191,504,239 Diamonds GYD 6,833,794,067.51 USD 14,003,760.52	High Importance
Attorneys at Law	226 <sup>2</sup>	Not available	Moderate Importance
Accountants	143	GYD 14,490,568 USD 69,499	Moderate Importance
Notary Public	23	-	Moderate Importance
Non-Financial Trust and Company Service Provider	Unknown	-	Moderate importance

#### 1.4.4 Preventive measures

55. Preventive measures are set out in the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Act, of 2009 and its accompanying Regulations. The AML/CFT Act has undergone several amendments. The preventive measures extend to those entities (FIs and DNFBPs) defined as REs in the First Schedule of the AML/CFT Act, 2009 wherein provisions for the requirements applicable to CDD (S.15), record keeping (S.16), STR reporting (S.19), wire transfers (S.20) and other internal controls such as training, audit, etc (S.19) are outlined. There are no exempted sectors or activities from the scope of Guyana's AML/CFT legislation.

#### 1.4.5 Legal persons and arrangements

56. Guyana's legal framework provides for the creation of a wide range of legal persons (LPs) as illustrated in Table 1.3. The total number of companies ever registered in Guyana amounts to 15,254. Notably, Guyana is currently in the process of striking off companies from the Commercial Registry for failure to comply with filing obligations in respect of basic and BO information, which results in the number of active companies being less than the total number of registered companies.

<sup>2</sup> This represents the number of attorneys-at-law practicing in the jurisdiction that may be performing the activities stated at R.22

Table 1.3. Legal Persons in Guyana

Type of Legal Person	Governing Law	Entity Responsible for Formation	Total
For Profit Companies	Companies Act	Commercial Registry	10,980
External Companies			893
Former Companies Act (prior to 1991)			2,755
Not for Profit Companies			524
State Companies			102
Partnerships	Partnership Act		Not available
Friendly Societies	Friendly Societies Act	Chief Cooperative Development Officer (Registrar of Friendly Societies)	1,503
Working Men's Club			
Benevolent Societies			
Specially Authorised Societies			
Cooperative Thrift Society and Cooperative Saving Society	Cooperative Societies Act		2,210
Cooperative Credit Union			
Agricultural Cooperative Society			
Consumer Cooperative Society			

57. The creation of legal arrangements (LAs) in Guyana is not guided by any legislation but remains a private arrangement created pursuant to common law principles. Parties can voluntarily opt to register the LA by way of deed with the Deeds Registry. Further, certain trust activities must be registered with the Deeds Registry such as Mutual Funds and Unit Trusts pursuant to the Securities Industry Act; trust services pursuant to the Financial Institutions Act; and trusts for insurance purposes pursuant to the Insurance Act.

#### 1.4.6 Supervisory arrangements

58. During the period of the mutual evaluation assessment there were eight (8) AML/CFT supervisors operational in Guyana as outlined in Table 1.4. It should be noted that the AML/CFT supervisor for notaries, attorneys-at-law, TCSPs and accountants was designated but the agency was not established or operational by the end of the on-site.

Table 1.4. AML/CFT Supervisors in Guyana

Supervisor	Supervised Sectors
BOG	Banks MTAs Cambios Insurance companies Insurance brokers Payment Service Providers Pension Scheme
GSC	Securities
CCDO	Credit Unions
GGMC	Dealers in precious minerals Dealers in precious and semi-precious stones
GGB	Dealers in Precious Metals (gold)
GA	Casinos



Supervisor	Supervised Sectors
GRA	Real Estate
GCC	Attorneys-at-Law Accountants Notaries TCSPs

59. In 2023, Guyana made adjustments to its AML/CFT supervisory framework based on the findings of the NRA. With the enactment of the Guyana Compliance Commission Act, No. 14 of August 16<sup>th</sup>, 2023, the GCC is now the designated AML/CFT supervisor for accountants, attorneys-at-law, notaries and TCSP. There was no AML/CFT supervision of the sectors during the period of this evaluation. Also, the Real Estate Agents and Brokers Act, of No. 13 of August 16<sup>th</sup>, 2023, now designates the Guyana Real Estate Agents Authority as the AML/CFT supervisor for persons engaged in the business of real estate agent or broker. The Assessors noted the GRA remains the AML/CFT supervisor for the real estate sector until the Authority is established. Neither the Commission nor the Authority were established by the end of the onsite visit.

#### ***1.4.7 International cooperation***

60. Guyana has a developing legal framework and AML/CFT system that includes mechanisms for international cooperation on ML and associated predicate offences. There is some transnational exposure and ML/TF risk particularly with the growing oil and gas industry and economic development.
61. Guyana has a strong technical compliance framework which can allow CAs to seek and provide various forms of international cooperation. This is instrumental to the economic development advances in the jurisdiction. The MOHA is the CA for MLA.

## Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

### 2.1. Key Findings and Recommended Actions

#### Key findings

- a) Guyana has made significant efforts to improve its understanding of AML/CFT risk via the conduct of multiple risk assessments including (i) a national ML risk assessment in 2017, that was updated in 2021; (ii) a 2022 NPO TF risk assessment; (iii) a 2023 TF risk assessment; (iv) a 2023 sectoral risk assessment on the Extractive Sector; (v) a 2023 LPs and LAs risk assessment; and (vi) a 2023 VAs and VASPs risk assessment.
- b) Guyana has demonstrated a good understanding of its ML risks and a fair understanding of its TF risks. In relation to the ML risk assessment, Guyana has demonstrated a good understanding, which in large part was driven by the contributions of the various segments of the private sector and is evidenced in the implementation of action items.
- c) Guyana has developed significant national AML/CFT policies and activities to address identified risks *inter alia* the development of the ML/TF/PF National Policy and Strategy Plan, stronger cooperation amongst CAs through the signing of MOUs, the development of legislation to create a Compliance Commission as well as the Real Estate Authority, the provision of guidance for asset forfeiture and confiscation and new guidance to FIs and DNFBPs.
- d) Guyana has evidenced that enhanced CDD measures are applied to identified high-risk customers and scenarios. Also, measures have been implemented, where appropriate, to permit simplified due diligence to address the issue of financial inclusion.
- e) The activities and objectives of CAs in Guyana are consistent with the evolving national AML/CFT policies and ML/TF risks identified. This is evidenced through *inter alia* the development of operating procedures for LEAs, establishment of MOUs, increased resources for key agencies such as the SOCU, DPP and AG. Further, Guyana has increased cooperation among the agencies in the extractive industry in light of the ML risks associated with the sector.
- f) Guyana has demonstrated strong cooperation and coordination amongst CAs using formal and informal means. For instance, on supervision: the FIU of Guyana has provided support via publication of guidance to REs as well as training (for REs and SAs); For Law enforcement: development of guidance relative to TFS by sub working Committee of the NCC as well as collaboration among law enforcement and the ODPP on ML and TF investigations.
- g) FIs and DNFBPs showed strong awareness of the results of the ML NRA 2021 indicating that considerable outreach and dissemination of the NRA findings were

undertaken. The results of the 2021 NRA were disseminated via various mechanisms such as through media campaign, publications on CAs' websites, training and outreach sessions and electronic messages of the summary report to FIs and DNFBPs.

## Recommended Actions

Guyana should:

- a) Conduct sectoral ML risk assessments of the DNFBP sectors, in particular, attorneys-at-law, accountants, notaries, TCSPs and real estate sectors, by including information on the types of services/products offered and the level of ML/TF exposure posed by those DNFBPs to ensure an updated ML risk understanding.
- b) Further develop an understanding of the TF risk by (i) considering the necessary data, relative to their TF vulnerabilities and threats, including domestic and foreign financial flows; and (ii) determining the features and types of NPOs that are likely to be at risk of TF abuse.
- c) Ensure that the results of the 2023 TF risk assessment, the 2023 sectoral risk assessment on the Extractive Industries, the 2023 LPs and LAs risk assessment and the 2023 VAs and VASPs risk assessment are widely shared with FIs, DNFBPs and the general public, where relevant.
- d) Ensure that national AML/CFT policies and strategies are updated to take into account the outcomes of the finalised sectoral risk assessments, including that of the extractive industries.
- e) Continue implementing the ML/TF/PF NPSP 2021-2025 and the Strategy for the implementation of the Recommendations of VAs/VASPs Risk Assessment (2023 – 2028). The NCC should continue to monitor the implementation of both Strategies to ensure that the objectives contained therein are met.

62. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 2, 33 and 34, and elements of R.15.

63. The AT's findings on IO.1 are based on its review of key documents, such as the NRA (both the full and summary versions), key documents such as the National Policy and Strategy Plan (which includes the Action Plan) as well as discussions with relevant CAs and private sector representatives.

### 2.2. Immediate Outcome 1 (Risk, Policy and Coordination)

### ***2.2.1. Country's understanding of its ML/TF risks***

64. Overall, Guyana has a good understanding of its national ML risks and a fair understanding of its TF risks, having conducted its second NRA in 2021 which updated the first NRA conducted in 2017 for the period 2016-2020. The second NRA introduced new ML/TF risks unique to Guyana's geographic locality such as the illegal wildlife trade, and ML threats associated with the oil and gas sector. The 2021 NRA as well as the updated TF/PF risk assessment have informed the jurisdiction's counter ML and TF strategies.
65. The NRA (2021) was led by the NCC and engaged over 40 public and private sector agencies, including SAs, LEAs, and private sector representatives; some of which are members of the NCC working group (WG). The NRA was conducted during the period December 2019 to May 2021, using the World Bank's methodology to identify the main drivers of ML/TF risks. The first stage of the NRA process included establishing the WGs and commencing collection of data and information for the assessment. This was followed by training on the WB Risk Assessment (RA) tool and analysis of the data received to ascertain risks presented and determine impact to the jurisdiction. The independent data and information sources used included qualitative and quantitative inputs (statistics, intelligence and interviews with relevant authorities, market participants and focus group meetings). However, challenges were encountered as some DNFBP sectors (attorneys-at-law, accountants, and real estate agents) were not forthcoming with information. This was coupled with the unavailability of relevant personnel to complete questionnaires due to the Covid-19 pandemic. In recognition of the data gaps, Guyana has rated those sub-sectors medium, medium high and medium respectively as a mitigating measure whilst it continues to increase its understanding of those subsectors' ML/TF risks. It is expected that risk assessments of these subsectors will be updated in the upcoming third NRA which is scheduled to commence in the fourth quarter of 2024. The final stage of the NRA process entailed discussion of the RA and its results as well as finalization of the report for dissemination to all relevant stakeholders along with a risk-based action plan for implementation. The overall ML risk was determined to be medium high consequent to the medium high ML threat and vulnerability of the country. While the number of attorneys-at-law and accountants who perform the activities captured in the FATF standards is unknown and will be assessed upon the establishment of the Compliance Commission, information obtained during onsite interviews with the public authorities and private sector indicate this is at a minimum. Given the weight of the sectors (moderate importance) and inclusion of the sector under the remit of the Compliance Commission, this deficiency is considered minor.
66. The NRA (2021) identified gold smuggling, tax evasion, trafficking in narcotic drugs and fraud as posing the highest ML threats in Guyana, with corruption and bribery following closely. An examination and analysis of the investigations and charges of predicate offences for ML revealed that those posing the highest ML threats included gold smuggling, which, in the general category of smuggling has an estimated value of USD\$2.2 billion. The high ML threat of tax evasion is based on funds confiscated due to failure to declare revenue and the value of STRs received in relation to tax evasion. In accordance with the findings of the second NRA, over 2,000 narcotic related cases were conducted during the period 2016 to 2020, which was a collaborative undertaking between the GPF, GRA, CANU, SOCU, the

FIU of Guyana and NANA<sup>3</sup>. Additionally, 1,139 cases of alleged fraud were investigated during the review period.

67. The ML/TF risks of the illegal wildlife trade were also assessed and rated as medium. The international legal wildlife trade has garnered significant revenues - GYD54,346,001 in 2016, GYD43,530,416 in 2017, GYD73,800,065 in 2018 and GYD49,725,869 in 2019. The relative size of the illegal trade is unknown but based on the figures for the legal wildlife trade and knowing the profitability of Illegal Wildlife Trade (IWT) worldwide it is imagined that IWT would be substantial. The NRA found that there were ineffective monitoring systems, and LEAs lacked knowledge in conducting parallel financial investigations and confiscating assets of criminals involved in the illegal wildlife trade. There has been no successful prosecution of wildlife crimes in Guyana and there is no information to support the extent of related threats. However, the unsecured borders continue to pose a risk. The methodology tool developed by the World Bank, which was utilized by Guyana, is an excel model based on the understanding of the causal relations among money laundering risk factors and variables relating to the regulatory, institutional, and economic environment. The tool comprises several interrelated modules. These are built on 'input variables', which represent factors related to ML/TF threats and vulnerabilities. The NRA identified the ML/TF risks posed to the FIs (banking and building societies<sup>4</sup>, cambios, MTAs, insurance, securities, cooperatives and credit unions [cooperatives]) and several DNFBP sectors (DPMS, casinos, real estate, used car dealers, pawnbrokers, attorneys-at-law, accountants, notaries, and non-financial TCSPs). The NRA found that accountants were rated Medium-High while banks, cambios, MTAs, attorneys-at-law, DPMS, non-financial TCSPs and real estate were rated Medium. All other sectors were rated Medium-Low or Low (See section 1.4.3 of the MER).
68. The AML/CFT supervisors contributed to the NRA through the completion of questionnaires and participation in focused group interviews and meetings. Data and information collected included supervisory guidance notes, data on the size, depth and characteristics of the sector, information on AML monitoring systems, supervision, staff training and statistics on examined institutions, findings, breaches, and corrective action taken. In general, AML/CFT supervisors have demonstrated that the national ML/TF risk assessment informed their understanding of the ML/TF risks of supervised sectors. Both financial and DNFBP supervisors are members of the NCC and thus were involved in national AML/CFT activities. During the onsite interviews, the supervisors demonstrated a strong understanding of the ML/TF national and sectoral risks. Financial supervisors (BOG and GSC) have conducted sectoral risk assessments and thematic reviews of sectors.
69. Guyana conducted topical risk assessments for legal persons and arrangements, as well as the emerging VAs and VASPs. The legal persons and arrangements risk assessment was finalized on 11 September 2023 and the VAs/VASPs was updated in August 2023. Both

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<sup>3</sup> The National Anti-Narcotic Agency (NANA) was coordinated with the Special Intelligence Committee by the now disbanded State Asset Recovery Agency (SARA).

<sup>4</sup> See paragraph 27 a) of the MER

reports were presented to the AT by the end of the onsite process. Guyana demonstrated a fair understanding of the risks related to VAs/VASPs which led to the national policy as articulated in R.15 analysis. The AML/CFT supervisors for FIs also demonstrated an understanding on how VAs/VASPs can be abused and of the national policy. Company formation is offered by some of the attorneys-at-law in Guyana and whilst there has been an increase in company incorporation with a nexus to the oil and gas sector, there was no indication that this was on a material scale.

70. Further to the NRA (2021), an NPO TF risk assessment was conducted in November 2022 which determined the true size and nature of the NPO sector in Guyana as well as the overall TF risk to the NPO sector that was rated as low. The risk assessment confirmed that all active NPOs in Guyana meet the FATF definition. The assessment of the sector did not identify those NPOs in Guyana that are more susceptible to TF. The AT was of the view that the risk assessment did not adequately identify the subset of NPOs, which by virtue of their activities and characteristics, are likely to be at risk of TF abuse (as required under R.8).
71. With the increased activity in the oil and gas sector, Guyana recognized the need for greater governance in the sector, transparency and accountability. The findings of the NRA (2021) provided a better understanding of inherent and residual threats with an overall risk rating of Medium. The threats identified included collusion/bias in the issuance of prospecting and production licences, individuals involved in ML/TF who are beneficial owners of international oil companies (IOCs), corruption at the point of verification of oil quantities and revenue collection and conflict of interest by PEPs. The NRA revealed that there is antiquated legislation, lack of disclosure of information on the issuance of licences and little institutional expertise and experience available to regulate, monitor and supervise oil and gas companies. Since the NRA, some measures developed include strengthened legislation, reformed licensing mechanisms and enhanced regulation (the requirement for oil and gas companies to publicly disclose BO information). To expand on these initial findings and deepen the understanding of the ML/TF/PF risks associated with the expanding extractive industries, Guyana is in the process of completing the follow up risk assessment of the sector.

#### *Terrorist Financing*

72. Guyana has assessed its TF risk in the NRA of 2021 and subsequent updated TF risk assessment conducted in 2023. As such Guyana's overall TF risk was rated as medium, which is a decrease in risk from the first NRA (2017). The rationale for the decrease is based on strengthened TF legislation, increased sensitization and training on TF and no identified TF activities. The AT also noted the policy decision to maintain the rating of the 2021 NRA after the updated assessment in 2023 is essentially due to the constantly evolving nature of TF risk. Guyana cited TF vulnerabilities associated with foreign terrorist fighters based in neighbouring countries and its proximity to jurisdictions which have been identified as terrorist safe havens. The country also recognizes that being a heavy cash-based economy increases its vulnerability to TF, which aligns with the findings of the 15 TF investigations that revealed financial flows related to TF appear to pass through Guyana's MTAs.
73. The AT is of the view Guyana has a fair understanding of its TF risks. It was noted that the assessment was primarily based on data provided by the FIU of Guyana (ten (10) TF related STRs submitted between 2016 and 2020) as well as information obtained from international

cooperation. The limited sources of information utilized in the 2023 risk assessment impedes ability to fully understand the true TF risks.

74. Though considerable action has been taken to address the deficiencies identified in the 2021 NRA such as (i) the implementation of a national strategic framework for countering TF, (ii) increased cooperation among agencies responsible for analysing, investigating and prosecuting TF and (iii) increased resources, the AT is unable to ascertain how the new measures have assisted Guyana in improving its understanding of its TF risks.

### ***2.2.2. National policies to address identified ML/TF risks***

75. After the conduct of the NRA (2021), sectoral assessments and the updated TF/PF risk assessment, Guyana developed national AML/CFT policies and activities that address identified ML/TF risks to a substantial extent and has made considerable progress in implementing them.
76. On the 2 March 2023, the Cabinet of Guyana approved the NPSP for the period 2021-2025, which was then widely communicated to the relevant stakeholders. The eight (8) key strategic objectives are illustrated in Box 1.1.

#### **Box 1.1. 2021 NRA Strategic Objectives**

- a) **Core Objective I** – Ensuring policy coordination to mitigate ML/TF risks;
- b) **Core Objective II**- Strengthening the AML/CFT legislative framework;
- c) **Core Objective III**- Strengthening the AML/CFT supervisory framework;
- d) **Core Objective IV**- Enhancing the capabilities of the FIU of Guyana;
- e) **Core Objective V**- Enhancing investigation and prosecution capabilities;
- f) **Core Objective VI** - Developing greater cooperation and coordination among competent authorities;
- g) **Core Objective VII** - Enhancing regional and international cooperation; and
- h) **Core Objective VIII**- Ensuring transparency of legal persons and arrangements.

77. Emanating from the NPSP is a Risk Based Action Plan (RBAP) which identified several high priority actions, which have been prioritised for implementation. Some of the high priority actions include amendments to key legislation, such as the AML/CFT Act of 2009 and its regulations, introduction of new legislation establishing two (2) AML/CFT SAs, and the designation of PF as a predicate offence for ML. Guyana has responded to deficiencies identified in the supervision of key DNFBP sectors with the enactment of (i) the Guyana Compliance Commission Act, 2023 to provide supervisory oversight of

accountants, attorneys-at-law, notaries and TCSPs; and (ii) the Real Estate and Brokers Act, 2023 to streamline the supervision of real estate entities.

78. To further address Guyana's identified ML/TF risks, policy initiatives that have been implemented include new TF guidelines for charities and NPOs, guidelines on identification of beneficial ownership, enhancement of BOG issued guidelines, AML/CFT guidelines for various DNFBP sectors, the amendment of the definition of PEP in law to bring it in line with the FATF definition, and the establishment of a special branch within in the GPF known as the Anti-terrorism Unit with responsibility for terrorism and investigations. Further, a counter PF as well as a counter TF national strategy were developed subsequent to the updated TF/PF risk assessment in 2023. In addition, a new Memorandum of Understanding (MOU) to formalise coordination and information sharing among the SAs and CAs was established to facilitate effective execution of the strategies.
79. Guyana indicated there is an effective legal system for the export of wildlife and dissuasive sanctions to combat illegal wildlife trade. In response to the identified risks concerning the illegal wildlife trade, Guyana has established a Wildlife Crime Strategy (2023 – 2028) which speaks to the creation of a multi-agency Steering Committee comprising various agencies including the Wildlife Conservation and Management Commission, SOCU, GPF, Customs, FIU of Guyana, DPP, GGB, GGMC and GRA. The establishment of the Steering Committee is a mechanism to coordinate agencies responsible for enforcing wildlife laws and to guide an effective national response and efforts to maintain the sustainability of Guyana's natural resources. There are plans for the Steering Committee to establish and have strategic control of a multi-agency task force<sup>5</sup>. Consequently, this has led to an increase in training and awareness and collaborative efforts between the CAs. A domestic licensing system to regulate and monitor local trade has also been implemented and the operationalisation of checkpoints along wildlife transportation routes are expected to be in effect by the final quarter of 2023. Whilst this regime is in the process of being fully operational, it demonstrates how Guyana is responding to its identified ML/TF risks.
80. Guyana has demonstrated its ability to respond to new and emerging risks through the legislative restriction of VA/VASPs in the Compliance Commission Act (2023) whilst a national strategy is developed to determine the country's capacity to mitigate the ML/TF/PF risks. Notwithstanding Guyana's policy decision to restrict the granting of licenses for VA/VASP activities until 31 December 2025, CAs indicated that an action plan will be developed to include high and medium level priority measures to mitigate associated ML/TF risks with the sector. To sensitise the public on the restriction, a public notice was issued in 2023, informing of criminal sanctions for non-compliance with the VASP prohibition. However, Guyana has not demonstrated that it has adequate mechanisms for detecting persons in violation. After completion of the ML/TF risk assessment on VAs/VASPs in July/August 2023, a *Strategy for the Implementation of the Recommendations of the VA/VASP Risk Assessment for Guyana 2023 – 2028* was developed in September 2023. The strategy speaks to three (3) strategic objectives: (i)

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<sup>5</sup> The Multi-Agency Task Force is envisaged to prioritize resources and allocate a technical skillset. The Task Force will provide the capacity to share information, exchange criminal intelligence and carry out comprehensive investigations nationally and internationally. It will have two components: intelligence gathering and analysis; and investigative support.



Protecting the Public; (ii) Preparation of the Legislative and Policy Framework; and (iii) Practical Evolution of the AML/CFT Systems to encapsulate VAs/VASPs. Guyana has also implemented measures to meet the standards of the Extractive Industries Transparency Initiative to address the ML/TF/PF risks associated with lack of transparency.

81. The allocation of resources to LEAs is largely commensurate with the risks identified in the NRA. This is evidenced in the increase of SOCU investigators from 9 to 25, the increase in specialised investigative training for law enforcement officers, the creation of a Standard Operating Procedures (SOP) for the SOCU and the signing of an MOU in 2023 among all LEAs to increase coordinated investigation efforts of ML/TF/PF predicate offences.
82. Guyana has well established mechanisms to implement action items including the establishment of ad hoc committees for, as examples, outreach and awareness, data and statistics as well as legislative drafting. Likewise, there are mechanisms to monitor implementation of the RBAP via monthly progress reports submitted by the member agencies to the NCC as the legally responsible agency. The NCC has reported the high-level commitment and ministerial support for the reporting system.
83. The AT is satisfied that Guyana has taken considerable action to address relevant gaps through the implementation of action items in alignment with identified risks. Whilst Guyana has demonstrated effectiveness in the work undertaken to date, having completed most of the high priority items, full implementation of actions as outlined in the RBAP remains ongoing.

#### *Terrorist Financing*

84. The jurisdiction has finalized its CTF and CPF strategies for the period 2022-2025. Guyana continues to apply policy actions to mitigate TF risks identified since the NRA (2021). These include continuous specialist TF training for key agencies such as the FIU of Guyana, SOCU and DPP, as well as legislative amendment which gives the SOCU specific powers to investigate TF and to collaborate with the GPF, GDF, CANU or any other agency in this regard. In addition, CTF guidelines were issued, legislative amendments relating to TF were enacted and the newly formed NCC sub-committee on TF and PF has increased cooperation among key agencies.

#### ***2.2.3. Exemptions, enhanced and simplified measures***

85. Guyana's legislative framework does not provide for exemptions to FIs or DNFBPs from implementation of AML/CFT requirements as stipulated by the FATF standards. However, there are mechanisms that provide for the relevant Minister to make appropriate regulations for the application of SDD measures and issue directives for enhanced measures based on ML/TF/PF risks when necessary.
86. Where FIs and DNFBPs identify higher risks in the risk assessments or conduct of due diligence (customers that are PEPs, non-nationals or non face-to-face transactions), enhanced due diligence measures are required. In accordance with the risk rating of some DNFBP sub-sectors (DPMS, used car dealers and real estate agents) in the 2021 NRA, banking institutions have implemented enhanced CDD measures which require customers to provide evidence of registration with the FIU of Guyana before they are permitted to conduct transactions.

87. The insertion of a fifth schedule to the principal Act, pursuant to the AML/CFT Amendment Act No.15 of 2023 imposes threshold reporting for entities in the gaming (GYD \$500,000/ USD\$2,392), pawnbrokers and money lenders (GYD \$300,000/ USD\$1,435) and credit unions (GYD \$500,000/ USD\$2, 392) sectors and deems amounts below these thresholds to be low risk.
88. To address the issue of financial inclusion identified in the NRA (2021) and Guyana's acknowledgement of its unbanked population, the BOG issued new guidelines to its FIs (particularly banks) on the application of simplified due diligence measures to encourage the unbanked to enter the formal financial system and improve the ease of conducting financial transactions by undocumented persons. This included reducing the threshold for deposits to USD\$2,500. Additionally, the AML/CFT Act (as amended by Act, No.15 of 2023) defined providers of financial inclusion products/services, including payment service providers licensed under the National Payment Systems Act 2018 (who were not previously regulated for AML/CFT purposes), as REs which must comply with the AML/CFT requirements.
89. The AT is satisfied that based on Guyana's NRA, the measures allow for simplified due diligence under specific conditions, including the existence of various mitigating measures and threshold reporting for cash intensive sectors.

#### ***2.2.4. Objectives and activities of competent authorities***

90. During the period of the mutual evaluation assessment, a number of MOUs were signed between/amongst key CAs to facilitate cooperation and information sharing. These occurred between the period May 2022 – March 2023. The most recent MOU on cooperation and information sharing between CAs and SAs was signed on August 30, 2023, in response to the RBAP. The MOUs are intended to address gaps identified in the NRA concerning inter-agency cooperation and collaboration on AML/CFT/CPF issues.
91. *FIU of Guyana:* As part of the efforts to strengthen Guyana's TF framework, the FIU of Guyana has highlighted the need for specialised training to analyse STRs related to TF and the appointment of staff to focus on terrorism and terrorist financing. The FIU of Guyana has also intensified AML/CFT training provided to (i) registered entities (new and existing) to include information on risk assessments, suspicious indicators and emerging threats; and (ii) internal staff. Moreover, the FIU of Guyana has prioritised the processing of STRs received in accordance with the sectors posing the highest national risks. High risk ratings are reserved for STRs involving illegal activities that may compromise the financial system or public safety, such as transactions where TF is suspected. STRs around major drug trafficking incidents relating to a European drug bust with links to Guyana were also rated high risk because of the international nature, value of funds involved and the identification of drug trafficking as a high-risk issue in the NRA.
92. Mandatory registration of REs with the FIU of Guyana has reduced the risk exposure, as the purpose of registration with the FIU of Guyana is to monitor REs' compliance with AML/CFT reporting obligations. Further, the FIU of Guyana and SAs collaborate efforts to this end, which include communicating with SAs when REs are not registered or are not reporting to the FIU of Guyana as required.

93. *Commercial Registry*: The Registrar of the Commercial Registry, in accordance with the 2017 NRA risks associated with legal persons and arrangements and subsequent RBAP, established an operational procedure manual to manage timely access to BO information and has instituted a sanctions framework that results in a company being struck off the register for non-compliance with filing of BO obligations. It has also adopted a system to generate default notices when companies fail to submit updated BO information or file annual returns. These were completed within the stipulated timeframe of Q2 of 2021 to Q4 of 2023. However, the digitization of records to be completed by Q4 of 2022 remains outstanding. The FIU of Guyana has conducted training for staff of the Registry to enhance knowledge and understanding of BO requirements for legal persons and arrangements and also shared topical publications by the CFATF, IMF and FATF.
94. *Supervisors*: During the period of the assessment, seven of the eight designated AML/CFT supervisors were operational. The SAs (SAs) were all aware of the NRA but there were varied levels of understanding of risks. Consequent to the findings of the 2021 NRA, the BOG reformed its supervision focus of the banking sector and now applies a full risk-based supervisory framework from a hybrid risk-based and transaction-based approach. This permits a more targeted oversight of those REs which pose a higher ML/TF risk. In addition, the BOG has reviewed and amended supervisory guidelines #12 and #13 to incorporate the amendments to the AML/CFT Act, 2009 and this was disseminated to REs. The activities undertaken by the GSC in response to the NRA included the issuance of guideline No.1 of 2023 to its REs aimed at improving compliance with TFS and AML/CFT obligations, update of supervisory examination policy in February 2023 and the establishment of a strategic plan for 2023-2026 which seeks to strengthen the sector based on the results of the NRA.
95. Guyana established legislation in 2023 to provide for 2 new AML/CFT supervisors for some DNFBP sectors. The GCC, which was not yet appointed by the end of the onsite, is the designated AML/CFT supervisor for attorneys-at-law, accountants, notaries and TCSP. The Real Estate Authority, yet to be appointed under the Real Estate Authority Act (2023), is the designated supervisor for the real estate sector. Notwithstanding, until the Authority is constituted, the GRA remains the designated supervisor for the real estate sector. The GRA has implemented risk-based supervision. With the heightened economic activity with oil and gas developments, there has been local development and a resulting surge in real estate activities (as identified in the GRA's Risk Based Action Plan to assess likely inherent risks posed by the activities of the Real Estate Agents – dated March 2022).
96. Given the low level of suspicious transaction reporting by the gaming sector, as highlighted in the NRA, the Gaming Authority revised the scope of compliance examinations to assess entities' transaction monitoring capabilities to determine whether suspicious transactions are identified, assessed, and reported to the FIU of Guyana. Additionally, training on the filing of STRs for the 2 entities in the sector was intensified.
97. The GGB has implemented Fit and Proper testing criteria of applicants (owners, key management personnel, directors and BOs) which included collaboration with law enforcement (SOCU), verification of BO information on all dealers through the Commercial Registry, provision of specialized AML/CFT training for staff, and signed

MOUs with GGMC, the FIU of Guyana and SOCU to enhance cooperation and information sharing for effective supervision.

98. *Law enforcement authorities (LEAs)*: The GRA Customs has finalised two SOPs on currency declaration and proliferation, and statistical information from the CANU illustrates the currency seizure operations between 2016-2023. Signage has been placed at all ports of entry and border crossings to notify of obligations to declare currency and a Customs exporting software system has been employed to assist in the detection and prevention of illegal wildlife trade.
99. *Other Competent Authorities*: The AG's Office demonstrated its understanding of its role in remediating the deficiencies highlighted in the NRA, which included new asset sharing provisions in the new AML/CFT regulations, strengthened legislation on MLA and the sharing of information with overseas CAs, as well as issuance of guidance on confiscation, civil recovery and forfeiture of instrumentalities and cash. These new provisions strengthen the AG's Office to fulfil its objectives which include filing civil proceedings on behalf of the requesting agency, whether it be the GPF or SOCU, and cooperation with foreign counterparts in MLA matters.
100. The AT concluded that the activities of CAs are to a large extent consistent with the ML/TF risks identified and evolving national AML/CFT policies.

### **2.2.5. National coordination and cooperation**

101. The NCC, established by the AML/CFT Act, 2009, has responsibility for, *inter alia*, coordinating actions to assess ML/TF risks, developing national AML/CFT/PF policies informed by the risks identified, and ensuring coordination among policy makers. The core membership includes the Attorney General and Minister of Legal Affairs (as Chairperson), the Director of Public Prosecutions, the Governor of the BOG, the Commissioner General of the GRA, the Director of the FIU of Guyana, the Head of the SOCU, the general manager of the GGB, the GGMC, the Chairpersons of the GSC and GA and the CCDO. The NCC is also empowered to appoint ad hoc committees with subject matter experts to assist in executing its functions such as outreach/awareness sessions and legislative review and amendments. Interviews with the respective agencies during the onsite confirmed their active participation and involvement in the work of the NCC.
102. The NCC meets quarterly at a minimum to discuss member updates on implementation of the RBAP, and ML/TF risks identified by SAs relating to supervised sectors. To this end, the authorities have cooperated and coordinated in the development of policies and guidelines, including updates to the PF risk assessment<sup>6</sup> and the counter PF guidelines and strategy.

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<sup>6</sup> PF has been identified as an emerging trend. Guyana's NRA of 2021 included an assessment of its legal framework and deemed it to effectively address PF requirements. A subsequent updated PF risk assessment was conducted in 2023, and whilst a risk rating was not been assigned, a five-point strategy has been adopted.

103. Domestic cooperation and coordination are facilitated at the operational level through formal mechanisms such as MOUs signed among SAs and CAs to facilitate interagency collaboration, as well as informally through meetings, phone calls and task forces. The most recent is the MOU signed by all CAs in August 2023. A case study on a Pyramid Scheme in 2020 illustrated the extent of domestic cooperation between the private sector and government AML/CFT agencies such as the FIU of Guyana, GPF- CID, CANU, the Deeds & Commercial Registry, Ministry of Legal Affairs, the BOG and the GSC. The cooperation in this case resulted in over 150 charges instituted by SOCU against the subjects, including for the offence of ML under the AML/CFT Act, 2009.
104. Regarding Guyana's natural resources, the AT was satisfied with the extent of domestic cooperation and coordination among the respective agencies under the Ministry of Natural Resources: GGMC, GGB and Guyana Forestry Commission (GFC). One significant measure is the combined use of resources such as field stations and machinery to ensure borders are protected and there is compliance by all users/traders. There is evidence of cooperation and sharing of resources by the GGB and GGMC in the interior to mitigate illegal mining and smuggling of minerals and precious metals and stones. The Ministry indicated the intent to establish a Petroleum Commission to implement mechanisms and further cooperative efforts to protect the natural resources (oil and gas).

#### **Co-ordination and Co-operation among Law Enforcement Authorities**

105. Guyana has evidenced that it is investigating ML cases in line with the country's identified risks. There are formal, as well as informal mechanisms to facilitate the sharing of information and coordination between LEAs: SOCU, GPF-CID, CANU, SARA and the GRA. These include an MOU, the sub working group of the NCC on law enforcement issues and joint or simultaneous investigations. The SOCU's capability to investigate ML and predicate offences is strengthened by its access to information from multiple CAs such as the FIU of Guyana, GRA and the Commercial Registry and its sound relationship with the DPP's office. In performing its investigation, the SOCU routinely makes formal requests to the GRA for further investigation into tax evasion to be conducted, which evidences cooperation among the two agencies.
106. The FIU of Guyana consistently executes its mandate to share intelligence reports and information with LEAs spontaneously and on request, and follow-up reports are shared when additional information becomes available.

#### **Supervision**

107. The FIU of Guyana has increased its collaboration with SAs to ensure that all REs are registered, and SAs are formally notified when REs are not in compliance with their reporting obligations. In some instances, registration with the FIU of Guyana is a pre-requisite for licensure by the SA, and in other cases the FIU of Guyana is notified by the SA when a licence approval is impending. Furthermore, there is strong cooperation between the GGMC and GGB in relation to the granting of a license to trade, whereby the GGB must provide a non-objection notification before GGMC can proceed with the issuance of a trading license.
108. SAs also routinely liaise with the Commercial Registry to ascertain the BO information of applicants for licensure.

109. SAs often collaborate with the FIU of Guyana regarding the provision of AML/CFT awareness, guidance and conduct of AML/CFT training for REs on their AML/CFT obligations, including reporting obligations aimed at enhancing STR reporting. There has also been collaboration among the supervisors of the DPMS sectors. The GGB and GGMC have partnered amongst themselves, as well as with other agencies under the Ministry of Natural Resources, to monitor the sectors.
110. BOG Guideline No.2 on licensed financial institutions (LFIs) recommends that in the case of a foreign FIs, there should be a level of cooperation between the BOG and the home regulator which includes the conduct of consolidated supervision.

#### ***2.2.6. Private sector's awareness of risks***

111. CAs have undertaken substantial outreach to ensure that all FIs and DNFBPs are made aware of the findings of the NRA which were discussed at a working group session with policy makers and heads of key agencies from both the public and private sector. This also included various training sessions on the NRA between 2021 – 2023 by both the FIU of Guyana and SAs. The full NRA was then shared with the heads of SAs, responsible for disseminating to their respective entities. REs were informed of the findings by their SAs via email, correspondence, and social media platforms. Some SAs, including the GSC and GGMC, published the NRA report on their websites and in the BOG's case, entities were instructed to provide an action plan of how they proposed to mitigate the identified risks of their respective sectors. Follow-up correspondence on the NRA was shared by the BOG to its REs in April and August of 2023 respectively.
112. The full NRA was also uploaded to the FIU of Guyana's website which received 495 hits between January-August 2023. New REs were informed of their specific risks by the FIU of Guyana during onboarding training, and SAs also discussed the findings of the NRA with supervised entities during AML/CFT educational awareness sessions. The general public was also informed via newspaper articles.
113. The NRA and executive summary were also sent to attorneys-at-law, accountants and real estate entities through their respective associations which was followed by a sensitisation and outreach session with the NCC which highlighted the necessity of the sectors to be subject to AML/CFT/CPF oversight and supervision.
114. In addition, the findings of the various sectoral risk assessments were disseminated to SAs for onward circulation to their respective REs. The impact of this is further illustrated in the analysis at section 5.2.1 of this report.

## Overall Conclusion on IO.1

115. Guyana has an overall good understanding of its ML/TF risks having conducted two NRAs (2017 and 2021) and several sectoral/topical risk assessments inclusive of the (i) NPO in 2022; (ii) Updated TF/PF in 2023; (iii) Legal persons and arrangements in 2023; and (iv) VAs/VASPs in 2023. There were moderate shortcomings in the understanding of the national ML/TF risks around (i) quantifying the ML/TF risk exposure posed by accountants, attorneys-at-law, notaries and TCSPs, and (ii) gaps in the assessment of the NPO sector.
116. Guyana has taken positive steps and adopted strategies to substantially address the identified ML/TF risks. These strategies regarding the national AML/CFT policies and activities, including amendments to strengthen AML/CFT legislation, reform of AML/CFT supervisory mechanisms, increased cooperation among CAs and improvement to available resources (human, financial and technological) of CAs such as the FIU of Guyana and SOCU. Whilst some action points remain ongoing, several high-level objectives have been attained and as such, considerable progress has been made to address the gaps identified in the NRA. The NCC continues to review the strategies and monitor implementation. However, there is need for continued implementation of action items for Guyana to achieve the objectives of the national strategies.
117. The relevant CAs have demonstrated a good understanding of their risks and have prioritised their activities and objectives in accordance with the findings of the NRAs and RAs. Generally, there is good coordination and collaboration amongst the CAs. Coordination among agencies under the Ministry of Natural Resources was found to be strong and strategic to address the risk of smuggling identified in the NRA. However, further work is necessary to ensure that the actions of law enforcement and the judicial system are delivering the expected outcomes relative to ML/TF investigations and prosecutions.
118. The NRA and its findings were shared extensively with all relevant stakeholders (including the public) while the 2023 risk assessments were lesser known. There was a great deal of outreach and training which followed. However, moderate improvements are needed.

**Guyana is rated as having a Substantial level of effectiveness for IO.1.**

## Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

### 3.1. Key Findings and Recommended Actions

#### Key Findings

##### Immediate Outcome 6

- a) The FIU of Guyana is an administrative type of FIU responsible for requesting, receiving, analysing, and disseminating suspicious transaction reports and other information relating to ML, TF or the proceeds of crime. Notwithstanding the proposed changes to the organisational structure, the FIU of Guyana adequately demonstrated its ability to carry out its functions with the current resources.
- b) LEAs in Guyana have access to a wide range of information including financial intelligence from the FIU of Guyana, or the ability to obtain information through production orders or written requests for information. The FIU of Guyana has access to STRs, TTRs, TPRs, monthly currency declarations from GRA and monthly reports on the basic and beneficial ownership information from the Commercial and Deeds Registry. Information is provided to LEAs either spontaneously or upon request by the FIU of Guyana which has resulted in new investigations, and feedback from LEAs indicated that the information provided was timely and of high quality.
- c) The FIU of Guyana introduced an online digital reporting system known as the CaseKonnnect that resulted in improvements in the efficiency of the reporting system. This system is used to mainly receive STRs, TTRs and TPRs from REs. However, there has been little to no STR reporting particularly amongst FIs such as credit unions and high-risk DNFBP sectors such as attorneys-at-law, accountants and real estate sectors. Further, the FIU of Guyana did not provide feedback to REs on the quality of STRs submitted.
- d) The work of the FIU of Guyana supports the operational needs of CAs. In addition to the provision of intelligence reports, the FIU of Guyana developed strategic analysis which has trends and typologies that were shared with LEAs and is available publicly. Examples of these include typologies on pyramid schemes and package delivery scams.
- e) Guyana has demonstrated very good cooperation and exchange of information amongst CAs. The FIU of Guyana, in addition to providing information to LEAs, also provides ongoing support to SAs in the execution of their functions including AML/CFT and prudential supervision, on request as well as spontaneously. This is evidenced through the information sharing with *inter alia* GGB, GGMC and GRA.



### **Immediate Outcome 7**

- a) In Guyana there are multiple LEAs involved in the investigation and prosecution of ML, TF and associated predicate offences. The Special Organized Crime Unit (SOCU) is tasked with the responsibility of investigating ML, TF, and associated predicate offences and is the main agency for ML investigations; the GPF-CID is tasked with the responsibility for the investigation of all crimes, including ML; the GPF-Special Branch is tasked with terrorism investigations; CANU is the primary LEA tasked with the enforcement of anti-narcotic legislation, including the investigation and prosecution of drug-related matters; and GRA is tasked with the investigation of tax offences. While SOCU does conduct parallel investigations, and the other LEAs are aware of the requirement to submit associated predicate offences to SOCU for parallel ML investigations, the AT was unclear as to what parameters were used to determine whether to submit a matter to SOCU for parallel ML investigations.
- b) Arising from the 2021 NRA, Guyana identified smuggling including gold smuggling, tax evasion, illicit trafficking in narcotic substances and psychotropic substances and fraud as predicate offences with high ML threat. Guyana to some extent demonstrated that it was investigating in line with its risk profile. Guyana was able to demonstrate that it did prosecute different types of ML offences including foreign predicate offences, stand-alone money laundering and self-laundering.
- c) In Guyana the prosecution of ML offences is conducted by either SOCU prosecutors at the Magisterial level or by the DPP at the High-Court level. Notwithstanding, the fact that the DPP does not prosecute at the magistrates' court, there is significant cooperation between SOCU prosecutors and DPP prior to and during the prosecution of ML matters.
- d) There have been no convictions for ML in the jurisdiction, therefore the AT was unable to make a determination on the effectiveness, proportionality and dissuasiveness of sanctions. Further, ML matters are not prioritised in the judicial process.
- e) Guyana's laws provide a wide range of forfeiture tools such as criminal forfeiture, non-conviction-based forfeiture, enforcement of foreign non-conviction-based forfeiture, civil recovery and administrative forfeiture. Guyana has demonstrated the use of non-conviction-based forfeiture in the instance when an ML conviction could not be obtained. However, the AT is of the view that alternative measures were not consistently pursued where ML convictions could not be secured.

### **Immediate Outcome 8**

- a) Confiscation is pursued to some extent as a policy objective in Guyana. The 2021 NRA recognized the need to update Guyana's legislative framework to improve its asset forfeiture regime which was achieved through the AML/CFT (Amendment) Act, 2023. Additionally, SOCU developed an Investigation guideline of Civil Recovery of Proceeds of Crime to assist in its functions. The NCC also developed a forfeiture of instrumentalities and forfeiture of cash guideline, a civil recovery guideline and a confiscation guideline. Guyana has consistently demonstrated interagency cooperation through the adoption of MOUs which addresses the confiscation of criminal proceeds.
- b) Guyana has demonstrated that it is confiscating proceeds from domestic predicate offences (civil confiscation) and to a limited extent from foreign predicate offences, but not proceeds which have been moved to other countries. The AT is satisfied that this is as a result of the domestic cooperation among agencies under the Ministry of Natural Resources. LEAs involved in confiscation, either civil or criminal, include GPF-CID, SOCU and CANU. LEAs have demonstrated the use of provisional measures such as freezing and seizing. LEAs have not demonstrated a consistent use of confiscation as part of their investigation and prosecution functions. Guyana did not provide the AT with any information on how seized assets are managed so as to preserve their value, other than for cash seizures by SOCU.
- c) Guyana has legislation to facilitate the confiscation of falsely or undeclared cross border transactions of currency and BNI but has only been confiscating currency as the inclusion of BNI was recently introduced. The GRA utilizes various techniques to detect cross border movement of cash such as passenger scanning equipment and profiling. However, the AT was unable to determine the effective implementation of these techniques in light of the vastness of Guyana's borders.
- d) Guyana has demonstrated that confiscation is occurring in line with the ML/TF risks to some extent. This is evidenced through the confiscations done for drug trafficking by SOCU, and cash seizures by GRA. However, in Guyana no confiscations were recorded for ML.

## Recommended Actions

### Immediate Outcome 6

Guyana should:

- a) Continue to ensure that all entities are aware of their obligations to file STRs and are using or able to use CaseKonnnect.
- b) Ensure the FIU routinely analyses the quality of STRs and provide substantive feedback to REs to improve the quality of STRs submitted.
- c) Ensure that the FIU and supervisors work with high-risk DNFBP sectors to provide sector-specific guidance on when to file a STR.

- d) Ensure that the FIU of Guyana continues to conduct strategic and operational analysis that supports the need of LEAs, especially in line with Guyana's main risks.

### **Immediate Outcome 7**

Guyana should:

- a) Ensure that GPF-CID, CANU and GRA submit associate predicate offences for parallel ML investigations to SOCU by developing relevant parameters to guide which matters should be submitted to SOCU for investigation.
- b) Develop a methodology to prioritise ML investigations in line with its risk profile and national AML/CFT policies.
- c) Enhance LEAs' capabilities, including through targeted training, to increase the number of prosecutions for third party ML.
- d) Increase targeted training on ML to the Judiciary and increase sensitization for judges and magistrates to aid in having ML prioritised within the court system.
- e) Ensure that alternative measures are pursued in all instances where an ML conviction cannot be obtained, as a matter of process.
- f) Guyana should keep comprehensive statistics on all investigations and prosecutions to monitor effectiveness of the system. Such statistics could include: (i) active and concluded ML investigations; (ii) number of investigations initiated and the number of persons investigated, broken down by predicate offences, and (iii) prosecutions and defendants sent to trial including the predicate offence and the assets seized.

### **Immediate Outcome 8**

Guyana should:

- a) Continue to pursue confiscation as a policy objective in line with the NRA and the AML/CFT policies.
- b) As a matter of priority, pursue confiscation and other provisional measures with respect to high risk predicate offences.
- c) Develop and implement a policy that outlines mechanisms for the management of seized assets that should include measures to preserve the value of the asset.
- d) Develop and implement a policy to address the process of repatriation, sharing and restitution of confiscated property.
- e) Ensure that customs officers are sufficiently trained on the changes to the Foreign Exchange (Miscellaneous Provisions) Act to ensure that falsely declared or undeclared BNIs are confiscated, as well as more specialised training to deal with the detection of cash and similar instruments being smuggled by individuals and concealed in packages and other cargoes traversing Guyana's borders.

- f) Improve the collection of comprehensive statistics on confiscations, seizures and related predicate offences to assist authorities in determining the effectiveness of the confiscation regime.

119. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

### **3.2. Immediate Outcome 6 (Financial Intelligence ML/TF)**

#### ***3.2.1. Use of financial intelligence and other information***

120. Guyana has demonstrated that LEAs are accessing and using financial intelligence and other relevant information to a good extent in the conduct of their core functions. The assessors found that there is a clear culture pertaining to the use of financial intelligence and relevant information among different LEAs. Guyana's laws and institutions make it possible for LEAs to access and utilise financial and relevant information. CAs, including law enforcement, have demonstrated that they are accessing and utilising financial intelligence and relevant information. The information is accessed and used for a variety of reasons, including ML, TF and associated predicate offences, investigations and prosecutions, asset tracing, confiscation, supervisory purposes, international cooperation, identification of ML/TF risks and identification of new targets.
121. Based on discussions held with CAs, the assessors found that there is little to no impediments to accessing and using financial intelligence and relevant information. Guyana's effectiveness in the use of financial intelligence and relevant information is demonstrated by the number of ML cases investigated and prosecuted for the period 2018 to 2023 and seizure and confiscation results in IOs 7 and IOs 8.

#### ***FIU of Guyana***

122. Guyana has an administrative type of FIU established pursuant to section 9(1) of the AML/CFT Amendment Act, as an agency responsible for requesting, receiving, analysing and disseminating of STRs and other information relating to money laundering, terrorist financing or proceeds of crime. Whilst the FIU's office is located within the compound of the Ministry of Finance, it functions as an independent and autonomous entity, separate and distinct from the operations and management of the Ministry of Finance. The FIU of Guyana is also empowered to share information with LEAs or investigative authorities, as well as to request information from REs, SAs and LEAs.
123. The FIU of Guyana is the major repository of financial intelligence. The FIU of Guyana has direct access to multiple sources of information, including STRs, monthly threshold transaction reports (TTRs) and quarterly terrorist property reports (TPRs) from FIs and DNFBPs; monthly reports from GRA regarding all cross-border currency declarations; and monthly reports from the Deeds and Commercial Registry on basic and beneficial ownership information.

124. Additionally, nothing precludes the FIU of Guyana from making a request for information to any RE, SA, telecommunication provider, CA or other government agencies in Guyana, including the GRA which has access to taxpayer, customs and vehicle registration information and the National and Procurement Tender Administration Board regarding any government contract. Table 3.1 below illustrates the number of requests for information made by the FIU of Guyana for the period 2018 to 2022. The time taken by the requested entities to respond varied based on the nature and urgency of the request. For example, if information is required forthwith, it will be provided immediately upon request and if less urgent, the average time was within 10 days. The cumulative number of requests made by the FIU of Guyana (Table 3.1) each year shows a significant increase in 2019 and 2020 from 2018 and a significant decrease in 2021 and 2022. Guyana submitted that the fluctuation in requests for information made by the FIU of Guyana during 2018-2022 was as a direct result of the fluctuation of STRs received from REs and other sources and request for information received by the FIU Guyana from both local and foreign CAs.

**Table 3.1. Requests for information made by the FIU of Guyana for the period 2018 to 2022**

Information Requested From	2022	2021	2020	2019	2018	Totals
Reporting Entity – LFIs	68	123	295	295	222	1,003
Reporting Entity – MTAs	2	0	48	48	20	118
GRA – Customs	3	9	21	15	11	59
GRA – Income and Property Tax	3	9	21	15	11	59
GRA – Motor Vehicle Registration	3	9	21	15	11	59
Companies and Business Registries	3	2	18	13	11	47
Land Registry	1	3	18	18	12	52
Deeds Registry	2	2	18	9	8	39
Guyana Lands & Surveys Commission	0	1	5	5	1	12
GFA – Immigration Information	0	0	2	2	0	4
Other	30	5	196	204	-	435
Total	115	163	663	639	307	1,887

125. The FIU of Guyana maintains a database of all information received including information received from foreign counterparts. The assessors therefore found that there was little or no barriers within Guyana’s AML/CFT framework preventing the access to and use of financial intelligence.

#### **LEAs**

126. The primary agency that receives financial intelligence reports and other relevant information from FIU of Guyana is SOCU, however, other agencies such as CANU, GRA, Criminal Investigations Division (CID) of the GPF, can or have also received financial intelligence reports and other relevant information to support investigations of predicate offences.

#### **SOCU**

127. SOCU is tasked with the responsibility of investigating ML, TF and associated predicate offences. The FIU of Guyana disseminates financial intelligence to SOCU upon analysis of STRs, reports and other information (such as internal FIU reports and information retained by FIU from other agencies such as GRA and Commercial Registry). Based on the financial intelligence received by SOCU, additional requests can be made for further information. During the period under review the FIU of Guyana disseminated 80 financial intelligence reports to SOCU, while the FIU of Guyana responded to 50 requests for information. There were 2 spontaneous disclosures during the period. Table 3.2 illustrates financial intelligence reports disseminated by the FIU of Guyana to SOCU during the reporting period.

**Table 3.2. Reports Disseminated by FIU of Guyana to SOCU during the period 2018 to 2022**

Type of Reports	2022	2021	2020	2019	2018	Total
Intelligence reports	14	12	7	26	21	80
Responses to Request for Information	15	21	9	4	1	50
Updates to Intelligence Reports	7	6	7	9	8	37
Spontaneous Disclosures	-	2	-	-	-	2
Copies of Intelligence Reports	1	2	-	-	-	3
<b>Total</b>	<b>37</b>	<b>43</b>	<b>23</b>	<b>39</b>	<b>30</b>	<b>172</b>

128. SOCU also has access to a wide range of relevant information to carry out its investigative mandate through the use of written requests by the Head of SOCU and applications for production orders. During the period 2020-2022, SOCU made 356 requests for information to REs, SAs and government ministries (see Table 3.3). Guyana indicated that statistics for 2018 and 2019 were unavailable. Further, SOCU indicated that in some instances, SOCU sought production orders where no responses were provided to written requests. During the period under review Guyana provided statistics showing that 32 production orders were sought. For the said period, based on the statistics, no production orders were sought in 2018 and 2019, 28 were sought in 2020 and 2021, while 4 were sought in 2022 and 2023. Notwithstanding, the AT found that SOCU demonstrated the use of financial intelligence and other relevant information.

**Table 3.3. Information requested by SOCU during the period 2018 to 2022**

Recipients of Request	2022	2021	2020	2019	2018	Total
LFIs and MTA	2	5	1	-	-	8
Deeds, Commercial and Land Registry	63	51	16	-	-	130
GRA, GGB, GPMC, NIS, CANU, GPO, Telecommunication Providers, Valuation Office, Cambio, Courts, Lottery Commission, Insurance Companies, Government Ministries and Immigration Office	107	77	34	-	-	218
<b>Total</b>	<b>172</b>	<b>133</b>	<b>51</b>	<b>-</b>	<b>-</b>	<b>356</b>

*CANU, GRA and CID*

129. CANU is the primary LEA tasked with the enforcement of anti-narcotic legislations, including the investigation and prosecution of drug related matters. GRA is tasked with the investigation of tax offences. CID is tasked with the responsibility for the investigation of all crime, including ML. All the above entities, save and except CID, received financial intelligence from the FIU of Guyana during the assessment period. However, while the CID can receive and also make requests to FIU of Guyana pursuant to the MOU with GPF and FIU, this was not utilised during the period under review. The CID will refer ML matters to SOCU for further investigation. During the period 2018 to 2022, the FIU of Guyana disseminated a total of 86 intelligence reports to SOCU and GRA. Copies of intelligence reports were sent to CANU (see Table 3.4). The category of suspected offences includes corruption and bribery, drug trafficking, fraud, money laundering, smuggling, smurfing and tax evasion.

**Table 3.4 Intelligence Report/Responses sent to SOCU, CANU and GRA by FIU of Guyana**

<b>Types of Reports to SOCU</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>Total</b>
Intelligence Reports	14	12	7	26	21	80
Responses to Request for Information	15	21	9	4	1	50
Updates to Intelligence Reports	7	6	7	9	8	37
Spontaneous Disclosures	-	2	-	-	-	2
Copies of Intelligence Reports	1	2	-	-	-	3
<b>Total</b>	<b>37</b>	<b>43</b>	<b>23</b>	<b>39</b>	<b>30</b>	<b>172</b>
<b>Types of Reports to CANU</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>Total</b>
Intelligence Reports	-	-	-	-	-	-
Responses to Request for Information	3	2	-	1	-	6
Updates to Intelligence Reports	-	-	-	-	-	-
Spontaneous Disclosures	2	-	-	-	-	2
Copies of Intelligence Reports	2	1	4	-	-	7
<b>Total</b>	<b>7</b>	<b>3</b>	<b>4</b>	<b>1</b>	<b>-</b>	<b>15</b>
<b>Types of Reports to GRA</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>Total</b>
Intelligence Reports	1	-	-	-	5	6
Responses to Request for Information	-	-	-	-	-	-
Updates to Intelligence Reports	-	-	-	-	1	1
Spontaneous Disclosures	-	-	-	-	-	-
Copies of Intelligence Reports	-	-	-	13	-	13
<b>Total</b>	<b>1</b>	<b>-</b>	<b>-</b>	<b>13</b>	<b>6</b>	<b>20</b>



130. Similar to SOCU, the CID has the ability to request information through the use of production orders for the investigation of associated predicate offences. The AT was unable to determine how many production orders were sought by CID.
131. The GRA is both the tax authority and the customs authority for Guyana. As a result, the GRA has a significant database of information including taxpayer information, vehicle registration information and customs declaration information. In addition to GRA databases, the GRA can write to the respective agencies for additional information pursuant to the Income Tax Act in the investigation of any tax offences. GRA demonstrated that it had access to sufficient information to investigate and prosecute tax offences, and cases are handed over to SOCU for ML investigation.
132. CANU has access to financial intelligence from the FIU of Guyana, and similar to the CID and SOCU, can access other types of information to assist in the investigation and prosecution of drug trafficking offences. However, no statistics on the access to other types of information was provided. Notwithstanding, the AT was satisfied that CANU referred the cases to SOCU for ML investigations.
133. During the onsite visit the AT found that financial intelligence and other information sharing was evident among the different CAs. Box 3.1 demonstrates where relevant information and intelligence were provided within the multi-agencies approach. The foregoing demonstrates that there are little impediments amongst the operational agencies and other CAs, relative to the exchange of financial intelligence and relevant information and the value CAs place on the access and use of financial intelligence and relevant information.

### **Box 3.1. Multi-agency sharing**

In 2019, the FIU received an STR in relation to an individual who deposited substantial sums of money into his bank account which he claimed were proceeds from investors. The FIU's analysis revealed that all the money transfer transactions were sent to individuals in various jurisdictions and not to "Brokerage Houses" as the subject claimed. Several intelligence reports on the subject and associates were prepared by the FIU and dispatched to SOCU. After conducting investigations, SOCU instituted over 150 charges against the subject in 2020 and 2021. There were several face-to-face interactions between FIU, Guyana Securities Council (GSC), SOCU, GPF-CID, BOG and the ministry of legal affairs. In 2021 ML charges was laid on two associates. Matter is presently before the court.

134. Overall, the FIU of Guyana has demonstrated its ability to produce financial intelligence of good quality using a variety of sources to identify and support the investigation of ML, TF and associated predicate offences. Additionally, LEAs have access to, or the ability to obtain, a wide variety of information that enables them to fulfil their mandates in investigating ML, TF or associated predicate offences. The AT found that there are little impediments encountered in assessing and using financial intelligence and other



information to conduct analysis, develop evidence and trace criminal proceeds relating to ML, associated predicate offences and to facilitate international cooperation.

### **3.2.2. STRs received and requested by competent authorities**

135. The FIU of Guyana is the sole agency responsible for the receipt of STRs (see analysis of R.29) and TTRs that contain relevant information for the conduct of strategic and operational analysis. REs are required to submit STRs, TTRs and TPRs to the FIU of Guyana via the online digital reporting system known as the CaseKonnnect. This has resulted in the improvement in the efficiency of reporting. During the onsite visit the AT noted that there remained entities that were not utilizing the online platform. However, Guyana indicated this was, in most cases, smaller entities and entities whose functions were not fully computerised. The FIU of Guyana indicated its effort to continue working to get those entities onto the platform. The AT weighed this is a minor issue, as the larger entities were reporting via the CaseKonnnect.
136. The AT noted that the physical security and cybersecurity implemented and demonstrated by the FIU of Guyana was adequate and sufficient safeguards were in place to prevent cyberattacks. Guyana reported that there were no breaches of information between the FIU of Guyana and recipients.
137. Based on the standard operating procedures (SOP) dated July 2021, as a general rule, all STRs must be opened and reviewed first by the Director or person authorized by him. The Director determines the urgency of the STRs and prioritizes same, following which he shall forward them to the head of the analytical department to be assigned and analysed by a financial analyst. The AT confirmed during that onsite that the SOP as documented was in line with its operations.
138. During the period 2018 to 2022, the FIU of Guyana received a total of 1,471 STRs. The breakdown of the STRs submissions per sector is captured in the table 3.5 below. The AT noted that while Attorneys-at-Law and Accountants, who were rated at medium high and medium respectively in the NRA, are legally mandated to file STRs, little to no STRs have been filed by those sectors during 2018 – 2022, save and except 1 STR was received by the FIU of Guyana from an Attorney-at-Law in 2023. During the onsite the AT noted that attorneys-at-law and Accountants were aware of the obligation to file STRs, however the AT was unable to determine the rationale for the low filings from attorney-at-law and nil filings from the accountants. Notwithstanding this, efforts were made to provide guidance to those sectors through awareness sessions and issuance of guidance documents by the FIU of Guyana and the AT weighted attorneys-at-law and accountants as moderate.
139. In relation to the STR statistics, the AT noted a decline in STR reporting during the 5 year reporting period. The number of STRs peaked in 2019 but has shown a significant decrease in the 3 years thereafter. STRs received from MTAs were the largest in volume, which is consistent with the importance and ML risk assigned to that sector in Guyana's NRA, while in 2021 and 2022 STRs received from LFIs were the largest in volume and value. The FIU of Guyana also indicated that the COVID-19 pandemic was a contributing factor as smaller businesses were either not operational or ceased activity. Further, while credit unions were rated moderately important by the AT, given that credit unions are close bonded, which means that credit unions do not allow members from outside of the

organization, the AT did not weight heavily the limited filings by credit unions. In relation to the low filings of the DPMS sector, this was not weighted heavily by the AT, as the DPMS sector is adequately supervised and were found to have good controls in place.

**Table 3.5. Summary of STRs received for the period 2018 to 2022**

Type of Reporting Entity	2022	2021	2020	2019	2018
Licensed Financial Institutions	82	112	128	122	75
Money Transfer Agencies	18	97	195	331	235
Insurance Companies & Brokers	2	7	-	1	1
Securities Brokers	2	3	13	3	14
Non-Bank Cambios	-	1	-	-	-
Dealers in Precious and Semi-Precious Stones	-	1	-	-	-
Gold Dealers	1	1	1	4	3
Supervisory Authorities	-	1	5	4	-
Other (Real Estate, Coops., Etc)	2	-	-	3	3
<b>Total</b>	<b>107</b>	<b>223</b>	<b>342</b>	<b>468</b>	<b>331</b>

140. During the onsite the FIU of Guyana reported that the quality of the STRs received were generally good across the REs, which reported. Redacted STRs were analysed by the AT and found to be of appropriate standard. However, based on interviews with REs, the AT found that little or no feedback was provided by the FIU of Guyana to REs on the quality of STRs. The AT noted that at the point of an STR being reported to the FIU of Guyana, only an acknowledgement of receipt is automatically sent to the REs. The AT was not provided with samples of feedback provided to the REs during the onsite and while the FIU of Guyana did implement an ‘STR Assessment Form’ in 2023, the AT was unable to determine the effectiveness of the new form on the quality of the STRs.

141. Table 3.6 gives a breakdown of STRs received by categories of suspected offences submitted to the FIU of Guyana during the period 2018 to 2022. Based on the statistics, approximately 39% of total STRs received for the reporting period were associated with smurfing-ML. The unclear suspected offence accounted for 21% of STRs, while 13% of total STRs were related to Fraud – General and 10% were related to suspected structuring of transactions. These 4 categories account for over 83% of all STRs received during 2018 to 2022.

**Table 3.6 - STRs received by categories of suspected offences submitted to the FIU of Guyana during the period 2018 to 2022**

Suspected Offences	2022	2021	2020	2019	2018	Total
Armed Robbery	-	-	-	1	-	1
Corruption and Bribery	-	2	1	2	4	9
Drug Trafficking	3	1	2	8	13	27

Embezzlement	2	-	-	2	-	4
Fraud General	25	46	62	35	23	191
Fraud Romance	16	-	-	-	-	16
Fraud Advance Fees	1	-	-	-	-	1
Fraud Investment	3	-	-	-	-	3
Illegal Trading in Precious Minerals	1	2	4	-	-	7
Insider Trading	-	-	-	-	2	2
Know Your Customers Issues	1	-	-	-	-	1
Larceny/Theft	1	1	-	-	-	2
Money Laundering	5	13	17	25	35	95
Smuggling Other	2	-	1	5	-	8
Smuggling Precious Metals	-	1	1	1	1	4
Smurfing ML	7	59	99	199	204	568
Structuring Transactions	12	43	66	35	-	156
Tax Evasion	6	14	5	20	17	62
Terrorist Financing	-	-	1	5	3	9
Trafficking in persons	-	-	-	2	-	2
Unclear	22	41	83	128	29	303
<b>Total</b>	<b>107</b>	<b>223</b>	<b>342</b>	<b>468</b>	<b>331</b>	<b>1471</b>

142. In Guyana, a RE has the option to indicate which suspected activity the STR is in relation to. In some instances where the suspected offence was “unclear”, Guyana indicated that the STRs originated from the money transfer sector and were considered defensive STRs as they did not provide any specific information on any suspected transaction(s)/activity(ies) but rather highlighted “unusual” transactions which did not match the customer’s profile. Further, in some instances, the FIU of Guyana received STRs from LFIs which were based on negative media relating to their customers that were named in publications as being suspects involved or connected to crimes such as murder, assault, etc. which may not have a financial aspect. The FIU of Guyana indicated that after the publication of the guidance in 2021, along with continuous group and one-on-one engagements between the FIU of Guyana and the Compliance Officers of the REs, there was a reduction in the number of ‘unclear’ STRs being reported, as well as a reduction in the overall number of STRs being reported. The AT noted the improvements.

143. When an STR is received, the FIU of Guyana rates the STR to determine the level of priority to be given. See table 3.7 below for a breakdown of the classification. The FIU of Guyana indicated that STRs classified as low risk (82%) were due to the amount of money involved and the relative impact of the illegal activity on the financial system and public safety, and STRs being classified as medium (5%) risk based on the relatively high value of money involved in the suspected offence and the potential impact of the illegal activity. A high-risk rating is reserved for STRs involving transactions or suspected illegal activities that may compromise the financial system or public safety such as transactions where terrorist financing is suspected (less than 1%). Of the 1,471 STRs received, 1,205 were rated low, 76 were rated medium and 11 rated high/very high. Approximately 12% of the STRs received were disseminated to LEAs. The AT noted that all high and medium STRs involved predicate offences in line with the NRA findings.

**Table 3.7 - Breakdown of the risk classification of STRs per year**

Year	Insignificant	Low	Medium	High	Very High	Total
2018	17	297	17	-	-	331
2019	80	378	9	-	1	468
2020	33	296	13	-	-	342
2021	34	177	12	-	-	223
2022	15	57	25	1	9	107
Total	179	1,205	76	1	10	1,471

144. In addition to STRs, the FIU of Guyana receives TTRs monthly from various categories of REs as prescribed in the AML/CFT legislation. TTRs provided were of good quality and assisted in the operational analysis of the FIU of Guyana. Table 3.7 shows the summary of threshold transactions and value of transactions received by FIU of Guyana for the reporting period.

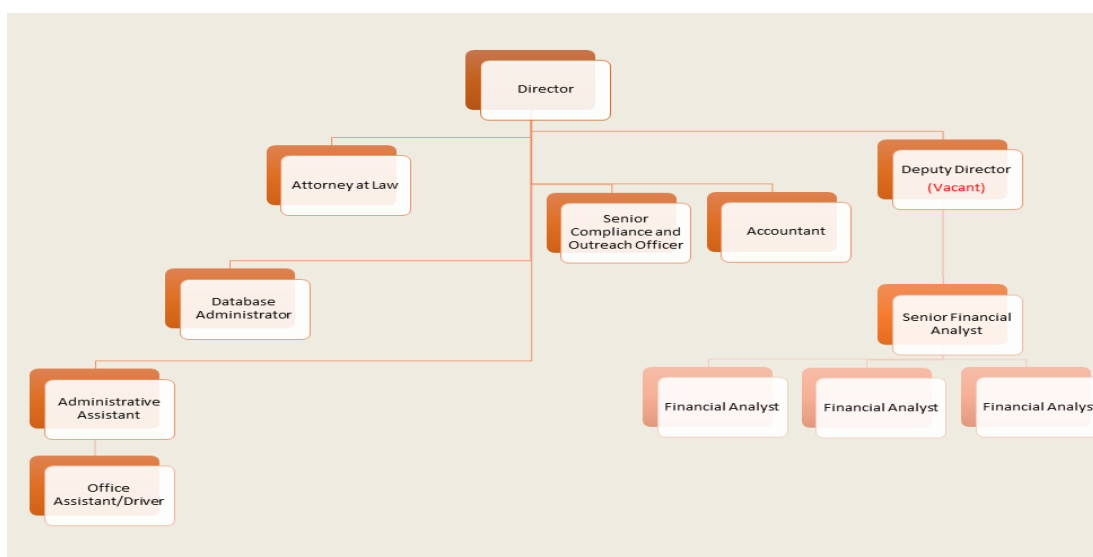
**Table 3.8 - Threshold transactions reports and value received by the FIU for the period 2018 to 2022**

Type of Threshold Reports	2022		2021		2020		2019		2018	
	# of Txns	Value (USD\$M)	# of Txns	Value (USD\$M)	# of Txns	Value (USD\$M)	# of Txns	Value (USD\$M)	# of Txns	Value (USD\$M)
Betting Shop	28,720	76	20,816	47	7,301	23	3,339	8	975	2
Cambio	21,104	1,535	21,658	1,402	16,050	1,241	20,659	4,256	22,141	1,216
Casino	239	1	181	1	-	-	239	1	118	1
Credit Unions	6,660	40	3,001	18	2,143	8	3,778	10	3,139	8
Currency Declarations	1,061	66	529	25	259	1	788	49	875	36
*DPSPM	60	2	23	1	32	1	48	2	126	4
Gold Dealers	11,868	585	11,976	563	12,302	773	9,149	549	7,229	412
Insurance Companies	2,497	33	1,683	20	1,360	22	952	21	935	18
Large Cash	144,839	4,568	100,280	1,987	72,416	1,428	58,790	1,456	51,247	1,240
Lottery	230	2	380	3	122	1	205	2	194	3
Money/Wire Transfers	240,203	7,152	216,179	4,675	165,241	4,973	134,150	4,332	119,786	3,011
Pawnbrokers	469	2	285	1	545	-	373	1	271	1
Real Estate Agents'	24	1	4	-	-	-	4	1	4	-
Securities Companies	2,200	697,454	837	11	912	9.70	666	9	467	7
Used Car Dealers	2,901	50	2,163	24	989	15.50	1,403	16	1,132	17
Total	463,075	711,567	379,995	8,776	279,672	8,498	234,543	10,713	208,639	5,974

### 3.2.3. Operational needs supported by FIU analysis and dissemination

145. The FIU of Guyana has made considerable strides as an organisation in building its capacity. Presently staffed with ten (10) staff members who are adequately trained in the work of the FIU: three (3) analysts, one (1) database administrator, one (1) legal counsel, one (1) accountant and one (1) compliance and outreach officer. Box 3.2 illustrates the organisational structure of the FIU of Guyana during the period under review. The FIU of Guyana has indicated that it receives an annual budget that sufficiently covers its current operational expenses.

#### Box 3.2 – Organisational Chart of the FIU of Guyana



146. Notwithstanding the adequacy of the current structure, the FIU of Guyana is undergoing an organizational restructuring, including the acquisition of a new building, additional staff and technical resources. Implementation of these plans will allow the FIU of Guyana to fully execute more effectively its core functions, including the continued dissemination of guidelines and outreach to REs, including attorneys-at-law and accountants (which were at the time of the onsite now being brought under an AML/CFT supervision regime), to ensure continued improvement in the quality and quantity of STR reporting and intelligence reports to LEAs. In September 2023 the FIU adopted a new organisational structure which saw a renewed analytical department with the addition of a new position called “Team Lead.”

147. In relation to appointments at the FIU of Guyana, the Director of the FIU of Guyana appoints the personnel trained in financial investigations and other employees, while the Director, Deputy Director, Attorney-at-law and accountant are appointed by a simple majority of the National Assembly based on recommendations of Parliamentary Committee on appointment.

148. The FIU of Guyana is sufficiently resourced with computers and software and utilizes primarily the Microsoft Office suite of products including excel and access as well as the IBM I2 Analyst Notebook and iBase intelligence software to store and analyse financial intelligence and other information. All information from TTRs and STRs are inputted onto the Microsoft excel and access databases. Financial Analysts search these databases and extract financial information which are then transferred to IBM I2 iBase software for analysis and creation of reports, charts, etc. which are then disseminated and analysed by the analytical department. The server for the IBM I2 and iBase intelligence system is housed in a secure room to which only the Database Administrator and Director, or his designate, have access.
149. The FIU of Guyana supports the operational needs of CAs through the dissemination of intelligence reports (see Table 3.4 above), and strategic and operational analysis. In relation to STRs, a large percentage of financial intelligence is disseminated by the FIU of Guyana to SOCU. Financial intelligence is also disseminated to CANU, GRA and SAs, either upon request or spontaneously. Box 3.1 and Box 3.3 demonstrate the use of financial intelligence disseminated by the FIU of Guyana to support the operational needs of CAs.

### **Box 3.3. Use of financial intelligence to support operational needs**

#### **Case 1- Fraud and ML**

A request dated 20<sup>th</sup> July 2021 for financial intelligence was received from the Special Organised Crime Unit (SOCU) which identified former and current ranks of the Guyana Police Force (GPF) who were allegedly involved in defrauding their employer.

The request identified 16 individuals (the Subjects) who had allegedly defrauded the GPF of approximately G\$32.6M during the period March 2019 to February 2021.

One group of Subjects were connected to and charged in relation to the alleged misappropriation of funds that should have been expended for supplying meals to ranks that attended training and other activities hosted by the GPF. In another isolated fraud charge, a group of four senior officers were indicted for conspiracy to defraud the GPF of G\$10M which represented the payment for a service which was never provided.

Open and closed source searches were done by the Analyst Department of the FIU. Intelligence gathered from the FIU database identified assets inclusive of, but not limited to, bank accounts and motor vehicles which were valued in excess of G\$30M that were held by some of the Subjects. There was also a high level of wealth which could not be substantiated by the Subjects known sources of income. This information was rapidly forwarded to SOCU in interim reports, whilst other information was being sought from external closed sources. Follow-up reports were also prepared and dispatched to SOCU which contained all useful intelligence gathered by the FIU from all sources as well as the FIU's analysis of the intelligence and its conclusions/ recommendations.

SOCU conducted investigations in relation to money laundering and other serious offences. All 16 Subjects were charged simultaneously when the request for information was received by the FIU.

These fraud matters are all before the court, while the investigation continues towards building and

instituting the related ML charges.

### **Case 2- Pyramid Scheme**

In 2019 a LFI submitted a STR indicated that the Subjects, a naturalized Guyanese of foreign origin, and his wife, a Guyanese by birth, appeared to be involved in a pyramid scheme.

During January and February 2020, the Subjects deposited substantial sums of money into one of their bank accounts which they claimed were proceeds from investors. They, along with several associates, also engaged in numerous money transfers to and from other jurisdictions including Cuba, Colombia, Chile, USA, Canada and Peru during this period. The FIU's analysis revealed that all the money transfer transactions were sent to individuals in various jurisdictions and not to "Brokerage Houses", as the Subjects claimed.

During the investigation phase the FIU wrote to LFIs and froze several bank accounts held by the Subjects, which were subsequently replaced by Freeze Orders obtained by SOCU from the Court.

The Subjects were the principals of a locally incorporated company, which claimed to provide "Stock Exchange Investment" services to local clients, including investing in crypto currencies. However, this company was not licensed or authorized to conduct any such investment business by Guyanese Authorities. A related company was also registered electronically a year later in the United Kingdom during the midst of the Covid-19 pandemic.

The Subjects' company, while purporting to be trading on the international Foreign Exchange Market, promised clients as much as 40% return on all funds invested. Investors were also encouraged to recruit additional investors for a commission. It is estimated that the scheme involved almost 4 billion Guyanese dollars and may have affected at least 17,000 local investors.

On the basis of the intelligence received, the FIU sought to obtain additional information from both closed and open sources located locally and overseas on the Subjects and their companies in order to conduct its analysis and provide intelligence to SOCU. The FIU also found that two individuals closely linked to the Subjects appeared to have been involved in a suspected reverse-flip money laundering scheme involving high value real estate. It appeared that the properties were purchased using funds collected by the Subjects from investors.

Several intelligence reports on the Subjects and their associates were prepared by the FIU and dispatched to SOCU. After conducting investigations, SOCU instituted over 150 charges against the Subjects in 2020 and 2021. They were also charged for operating an illegal pyramid scheme. The parties have been released on bail. Investigations are continuing and it is expected that more charges will be filed against the Subjects. There have been a handful of reported cases where the Subjects repaid a few investors.

The GSC provided and requested information on this case. There were several face-to-face interactions between FIU and GSC representatives, which lead to easy information exchanges. The Bank of Guyana, Ministry of Legal Affairs and Guyana Police Force -Criminal Investigations Department (GPF-CID) were also copied on several correspondents emanating from LFIs that held bank accounts for the Subjects. There were also numerous informal communications between the FIU, SOCU, GPF-CID, BOG, GSC and the Ministry of Legal Affairs. In 2020 there was a joint press release by the BOG, GSC and FIU, which was aimed at educating the public on the scheme.

In June 2021, the two associates linked to the 'reverse-flip money laundering scheme' were also charged for Money Laundering under the AML/CFT Act of 2009 (Cap 10:11) by SOCU. The parties have also been placed on bail by the court and the cases are also ongoing.

150. All disseminations by the FIU of Guyana include a formal feedback form and feedback is also received verbally by the FIU of Guyana from CAs. CAs indicated that the

information provided by FIU was timely and of high quality. Further, the CAs in Guyana have a strong foundation for national coordination which lends to the already existing mechanisms for feedback.

151. The FIU of Guyana demonstrated that it has direct and indirect access to a wide range of databases to adequately conduct its functions and it is therefore accessing and using information from those databases to conduct its analysis. The assessors reviewed 3 samples of financial intelligence reports and disseminations and found they were quite detailed and of good quality as they contained relevant information in relation to the financial profile of the subject and suspected predicate offence.
152. For the period under review, in addition to operational analysis and typologies, the FIU of Guyana completed strategic analysis that has been valuable to policy makers and CAs over the years. For instance, the MTA 2016 to 2018 analysis indicated that MTAs were being used to create layers of transactions to facilitate the distancing of illicit funds from their source through a series of complex transfers. The two main methods used by the criminals to launder funds through MTAs appear to be structuring and flipping. The document outlined the typologies within the prescribed scope of analysis and recommendations to address the risk. Pertinent aspects of the report were disseminated to CAs and SAs to provide an awareness of the findings.
153. Additionally, the FIU of Guyana developed multiple typologies which are publicly available and were shared with LEAs such as Package Delivery, Wire Transfer Fraud, Cash Couriers and Money Laundering- Gold Jewellery Trade.
154. Guyana has demonstrated that the analysis and dissemination by the FIU of Guyana strongly supports the work of the CAs in the execution of their functions. This is evidenced from the multiple case studies and high-quality typologies and strategic analysis provided by the FIU.

#### ***3.2.4. Cooperation and exchange of information/financial intelligence***

155. CAs have a very good working communication in Guyana and have seen results coming out of investigations using financial intelligence. There are no impediments which hinder the domestic and international exchange of information. Table 3.1 above shows the number of intelligence requests made by the FIU of Guyana to LEAs and other CAs during the review period. The FIU of Guyana received 196 requests from LEAs and other CAs for a range of offences. The number of requests made to the FIU during the reporting period shows an average of 39 request per year. There was a consistent increase during the reporting period except in 2021 which shows a decrease.
156. The FIU of Guyana also provides ongoing support to local CAs in the completion of their functions including AML/CFT and prudential supervision, on request as well as spontaneously. An example of this are requests for screening of applicants to the Guyana Gold Board (GGB), for new and renewal licenses for dealers in precious mineral (Gold Dealers). These requests are made and actioned based on an MOU maintained between FIU of Guyana and GGB established in July 2019. The screening process involves, inter alia, a review of the FIU of Guyana's internal database including if the applicant were the subject of an STR or ongoing criminal investigation, World Check database (determine if the



subject is a PEP, criminal history, etc.), open source, etc. Similar assistance is also provided to the Guyana Geology and Mines Commission (GGMC).

157. SOCU received the full support of all CAs when conducting their ML/TF investigations. Cooperation in some instances is on the basis of MOUs maintained between SOCU and other CAs. An example includes requests by SOCU for beneficial ownership information to the Deeds and Commercial Registries which are received and actioned in a timely manner to facilitate ongoing investigation of ML cases. Similar applications are made by SOCU, and information received from GRA, a key supervisor and CA maintaining records on income tax filings, motor vehicle registrations, customs information and incoming and outgoing currency declarations at ports of entry and exit.
158. The FIU of Guyana implements adequate measures to protect the confidentiality of information exchange with domestic and foreign counterparts. The FIU of Guyana implemented the secure CaseKonnnect portal which is used to mainly receive electronic threshold transaction, suspicious transaction and terrorist property reports from REs. Request for information from REs are also sent by the FIU of Guyana electronically through this platform and responses are also received electronically by the FIU via the same secure method.
159. The FIU of Guyana securely disseminates intelligence and other reports via a two-phase access system. Disseminations to overseas recipients are done via email from the Director to heads of agencies. The reports and all relevant attachments are password protected. The password is communicated via a call to the recipient or via another mode. Locally, the FIU of Guyana hand delivers reports and all relevant attachments to recipients such as SOCU, CANU, GRA, etc. These disseminations are secured in an envelope with relevant seals and security notes such as confidential, urgent, secret – to be opened by addressee only. A compact disc is also provided with the electronic copies of the dissemination. All documents on the CD are password protected that is only known by the heads of the recipient and sender agencies.
160. Any communication or discussion relating to a STR submitted to the FIU of Guyana must only be conveyed with employees authorized by the Director to be involved in such discussion. Where legal advice is required with respect to a STR, the STR will be forwarded to the FIU of Guyana's legal officer for opinion or advice. Where information is required from another RE relating to the subject of a STR filed by a separate RE, the subject is indicated to the RE from whom information is being requested, but no information on the STR is disclosed to the recipient of the request. Communication must only be conducted with the compliance officer of the RE. The findings of these reports may be forwarded to LEAs for investigation.
161. During the period 2018 to 2022 the GRA received 76 requests for information from SOCU while GRA received 49 from the FIU of Guyana. The information is usually made available at GRA for SOCU and the FIU of Guyana to inspect and in other cases the intelligence was provided within days in writing by the GRA. Prior to accessing the file, the Head of SOCU and FIU of Guyana director would indicate the name and designation of the officer that would be appointed to access the information.

## Overall conclusion on IO.6

162. Guyana has an administrative FIU that has effectively demonstrated that it is conducting its core functions. The FIU of Guyana has an excellent working relationship with CAs and SAs where information is shared quite instantaneously. The staff of the FIU of Guyana is trained and uses technology to assist in its functions.
163. LEAs in Guyana have access to a wide range of information and databases, and the FIU of Guyana is a key source of financial intelligence and other relevant information. Financial intelligence, operational and strategic analysis products are produced by the FIU and disseminated to LEAs including SOCU, CANU and GRA to investigate ML, TF and associated predicate offences. The FIU of Guyana demonstrated that there were no impediments encountered in accessing information to produce financial intelligence or to develop its analytical products.
164. The FIU of Guyana introduced an online digital reporting system that resulted in significant improvements in the efficiency of the reporting system. This system is used to receive TTRs, STRs and TPRs from REs. Request for information from REs are also sent by the FIU of Guyana electronically through this platform. However, there has been no STR reporting particularly amongst FIs such as credit unions and little to no STR reporting from high-risk DNFBP sectors such as attorney-at-law, accountants and real estate entities. Notwithstanding, the AT weighted attorneys-at-law and accountants as moderate. Further, little to no feedback was provided by the FIU of Guyana to REs on the quality of STRs submitted. Notwithstanding, the limited feedback, Guyana has demonstrated through case studies the use of financial intelligence products to support the needs of LEAs in investigating and laying charges for ML and associated predicate offences.
165. Guyana's FIU has produced multiple strategic products to assist LEAs. Further, Guyana has demonstrated good working communication amongst CAs including the provision of information by the FIU of Guyana to SAs such as GGB, GGMC and GRA to assist in their supervisory functions.

**Guyana is rated as having a substantial level of effectiveness for IO.6.**

### 3.3. Immediate Outcome 7 (ML investigation and prosecution)

#### 3.3.1. ML identification and investigation

166. Guyana conducted a ML/TF NRA in 2021 and identified its overall national ML risk level as Medium-High. The proceeds generating activities identified were smuggling including gold smuggling, tax evasion, illicit trafficking in narcotic drugs and psychotropic substances and fraud. The extent to which the CAs are identifying and investigating potential ML activities are to some extent in line with the identified risk in the 2021 ML/TF NRA.
167. In Guyana there are multiple LEAs involved in the identification and investigation of ML and associated predicate offences. These include SOCU and GPF-CID for investigation of ML and associated predicate offences; CANU for the investigation of drug trafficking

offences pursuant to the Narcotic Drugs and Psychotropic Substances Act; and GRA for investigation of tax offences. While GPF-CID is also empowered to conduct ML and associated predicate offences investigations, Guyana indicated that since the creation of SOCU in 2013, all matters related to ML are dealt with by SOCU, notwithstanding the ability of other agencies to conduct ML investigations. This was clearly understood by LEAs during the onsite.

168. Guyana has adequate legal systems and institutional frameworks in place to enable the investigation and prosecution of ML. These systems include a wide range of powers and responsibilities for LEAs to investigate and prosecute ML offences including the taking of witness statements and the use of interception of communications.
169. The main agency for the investigation of ML is SOCU. SOCU is a semi-autonomous unit created in legislation and is tasked with the responsibility of investigating ML and associated predicate offences. SOCU also has a prosecutorial arm and can provide international cooperation directly or indirectly, where necessary.
170. SOCU is currently staffed with 25 investigators, 1 in-house counsel, 1 senior police prosecutor, 1 outsourced analyst and 10 field agents. The investigators at SOCU have benefitted from significant training opportunities including Countering the Financing of Terrorism and Financial Crime Prevention, Using Intelligence in Organized Crime, Fraud and Forensic Accounting Workshop, Illicit Finance and Money Laundering, Asset Recovery, Freezing and Seizing of Assets (Specialty) Programme, Asset Recovery Live Exercise, RSS Asset Recovery Unit, Coast Guard Cash Seizure & Money Laundering Workshop and Financial Investigation & Public Corruption.
171. The investigators assigned to SOCU retain their police powers and can utilize various techniques in advancing its functions to investigate ML and associated predicate offences. These investigative techniques are utilized depending on the circumstances of the case and includes but is not limited to targeted surveillance, intercepting communications, accessing computer systems and joint inter-agency investigations.
172. The standard operating procedure adopted by SOCU in the investigations of ML is detailed in SOCU Standard Operating Procedures manual. Through this SOP, SOCU ensures that potential ML cases are identified and properly investigated using investigative tools and techniques available.
173. SOCU indicated that ML investigations can be triggered in a number of ways, such as from the dissemination of financial intelligence reports from the FIU of Guyana and request for financial intelligence (see Box 3.3), through parallel financial investigations into predicate offences with GPF, CANU or GRA, verbal or written complaints from members of the public and SOCU's independent identification. Box 3.4 and 3.5 below illustrates the identification and investigation of predicate offences and ML.

### **Box 3.4. Joint approach to the identification and investigations of predicate offence and ML**

In October 2018, a Guyanese national was arrested in another Caribbean territory during a major drug bust. In May of 2021 the Guyanese national was convicted in the United States of America and sentenced to over a decade in prison. The director of FIU and head of SOCU held discussion regarding the financial intelligence of the subject. A financial intelligence report was disseminated to SOCU including bank account information, information on associates and information on properties held. As a result of the financial intelligence, an operation was conducted and documents and assets, including properties and vehicles, valued at USD\$7,660,000 were seized. Investigation is ongoing with the aim of forfeiting illegally obtained assets.

### **Box 3.5. Foreign Predicate Offence Conviction**

Subject A was arrested and charged in a foreign jurisdiction for the offence of conspiracy to violate Maritime Drug Enforcement laws. The offence was alleged to have been committed between April 2018 and July 2018.

As a result of the conviction, SOCU conducted its own investigation with a view to confiscate the assets of Subject A in Guyana. SOCU utilised domestic cooperation from banks, the Deeds and Commercial Registries, the Guyana Gold Board, the Guyana Geology and Mines Commission, the Guyana Revenue Authority and the Office of the DPP. It was determined that Subject A had multiple properties in Guyana, however, not all properties could have been subject to confiscation based on the laws of Guyana. Among the properties was a hotel which is owned by a company incorporated by Subject A. SOCU has been conducting further investigations in relation to the company with a view to confiscation. Subject A also has a legitimate gold business and as a result of this, the GRA became involved so that Subject A's income, assets etc. could be correctly determined so that an analysis can be conducted since there appeared to be the mixing of legitimate funds and proceeds of crime.

SOCU reached out to the foreign jurisdiction to pursue MLA to confiscate the assets. However, this was unsuccessful. As such, SOCU contacted GRA, for GRA to assist in confiscating the properties under GRA's tax regime. An investigation was conducted by GRA into Subject A and his family members. The investigations revealed that the legitimate business income did not match the assets owned by Subject A and his family members, and the matter was remitted to SOCU for money laundering investigations.

GRA will utilise its tax regime to go after subject A for outstanding taxes with a view to instituting proceedings under the various legislation, which would allow for confiscation proceedings of the properties including real estate worth USD\$625,000 and vehicles valued around USD\$66,000.

174. During the period under review as indicated in the table 3.9, SOCU received 80 financial intelligence reports from the FIU of Guyana and made 52 requests for financial information. Sixty-eight (68) of those intelligence reports were investigated and completed, while investigation of the remaining 18 intelligence reports are ongoing. Further, SOCU reported that out of those investigations which were completed, 6 persons were charged for ML and resulted in 273 charges being laid (see para. 184 below on the breakdown of the charges). Table 3.10 further elaborates on the intelligence reports.

**Table 3.9 - Table showing reports disseminated by the FIU of Guyana to SOCU, investigated and charges for the period 2018 to 2022**

Intelligence Reports Received	Financial Intelligence Information Requested	Investigations completed and reports returned to FIU	Investigation Ongoing arising from Financial Intelligence Reports	No. of persons Charged	No. of charges resulted
80	52	68	18	6	273

**Table 3.10. Table showing detailed breakdown intelligence reports disseminated by FIU to SOCU, investigated for the period 2018 to 2022**

FIU Reports	2023	2022	2021	2020
No. of intelligence or other reports received from the FIU	8	28	42	8
No. of reports received from the FIU that was investigated	8	28	42	8
Nature of the suspected criminal offences identified in the FIU reports	Package delivery and suspected ML	Package delivery and suspected ML	Package delivery and suspected ML	Suspected ML
Nature of suspected criminal offences identified in SOCU request to FIU	-	Conspiracy, Fraud, Bribery and Corruption	Conspiracy, Fraud, Bribery and Corruption	Conspiracy, Fraud, Bribery and Corruption

175. In addition to intelligence reports from the FIU of Guyana, matters for ML investigation can also be referred to SOCU by CANU, GPF-CID and GRA. Based on information provided to the AT, 13 matters were referred to SOCU by CANU for parallel ML investigations during the period 2020-2023, 16 matters were referred to SOCU by the GPF-CID for the period 2018-2023 and 2 matters were referred from GRA for 2023. In relation to the 13 matters from CANU, civil forfeiture orders were obtained in 4 matters, 6 matters were returned to CANU due to lack of evidence to pursue ML charges and 3 matters are ongoing. In addition, the AT noted that GRA, for the period 2018-2022 investigated and recovered additional taxes in 113 cases, however, there was no correlating ML

investigation/s as GRA indicated that not all instances warranted a parallel ML investigation, as some matters were due to administrative errors.

176. While SOCU has demonstrated that it does conduct parallel financial investigations into the cases which are referred to it, the AT was not satisfied with the consistency of matters being referred to SOCU for parallel investigations by other agencies such as CANU, GPF-CID and GRA. While onsite interviews revealed that CANU, GPF-CID and GRA were aware of the requirement to submit associated predicate offences to SOCU for parallel ML investigations, the AT was unclear as to what parameters were used by GPF-CID, CANU and GRA in determining whether to submit a matter to SOCU for parallel ML investigations.
177. Overall, the AT found that SOCU had multiple avenues to identify potential cases for ML. However, clearer coordinated effort is needed to ensure that all associated predicate offences are also investigated for ML.

### ***3.3.2. Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies***

178. The authorities in Guyana have pursued ML investigations and prosecutions to some extent in line with the threats identified in the ML/TF NRA. Guyana has to date conducted 2 NRAs, with the most recent being completed in June 2021. The 2021 NRA identified the following predicate offences to have the highest ML threat- smuggling including gold smuggling (See Box 3.6), tax evasion, illicit trafficking in narcotic substances (See Box 3.9) and psychotropic substances and fraud (Case 1, Box 3.3). Coming out of the NRA and synergizing with the risk-based action plan, Guyana developed the National Policy and Strategy for Combating Money Laundering, Terrorism Financing, and the Financing of Proliferation 2021 – 2025. This document provides for 8 strategic objectives, including Strategic Objective 5- Enhancing Investigation and Prosecution Capabilities. Strategic objective 5 was broken down into 4 action items including enhancing capacity by hiring additional investigators and attorneys, ensuring specialised ML training including asset forfeiture, increased use of external experts and enhanced access to relevant information by establishment of specialised SOPs for investigators dealing with ML cases. To date, Guyana has demonstrated improved interagency cooperation among agencies responsible for the investigation and prosecution of ML by signing MOUs with GRA/CUSTOMS and continued cooperation with the FIU of Guyana. As indicated above, additional staff has been retained for SOCU and SOCU investigators are being continuously trained.
179. SOCU also developed an SOP manual to guide its investigations. This manual provides guidance as to the processes and procedures that must be adopted in the conduct of ML investigations. The SOP provides that the Head of SOCU will review reports consistent with the risks and trends for Guyana and prioritise the report or request on the level of seriousness. No further guidance is provided in the SOPs to explain the considerations or parameters to determine which investigations are prioritised. Further, the AT was not provided with any methodology to determine how individual cases are prioritised in line with the risk profile. Notwithstanding, Guyana has demonstrated through the provision of

case studies that LEAs are investigating in line with the country's risk profile as cases were provided in relation to gold smuggling, fraud and drug trafficking.

180. The absence of comprehensive statistics relating to ML investigations and prosecutions did not allow the AT to fully appreciate whether ML investigations are fully consistent with threats, risk profile and national AML policies of the jurisdiction. Notwithstanding, the assessors noted that ML case studies provided did demonstrate that to some extent ML investigations and prosecutions are commensurate with the jurisdiction's threat and risk profile (see Boxes 3.3 above and 3.6 below).

### **Box 3.6. Gold Smuggling and ML**

In November 2019, a man was charged for attempting to export gold without an export license at the Cheddi Jagan International Airport on route to the USA when the gold was found in his suitcase. The man had in his possession 974.13 grams of raw gold valued at USD\$35,000 (GYD \$7,332,416). When questioned by the CANU officer, the subject indicated he had 20 ounces of gold. Search was carried out and the quantity of gold was found. An investigation was carried out and the man was arrested and charged for smuggling in gold contrary to the Gold Board Act. A parallel investigation was also being conducted for ML. The gold seized remained in the custody of SOCU.

### **3.3.3. Types of ML cases pursued**

181. Guyana has demonstrated to some extent that it prosecutes different types of ML cases such as foreign predicate offences, standalone and self-laundering.
182. In Guyana, the entity to prosecute an ML matter depends on whether the matter is being prosecuted summarily or indictably. In Guyana, indictable offences are first heard at the Magistrates' Court, before moving to the High Court. As a matter of practice, where a charge is brought either summarily or indictably, one of SOCU's attorneys-at-law will prosecute the case at the Magistrates' Court, and the DPP will prosecute the case at the High Court for indictable offences only. In exceptional cases, the DPP will prosecute a matter at the Magistrates' Court. Notwithstanding the position that DPP does not lead the prosecution at the Magistrates' Court level, there is significant cooperation between SOCU prosecutors and DPP prior to and during the prosecution of an ML matter, which was solidified with the Inter-Agency MOU.
183. DPP's Office indicated that there is an open-door policy with SOCU and GPF and once assistance is needed at any time, in person or face-to-face, no prior appointment is needed. When files are sent to the DPP's office for advice, the file is immediately brought to the attention of the DPP who immediately assigns the file for legal advice. All files are treated with priority in keeping with the office SOP implemented in 2018. During the period under review, the DPP's office provided advice on 4 matters relating to ML to SOCU. These matters include 1 in relation to fraud and ML (case 1, Box 3.3), 2 self-laundering (case 2, Box 3.3 for 1 and charges were not advised for the other) and verbal advice in relation to

the 270 charges (case 2, Box 3.7). Additionally, the DPP's office would have provided advice and guidance to SOCU on other occasions in relation to various other financial crime matters.

184. During the review period, SOCU indicated that a total of 273 charges of ML were instituted against 6 individuals in the magistrates' court arising out of 3 separate investigations. Trial has commenced on 4 of the cases, while the others are awaiting the commencement of trial. Of the 273 charges, 270 charges were standalone and 3 were self-laundering. The 270 charges arose from a trade-based ML investigation (see case 2, Box 3.7) wherein 1 individual was charged with 268 counts, while 2 additional persons were charged with 1 count each. For the remaining 3 charges, one was in relation to a police officer who was being investigated for fraud and ML (see case 1, Box 3.3), while the other 2 charges were in relation to 2 associates of persons involved in a pyramid scheme (see case 2, Box 3.3). Further, 270 charges were indicatable offences, and 3 charges were summary offences. Guyana has had no prosecutions for third party ML.
185. In relation to foreign predicate offences, Guyana has provided mutual legal assistance to foreign counterparts, including the conducting of investigations (see Table 8.2). In 2022, Guyana charged 2 suspects for fraud pursuant to an MLA request from a foreign jurisdiction. Further, Guyana investigated and attempted to confiscate assets of a subject arrested and charged abroad for the offence of conspiracy to violate maritime drug enforcement laws. However, SOCU was unable to attain any further information from the foreign jurisdiction to support its investigation and further any prosecution. (see Box 3.5).
186. SOCU indicated that they investigate all financial intelligence disseminated by the FIU of Guyana and well as other reports from LEAs. The 2021 NRA indicated that among the reasons listed for the lack of ML cases moving forward for prosecution are the lack of adequate human resources. The AT noted that SOCU staff has increased from nine (9) in 2020 to twenty-five (25) in 2023. Additionally, insufficient evidence and the fact that ML offences in Guyana were summary offences only, resulting in matters having to be brought to court within six months of the commission of the offence, resulted in the reason for ML cases not moving forward to prosecution. In 2017, the AML/CFT Act was amended which made the offence of ML triable either way and allowed for charges of ML to be brought to court at any time after the commission of the offence.
187. Despite challenges faced by SOCU as indicated in the NRA, Guyana provided case studies to demonstrate that it is prosecuting different types of ML cases (see Box 3.7).

### Box 3.7. Different Types of ML Prosecutions

#### Case 1

The Audit Office of Guyana conducted an audit on the Guyana Police Force Finance Department and discovered that a cheque for the sum of \$ 19,030,767 was prepared from six Payment Vouchers payable to O/C 'F' Division, one of which is PV No. 54B001073 for the purchase of fuel for F Division could not be accounted for. The matter was reported to SOCU, and an investigation was conducted which revealed that a police Corporal who was stationed at the then 'F' Division Headquarters, Kingston, Eve Leary stole the said



cheque No. 07-220086 which was endorsed by the then Commander of 'F' Division.

The Corporal went to the Bank of Guyana, affixed his name, division, Identification Card number, telephone number and his signature to the cheque and encashed same by using the commander's ID card. Further investigations revealed that the Corporal later purchased a plot of land for the sum of thirteen million Guyana dollars (\$ 13,000,000). He paid the sum of seven million Guyana dollars (\$7,000,000) in cash as a down payment for the property and owed eight million dollars which is to be paid on the passing of the Transport. He also purchased another plot of land for the sum of two million Guyana dollars (\$ 2,000,000) on the said 7th April, 2020. He paid the sum of one million dollars (\$ 1,000,000) in cash as a down payment for the property with a balance of one million dollars (\$1,000,000) to be paid on the passing of the Transport.

The Corporal also purchased two motor cars on the 22nd August 2019 and 25th February, 2020 respectively. On the 9th February, 2021 he sold motor car # PYY 5935. A lifestyle history was conducted which revealed that he by no means could have accrued the amount of monies to purchase the two properties and motor cars. The two properties were purchased in close proximity to when he allegedly stole the money from the GPF, hence he was charged with Money Laundering.

### Case 2

Reports from FIU received by SOCU suggested a businessman and his wife, are trading in bio-degradable products mainly food boxes, forks spoons etc. Multiple STRs from several FIs have caused concerns that they may be involved in ML activities. These suspicions hinge primarily on the large number of unsubstantiated cash deposits made to their business accounts. The Source of Funds declarations, to commercial banks, signed by the businessman, indicated that the majority of the deposits are attributed to sales proceeds from biodegradable food boxes sold to local businesses, in particular Chinese restaurants. A total of one hundred and thirty-four (134) wire transfers, amounting to three billion, four hundred and twenty-one million, three hundred and ninety-seven thousand, seven hundred and seventy-seven dollars (\$3,421,397,777) Guyana currency were sent to twenty-two (22) companies in China, immediately after or on the same day the deposits were made. These large quantities of money being deposited into his accounts and transferred to companies in China are far in excess of the profits from the biodegradable business.

There has been no evidence obtained as to any legitimate source of these funds. His actions suggested that he may be operating as a nominee for some Chinese businesses and also facilitating tax evasion through his business. The investigators contacted the businesses, stated on the source of fund declaration form and were provided with written statements that they did not conduct the transactions for the large amounts stated on the source of funds.

As a result, the SOCU conducted covert and overt investigations over a two-year period, hence the couple and one other person was charged with 270 counts of money laundering.

Based on an analysis completed by the FIU, it was suspected that the subject may be operating as a nominee for one or more third party businesses. It was suspected that he may be laundering and repatriating funds to China which may have been derived from legitimate or illegitimate sources. Further, intelligence also suggested that the subject may be facilitating tax evasion through his business.

The proceeds of his suspected illegal activities appear to have been used to acquire properties and motor vehicles while some remain in a network of bank accounts with high cash balances. There is also information to suggest that several family members and other named associates were being used to hide a portion of the laundered funds.

The subject is also suspected of being a member of a cross border trade network using shell businesses in and out of the jurisdiction, as tax filings and customs declaration records do not support the level of income, bank deposits and money transfer transactions completed by the subject.

Based on intelligence report completed by the FIU and shared with SOCU, and further investigation completed by SOCU, the subject along with his wife and son, were charged with 270 counts of laundering valued over USD\$19M (GY\$4B). The Subjects were remanded to prison as they were considered a flight risk from the jurisdiction. This is an ongoing investigation and there is a possibility that more persons in and out of Guyana will be charged.

188. To date, only natural persons have been prosecuted for ML and these cases are still before the Magistrates' court, even for cases which were charged indictably. Apart from the number of persons arrested and the number of charges instituted, the AT was unable to get a true reflection of the types of ML investigations and prosecutions and corresponding numbers. Guyana has demonstrated that it does prosecute ML related to parallel investigations of predicate offences, standalone ML and self laundering.

#### ***3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions***

189. The AML/CFT Act provides for a wide range of sanctions for ML. However, ML convictions have not been secured in any cases prosecuted to date, as all matters are currently ongoing. As indicated above, of the 273 ML charges before the Court, 270 charges were laid indictably, while the remaining 3 were laid summarily. Since there are no convictions for ML in the jurisdiction an assessment on the effectiveness, proportionality and dissuasiveness of sanctions, in practice cannot be undertaken.

190. At the time of the onsite, Guyana had 20 Magistrates and 11 Judges. For the period 2018 to 2023 the Judiciary received limited training in relation to ML with the latest being in 2022 which was attended by 1 judge and 1 magistrate. Based on interviews, the Judiciary indicated that there is no system for prioritising ML matters before the judicial system, however where persons are remanded the court will take an interest in bringing those matters up more frequently. Delays in the judicial system due to factors such as a backlog of cases has contributed to the delay ML matters.

#### ***3.3.5. Use of alternative measures***

191. In the absence of being able to secure an ML conviction, Guyana has alternative measures available such as asset forfeiture. Guyana's laws provide a wide range of powers to SOCU, DPP, GRA and CANU to act as necessary. Forfeiture tools available under the legislation include criminal forfeiture, non-conviction-based forfeiture, enforcement of foreign non-conviction-based forfeiture, civil recovery and administrative forfeiture. The legislations also protect the rights of bona fide third parties to assets.

192. With respect to asset forfeiture under the Anti-Narcotic Act, the Act provides for the extent that assets can be seized when used in the commission of trafficking in narcotics. However, CANU lacks the capacity and resources to enforce this aspect of legislation and, the asset forfeiture applications in drug cases are left to SOCU to be dealt with under the AML/CFT Act.

193. Guyana has demonstrated that it can impose non-conviction-based sanctions including forfeiture on subjects when it is not possible to prove ML (see Box 3.8).

### Box 3.8. Non-Conviction-Based- Forfeiture

Following a joint operation by CANU, GPF and GDP in 2018, a search was conducted on a house where a substantial sum of money in various currencies were seized. A female was subsequently charged with aiding her husband and another to traffic cocaine. However, the charge against her was dismissed after the magistrate ruled that there was insufficient evidence led by the prosecution.

In 2019, SOCU filed forfeiture proceedings against her in the High Court and later in the year a civil forfeiture order was granted to forfeit specified property namely: GYD \$18,780, Bolivar \$1,081,605 and USD\$79,311, property of the said female. It was further ordered that the detained currency be transferred to a receiver or such other person as the court may determine in accordance with the Act. She was ordered to pay cost.

194. The assessors found that Guyana has successfully demonstrated the use of alternative measures such as civil forfeiture as an important tool in the AML/CFT regime. However, the AT found that Guyana did not demonstrate that alternative tools are consistently pursued when ML convictions cannot be secured.

## Overall conclusion on IO.7

195. In Guyana there are multiple LEAs involved in the investigation and prosecution of ML and associated predicate offences. SOCU has demonstrated that it is identifying and investigating ML matters, based on *inter alia* parallel investigation or referral from other LEAs or from foreign requests. While LEAs are aware of the requirement to submit associated predicate offences to SOCU for parallel ML investigations and have been submitted matters, clearer parameters should be developed to ensure relevant matters are submitted for parallel investigation.
196. Guyana has demonstrated to some extent that it was investigating and prosecuting in line with its risk profile. Guyana also prosecutes different types of ML cases such as foreign predicate offences, standalone ML and self-laundering. While Guyana has some prosecutions, Guyana had no convictions to allow for the AT to make a determination on the proportionality and dissuasiveness of the sanctions available. Based on interviews, the AT was of the view that ML matters are not prioritised in the judicial systems. Guyana did demonstrate the use of alternative measures in the absence of securing an ML conviction. Given Guyana's context, more specifically, its geographical dynamics, population size, the preventive mechanisms implemented at borders, IO 7 is being achieved to some extent with major improvements needed.

**Guyana is rated as having a moderate level of effectiveness for IO.7.**

### 3.4. Immediate Outcome 8 (Confiscation)

#### 3.4.1. *Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective*

197. Confiscation is pursued to some extent as a policy objective in Guyana. Guyana has demonstrated that they are pursuing confiscation of criminal proceeds, instrumentalities and property of equivalent value, and to a limited extent repatriation, sharing and restitution involving domestic and foreign predicate offences and proceeds which have been moved to other countries.
198. The 2021 NRA found that although the AML/CFT legislation is compliant with international standards, there was need for further amendments to ensure that the asset forfeiture regime is less cumbersome. The national AML/CFT/CPF National Policy and Strategy 2021-2025, through Strategic Objective 2- Strengthening AML/CFT Legislative Framework, sought to ensure that asset sharing legislation was drafted to govern the management of seized, confiscated and forfeited assets and that the civil confiscation and civil forfeiture regimes are developed and/or strengthened. Guyana has since made amendments to its AML/CFT Act to improve its asset forfeiture regime through the AML/CFT (Amendment) Act, 2023.
199. SOCU developed SOPs in June 2023 to address the Investigation of Civil Recovery of Proceeds of Crime and the investigation of currency seizures. The SOPs also sets out the procedures to be followed by SOCU in relation to any cash seizure investigation and civil recovery of proceeds of crime. Further in June 2023, the NCC developed a forfeiture of instrumentalities and forfeiture of cash guideline, a civil recovery guideline and a confiscation guideline. This guideline focussed upon forfeiture of instrumentalities and not forfeiture of goods. Therefore, where lands, machinery, equipment or implements used in the cultivation of prohibited plants are owned by the person who committed the offence, or leased, licenced, or used subject to any other similar rights and cultivation was done with the consent, co-operation or assistance of the owner, the land, machinery, equipment and implements shall be forfeited to the State.
200. Since the 2021 NRA, SOCU, AG's Chambers and DPP have been given additional human and financial resources, as well as specialized training to enable them to improve in confiscation and forfeiture proceedings. The AG's chambers provide guidance and advice on civil matters, for example, civil forfeiture and civil recovery, while the DPP provides guidance in criminal matter including criminal forfeiture and provides legal advice to SOCU.
201. There is a strong culture of cooperation and sharing of information among LEAs including the FIU, SOCU, GPF, GRA, DPP and AG's Chambers in relation to intelligence to identify and trace assets in both civil and criminal confiscation cases and civil and criminal litigation. MOUs exists among the different agencies geared towards working together and provides for the alignment of policy objectives which addresses the confiscation of criminal proceeds.
202. In 2023 Guyana conducted a Guyana Asset Recovery Conference. LEAs and CAs benefited from this conference including the FIU, SOCU, GPF, AG, DPP and CANU. This workshop covered the following broad headings- Overview of Asset Recovery Regimes

and the legislation relating to civil forfeiture and restraint orders; The relationship between civil forfeiture and the constitution; Case study: Ahmed Williams vs The SA; Civil forfeiture case study and practical exercise; Adjudicating confiscation cases in Guyana and the concept of tainted gift; A practical session and an introduction to the recovery of virtual assets; and a live exercise.

203. Guyana is pursuing confiscation as a policy objective to some extent. This is evidenced through the updates to the legislation, the development of various guidance documents, the emphasis for better training of the entities and more interagency cooperation evidenced by the MOUs.

### ***3.4.2. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad***

204. Guyana has a robust confiscation regime, but this is not being implemented consistently. For domestic predicate offences, Guyana demonstrated the use of provisional measures where seizures were made in anticipation of confiscation. Given that these matters are ongoing before the courts, confiscation occurred to a lesser extent. For foreign predicate offences, there is seizure to a limited extent and there was no evidence of seizure of criminal proceeds that move to other countries. In Guyana's context, the AT is satisfied that this lack of movement can be a result of domestic cooperation among agencies under the Ministry of Natural Resources (See paragraph 104) and measures implemented to identify instances of smuggling at borders (for example Box 3.6). In those instances where confiscation is not possible, Guyana has demonstrated forfeiture measures are taken (See Box 3.9).

### ***SOCU***

205. SOCU's SOP outlines procedures for restraint of assets. These procedures allow for engagement with the DPP to obtain advice on cases. SOCU has demonstrated that there are measures which have been implemented to deprive criminals of illicit proceeds. These measures include identification and restraint of criminal proceeds in the conduct of investigations of predicate offences. Table 3.11 illustrates the restraint orders granted to SOCU for the period 2020 to 2023. SOCU has demonstrated the ability to restrain assets, however, the AT was unable to determine the consistency to which restraint occurs. As seen in Box 3.4 above, SOCU has demonstrated that it can seize assets for foreign predicate offences. However, this is done to a limited extent. Given the absence of ML convictions, SOCU has not demonstrated that it has confiscated assets. Notwithstanding, the AT found that SOCU has made all the necessary attempts to restrain assets, when possible.

**Table 3.11 - Restraint Orders granted by the Court to SOCU for the period 2020-2022**

Year Order Granted	Properties Restrained	Remarks	Offence
2022	1 Motor Car and cash of \$ 120,000 GUY	The Court prohibited the subject from disposing of the properties	Asset restrained pursuant to ML offence based on a parallel investigation with the CID for fraud.
2022	1 Motor Car and cash of	The Court prohibited the subject from	Asset restrained pursuant to ML

	\$ 5,760 USD \$ 6,285,000 GUY	disposing of the properties	offence based on a parallel investigation with the CID for fraud.
2022	1 Motor Vehicle	The Court prohibited the subject from disposing of the properties	Self-laundering. (case 1, Box 3.3)
2021	3 Motor Cars and 1 ATV	The High Court ordered Motor and ATV be returned to the Registered Owners but are restrained from disposing of same.	Asset restrained pursuant to ML offence based on a parallel investigation with the Narcotic Branch GPF for drug trafficking.

#### *GPF-CID*

206. In relation to the GPF-CID, 2 airplanes were seized pursuant to two separate cases relating to drug possession charges (with a total value GUY\$944,552,320 (USD\$4,488,250)). The GPF-CID estimated the value of the two airplanes as USD\$2,000,000 in total. Guyana advised that the instrumentalities are being kept in a hanger of the Guyana Defence Force (GDF) as it had the capacity to store the asset. The AT was therefore unable to determine the consistency to which confiscation is pursued by the GPF-CID for domestic predicate offences.

#### *CANU*

207. Box 3.9 below highlights the cases which represents civil forfeiture undertaken by CANU. During the period under review, a total of 8 applications for cash forfeiture were filed and 4 forfeiture orders. The cases of forfeiture were linked to drug trafficking and ML. Additionally, table 3.12 provides a breakdown of the cash forfeiture applications and forfeiture orders by year.

### Box 3.9. Forfeiture of Criminal Proceeds

#### Case 1

CANU arrested the suspect's husband and several others in the Pomeroon River, Essequibo Coast for being in possession of narcotics, valued at USD\$2,200,000, for the purpose of trafficking. Simultaneously, officers of SOCU conducted a search on their premises at Burrow Street, Republic Park, East Bank Demerara where the sums of GYD\$18,800, \$1,081,606 Venezuelan currency, and USD\$79,311 were discovered in various parts of the house. The cash was seized and detained and investigation conducted. Civil forfeiture application was filed at the Georgetown High Court where the court ordered the confiscation of the said cash.

#### Case 2

Acting on information received officers of CANU intercepted a female while entering Guyana illegally via the back-track route at Skeldon, Corentyne Berbice. A search was conducted on her person and the sum of USD\$3,300 and \$8,800 Euro were discovered strapped around her upper thigh. The cash was seized and subsequently detained by SOCU and investigation continued. Civil forfeiture application was filed at the Georgetown High Court and the court ordered the confiscation of the said cash.

#### Case 3

Acting on information received, officers of CANU intercepted the suspect entering Guyana illegally via the backtrack route at Skeldon, Corentyne, Berbice with several five-gallon tins of paints. The tins of paints were searched and the of \$24,530 Euro was discovered concealed in the paint cans. The cash was seized and a civil forfeiture application was filed at the Georgetown High Court and the court ordered the confiscation of the said cash. Additional items seized included drugs (which were destroyed), properties and vehicles (that are under restraint) and gold (that was returned to the GGB).

Table 3.12 - CANU Cash Seizures and Forfeitures for the period 2018-2023

Year	Domestic Proceeding		Value of Proceeds	Equivalent Value Confiscated	Types of cases (Offences)	Status of case
	Civil	Criminal				
2023	1	3	Pending	Pending	Narcotics Trafficking, ML and Illegal entry	Pending
2022	0					
2021	0					
2020	1			Euro 24,530	Illegal Entry	Completed
2019	0					
2018	3			USD\$131,171, GYD\$19,200, Euro 8,800, VZ 1, 081,606	Illegal entry, Possession of narcotics for the purpose of trafficking, Inability to declare source of funds	

*FIU*

208. In relation to the FIU, two freezing orders were instituted against property by the FIU. The details of these orders are described in Box 3.10.

### Box 3.10. Freezing Orders by the FIU of Guyana

#### Case 1

FIU instructed a commercial bank to freeze the subject's bank account for 5 days following the filing of a STR. The STR related to a one-off large cash deposit, followed by a wire transfer transaction transferring most of the funds to a beneficiary in the UK. The value froze was GUY\$502,500,000 (USD2,512,500).

#### Case 2

FIU directed a commercial bank to freeze the account of a director of a company. The STR related to a sum of money transferred to the account of a subject connected to an alleged Ponzi Scheme. The value frozen was GUY\$467,075 (USD2,335).

### GRA

209. GRA can conduct cash seizures and forfeitures for tax offences as seen in table 3.13 below—

**Table 3.13 - GRA cash seizure and forfeiture for the period 2018 to 2023**

No.	Year	Currency Amount (USD\$)	Action
1	2023	103,285	Money was detained
1	2022	10,000	Money remains detained awaiting conclusion
6	2019	344,255	Money place in the consolidated fund
1	2018	10,186	Money was returned

210. Guyana has demonstrated that it does confiscate the proceeds of crime and instrumentalities for domestic predicate offences and to a limited extent foreign predicate offences (see Box 3.4). In one instance, Guyana sought to utilize the tax regime to seize and confiscate assets which Guyana was unable to confiscate (see Box 3.5 above). Confiscation was not evidenced for proceeds which have been moved to other countries. The AT found that the authorities did not consistently pursue confiscation for every domestic predicate or ML offence, where possible.

211. Other than for cash seizures by SOCU, Guyana did not provide the AT with any procedures or guidance regarding the management of seized assets such as the 2 airplanes or vehicles so as to preserve the value as necessary. In relation to cash seizures, SOCU's SOPs provides that cash seized must be deposited into an interest-bearing account. Guyana's MLA SOP also provides for the arrangements and coordinating mechanism to apply where an MLA relates to property confiscated or frozen and requires the LEA to



manage the property to ensure that the property is secure, and the value is maintained. However, no such procedures were provided by the LEAs, save an except for cash seizures by SOCU. The AT was unable to determine how effective Guyana is in the repatriation, sharing and restitution of assets.

### **3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNI**

212. The vastness of Guyana's borders poses a challenge for the authorities to detect cross-border movement of currency and BNI. The 2021 NRA indicated that smuggling of cash and other items do not primarily take place at the ports of legal entry but rather along the coastline, including Parika, East Coasts Villages, Corriverton, Corentyne, Lethem and Eteringbang on the Cuyuni River. In consideration of existing legal measures in place and additional amendments to the legislation to make penalties dissuasive and encourage the declaration of cash the risk was rated as Medium Low in the NRA.
213. The GRA is the CA tasked with the identification and seizure of falsely or undeclared cross-border transaction of currency and BNI. Policies are in place in relation to all ports whereby written declarations are required to be submitted where cash or BNI over the sum of \$10,000.00 USD is being brought into the jurisdiction. Where a declaration is not made, the cash or BNI is seized, the FIU, GPF, SOCU and CANU are all notified, and interviews are conducted by the relevant LEAs. Thereafter, a decision is taken as to whether the cash should be seized, and investigations are instituted to determine what further action needs to be taken. (See Box 3.11)

#### **Box 3.11. Case Study- Failure to Declare**

Information was received from Customs, Excise and Trade Operations Officer, that an incoming passenger had in his possession currency exceeding US\$10,000 or equivalent and failed to declare to the Officer. Based on a review conducted and the chain of evidence obtained during this exercise, it was evident that the individual had in his possession currency exceeding US\$10,000 or equivalent and failed to declare. It was recommended that GRA institute legal proceedings contrary the Foreign Exchange (Miscellaneous Provisions) Act.

214. Pursuant to the 2021 NRA, the compliance rate for declarations of cash is high, possibly due to the recent institution of harsh penalties for non-declaration which involves, astronomical fines, seizure of cash, and imprisonment. The AT found the sanctions to be effective, proportionate and dissuasive.
215. The GRA utilises various techniques to detect cross border movement of cash inclusive of passenger scanning (7 scanners have been installed at various ports), profiling, the use of a risk-based approach pursuant to intel received, international cooperation, post clearance analysis and the identification of suspicion of monies by the Audit and

Investigations Unit. However, the effective implementation of these techniques was not demonstrated given the vastness of Guyana's borders.

216. Whilst customs officers of the GRA continue to receive training as set out in the "Training Objectives – AML/CFT & PF- 2022 to 2024", this did not include specialised training on cross-border movement of cash and BNIs and the confiscation of such items. Guyana has recognised that the inclusion of BNI's is new as it was recently included in the Foreign Currency Act and programmes are currently being crafted to build the capacity of customs officers as it relates to BNIs. The AT found that customs officers could benefit with more specialised training to deal with the detection of cash and similar instruments being smuggled by individuals and concealed in packages and other cargoes traversing Guyana's borders.

217. Notwithstanding, GRA has demonstrated that it is seizing cash for non-declared or falsely declared filings (see table 3.14).

**Table 3.14 - Cash seized by GRA for non-declared or falsely declared cash for the period 2018-2023**

Year	Place of Seizure	Nature of Offence	Currency Seized	Action Taken/Status
2018	Gloves Boat Landing, Springland, Corriverton Berbice	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US \$10,186 and SRD \$220	<ul style="list-style-type: none"> <li>- Undeclared currency seized</li> <li>- The Offender paid compensation to the Authority and cash was returned</li> <li>- Source of funds was provided, the company was made to effect outstanding payment for PAYE in the sum of \$8,786,828.</li> </ul>
2018	Canawaima Ferry Terminal, Moleson Creek, Correntyne Berbice	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US\$ 10,683 and SRD \$595	<ul style="list-style-type: none"> <li>- Undeclared currency seized and offender placed on bail.</li> <li>- The offender elected to settle the matter in lieu of court proceedings by paying compensation in the sum of G\$150,000.</li> <li>- The detained currency was then handed over to the GRA's Revenue Accounting Section to be secured until same is forfeited.</li> </ul>
2019	Eugene F. Correia International Airport, Ogle, East Coast Demerara	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US \$14, 160	<ul style="list-style-type: none"> <li>- Undeclared currency seized</li> <li>- Proceedings instituted and the offender fled the jurisdiction. The detained currency was then converted into local currency and placed into the Consolidated Account (Revenue).</li> </ul>
2019	Berbice River Bridge Crossing	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US \$25,000	<ul style="list-style-type: none"> <li>- Undeclared currency seized</li> <li>- Proceedings instituted and the offender fled the jurisdiction. The detained currency was then converted into local currency and placed into the Consolidated Account (Revenue).</li> </ul>
2019	Gloves Boat Landing, Springland, Corriverton Berbice	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US \$15,000	<ul style="list-style-type: none"> <li>- Undeclared currency seized and the offender was released on his own recognizance.</li> <li>- Offender fled the jurisdiction.</li> <li>- The detained currency was then converted into local currency and placed into the Consolidated Account (Revenue).</li> </ul>

2019	Gloves Boat Landing, Springland, Corriverton Berbice	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US \$16,600	<ul style="list-style-type: none"> <li>- Undeclared currency seized</li> <li>- Proceedings instituted and the offender fled the jurisdiction. The detained currency was then converted into local currency and placed into the Consolidated Account (Revenue).</li> </ul>
2019	Line Path Public Road, Corentyne, Berbice	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US\$ 60,000	<ul style="list-style-type: none"> <li>- Undeclared currency seized</li> <li>- Proceedings instituted and the offender fled the jurisdiction. The detained currency was then converted into local currency and placed into the Consolidated Account (Revenue).</li> </ul>
2019	Eugene F. Correia International Airport, Ogle, East Coast Demerara	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US\$ 150,000 and Euro € 50, 000	<ul style="list-style-type: none"> <li>- Undeclared currency seized</li> <li>- Proceedings instituted and the offender fled the jurisdiction. The detained currency was then converted into local currency and placed into the Consolidated Account (Revenue).</li> </ul>
2022	Guyana Post Office Corporation Inc.	Section 37 of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009 was considered in the detention of the foreign currency	US \$10,000	During examination of an International Air mail, two (2) envelopes for which the offender was listed as the sender, were intercepted and was found to contain a total of US\$10,000. The money was detained and the offender was released on her own recognizance. The matter was since brought to the attention of the Director of the Financial Intelligence Unit (FIU) in accordance with Section 37 of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009 and Customs Anti-Narcotic Unit (CANU) for further investigation. The money remains detained until the outcome of the further investigation.
2023	Eugene F Correia International Airport, Ogle, East Coast Demerara	Breach of Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01	US \$103,285	The Offender failed to make a declaration to the Proper Officer. As such the monies were seized and the offender was placed on his own recognizance. The Commissioner-General has approved for proceedings to be accordingly instituted in accordance with Section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act, Chapter 86:01. The matter was forwarded to the Legal Services Division for the necessary action(s) to be taken and the currency remains detained (lodged with Revenue Accounting Section) until the outcome of the investigation.

#### ***3.4.4. Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities***

218. Guyana has demonstrated to some extent that confiscation is occurring in line with the national ML/TF risks. According to the NRA, the highest ML threats are gold smuggling, tax evasion, drug trafficking and fraud. CANU, SOCU and GPF-CID have confiscated or seized assets and instrumentalities as a result of drug trafficking offences. CID seized 2 airplanes pursuant to drug possession charges and CANU has seized drug related cash in several cases for the period 2018-2023. Additionally, the GRA has seized approximately USD\$467,288 of non-declared or falsely declared cash for the period 2018 -2023. Regarding gold smuggling, the AT noted there was minimal confiscation for such offences. This can be attributed to risk mitigating measures implemented such as the coordination among agencies of the Ministry of Natural Resources to prevent smuggling at the porous borders (See paragraph 104).

219. To strengthen the confiscation regime, the AML/CFT/CPF national policy and strategy included the drafting of asset sharing legislation to govern the management of seized, confiscated and forfeited assets in compliance with international standards. To this end the new regulation 12 of 2021 provided for asset sharing provisions and several practical guides have been developed on civil recovery, conducting confiscation cases and forfeiture of instrumentalities and cash in Guyana which were also shared with relevant CAs.

## Overall conclusion on IO.8

220. Confiscation is pursued to some extent as a national policy objective in Guyana. This is demonstrated through the inclusion of confiscation in the National Policy and Strategy for Combating ML, TF and PF to provide for updates to the legislation, development of policies and SOPs by the NCC and SOCU respectively, and the strong domestic cooperation among LEAs to trace assets (through civil and criminal means). Guyana has consistently demonstrated interagency cooperation through the adoption of MOUs which addresses the confiscation and provisional measures.
221. CANU, GPF-CID and SOCU have demonstrated their ability to seize and apply civil forfeiture mechanisms to assets. Notwithstanding that confiscation is done to a lesser extent. When there were confiscations and provisional measures (seizures), the AT found these are in line with the country risk profile to some extent. The GRA has also demonstrated to some extent that cash is seized but not BNIs, however there is a high compliance rate with declaration given the proportionate and dissuasive sanctions. Guyana did not demonstrate the repatriation, sharing and restitution involving domestic and foreign predicate offences and proceeds which have been moved to other countries. Further, there is no mechanism for the management of assets or mechanisms for the sharing of assets, other than for cash seizures by SOCU. As such, policies for the management and preservation of value of these assets is needed.
222. Additionally, a lack of comprehensive confiscation statistics affected the ability of the AT to fully assess the confiscation of proceeds and instrumentalities of crime.
223. Given that Guyana does not have a sophisticated financial economy, the geographical dynamics and its population size and the preventive mechanisms implemented at borders, IO 8 is being achieved to some extent with major improvements needed.

**Guyana is rated as having a moderate level of effectiveness for IO.8.**

## Chapter 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### 4.1. Key Findings and Recommended Actions

#### Key Findings

##### Immediate Outcome 9

- a) Guyana has a strong legislative framework to criminalise TF coupled with a general understanding by the CAs of the TF risk profile established pursuant to the second NRA. The National Policy and Strategy for Combatting ML/TF/PF 2021-2015 provides a guide for the CAs to improve the country's AML/CFT/PF systems through coordinated efforts.
- b) There were no convictions for TF in Guyana during the review period. In Guyana, the prosecution of TF is done by the DPP. While the DPP is adequately resourced, the Judiciary lacks the necessary specialised trainings and the DPP can benefit from additional specialised training.
- c) In Guyana, TF matters for investigations are identified through intelligence reports from FIU, matters being referred by GPF-CID and Special Branch and through international cooperation. TF matters are solely investigated by SOCU and are given high priority. During the period under review SOCU received intelligence reports from FIU in relation to TF and referrals from GPF for TF in a terrorism case. However, significant emphasis is placed on intelligence reports for the identification of TF.
- d) Guyana has a risk-based action plan and a counter terrorism strategy which was adopted in 2023. Both the action plan and the counter terrorism strategy include TF as components of their respective policies, specifically the need to make updates to the financing of terrorism legislation. While Guyana has designated persons pursuant to UNSCR 1373, it did not demonstrate the general use of TFS to support national terrorism efforts.
- e) Guyana has several alternative measures where TF convictions is not possible. However, this was used to a limited extent.

##### Immediate Outcome 10

- a) Guyana has a TFS-TF framework embedded in the AML/CFT Act. Significant amendments have been made via the AML/CFT (Amendment) Act 2023 and amended AML/CFT Regulations.
- b) Some key CAs in Guyana have not demonstrated a good understanding of the TFS

regime, particularly in light of the AML/CFT (Amendment) Act 2023. Additionally, there is the need for established institutional frameworks at the Ministry of Finance and the Attorney General's Office, in order to efficiently and effectively implement TFS without delay.

- c) The NCC Sub-Committee on law enforcement issues has been established and is the mechanism to identify targets (i) for designation pursuant to the designation criteria in UNSCR 1373 (2001) and (ii) for inclusion on the UNSC 1267 Sanctions List based on the designation criteria set out in the relevant UNSCRs.
- d) Notwithstanding the fact that guidelines and procedures have been established and shared amongst the relevant CAs and REs, the relevant guidelines and mechanisms were not revised by the CAs as at the end of the onsite in light of the recent legislative amendments. Whilst the NCC established guidance documents dated August 2023, the CAs neither mentioned nor demonstrated knowledge of same at the onsite. Further, internal processes and procedures are necessary, together with the identification of staff tasked with the implementation of TFS.
- e) FIs and DNFBPs within the regulated sectors have a good understanding of their obligations to implement TFS without delay and screen against the UNSC Sanctions Lists and the domestic list using either automated or manual screening tools.
- f) Guyana has implemented some measures to mitigate the risks of potential abuse of NPOs for TF; work remains, particularly as it relates to conducting a full NPO sector review. Guyana has tailored its approach to assist NPOs to develop a culture of compliance for AML/CFT by creating a Compliance Commission which will have AML/CFT supervision of NPOs (in accordance with the Second Schedule of the CCA). While Guyana is balancing the application of oversight of the most at-risk NPOs, Guyana treatment of some NPOs (Registered Charities) as a RE is not in line with the FATF Standards which can impede the ability of legitimate NPOs to operate and pursue their objectives effectively.
- g) Through CAs (including SAs), Guyana has provided some outreach in relation to TFS-TF to NPOs. However, no outreach has been provided to the donor community (other than general training to FIs) in relation to the vulnerability of NPOs to TF, the nature of TF risks and abuse of NPOs. The current agencies with responsibility for NPOs have not fully applied risk based measures to monitor NPOs, which has resulted in the lack of a targeted approach, limited outreach and inadequate oversight of NPOs.
- h) Albeit there have been no freezing orders, criminal or civil based asset forfeiture or other actions taken to deprive terrorists, terrorist organisations and terrorist financiers of property due to the fact that no terrorist property has been identified, Guyana has a legislative framework in place to deprive terrorists, terrorist organisations and terrorist financiers of TF assets and instrumentalities in relation to TF investigations and TFS.

### **Immediate Outcome 11**

- a) Guyana has a legal framework, processes and procedures for implementing TFS related to PF as set out in the AML/CFT Act. However, at the time on the onsite, there was no formal mechanism for the UN List to be transmitted automatically. Guyana has implemented mechanism to daily monitor the UNSC website for changes to the

1718 and 2231 sanctions lists. It was identified that there were delays in the sharing of the changes with the SAs and the REs which may result in TFS–PF implementing with delay.

- b) Guyana’s exposure to WMD-sanctions evasion of PF is low. No funds or other assets of, or related to, designated persons or entities have been identified or frozen pursuant to PF TFS. The understanding and implementation of TFS is strong among the more established FIs and DNFBPs such as DPMS and casinos.
- c) AML/CFT supervisors have recently implemented mechanisms to assess FIs and DNFBPs compliance with TFS-obligations in particular the screening against the UN sanction lists and have demonstrated some understanding to monitor the implementation of TFS obligations. The supervisors provide guidance to relevant entities about the need to implement TFS without delay.

## Recommended Actions

### Immediate Outcome 9

Guyana should:

- a) Utilise all means, including from intelligence agencies, to identify cases of TF.
- b) Provide specialised training for the DPP and Judiciary in relation to the prosecution and adjudication of TF case and to SOCU on the identification and investigation of TF.
- c) Ensure that LEAs have the necessary investigative tools to investigate TF.
- d) Continue to pursue alternative measures where a TF conviction cannot be achieved.

### Immediate Outcome 10

- a) Guyana should take steps to bolster its processes and procedures in order to ensure that updates to the UNSC Sanctions Lists are received without delay after a designation is made or amended.
- b) Guyana should take necessary steps to ensure that TFS-TF is implemented without delay.
- c) Guyana should ensure that guidelines to REs, procedures and other relevant documents on TFS-TF are updated in light of the AML/CFT (Amendment) Act 2023 and amended AML/CFT Regulations.
- d) Guyana should address the technical compliance deficiencies in R.8 and implement additional measures to better protect the NPOs from potential TF abuse that do not unduly hamper legitimate NPO activities, inclusive of the removal of Registered Charities as REs.

### Immediate Outcome 11

- a) Guyana should take steps to improve its processes and procedures in order to ensure that updates to the UNSC Sanctions List are received without delay after a designation is made or amended.
- b) Guyana should take necessary measures to ensure TFS-PF is implemented without delay.



- c) Guyana should continue providing training and guidance to SAs to improve its measures to monitor and ensure compliance by FIs and DNFBPs with their obligations regarding TFS related to PF.
- d) SAs should continue to implement monitoring activities in assessing compliance with TFS-PF obligations amongst FIs and DNFBPs.
- e) CAs should continue working to ensure all REs receive timely updates to counter-proliferation financing sanctions designations from an appropriate authority.
- f) Guyana should implement the necessary measures to search for funds and assets of listed persons and entities, not only by screening the lists, but also by providing the means to prevent the indirect provision of assets to designated persons and entities.

224. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5–8, 30, 31 and 39, and elements of R.2, 14, 15, 16, 32, 37, 38 and 40.

## **4.2. Immediate Outcome 9 (TF investigation and prosecution)**

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

225. Guyana has a strong legal framework to criminalise TF, as evidenced in the AML/CFT Act, 2009 (see rec. 5). Guyana criminalises TF in accordance with international standards and is party to the International Convention for the Suppression of the Financing of Terrorism.
226. Guyana conducted an ML/TF risk assessment in 2021 and updated its TF risk assessment in 2023, wherein Guyana took a policy decision to maintain the TF rating as medium until conduct of the 2024-2025 NRA. The findings of the 2021 NRA indicated that there were no identified TF activities and the number of STRs related to TF between 2016 and 2020 were low. The AT found Guyana's understanding of its TF risk to be fair, however, the limited sources of information used in the TF NRA impacted Guyana's ability to fully understand the true TF risks (see I.O. 1).
227. In Guyana, the prosecution of TF matters is dealt with by the DPP. In accordance with DPP's SOP for ML/TF and Asset Forfeiture, TF matters are brought to the attention of the DPP immediately and the case is assigned to a special prosecutor within the DPP. Advice on the matter is provided to SOCU within 7 to 14 days depending on the complexity of the matter. When SOCU concludes the investigation, the DPP will thereafter take the matter through the judicial process i.e. Magistrates Court and High Court.
228. During the period under review, the DPP did not receive any TF related files from SOCU or GPF for prosecution. The DPP's office is currently staffed with 24 legal staff including 7 specialist prosecutors in the area of ML/TF and asset forfeiture.
229. Based on the information provided, a limited number of trainings in relation to TF prosecutions were provided to DPP and the Judiciary. The RBAP for 2021-2025



acknowledged the need to provide more specialised training for the agencies that analyse, investigate and prosecute TF, including the DPP.

230. Given the fact that Guyana has had no prosecutions or convictions for TF, the AT was unable to determine how well TF matters are being prosecuted. Notwithstanding the absence of prosecutions, the DPP demonstrated that there is a process in place to effectively prosecute TF matters with urgency when a TF prosecution arises. The AT did find that the DPP's office is adequately staffed, especially in light of Guyana's medium TF rating. The AT found that Guyana did not demonstrate that, should a TF investigation be successful, that the Judiciary is adequately prepared to deal with a TF prosecution. Whilst the 2021 NRA cites that financial flows related to TF appeared to have passed through MTAs, neither risk assessments identify the specific types of TF activities (collection, movement and use of funds/assets) that Guyana is most exposed to and there have been no prosecutions to date to support same. As such, the AT was also unable to determine whether Guyana is prosecuting different types of TF activities consistent with its medium TF risk profile.

#### ***4.2.2. TF identification and investigation***

231. The main agencies in Guyana responsible for the identification and investigation of TF are the FIU and SOCU, respectively. GPF-CID and Special Branch also play a supporting role as those entities are responsible for the investigating and prosecuting of terrorism matters.

232. In Guyana, TF matters are identified for investigation through reports from FIU, international requests or from GPF (CID or Special Branch) where there is a terrorism investigation.

233. REs in Guyana are required to file STRs in relation to TF. The FIU of Guyana conducted numerous outreach sessions and trainings to REs, including the non-bank FIs, real estate agents and cambios, on TF red flag indicators. Guidelines were also issued by FIU in 2018 on detecting and preventing TF which enabled REs to protect themselves from being used as a conduit for hiding or moving terrorist funds. As seen in IO 6, the FIU of Guyana utilises the i2 iBase to analyse STRs in relation to TF and has wide access to various sources of information in developing its intelligence reports.

234. For the period 2018 to 2023, the FIU of Guyana received 10 STRs related to TF and subsequently disseminated 8 intelligence reports to SOCU for investigation. However, SOCU determined that there were no instances of TF and as such there were no prosecutions or convictions. See Box 4.1 which illustrates a case study of a TF investigation in Guyana.

#### Box 4.1. Case study on a TF investigation commenced from an FIU IR

The FIU sent an intelligence report to SOCU in relation to two nationals living in Turkey. Information was received that National A had two children B and C, who were living in Turkey and are suspected of being involved with the Islamic State (ISIS). SOCU commenced an investigation to determine whether National A was financing terrorism.

Based on intelligence that explosive devices were at National A's home, a search was conducted on the home on the Essequibo Coast where a quantity of foreign currencies were found. The foreign currency, along with laptops, tablets, and cell phones were seized.

As part of the investigation, SOCU obtained production orders for banks and for money transfer agencies to track the suspects and to determine whether money was sent from National A to her two children in Turkey. SOCU also obtained copies of the travel history for National A and a parallel investigation for money laundering was also conducted.

In relation to the production order served on the bank in 2018, it was revealed that a substantial amount of Guyanese currency was deposited in 2016 from a foreign jurisdiction. National A indicated that the money was a foreign remittance from the employer of her late husband. As a result of such, SOCU sent a request for Mutual Legal Assistance in 2018 to the foreign jurisdiction in relation to the matter.

Investigations also revealed that whilst National A remained in communication with her children no monies were received by National A from her children. Further, only one money transfer agency has a relationship with National A. Records from the money transfer agency records showed that monies were sent from a nearby jurisdiction for National A.

The file was sent to DPP for advice and written advice was provided after the file was examined and a meeting was held with the investigators from SOCU. After extensive investigations by SOCU and a review of the evidence by the DPP's office no terrorist financing was found in this case, however, the monies seized were confiscated.

235. During the period under review, 1 terrorism matter was sent to SOCU from GPF to determine whether there was any instance of TF. However, upon further investigation by SOCU, no TF was discovered.
236. SOCU has most of the necessary powers to investigate TF and indicated that all TF related cases are given high priority (see rec. 31). However, limited specialised training was provided to SOCU. Further, SOCU investigates ML, TF and associated predicate offence with the current staff allocation. Given the limited number of TF investigations, SOCU's allocation of staff is currently sufficient.
237. Overall, significant emphasis is placed on the intelligence reports from FIU of Guyana to identify cases for TF. There is a mechanism for cooperation among the LEAs, through the

NCC, for the identification of TF activity, however this coordinated effort has not been demonstrated. Instead, there is considerable reliance by SOCU on the filing of STRs to the FIU on suspicion of TF activity. Greater emphasis should be placed on other means of identification, such as from intelligence agencies. Given the limited number of TF matters for investigations, SOCU is adequately staffed, however, the AT found that SOCU can benefit from more specialised training.

#### ***4.2.3. TF investigation integrated with –and supportive of- national strategies***

238. As a result of the 2021 NRA and the updated TF risk assessment of 2023, a risk-based action plan was prepared along with a National Strategy for Combatting Terrorist Financing and a National Counter Terrorism Strategy 2022 – 2025 in 2023.
239. The risk-based action plan which stemmed from the 2021 NRA, provided recommended actions for CAs to implement measures to enhance TF analysis and investigations. As a result, the FIU designated its senior financial analyst to be responsible for TF related matters and ensure that its officers benefitted from specialized training to effectively analyse STRs related to TF.
240. The National Counter Terrorism Strategy 2023, at Pillar 2, speaks to denying terrorist the means and opportunity to carry out their activities. This approach includes programmes and activities to counter the financing of terrorism and bolstering legislation to adequately criminalise the financing of terrorism to provide for the detection, prevention, conviction and punishment of terrorist activities, including the confiscation, forfeiture and seizure of terrorist assets. The plan of action for pillar 2 includes, in addition to legislative changes, improving the integration and utilisation of financial intelligence with other types of information available to more effectively disrupt terrorist financing.
241. Guyana has in place legislation to implement TFS in relation to TF and designated persons pursuant to UNSCR 1373. However, Guyana did not demonstrate how the identification for targets for TFS supports the wider national counter-terrorism strategy, in that TFS is used as part of the tools in a counter terrorism investigation.
242. While Guyana has ensured that TF forms part of the counter-terrorism strategy, in practice, Guyana has not demonstrated that the investigation of TF or use of TFS supports the national counter-terrorism efforts.

#### ***4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions***

243. The AML/CFT Act provides for a wide range of sanctions for TF which are proportionate and dissuasive (See R.5). However, as there were no TF prosecutions and convictions for TF, the AT was unable to determine the proportionality and dissuasiveness of the sanctions against natural and legal persons convicted of TF offences.

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

244. Guyana's legislative framework allows for other criminal justice, regulatory and other measures to be employed to disrupt TF activities where it is not practicable to secure TF convictions. Pursuant to the various provisions of the AML/CFT Act Guyana has multiple viable alternatives to disrupt TF activities such as seizure and detention of terrorist cash; seizure and detention of suspicious imports and exports of currency which is being moved,

used or stored for terrorist purposes; seizure of cash relative to ML and TF or other proceeds of crime in the amount of ten million dollars or more (see Box 4.1 which demonstrate cash seizure in the absence of a TF conviction); pursuing other criminal charges; or freezing orders pursuant to its TFS regime. This is also reflected in the analysis of R.4 and the measures detailed therein regarding confiscation and provisional measures whereby terrorists may be deprived of property, thereby cutting off access to resources intended to be used to finance terrorism or terrorist acts.

245. Guyana has had no TF charges, prosecutions or convictions. Guyana to a limited extent demonstrated the use of alternate measures such as freezing orders, confiscations or alternate charges for predicate offences resulted in respect of those matters where TF convictions could not be secured.

## Overall conclusions on IO.9

246. Guyana has a strong legislative framework to criminalise TF and the DPP has demonstrated that there is a process in place to effectively prosecute TF matters with urgency when a TF prosecution arises. However, Guyana has not demonstrated that it prosecutes and convicts different types of TF activity in line with its medium risk rating. While Guyana has used different mechanisms to identify TF, none of those instances led to charges as the investigation stage did not uncover any TF. As such, more emphasis should be placed on other means of identification, such as from intelligence agencies. The authorities in Guyana can benefit from more specialised TF training, more specifically the DPP, SOCU and the Judiciary.

247. Further, given the lack of prosecution, it is unclear whether TF matters would be given priority through the judicial system and as a result Guyana was unable to demonstrate the ability to apply effective, proportionate and dissuasive sanctions. Guyana to a limited extent demonstrated the use of alternative measures where a TF conviction could not be secured.

**Guyana is rated as having a moderate level of effectiveness for IO.9.**

### 4.3. Immediate Outcome 10 (TF preventive measures and financial sanctions)

#### 4.3.1. Implementation of targeted financial sanctions for TF without delay

248. Guyana has established a framework to implement TFS related to terrorism and TF. This framework is set out in the AML/CFT Act, 2009 and amendments thereto as well as the established guidelines and procedures which are shared amongst the relevant CAs and REs. Guyana made significant amendments to its TFS-TF legislative framework in August 2023 pursuant to the AML/CFT (Amendment) Act No. 15 of 2023. The amendments include, inter alia, (i) the addition of the requirement to act “without delay” in various provisions, (ii) requirement to make prompt determinations when receiving requests for designations from other jurisdictions, (iii) additional provisions on asset freezing, (iv) enhancement of the review and delisting processes and (v) bolstering of the AML/CFT Regulations. Following the adoption of the foregoing amendments, the AML/CFT/PF NCC sub-working group on

law enforcement issues met to determine the efficacy of the TFS Regime. A simulation exercise was carried out, which determined that Guyana has mechanisms to ensure that TFS-TF is implemented. However, the simulation did not determine that this can be done without delay, as the timeline from designation to freezing in the simulation exercise was 4 days. Additionally, some CAs, have not demonstrated an overall understanding of the TFS regime, particularly in light of the recent amendments and the need for established institutional frameworks, in order to efficiently and effectively implement TFS without delay.

249. The FIU of Guyana is the CA with responsibility for proposing persons and entities to the UNSC 1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee for inclusion on the 1267 Sanctions List. The NCC sub-working group on law enforcement issues is the mechanism to identify targets for inclusion on the UNSC 1267 Sanctions List based on the designation criteria set out in the relevant UNSCRs.
250. Assessors noted that up to the end of the onsite Guyana had not established a formal mechanism to receive the updated UNSC Sanctions Lists, via the UN Secretariat, through its permanent mission to the UN or otherwise. This gap can potentially impact the timely receipt of the UNSC Sanctions Lists and thereby, the implementation of TFS *without delay*. In relation to the UNSC 1267 Sanctions Regime, the FIU of Guyana, on its own accord, has staff designated to conduct checks to the UNSC website for updates to the Sanctions Lists as the initial step in the implementation of TFS-TF. When updates are posted on the UNSC's website via press releases, the FIU of Guyana publishes public notices, in the form of the UNSC Press Releases, to its website. As of June 2023, the FIU of Guyana also began issuing public notices on their website which outlines prohibitions and other general obligations. The public notice is the mechanism via which all natural and legal persons are informed of designations, amendments or delistings by the UNSC ISIL (Da'esh) and Al-Qaida Sanctions Committee. A direct link to the UNSC Consolidated Sanctions List is also available on the FIU of Guyana's website. This mechanism, however, does not enable Guyana to implement TFS in respect of the aforesaid regime without delay. The AT noted the timeframes within which the updates are shared with SAs and subsequently REs (and their acknowledgement of same). For example, an addition to the UNSC 1267 Sanctions List on Friday January 27, 2023, was shared by the FIU of Guyana with SAs via email on Monday January 30, 2023. Similarly, amendments to the List made on Wednesday March 15, 2023 was shared by the FIU with SAs on Friday March 17, 2023. Information shared by Guyana with the AT in respect of amendments and delistings for the period June to August 2023 demonstrated that in two instances the relevant updates were shared by the FIU to SAs within 24 hours. However, in one instance such action was not taken until three days after the UNSC's update to the 1267 Sanctions List. The foregoing demonstrates that via the existing mechanism, TFS-TF regarding the UNSC 1267 Sanctions List is not implemented without delay.
251. All natural and legal persons in Guyana have an obligation to continuously determine whether they are in possession or control of property of an entity or individual designated on the UNSC 1267 Sanctions List. Where a person or entity has determined that they are in possession or control of such property, funds or other assets, they shall, without prior notice and without delay, freeze all the property held by it in relation to the listed person or entity (s.68A(3B) AML/CFT Act). Subsequently, they are required to inform the Director of the FIU of Guyana who will verify that the individual or entity has in fact been designated and thereafter, inform the DPP, who will then immediately, but no later than five (5) days, make

an ex parte application for a freezing order. Whilst the AT is of the view that the application of s.68A of the AML/CFT Act, in its totality, amounts to an asset freezing mechanism which is not implemented without delay, the term “freeze” being used in section 68A(3B) does not make this provision in and of itself a freezing mechanism, rather the provision acts as a prohibition. However, Guyana has provided for other freezing mechanisms within the AML/CFT Act. Section 75C(2) of the AML/CFT Act provides that where an individual or entity is designated pursuant to UNSCR 1373 or is added to the UNSC 1267 or 1988 Sanctions Lists, the DPP shall at the same time apply to a Judge for an order to freeze their property, where such property is situated in Guyana.

252. REs in Guyana, during the onsite, demonstrated a good understanding of their obligations to screen against the relevant UNSC Sanctions Lists. Further, SAs via onsite and offsite inspections have confirmed that the necessary screening is being conducted by REs (using automated or manual screening tools). Since the implementation of the new legislation there has been no addition to the UNSC Sanctions Lists to test its effectiveness. However, the simulation exercise carried out by Guyana demonstrated the ability of REs to screen against amendments to the UNSC 1267 Sanctions List without delay. Despite the timely identification of assets by REs during the simulation exercise and notice being issued by the FIU of Guyana, which demonstrated that prohibitions may be implemented without delay, the asset freeze was not implemented without delay as the freezing order of the court was not granted until four days after the designation. The freezing mechanism implemented in the simulation exercise was the process outlined pursuant to s.68A of the AML/CFT Act. Guyana has submitted that the freezing actions pursuant to section 75C(2) of the AML/CFT Act would take place immediately after an individual or entity is designated by the UNSC 1267 Committee or pursuant to UNSCR 1373 (2001) domestically. The freezing action at section 68A of the AML/CFT Act on the other hand, takes place where a person or entity reports to the Director of the FIU that they are in possession or control of property of an individual or entity on the UNSC 1267 Sanctions List or the domestic list. However, there was no application of s.75C(2) of the AML/CFT Act during the simulation exercise and as a result, Guyana has not demonstrated its effectiveness.

253. Regarding domestic designations, the NCC sub-working group on law enforcement issues is the mechanism to identify targets for designation pursuant to the designation criteria in UNSCR 1373 (2001); however, Guyana has not yet designated any individuals or entities of their own volition within the reporting period or following the 2023 amendments to the TFS-TF legislative framework. Notwithstanding the designation of two (2) individuals by Guyana in 2017, based on the request of another jurisdiction, there has been no such designations for the period under review. The obligation to take action without delay by a designation at the national level is triggered by an order of the Minister with responsibility for Finance declaring that a person or entity is a specified person or entity. Notably, there was no internal policy that identified a Unit or personnel within the Ministry of Finance with responsibility for taking action on behalf of the Minister to designate individuals or entities. Further, there are no internal procedures or guidelines, at the Ministry of Finance, as to the necessary steps and timelines within which those steps are to be taken, following a recommendation for designation being made by the Director of the FIU of Guyana to the Minister of Finance.

254. Where an individual or entity is designated pursuant to UNSCR 1373 (2001), the Director of the FIU of Guyana publishes a copy of the Order on the FIU of Guyana’s website. The

recent amendments to the AML/CFT Act establish two parallel freezing actions to be taken upon an individual or entity being designated. Firstly, where the Minister of Finance makes an order designating a person or entity as a specified person or entity pursuant to UNSCR 1373(2001), the DPP shall, at the same time, apply to a Judge for an order to freeze funds and other assets of the specified person or entity (section 2(2)(2A) of the AML/CFT Act). The second process mirrors the steps to be taken in respect of an individual or entity designated under the UNSC1267 Sanctions Regime as outlined above (section 68A of the AML/CFT Act). The latter process does not allow for the implementation of TFS without delay. Guyana has submitted that the freezing actions pursuant to section 2(2)(2A) of the AML/CFT Act would take place immediately after an individual or entity is designated pursuant to UNSCR 1373 (2001), domestically. The freezing action at section 68A of the AML/CFT Act on the other hand, takes place where a person or entity reports to the Director of the FIU that they are in possession or control of property of an individual or entity on the UNSC 1267 Sanctions List or the domestic list. Due to the recency of the amendments, the effectiveness of these processes cannot be determined. As aforementioned, Guyana carried out a simulation exercise in respect of the 1267 Sanctions Regime which demonstrated that whilst prohibitions may be implemented without delay, the freezing of assets took place four (4) days after designation and therefore, is not implemented without delay. However, no simulation exercise was undertaken in respect of domestic designations.

255. The FIU of Guyana disseminates, via email, letters and copies of the UNSC press release or the Domestic Designation Order, to all SAs once there is a change to either (domestic or UNSC Sanctions Lists) of the respective lists. Immediately following receipt of the email, the SAs inform REs of the updates to the Lists and their obligations. The FIU of Guyana has developed the '*Targeted Financial Sanctions Measures/Procedures Related to Terrorism, Terrorism Financing and Proliferation Financing*' of January 2023 and '*Guidelines on Targeted Financial Sanctions Relating to Terrorism, Terrorism Financing and Proliferation Financing*' of October 2022 which have been issued to all SAs and is publicly available on the FIU of Guyana's website. However, the publications were not amended prior to the end of the onsite to reflect the significant 2023 TFS-TF legislative amendments.
256. The NCC of Guyana has developed the "*AML/CFT/PF National Coordination Committee Guidance on Targeted Financial Sanctions*" and the "*AML/CFT/PF National Coordination Committee Guidance and Procedures of the NCC Subcommittee on Law Enforcement Issues related to TFS*" *TF and TFS-PF*" both dated August 2023. However, at the time of the onsite, the relevant CAs did not refer to and seemingly had no knowledge of these documents. Receipt and application of the documents issued by the FIU in the preceding paragraph was widely demonstrated by the CAs, however, those documents were not updated to reflect the 2023 legislative amendments as at the end of the onsite.
257. SAs have a good understanding of their obligations on the implementation of TFS-TF in respect of the 1267 sanctions regime and the domestic sanctions regime and share guidelines, make recommendations and other efforts to inform the REs of their obligations. The AT found that FIs and DNFBPs also have a good understanding of their obligations to implement TFS without delay and screen against the UNSC Sanctions Lists and the domestic list using either automated or manual screening tools. However, attorneys-at-law, Notaries, accountants and TCSPs were not supervised for AML/CFT during the assessment period, and therefore implementation of their TFS-TF obligations was not examined by the SA. The

delays in the early parts of the process have a cascading impact on the effectiveness of the regime.

#### ***4.3.2. Targeted approach, outreach and oversight of at-risk non-profit organisations***

258. As identified in the 2022 NPO TF Risk Assessment, the NPO sector in Guyana has three (3) sub categories: (i) Friendly Societies (FS); (ii) Not-For-Profit Companies (NPCs); and (iii) LAs. Guyana submits that of the 1547 NPOs that meet the FATF definition, 38 (36 FSAs, 1 NPO Trust/Arrangement and 1 NPC) were identified as most at risk for TF. This determination was based on information available to the FIU of Guyana (such as financial statements, etc) as these NPOs were already registered with the FIU of Guyana. Given the role of the FIU of Guyana, there was no clear rationale for the registration nor an indication that the 38 NPOs were Registered Charities or deemed vulnerable to TF. Notwithstanding, an assessment of these 38 NPOs based on information available to the FIU of Guyana, there was no evidence of a risk based approach applied to NPOs based on vulnerabilities identified. The AT also noted that Registered Charities (registered under S.11 of the FSA), which is a type of NPO in Guyana are required to comply with AML/CFT obligations under the AML/CFT Act, 2009, including reporting obligations as they are listed as a RE in the First Schedule of the AML/CFT Act.
259. As a mitigating factor, Guyana placed NPOs under the supervision of the GCC (Second Schedule of the Compliance Commission Act, 2023). The GCC, when established, will collaborate with the Registrar of Friendly Societies and the Commercial Registrar to conduct outreach and training of NPOs. Pursuant to Guyana Compliance Commission Act No 14 of 2023, the GCC is designated with powers to inspect NPOs, compel production of documents and records and enforce compliance with its requirements through the application of sanctions.
260. Nonetheless, during the period of the assessment, the department of Friendly Societies in collaboration with the FIU of Guyana conducted training and outreach sessions for some NPOs operating in Guyana. Topics included: '*NPOs AML/CFT obligations*'; '*ML/TF risks associated with NPOs and their vulnerabilities to Terrorism & Terrorist Financing*'; the requirements of FATF Recommendation 8; and the need for NPOs to '*Know their Donors, Beneficiaries and Partners or Associates*'. Red flags and indicators relative to NPO abuse were also illustrated during the sessions as well as information on how to detect TF activities as outlined in the guideline issued specific to NPOs. The NPOs were also advised on submitting Terrorist Property Reports and sanction screening in accordance with UNSCRs. However, there was no targeted approach for NPOs deemed high risk to TF.
261. The AT noted that the treatment of Registered Charities, a type of NPO, as REs can impede the ability of legitimate NPOs to operate and pursue their objectives effectively. Based on the deficiencies with R.8, Guyana appears to have taken a one-size-fit-all approach to the regulation of this grouping of NPOs, notwithstanding the specific group of 38 NPOs registered with the FIU of Guyana. The AT found, while this represents less than 3% of active NPOs, that the understanding of NPO sector risk is deficient given the lack of clarity of the characteristics of the entire NPO sector.



262. Notwithstanding the NPO Risk Assessment and the relevant TF outreach provided to NPOs, the AT found the measures applied to NPOs were neither focused nor proportionate.

#### ***4.3.3. Deprivation of TF assets and instrumentalities***

263. REs in Guyana are aware of their obligations to conduct regular sanctions screening against the relative UNSC and domestic Sanctions Lists, their TF reporting obligations (STRs and TPR) and obligations to submit quarterly TPRs to the FIU of Guyana. For the period 2018-2022 REs have generally complied with the quarterly reporting obligation indicating that the UNSC Sanctions Lists were regularly checked and that the entities are not in possession of property of and do not conduct transactions with designated individuals and entities.

264. A total of ten (10) STRs related to TF were submitted to the FIU of Guyana for the assessment period. The foregoing, together with one (1) follow up report based on new information reflected on the FIU of Guyana's database were submitted to SOCU for investigation. The FIU of Guyana also forwarded fifteen (15) intelligence reports related to TF, which included follow up reports, to SOCU. All the foregoing matters were investigated, resulting in zero prosecutions and no assets or instrumentalities related to TF activities were identified. Further, terrorism investigations conducted in Guyana did not yield any links to TF or terrorist property.

265. Albeit there have been no freezing orders, criminal or civil based asset forfeiture or other actions taken to deprive terrorists, terrorist organisations and terrorist financiers of property due to the fact that no terrorist property has been identified, based on the analysis of R.4, Guyana has a legislative framework in place to deprive terrorists, terrorist organisations and terrorist financiers of TF assets and instrumentalities in relation to TF investigations and TFS.

#### ***4.3.4. Consistency of measures with overall TF risk profile***

266. The TFS-TF measures developed and implemented align to a moderate extent with Guyana's medium TF risk rating. There is legislative provision for the implementation of TFS for UNSCR 1267 and 1373 and their successor resolutions. In recognition of the TF vulnerabilities and threats, measures such as the recent amendments to the AML/CFT Act (No. 15 of 2023) strengthens the framework by addressing technical deficiencies.

267. Given the largely cash-based economy, sectors such as MTAs are vulnerable to TF with the cross-border nature of such transactions. As such REs, including MTAs are aware of their TFS reporting obligations, and specific measures include the mandatory submission of quarterly TPRs, oversight of TFS frameworks by the SAs during onsite inspections, monitoring of compliance with TPR reporting by the FIU of Guyana and consequences for non-compliance. There is strong collaboration between the FIU of Guyana and SAs to provide related outreach and guidance and guidelines have been regularly updated and circulated. However, there are delays implementing TFS due to reliance on manual checks and the lack of formal and direct receipt of the Lists from the UNSC.

268. Consistent with TF risks to the NPO sector, Guyana has taken measures to regularize the monitoring of the sector with the enactment of the Compliance Commission Act, 2023 which is intended to provide for the targeted oversight of the NPOs. The FIU of Guyana and

Registrars of NPO have collaborated to conduct outreach to NPOs. However, these efforts have not been targeted.

## Overall conclusions on IO.10

269. Guyana has a legal framework encompassed in the AML/CFT Act, processes and procedures for implementing TFS-TF. The enactment of the Compliance Commission, amendments to the AML/CFT Act, 2009 and other institutional developments in 2023 can enhance Guyana's effectiveness in implementation of its TFS-TF. However, TFS-TF is not implemented without delay and the deficiencies outlined in R.6 have a cascading effect on the effectiveness of the regime.

270. Guyana has taken measures to mitigate TF risks to some extent. AML/CFT Supervisors in Guyana have implemented their obligations to communicate updates to the UNSC Sanctions Lists to FIs and DNFBPs, upon receipt from the FIU of Guyana. Supervisors in collaboration with the FIU of Guyana have also provided guidance and training on sanctions screening. All other natural and legal persons are also notified.

271. Some key CAs in Guyana have not demonstrated an overall understanding of the TFS regime, particularly in light of the recent amendments to the AML/CFT (Amendment) Act (August 2023). Further, whilst Guidelines and Procedures have been established and shared amongst the relevant CAs and REs, the relevant guidelines and mechanisms have not been updated to reflect the legislative enhancements.

272. Registered Charities, a type of NPO, are treated as REs. While the entire subset of NPOs most at risk for TF has not yet been identified, Guyana has provided guidelines (FIU 2023) and outreach to all NPOs on R.8, TF risk to NPOs, Indicators of TF abuse as well as measures to protect their NPO. However, there is need to identify the at risk NPOs and apply risk based measures.

**Guyana is rated as having a Moderate level of effectiveness for IO.10.**

### 4.4. Immediate Outcome 11 (PF financial sanctions)

#### 4.4.1. *Implementation of targeted financial sanctions related to proliferation financing without delay*

273. Guyana has a legal framework and processes and procedures for implementing TFS related to PF. S.68E of the AML/CFT Act establishes a freezing mechanism and sets out prohibitions to comply with UNSCR 1718(2006) and UNSCR 2231(2015) and their successor resolutions. Guyana has introduced another freezing mechanism in section 75C(2) of the AML/CFT Act, which provides that where an individual or entity is included in a UNSC Sanctions List as persons or entities involved in or suspected to be involved in PF, the DPP shall at the same time apply to a Judge for an order to freeze their property, where such property is situated in Guyana.

274. At the time of the onsite, there were no formal mechanisms to receive the UNSC Sanctions Lists when they are updated, via the UN Secretariat, through its permanent

mission to the UN or otherwise, which may potentially impact the timely receipt of the Sanctions Lists and thereby, the implementation of TFS-PF without delay. Notwithstanding, Guyana has implemented mechanisms for the implementation of PF related TFS. The FIU of Guyana has appointed staff to consult the UNSCR lists daily (excluding holidays and weekends) for updates. When a UN designation notice is published, the FIU of Guyana immediately prepares a notice and notifies the various SAs via email. In addition, the FIU of Guyana publishes the notice of designation on its website within hours of its publication by the UN. The supervisors then forward the notice of designation or removal to their respective supervised entities. The notice includes information on the obligation of the entities to ensure that once there is a hit, the entity is aware of the required action. The FIU of Guyana maintains statistics on updates sent to SAs that maintain statistics on updates sent to their respective REs.

275. This mechanism, however, does not enable Guyana to implement TFS-PF without delay. This is demonstrated in the timeframes within which the updates are shared with SA and subsequently REs and their acknowledgement of same. For example, an addition to the UNSCR 1718 Sanctions List on June 29, 2023, was not shared by the FIU of Guyana with SAs until July 4, 2023. On that same day the notice was disseminated to REs by the SAs. Similarly, amendments to the UNSCR 1718 List were made on August 16, 2023, this information was shared by the FIU with SAs on that same day, however, on this occasion the SAs did not share the notice with REs till August 17, 2023. The foregoing demonstrates inconsistency in the timely notification to FIs and DNFBPs of changes to sanction lists relating to TFS-PF, which could impact on the ability to implement TFS-PF without delay.
276. A simulation exercise was carried out, which determined that Guyana has mechanisms to ensure that TFS-PF is implemented. The simulation exercise carried out by Guyana demonstrated the ability of REs to screen against amendments to the UNSC 1718 Sanctions List without delay. Despite the timely identification of assets by REs during the simulation exercise and notice being issued by the FIU of Guyana, which demonstrated that prohibitions may be implemented without delay (Aug 7, 2023), the asset freeze was not implemented without delay as the freezing order of the court was not granted until four days after the designation (Aug 11, 2023). The freezing mechanism implemented in the simulation exercise was the process outlined pursuant to s.68E of the AML/CFT Act.

#### ***4.4.2. Identification of assets and funds held by designated persons/entities and prohibitions***

277. During the period under review, Guyana has not identified nor has any situation arisen requiring the freezing or seizure of funds or other assets of designated individuals and entities designated by the UNSC in relation to PF. A simulation exercise was conducted in August 2023 as well as a table top exercise to simulate situations where Customs may encounter a good or asset that may be used in proliferation of WMD or its financing. The exercise concluded that notwithstanding the measures in place, improvements are needed. As such recommendations were made to update the Counter Proliferation Financing Strategy and to further enhance the GRA-Customs' role as a CA in the process of identifying assets or goods that may be used in proliferation of WMD and/or its financing. Guyana recognises the importance to maintain a list of potential dual-use items and is

vigilant and scrutinizes incoming goods destined for, or transiting through, Guyana. Over the reporting period, Guyana has not identified any dual-use goods through its ports. The GRA-Customs and Excise Department has conducted training and raised staff awareness at entry and exit points to ensure that recognition of dual-use goods, as well as components and assets which may be used in proliferation of weapons of mass destruction and its financing are recognized, and the requisite actions are taken by virtue of sections 224-226 of the Customs Act, in particular, seizure and disposal.

278. FI, casino, DPMS supervisors, as a part of their onsite examination process, test REs' systems to ensure compliance with the requirements for targeted financial sanctions, including for designated persons relating to PF.
279. Nevertheless, the AT considers that it is unclear if authorities' preventive and disruptive measures related to implementation of PF TFS are fully effective, as Guyana has not identified nor frozen any funds within its jurisdiction for PF. Moreover, there is a delay in sharing the Notice of changes to the Sanctions list relating to PF TFS to REs and the simulation exercise conducted demonstrated that the asset freeze was not implemented without delay.

#### **4.4.3. FIs, DNFBPs and VASPs' understanding of and compliance with obligations**

280. Guyana's FIs and DNFBPs have not identified any assets or funds held by designated persons or entities. Guyana's SAs and FIU of Guyana communicated to FIs and DNFBPs about TFS compliance measures and provided guidance in respect of the required action to be taken by persons or entities that may be holding targeted funds or other assets. The following guidance on PF have been provided to FIs and DNFBPs: CFT Handbook for REs, includes guidance for REs on maintaining sanctions list and conducting screening on customers and guideline on TFS relating to terrorism, terrorism financing and proliferation financing. The latter guideline includes sections on the basis of TFS, combatting terrorism, TF and PF, procedures for listing, delisting, freezing, unfreezing, authorizing access to frozen funds, and penalties for non-compliance.
281. In terms of awareness measures, the SAs in collaboration with the FIU of Guyana held outreach sessions for FIs and DNFBPs for the period 2018 to 2023 on topics relating to TFS such as the UNSCR, basics of PF, trends and typologies and development of screening mechanisms by the entities as well as reporting obligations were discussed (Table 4.1 refers).

**Table 4.1\_\_Frequency of engagements (trainings and outreaches) by supervisory authorities in relation to PF and TFS**

SECTOR	2018	2019	2020	2021	2022
Banks	5	7	0	0	1
MTA	8	6	0	0	1

Cambio	10	11	0	0	2
Insurance Companies and brokers	22	25	0	0	0
Securities Companies	0	0	0	1	1
Casinos	0	0	0	2	2
DPMS	1	1	15	5	5
Real Estate Agent	0	0	0	0	0
CU	1	2	0	0	0

282. In addition to the engagement by the SA, the FIU of Guyana and NCC also provided several training and outreach to REs. The BOG updated Supervisory Guideline No.13 for FIs to include guidance and typologies on PF. FIs, DPMS and casinos indicated that pursuant to their supervisory interactions with SA, they were now checking for sanctions hits at least twice a day. The banks, insurances, larger MTAs, casinos demonstrated that automated screening software is used to screen customers against UN sanction lists. Other FIs and DPMS stated that manual checks, some using excel spreadsheet, was done to screen customers against UN sanction lists.

283. Based on the nature of the activities FIs and the DPMS sector are mostly at risk to PF. FIs and DNFBPs interviewed stated that they conduct screening for PF against the UNSC List. Real estate agents demonstrated a weaker understanding of the measures relating to TFS-PF while attorneys-at-law and accountants did not demonstrate an understanding of the TFS-PF. There are no VAs/VASPs licensed or operating in Guyana. It can be concluded from the interviews held and compliance report that FIs, DPMS, casinos, real estate agents understand and comply with their obligations regarding TFS- PF and are aware of the PF risk.

#### ***4.4.4. Competent authorities ensuring and monitoring compliance***

284. Any FI or DNFBP that possess or control any property designated as PF must report to the Director of the FIU of Guyana on the UNSCR.

285. Guyana authorities communicate to supervised entities that they must comply with TFS-PF. Supervisors for FIs and DNFBPs informed of the recent commencement of monitoring REs implementation of TFS-PF requirements, mainly, through compliance examinations. The BOG and GSC have amended their compliance examination manuals to include testing of their supervised entities for compliance with TFS-PF obligations to screen customers against the UNSC Lists. FI Supervisors noted that the larger FIs place great reliance on commercial sanctions screening tools/software. It should be noted that supervision is combined for now and no thematic inspections have been conducted related solely to TFS-PF. Supervisors also conduct outreach and training sessions as well have issued guidance to FIs and DNFBPs informing of their risk and obligations.

## Overall conclusion on IO.11

286. Guyana has a legal framework, processes and procedures for implementing TFS related to PF as set out in the AML/CFT Act, 2009. However, the deficiencies outlined in R.7 may have a cascading impact on the effectiveness of the regime. There are delays in implementing TFS in respect of the UNSC 1718 and 2231 Sanctions Regime. This is primarily due to the reliance on manual checks by the FIU of Guyana to the UNSC websites for updates to the various Sanctions Lists as opposed to a formal means of receiving the United Nations Security Council (UNSC) Sanctions Lists, as and when they are updated to ensure the timely receipt of same and the implementation of TFS without delay.

287. The key CAs, at this time, have demonstrated an overall understanding of the TFS-PF regime. The country has conducted a simulation exercise to test its TFS-PF regime and also developed a national strategy to combat PF.

288. SAs, mainly the financial supervisors, have a good understanding of their obligations on the implementation of TFS-PF and share guidelines, make recommendations and other efforts to improve REs understanding and compliance. The AT found that FIs and some DNFBPs have a good understanding of their TFS-PF obligations and screen against the UNSC Sanctions Lists.

289. However, attorneys-at-law, notaries, TCSP and accountants sector which were not supervised at the time of the onsite, have not demonstrated an understanding of or carry out their TFS-PF obligations efficiently. However, these sectors have limited exposure to PF and are weighted moderate importance by the AT.

**Guyana is rated as having a Moderate level of effectiveness for IO.11.**

## Chapter 5. PREVENTIVE MEASURES

### 5.1. Key Findings and Recommended Actions

#### Key Findings

- a) The banking, insurance, PSP and securities sectors have demonstrated a good understanding of their ML/TF risks and AML/CFT obligations. These sectors have also developed and implemented satisfactory AML/CFT frameworks or controls such as CDD procedures, training of staff and the application of EDD. Particularly the larger MTAs (with franchise operations) demonstrated a better understanding of their ML/TF risks and AML/CFT obligations over the smaller MTAs. There was also a varied level of understanding of ML/TF risks and AML/CFT obligations among the entities in the credit union and cambio sectors.
- b) There was a varied level of understanding by DNFBPs of their ML/TF risks and AML/CFT obligations. The DPMS sector demonstrated a good understanding of their ML/TF risks and AML/CFT obligations given the international trade requirements. Casinos and TCSPs also demonstrated a good understanding of their ML/TF risks and AML/CFT obligations given the maturity of the sector and the nature of their operations. However, the real estate agents, attorneys-at-law, notaries and accountants do not fully understand their ML/TF risks and AML/CFT obligations.
- c) FIs and DNFBPs are applying mitigating measures at varying degrees. While most FIs (Banks, MTAs, Insurances and Pensions) are implementing mitigating measures to a large extent, essentially as a result of their international affiliations, the smaller FIs (cambios, credit unions) are applying mitigating measures to a limited extent. DPMS and casinos are implementing appropriate mitigating measures commensurate with their risks. The real estate sector faces some challenges in effectively mitigating their ML/TF risks. The application of mitigation measures was difficult to fully discern in the absence of supervision for some DNFBP sectors (attorneys-at-law, notaries, accountants, TCSPs).
- d) FIs and DNFBPs apply AML/CFT obligations such as CDD, EDD and record keeping measures to varied degrees. The more sophisticated FIs with international affiliation were more effective with the use of technology and other tools. For DNFBPs, casinos employ the use of technology in the application of AML/CFT measures. While other sectors, such as credit unions

and DPMS use manual systems, this was deemed adequate given the size of the entities, nature and volume of transactions.

- e) FIs (except credit unions) and DNFBP sectors (Casinos and DPMS) have a good understanding and have implemented TFS screening to a good extent. However, the credit unions, real estate, attorneys-at-law, notaries and accountants demonstrate a limited understanding of the TFS obligations. There was no way to ascertain implementation given the limited, in some instances absent, AML/CFT risk based supervision of these sectors.
- f) FIs and DNFBPs are generally aware of their reporting obligations and have practical measures to prevent tipping off. The majority of STRs submitted to the FIU of Guyana were by FIs (MTAs and LFIs). However, the limited reporting by the DNFBP sectors was not commensurate with the risk of the sectors, particularly the Attorneys-at-law, Accountants and Real Estate sectors.

## Recommended Actions

- a) Guyana should develop mechanisms and implement risk based supervision and sector engagement for the Attorneys-At-Law, notaries, Accountants and TCSPs, and intensify these activities for the Real Estate sectors, to improve understanding of ML/TF risks, AML/CFT obligations (including TFS obligations) and application of mitigating measures in an effort to deter ML/TF/PF and improve reporting (STR and TFR) to the FIU of Guyana and the implementation of VA/VASP prohibition.
- b) Guyana should enhance guidance, outreach and training and other forms of sector specific engagement by the relevant authorities and supervisors to ensure that credit unions, MTAs and cambios have a better understanding of the ML/TF risks and AML/CFT obligations (including EDD, TFS obligations, STR reporting obligations, etc).
- c) Guyana should ensure that credit unions, smaller MTAs and cambios implement appropriate risk based measures commensurate with their ML/TF risk including the completion and/or updating of their institutional risk assessments and internal policies and procedures.
- d) Guyana should ensure that FIs such as (banks, insurance, larger MTAs, securities) and DNFBPs such as (DPMS and casinos) continue to implement their risk mitigating measures and implementation of TFS obligations.
- e) FIs and DNFBPs should continue to develop and implement EDD preventive measures relating to PEPs, new technologies, TFS-TF and ML/TF risks associated with higher risk countries, consistent with their ML/TF risk profiles.



- f) The FIU of Guyana should routinely analyse the quality of STRs received and provide substantive feedback to REs and, in relevant circumstances, to their respective supervisors. The FIU of Guyana should work with DNFBPs supervisors to provide sector-specific guidance and sector specific suspicious indicators.

290. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

## 5.2. Immediate Outcome 4 (Preventive Measures)

291. In consideration of the risk and context of Guyana, the assessment of effectiveness incorporated the relative importance of the various FIs and DNFBPs sectors in Guyana which was determined in accordance with the following components: (a) size of sector; (b) the extent of cross-border activities; (c) geographical exposure and nature of customers (e.g. PEPs); (d) number of entities within the sector; and (e) types and nature of products, services and transactions.

292. Consequently, the Assessment Team weighted the implementation of preventive measures as being **highly important** for Banking Institutions, MTAs, and DPMS; **medium important** for cambio, casinos, real estate, attorneys-at-law, accountants, notary public, credit unions, and TCSPs; and **least important** for Securities, Building Societies, Payment Systems Providers, and the Insurance sector. The details of the weighting of each sector are found in Chapter 1.

293. The Assessment Team's findings for IO4 are based on interviews with private sector representatives, industry associations, data and information provided by the SAs and the FIU of Guyana, as well as information obtained from the NRA and other risk assessments. While Attorneys-at-law, Accountants, Notaries and TCSPs were not supervised for AML/CFT during the period of the assessment, reliance was placed on information obtained during interviews with these entities.

294. Guyana has prohibited VAs/VASPs by restricting the issue of licenses during the period of this mutual evaluation. Also, the jurisdiction indicated there are no VAs/VASPs operating in the jurisdiction. As such, the implementation of preventive measures by VAs/VASPs could not be assessed and implementation of the prohibition is assessed in IO3.

### 5.2.1. Understanding of ML/TF risks and AML/CFT obligations

295. Guyana has communicated the findings of the NRA (2021) to REs via meetings and email communication. Further, the NRA report was made public on various forms of media as well as the FIU of Guyana's website. This provided FIs and DNFBPs with information on the national ML/TF risks posed to the financial system. The AT found that most of the entities interviewed were aware of the findings of the NRA and agreed with the assessment of the respective sectors and were generally aware of their AML/CFT obligations. However, this varied across and within sectors. The AML/CFT Act, 2009 (as amended) sets out the

AML/CFT obligations that FIs and DNFBPs must implement in the conduct of business. These include: identify, assess and understand their ML/TF risks in accordance with the nature and size of their business; CDD and EDD requirements; Record keeping; TFS and Reporting obligations. The legislation, together with other regulations and guidance, require FIs and DNFBPs to adopt and implement AML/CFT preventive measures.

### **Financial Institutions**

296. Banks demonstrated a good understanding of their ML/TF risks, recognising that their higher risks pertain to PEPs, legal persons with complex structures, transactions with a global footprint, trade finance and wire transfers (due to its cross-border nature) and cash intensive customers such as cambios and DPMS entities (gold dealers). With the fast paced development of Guyana's oil and gas sector, the authorities have seen a marked increase in the formation of legal persons. As such, banks are aware and recognize the importance of obtaining, verifying and recording BO information on customers that are legal persons.
297. There was full participation by the banks in the NRA which contributed to enhancing their understanding of the national and sector ML/TF risks. However, sole reliance of their ML/TF risk understanding is not confined to the findings of the NRA, as annual entity level ML/TF risk assessments are conducted and documented. Ad hoc risk assessments are also conducted in response to new products, initiatives, technology, sanctions, new branches, and legislative amendments affecting the bank operations. The banks have evidenced their understanding of risks, through the application of resources to AML/CFT internal controls, revisions to AML/CFT Compliance Programmes, submission of risk assessment reports to the BOG and internal controls implemented since the publication of the NRA.
298. Banks, insurance companies, securities companies and some MTAs and cambios also have a full understanding of their AML/CFT obligations which is demonstrated not only in the documented compliance measures implemented and conduct of self risk assessments, but also from the quantity and quality of STR reporting to the FIU of Guyana and the results of the BOG's supervision and monitoring activities. Enforcement action (including regular reporting) taken by the BOG on two entities in 2018 and 2023 resulted in 100% compliance in the area of ML/TF risk assessments, implementation of AML/CFT policies and procedures, staff training, and establishment of a compliance framework and CDD.
299. Securities companies demonstrated a good comprehension of the ML risks informed essentially by the findings of the NRA and their TF risks to a lesser degree. One of the securities companies interviewed used ratings in self risk assessments that examined risks associated with the nature, size and complexity of the company and the products/services offered.
300. Generally, insurance companies illustrated adequate understanding of their ML/TF risks and their AML/CFT obligations. One insurance provider indicated that ML/TF risks related to the sector was garnered from the guidelines emanating from the NRA (provided by the BOG), as well as its direct participation in the NRA. This understanding has informed the application of EDD for higher risk clients.
301. Larger MTAs operating in Guyana are franchises of international money transfer organisations. As such these entities have a clear and robust understanding of the inherent risks posed such as the cash-intensive nature of the business. However, MTAs contend that

the risks are reduced due to the parent company's comprehensive AML/CFT regime which encompasses rigorous CDD onboarding measures, regular training, and annual internal audit function. Additionally, these MTAs' participation in the NRA process and the ongoing annual business risk assessments have contributed to the understanding of the overall sector risks. In contrast the smaller MTA, whilst cognisant of the sector's NRA rating, demonstrated a reduced understanding of its exposure to ML/TF risks and indicated that it was not a recipient of outreach and training on the NRA findings. The AT recognises that the operation of this MTA is in its infancy and was part of a larger business with money remittances accounting for just 12% of the company composition, which may be a contributing factor to the company's developing AML/CFT framework.

302. Understanding of AML/CFT obligations was evident during the supervision and monitoring activities of the BOG. MTAs have documented their AML/CFT internal controls which are informed by the NRA, understanding of the inherent risk and the compliance culture established by the parent companies.
303. Whilst all cambios were aware of the NRA findings, for one entity there was limited understanding of the particular ML/TF risks posed by its operations and business model. Based on the rapidity of currency exchange, one cambio performs monthly risk assessments which entails a manual scrub of the customer database to assess customers' frequency and volume of transactions to flag high risk transactions that may warrant enhanced measures. However, the BOG supervision and monitoring of the sector found this level of understanding was not common among all entities. The BOG also found that some cambios have generally implemented measures to be compliant with the AML/CFT obligations of the AML/CFT Act, 2009 while others remain non-compliant (refer to section 6.2.5 of the MER for information on the consequence of non-compliance).
304. The payment service provider (PSP) illustrated a good understanding of its ML/TF risks and AML/CFT obligations through conduct of CDD, sanction and transaction screening and monitoring activities (screening all transactions twice a month to determine nature of transaction, value, areas where the transaction took place, and occupation of the customer to determine whether the transaction aligns with the information on file). The sole payment service provider licensed by the BOG recognised that self-employed customers present the highest risk given the challenge in corroborating that funds are linked to employment.
305. The AT was unable to comprehensively gauge the credit unions sector's understanding of ML/TF risks and AML/CFT obligations based on the limited AML/CFT supervision. The CCDO has not conducted AML/CFT supervision or inspections to ascertain entity risk understanding or the extent of implementation of AML/CFT obligations. While the entities interviewed indicated they were recently made aware of the NRA, they agree with the low risk to ML/TF based on the closed bond model of the majority of entities in the sector. Also, it was noted that CDD measures are fundamental to the sector as potential members must submit identification information before membership is approved. Whilst there was some understanding of AML/CFT obligations such as record keeping and STR reporting, this was limited in the area of PEPs.

## **DNFBPs**

306. DPMS: There is a good understanding of the ML/TF risks and AML/CFT obligations amongst the DPMS sector in Guyana. The DPMS sector includes 6 dealers in Precious Metals (Gold Dealers), 10 dealers in Precious and Semi-Precious Stones and 50 dealers in Precious Minerals/Licensed Traders. All dealers interviewed have conducted an ML/TF risk assessment. Additionally, rigid controls are implemented during trade domestically and internationally (see Section 1.4.3 of this MER).
307. In addition, dealers in precious stones must go through the Kimberly process which is a multilateral trade regime established in 2013 with the goal of preventing the flow of conflict diamonds. The core of this trade regime is the Kimberly Process Certification Scheme (KPCS) which implement safeguards on shipments of rough diamonds and certify them as “conflict free”. Interviews determined that the DPMS entities have a good understanding of their AML/CFT obligations and which miners, suppliers, geographical area and distribution channels present higher risk. As such, appropriate AML/CFT controls are established and implemented to mitigate the risks identified.
308. Casinos: There are 2 casinos licensed in Guyana with a total asset size of US\$12,777,439.03 as of 2021, both providing table and slot machines games. The AT found that casinos have a good understanding of their ML/TF risks given the limited exposure due to the size of the sector and the nature of the customers being mostly locals (who are repeat customers) and hotel guests. The two casinos are well established providing gaming as entertainment in the form of slot machines (approximately 70% of the business activity). Online gaming is not offered by the casinos. The casinos also demonstrated a good understanding of their AML/CFT obligations having documented AML/CFT manuals and measures to identify their customers, record keeping measures and monitoring mechanisms.
309. Accountants, notaries and attorneys-at-law did not fully understand their ML/TF risks and demonstrated a fair understanding of their AML/CFT obligations. The number of attorneys-at-law and accountants performing the activities as outlined in the FATF Standards and the AML/CFT Act, are not known to the authorities. However, the sectors are required to comply with the AML/CFT obligations. The attorneys-at-law and accountants interviewed by the Assessors are engaged in the activities as captured by FATF Standards (c.22.1) to a minor extent. One entity indicated that less than 10% of the annual income is derived from company incorporation and real estate business. Entities interviewed have not conducted ML/TF risk assessment nor formulated their compliance manuals but had some knowledge of the NRA after its publication and of the AML/CFT requirements via other AML/CFT supervisors such as the GSC, based on their other business activities. Substantial work in AML/CFT awareness is needed for the attorneys-at-law and accountants sectors once the true nature of these sectors is identified by Guyana. The TCSPs demonstrated a good understanding of their ML/TF risks and AML/CFT obligations. This was mainly attributed to the international affiliation as well as the maturity and nature of their business operations.
310. Real estate agents have a fair understanding of the ML/TF risks associated with their sector and a fair understanding of their AML/CFT obligations. Real estate agents indicated that the majority of real estate transactions goes through the regulated channels such as banks. Hence, real estate entities do not or to a minor extent handle funds or cash or payments for real estate transactions. Guidance issued by the GRA has raised awareness of entities in the sector. Notwithstanding, substantial work remains for the real estate sector.

### *5.2.2. Application of risk mitigating measures*

#### **Financial Institutions**

311. Banking institutions, Insurance companies, the sole PSP, and securities companies implement adequate policies, procedures, and controls commensurate with the level of risks identified in their respective risk assessments. Each sector considers the risks posed by their customers, services, products, delivery channels and geographic locations, and in the case of banking institutions, the PSP and insurance companies, customers are risk rated at the time of onboarding. The Banks' mitigating measures includes a three line of defence model and automated transaction monitoring platforms which monitors the activity of all accounts, products and transactions, including those by high-risk customers or involving high-risk countries.
312. Insurance companies formulate risk mitigating policies which include information required from customers in accordance with their risk profile and which guides the measures to be applied. As such, higher risk customers are obliged to submit additional CDD information and once onboarded are reviewed more frequently. The risk mitigating measures also include obtaining senior management approval for higher risk customers, mandating training of staff to ensure they are aware of their AML/CFT obligations, transaction monitoring and designated staff to conduct ongoing monitoring of high-risk relationships. There are also restrictions around early withdrawals and prohibitions on lumpsum payments.
313. All MTAs implemented group AML/CFT compliance programmes which incorporates risk-based policies and procedures to mitigate the AML/CFT risk posed by their operations. These policies include periodic training, sanctions screening and STR reporting. In the case of the larger MTAs, the time of monitoring depends on the risk level of the customer; post transaction is done for lower risk customers whereas higher risk is done in real time. For the smaller MTAs, the mitigating measures included restricting remittance of funds to jurisdictions (based on assessed risks), prohibition of corporate transactions, and the imposition of transaction limits of US\$200 per day. However, it was unclear what, if any subsequent action is taken if repeated transactions below the transaction limit is conducted over a consequent short period. Also, not all MTAs were compliant with the requirements under R.16 as it pertains to ascertaining whether the remittances contained the required originator information, specifically the country from which funds have been transmitted. As such, reliance is placed on the sending jurisdiction to screen and satisfy any sanction obligations.
314. Cambios' application of risk mitigating measures varied. In one case, the Cambio performed monthly training, prohibited transactions on behalf of legal persons from unauthorised persons, submitted daily reports to the BOG on use of different currencies, sales, and purchases, as well as weekly reports on all transactions processed for the week. The system identified routine changes and flagged transactions below the reporting thresholds. BOG findings illustrate that there has been an increase in the level of compliance between the period 2018-2022 in the areas of AML/CFT policies and procedures, and the implementation of a compliance programme for the Cambio sector.

315. Credit unions, while not supervised for AML/CFT during the period of this assessment to determine application of risk mitigating measures, was deemed to have little exposure to ML/TF given that the majority of the sector are closed bond. Notwithstanding, the AT found the measures applied, as indicated by those interviewed do not adequately mitigate the ML/TF risks, although rated low.

### **DNFBP**

316. DNFBPs' implementation of risk mitigating measures varies across the sectors. DPMS and casinos have more developed and robust measures reflecting their greater maturity and understanding of their ML/TF risks. The casino and DPMS sectors understand the ML/TF risks associated with customers, high risk jurisdictions and product/services and implemented a risk-based approach to CDD and EDD measures, which include obtaining source of funds and source of wealth from customers.
317. **Casino:** The Casino interviewed demonstrated competent implementation of risk mitigation measures commensurate with its risk profiles. The casino sector was rated as low ML/TF risk in the 2021 NRA. In relation to these risks the casinos have implemented systems to identify all customers, maintain records of customer information, monitor the transactions of customers and have processes to classify customers as high risk, medium risk or low risk. All casinos have conducted risk assessments in an effort to enhance their compliance programs. The casino interviewed had an appointed compliance officer, use Board-approved updated AML/CFT policies and procedures, report regularly to the Board on AML/CFT matters and conduct regular AML/CFT training. Information from the GA confirmed there has been significant improvement in the compliance function in the casino sector over the last few years.
318. **DPMS:** DPMS largely demonstrated strong risk mitigating measures, with compliance officers, board-approved AML/CFT policies and procedures, screening and monitoring controls, ML/TF risk assessments for new and existing clients and suppliers and training for ML/TF risks. The GGMC and GGB recent reviews and examinations determined that dealers have established appropriate risk mitigating measures, although there was room for improvement.
319. Real estate agents and accountants are still in the process of implementing effective mitigating measures. The Real Estate entities have encountered challenges given the nature and practices of the sector (cash transactions, etc) but have been progressively improving the application of measures as the sector develops and transforms. The attorneys-at-law have not implemented any ML/TF risk mitigating measures as a result of their lack of AML/CFT risk understanding. From the interviews conducted it was determined that the attorneys-at-law had no AML/CFT policies and procedures in place. As such the AT could not ascertain a true reflection of the sectors' implementation of mitigating measures.

### ***5.2.3. Application of CDD and record-keeping requirements***

#### **Financial Institutions**

320. The banking institutions, PSP and securities companies apply a robust on-boarding process which requires collection and verification of CDD documentation in accordance with a risk-

based approach. This includes obtaining customer and beneficial ownership identification, information on source of wealth and funds, as well as the intended nature of the customer's business and expected activity. In the case of legal persons, documentation on the control structure of the customer and management structures along with incorporation/registration records are required to be submitted, and BO information is verified at the Commercial Registry.

321. Periodic reviews of records facilitate ongoing monitoring of the business relationship and is based on the risk rating of the client and trigger events such as a material change in the way accounts are operated. Ordinarily, banking institutions will not enter business relationships unless full CDD information is obtained, and in the event that an applicant withholds CDD information consideration may be given to filing of an STR. However, there may be special circumstances for limited low risk scenarios where banks will establish business relationships with incomplete CDD information for financial inclusion purposes. In such cases, the banks will place restrictions on the use of the account or apply transaction thresholds.
322. The banking, securities and PSP entities are aware of and have policies and procedures in accordance with the requirement of keeping records for a period of at least seven (7) years.
323. The CDD process for Insurance companies occurs at three stages: (1) at the onboarding stage for both the customer seeking to be insured and any beneficiaries, (2) when there is a request for changes or updates to insurance policies and (3) at the pay-out stage to verify the identities of the beneficiaries. Business is refused until verification of the information and documents is attained. Records are retained for at least seven years.
324. MTAs apply CDD and monitoring measures in accordance with the risk rating of the customer and will not proceed with the remittance unless all required CDD information is obtained. In some circumstances where CDD is not provided, consideration is given to file an STR. In all cases, records are kept for at least seven years, and in some instances, longer for tax purposes.
325. Generally, Cambio dealers apply CDD measures and retain records for a minimum of seven years. However, the effectiveness of the CDD information retention process and subsequent monitoring varies between Cambios, as some had electronic technology-based systems, whereas others relied solely on a largely manual process. In one Cambio, the transaction was conducted before provision of CDD information, on the agreement that it would subsequently be submitted.
326. For credit unions, in addition to CDD information collected at the member onboarding stage CDD information is updated from time to time, for instance when processing loan applications. Furthermore, the majority of credit unions are closed bond whereby members (customers) are employed with the organisation that is aligned to the credit union. As such, majority of payments are made via standing orders, with limited cash deposits, in the case of retired persons or family members. Monitoring is limited, however in all cases records are retained for the required period.

## **DNFBPs**

327. **DPMS:** DPMS entities interviewed during the onsite demonstrated robust CDD and record-keeping measures, with sufficient ongoing monitoring procedures. DPMS in general, undertake their own CDD processes and do not rely on third-party CDD information. During inspections of gold dealers in 2020, the GGB identified shortcomings related to updating of CDD information. This was communicated to the dealers via letter and the necessary corrective action was taken to address the cited deficiencies. Overall, DPMS have a good understanding of their CDD, BO and record-keeping requirements and apply effective policies and procedures to comply with these requirements. DPMS have well-establish policies in place to identify different categories of customers; from miner to trader and/or dealer transaction, miner to supplier transaction and supplier to international client transaction. It should be noted that trade transactions conducted with international clients are with repeated customers. Customers of DPMS submit a declaration which identify beneficial owners and this information is verified with the information at the Registry office.
328. **Casinos:** An analysis of compliance ratings and reports based on supervisory on-sites and interviews conducted by the GA determined that casinos are compliant with CDD and BO obligations. Customer onboarding procedures involved risk-based CDD measures, including profiling the customer's net worth, using AML/CFT customer risk rating tools, sanctions and adverse media screening.
329. **DNFBPs** such as real estate agents, attorneys-at-law, accountants, notaries and TCSPs have demonstrated a fair knowledge of CDD requirements. The application of CDD measures varied across sectors dependent on the customer identification (using government issued identification, proof of address, etc (See R. 22 analysis) and BO measures adopted. It may be limited to identification of the customer whether an individual or body corporate. DNFBPs indicated CDD measures are not compromised and in instances where there's suspicion, the transaction is discontinued. The AT concluded that CDD measures are being applied to a greater extent among casinos and real estate. However, the extent of application by attorneys-at-law, notaries and accountants appeared to be limited as these sectors did not fully understand their AML/CFT obligations.
330. **Record-keeping:** DNFBPs demonstrated knowledge and a sufficient application of record-keeping obligations. Entities interviewed indicated that all records are maintained beyond the stipulated seven years minimum retention period. Therefore, information required by the relevant CAs can be accessed upon request.

#### *5.2.4. Application of EDD measures*

##### **Financial Institutions**

331. The application of EDD measures by FIs varied but was found to be generally sufficient given the importance of the sectors.
332. The banking sector demonstrated comprehensive AML/CFT controls around wire transfers and correspondent banking relationships. All banks had specialised units that screen both incoming and outgoing wire transfers and in some higher risk cases, prior approval is required. Additionally, banks can block both outgoing and incoming wire transfers if it is ascertained that any party to the transaction is on any domestic or international sanctions



- watchlists, or if there are concerns around the correspondent banking relationship. TFS automated screening is conducted at onboarding, then on a weekly or daily basis, depending on the institution, the entire database is screened against all applicable lists.
333. Prospective customers are screened, including against international third-party providers, to determine their PEP status. Approval for the establishment of the business relationship, if a customer is identified to be a PEP, is taken at senior management level and the account is automatically upgraded to the higher risk category and subject to the EDD process.
334. In the case of one larger bank, the EDD process includes routing those higher risk transactions to the Compliance Officer for review and possible follow-up action.
335. Notices of higher-risk countries identified by the FATF are circulated by the BOG to all reporting institutions and the identification of whether a customer or beneficial owner is from a higher-risk country is factored in the client risk rating as part of the CDD onboarding process. Such customers are subject to increased monitoring and additional requirements.
336. New technologies are only available to customers with pre-existing relationships with the banks. Similar to banks, insurance and securities companies have a good framework for applying enhanced measures for PEPs, new technologies, TF sanctions screening and higher risk countries. PEP lists are updated weekly and in the event of payment or surrender by a wire transfer from or to foreign parties, the application of EDD measures is undertaken.
337. The larger interviewed MTA recognised that much needs to be done in the development of a PEP list, nonetheless, EDD is applied to PEPs and those countries not or insufficiently applying the FATF standards. For all MTAs, senior management's prior approval is mandatory for the establishment of relationships with PEPs as well as enhanced monitoring of transactions. However, the larger MTA has only recently instituted a real time monitoring system which provides for blocking of transactions, and leverages group-wide resources for sanction screening, whereas the smaller MTAs utilises a more manual process.
338. Cambios demonstrated a less established framework for performing EDD measures in relation to PEPs, new technologies, and higher risk countries. The application of any specific action to customers from higher-risk countries would be largely based on whether the transaction had exceeded the threshold, and the screening of persons for TF sanctions was largely performed manually using resources such as social media and open source searches.
339. As part of the CDD process, PSP's identification of its customers' PEP status is confined to the domestic PEP list which suffices given that the product/service is Guyana based.
340. Credit unions demonstrated limited processes for the identification of PEPs and conduct of TFS screening. One entity had no process for the application of EDD around PEPs and TFS, whereas the other indicated that they are currently reviewing their policies and procedures on PEPs, but nonetheless, subjected members to TFS screening.

### **DNFBPs**

341. Most DNFBPs demonstrated a fair application of EDD measures pertaining to PEPs. There is reliance on publicly available information (via open sources) to establish the identity and verify clients that may be PEPs (domestic and foreign).

342. The DPMS and casino sectors have a good framework for applying enhanced measures for PEPs, new technologies, TFS-TF sanctions screening and higher risk countries identified by FATF. In the DPMS and casino sector a database is maintained, PEP lists are regularly updated and the application of enhanced due diligence measures is undertaken for PEPs. The casino interviewed explained that PEPs and persons from high risk countries are some customers that are included in the higher risk list. An awareness of the requirements to obtain senior management's approval and identify the source of wealth and source of funds was also demonstrated for dealing with PEPs. Notices of higher-risk countries identified by the FATF are circulated to DPMS and casinos and the identification of whether a customer or beneficial owner is from a higher-risk country is done as part of the CDD onboarding process. All DPMS and casino interviewed declare being aware of the need to frequently update due diligence measures to reflect changes in the listings.
343. The extent of compliance and proportionality of EDD measures applied by the real estate, attorneys-at-law, accountants, notaries and TCSPs cannot be fully assessed. This further exemplifies the need for increased supervisory activities in these sectors (refer to Chapter 6: Supervision).
344. **New Technologies:** It was highlighted during the interviews with the DPMS sector that there is a limited use of new technologies as part of their business function. Casinos indicated that according to procedures, when a new product is introduced, there is a thorough risk assessment process prior to the launch of the new product. However, no instance of this was identified during the period of the review. The product risk assessment is also sent to the GA for review, perusal and approval. The other DNFBPs sectors in Guyana have not demonstrated that they have identified, understood and assessed the ML/TF risks relative to the development of new products, new business practices, and the use of new or developing technologies for both new and pre-existing products / services.
345. **Targeted Financial Sanctions, Terrorist Property Reports and TF:** Generally, there was a good understanding and implementation of counter-terrorist financing measures in the DPMS and casino sectors which include TFS screening of customers against sanctions list and Terrorist Property Reporting. Most of the DNFBPs interviewed were aware of the TFS obligations and explained TFS measures implemented. The sector was recently trained and guidance was provided on TFS. Overall, tools such as OFAC list, World Check, Google, UN sanction listing are utilized for screening against the UN list. Screening is primarily conducted at onboarding and upon notification of updates to the domestic and UN lists by the respective Supervisors. Assessors noted that the casino and DPMS sectors have a sound awareness of the reporting process, in the event of a hit against Sanctions Lists, and the procedure to freeze property.

#### ***5.2.5. Reporting obligations and tipping off***

346. REs (FIs and DNFBPs) in Guyana are subject to reporting obligations pursuant to the AML/CFT Act, 2009 and are required to submit the following to the FIU of Guyana: suspicious transaction reports (STRs), cash threshold reports (CTRs) and quarterly terrorist property reports (TPRs). An amendment to the AML/CFT Act in August 2023 implemented a threshold reporting requirement for casinos, credit unions and pawnbroker sectors.

Statistics referenced in this section pertain to the analysis at section 3.2.1 and table 3.5 of this report.

347. The FIU of Guyana introduced an online digital reporting system known as CaseKconnect that resulted in improvements in the efficiency of the reporting process. This system which is used to mainly receive electronic threshold transaction reports, suspicious transaction reports and terrorist property reports, also facilitates the FIU of Guyana in requesting information from regulated entities.
348. The majority of STRs received over the period 2018 – 2022 were submitted by FIs (Banks and MTAs). The FIU of Guyana’s initial analysis of STRs received, classified 90% of reports received between 2018 - 2022 with a low rating and less than 5% classified as medium. Almost 39% of STRs received during the period were associated with smurfing, 12.85% were related to fraud, and 10.20% were related to suspected structuring of transactions. However, entities did not indicate the suspected related offence in 22% of the STRs submitted to the FIU of Guyana (Refer to section 3.2.2 of the MER).
349. FIs and DNFBPs generally have a framework established to implement reporting obligations. However, there has been notably varied levels of effectiveness in reporting. For some of the smaller MTAs and Cambio dealers interviewed, it was unclear as to whether there was full autonomy and independence on the part of the compliance officer in filing STRs. The AT found that the number of STR filings to the FIU of Guyana by DNFBPs was low. During the onsite, DNFBPs interviewed informed the AT that they hardly had reason to file a STR but explained that there are procedures in place and a STR will be filed when the need arises. The casino and DPMS sectors have effective procedures in place for the reporting of suspicious transactions. Over the reporting period a total of eleven (11) STRs was submitted by the DPMS sector and two (2) STRs from other DNFBP sectors (casinos). For some entities in the smaller MTAs and DPMS sector, the manual internal processes hindered or discouraged effective monitoring of transactions.
350. Targeted training on the submission of STRs is provided by the FIU of Guyana periodically and at the point of registration with the FIU of Guyana. However, interviews with the FIs indicated that there is little feedback, formally, informally or on a case-by-case basis from the FIU of Guyana on the quality of the reports or on how the reports contributed to successful investigations. Outside of publicised convictions or investigations, REs would be unaware as to the usefulness of STRs filed, and there is no assessment on the comprehensiveness of filed information, though the FIU of Guyana can request additional information.
351. Regarding the reduction in the quantity of STRs received from 2019, the FIU of Guyana noted that varying factors contributed to this trend. The initial high percentage was due to high occurrence of suspicious transactions indicative of structuring, cases of multiple transactions related to the same suspect and transactions to or from high-risk jurisdictions. The reduction was consequently due to the enhanced controls implemented by FIs (e.g enhanced monitoring for high-risk transactions, and requests for additional information such as SOFs). The FIU of Guyana also indicated that COVID-19 pandemic was a contributing factor as smaller businesses were either not operational or ceased activity.

352. In the case of Cambio dealers there was only one (1) filing of an STR for the period 2018-2022 which may be attributable to the nature of the business activity (majority of clients are one-time customers for the sale of currency) or indicative of limited awareness and understanding on ML/TF trends and typologies associated with the Cambio sector.
353. Real case examples provided included the prioritization of STRs on a Ponzi scheme due to the value of money involved, and the widespread nature of the offence based on the number of people affected. STRs around major drug trafficking incidents relating to a European drug bust with links to Guyana were also rated high risk because of the international nature, value of funds involved and the identification of drug trafficking as a high-risk issue in the NRA. In the case of romance scams during the pandemic, though most cases involved funds low in value, attention was prioritized due to the prevalence of the situation.
354. The FIs interviewed confirmed that AML/CFT training by the FIU of Guyana involves measures to prevent tipping off. Majority had documented policies and procedures on tipping off which included penalties for non-compliance. It was noted that the penalty for tipping off ranges from dismissal, fines of not more than \$1 million dollars, to imprisonment.
355. For credit unions, one demonstrated a reduced understanding of reporting obligations and tipping off, whereas the other performed monthly transaction reporting to the FIU of Guyana and quarterly TPR filing but misidentified tipping off measures as employee confidentiality and non-disclosure agreements.

#### *Tipping Off*

356. In the context of tipping off, there have been no identified instances in FIs and DNFBPs. Sectors interviewed demonstrated their awareness of the tipping off offence in the AML/CFT Act, 2009 and included tipping off guidance, rules and sanctions in their AML/CFT manuals. Staff have access to these manuals and awareness is provided during staff training.

### **5.2.6. Internal controls and legal/regulatory requirements impending implementation**

#### **Financial Institutions**

357. Generally, banks, securities companies and insurance companies demonstrated compliance with Guyana's AML/CFT requirements through the establishment of robust AML/CFT programmes, which include the appointment of a Compliance Officer, ongoing training, documented internal policies, procedures and controls and well-defined corporate governance structures. The policies, procedures and controls are subject to internal and external audits to test the adequacy of the AML/CFT control function and revised where necessary. An example was provided of a securities company that reviewed its policies, procedures and controls in 2020 and 2021 only to identify deficiencies such as the absence of Board approval for compliance manuals, lack of comprehensiveness and information which did not reflect new legislative amendments. Following identification of these shortcomings, the policy and procedure manual was modified.
358. Banks which are part of a group are also required to comply with the group's standards and are also subject to review by the group's internal auditor. Whilst some MTAs and cambios also demonstrated strong AML/CFT programmes, with the elements of good AML/CFT

internal controls and procedures as outlined above, others exhibited less developed frameworks. For the smaller cambios and MTAs, there appeared to be little segregation of duties which would have a cascading adverse effect on the effective application of AML/CFT controls.

359. In the case of the larger MTA which forms part of a group, the company was also required to comply with the group standards. The PS provider exhibited satisfactory policies, procedures and controls, applicable to its business line and model. Information sharing is predominantly limited to the relevant SAs and the FIU of Guyana.

360. The credit unions interviewed exhibited a limited application of internal controls and procedures to ensure compliance with AML/CFT requirements. There was a level of comfort given the closed bond feature of most credit unions operating in Guyana. However, AML/CFT supervision of the sector will be guided by an AML Supervision Manual to be developed by the recently appointed Compliance Officer.

### **DNFBPs**

361. DNFBPs in Guyana must have AML/CFT programs and procedures that set internal controls, including the appointment of a compliance officer at the management level, employee screening, training and an audit function. Casinos and DPMS demonstrated that they had appropriate internal controls, policies and procedures (including AML/CFT Policies and Procedures, CDD, STR Reporting, AML/CFT Unit Compliance functions and AML/CTF training). Overall, the GA, GGB and GGMC noted that the number of deficiencies identified in relation to internal controls was decreasing with time.

362. The AT found attorneys-at-law, accountant, notary and TCSP sectors had limited knowledge of the AML/CFT obligations. The real estate agent interviewed, appointed a compliance officer, but exhibited limited application of internal controls and procedures to ensure compliance with AML/CFT requirements. Some of the deficiencies identified during compliance meetings, summary with real estate entities by the GRA, included lack of an approved AML/CFT compliance manual and failure to register with the FIU for STR. From the interviews, it was identified that the attorneys-at-law and accountants interviewed do not have AML/CFT policies, compliance officers, and have not undertaken training within their respective institutions.

## Overall conclusions on IO.4

363. Overall, FIs (except credit unions) and some DNFBPs (DPMS and Casinos) have a good understanding of the ML/TF risks in the NRA and their own sectors as well as their AML/CFT obligations. However, the AT noted the developing culture of awareness among the entities interviewed as their systems are being improved and the recent developments within the national AML/CFT regime. Also, mitigating measures are generally being applied by sectors commensurate with the risk as per the NRA.

364. There are major shortcomings in the application of EDD measures and reporting obligations, particularly among the sectors weighted moderate and low importance. Notwithstanding their good understanding, the overall reduction in STR reporting as well as the low reporting among DNFBPs were noted. This can be attributed to the improved focus by FIs on quality reporting and the developing supervisory framework of DNFBPs.

365. EDD is adequately applied by the larger FIs such as banks, and some MTAs, as well as DPMS and Casinos. There is need for some FIs (MTAs, cambios, credit unions) and DNFBPs (attorneys-at-law, accountants, notaries, TCSPs and real estate) to improve their application of EDD measures particularly for TFS and PEPs (where applicable).

**Guyana is rated as having a moderate level of effectiveness for IO.4**

## Chapter 6. SUPERVISION

### 6.1. Key Findings and Recommended Actions

#### Key Findings

- a) By the end of the onsite, AML/CFT supervisors were designated for FIs and DNFBPs operating in Guyana. However, the AML/CFT supervisor for the attorneys-at-law, notaries, accountants and TCSP sectors, which were weighted of moderate importance by the AT, was not designated during the period of the assessment. Also, the supervisor for the credit union sector have not demonstrated an understanding nor have the capacity to adequately apply AML/CFT supervision. The supervisor for the Real Estate sector is due to transition from the GRA to the Real Estate Authority, once the latter is constituted.
- b) Guyana's SAs apply strong controls to prevent criminals, their partners and associates from owning or controlling FIs and DNFBPs. These controls are implemented at entry into the market (FIs, casinos, DPMS and Real Estate Agents) and ongoing where license renewals are in place (Casinos, Real Estate Agents and DPMS).
- c) The BOG (banks, MTAs, cambios, Insurance, PSP and Pensions), GSC (securities), GGB and GGMC (DPMS) have sound systems and sufficient resources to detect licensing breaches. There have been instances where the GGMC, GGB and BOG detected breaches and took necessary action. However, there are insufficient mechanisms to detect unlicensed real estate entities.
- d) The SAs for FIs, except credit unions, have an overall good understanding of risk. The BOG has conducted sectoral risk assessment (MTAs and cambios) and included procedures to identify and maintain an understanding of the risk of the entities supervised in their risk based supervisory framework. The GSC assesses the entity's risk at the point of the on-site and ongoing thereafter. The designated supervisor for credit union did not have an understanding of the ML/TF risks to the sector. For the DNFBPs there was an overall reasonable understanding of risks. The GGB and GGMC have a good understanding of the ML/TF risks of the DPMS sectors given the analysis of annual ML/TF risk assessment questionnaires; the GA has a comprehensive understanding having assessed and conducted repeat examinations on all entities in the sector; the GRA has a developing understanding of the real estate sector given the true size of the sector is not known and there was little focus on the sector.
- e) Risk based supervision is applied at varying degrees for DNFBPs. For the BOG and GSC, FIs are risk rated, monitored for any changes to risks and inspections are

conducted in accordance with a RBA. For both FIs and DNFBPs, the range of tools for supervision have taken a risk based focus, as entities are selected based on risk assessment, inspections and outreach is targeted based on deficiencies identified. The GA, GGB and GGMC have all applied a risk based supervisory framework which was found to be at a nascent stage.

- f) The BOG, GSC, GA, GRA, GGB and GGMC have taken remedial action to some extent after breaches are identified during supervision. There have been cases where remedial actions have led, in the case of the BOG, to removal of Officers, and in the case of the GGMC, to suspension of licenses. The BOG, GSC, GA, GGB and GGMC have demonstrated to a significant extent that there has been an improvement in the general level of compliance by supervised entities in response to remedial actions taken.
- g) The FIs and DNFBPs supervisors have provided numerous AML/CFT training annually and guidelines to supervised sectors/entities to promote a clear understanding of the AML/CFT obligations and applicable ML/TF risks. For instance, training was conducted on risk mitigation measures and reporting obligations. Pre-recorded informational messages were also circulated and AML/CFT compliance publications to websites. One-on-one targeted sessions were also conducted in special circumstances.
- h) Guyana has prohibited VASPs and has taken measures to inform the public, including FIs and DNFBPs, of the framework for prohibiting VAs/VASPs and the penalties for violation of the prohibition. However, the efforts may not be sufficient to identify non-compliant persons and to enforce the prohibition.

## Recommended Actions

Guyana should:

- a) Ensure adequate measures are immediately implemented for the effective risk based supervision of Accountants, attorneys-at-law and notaries and TCSP sectors. Also, appropriate measures should be taken to intensify the risk based supervision of the Real Estate sector and ensure the efficient transition of supervision upon the constitution of the Real Estate Authority.
- b) Ensure adequate resources (human, financial, training, etc) are provided to the AML/CFT supervisor of credit unions to establish and implement a risk based supervisory framework for the credit union sector.
- c) Employ and implement supervisory mechanisms to identify licensing and registration breaches particularly for the Attorney-at-Law, Accountants and Real Estate sectors. Also, measures to prevent criminals and their associates from holding or controlling interest in FIs and DNFBPs should be enhanced.



- d) Ensure AML/CFT supervisors for DNFBPs (excluding the GA, GGB and GGMC) and for credit unions implement mechanisms to assess the ML/TF risks and regularly update the risk assessments on an entity and sectoral level.
- e) Ensure the BOG, GSC, GA, GRA, GGB and GGMC continue to implement a risk based supervisory model to improve implementation of internal controls among entities commensurate with their ML/TF risks. The supervisor for the credit unions should establish and implement risk-based supervision.
- f) Ensure that the BOG, GSC, GA, GGB and the GGMC continue to take remedial actions as well as ensure a wide range of sanctions that are effective, proportionate and dissuasive are applied in instances of AML/CFT compliance breaches.
- g) Continue to provide outreach and guidance to supervised entities, ensuring widespread awareness of relevant typologies and AML/CFT obligations.
- h) Designate a CA and implement adequate risk based mechanisms for the enforcement of the prohibition of VAs/VASPs as required under R.15.

366. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14, 15, 26-28, 34, 35 and elements of R.1 and 40.

## 6.2. Immediate Outcome 3 (Supervision)

367. In Guyana, AML/CFT supervision and monitoring of FIs and DNFBPs are carried out by eight (8) SAs: the BOG, GSC and Chief Cooperative Development Officer (CCDO) for the FIs; and the GGB, GGMC, GRA, CC and GA for the DNFBP sectors. For illustrative purposes, please see Table 1.4. During the period of the assessment, the Compliance Commission (CC) was designated as the AML/CFT supervisor for Attorneys-at-Law, Notaries, Accountants and TCSP sectors after the enactment of the Compliance Commission Act in August 2023. However, the CC was not established by the end of the onsite and as such there was no direct supervision of these sectors. During the period of this mutual evaluation, the GRA was the designated AML/CFT supervisor for the real estate sector (also referred to as House Agents). AML/CFT supervision of the sector will shift from the GRA upon the establishment of the Guyana Real Estate Agents Authority. During the period of the assessment, while the CCDO was the designated AML/CFT supervisor for credit unions, no such framework was implemented to effectively supervise the sector. However, a new Compliance Officer was appointed in September 2023 and is tasked with the development of an AML manual specific to AML/CFT supervision of the sector.

368. Guyana has taken the policy decision to prohibit VAs/VASPs activities via the Compliance Commission Act, 2023 until December 31, 2025 (S.72 of the GCC Act). Guyana completed a VAs/VASPs Risk Assessment and the Report was approved and published on 11<sup>th</sup> September 2023. The Virtual Assets Risk Assessment report was also published on the FIU of Guyana's website and a newspaper publication in August 2023 advised of the framework

for prohibition of VAs/VASPs. An AML/CFT supervisor for the sector was not designated by the end of the on-site.

369. The AT weighted positive and negative aspects of supervision of **high importance** to banks, MTAs and DPMS sectors; **medium importance** to credit unions, cambios, Trust Companies (FI), casinos, real estate, attorneys-at-law, notary public and accountants; and **low importance** to building societies, insurance and pensions, payment service providers (PSPs), securities companies and VAs/VASPs as explained in Chapter 1 (Section 1.4.3).

370. The assessors took into consideration the ML/TF risks, importance of the sectors, interviews held with the supervisors (see Chapter 1 for further information) and the materiality of the different sectors (FIs and DNFBPs) in drafting and assigning a rating to the Immediate Outcome.

371. Table 6.1 shows a breakdown of the number of FIs and DNFBPs in Guyana and their respective AML/CFT supervisors and licensing/registration authority. Each type of business within the sectors listed above is required to be licensed or registered for AML/CFT purposes with the designated AML/CFT SA.

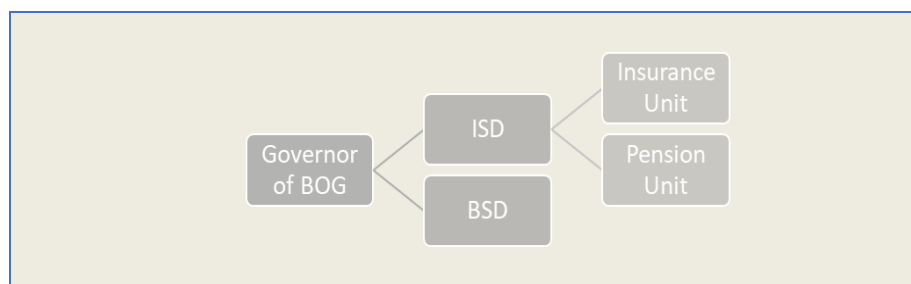
**Table 6.1. Reporting entities, AML/CFT Supervisors and Licensing Authority as at December 31, 2022**

Sector	Number of entities registered	Licensing/Registration Authority	AML/CFT Supervisor
<b>Financial Institutions</b>			
Banks	6	BOG	BOG
Money Transfer Agencies	3	BOG	BOG
Cambios	13	BOG	BOG
Insurance	17	BOG	BOG
Insurance Brokers	11	BOG	BOG
Pension		BOG	BOG
Payment Service Providers	1	BOG	BOG
Securities	6	GSC	GSC
Credit Unions	22	CCDO	CCDO
<b>DNFBPs</b>			
Real Estate	65	GRA	GRA
Casino	2	GA	GA
Dealers in Precious Metals (Gold Dealers)	6	GGB	GGB
Dealers in Precious and Semi-Precious Stones (GGMC's Licence Traders)	7	GGMC	GGMC
Dealers in Precious Metals (GGMC's Licence Traders)	42	GGMC	GGMC
Attorneys at Law	226	Supreme Court of Guyana	GCC
Notaries	23	Ministry of legal Affairs and Attorney General's Chamber	GCC
TCSP	Unknown	n/a	GCC
Accountants	143	Institute of Chartered Accountants of Guyana	GCC

### ***6.2.1. Licensing, registration and controls preventing criminals and associates from entering the market***

372. FIs licensed by the BOG (that is, banks, insurance, cambios and pension) and GSC (securities) to provide financial services are referred to as Licensed Financial Institutions (LFIs) in Guyana. For DNFBPs, the DPMS and Casinos require licensing while there are registration and other controls in place for other DNFBPs. The AT found that during the licensing process of the BOG, GSC, GGB, GGMC and GA, who are also AML/CFT supervisors, robust checks are conducted to prevent criminals and their associates from owning and controlling the entities. There are also mechanisms to identify breaches in the licensing regime.

#### **Box 6.1. Organisational Structure relative to AML/CFT Supervision - Bank of Guyana**



#### **BOG**

373. At the BOG, the Bank Supervision Department (BSD) is responsible for the AML/CFT supervision and licensing of banks, MTAs and cambios while the Insurance Supervision Department (ISD) supervises and license insurance companies and brokers and pensions (Structure depicted at Box 6.1). The BSD is staffed with 10 Analysts with responsibility for AML/CFT supervision and licensing.

374. As per the BOG Supervision Guideline No 2 of 1995, applicants are required to submit relevant documents as part of the license criteria for market entry. Part of the licensing process considers the qualifications of shareholders, directors, Officers and Officials. The BOG must be convinced that the applicant satisfies the fit and proper criteria by evaluating the personal history, business or employment records, experience, and other background information. The BOG requires each principal corporate shareholder, subsidiary, and affiliate to submit an Information Sheet (IS) while individual shareholders, directors, officers, and officials shall submit Personal Declaration Sheets (PDS).

375. Information that must be submitted with the IS and PDS relative to shareholders, directors, officers and officials include personal data, individual qualifications, business affiliations, declaration of court cases or investigations, police certificate and letters of reference certified by notary. Also, tax compliance certificates from the GRA, certified assets and liabilities statements, notarised character references, notarised bank references and letters of good standing from other regulatory authorities are obtained during the fit and proper testing.

376. If the BOG determines that an applicant does not fully satisfy the licensing criteria the applicant is informed in writing of the refusal to grant a license. During the period of the assessment, three (3) banking applications were rejected due to (i) the BOG's inability to determine whether the applicant who resided in another jurisdiction satisfied the fit and proper criteria, (ii) the applicant omitted significant information in the application form and (iii) issues of a prudential nature. Whilst a director that has been deemed unsuitable can be replaced and will not likely impede an application, the same cannot be said for a major shareholder. Additionally, the BOG rejected applications for a Cambio licence on eight (8) occasions. The reasons for the rejections included BOG investigations which revealed that (i) the beneficial owner was allegedly embroiled in ML activities, (ii) the applicant lacked experience in the Cambio business, (iii) financial history was unsatisfactory, (iv) multiple shortcomings with the application and (v) over concentration of Cambio dealers in the proposed area of operations. As such, this demonstrates that the screening conducted by the BOG can effectively prevent criminals and their associates from entry to the financial service provider market.

377. The ISD and BSD in the BOG conducts surveillance and monitoring to identify unlicensed entities in the various sectors supervised. The BOG has issued a public notice in July 2023 advising the public that only MTAs registered in accordance with the MTA Act, 2009 are authorized to conduct MVTs activities. The notice also advised the public of the penalty for persons found to be in violation of the requirement.

**Table 6.2 Summary of BOG Licensing – 2018 to 2022**

Sector	Applications Received	License Granted	Number of Rejections
Banks	5	0	1
MTAs	4	1	0
Cambios	24	1	8
Insurance companies	6	1	1

## **GSC**

378. The GSC exercises judgment and discretion in assessing fitness and propriety and considers all relevant matters including competence and capability; honesty, integrity, fairness and ethical behaviour; and financial soundness. The GSC conducts due diligence on entities desirous of conducting securities activities and makes inquiries to determine whether the applicant is fit and proper to be granted a license under the Securities Industry Act, (SIA) 1998. Fitness, propriety or other qualification tests may be applied at the stage of market entry and thereafter, on the occurrence of specified events. Guidelines are included in the GSC's Fit and Proper Assessment Best Practices. The GSC has seven (7) employees dedicated to AML/CFT supervision, and six (6) securities companies under their supervision.

379. In assessing the fitness and propriety of officials, directors and BOs of license applicants and licensed entities, the GSC takes into accounts factors including whether the applicant has been declared bankrupt, has been the subject of any proceedings of a disciplinary or criminal nature or has been notified of any potential proceedings or of any investigation or

has been convicted of any offence including money laundering or terrorist financing. The GSC conducts on going surveillance of its licensees to ensure they remain ‘fit and proper’ in accordance with S.5(b) of the SIA which sets out one of the GSC functions to ‘maintain surveillance over the securities markets and ensure orderly, fair and equitable dealings in securities.’

380. During the period of this assessment there were no instances where an application was submitted to the GSC and refused, or any license renewal has been rejected. S.5(b) of the SIA requires the GSC to maintain surveillance over the securities market, which includes checking open sources, news reports, advertisements, following up on complaints received and reviewing annual filings.

### **DNFBPs**

381. DPMS sector includes (i) dealers in precious metal (gold dealers), licenced by the GGB, (ii) dealers in precious and semi-precious stones and (iii) traders in valuable minerals and precious stones which comprise dealers in precious metals and/or dealers in precious and semi-precious stones, licenced by the GGMC. The Guyana Gold Board Act (GGBA), Chapter 66:0 empowers GGB to authorise agents (also referred to as licensed gold dealers) to possess, sell or export gold. All gold produced in Guyana must be sold to the GGB or an authorised dealer. There are strict entry requirements to the DPMS sector, with strong fit and proper testing on shareholders (over 25%), directors and senior officials as well as detailed due diligence processes for licensing. This aids to prevent criminals and their associates from holding or being beneficial owners of a significant or controlling interest or holding a management function in the DPMS sector. Applicants go through a vetting process by the respective licensing authority seeking the input of SOCU and the FIU of Guyana to conduct checks on the applicant. Moreover, the GGMC cross-check the names of individuals on the application (and related parties) with the Lexis Nexis Risk Solutions screening software to determine whether the applicant is/was the subject of adverse media or listed on a sanctions list. For the period 2018 – 2022, there was one (1) rejected application for a licence for a gold dealer by the GGB (Box 6.2).

382. Licenses issued to all DPMS entities must be renewed annually. During the annual licensing retention exercise, the GGB and GGMC issues a fit and proper questionnaire to dealers for completion by the directors, shareholders, and management. Also, approval has to be sought from the GGB and GGMC prior to changing any director, shareholder, branch office and/or agent and management staff in order for fit and proper checks to be conducted.

383. Licensing breaches in the DPMS sector are also detected through routine monitoring and inspection exercises conducted by the supervisors. Further, targeted Reconnaissance Surveys<sup>7</sup> scheduled quarterly and annually specifically for the purpose of detecting persons unlawfully trading in gold and diamonds. In the period November 2019 to August 2022 a total of twelve (12) surveys were conducted in regions throughout Guyana and thirty four (34) cease and desist orders were issued consequently. The GGMC has seen an increase in

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<sup>7</sup>This is an extensive study/monitoring/survey of the mining areas in Guyana conducted to detect persons trading unlawfully in gold and diamonds.

license applications to trade in valuable minerals and precious stones, under the Mining Act.

### **Box 6.2. Application for DPMS license rejected**

During the year 2019, a company applied for gold dealer license. Through due diligence checks and collaboration with SOCU, SOCU identified that one of the directors was convicted of simple larceny. The license application was immediately rejected by the GGB based on the character of the director.

384. Real Estate entities are licensed with the GRA in accordance with S.29 of the Tax Act Chapter 80:01. The GRA undertakes the necessary due diligence to verify that new applicants and those entities registered have the requisite documents. The information is verified and a background check conducted on directors, senior management and BOs. In addition, the GRA conducts checks against sanctions lists and criminal background checks before licensing. This procedure is repeated annually at license renewal which ensures ongoing strength of controls.
385. There are acceptable entry controls relative to legal practitioners (Attorney-At Law, Notaries) in Guyana. Admission to practice as an Attorney-at-Law in Guyana, as well as professional behaviour, is regulated by the Legal Practitioners Act, which was last amended in 2010. In order to practice law in Guyana, it is necessary to hold a Legal Education Certificate, or obtain a special authorization, and provide professional credentials with an affidavit of good character. A petition to be admitted to the bar must be made to the High Court. The Guyana Bar Association (GBA) is the recognized body representing the interests of attorneys-at-law in Guyana. Membership is voluntary and comprises of 120 members. The GBA does not have any AML/CFT remit, nor was there any mechanism or evidence of co-operation with the FIU of Guyana. The AT found that the GBA does not currently provide advice or support to its members on AML/CFT matters. The AT found there were no mechanisms to identify those Attorneys-at-Law that conduct activities as per c.22.1(d). It is believed there are Attorneys-at-Law that provide company formation, legal advice to clients for real estate transactions and assist in the title transfer. The authorities in Guyana believe the actual nature of the sector will be known and regulated with the establishment of the Compliance Commission.
386. The Institute of Chartered Accountants of Guyana Act 1991 establishes the ICAG and empowers the institute to adopt accounting and auditing standards that are mandatory for all accounting entities. ICAG's membership is comprised of Chartered Accountants and membership is mandatory for all professional accountants in the country. The activities of the auditors are controlled based on the International Accounting Standards Board (IASB) and International Financial Reporting Standards (IFRS). Accountants are associated with several accounting bodies such as: Association of Chartered Certified Accountants (ACCA), Institute of Chartered Accountants in Ireland, American Institute of Certified Public Accountant (AICPA) and Certified General Accountant (CGA). However,

accountants who are not practicing publicly do not have to register with the ICAG. Over the review period, accountants who are members of the ICAG did not perform any of the specified activities (buying and selling of real estate, managing client money, etc) on behalf of their clients.

387. Casinos – The Gambling Prevention Act Chap 9:02, gives the Gaming Authority (GA) the power to apply controls for market entry and have the responsibility to oversee AML/CFT compliance for all casinos, betting shops, and lottery agents’ activities in Guyana. The licensing process for casinos is infrequent, as casino operator licences and casino premises licences are issued for 10 years. No more than three (3) licenses can be issued in each of the 10 administrative regions in Guyana. As part of the licensing requirement, the investor for a casino premises license must demonstrate that the casino will be attached to a hotel or resort complex with 150 rooms and more, typically the ones that form part of a chain. Therefore, the applicant must obtain 2 licences (Operator and premise). This control also deters unlicensed casinos from operating in Guyana as the GA conducts field inspections and surveillance of information from public sources, to detect license breaches. The GA demonstrated a comprehensive licensing process, including collaboration with the FIU of Guyana and SOCU to determine whether the applicant is fit and proper to hold a license. According to policy, Casinos need to advise the GA of any changes to the shareholders, directors and senior management. The information is also confirmed during annual examinations, spot checks as well as review of adverse media reports. In addition, information from the Commercial Registry is requested annually by the GA and cross-referenced for any changes to directors and shareholding of license holders. Annually, the GA reviews the suitability of key persons and conducts review and assessment for fit and proper on any change in management, BO and directors. The GA identifies and investigates potential licence breaches through complaints, media and site inspections. The GA has several powers that include making recommendations to the Minister regarding information on investigation and closure of illegal operations.

#### **VASPs**

388. Regarding VAs/VASPs, the NCC has issued public notices in print and electronic media to inform FIs, DNFBPs and the public of the prohibition and the penalties for violation of the prohibition, which took effect with the enactment of the GCC Act in August 2023. FIs and DNFBPs are also prohibited from engaging in any VAs/VASPs activities (see R.15 analysis in the TC Annex). Guyana has not identified any person in violation of the prohibition to date. However, Guyana has not demonstrated that the efforts taken to enforce the prohibition are sufficient to identify and apply sanctions for potential breaches of the prohibition.

#### **6.2.2. Supervisors’ understanding and identification of ML/TF risks**

389. All SAs in Guyana recognize that the well-developed financial sector is inherently vulnerable to both ML and TF risks. The process for identifying and maintaining an understanding of ML/TF risks at the sectoral and entity level is tailored for each SA. The AT considered the supervisory activities, risk matrix and risk based supervisory methodology when assessing this core issue. Moreover, all supervisors contributed to the

2017 and 2021 NRAs which contributed to their understanding of the sector risk. The NRA findings were considered and integrated when formulating their own risk assessments and respective supervisory regime and procedures. During interviews with the SAs, the AT found the financial supervisors (as well as the GGB, GGMC and GRA) demonstrated a broad understanding of the ML/TF risks at a national level and at entity level.

### **Financial Institutions**

390. Both the BOG and the GSC maintain an overall good understanding of the ML/TF risks at both the sectoral and entity levels. The Supervisors are aware of the risks faced by the sectors under their purview, through their direct participation in the NRAs as members of the NCC, the performance of annual risk assessments on their individual REs (based on the inherent ML/TF risks in their operations), as well as the mitigating measures and controls implemented by the entities. The latter two factors contribute to the sectoral risk understanding.
391. Following the findings of the NRA (2021), the BOG has transitioned from a partially RBA approach to a full RBA given the enhanced understanding of the ML/TF risks of supervised sectors.
392. At the entity level, the BOG utilizes the risk assessments conducted by supervised entities on their customer base considering the variable ML/TF risk factors. These assessment reports are submitted to the BOG during onsite and offsite reviews. Meetings are held with management of licensees and, onsite and off-site inspections are conducted, which both include testing of policies, procedures and controls. The submission of quarterly and yearly AML/CFT compliance reports by insurance companies is analysed by the BOG and the information submitted is used to measure the level of risk of each entity. Information in the compliance reports include STRs filed, internal reviews and audit findings, any updates to AML/CFT manuals, training undertaken, customer profiles (if changed since last report) and any other relevant information. A new section on TF has been added to test the company's understanding and compliance with TF obligations.
393. Further, thematic reviews of various sectors are routinely performed and kept current to ensure relevance, with the latest thematic reviews of Banks/ Non-banks, MTAs/ Cambio dealers and the Insurance sector carried out in April, June and July of 2023 respectively. The information considered in the thematic reviews included governance, findings of on-site inspections, the risk rating framework, compliance programmes, policies and procedures, STR reporting and training. These reviews assisted the BOG in identifying the level of risks in each supervised FI in these sectors. The understanding of risks at the entity level is then fed into the understanding of the overall sectoral risk assessment.
394. For all sectors, the BOG assesses the change in entities' risk ratings through ongoing monitoring, conducting offsite/ desk-based analysis, follow-up reviews and dissemination of risk assessment questionnaires. Trigger events that prompt risk assessments outside of the annual stipulated timeline include, unusual results of off-site analysis of statutory returns, developments in an entity such as change in key management, significant mergers, concerns expressed by stakeholders, negative media coverage and unusual or high volume of complaints in relation to a significant activity.



395. Similarly, the GSC as part of its identification and understanding of risks, maintains a risk profile for each RE to understand entity-level and indirectly sectoral risks, in the securities sector. The entity's ML/TF risks is only attained during the onsite inspection process (through an in-depth look into an entity's operations) which is conducted at a minimum, one (1) year after license is granted. However, a preliminary risk rating at onboarding, integrating the nature of business, geographical reach, related parent/subsidiaries and beneficial ownership is a more proactive approach for the GSC. In addition, the GSC has instituted a compliance rating regime which assigns a rating to a RE based on examination findings. This enables a measurement of improvement or decline in an entity's compliance level which informs the entity's risk assessment.
396. The CCDO did not demonstrate an understanding of the ML/TF risks faced by credit unions (cooperative sector). External audits of a prudential nature are performed and guide the supervisor in terms of the risks presented, however this is more in terms of a general overview as opposed to it being AML/CFT focused. Whilst aware of the NRA findings, the CCDO was unable to demonstrate a comprehension of the rationale for the sector's risk rating. A new Compliance Officer was appointed on September 11<sup>th</sup> 2023, and is charged to develop an AML manual specific to the AML supervision of the credit union sector. The AT took into account the nature of the sector in Guyana which is mainly comprised of closed bond credit unions where entry controls are rigid. The few open bond credit unions are noted.

#### **DNFBP**

397. The GGMC and GGB have a sound understanding of ML/TF risks in the DPMS sector. To accurately assess the ML/TF risks for the sector on an on-going basis, the GGMC and GGB analyse and monitor each individual dealer through information obtained from the AML/CFT Risk Assessment Questionnaires issued annually. Thereafter a risk profile is developed for each RE (dealer). Information derived from risk focused examinations, nature of operations, quality of internal controls and adequacy of management and Board are some factors that are considered when developing a risk profile. The GGB and GGMC utilize the findings of on-site and off-site inspections conducted on DPMS entities to enhance their understanding of risks at an entity level. The outcome of the reviews then informs the understanding of the ML/TF risks of the sector. Eventually, the risk level is determined and classified as high, medium or low risk.
398. By the end of the on-site there were 2 licensed casinos in Guyana. The GA has identified and has a sound understanding of ML/TF risks in the casino sector. The GA uses a risk-based approach to AML/CFT supervision which considers: (i) the inherent risk, (ii) the internal controls (mitigation measures), and (iii) the residual risk. The RBA considered the net residual risk after the assessment of the casino individual risk. While assessing the entity, the GA also uses information received during meetings with the entity, information from previous inspections and inputs from other relevant authorities, such as the FIU of Guyana. The RBA seems to provide a thorough basis for the supervisors' understanding of the risks faced by each casino.
399. With regards to real estate sector, the GRA has identified and demonstrated a fair understanding of ML/TF risks. The GRA conducted AML/CFT inspections on some real estate entities. The inspections were lightly scoped (assessing compliance with compliance

programmes and CDD requirements) and engagement was used to inform entities of their obligations orally as well as through feedback provided (via email). The GRA has not conducted a detailed assessment to fully understand the ML/TF risks of the real estate sector in Guyana. The GRA uses a risk based supervision model for monitoring AML/CFT compliance of all sectors under its remit. The AT noted that the GRA utilised the findings of the NRA which directed the focus of its risk-based supervision on Used Car Dealers (now called Auto Dealers) and Pawnbrokers, which were rated medium and medium low respectively, but are not DNFBPs by FATF definition. Also, as the country's strategy included reform of the real estate sector's supervision, there was limited focus on monitoring for AML/CFT compliance and more emphasis on registration, outreach and general industry monitoring. However, these sectors pose a ML/TF risk to Guyana.

### ***6.2.3. Risk-based supervision of compliance with AML/CFT requirements***

400. Risk based supervision is implemented by the AML/CFT supervisors in Guyana but at differing degrees of sophistication. The AT evaluated the risk based supervision of the AML/CFT supervisors appointed and operational during the period of the assessment. Some DNFBPs supervisors, are developing their approach, while others (GGB, GGMC and GA) are at a more advanced stage. The BOG and GSC are at a mature stage of AML/CFT supervision and the risk based approach to supervision is at a moderately developed stage having conducted sectoral risk assessments. The BOG and GSC have a wide range of tools used for effective monitoring and both have dedicated resources for the implementation of risk based supervision. There was no AML/CFT supervision of Attorneys-at-Law, accountants, Notaries, and TCSPs during the period under review. Though, not a designated AML/CFT supervisor under the AML/CFT Act, the FIU of Guyana plays an instrumental role aiding supervisors in varying ways, including issuance of guidance and outreach to entities as well as providing technical support and training to supervisory staff.

401. The AT noted that supervision of FIs (the banks, non-banking entities and securities companies) for the period 2020 - 2021 was impacted by the Covid-19 pandemic. For instance, off-site inspections were conducted due to suspension of onsite inspections, and meetings and training/outreach sessions were conducted remotely. Nonetheless, the intensity and scope of compliance inspections were not compromised. This alternative mechanism evidences the BOG and GSC's commitment to meeting its supervisory and regulatory mandate.

### **Financial Institutions**

402. The BOG has AML/CFT supervisory oversight of 165 REs, with a total staff composite of 42 persons, which appears adequate to enable the BOG to execute its supervisory functions. Supervision tools employed by the BOG included inspections (onsite and offsite), issuance of guidelines and conduct of outreach, thematic and sector risk assessments, risk assessment questionnaires and review of submissions from FIs such as risk assessment reports. Staff of the BSD and ISD are guided by examination manuals developed for their respective sectors that describes the fundamental procedures for the conduct of AML/CFT examinations.

403. For FIs licensed by the BOG, the results of the risk assessments and the findings of the quarterly compliance reports from the Insurance sector are used to determine which area(s) must be prioritised for focus and scoped for both the onsite inspection and offsite reviews. Following the findings of the NRA, the BOG has transitioned to a full risk-based approach, which enables the Supervisory body to place greater focus on those areas identified as posing the highest risks. The quarterly compliance reports from the insurance entities provide the BOG insight into insurance companies' level of compliance. An entity's level of compliance affects their risk rating which in turn affects the BOG's supervisory oversight of that entity.
404. The BOG also has the power to implement the appropriate level of supervisory intervention as necessitated, which ranges from suspension and revocation of licence to the issuance of sanctions, fines, and penalties.
405. Supervisory activities in relation to lower risk entities are commensurate with their risk profile since those institutions are subject to less frequent onsite inspections and surveillance. Outside of examinations conducted based on the risk profile of the entity, all institutions are subject to off-site surveillance on an annual basis and onsite examinations within an 18-month cycle. Higher risk findings documented in the examination report are followed by recommendations to be implemented within stipulated timelines. Meetings are held with the entity's Board of Directors to discuss the findings and potential consequences for non-compliance and follow-up occurs to assess whether the highlighted deficiencies have been sufficiently remediated. As such, supervisory activities are commensurate with the risk profile of the institution. The primary objective of the off-site surveillance is to understand the entity, determine a preliminary risk rating and assess the entities' AML/CFT frameworks. Offsite supervision is ongoing and assesses and analyses the adequacy of the information collected offsite which is used to plan the scope of the on-site examination and to validate the level of risk associated with the ML/TF risks of the licensee.
406. The AT notes, as illustrated in table 6.3, a total of 14 ongoing monitoring and follow-up actions were conducted on banks and non-banks as a result of the findings of the initial onsite inspection, with two (2) REs being instructed to submit reports on measures taken to address the deficiencies identified. Mechanisms to continue supervision during COVID-19 included the BOG conducting virtual inspections, as outlined below. A drop box mechanism was established to submit documents and flash drive with documents were also utilised. Sampling of documents were more focused. As such the intensity and duration of the inspections were not impeded.
407. Whilst there were only three (3) cases of follow-up action for the MTA sector, there was a significant total of 56 instances where ongoing monitoring and follow-up action was taken to remedy shortcomings highlighted in the onsite inspection of Cambio dealers. The MTA data shows that in 2018, the BOG instructed the removal of a senior member of staff for an AML/CFT breach, supporting the premise that the BOG has a strong licensing regime for barring unsuitable persons from occupying management functions in a FI.

**Table 6.3 Bank of Guyana – Examination and Ongoing Monitoring (2018 -2023) (various sectors)**

<b>Banks and Non-Banks</b>	2023	2022	2021	2020	2019	2018	Total
Onsite	-	-	-	-	5	5	10
Remote Inspections	-	-	4	6	-	-	10
Ongoing Monitoring/ Follow-up/ Letters	-	6	2	4	-	2	14
Sanctions Order reports on measures being taken	-	-	-	-	-	2	2
<b>MTAs</b>	2023	2022	2021	2020	2019	2018	Total
Onsite	-	6	-	-	-	1	7
Remote	-	-	-	-	-	-	-
Ongoing Monitoring/ Follow-up/ Letters	-	-	1	2	-	-	3
Sanctions	-	-	-	-	-	-	-
<b>Cambio Dealers</b>	2023	2022	2021	2020	2019	2018	Total
Onsite	-	-	-	-	11	10	21
Remote	-	-	-	-	-	-	-
Ongoing Monitoring/ Follow-up/ Letters	3	23	25	4	1	-	56
Sanctions	-	-	-	-	-	-	-

408. The GSC maintains several registers designed to measure and assess the risk of each RE.

These registers retain data from risk factors such as general operations, management structure, AML/CFT policies and procedures, financial reporting, security of RE, staffing, transaction activity, PEP customer base, and estimated annual income. Each RE is risk rated according to the list which then guides the GSC's level of supervision and monitoring of that entity. High risk entities are subject to inspections every 6 months, whereas medium to low risk are examined on an annual basis. The risk-focused approach provides that more intensity is applied to higher risk REs. Notwithstanding, continuous monitoring of entities occur through monthly reports which track private (off-platform) transactions and those conducted on the local stock exchange. All new accounts for the monthly period are also reviewed. In addition, monthly submissions of information are entered into the GSC's internal database to analyse and determine any trends and patterns. These off-site supervisory activities guide the GSC on whether any follow-up action or mitigating measures are needed.

409. The duration of onsite inspections by the GSC varies from 1 to 7 days, depending on the nature, size and complexity of the securities company, the range of activities offered and the type of customers.

**Table 6.4 Guyana Securities Council – Examination and Ongoing Monitoring (2018 - 2023)**

Securities Companies and Intermediaries	2023	2022	2021	2020	2019	2018	Total
Onsite	-	6	-	-	-	1	7
Remote	-	-	6	6	-	-	12
Ongoing Monitoring/ Follow-up/ Letters	6	3	2	7	-	-	18
Sanctions	-	2	-	-	-	-	2

### DNFBPs

410. In assessing how well DNFBPs supervisors monitor compliance with AML/CFT requirements, the AT reviewed the supervisors' risk based supervision framework, off-site and on-site work plans, ML/TF risk assessment tools and other supervisory activities conducted. The NRA sector materiality was also taken into consideration to analyse the frequency and intensity of supervision. The authorities conduct risk-based supervision where the authority will spend more time examining higher risk areas within a RE and less time looking at low-risk. The size, complexity and risk profile of the RE will help determine intensity, frequency and scope of AML/CFT examinations.

411. Risk based supervision of some DNFBP sectors has been developing since the 2021 NRA, as the supervisors have strengthened risk based frameworks to monitor AML/CFT compliance of their respective REs. The GGB, GGMC, GA and GRA have implemented risk based supervisory frameworks that include on-site inspections, off-site reviews, targeted inspections, thematic reviews, outreach and guidance and meetings with management. Other forms of supervisory activities include the analysis of AML/CFT risk questionnaires, follow-up actions post compliance inspections, review of monthly and quarterly reports, and training and outreach activities. Actual onsite and offsite activity of DNFBPs for the period is noted in Table 6.5.

**Table 6.5. Onsite and Offsite DNFBPs inspections conducted from 2018 – 2022**

ONSITE CONDUCTED	2023 (As at Aug 31)	2022	2021	2020	2019	2018
Real Estate Agents	1	7	3	2	11	5
Casino	2	2	1	0	1	0
Dealers in Precious Metals	6	0	0	1	17	16
Dealers in Precious and Semi-Precious Stones and s in Precious Minerals	2	0	0	0	0	0
OFFSITE CONDUCTED	2023 (As at Aug 31)	2022	2021	2020	2019	2018
Real Estate Agents	13	3	29	0	0	0
Casino	2	2	1	1	0	0
Dealers in Precious Metals	0	7	4	1	8	0
Dealers in Precious and Semi-Precious Stones and s in Precious Minerals	0	30	0	0	0	0

ON-GOING/ FOLLOW-UPS	2023 (As at Aug 31)	2022	2021	2020	2019	2018
Real Estate Agents	14	10	31	2	11	5
Casino	0	2	1	0	1	0
Dealers in Precious Metals	6	0	0	1	17	16
Dealers in Precious and Semi-Precious Stones and s in Precious Minerals	0	0	0	0	0	0

412. DPMS: Operations at the GGMC was severely impacted over the period of this assessment due to mercury contamination of staff in 2018 and then the COVID-19 pandemic in 2020. An AML/CFT Supervisory Policy and Procedure Manual took effect in January 2023, which outlines the onsite and off-site process and mechanisms for communication with entities post inspection. The AT found that the GGB and GGMC demonstrated that the intensity of AML/CFT supervision of the DPMS sectors were based on the sector and entity ML/TF risks.
413. Casinos: From interviews, the AT confirmed that the GA has strong knowledge of each casino risk and compliance level. The GA uses the information obtained from monitoring and inspections to determine the risks inherent in each RE in the sector. This profile determines the intensity of the onsite examinations and inspections. Follow-up interviews are also conducted for higher-risk casinos to verify whether all the necessary measures to mitigate the risk are implemented. As outlined in the NRA Report of 2021, the money laundering risks for casinos was low. Hence, the GA conducted more examinations on higher risk sectors under their purview.
414. Real Estate Sector: The GRA's approach to supervision considers: (i) the inherent risk, (ii) the internal controls (mitigation measures), and (iii) the residual risk. According to the supervisory policy, the GRA considers the net residual risk after the assessment of the entity's risk, information received during meetings and information from previous inspections. Additionally, the GRA utilizes inputs from other relevant authorities such as the FIU of Guyana.
415. Based on these factors, AML/CFT compliance examinations were conducted on 44 entities in the real estate sector from 2020 to 2022. These were conducted in person as well as via virtual interviews to assess compliance with the AML/CFT obligations. The GRA has also issued guidelines to its supervised entities on TF, PF and AML/CFT obligations. While the GRA has adopted a holistic approach to supervision, a risk based approach to supervision of the real estate sector was implemented to a limited extent. The GRA conducted inspections on 67% of the real estate entities registered, however the AT noted that the inspections were lightly scoped, examining compliance with compliance programme and CDD obligations. The inspections were also used to provide guidance to entities. There is need for a more intensified approach to supervision of the sector once the sectoral risk assessment is conducted. The AT was of the view that while the GRA has a supervision model, the risk based supervision of the real estate is quite nascent but developing.

#### **6.2.4. Remedial actions and effective, proportionate, and dissuasive sanctions**

416. Under the AML/CFT Act, 2009, supervisors have the appropriate powers to issue a range of remedial actions and sanctions for compliance breaches. Remedial actions include targeted meetings, written feedback and follow up inspections with the objective to have compliance deficiencies rectified within stipulated timeframes. The sanctions process is a more severe approach adopted by supervisors to address instances of non-compliance. The process includes but is not limited to written warning notices, compliance orders and license/registration suspension/ revocation. The penalties for non-compliance with AML/CFT measures can be applied to REs and/or their directors, managers and senior officers or any other individual who manage or control FIs and DNFBPs.

#### **Financial Institutions**

417. The BOG and GSC have adopted mechanisms in their supervisory framework where entities are subject to remedial actions in a moderately effective manner. During the supervision and monitoring functions, AML/CFT violations are usually identified during onsite inspections, desk-based reviews and analysis of quarterly AML/CFT reports. Information provided by the FIU of Guyana to SAs regarding non-compliance with reporting obligations also prompts action taken by supervisors. Inspection reports outline the AML/CFT deficiencies, findings with recommendations for remedial action by the FI. In addition, the BOG requires REs to develop and submit action plans demonstrating their planned corrective actions. While not utilized, there are procedures that dictate the failure by MTAs and their agents, Cambio dealers, Insurance brokers, and PSPs to comply with AML/CFT obligations may prevent the renewal of licences.

418. The BOG provided cases where two entities were ordered to report on measures taken and the removal of an MTA senior staff member in 2018. Whilst the course of action in each case generated the desired outcome, there have been no instances of more severe breaches which would warrant the escalation of punitive action.

419. Similarly, the GSC has taken action for non-compliance by a licensee through the issuance of written warnings to a RE for failure to submit quarterly TPR reports to the FIU of Guyana. In the case provided, the entity complied after receipt of the warning. As such, the GSC have not had cause to utilize other sanctions to demonstrate the full extent of proportionate and dissuasive sanctions. This reflects the level of compliance by the securities sector.

420. In the case of credit unions, there were no sanctions applied as a consequence of an AML/CFT related matter as there was no AML/CFT supervision of the sector during the period of the assessment.

#### **DNFBPs**

421. The GRA has AML/CFT/PF Guidelines for Remedial Actions which guides the supervisor's enforcement activity for real estate agent non-compliance. From verbal warning to written warnings, directives, fines and criminal sanctions, the GRA has a range of enforcement actions at its disposal. The GRA adopts a cooperative approach to rectification of deficiencies identified. This will help establish if such deficiencies emanate from a technical, capacity, resource or operational paucities which then informs the GRA how to

approach the deficiencies highlighted and also determine next steps (follow up, remedial action, etc).

422. Moreover, the GGMC has a Sanctions Policy appended to its AML/CFT Risk-Based Supervisory Examination Policies and Procedural Manual. The GA and GGB did not have a written sanctions policy describing the sanctions and corrective measures to be taken for specific deficiencies identified. However, the SA is guided by Section 23 of the AML/CFT Act, as amended in 2023, which now provides for administrative penalties.

423. At the conclusion of an examination, the GGB, GGMC, GA and GRA will make recommendations for an entity to implement remedial measures to correct compliance deficiencies identified. These recommendations are communicated in writing to the REs and include a timeframe for the corrective action to be taken. Once the time has elapsed, follow up action is taken in the form of calls, warning letter, and one-on-one meetings. Depending on the severity of the breach or if a serious problem was identified, the GGMC, GGB, GA, GRA will use the remit of the law and, if warranted, a sanction will be applied to the RE.

424. For the period 2018 - 2022, the DNFBPs supervisors indicated that remedial measures and sanctions are applied using a tiered approach. Remediation letters, warning letters, fines and suspension of licences are remedial and sanction measures following offsite and onsite examinations conducted.

**Table 6.6 Enforcement activity taken on DNFBP sectors**

Sector	No. Of breaches	Breach detected	Types of measure	Amount (USD)	Results
<b>2019</b>					
Dealers in Precious Metals	1	Breach of AML/CFT Obligations: Inadequate CDD measure, no record keeping, no measure for STR, failure to appoint a CO, No AML/CFT policies and internal controls	Warning Letter, Order to comply with specific instructions and a Fine	\$9,930	Suspension of Licence
Dealers in Precious Metals (Supervised by GGMC)	5	No valid Licence to Trade	Order to Cease and Desist		
<b>2020</b>					
Dealers in Precious Metals	3	Failure to appoint a competent Compliance Officer and Update KYC Customer Profiles	Order to Comply with specific Instructions & Regular Reporting (Risk Improvement Plan	\$0	Appointment of Competent Compliance Officer and KYC Profiles Updated.
Dealers in Precious Metals (Supervised by GGMC)	16	No valid Licence to Trade	Order to Cease and Desist and Order to Comply		
<b>2021</b>					
Dealers in Precious Metals (Supervised by GGMC)	15	no Valid License to Trade	Order to Cease and Desist and Warning Letter		



Casino	1	Failure to Appoint Compliance Officer	Warning letter, order to comply	\$0	Appointment of Compliance officer
<b>2022</b>					
Dealers in Precious Metals (Supervised by GGMC)	1	No Valid Licence to Trade	Order to Cease and Desist		

425. The GGMC, GGB and GA imposed enforcement actions against DNFBPs who breached the AML/CFT obligations. Table 6.6 illustrates both financial and non-financial sanctions that have been applied in practice relative to breaches by the casino and DPMS sectors between 2019 – 2022. Risk issues are also considered in the application of remedial actions and sanctions by supervisors. Though most of the measures were warning letters and orders, the SAs demonstrated that remedial measures can be applied and these are dissuasive as corrective measures are taken.

426. The policies of the GRA and GGMC have been updated since the amendment to the Act. AML/CFT Supervisors are guided by S.23 (1B) and (1C) of the AML/CFT Act, 2009, further to the 2023 amendment, which now provides for administrative penalties. The AT noted that a structure for the application of these penalties and respective fines have not yet been established. Following a compliance meeting, the GRA issues an email to real estate agents describing the deficiencies and recommended actions. The GRA provides recommendations to correct breaches with estimated completion dates. Some of the compliance breaches which were common within the sector were failure to register to the FIU of Guyana for STR reporting, lack of an AML/CFT Compliance program and poor record keeping.

427. In the absence of the institution of the AML/CFT supervisor for Attorneys-at-Law, Notaries, accountants and TCSP, there were no remedial actions or sanctions applied for AML/CFT non-compliance.

#### ***6.2.5. Impact of supervisory actions on compliance***

428. The supervision of respective sectors has been evidenced by the conduct of onsite and offsite inspections, issuance of new or amended guidelines, the provision of training and outreach sessions and the regular communication between SAs and entities in the respective sectors, all of which have positively impacted compliance. For the DPMS and casino sectors, there has been a reported increase in the level of compliance and understanding of AML/CFT obligations.

429. The FIU of Guyana has issued a number of guidelines to SAs and REs to assist them in meeting their AML/CFT obligations. This includes an AML/CFT handbook for REs, guidance on ‘detecting or preventing TF’, ‘Effective Supervision by AML/CFT SAs’, ‘AML/CFT Policy and Procedure Manual’, ‘Examination guideline for AML/CFT SAs’, and sector specific guidelines. Some of the SAs have included these FIU of Guyana issued guidelines on their websites.

#### **Financial Institutions**

430. The BOG reported that a thematic review of non-banks conducted demonstrated that recurring deficiencies were on the decline, whereas for most of the entities, highlighted

shortcomings were remedied, evidencing an improvement based on supervisory activities. These supervisory activities included intensity of onsite inspections, follow-up onsite visits, requests for quarterly updates and outreach. There were 56 instances of ongoing monitoring for the Cambio sector which included issuance of letters and follow-up action to address non-compliance for the period 2019 - 2023.

431. An increase in awareness of banking institutions' ML/TF exposure to certain sectors is evidenced in the new policy implemented by banks to prohibit certain high-risk sectors of the DNFBPs from establishing bank accounts prior to being registered with the FIU of Guyana.

432. The quarterly AML/CFT insurance reports filed with the BOG also facilitate the ISD in monitoring the level of compliance of its entities with AML/CFT obligations, as well as measuring the degree of improvement over a certain period. As a result of AML/CFT reports submitted by insurance entities to the BOG, there is one example where documented procedures for assessing the ML/TF risk of new business transactions and responding to discrepancies when verifying KYC information were not submitted. A letter was sent to the entity highlighting the discrepancies and requesting that documents be submitted by a certain date. The company complied with the directive and has not been in breach since. Similarly, it was found by the GSC that following notification of deficiencies by way of "letter of findings", the entities took corrective action to remedy the deficiencies.

### **Box 6.3 Case – Remedial measures taken by BOG**

Institution X had deficiencies pertaining to its:

- Compliance programme and board oversight of the compliance functions;
- Training programmes; and
- Systems to detect terrorist financing organisation.

The BOG informed the entity of the deficiencies identified and mandated that regular reports from RE X be submitted until otherwise directed. As a result, RE X satisfactorily addressed all the deficiencies and submitted documentary evidence of the improved AML/CFT framework. As a result of the decline in the level of deficiencies, RE X demonstrated improved compliance.

#### Box 6.4 Case – Remedial Action taken by GSC

RE 'H' had received a 'Partially Compliant' rating in 2020 as there were several major deficiencies found during the off-site inspection conducted for that period. RE 'H' contended that it met all the AML/CFT requirements, however the GSC found that RE 'H' did not adequately implement an independent AML audit function which was referred to by RE 'H' as 'an internal review.' As such recommendations were made to the RE 'H' who was rated as 'Partially Compliant' for 2020.

This resulted in a follow-up in person meeting and the engagement with RE 'H' which improved the relationship between the RE and the GSC, as the SA, and encouraged a better understanding and compliance with the AML/CFT regime.

As such, in 2021, RE 'H' sought and received Board Approval to amend its AML/CFT policy. This included the conduct of an independent AML audit function and submitted same to the GSC during the inspection period of 2021. As such in 2021, RE 'H' was found to have improved their level of compliance and was rated as 'Largely Compliant'.

433. The AT was unable to determine the impact of AML/CFT supervisory activities on credit unions as the AML/CFT regime for the sector is not functional.

#### DNFBPs

434. The GA, GGB, and GGMC supervisors noted an improvement in the compliance culture and understanding of risk by the casino and DPMS sectors. Since the conduct of inspection, the GGB, GGMC and GA observed major improvements in the entity's understanding of its ML/TF risks and AML/CFT obligations. The attitude towards compliance demonstrated by the REs improved as a result from regulation and feedback from the SAs. The off-site and onsite inspections, follow-up, training and other supervisory activities have led to a gradual improvement by these sectors' AML/CFT compliance. This has caused the casino and DPMS sectors to implement more rigorous measures to comply with their AML/CFT obligations. During follow-up visits, the respective supervisor identified fewer repeated deficiency findings over the period 2022 - 2023. The supervisors provided some evidence of the positive effects of their supervision on AML/CFT compliance. Case examples provided by GGB and GA (see Box 6.5 & 6.6) demonstrate positive impact on the REs which have been subject to sanctions. During the interviews with casino and DPMS sectors it was evident that the actions taken by the supervisors have a positive impact on their compliance, including fostering better compliance culture and understanding of AML/CFT obligations. The follow-up mechanisms which monitor the progress of the remediation of identified deficiencies is effective and has contributed to improved compliance. REs also acknowledged that the communication with their supervisors is generally good, and that they have a good working relationship.

### **Box 6.5. – Case of remedial action taken by GGB- and its impact**

Breach of AML/CFT obligations under AML/CFT Act in the reporting year of 2020

During the reporting year, the GGB identified that three (3) licensed gold dealers were in breach of their AML/CFT compliance obligations under the AML/CFT Act 2009. Breaches detected included failure to appoint a competent Compliance Officer at senior management level, failure to conduct regular AML/CFT/CPF training for staff, failure to develop written internal AML/CFF/CPF Policy and Procedures and failure to update CDD information on clients.

Action taken by GGB: The GGB issued letters of order to comply to the three (3) gold dealers with a deadline of 6 months. In addition, they were all placed on a Risk Improvement Plan and were ordered to submit regular reports to the GGB on the progress made to correct the breaches.

Results: By the third quarter of 2021, two (2) of the gold dealers had rectified all the deficiencies. The other gold dealer did not put all the corrective measure in place and no longer possess a gold dealer licence.

### **Box 6.6. – Case of remedial action taken by GA and its impact**

Breach: In 2021, the GA, during its supervisory activity, identified that a casino did not appoint a qualified compliance officer.

Action by GA: The GA issued correspondence to XXX Casino Inc. to appoint a qualified AML/CFT compliance officer in keeping with section 19 of the AML/CFT Act Cap 10:11.

Results: The entity responded within two months and had their compliance officer trained and appointed.

435. In addition, the GGMC notes that it was identified that most of the dealers to trade valuable minerals and precious and semi-precious stones were not registered with the FIU of Guyana. The GGMC issued warning letters and orders to comply with instructions to these defaulting dealers. Also, the GGMC has refused to renew the license unless the dealer took action to register with the FIU of Guyana. As a result, to date, all holders of licences to trade in valuable minerals and precious stones have registered with the FIU of Guyana in order to fulfil their reporting obligations.

436. The GRA's AML/CFT supervision focused on the auto dealer sector, considering the NRA results to make effective use of limited resources. In examining the effect of the GRA's action on the compliance of real estate entities, the AT noted (i) the developing risk-based approach to supervision of the real estate sector (ii) the number and scope of inspections (iii) the response to remedial measures for AML/CFT deficiencies (iv) the fact that sanctions have not been applied and (v) interviews with the real estate entities. As the GRA has demonstrated that some entities have responded to remedial action, the effect on compliance could not be determined by the AT.

437. The impact of supervisory actions cannot be assessed fully for the Attorneys-at-Law, accountants, Notaries and TCSPs since the monitoring of AML/CFT requirements had not commenced during the evaluation period.

#### ***6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks***

438. The Supervisors of FIs and DNFBPs in Guyana provide a wide range of guidance and undertake various outreach activities to promote a clear understanding of the AML/CFT obligations that FIs and DNFBPs must implement. The guidance covers several AML/CFT areas, including CDD, EDD, STR, institutional risk assessments and TFS screening.

439. The FIU of Guyana distributed a circular (Circular No. 3 of 2020) on the emerging money laundering and terrorist financing threats and vulnerabilities linked to the COVID19 pandemic to all REs, the public, and other AML/CFT stakeholders on 10 June 2020. The circular encouraged all to be cognizant of the ML/TF risks associated with the increased use of online services and digital platforms to facilitate non-face-to-face transactions, as has become necessary due to the social distancing protocols required due to the pandemic. The circular was also published on the FIU's website.

440. In 2022, notices were issued to supervisors indicating the names of entities registered with the FIU of Guyana that had not submitted reports; this prompted follow-up action by the supervisors. There is a collaborative approach between the FIU of Guyana and supervisors regarding the level of compliance and understanding of AML/CFT obligations by regulated entities. Examination findings and recommendations made by SAs are communicated to the FIU of Guyana. The FIU of Guyana provides reports to SAs on regulated entities who are non-compliant with their reporting obligations and may recommend the application of sanctions when necessary.

441. In addition, the value of the FIU of Guyana's collaboration with the SAs contributes to and is instrumental to the supervisory framework of FIs and DNFBPs. The collaborative efforts included provision of AML/CFT outreach/training and issuance of guidance notes on obligations such as reporting (suspicions, TF and PF); a handbook for REs outlining their AML/CFT obligations; PEP guidelines, etc. Compliance reports after inspections are also forwarded to the FIU of Guyana which informs their targeted outreach to entities on enhancing reporting obligations. The FIU of Guyana also provides support to the supervisors with the publication of a guideline for the effective AML/CFT supervision by SAs.

442. The AT also found more targeted outreach should be conducted with real estate entities, Attorneys-at-Law and accountants (rated medium, medium and medium high in the 2021 NRA) to improve understanding of ML/TF risks and AML/CFT obligations (Refer to analysis in section 5.2.1. of this MER).

#### **Financial Institutions**

443. The BOG and the GSC publish all AML/CFT laws and guidance on their respective websites, which are accessible to the public and FIs.

444. Training is provided by both SAs on an annual basis which focuses mainly on areas of weaknesses identified during the onsite and off-site inspections and provides guidance on

corrective measures. In December 2019, the BOG conducted sessions with all Cambio dealers to discuss recommendations emanating from findings of the examination report.

445. During the pandemic, pre-recorded sessions on AML/CFT/CPF issues were shared with REs. Results of the NRA were shared with REs who were instructed to provide a plan on how to reduce the risk levels of their respective sectors. Additionally, both the BOG and GSC provide one-on-one sessions as warranted.
446. The report of the recently completed sectoral risk assessment of commercial banks in June 2023 was shared with the banking sector. The BOG subsequently provided recommendations and guidance on the implementation of appropriate risk mitigation measures tailored to the entity's specific risks.

### DNFBPs

447. There is a high level of understanding of the AML/CFT obligations and ML/TF risks requirements amongst the casino and DPMS sectors. This is evidence by the controls and practices implemented by these sectors. The GGB, GGMC, and GA have held several workshops, meetings and targeted training to promote understanding of the sectors under their supervision, of their AML/CFT obligations and their ML/TF risks. These SAs issued guidance to their supervised entities, with a view to improving their understanding of their AML/CFT obligations. In order to raise awareness, provide access to the relevant requirements and further facilitate their implementation, all the DNFBPs supervisors (GGB, GGMC, GA and GRA) have created and maintains a website which includes AML/CFT compliance publications. Most of the REs interviewed acknowledged the usefulness of supervisory guidelines, documentation and outreach provided by AML/CFT supervisors.
448. The AT recognises the efforts of all supervisors to educate, guide and provide regulatory updates to FIs and DNFBPs. Through interviews, it was determined that FIs, DPMS, and casinos have a cordial and professional relationship with their respective supervisors and can engage directly with the supervisors on matters of concern. During the period, the SAs conducted supervision activities with the respective supervised sectors such as training, sensitization workshops, issuing AML/CFT questionnaires and sector-specific guidelines as noted in Table 6.7.

**Table 6.7 Supervisory Activity of the BOG, GGB, GGMC, and GA**

	2023	2022	2021	2020	2019	2018
Sector AML/CFT/CPF Training	15	7	4	17	1	0
Sensitization Workshops	1	2	0	0	1	4
AML/CFT Questionnaires	45	-	0	2	0	0
Guidelines	11	10	10	0	1	0

449. The supervisory activities cover different AML/CFT areas, including institutional risk assessments, CDD, EDD, record keeping, applying a risk base approach, beneficial ownership, wire transfers, NRA results, TFS –TF and PF, transaction monitoring and STR.

450. Although the CAs have industry outreach mechanisms in place, the assessors noted that there are still credit unions, Attorneys-at-Law, and accountants that require the need for more supervisory outreach in order to increase their understanding of ML/TF risks and implementation of AML/CFT preventive obligations.
451. Real estate entities interviewed demonstrated some level of awareness of the sector ML/TF risks and their AML/CFT obligations under the AML/CFT Act. This suggests that the guidance and training conducted by the GRA and FIU of Guyana has promoted understanding of AML/CFT awareness in this sector to a moderate extent.

## Overall conclusion on IO.3

452. Overall, there is a moderate level of effective AML/CFT supervision in place for FIs and DNFBPs, based on the ML/TF risks exposure of the sectors. The BOG, GSC, GGB, GGMC, GA and GRA are all aware of the NRA (2021) and have undertaken some form of sector risk assessment, which has informed their AML/CFT supervisory frameworks. Supervision includes robust licensing and fit and proper assessments, frequent inspection (conducted onsite and off-site), monitoring mechanisms, outreach, regular engagement with entities and guidance. However, supervision is at a more mature stage for the financial supervisors than the DNFBPs supervisors, which can be intensified and take more of a risk based focus. The RBA to supervision is at a good stage of development and has been updated with the recent sectoral assessments and thematic reviews (Banking, Cambio and MTA sectors).
453. The CCDO has demonstrated limited understanding of the sectoral ML/TF risks and has not conducted AML/CFT supervision during the assessment period. The AT took into account the nature of the sector in Guyana which is low risk (mainly a closed bond feature where entry controls are rigid). The absence of a clear understanding of the true nature of ML/TF risks and AML/CFT risk based supervision of the Attorneys-at-Law, accountants, Notaries and TCSPs sectors was noted but not deemed fundamental by the AT. Notwithstanding the unknown factors of these sectors, the nature of their operations in the context of Guyana was not significant given Guyana's context. Also, supervision is imminent once the Compliance Commission is constituted.
454. In terms of remedial actions and sanctions, the BOG, GSC GGMC, GGB, GA and GRA have implemented a range of enforcement and remedial measures which have been somewhat dissuasive. However, the SAs have not demonstrated the application of a wide range of effective and proportionate sanction measures (such as administrative sanctions).

**Guyana is rated as having a Moderate level of effectiveness for IO.3.**

## Chapter 7. LEGAL PERSONS AND ARRANGEMENTS

### 7.1. Key Findings and Recommended Actions

#### Key Findings

- a) Guyana has measures in place which ensure that information on the creation and the types of legal persons in the country is publicly available, which can be found online through the various pieces of legislation and on the website of the Commercial Registry for Companies. However, information on the creation of LAs is not publicly available as there is no legislation governing the creation of legal arrangements, as LAs are created pursuant to the common law principles.
- b) Guyana conducted a LPs and LAs Risk Assessment using the World Bank tool and has developed a comprehensive understanding of the vulnerabilities and the extent to which legal persons created in the country can be misused. Guyana has commenced the implementation of mitigating measures, such as the development of a beneficial ownership (BO) form for use by the Commercial Registry, the development and issuance of a standard operational policy in relation to BO information for use by the Commercial Registry and striking off inactive companies by the Commercial Registry. Guyana is in the process of bolstering its AML/CFT Regime to protect against the misuse of LPs and LAs inclusive of legislative amendments, digitisation of systems, enhanced domestic cooperation etc.
- c) For Legal Persons created pursuant to the Companies Act, the Commercial Registry holds adequate, accurate and current basic information, however, BO information for the majority of registered companies is not accurate or current. This information is shared with CAs in a timely manner upon request. Amendments to the AML/CFT Regulations provide for adequate and accurate BO information to be provided to the relevant Registrars in respect of Cooperative and Friendly Societies, however, the effectiveness of the regulation could not be determined and limited basic and BO information is held for LAs.
- d) FIs and DNFBPs are also required by law to obtain basic and BO information for customers that are legal persons and LAs when establishing a business relationship with those customers. CAs can access basic and BO information on legal persons and arrangements from FIs and DNFBPs in a timely manner.
- e) Guyana has demonstrated to some extent the application of effective, proportionate and dissuasive sanctions against persons who do not comply with information requirements.



## Recommended Actions

- a) Guyana should establish measures to make information on the creation and types of LAs in the country publicly available.
- b) Registrars (other than the Commercial Registrar) should develop registries to ensure that a proper record of basic and BO information is maintained to prevent the misuse of legal persons.
- c) Guyana should continue to implement the mitigating measures identified in the LPs and LAs risk assessments, with emphasis on measures to mitigate the vulnerabilities of LAs.
- d) Guyana should develop mechanisms to obtain adequate, accurate and current BO information in respect of LPs (excluding those created pursuant to the Companies Act).
- e) Guyana should establish an effective framework which ensures the availability of accurate and up to date BO information on LAs in Guyana, including the requirement for trustees of express trusts to obtain and hold adequate, accurate and current BO information and disclose their status to FIs and DNFBPs.
- f) Guyana should appropriately implement the range of effective, proportionate and dissuasive sanctions for persons who do not comply with the basic and BO information requirements, along with the development of mechanisms to monitor compliance.

455. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25, and elements of R.1, 10, 37 and 40.<sup>8</sup>

## 7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

### 7.2.1. *Public availability of information on the creation and types of legal persons and arrangements*

456. Guyana's legislation has various types of legal persons (LPs) that can be created in the jurisdiction as illustrated in table 7.1.

**Table 7.1. List of Legal Persons in Guyana**

<sup>8</sup> The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

Legal Person	Governing Legislation	Responsible Authority for Registration
For Profit Companies (Private & Public Limited Companies)	Companies Act <sup>9</sup>	Commercial Registry
External Companies		
Not for Profit Companies		
State Companies		
Friendly Societies	Friendly Societies Act	Registrar of Friendly Societies/ Chief Cooperative Development Officer
Working Men's Club		
Benevolent Societies		
Specially Authorised Societies		
Cooperative Thrift Society and Cooperative Saving Society	Cooperative Societies Act	Commissioner for Cooperative Development
Cooperative Credit Union		
Agricultural Cooperative Society		
Consumer Cooperative Society		
Fishermen Cooperative Society		

457. Guyana has a Deeds and Commercial Registries Authority (DCRA) responsible for *inter alia* company formation and registration of deeds. Guyana has in place mechanisms to share information publicly on the creation and types of LPs created pursuant to the Companies Act. The Commercial Registry of the DCRA provides detailed information and guidance on the various types of services offered together with an outline of the basic requirements for registering a business name, incorporating a company, registering an external company, types of documents needed to be lodged, the timeline for obtaining same and the fees and payment methods on its website <https://dcra.gov.gy/services/#commercial>.

458. In relation to the foregoing, Guyana provides online access to various application forms including articles of amendment, certificate of amalgamation, certificate of change for, change of directors, certificate of amendment, certification of registration of external company, beneficial ownership, name search and reservation, certificate of incorporation, external company application for registration, articles of incorporation, notice of directors and notice of change of directors, notice of change of address of company, et al.

459. In relation to Non-Profit Companies, prior to the establishment of the Companies Act No. 22 of 1991, the 1989 Companies Act allowed for the registration of Non-Profit Companies (NPCs); such NPCs continue to operate pursuant to the savings clause in the current Companies Act. Pursuant to section 343 of the Companies Act, where there is no equivalent provision in the current Act relative to the provision or procedure applicable, the provision or proceeding of the

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<sup>9</sup> Pursuant to the Companies Act, partnerships of more than 20 persons must be registered pursuant to the Companies Act. As such, for the purposes of IO 5 partnerships will be subsumed into legal persons created pursuant to the Companies Act.

former Act, shall be applied and shall stand unrepealed to the extent necessary to give effect to the corporate instrument. As such, there is currently no avenue for the new creation of NPCs, but only those continued pursuant to the savings clause.

460. Information on the creation and types of societies is publicly available via the publication of the legislation in the Gazette and access to copies of the legislation shared on Government websites such as <https://mola.gov.gy>. Section 3 of the Friendly Societies Act sets out the various types of societies which are eligible to be registered pursuant to sections 11 and 12 of the Act, namely, Friendly Societies, Working Men's Club, Benevolent Societies and Specially Authorised Societies. Societies for benevolent or charitable purposes also fall within the remit of the Friendly Societies Act. The provisions, schedules and forms of the Friendly Societies Act sets out the relevant information on the registration of these societies. Cooperative Societies are registered under Section 7 of Cooperative Societies Act. Such applications are made to the Commissioner for Co-operative Development (CCDO) and the Cooperative Societies Act provides for the relevant information for registration of a cooperative.

461. In relation to LAs, Guyana does not have any legislation guiding the creation of LAs, as trusts are private arrangements created in accordance with the principles of the common law. As such, Guyana does not provide any publicly available information on the creation and types of LAs that can be created within the jurisdiction. Notwithstanding, persons have the option to register their trust arrangement (after creation) with the Deeds Registry of the DCRA pursuant to the Deeds Registry Act. This registration is mandatory for trusts engaging in activities pursuant to the Insurance Act, the Securities Industry Act, the Friendly Societies Act and the Cooperative Societies Act. Information on the registration of trusts at the DCRA is publicly available on DCRA's website. Table 7.2 provides a breakdown of the number of trusts registered with the Deeds Registry as at June 2023, which amounts to 4% of the total number of registered LPs and LAs in the jurisdiction. Given that registration with the Deeds Registry is voluntary, the true reflection of the number of trusts created in the jurisdiction could not be attained by the AT. Notably, however, this information must be considered in line with Guyana's risk and context, i.e. Guyana is not a trust and company formation jurisdiction and basic and BO information on all trusts engaging in financial activities in the jurisdiction will be captured by FIs and DNFBPs pursuant to their CDD obligations (see para. 490). It is essential to underscore that these obligations act as a mechanism to shed light on the number of trusts existing in the jurisdiction.

**Table 7.2. Number of trusts registered with the Deed Registry**

Trust	No. registered
Trusts registered pursuant to the Insurance Act	17
Trusts registered pursuant to the Securities Act	2
Trusts registered pursuant to the Cooperative Societies Act and the Friendly Societies Act	47
All other trusts registered with the Deed Registry	645
<b>TOTAL</b>	<b>711</b>

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

462. Guyana conducted a LPs and LAs Risk Assessment utilising the World Bank's Risk Assessment Tool. The tool comprises several interrelated modules which are built on 'input variables' representing factors related to money laundering and terrorist financing threats and vulnerabilities through the use and abuse of legal persons and arrangements. The methodology consisted of mapping the LPs and LAs; assessing the money laundering threat through three (3) main criteria: (i) ascertaining a threat score for the abuse of each type of legal person and arrangements for ML, (ii) conducting a qualitative analysis of the threat and (iii) use of case examples; identifying the risk factors specific to each type of legal structure; and a national vulnerability assessment. The Working Group was established by the NCC, headed by the Hon. Attorney General and Minister of Legal Affairs and comprised of the following members: the head liaison officer of the NCC, Members from SAs, Members from the FIU, and supported by the Registrars of Deeds and Commercial Registry, the Register of Friendly Societies and the CCDO.
463. The working group developed a work plan and timelines, relied upon guidance material from national and international sources, undertook an extensive review of the legislative framework, issued questionnaires, conducted interviews with stakeholders and analysed the collected data to produce an assessment report.
464. The LPs and LAs Risk Assessment was finalised by the NCC on September 11, 2023, and circulated to the relevant authorities. In assessing the threat, Guyana considered *inter alia* that the quality of available ML statistics analysed were low, with the cases that were analysed were as a result of intelligence reports from the FIU of Guyana; the ability to seek and obtain BO information for foreign legal structures posed a challenge; and that there was a lack of information surrounding professionals such as notaries, attorneys-at-law, and accountants, who are required in the registration and formation process of LPs. It was however noted in the report that the overall level of evidence of abuse of legal structures was not higher than the overall enforcement based on open-source information and the enforcement data provided.
465. With regards to the vulnerabilities, private limited companies and non-profit companies were considered medium vulnerability due to the ease of registering with minimal requirements, with no BO information requirements for non-profit companies. External companies were given a high vulnerability rating due to the ease of registering with moderate registration requirement and no specific requirements for BO information on registration.
466. The overall ML/TF risk of the various legal structures, considering the threat and inherent vulnerability, saw external companies being rated 'high', private limited liability companies, NPCs and Friendly Societies rated 'medium' and Cooperative Societies rated 'low' (See Table 7.3). The working group found that external companies were high risk due to the lack of requirement for BO information prior to or at the time of registration and the fact that external companies can be formed by way of a power of attorney.

**Table 7.3. Overall ML/TF Risk of Legal Structures**

Type of Legal Structure	Threat Rating	Vulnerability Rating	Overall Risk
Private Limited Companies	Medium	Medium	Medium
Public Limited Companies	Medium	Low	Medium
Not for Profit Companies	Medium	Medium	Medium
External Companies	Medium	High	High
Friendly Societies	Medium	Medium	Medium
Cooperative Societies & Credit Unions	Low	Low	Low

467. Based on the report, CAs in Guyana, demonstrated a good understanding of the ML/TF risks posed by LPs. However, the AT found that the data collected for the sectoral risk assessment was negatively impacted by time constraints, which also impacted findings and ratings, notably, there were findings of insufficient data in respect of several input variables assessed to determine the ML/TF threat assessment of LPs.

### ***7.2.3. Mitigating measures to prevent the misuse of legal persons and arrangements***

468. The LPs and LAs Risk Assessment Report identified a number of preventive and mitigating measures in respect of the misuse of legal persons and arrangements. It should be noted that the LPs and LAs report recognised that not all forms of express trusts in Guyana must be registered with the Deeds Registry and as such, all other forms of trusts are not regulated. For those Trusts registered with the Deeds Registry, those trusts are not subject to any further requirements and remain valid after registration. Trusts were rated as high risk in the LPs and LAs risk assessment.

469. The Commercial Registry has strengthened its efforts in obtaining basic and beneficial ownership information by issuing and implementing a Beneficial Ownership Standard Operational Policy and BO declaration form. These steps aid in better identifying BO owners to achieve a higher level of transparency and elimination of anonymity.

470. The Commercial Registry has also sought to intensify the implementation of sanctions by the Commercial Registry by issuing Notices in the daily newspapers requesting all companies to submit updated BO information to the Commercial Registry and underscoring the likely imposition of sanctions for non-compliance, in an attempt to increase the level of compliance with reporting obligations relative to BO information.

471. The Chief Cooperative Development Office and Registrar of Societies has taken steps to ensure that all the members of the Committee of Management of societies, before registration, must undergo sensitisation on customer due diligence and AML/CFT awareness sessions with the CCDO. All new societies must all include in their Rules/Constitution a specific declaration to adhere to the AML/CFT Act 2009, as amended. By so doing, there is transparency in the cooperative's finances, control and use of funds, identification of authorised personnel et al, which all work together to prevent the misuse of such bodies.

472. The various Registries have applied a RBA. In recognizing that certain LPs operating in the extractive sectors pose a higher risk, there has been regulation in those sectors to establish

a fit and proper requirement and for the disclosure of BO information. Amongst other things, the identification of higher risk sectors by the Registries allows for the allocation and prioritisation of financial and human resources proportionately.

473. Guyana has also sought to promote awareness through sensitisation efforts, which include: (i) GGB training which entailed a presentation from the Commercial Registry; (ii) training by the FIU of Guyana with the Deeds and Commercial Registry sharing about FATF Recommendations 24 & 25 and abuse of LPs; and (iii) Collective issuance of a public warning by GSC, FIU of Guyana and BOG in respect of Ponzi Schemes & similar fraud schemes et. al. These relevant publications are accessible via the FIU of Guyana's website to the public and CAs.
474. These efforts allow for a better understanding of the domestic framework in relation to LPs and LAs, thereby allowing for proper sharing of information amongst CAs, identification of red flags relating to the misuse of LPs and LAs, trending scams and the proper collection and maintenance of basic and BO information to clearly identify all potential persons involved in the misuse of LPs and LAs. Additionally, these activities are intended to inform the public of the recent legislative amendments, requirements under the AML/CFT framework, promote an understanding of AML/CFT obligations and serve as a deterrent to criminals who may have an interest in abusing legal entities for ML/TF purposes.
475. In addition to the measures identified in the LPs and LAs Risk Assessment report, continuous action is being taken to give effect to the strategic objectives in the National Policy and Strategy for Combatting ML/TF/PF 2021-2025 such as, digitization of commercial registry records, legislative amendments, enforcement of sanctions, development of guidelines, training and sensitization. Such mechanisms allow for the transparency and accountability of LPs and LAs and greater compliance with reporting obligations.
476. As part of the daily responsibility of the Commercial Registry, the Records Department is responsible for the scanning of records in real time, which includes the scanning of BO Declarations once issued. Scanned copies are placed on a server in the respective Company folders to be stored. This server is accessible to the Registrar and Deputy Registrar of Commerce along with staff of the AML, Records and Companies Department. The digitisation of records allows for requests for information on BO to be submitted in a timelier manner thereby allowing for ease of sharing of information with domestic and international authorities, facilitation of information to assist with ongoing ML and TF investigations and ensuring that companies are filing returns and taking other necessary action pursuant to the CA and other relevant legislation.
477. Additionally, the Commercial Registry has taken significant steps in 2023 to review all companies, particularly, NPCs, companies incorporated under the former Act and Government/State owned companies to ensure full compliance with the Companies Act. Applying a risk-based approach, the Commercial Registry has also sought to review all companies falling under the extractive industries sectors including- fisheries, mining, oil and gas and forestry companies, which were considered high-risk and are being reviewed for compliance purposes. This includes mostly private limited liabilities companies. Companies found in default of the Companies Act, are issued a notice to remedy their default within 28

days or be struck from the register, wherein they would have to provide evidence of remedy the default and apply to be restored to the Register of Companies.

478. Further to the foregoing, there are ongoing amendments to the relevant pieces of legislation. The AML/CFT (Miscellaneous) Regulations No. 12 of 2023, pursuant to Regulation 4 requires the three (3) respective Registrars to request and maintain up to date and accurate BO information; if not provided within one month of any change, a penalty can apply, or the legal person or arrangement can be struck off the Register. Beneficial ownership guidelines were also issued by the Commercial Registrar, as well as NPO TF Guidelines. By virtue of same, Guyana is continuously reviewing its BO regime to ensure transparency, accuracy and timely access to BO information. Additionally, amendments to the Companies Act are being considered, amongst other things, to address trust arrangements.
479. An MOU has been signed by all SAs and CAs to further cooperation and information sharing in a timely, coordinated and efficient manner. This cross-cutting MOU will allow for the timely sharing and obtaining of information in relation to legal persons and arrangements across all sectors thereby enhancing the quality and quantity of evidence available to LEAs when investigating the misuse of LPs or LAs particularly in relation to ML and TF.
480. The AT is of the view that the relevant authorities in Guyana have taken steps to ensure the collection of BO information for all types of LPs. However, there is need for greater initiatives in respect of the implementation of measures to prevent the misuse of LAs.

#### ***7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons***

481. The Commercial Registry is the general repository for basic and BO information in relation to LPs created under the Companies Act. Information retained in the Commercial Registry is publicly available. As a targeted approach by the Commercial Registry, companies engaging in regulated activities are specifically required by the Commercial Registry to submit annual returns and a BO Declaration Form.
482. Annual Returns are required to be filed by companies and contain adequate basic information on the company including shareholding details. The Commercial Registry Anti-Money Laundering Department Operational Procedure Manual provides for the procedure for striking off a company from the Commercial Register. Based on the procedures, the Company's Department would, on a continuous basis, manually review the Company Register from a specific numerical series, at a time, to ascertain which companies have failed to file annual returns. Where it is discovered that a company has failed to file annual returns, a notice of default letter is sent, and the company will have 28 days to file the requisite information. Failure to file within the 28 days results in the company being struck off the register. As at June 2023, Guyana struck off 2,851 companies from the Commercial Register. Guyana demonstrated, through the provision of notices in the Gazette, the application of these procedures, wherein 54 companies were notified of failure to file, *inter alia* annual returns. The AT found that basic information was therefore accurate and current.
483. The Commercial Registry commenced the collection of BO information in July 2020. For the period July to December 2020, 145 companies submitted BO information. This increased

in 2021 to 275, in 2022 to 378, and January to September 2023 to 1,977. Guyana contended that the publication of notices regarding BO requirements in the Gazette and Newspaper in 2023 was an effective measure to ensure compliance with BO requirements. However, the AT found that this measure was not as effective given the low filings compared to the number of registered companies. The AT is therefore of the view that the BO information available is not accurate and current for the majority of registered companies.

484. The AT found that the Commercial Registry had in place, mechanisms to verify BO information as follows:

- a. The Company's name and number are verified against the Companies database and Register. An assessment of the number of beneficial owners listed on the declaration form and examination of the percentages of their shareholding is carried out pursuant to the requirements of the AML/CFT Act. Particular attention is paid to who is deemed a beneficial owner meeting the 25% criteria and ascertaining who, in cases of companies, becomes the ultimate beneficial owner/natural person. Where a Company is listed as a shareholder, the Registry verifies that the Company is in good standing by examining if its annual returns are filed up to current year as of record and also requests that an ownership chart be submitted detailing a breakdown of the ownership of shares in the Company that accumulates to the overall shares owned by the Company in its initial submission on the BO Declaration Form.
- b. Where BO Information is to be provided to other CAs, a request is usually made via email or written correspondence. Once the Registry is in receipt of that correspondence, the Registry will furnish the entity with the information via soft copy as well as with a hard copy, usually during the course of the day on which the request is made or based on the volume of documents requested, timelines are set for the information to be provided and issued. Such timelines are determined by the Registry or by request of the entity requesting the information on the degree of urgency with which it is requested. (Case study on the verification of BO information by the Registry is provided at Box 7.1)

#### **Box 7.1. Verification Of Beneficial Ownership Information by the Commercial Registry**

"John Doe Inc." is a Company that was incorporated at the Commercial Registry on the 2<sup>nd</sup> June, 2016. On the 31<sup>st</sup> August, 2023, the Company filed its Annual Returns accompanied with its Audited Financial Statements for the Year ending 2022 with the Commercial Registry. The Commercial Registry in its verification process attempted to review the information in the Folio of the Annual Return which provides for Shareholding of persons to be disclosed in comparison with the disclosures contained in the Beneficial Ownership Declaration (BOD) filed by the company, to ensure they are up-to-date and accurate. An examination of the folio of the Annual Return revealed that a natural person "John Doe" held 100% of shares owned in the Company. However, on examining the BOD Register for the Company, it was found that no BOD was submitted for the period. The Commercial Registry notified the Company to file same to bring the company in Good Standing. "John Doe Inc"



submitted to the Commercial Registry its Beneficial Ownership Declaration Form verifying the particulars in the Folio of the Annual Return that the natural person “John Doe” indeed owns 100% of shares in the Company. As a result of the company’s compliance to file the BOD, the company was found to be in Good Standing with the Commercial Registry.

485. Interviews conducted by the AT determined that the information held by the Commercial Registry can be shared with the various SAs including BOG, GSC, GGB, GRA and GGMC upon request and in a timely manner. Furthermore, statistics and other documentation provided by various CAs to the AT reflects that they are able to obtain BO information from the Commercial Registry upon request and within a timely manner. The CAs usually send written requests to the Commercial Registry via email to which responses are provided within 3 – 9 working days. Table 7.4 below illustrates the number of requests for basic and BO information from the FIU of Guyana. For the period July 2022 - September 15, 2023, 15 domestic CAs requested BO information from the Commercial Registry.
486. Both the FIU of Guyana and the GRA have real-time access to information held by the Commercial Registry as basic and BO information is provided monthly and if necessary, more regularly to FIU and GRA. Additionally, the FIU of Guyana established MOUs with the Commercial and Deeds Registry Authority which ensures that requests for information are given priority and shared in a timely manner. The average timeframe within which the FIU of Guyana receives information from the DCRA is between 3 days to 14 days.

**Table 7.4. Domestic request from the FIU of Guyana to the Commercial Registry for basic and BO information**

2019	2020	2021	2022
18	4	2	3

**Table 7.5. International request made to the FIU of Guyana for BO information**

2020	2021	2022
4	2	0

487. Prior to the end of the onsite, Guyana introduced regulations to require that updated BO information is provided to the CCDO and the Registrar of Friendly Societies pursuant to Regulation 4 of the AML/CFT Regulations No. 12 of 2023, wherein every body corporate is required to provide accurate and up to date beneficial ownership information to its respective Registrar and shall within one (1) month of a change to BO notify the respective Registrar. The AT was therefore unable to test the effectiveness of this new regulation.
488. The FIU of Guyana’s registration process for REs (which may include companies and businesses persons) also provides a means for BO information to be obtained almost

immediately, where an investigation involves, a Registered Entity registered with the FIU of Guyana as demonstrated in Box 7.2 below.

### **Box 7.2. Timely Access to Basic and BO information**

#### **A TRADING INC.**

A known gold dealer (RE registered with FIU) who operated a gold trading business was highlighted in an Intelligence Report in 2015. 'A Trading Inc' (hereinafter referred to as 'the Subject') was mentioned as being a part of a "gang/ring" of individuals suspected to be involved in large scale gold smuggling.

The Gold dealer allegedly received significant sums of money through money transfers to his local Bank account from a foreign company in the USA. This overseas based company was owned and operated by the gold dealer which was suspected of being used to launder the proceeds from smuggled gold.

The FIU was able to obtain BO information from its own records (immediately) which was subsequently reconciled with information it received from the Commercial Registry on May 25<sup>th</sup>, 2015, based on a request made to the Deeds and Commercial Registry on April 28<sup>th</sup>, 2015. This process was completed within a relatively short period of time, which demonstrates timely access to basic and BO information.

489. LEAs can also obtain information from FIs and DNFBPs pursuant to provisions in the AML/CFT Act and the jurisdiction has demonstrated that this is done in practice. Further, LEAs including SOCU have a formal arrangement with the Commercial Registry in respect of requesting and obtaining information and document sharing. The information and documents received inform the investigative focus of SOCU and are used as part of the evidence for ML/TF and related offences. Information requested from the Deeds and Commercial Registry Authority can be done by way of correspondence sent to the Registrar, Director or Head which is actioned and with feedback in a timely manner (on average 4 to 5 days). However, in practice, the FIU of Guyana shares all details on beneficial ownership information for legal persons or arrangements which is contained in its 'Intelligence Reports' that are disseminated to SOCU.

490. FIs and DNFBPs are also required by law to obtain basic and BO information for customers that are LPs when establishing a business relationship with those customers. CAs can access basic and BO information on LPs from FIs and DNFBPs in a timely manner (generally within the timeframe stipulated in the request). FIs and DNFBPs, as part of their CDD measures are required to keep basic and BO information on legal entities which are their customers. REs in Guyana collect basic and BO information in relation to LPs and LAs where applicable, however the minor deficiency in R.10 impacts the full range of BO information that can be acquired from FIs and DNFBPs. Notwithstanding, REs can verify BO information via various mechanisms such as declaration forms, collection of certified copies, onsite inspections, requests to the Commercial Registry, et al. Requests by CAs for

basic and BO information from FIs and DNFBPs are made in writing and usually stipulate the time by which information is to be provided.

491. Overall, CAs in Guyana have demonstrated that they can access basic and BO information from multiple sources including the Commercial Registry and from FIs and DNFBPs as a result of their CDD obligations. There, however, remains some shortcomings in relation to accurate and current BO information from the Commercial Registry and the minor deficiency in relation to CDD obligations by FIs and DNFBPs which hinders CAs from acquiring the full range of BO information from these entities.

#### ***7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements***

492. Guyana, via the Deeds Registry, collects basic information on LAs to a very limited extent and does not collect BO information on LAs. The Deeds Registry only records basic information on LAs, where persons have opted to register the LA by way of a Deed. No BO information is requested or maintained by the Deeds Registry in respect of LAs. Information retained in the registry is publicly available. Interviews conducted by the AT determined that the information held by the Deeds Registry can be shared with the various SAs including BOG, GSC, GGB, GRA and GGMC upon request and in a timely manner.

493. Additionally, FIs and DNFBPs, as part of their CDD obligations are required to obtain and verify BO information with regard to trusts when establishing a business relationship with those customers (c.25.3 refers, Reg. 4(5) of the AML/CFT Regulations No. 9 of 2023). REs in Guyana collect basic and BO information in relation to LPs and LAs, however, the minor deficiency in R.10 impacts the full range of BO information that can be acquired from FIs and DNFBPs. Even though the mechanisms outlined in c.25.5 do not stipulate timeframes for sharing of information, Guyana has submitted and demonstrated to the AT that FIs and DNFBPs generally provide basic and BO information on LPs to CAs within the timeframes stipulated in written requests. The same process is said to apply in respect of LAs, however, due to the lack of requests relative to LAs, no statistics are available. In light of the foregoing, the AT found that CAs can access basic and BO information on legal persons and arrangements from FIs and DNFBPs in a timely manner. Information obtained during onsite interviews with FIs and DNFBPs indicated the number of customer relationships involving LAs is minimal (in some instances less than 10% of annual revenue).

494. Further, Professional Trustees in Guyana are listed as REs pursuant to the first schedule of the AML/CFT Act under the following categories: DNFBPs (i.e. Attorneys-at-Law, Accountants) and FIs (i.e. Non-bank trust companies, securities and insurance companies) (see. C.25.3). During the onsite interviews, the AT was informed that Attorneys-at-Law are not often engaged in the creation of trusts.

#### ***7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions***

##### ***Sanctions imposed by the Commercial Registry***

495. Section 470 (1A) of the Companies Act requires companies to provide information on BO information to the Registrar on a regular basis or on demand (by the Registrar). Where a registered company contravenes the provisions of this section any of its Directors shall be liable on summary conviction to a fine of not less than ten million dollars (GY\$10,000,000) and to imprisonment for a term not exceeding three (3) years.
496. Further, Companies are required pursuant to Section 153 (1) of the Companies Act to file its Annual Returns, failing they may be struck from the register, pursuant to section 487 (1) & (2) of the Companies Act and are unable to conduct any business. Additionally, any company in such default would not be issued a 'Good Standing Certificate' for its continued operations.
497. A company may be restored to the Register (see Box 7.3), where it provides evidence to the Registrar of Commerce of its compliance with the provisions of the Companies' Act. When a Company or other body corporate fails to file its annual return(s) (inter alia) as required pursuant to the Companies Act, the Registrar must send the company a notice advising it of the default and provide therein that, unless the default is remedied within twenty-eight (28) days after the date of the notice, the company or other body corporate will be struck off the register.
498. The Commercial Registrar began collecting BO information from Companies as of July 2020. From July 2020 to September 15, 2023, a total of 335 Companies have been struck off the Register for failure to file BO information. For the same period, a total of 1977 Companies have complied with the requirements to submit BO information.
499. As indicated above, Guyana struck off 2,851 companies from the Commercial Register. Guyana demonstrated, through the provision of notices in the Gazette, the application of this procedure wherein 54 companies were notified of failure to file *inter alia* annual returns. While Guyana has the ability to fine companies for failure to comply, this was not demonstrated as Guyana only utilised the option to strike off companies.

### Box 7.3. Company Struck Restored on Register

On the 17th of February, 2015, "XYZ Inc." was struck off the Company's Register for failure to file Annual Returns together with Audited Financials for the period.

On the 15th of November, 2022, "XYZ Inc.," made an application to be restored to the Company's Register along with filing the outstanding Annual Returns for the aforementioned period up and until the year ending 2021. On an examination of the folio of the Annual Returns under the Shareholding of Persons, it was found that there were shares that were issued, but from a further inspection of the Beneficial Ownership Register, no BO information was filed or submitted by "XYZ Inc."

On the 15th of November, 2022, the Commercial Registry notified "XYZ Inc" that it would be in their best interests to file its Beneficial Ownership Declaration Form.

On the 29th of March, 2023, "XYZ Inc." filed its BOD with the Commercial Registry. Consequently, "XYZ Inc." was issued a Certificate of Restoration to the register along with a certified copy of its Beneficial Ownership Declaration Form.

### *Sanctions imposed by SAs*

500. The range of sanctions that can be applied by a SA include written warnings; order to comply with specific instructions; order regular reports from the REs on the measures it is taking; prohibit convicted persons from employment within the sector; and recommend to the appropriate licensing authority of the RE that the RE's licence be suspended, restricted or withdrawn.
501. Guyana has provided that most legal persons and /or arrangements provide basic and/or beneficial ownership information, during the licensing or registration stage to commence their business /operations or upon request by the relevant CAs. Changes /updates to the initial information provided are also provided as required by law and/ or by the policies implemented by regulators /SAs. In relation to the GSC, there have been instances, where deficiencies were observed during the off-site and on-site inspections. In such cases, remedial actions are usually taken by REs, thus preventing the implementation of sanctions. A case example is provided in Box 7.4 hereunder.

#### **Box 7.4. Sanction imposed by GSC**

During 2022 the GSC examined two (2) REs (Companies) during its on-site examination/inspection. The GSC found that the REs recorded insufficient information relating to BO information on two (2) legal persons which were customers of the REs. These REs were instructed to take remedial actions via letter of findings issued by the GSC. Consequently, the REs remedied the deficiencies identified through written correspondence. As such, no further sanction was imposed on these REs, as they took remedial action in a timely manner based on the recommendation of the GSC. Further, a (follow-up) on-site inspection was scheduled/planned for 2023 by the GSC, as a verification process.

### *Sanctions in relation to Legal Arrangements*

502. There is no general legislation which provides for the creation and registration of LAs in Guyana. Therefore, the application of sanctions in this regard is limited.
503. Trust services are recently regulated/supervised on the basis of the type of activity carried out which falls within the remit of the AML/CFT framework. Professional trustees include natural persons such as Attorneys-at-Law and accountants, and LPs, such as non-bank trust companies providing trustee services. LPs who provide professional trust services are required to be registered, depending on the scope of their activity, under the Securities Industry Act, the Financial Institutions Act and/or the Insurance Act. These activities are all supervised by a designated SAs under the AML/CFT framework.
504. Professional trustees (such as trust companies) registered under the Financial Institutions Act, as a RE supervised by Bank of Guyana, or a professional under the DNFBP category are therefore subject to sanctions under section 23 of the AMLCFT Act 2009 (as amended).

Further, sanctions may be applied to a RE which creates and manages a trust as set out in section 23 of the AML/CFT Act as amended and not specifically to the trustees in instances where the basic and BO information requirements are not complied with or met.

## Overall conclusion on IO.5

505. Information on the creation and types of LPs that can be created in Guyana is publicly available. However, this is not the case for LAs, as the creation of LAs is governed by the principles of the common law and not all trusts are required to be registered by way of deed with the DCRA. As such, Guyana does not know how many trusts exist within the jurisdiction. However, when establishing business relationships with customers that are LAs, FIs and DNFBPs are obligated to obtain and verify BO information as part of their CDD obligations and as such, this can potentially shed light on the existence of such trusts. Guyana has a good understanding of the vulnerabilities associated with the creation of LPs in the jurisdiction and has begun implementing multiple mitigating measures including legislation to ensure that BO information is provided to the CCDO and the Registrar of Friendly societies, increased efforts to obtain basic and beneficial ownership information by issuance of public notices and the use of a BO declaration form, conducting sensitisation sessions, reviewing of companies and issuing of notices to those in default, as well as digitisation of the Commercial Registry. The AT was unable to test the efficacy of the new legislation regarding the collection of BO by the Registrar of Friendly Societies and the CCDO. The AT found that greater emphasis should be placed on mitigating the vulnerabilities for LAs.

506. The AT found that for LPs, basic information is adequate, accurate and current while beneficial ownership information was not up-to-date. CAs had timely access to the available basic and BO information on LPs held in the Commercial Registry and by FIs and DNFBPs. Furthermore, both the FIU of Guyana and the GRA have real time access to information held by the Commercial Registry, which has mechanisms in place to verify BO information. However, the basic and BO information available for LAs were not adequate, accurate or current, save and except the information collected by FIs and DNFBPs as part of their CDD obligations. Guyana has demonstrated that it can issue notices and strike off companies for failure to comply with reporting requirements, but no other forms of sanctions, such as fines, were used.

**Guyana is rated as having a moderate level of effectiveness for IO.5.**

## Chapter 8. INTERNATIONAL COOPERATION

### 8.1. Key Findings and Recommended Actions

#### Key Findings

- a) The Mutual Assistance in Criminal Matters Act (MACMA), the Fugitive Offenders Act and the AML/CFT Act provide a strong framework which enables the CAs in Guyana to seek and provide mutual legal assistance (MLA), extradition and other forms of international cooperation from and to foreign counterparts. The Treaty Office in the MOHA, which supports the Minister of Home Affairs is the Central Authority, should be adequately resourced to efficiently carry out its functions: there is one (1) Treaty Officer and one (1) Treaty Assistant with responsibility for all extradition and MLA matters. In addition, there is a manual record keeping system, which inhibits the ability to provide and seek timely international cooperation. Whilst Guyana has a case management system (CMS), there is a need to bolster the system to ensure efficient management (prioritisation, coordination and monitoring) of international cooperation matters.
- b) Guyana seeks and provides MLA and extradition; however, this is not done in a timely manner. Additionally, while the overall quality and usefulness of the information provided could not be ascertained from the feedback provided by the global community, Guyana did receive positive feedback from some jurisdictions on the quality of assistance provided.
- c) The various CAs in Guyana demonstrated the ability to seek and provide international cooperation from and to foreign counterparts upon request and spontaneously. However, the FIU of Guyana stood out as having a close working relationship with foreign counterparts and signed twenty (20) MOUs with other foreign FIUs. The GPF as well as the GSC cooperate well with their international counterparts. Generally, CAs in Guyana, save and except the FIU of Guyana, do not seek or provide feedback on the outcomes of international cooperation provided to and sought from other countries.
- d) Guyana maintains statistics on other forms of international cooperation. However, it appears that records are not maintained in a manner which allows for sufficient details to assess efforts to seek and provide other forms of international cooperation.
- e) The Commercial Registrar and SAs generally have good access to basic and BO information on legal persons, and to a limited extent LAs, and also have the capacity to share same with foreign counterparts. Foreign authorities may also access such information via an application to the Commercial Registry. However, Guyana has not demonstrated that the CAs have provided information on BO and basic information shared pursuant to foreign requests.



## Recommended Actions

Guyana should:

- a) Develop and issue guidance to CAs on the application of the MACMA and the AML/CFT Act of 2009 in relation to providing and seeking MLA.
- b) Proactively pursue requests made to foreign jurisdictions through all available channels, including making direct contact with foreign agencies responsible for handling the requests.
- c) Strengthen the provision of resources (human, technological [e.g. record management system], financial and training, etc) to the Treaty Office of the MOHA to effectively provide and seek timely and constructive international cooperation.
- d) Establish mechanisms to seek and provide feedback on the quality of international cooperation provided to and sought from other jurisdictions on MLA and extradition matters.
- e) Ensure that supervisors continue to maintain cooperation and further develop international cooperation especially for AML/CFT supervisory cooperation and information exchange relative to the prohibition of VASPs.
- f) Ensure that all relevant agencies improve maintenance of MLA & international co-operation statistics, especially by including details on the type of assistance provided, time spent on a request, number of pending, refused or withdrawn and status /outcome of the matter.

507. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

### 8.2. Immediate Outcome 2 (International Cooperation)

508. Guyana has a strong legal framework that allows CAs to seek and provide international cooperation including MLA and extradition requests. Whilst MLA and extradition requests for the reporting period was minimal, international cooperation is important in Guyana given the country's significant developmental advances in the oil and gas sector, its valuable mineral resources and extensive tropical forests. Additionally, the need for AML/CFT supervisors to exchange information promptly with foreign counterparts is critical considering Guyana's policy decision to prohibit VAs/VASPs, notwithstanding the immateriality in Guyana's context. In light of the foregoing and the potential associated risks, Guyana is susceptible to being a destination country for foreign proceeds.

509. This assessment is based on comprehensive statistics, case studies, feedback from the FATF Global Network, and interviews with authorities involved in Guyana's international cooperation framework.



### ***8.2.1. Providing constructive and timely MLA and extradition***

510. Pursuant to the Mutual Assistance in Criminal Matters Act, Chap. 15:05 (MACMA), the Minister of Home Affairs is the Central Authority for MLA and extradition in Guyana. The Treaty Office within the MOHA is staffed with one (1) Treaty Officer and one (1) Treaty Assistant. The Office has the responsibility for the preliminary assessment of all extradition and MLA requests to determine whether they comply with the MACMA and other relevant legislation and to ensure that Guyana's Central Authority is legally empowered to execute the requests.

#### **MLA**

511. Guyana can provide a wide range of MLA to Commonwealth countries. Additionally, Guyana has a bilateral treaty with the United Kingdom for MLA pursuant to the MACMA and also provides MLA via various multilateral arrangements or on an ad hoc basis with reciprocity (S.38 of the MACMA). Guyana's MLA technical compliance framework (MACMA and the AML/CFT Act) allows for the facilitation of requests received from other jurisdictions.

512. The case management system (CMS) utilised to monitor and coordinate MLA matters is a Microsoft Word document in a tabulated format that is managed by and under the control of the Treaty Officer. The Treaty Office is currently working on developing a harmonised system that will be accessible to other CAs involved in the MLA process. Guyana has submitted that the time for completion of requests from other jurisdictions depends on the complexity of the matter and that requests are prioritised based on the urgency and the nature of the matter. The Standard Operating Procedures (SOP) on MLA dated March 2023 outlines the process for treating with MLAs. Upon receipt, and the initial assessment conducted by the Treaty Officer, the request is processed within an average of three (3) to five (5) working days. Within two weeks from the date of receipt of the request, the Treaty Officer forwards the request to the relevant CAs for their consideration and input. An opinion or action from the DPP's Office on matters requiring the Court's attention or entailing technical legal issues may also be sought within the two-week period. There were few instances where delays in the provision of information by domestic CAs to the Central Authority impacted the efficient and timely response to requests.

513. For the period 2018 to 2022, Guyana received a total of nineteen (19) MLA requests from regional and international jurisdictions related to ML and associated predicate offences. Table 8.1 provides a breakdown of the number of MLA requests received for the period and the related offences. Table 8.2 provides a further breakdown of the related offences, nature of the requests and the timeline from receipt of the request to response provided by Guyana. Guyana has submitted that no MLA requests were refused during the reporting period.

514. The requests for the years 2018-2022 included matters related to ML and predicate offences such as drug trafficking, fraud, gold smuggling, trafficking in persons, tax evasion and bribery. CAs were required to conduct investigations prior to responding to the majority of requests where the provision of witness statements, identification and/or arrests of suspects, transactions or identification records, etc. were requisite. The time between receipt of and response to requests is largely dependent on the complexity of the matters and the volume of assistance sought. The timeframes ranged from thirty (30) days to twenty-one (21) months

with some requests still pending, inclusive of two (2) from 2019. Generally, the shorter timeframes are related to matters where CAs in Guyana were unable to fulfil the requests due to reasons such as the inability to locate suspects, lack of resources or there was no legal basis to fulfil the request.

**Table 8.1. Number of MLA requests received by MOHA for the period 2018-2022**

Year	# of Requests	Offence
2018	1	Drug trafficking
2019	11	ML, Human trafficking and migrant smuggling, Drug trafficking, Murder, Grievous bodily harm.
2020	0	-
2021	5	Human trafficking and migrant smuggling, Drug trafficking, Sexual exploitation of children
2022	2	Drug trafficking, Fraud

**Table 8.2. Breakdown of MLA requests received by MOHA for the period 2018-2022**

Year	Number of Requests	Nature of Offence	Nature of Request	Time from receipt of request to provision of response	Outcome
2018	1	Drug Trafficking	Service of Summons	35 days	CAs in Guyana unable to locate defendant
2019	11	Drug Trafficking	Investigation	14 months	Information gathered shared
		Gold Smuggling & ML	Investigation	43 days	Information gathered shared
		Drug Trafficking	Investigation	12 months	Information gathered shared
		Drug Trafficking	Confiscation of Assets	Pending	
		Murder	Investigation	1 day	Unable to fulfil the request
		Drug Trafficking	Transfer of Prisoner	22 days	Unable to fulfil the request
		Drug Trafficking	Witness Evidence	19 months	Witness statement provided
		Drug Trafficking	Investigation	4 months	Information gathered shared
		Drug Trafficking, Manufacturing & Possession	Investigation	29 days	Information gathered shared
		Tax Evasion & Bribery	Prosecution	Pending	
		Murder & Grievous Bodily Harm	Investigation	15 months	Information gathered shared
2020	0				
2021	5	Trafficking in Human Beings & Migrant Smuggling	Investigation	Pending	
		Drug Trafficking and Possession; Illicit arms and ammunition trafficking; Grievous Bodily Harm	Prosecution	5 months	Unable to fulfil the request- CAs in Guyana unable to locate suspect
		Trafficking in Human Beings & Migrant Smuggling	Investigation	21 months	Information gathered shared

2022		Sexual Exploitation, including sexual exploitation of children	Investigation	5 months	CAs in Guyana unable to locate suspect
		Crimes against property-aggravated theft	Investigation	2.5 months	Unable to fulfil the request as it did not fully comply with provisions of MACMA.
	2	Fraud- Obtaining money under false pretences	Investigation	5 months	Charges laid against the suspects in Guyana
		Drug trafficking, manufacturing and possession	Investigation-supplementary request	37 days	Matter closed in 2019

515. Whilst the AT was unable to ascertain the quality and usefulness of information provided by Guyana based on information submitted by the global community and in light of the fact that the Central Authority of Guyana did not seek feedback on assistance provided, it is noted that there was no adverse feedback from requesting jurisdictions on assistance provided by Guyana. Additionally, Guyana did receive positive feedback from some jurisdictions on the quality of assistance provided.

516. The information provided by Guyana and the Global Community suggests that Guyana received one MLA request regarding confiscation of assets in February 2019, however, the matter is still pending.

### Extradition

517. Pursuant to the Fugitive Offenders Act, Guyana can extradite persons to and from any Commonwealth Country and any country with which an agreement has been entered into relating to the extradition of fugitive offenders. In this regard, Guyana has entered into bilateral agreements with the United Kingdom and the United States of America. Overall, Guyana's comprehensive extradition framework has established systems to allow for the facilitation of and efficient execution of requests received from other jurisdictions (See Box 8.1).

518. Despite the fact that the Treaty Office in the MOHA and the DPP's Office play critical roles in the extradition process, access to the CMS is limited to the Treaty Officer of the MOHA. It was noted that the DPP's Office has not developed a CMS to monitor progress on requests. The Treaty Office is currently working on developing a harmonised system accessible to other CAs involved in the MLA process. Guyana established Standard Operating Procedures for Extradition in accordance with the Fugitive Offenders Act dated March 2023, which provides that all extradition requests are time sensitive and are treated with urgency by all agencies involved. Extradition matters are prioritized but the timeframe for completion can vary depending on the complexity of requests.

519. Further, it is established that the SOP shall apply for the purposes of extradition in relation to money laundering, and terrorist financing, without undue delay and sets out the procedures and some timelines for processing and responding to extradition requests. Upon receipt of an extradition request by the Treaty Officer, a written acknowledgment is sent to the relevant authority of the requesting jurisdiction. The matter is then vetted and analysed to determine whether sufficient information has been provided to enable the request to be

processed. Correspondence is then sent to the DPP's Office together with all documents received from the requesting country. An opinion is prepared by the DPP's Office and subsequently, where warranted, the relevant documents are prepared in conjunction with the Minister of Home Affairs and Minister of Foreign Affairs and the matter is then laid before the Court. If a fugitive waives his right to an extradition hearing and signs documents to that effect, the Minister of Home Affairs authorizes the extradition of the fugitive. Where such rights are not waived, the extradition trial is conducted in the Magistrate's court and if the court finds that there is sufficient evidence the court commits the fugitive.

520. For the period 2018 to 2022, Guyana received a total of eight (8) extradition requests. Of those 8 requests, 4 remain pending; 2 fugitives waived their rights to extradition hearings and voluntarily returned to the requesting jurisdiction within 5 months of the extradition request being made; 1 extradition was completed within eighteen (18) months from the date of the extradition request; and 1 request was partially accepted as Guyana requested additional information within 30 days of receipt.
521. There are no procedures or provisions established to request feedback from other jurisdictions on assistance provided on extradition matters. Additionally, the information submitted by the Global Community did not contain any information on extradition requests made to Guyana for the reporting period. In light of the foregoing, the AT was unable to assess the quality of assistance provided by Guyana in relation to extradition requests.

### Box 8.1. Case Studies: Extradition

#### **Usefulness of information provided in response to request from foreign counterparts.**

##### **Case #1**

The United States Attorney General and Secretary sent a request in October 2017 for extradition of a US fugitive, "T". T fled New York City for a period of eight years and was later found living in Guyana. In 2019, following due process pursuant to the Fugitive Offenders Act (FOA), T was extradited to the United States of America to face murder charges. In 2022, T was sentenced to 25 years to life in prison.

##### **Case #2**

In September 2021, the Embassy of the United States of America in Guyana made a request to the Central Authority of Guyana for extradition of two (2) fugitives. With the joint efforts of the US Embassy, MOHA, DPP, GPF, US Department of Justice, US Marshal Service and Diplomatic Security Service and continuous sharing of information and collaboration, in February 2022 the two fugitives waived their rights to extradition proceedings pursuant to Section 14 of the FOA and agreed to return to the USA to face sexual offences charges.

### 8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

522. The Minister of Home Affairs (the Central Authority) gives the authorisation for sending MLA requests and makes the final determination on MLA matters. All investigating and prosecuting authorities can seek MLA in relation to matters with transnational elements from other jurisdictions via the Central Authority. The Treaty Office, MOHA has developed simplified guidelines (“*Information to be Submitted (where available) to the Ministry of Home Affairs in respect of Mutual Legal Assistance Requests*”) that outlines the basic documents to be submitted by domestic investigative and prosecuting authorities when seeking MLA. The guideline has been circulated to all domestic CAs. SOCU is the primary investigating and prosecutorial CA with respect to ML and TF matters.
523. Where necessary, legal advice is also sought from the DPP’s Office prior to seeking MLA. When making requests, the Treaty Officer depends on the UNODC’s Online Directories of Competent National Authorities, diplomatic channels and regional and international networks to obtain contact information and efficiently communicate with the relevant CAs. Included in the form appended to outgoing MLA requests are the channels by which communication can be made with the relevant authorities in Guyana for clarification, request for further information and any other requisite follow ups. Follow up communication is issued if a response is not received within one (1) month of making a MLA request.
524. For the period 2018-2022 a total of seven (7) requests (Table 8.3) were sent by the Central Authority to other jurisdictions for MLA relative to ML and predicate offences.

**Table 8.3 MLAs from Central Authority Guyana to Foreign Counterparts (2018 – 2022)**

Year	Number of Requests	Type of Offence
2018	4	Conspiracy to defraud and embezzlement of state funds Murder Money laundering Money Laundering/Terrorist Financing
2019	1	Murder
2020	0	
2021	2	Money laundering
2022	0	-

525. Guyana has provided minimal information on relevant timelines from the initial request being made to the final response being received, supplemental requests sent, whether further information or clarification was requested from the foreign CAs in relation to follow-ups, whether any of those requests were refused or how the information received was utilised in ML investigations.
526. The information received from the Global Community on MLA requests sought by Guyana, indicated in one instance that the request sent by Guyana was clear and contained sufficient information, there were no hindrances to communication and cooperation and the

request was facilitated. Another jurisdiction indicated that a request was sent by the central authority of Guyana which was received on July 10, 2020. Prior to the issuance of the request, as of July 2019, both jurisdictions had informal ongoing communications on the matter related to the potential return of gold seized from a vessel in another jurisdiction to Guyana. On July 11, 2020, the jurisdiction requested further information and Guyana indicated further checks would be made before the requested information is provided. However, the AT was not updated on the status of this request. No MLA requests were made in respect of TF investigations which is in line with the country's TF risk profile as assessed pursuant to the 2021 NRA. Guyana generally does not provide feedback on the outcomes of matters, or the quality of assistance provided by other countries.

## Extradition

527. Guyana sought extradition in relation to three (3) matters for the period 2018-2022 Box 8.2 sets out details on two of those requests.

### Box 8.2 Case Study: Extradition

#### **Case 1**

The fugitive (PR) in the first matter faced 39 counts of fraud and corruption relative to misconduct at a former place of employment. PR was arrested by the authorities in Country X, extradited to Guyana in 2019 and subsequently tried and convicted to imprisonment. Further charges against PR are currently pending and a trial is set to take place in 2023.

#### **Case 2**

M, a dual citizen of the Country Y and Guyana, was charged for murder in Guyana in relation to an incident which occurred in 2016. In November 2019, M was extradited to Guyana to be tried. No further information has been provided on the status of this matter.

### 8.2.3. Seeking other forms of international cooperation for AML/CFT purposes

528. CAs in Guyana utilise a wide range of mechanisms to seek and provide other forms of international cooperation with foreign counterparts for AML/CFT purposes. These include, *inter alia*, bilateral and multilateral agreements, regional and international networks, and diplomatic channels. Pursuant to statistical information and case studies provided by Guyana, discussions held during the onsite visit as well as feedback provided by the Global Community, the AT found that whilst all CAs in Guyana were seeking other forms of international cooperation to varying degrees, the FIU of Guyana had a close working relationship with foreign counterparts and actively sought international cooperation. The GPF as well as the GSC cooperate well with their international counterparts. However, international cooperation by other CAs was limited.

#### **FIU of Guyana:**

529. The FIU of Guyana has signed twenty (20) MOUs with foreign FIUs which facilitates sharing of intelligence in a timely and confidential manner. Pursuant to the provisions of

the MOUs, intelligence can be exchanged upon request (from either jurisdiction) or spontaneously. In addition to the exchange of financial intelligence, the MOUs enable both authorities to further cooperate by exchanging general information regarding specified offences, trends in ML/TF and technical support where applicable. All communication between the authorities is required to be conducted via a secure means. The FIU of Guyana's membership application to the Egmont Group was active and ongoing by the end of the onsite.

530. For the period 2018-2022 the FIU of Guyana made a total of 15 requests to its foreign counterparts. A determination as to whether requests should be sent to foreign counterparts is made during the analysis of STRs, SARs and other financial intelligence or where cooperation and/or investigations with LEAs or other domestic authorities identify overseas transactions or other activities.

531. Feedback from the Global Community confirmed that the FIU of Guyana has a good working relationship with its foreign counterparts whereby requests sent are comprehensive and provide sufficient relevant information and there are no deficiencies that have inhibited cooperation and information sharing. Table 8.4 details requests sent by the FIU of Guyana to its foreign counterparts for international cooperation.

**Table 8.4 Request from FIU of Guyana to Foreign Counterparts**

Year	Nature of Matter	Date investigation started	Date deemed necessary	Date of request	Date of response	Duration (weeks)
2018	Suspected ML via gambling activities.	11/05/2018	25/05/2018	25/05/2018	15/12/2018	29
	Suspected connection to TF	24/08/2018	29/08/2018	29/08/2018	No response	
	Suspected ML via drug trafficking activities.	06/09/2018	28/11/2018	28/11/2018	14/02/2019	11
2019	Supervisory checks	21/02/2019	21/02/2019	21/02/2019	28/03/2019	5
	Suspected ML via drug trafficking activities.	19/03/2019	07/05/2019	07/05/2019	30/08/2019	16
2020	Suspected ML via bribery and corruption	01/09/2020	11/02/2020	11/02/2020	No responses	
	Suspected ML via fraud	17/10/2020	30/10/2020	30/10/2020	30/11/2020	4
2022	Suspected ML via bribery and corruption.	09/11/2022	17/11/2022	17/11/2022	01/04/2023	19
	Suspected ML via bribery and corruption.	09/11/2022	17/11/2022	17/11/2022	18/11/2022 & 27/03/2023	1 19
	Suspected ML via bribery and corruption.	22/11/2022	28/11/2022	28/11/2022	01/03/2023	13
	Suspected ML via bribery and corruption.	22/11/2022	28/11/2022	28/11/2022	08/12/2022, 09/02/2023 & 10/02/2023	1 10
	Suspected ML via bribery and corruption.	22/11/2022	28/11/2022	28/11/2022	18/05/2023	24
	Suspected ML via bribery and corruption.	22/11/2022	28/11/2022	28/11/2022	23/01/2023	8
	Suspected ML via bribery and corruption.	22/11/2022	28/11/2022	28/11/2022	12/01/2022 & 27/03/2023	6 17
	Suspected ML via bribery and corruption.	22/11/2022	28/11/2022	28/11/2022	28/06/2023 & 12/07/2023	30 32

**SAs:**



532. **The GSC** is a member of several regional and international bodies which allows it to easily seek and provide international cooperation relative to supervisory information from and to foreign counterparts. The foregoing includes but is not limited to, the Caribbean Group of Securities Regulators and the Council of Securities Regulators of the Americas. The GSC also has a pending application to become a member of the International Organisation of Securities Commissions. During the period 2018-2022, GSC made a total of eight (8) requests to foreign counterparts including requests for BO information.
533. **The BOG** has signed MOUs with the Reserve Bank of India and the Caribbean Group of Bank Supervisors (CGBS) to share general information. The Insurance and Pension Departments exchanged relevant information through supervisory colleagues with the regulators of the Caribbean branches of the Demerara Mutual Life Assurance Society Limited.
534. Information received from the Global Community indicated that two (2) requests for information were received from the BOG in 2020 and 2022. On both occasions the BOG and the foreign authority had ongoing discussions pertaining to the requests and there were no barriers to information sharing.

#### **Law Enforcement**

535. **The GPF** utilises its membership in various regional and international networks and bodies to facilitate requests for and provision of international cooperation amongst foreign LEAs. The GPF has been a member of The International Criminal Police Organisation (INTERPOL) since October 1986. Additionally, Guyana is a member of The Asset Recovery Inter-Agency Network for the Caribbean (ARIN-CARIB) and engages in informal international cooperation with liaison officers of foreign jurisdictions, the Association of Caribbean Commissioners of Police, the Royal Canadian Mountain Police, the FBI et al. Box 8.3 provides information on a matter whereby international cooperation was sought by an LEA (SOCU) in relation to an investigation. Additionally, Box 3.10 details a matter whereby SOCU sought international cooperation from a foreign jurisdiction in order to pursue MLA to confiscate the assets of a person, convicted in that foreign jurisdiction for the offence of conspiracy to violate Maritime Drug Enforcement laws, who held assets in Guyana.

#### **Box 8.3 - Case Study: Other forms of international cooperation sought by an LEA**

In September 2020, SOCU began an investigation in respect of a possible Conspiracy to Defraud the State via the selling of land owned by a state-owned company not in compliance with the company's SOP. The conspiracy involved three parties, JB, "A Group Inc" and "GH Inc". and JB, a PEP, used his authority to enable A Group Inc to acquire large portions of state land. Investigations revealed that A Group Inc was a shelf company since its incorporation in 2014 and only acquired a bank account upon engagement with the state-owned company in 2019. Leasehold interest to the land was then sold to GH Inc. and portions of the proceeds acquired by JB were transferred to various accounts, used in sales and payments to associates and third parties. On January 15, 2021 it was deemed necessary to seek international cooperation from other LEAs in various jurisdictions. Requests were sent to counterparts in eight (8) foreign jurisdictions on January 22, 2021. Initial responses were received from two (2) of the foreign counterparts requesting additional information, however, altogether, no information has been provided to SOCU.



#### 8.2.4. *Providing other forms international cooperation for AML/CFT purposes*

536. Similar to the mechanisms used by the CAs in Guyana to seek other forms of international cooperation, these mechanisms are also utilized to provide international cooperation, including spontaneously. International cooperation can be provided via bilateral and multilateral agreements, regional and international networks and diplomatic channels. Whilst detailed information was shared with the AT by the FIU of Guyana, little to no information was shared by the other CAs in Guyana on the provision of international cooperation in a timely and constructive manner.
537. **The FIU** of Guyana has signed numerous MOUs with other regional entities and is able to provide other forms of international cooperation for AML/CFT by virtue of Guyana being a member of regional and international networks and via legislative provisions on the basis of reciprocity with foreign FIUs (s.9(4) of the AML/CFT Act, 2009). For the period 2018 to 2022 the FIU of Guyana received thirty-three (33) requests and provided responses to thirty (30) of these. Most responses were provided within one (1) to three (3) months from the date of the request, which is deemed timely.
538. Upon providing responses to foreign counterparts, the FIU of Guyana attaches a feedback form. Eleven counterparts provided feedback for the period at hand which suggested that international cooperation by the FIU of Guyana is provided in a timely manner with constructive information. A total of six (6) spontaneous disclosures were also made during the period of 2018 to 2022. Information provided by the Global Community was highly positive indicating that the responses were of a good quality, with no reported issues or suggestions for improvement.
539. **GSC:** Prior to sharing information pursuant to bilateral and multilateral agreements or via various networks, the GSC's Internal Process and SOPs establish measures to be taken by the GSC to ensure that confidentiality would be maintained and that parameters are clearly set for sharing of information provided to foreign counterparts with third parties. Additionally, the SOP provides that a register shall be kept and maintained for all requests made to the Council. No feedback was provided in respect of the information shared. No information was provided by GSC on any requests for information from foreign counterparts. For the period 2018-2022, a total of three (3) spontaneous disclosures were made to foreign counterparts.
540. The GSC has developed an AML/CFT Strategy 2023-2026 which establishes measures for International and Regional Cooperation under Strategic Goal 2. This includes the aim to develop MOUs with 'sister regulators' both internationally and regionally, enhance relationships with international counterparts including cooperation and sharing of ideas to improve the regulatory and supervisory framework, the development of a register for all cooperation requests made through the appropriate channels, ensuring that there is feedback on the usefulness of the information shared between the CAs and SAs, and proper IT systems are in place to track the requests for assistance and follow up in a timely manner.
541. Generally, pursuant to s.76 of the AML/CFT Act, CAs in Guyana are required to take appropriate measures to cooperate with foreign CAs to aid on matters relating to all ML and TF

offences. Pursuant to S.76 (10) – (12) of the AMLCFT (Amendment) Act No.15 of 2023, by virtue of MOUs signed between the FIU of Guyana and foreign FIUs and being a member of regional organisations, CAs in Guyana can exchange information with non-counterparts to include information on issues related to VAs and VASPs (R.40.20). These provisions in Guyana, will facilitate the exchange of information relative to the prohibition of VAs/VASPs, which is considered a serious offence in Guyana.

#### ***8.2.5. International exchange of basic and beneficial ownership information of legal persons and arrangements***

542. REs in Guyana collect basic and BO information on legal persons and to a lesser extent, LAs. FIs and DNFBPs are required by law to obtain basic and BO information for customers that are legal persons when establishing a business relationship with those customers. CAs can access basic and BO information on legal persons and arrangements from FIs and DNFBPs in a timely manner.
543. The Commercial Registrar and SAs generally have access to basic and BO information on LPs and have the capacity to share same with foreign counterparts. Foreign authorities may also access such information via an application to the commercial registry.
544. However, no relevant information was provided by Guyana in relation to basic and BO information shared with foreign CAs and as such, the AT is unable to assess how well CA are providing and responding to foreign requests for basic and BO information.

## **Overall conclusions on IO.2**

545. Guyana has a legal basis to facilitate international cooperation with international counterparts, a Central Authority has been designated to facilitate such cooperation (the Minister of Home Affairs) and a simple case management is being utilized. However, international cooperation relative to MLAs and extradition being provided by Guyana are not timely. Additionally, the AT was unable to assess the quality and constructiveness of MLA and extradition sought from and provided by Guyana due to the limited information provided on the outcome of matters, coupled with the fact that feedback is not sought from or provided to foreign jurisdictions. In addition to the provisions in the Fugitive Offenders Act, Guyana has developed an SOP for extradition which provides that all extradition requests are time sensitive and are treated with urgency from all agencies involved. However, the prioritisation of matters is not clearly articulated in the SOP.
546. Notwithstanding the CMS implemented by the Treaty Officer for both extradition and MLA matters overall, statistics maintained did not reflect sufficient details in respect of international cooperation. Also, a proper and harmonised CMS is necessary to maintain and obtain relevant data.
547. During the period under review, the CAs in Guyana demonstrated the ability to provide timely responses to requests from its foreign counterparts. CAs such as the FIU of Guyana, AML/CFT supervisors and law enforcement authorities have also

demonstrated the ability to seek international cooperation in the conduct of their core functions and in ML investigations.

548. CAs in Guyana can provide foreign counterparts with basic and BO information in relation to LPs. However, technical compliance deficiencies in relation to LAs (the deficiencies in respect of R.25 cascade) make sharing of basic and BO information less possible.

549. In light of the foregoing, the AT concluded that IO.2 is achieved to some extent, with major improvements needed.

**Guyana is rated as having a Moderate level of effectiveness for IO.2.**

## Annex A TECHNICAL COMPLIANCE

This section provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

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 January 2010. This report is available from <https://www.cfatf-gafic.org/documents/cfatf-mutual-evaluation-reports/guyana-2/3-guyana-3rd-mer/file>.

### Recommendation 1 – Assessing risks and applying a risk-based approach

This is a new Recommendation and was therefore not assessed in the previous MER.

**Criterion 1.1** Guyana has identified and assessed its ML/TF risks through its National Risk Assessment (NRA) process. During the period 2016 to 2021 the country conducted two NRAs which included an overview of the factors which were contributing to Guyana’s ML/TF risks and the main offences that reportedly generated significant amounts of proceeds of crimes. Guyana’s obligation to identify and assess its money laundering/terrorist financing (ML/TF) risks is premised on Section 7A (6) (a) of the AML/CFT Act, 2009 as amended by the AMLCFT Amendment Act No. 17 of 2018.

Guyana’s assessment of its national ML and TF risks also included risk assessments of legal persons and arrangements, virtual assets and virtual asset service providers and the NPO sector as it pertains to TF. Guyana, at the time of the onsite was also in the process of completing its risk assessment of the extractive industries, in recognition of the inherent risks of this sector to Guyana.

In acknowledgement of the emerging risks associated with PF, Guyana included an assessment of its legal framework to counter PF in the second NRA, which has since been updated.

Guyana’s two NRAs entailed distinct components for the assessment of the country TF risks. Notwithstanding, the methodology used across the two assessments varied and there was a limited range of qualitative and quantitative information utilized in the TF assessments. These factors could have impacted the veracity of Guyana’s TF identification. Additionally, there were challenges in the collection of data during the 2021 NRA from attorneys-at-law, accountants and real estate agents which may have resulted in a less comprehensive understanding of the ML and TF risks associated with these DNFBP sectors.

**Criterion 1.2** Guyana established the Anti-Money Laundering and Countering the Financing of Terrorism and Proliferation Financing National Coordination Committee (the NCC) and assigned it the responsibility for *inter alia* developing the national AML/CFT/CPF policies informed by the risks identified. The NCC also has co-ordination functions and is responsible for ensuring that mechanisms are in place to facilitate the operation and where appropriate, co-ordination among policy makers (*section 7A (6) (a) of the AML/CFT Act, 2009, as amended by the AMLCFT Amendment Act No. 17 of 2018*). Section 7A (6) (b) of the principal Act has been amended, pursuant

to the AML/CFT Amendment Act, 2023 to specifically include the coordination of actions to assess risks.

**Criterion 1.3** The conduct of the NRAs in 2017 and 2021 evidenced that Guyana has kept its risk assessments up-to-date. This action is bolstered at the policy level by the March 2023 Cabinet approved AML/CFT/CPF National Policy and Strategy for combatting ML/TF/PF, which details a commitment towards keeping the country's risk assessment up-to-date, by assessing its risk every three years.

**Criterion 1.4** Guyana's NRAs (2017 and 2021) are public documents, and the results are available to all CAs, FIs and DNFBPs. Both NRA Reports, as well as an Executive Summary of the 2021 NRA, are available on the FIU of Guyana's website at <https://fiu.gov.gy/risk-assessments/> for the benefit of both public and private sector institutions. The public was also informed of the completion of Guyana's NRA via newspaper articles which outlined the composition of the NRA working group, the areas assessed, recommendations made by the working group and measures taken to date to implement recommended actions. The NRA reports were shared with all heads of agencies, including the supervisory, bodies who were responsible for disseminating to their respective REs.

**Criterion 1.5** The Government of Guyana has committed, through its National Policy and Strategy for Combating Money Laundering, Terrorism Financing, and the Financing of Proliferation 2021 – 2025 (the National Policy), to allocate and prioritize resources based on the risks identified. The National Policy is a five-year plan that aims to enhance and improve Guyana's AML/CFT/PF regime by addressing the risks identified in the country's second NRA Report and implement the strategy in conjunction with Guyana's RBAP. Strategic objectives 2, 3 and 5, which are respectively aimed at: strengthening the AML/CFT/CPF legislative framework; strengthening and clarifying the AML/CFT/CPF supervisory framework; and enhancing investigations and prosecutions, have deliverable action items premised on the allocation of resources. Guyana's Risk-Based Action Plan plots out in detail, albeit at a high level, the resources which are to be made available to all CAs. Additionally, information submitted demonstrates that Guyana has allocated resources in accordance to the risks identified in the NRAs such as inter alia, the increase in personnel at SOCU, the establishment of a national counter-terrorism department with the GPF, increased AML/CFT/CPF training across all sectors, the enactment of the Compliance Commission Act for the AML/CFT regulation and supervision of certain sectors of the DNFBP and the reform of the BO registry for the collection and retention of BO information.

**Criterion 1.6** Guyana does not have exemptions from FATF Recommendations.

**Criterion 1.7 (a)** Guyana requires FIs and DNFBPs to conduct enhanced due diligence measures that are consistent with identified high risk (section 17(6) of the AML/CFT Act, 2009, as amended by the AML/CFT Amendment Act No. 17 of 2018). **(b)** There are no provisions requiring FIs and DNFBPs to ensure that this information is incorporated into their risk assessments, however this is presented as an alternative option if 1.7 (a) has not been satisfied, which in Guyana's case it has.

**Criterion 1.8** Guyana allows FIs and DNFBPs to apply simplified due diligence measures based on an assessment of the risks presented by the type of customer, business relationship or transactions or authorities. This action is predicated on the 'Minister' making the appropriate regulations. The applicable measures (section 17 (1) of the AML/CFT Act, 2009) do not prescribe the need for such action to be hinged to the country's assessment of its ML/TF risks, which is required by this sub-criterion. The amendment to section 17 (1) of the AML/CFT Amendment Bill, 2023 includes the

NRA as one factor to be considered to permit simplified measures, however the alternative option of activities has not been defined, to make reference to or include other risk assessments.

**Criterion 1.9** Supervisors are required to ensure that FIs and DNFBPs are implementing their obligations under R.1 (section 22 AML/CFT Act, 2009, as amended by the AMLCFT Amendment Act No. 17 of 2018). See analysis of R.26 and R.28 for more information. The supervision obligation includes taking the necessary action to ensure compliance with the AML/CFT Act, including their risk-based compliance obligations (section 19(e) AML/CFT Act, 2009, as amended by the AMLCFT Amendment Act No. 17 of 2018).

**Criterion 1.10** Generally, FIs and DNFBPs are required to take appropriate steps to identify and assess the money laundering or terrorist financing risks Section 19(e) of the AML/CFT Act, 2009, as amended by the AML/CFT Amendment Act No. 17 of 2018). The specificity of the risk factors (customers, countries or geographic areas; and products, services, transactions or delivery channels) are detailed in Bank of Guyana Supervision Guidelines No. 13, with respect to FIs, and the FIU of Guyana Guidelines, with respect to DNFBPs and those entities which are not considered either a FIs or a DNFBPs (page 21 of the FIU of Guyana's AML/CFT Handbook). (a) Section 16 of the Principal Act has been amended pursuant to section (6) (B) (a) and (b) of the AML/CFT Amendment Bill, 2023 to require all REs to document their risk assessments. (b) FIs (section 3.2 of the Bank of Guyana Supervision Guidelines No. 13) and DNFBPs and those entities which are not considered either a FIs or a DNFBPs (page 21 of the FIU of Guyana's AML/CFT Handbook) are bound to consider all relevant risk factors before determining what level of overall risk and the appropriate level and type of mitigation to be applied. (c) Section 16 of the Principal Act has been amended pursuant to section (6) (B) (b) to require all REs to keep their risk assessments up to date. (d) DNFBPs and those entities which are not considered either a FIs or a DNFBPs are required to have appropriate mechanisms to provide risk assessment information to CAs and SAs (page 21 FIU of Guyana's AML/CFT Handbook). However, this obligation does not apply to FIs.

**Criterion 1.11** (a) Whilst the new section 16 (6) B of the AML/CFT (Amendment) Act, 2023 requires a RE to have risk mitigation mechanisms that considers a country or entity's risk assessment it does not mandate that this be approved by senior management. DNFBPs are required to have policies, controls and procedures, which are approved by senior management, to enable the management and mitigation of their identified risks (page 21 of the FIU of Guyana's AML/CFT Handbook). (b) DNFBPs and those entities which are not considered either FIs or DNFBPs are required to monitor the implementation of the controls and enhance them if necessary (page 21 of the FIU's AML/CFT Handbook). 3.5 of the BOG Supervision guidelines, requires the CO to monitor compliance with the FI's internal AML/CFT programme (which includes controls) and take corrective action to address any deficiencies. Furthermore, GSC guideline satisfies this sub-criterion. (c) FIs and DNFBPs are required to take enhanced measures to manage and mitigate the risks where higher risks are identified (section 16 (6) of the AML/CFT Act, 2009, as amended by the AML/CFT Amendment Act No. 17 of 2018).

**Criterion 1.12** In Guyana, there are no measures which permit the application of simplified measures to manage and mitigate risks, only if lower risks have been identified, and criteria 1.9 to 1.11 are met. However, simplified measures are not permitted whenever there is a suspicion of ML/TF (section 17(2) of the AML/CFT Act, 2009).

### ***Weighting and Conclusion***

Guyana completed National Risk Assessments in 2017 and 2021, using the World Bank methodology and has demonstrated a commitment to ensuring that risk assessments are kept to up-to-date. Sectoral risk assessments of the NPO sector for TF, Legal Persons and Arrangements, and Virtual Assets/Virtual Asset Service Providers have also been conducted. Guyana is also in the process of completing a sectoral risk assessment of the Extractive Industries in recognition of its risks given the emergence of the oil and gas sectors. Results of risk assessments are shared with all relevant competent bodies, along with FIs and DNFPBs. Guyana has also demonstrated that it has allocated resources to where the greatest risks have been identified. However, deficiencies to note include gaps in legislation concerning FIs and their obligations on having and implementing approved policies, controls and procedures to manage identified risks, as well as the subsequent monitoring of those controls. Furthermore, there is no requirement for the application of simplified measures to be consistent with the country's risk assessment. **Recommendation 1 is rated Largely Compliant.**

### **Recommendation 2 - National Cooperation and Coordination**

This Recommendation, formerly R.31, was rated 'NC' in the 3<sup>rd</sup> Round MER. The deficiencies cited were that there was no structured co-ordination and co-operation between the policy makers, the FIU, law enforcement and supervisors and other agencies concerning the development and implementation of policies and activities to combat ML and TF. Further to a revision of the FATF Standards, R.2 requires compatibility of AML/CFT requirements and data protection, and privacy rules and that mechanisms be in place to enable co-operation, co-ordination and exchange of information domestically concerning AML/CFT policies.

**Criterion 2.1** Guyana has a *National Policy and Strategy for Combating Money Laundering, Terrorism Financing, and the Financing of Proliferation 2021 – 2025* (national AML/CFT policy) which is informed by the risks identified in the 2021 NRA. Guyana has conducted two assessments in the last four years, with the most recent being completed in 2021. The National Policy and Strategy provides for a triennial review. Additionally, pursuant to section 7A(6) of the AML/CFT Act, the functions of the NCC includes developing and regularly reviewing national AML/CFT/CPF policies informed by risks identified.

**Criterion 2.2** The NCC, established under section 7A (1) of the AML/CFT Act, 2009, as amended by the AML/CFT Amendment Act No. 17 of 2018, is responsible for co-ordinating the national AML/CFT policies (section 7A 6(a)-(f) of the AML/CFT Act, 2009, as amended by the AML/CFT Amendment Act No. 17 of 2018).

**Criterion 2.3** Guyana has mechanisms in place to cooperate, coordinate and exchange information for the development and implementation of AML/CFT policies, both at the policy making and operational levels. Through the NCC, CAs co-operate and exchange information with each other. This mechanism is underpinned at the policy level by section 7A (6) of the AML/CFT Act, 2009, as amended by the AML/CFT Amendment Act No. 17 of 2018. At the operational level, the mechanism is underpinned by section 22(2)(c) of the AML/CFT Act, 2009 and MOUs are in place between and among the CAs.



**Criterion 2.4** The co-operation and co-ordination mechanisms in place in Guyana equally and wholly apply to combat the financing of weapons of mass destruction (the analyses of the criteria under R.2 refers).

**Criterion 2.5** The AML/CFT Act, particularly section 7A, makes provision for the key AML/CFT CAs to co-operate and co-ordinate on AML/CFT matters via the establishment of the NCC and further, provides for the establishment of mechanisms for co-operation and co-ordination by key entities in the fulfilment of the NCC's functions. There are no data protection and privacy rules and other similar provisions that would inhibit the ability of CAs to co-operate, co-ordinate and share information with each other where necessary.

### ***Weighting and Conclusion***

**Recommendation 2 is rated Compliant.**

## **Recommendation 3 - Money laundering offence**

R. 3 (formerly R. 1 and 2) were previously rated 'PC' and 'LC' respectively, with the deficiencies including that ML offences in the AML/CFT Act were not consistent with the requirements of the Vienna and the Palermo Convention; illicit trafficking in stolen and other goods and smuggling were not criminalized as a serious offence and were therefore not predicate offences to ML.

The two deficiencies in the previous legislative framework have been addressed by the amendments to the AML/CFT Act of 2009, enactment of the AML/CFTAA No. 1 of 2015 and provisions in the Criminal Law (Offences) Act Cap 8:01.

**Criterion 3.1** Guyana has criminalized ML pursuant to section 3(1) of the AML/CFT Act of 2009 (as amended by Act No. 1 of 2015). The amendment inserted sec.3(1)(cA) which criminalized assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions. The definition of 'property' is provided by section 2 (1) (d) of AML/CFT (Amendment) Act No. 1 of 2015.

**Criterion 3.2** Predicate offences for ML cover all serious offences. The offence of ML is applicable to offences under section 2(1) of the AML/CFT Act of 2009, as amended by sec. 2 of Amendment No. 1 of 2015. Sec. 3(5) of the AML/CFT Act defines a predicate offence as a serious offence. The term serious offence is defined using a combined approach and includes offences punishable by death, life imprisonment, or imprisonment of six (6) months or more. ML predicates are also listed in the Second Schedule of AML/CFT Act, which incorporates all the FATF designated categories of offences.

**Criterion 3.3** Guyana defines predicate offences using a combined approach and includes all offences that fall within the category of serious offences (sec.3(5) of the AML/CFT Act) as listed in the 2<sup>nd</sup> Schedule and are punishable by a minimum penalty of more than six months' imprisonment (sec.2 AML/CFT Act).

**Criterion 3.4** Sec. 2 of the AML/CFT Act, 2009 defines proceeds of crime as property derived or realized directly or indirectly from a serious offence. The ML offences of sec. 3 (1) of the AML/CFT Act, 2009 (as amended) extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime. There is no limitation on the value of the property.



**Criterion 3.5** Section 3 (4) of the AML/CFT Act, 2009 stipulates that it is not necessary for any person to be convicted of a serious offence to prove that property is the proceeds of crime. It suffices that the property being dealt with represents the proceeds of crime.

**Criterion 3.6** Proceeds of crime is defined in sec.2 of the AML/CFT Act as any property derived or realized directly or indirectly from a serious offence. The definition of serious offences in sec.2(c) of the AML/CFT Act includes offences that occurred in another country, and which would have constituted a serious offence had it occurred domestically for which the maximum penalty is death, or imprisonment for life or other deprivation of liberty for a period of not less than six months and includes money laundering and terrorist financing. This includes a wide range of foreign predicate offences.

**Criterion 3.7** Pursuant to sec.3(5) of the AML/CFT Act, the ML offence also applies to persons who commit the predicate offence.

**Criterion 3.8** In Guyana, it is possible for the intent and knowledge required to prove the ML offence to be inferred from objective factual circumstances (s.3(3) AMLCFT Act).

**Criterion 3.9** Sec. 2 of the Amendment No. 21 of 2017 of the AML/CFT Act, created specific criminal sanctions for natural persons who commit ML offences. Sec.3(6)(a) of the AML/CFT Act stipulates that upon summary conviction, a natural person shall be liable to a fine of not less than GUY5m (USD23,564) nor more than GUY100m (USD471,288) and to imprisonment for seven years; or on conviction on indictment, to a fine of not less than GUY10m (USD47,128) nor more than GUY120m (USD565,545) and to imprisonment for ten years.

**Criterion 3.10** Criminal liability and sanctions do apply to legal persons. Persons as defined in sec.2 of the AML/CFT Act includes legal persons. More specifically, amendments made pursuant to Act No. 21 of 2017 created specific sanctions at sec.3(1)(6)(b) of the AML/CFT Law for a body corporate who commits an ML offence. A body corporate on summary conviction is liable to a fine not less than GUY\$200m (USD0.95m) and not exceeding GUY\$5000m (USD2.4m). On conviction on indictment a body corporate is liable to a fine of not less than GUY\$220m (USD1.04M) nor more than GUY\$520m (USD2.5m). This liability and sanctions do not preclude parallel civil or administrative liability (s.3(1)(7)). However, no information was provided to determine whether the sanctions are in line with those that are available for other similar types of serious offences.

**Criterion 3.11** Sec..3(1)(d) of the AML/CFT Law criminalizes the full range of ancillary offences to the ML offences. Additionally, an amendment made pursuant to Act No.1 of 2015 inserted subsection 3(1)(A) which also makes it an offence to assist any person involved in a ML offence to evade the legal consequences.

### ***Weighting and Conclusion***

**Recommendation 3 is rated Compliant.**

## **Recommendation 4 - Confiscation and provisional measures**

Guyana was rated 'PC' for R.4 (formerly R.3) in its 3<sup>rd</sup> round MER. The deficiencies were that 1) the definition of property liable for confiscation did not include assets of every kind, whether tangible or intangible, or indirect proceeds of crime including income, profits or other benefits from proceeds of crime or property held by third persons; and 2) there was an inability to assess the

effectiveness since there has been no restraint, forfeiture or production orders or search warrants granted under the AML/CFTA due to its recent enactment.

R. 4 now requires countries to also have mechanisms for managing and disposing (when necessary) of property that was frozen, seized or confiscated.

**Criterion 4.1** – Guyana has measures enabling it to confiscate property whether held by criminal defendants or by third parties. **(a) & (b)** In Guyana, ‘tainted’<sup>10</sup> property can be forfeited under the criminal (sec. 46 of the AML/CFT Act, 2009), or civil regime (sec. 82 of the AML/CFT Act). In addition to these measures, forfeiture is permitted under several other miscellaneous provisions e.g., sec. 200 of the Customs Act; secs.8(2) – 8(4) of the Narcotics Act; sec. 35 of the Narcotics Act; sec. 40 of the Cybercrime Act No. 16 of 2018; sec. 11 of the Hijacking and Piracy Act; section 7 of the Combatting Trafficking in Persons Act; and section 79 of the Wildlife Conservation Management Act. **(c)** sec. 74 (1) of the AML/CFT Act, 2009 permits the forfeiture of terrorist property<sup>11</sup>. **(d)** Property of corresponding value is addressed through sec. 51 AML/CFT Act, 2009. At the point of making a forfeiture order the Court may specify the amount that it considers to be the value of property and where the Court is satisfied that the property or any part of it or interest in it cannot be forfeited, the Court may order the person to pay to the State an amount equal to the value of the property, part or interest. Further, section 46.3 states where the Court orders that property, other than money, be forfeited, the Court shall specify in the order the amount that it considers to be the value of the property at the time when the order is made.

**Criterion 4.2** - Guyana has measures enabling CAs to: **(a)** Identify, trace and evaluate property that is subject to confiscation through production orders (sec. 24 of the AML/CFT Act) as well as powers of search and seizure (secs. 28-30 of the AML/CFT Act) and monitoring orders (sec. 31 of the AML/CFT Act). **(b)** Restrain realisable property held by an accused (whether the accused has been convicted of a serious offence or has been charged or is about to be charged with or is being investigated for a serious offence) or specified realisable property held by anyone else (sec.38 of the AML/CFT Act). **(c)** Sec. 48 of the AML/CFT Act provides for voidable transfers. Before making a forfeiture order and in the case of property in respect of restraining order was made, where the order was served, set aside any conveyance or transfer of the property that occurred after the seizure of the property or the service of the restraining order, unless the conveyance or transfer was made for valuable consideration to a person acting in good faith and without notice. **(d)** Other appropriate investigative measures are applicable see analysis for R.31.

**Criterion 4.3** - Sec. 65 of the AML/CFT Act provides for the protection of *bona fide* third parties against the application of measures pursuant to sections 38 to 64 (freezing and forfeiture of assets in relation to money laundering).

**Criterion 4.4** - The mechanism for managing tainted property that is restrained, is vested in the Court, which, through a request from the DPP, can direct the Registrar of Deeds, Public Trustee, Official Receiver, or another person appointed by the Court, to take custody of the property to

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<sup>10</sup> Any property used in or intended for use in connection with the commission of a serious offence; or any property derived, obtained or realised as a result of or in connection with the commission of a serious offence.

<sup>11</sup> “Terrorist property” means— (a) proceeds from the commission of terrorism; (b) money or other property which has been, or is likely to be used to commit terrorism; or (c) money or other property which has been, is being, or is likely to be used by a terrorist group.

manage or otherwise deal with it (sec. 39 (f) (i) & (ii) of the AML/CFT Act). These obligations include the ability to take possession and control of tainted property held by any person. For property that is subject to a civil forfeiture order, a receiver, or such other person appointed by the Court may sell or otherwise dispose of any property transferred to him, at the direction of the Court (secs 82(1) and (5)).

### ***Weighting and Conclusion***

**Recommendation 4 is rated Compliant.**

## **Recommendation 5 - Terrorist financing offence**

Guyana was Partially Compliant with the requirements of this Recommendation during the 3<sup>rd</sup> Round of Mutual Evaluations. According to the 2011 MER, the definition of "property" was not in line with the TF Convention's definition of "funds", the TF offence was not applicable regardless of the location of the offender relative to the terrorist, terrorist organisation or the terrorist act, and the impossibility to assess the implementation of the AML/CFT Act. Since the last MER, Guyana amended the AML/CFT Act in 2015 and 2016 to address the technical deficiencies found. In February 2016, the FATF amended R.5 to require countries to criminalise the financing of travel for terrorist purposes.

**Criterion 5.1** – The TF offence is set out in section 68 of the AML/CFT Act. Section 68(1) criminalizes TF on the basis of Article 2 of the TF Convention and provides for the commission of an offence where any person by any means directly or indirectly, wilfully provides or collects funds or other property, with the intention that they should be used or in the knowledge that they are to be used in whole or in part to carry out offences as specified within Art. 2 of the TF Convention. The definition of “property” in the AML/CFT Act includes money and other assets and covers the assets referred to in the definition of “funds” in the TF Convention. All treaties included in the Annex of the TF Convention are captured by sec.68(1)(a) of the AML/CFT Act. Additionally, the attempt to commit the TF offence and the ancillary offences of participating are provided for in Art. 2(4) and (5) are also covered in sections 68(3), 69 and 70 of the AML/CFT Act.

**Criterion 5.2** – Section 68(1) of the AML/CFT Act extends the TF offence to any person who wilfully provides or collects funds, property or other assets by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part: (a) to carry out a terrorist act(s) and (b) by a terrorist organisation or by an individual terrorist, even in the absence of a link to a specific terrorist act or acts.

**Criterion 5.2<sup>bis</sup>** – Section 68(1)(e) of the AML/CFT Act makes it an offence to finance the travel of individuals who travel to a country other than their country of residence or nationality for the purpose of perpetrating, planning, or preparing or participating in, terrorist acts or providing or receiving terrorist training.

**Criterion 5.3** – The joint reading of sections 2(g) and 68 of the AML/CFT Act extend the TF offence to any funds or property whether from a legitimate or illegitimate source.

**Criterion 5.4** – Section 68(2) of the AML/CFT Act provides that the TF offence is committed whether or not the funds or other assets or property: (a) were actually used to carry out or attempt a terrorist act(s); or (b) be linked to a specific terrorist act(s).

**Criterion 5.5** – According to section 68(4) of the AML/CFT Act, it is possible for the intent and knowledge required to prove the TF offence to be inferred from objective factual circumstances.

**Criterion 5.6** – The sanction applicable to TF is dependent on whether the provision or collection of funds or property resulted in the death of any person. In such a case, natural persons convicted of TF can be sentenced to a fine of not less than GUY\$1,500,000 (USD\$7,089) together with a death penalty. In any other case, individuals are subject to a fine of not less than GUY\$500,000 (USD\$2,363) and 10-15 years of imprisonment.

The fines applicable upon conviction of a natural person, despite being the minimum prescribed fine, is lower than applicable minimum fines for other financial crimes of a similar nature such as ML which is a minimum fine of GUY\$5,000,000 (USD\$2,363) and maximum of GUY\$100,000,000 (USD\$472,591) on summary conviction or to a minimum of GUY\$10,000,000 (USD\$47,259) and maximum of GUY\$120,000,000 (USD\$568,198) on conviction on indictment. The periods of imprisonment are however proportionate.

In light of the foregoing, the combined sanctions when compared to other similar financial offences appear to be proportionate and dissuasive. Whilst the minimum prescribed fine appears lower than the minimum prescribed fine of other similar financial offences, it should be noted that the prescribed fine is the minimum fine applicable, no maximum has been prescribed and as such, it is within the discretion of the Judge to prescribe a fine which, taking all things into consideration is effective, proportionate and dissuasive.

**Criterion 5.7** – Section 68(5)(b) of the AML/CFT Act provides that bodies corporate (includes legal or juridical persons, all legal persons and arrangements) which commit TF are subject to a fine of not less than GUY\$1,500,000 (USD\$7,089). The prescribed fine is the minimum fine applicable and as such, it is within the discretion of the Judge to prescribe the value of the fine which allows for the application of proportionate and dissuasive sanctions. In addition, this sanction is comparable to that available for bodies corporate that commit ML, which are subject to a fine of not less than GUY\$2,000,000 (USD\$9,452).

**Criterion 5.8** – In Guyana, it is also an offence to: (a) attempt to commit the TF offence; (b) participate as an accomplice in a TF offence or attempted offence; (c) organise or direct others to commit a TF offence or attempted offence and (d) conspire to commit a TF offence, pursuant to sections 68(3), 69 and 70 of the AML/CFT Act.

**Criterion 5.9** – “Terrorism, which includes Terrorist Financing” is contained in the Second Schedule of the AML/CFT Act and constitutes a ‘serious offence’. Additionally, Sec.3(5) of the AML/CFT Act provides that for the purposes of the Act, the offence of ML can be committed by a person who commits a serious offence. TF offences are therefore predicate offences.

**Criterion 5.10** – Section 68(2) of the AML/CFT Act provides that an offence is committed whether or not the funds or other assets or property were actually used to carry out or attempt a terrorist act or linked to a specific terrorist act and regardless of whether the person alleged to have committed the offence is in the same country, or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or may occur.

### ***Weighting and Conclusion***

**Recommendation 5 is rated Compliant.**

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

Guyana was non-compliant with the requirements of this Recommendation in its 3<sup>rd</sup> Round MER. The report indicated that there were no provisions to implement UNSCRs 1267 (1999) and 1373 (2001), no guidance had been issued for FIs concerning the implementation of freezing mechanisms, and the AML/CFT Act had not been implemented to freeze, seize or forfeit funds linked to terrorism. By 2016, Guyana addressed the technical deficiencies with amendments to the AML/CFT Act and the AML/CFT Regulations, and by issuing guidelines to FIs.

**Criterion 6.1** – In relation to designations pursuant to United Nations Security Council 1267/1989/2253 and 1988 sanctions regimes: **(a)** Reg. 11 of the AML/CFT Regulations No. 4/2015 provides for the Director of the FIU as the CA with responsibility for proposing persons and entities to the United Nations Security Council 1267/1989/2253 and 1988 Committees. **(b)** The NCC sub-working group on law enforcement issues has been established and acts as a mechanism for the identification of targets for designation based on the designation criteria set out in the relevant UNSCRs. **(c)** an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” is applied when deciding whether to make a proposal for designation (Reg. 12 AML/CFT Regulations No. 4/2015) **(d)** Reg. 12(2) of the AML/CFT Regulations No. 4/2015 provides that the Director shall follow the procedures and standard listing forms, as adopted by the UNSCR 1267/1989/2253 Committee or 1988 Committee when making proposals to the UNSCR 1267/1989/2253 and 1988 Committees. **(e)** Reg. 11(a) and (b) of the AML/CFT Regulations No. 4/ 2015, in establishing the responsibility and criteria for proposals for designation to the relevant UNSC Sanctions Committees, includes the element of “sufficient evidence to support the designation criteria”. Reg. 12, as amended in 2023, further establishes that the Director shall, when making proposals under Reg. 11 (a) and (b), provide as much relevant information as possible on the proposed name, a statement of case and in the case of proposing names to the UNSCR 1267/1989 Committee, indicate whether Guyana’s status as a designating state may be made known.

**Criterion 6.2** – In relation to designations pursuant to UNSCR 1373(2001): **(a)** section 2(2) of the AML/CFT Act identifies the Minister responsible for Finance as the CA having responsibility for designating persons or entities that meet the specific criteria for designation, as set forth in UNSCR 1373 (2001). **(b)** The NCC sub-working group on law enforcement issues has been established and acts as a mechanism for the identification of targets for designation. Further, section 2(2)(1)(A) of the AML/CFT Act provides that where the Director of the FIU, upon receiving a request for designation from another jurisdiction, is satisfied that there are reasonable grounds to believe that the proposed individual or entity meets the requirements for designation pursuant to UNSCR 1373(2001), a recommendation will be made to the Minister of Finance for designation. Guyana has provided that where a request for designation is received from another jurisdiction, a collaborative approach to coordinate the necessary actions is initiated, meetings/consultations are held with all the relevant CAs (AG/DPP/MOF & FIU), the documents submitted by the requesting country are reviewed to determine whether the designation criteria is met, relevant investigations are carried out and a decision is made as to whether Guyana will give effect to the request from the other jurisdictions in relation to actions initiated under that country’s freezing mechanism pursuant to UNSCR 1373 (2001). Further, Guyana has developed Guidance and Procedures of the NCC Subcommittee on Law Enforcement Issues related to TFS-TF and TFS-PF (NCC LEI Guidance and

Procedures) dated August 2023, which sets out the steps to be taken by the NCC sub-working group on law enforcement issues in the identification of targets and in the capacity of lending support to the Director of the FIU; (c) Section 2(2)(1)(A) of the AML/CFT Act provides that the Director of the FIU, upon receiving a request for designation from another jurisdiction, must determine whether he is satisfied that there are reasonable grounds to believe that the proposed individual or entity meets the requirements for designation pursuant to UNSCR 1373(2001) and where so satisfied, shall recommend to the Minister of Finance, without delay and without notice, that an order be made to designate that individual or entity. The process for making that determination and the support lent to the Director of the FIU in so doing, is set out in the NCC LEI Guidance and Procedures. Section 2(2)(1)B of the AML/CFT Act further provides that the Minister of Finance shall make a prompt determination of whether he is satisfied that an order should be made based on the recommendation of the Director of the FIU; (d) Section 2(2) of the AML/CFT Act establishes an evidentiary standard of proof of “reasonable grounds to believe” when determining whether there is sufficient evidence to support a designation, irrespective of whether the proposed designation is being put forward on the country’s own motion pursuant to section 2(2)(1) or at the request of another country pursuant to section 2(2)(1)(A). Proposals for designations are not conditional upon the existence of criminal proceedings; and (e) Reg. 11(c) of the AML/CFT Regulations No. 4/ 2015 provides that the Director of the FIU shall be responsible for requesting another country to give effect to any action initiated under the freezing mechanisms that have been implemented pursuant to UNSCR 1373 (2001) and provide as much as possible, identifying information, and specific information supporting the designation. Additionally, Reg. 12(3) provides that the Director, when making requests under Regulation 11 (c), shall provide as much relevant information as possible on the proposed name and a statement of case.

**Criterion 6.3 – (a)** Paragraph 6 of the NCC LEI Guidance and Procedures provides that the Director of the FIU shall employ procedures and mechanisms to collect or solicit as much information as possible to identify persons that would meet the relevant criteria for designation to the relevant UNSCR Committee. Additionally, the NCC sub-working group on law enforcement issues, pursuant to paragraph 2, is responsible for supporting the Director of the FIU by way of providing information or by a Designation Impact Assessment for their recommendation for designation. Additionally, pursuant to section 75E(a) of the AML/CFT Act, the Minister of Finance may issue a directive to any person if FATF or CFATF has advised that measures should be taken in relation to a country due to ML/TF Risks posed by that jurisdiction. Section 75E(b) of the AML/CFT Act provides that the Minister of Finance may issue a directive to any person if he reasonably believes that there is a risk that TF activities are being carried out and poses a significant risk to the national interests of Guyana. Whilst, the mechanism pursuant to s.75E (a) and (b) can be used to collect or solicit information for the purposes of TFS-TF, this would only be applicable upon issuance of advice by FATF or CFATF or in the case of ss.(b) when the individual or entity is assessed as posing a significant risk to the national interests of Guyana; and **(b)** There is no legal authority or other documented provision which prohibits the Minister responsible for Finance to operate ex parte when designating individuals or entities.

**Criterion 6.4 –** In the case of the 1267 and 1988 Sanctions Regimes, the obligation to take action without delay in Guyana is triggered by the publication of the list of designated persons and entities on the FIU’s website, according to Regulation 3 of the AML/CFT Regulations. Pursuant to section 68A(3B)(a) of the AML/CFT Act, where a person or entity has determined that they are in possession or control of property, funds or other assets referred to in section 68A(3) and (3A), they

shall, without prior notice and without delay, freeze all the property held by it in relation to the listed person or entity. Whilst the property referred to in s.68(3) covers funds and other assets “owned or controlled by or on behalf of” all persons and entities designated pursuant to the 1267, 1988 and 1373 sanctions regimes by reference to the defined term “listed entity”, s.68A(3A) covers the wider subset of funds or other assets owned or controlled, wholly or jointly by a “designated person or entity”, funds or other assets derived or generated from such funds or other assets owned or controlled, directly or indirectly by a “designated person or entity”, and funds and other assets of those acting on behalf of, at the direction of or in association with a “designated person or entity”. However, it is noted that in respect of the “asset freeze”, section 68A(3A) references the term “designated person or entity” to define property to which section 68A(3B) applies. S.68A(1) defines the term “listed person or entity” and at other parts of the legislation the term “specified person or entity” is used. It is therefore not clear whether “designated person or entity” is intended to or is able to cover all individuals and entities on the UNSCR 1267 and 1988 sanctions lists. Further, the AT is of the view that despite the term “freeze” being used in section 68A(3B), this subsection on its own, amounts to a prohibition and not an asset freeze as required by the Standards; section 68A in its totality sets out the asset freezing mechanism, however, it does not take effect without delay.

Once a person or entity identifies that they are in possession or control of such property they are required to report same to the Director of the FIU who shall determine whether the person or entity is in fact designated on the UNSCR 1267 Sanctions List or on the domestic list. Where such is determined to be the case, the Director of the FIU shall immediately give directions to the person or entity who is in control of or possession of the property and notify the DPP, providing all information. The DPP shall then immediately but no later than 5 days apply ex parte to a judge in Chambers for a freezing order. The procedure is further outlined at Reg. 3 to 6 of the AML/CFT Regulations.

Targeted Financial Sanctions pursuant to s.68A of the AML/CFT Act does not extend in its totality to entities or individuals designated by the UNSCR 1988 Committee-. S.68A(5) specifically provides for the verification by the Director of the FIU of names on the UNSCR 1267 Sanctions List and those designated pursuant to UNSCR 1373 (2001). It is only via this verification process that an application is made by the DPP to have the assets frozen.

In respect of UNSCR 1373 (2001), the obligation to take action without delay by a designation at the national level is triggered by an order of the Minister with responsibility for Finance declaring that a person or entity is a designated person or entity as put forward either on the country’s own motion or at the request of another country, as set out in section 2(2) of the AML/CFT Act. Pursuant to Reg. 4 of the AML/CFT Regulations, the Director of the FIU shall publish on the FIU’s website, the names of persons or entities designated pursuant to UNSCR 1373 (2001) and notify FIs and DNFBPs through their respective SA of the publication of those lists and any changes thereto. Reg. 4 to 6 of the AML/CFT Regulations and s.68A set out the procedure for the asset freeze and as with UNSCR 1267 and 1988 designations, the procedure does not allow for the implementation of TFS without delay. However, section 2(2)(2A) of the AML/CFT Act also provides, where the Minister of Finance makes an order, designating a person or entity as a specified person or entity pursuant to UNSCR 1373(2001), the DPP shall, at the same time apply to a Judge for an order to freeze funds and other assets of the specified person or entity.

Further to the foregoing, section 75C(2) of the AML/CFT Act provides that where an individual or entity is designated pursuant to UNSCR 1373 (2001) or is on the UNSCR 1267 or 1988 Sanctions

Lists, the DPP shall at the same time apply to a Judge for an order to freeze their property, where such property is situated in Guyana.

Guyana has submitted that the freezing actions pursuant to section 2(2)(2A) and 75C(2) of the AML/CFT Act would take place immediately after an individual or entity is designated by the UNSCR 1267 or 1988 Committees or pursuant to UNSCR 1373 (2001), domestically. The freezing action at section 68A of the AML/CFT Act on the other hand, is intended to be implemented where a person or entity reports to the Director of the FIU that they are in possession or control of property of an individual or entity on the UNSCR 1267 Sanctions List or the domestic list.

The FIU of Guyana also began issuing public notices on the FIU's website addressed to all natural and legal persons on their freezing obligations.

**Criterion 6.5 – (a)** Pursuant to section 68A(3B)(a) of the AML/CFT Act, all persons or entities who are in possession or control of property, funds or other assets referred to in section 68A(3) and (3A), shall, without prior notice and without delay, freeze all the property held by it in relation to the listed person or entity. However, it is noted that in respect of the asset freeze, section 68A(3A) references the term “designated person or entity” to define property to which section 68A(3B) applies. S.68A(1) defines the term “listed person or entity” and at other parts of the legislation the term “specified person or entity” is used. It is therefore not clear whether “designated person or entity” is intended to or is able to cover all individuals and entities designated domestically as well as those on the UNSC 1267 and 1988 sanctions lists.

Despite the wording of section 68A(3B)(a), the processes and procedures that Guyana has embedded within S.68A of the AML/CFT Act and Reg. 3-6 of the AML/CFT Regulations, for the implementation of an asset freeze entail various steps that do not allow for the implementation of same without delay. Further, the AT is of the view that despite the term “freeze” being used in section 68A(3B), this amounts to a prohibition and not an asset freeze as required by the Standards and sections 68A in its totality sets out an asset freeze mechanism but does not take effect without delay.

However, Guyana has provided for other freezing mechanisms within the AML/CFT Act. Section 75C(2) of the AML/CFT Act provides that where an individual or entity is designated pursuant to UNSCR 1373 (2001) or is added to the UNSC 1267 or 1988 Sanctions Lists, the DPP shall at the same time apply to a Judge for an order to freeze their property, where such property is situated in Guyana.

Additionally, section 2(2)(2A) of the AML/CFT Act provides, where the Minister of Finance makes an order, designating a person or entity as a specified person or entity pursuant to UNSCR 1373(2001), the DPP shall, at the same time apply to a Judge for an order to freeze funds and other assets of the specified person or entity.

Guyana has submitted that the freezing actions pursuant to section 2(2)(2A) and 75C(2) of the AML/CFT Act would take place immediately after an individual or entity is designated by the UNSCR 1267 Committee or pursuant to UNSCR 1373 (2001) domestically. The freezing action at section 68A of the AML/CFT Act on the other hand, takes place where a person or entity reports to the Director of the FIU that they are in possession or control of property of an individual or entity on the UNSCR 1267 Sanctions List or the domestic list. The FIU of Guyana also began issuing public notices on the FIU's website addressed to all natural and legal persons on their freezing obligations.



**(b)** Guyana establishes an asset freeze under s.68A of the AML/CFT Act. This asset freeze, as per section 68A(3)-(3B) extends to all categories of funds and other assets detailed in c.6.5(b). However, it is noted that in respect of the asset freeze, section 68A(3A) references the term “designated person or entity” to define property to which section 68A(3) and section 68A(3B) applies. S.68A(1) defines the term “listed person or entity” and at other parts of the legislation the term “specified person or entity” is used. It is therefore not clear whether “designated person or entity” is intended to cover 1267, 1988 and 1373 designations. Further to the foregoing, the freezing mechanism pursuant to section 75C(2) of the AML/CFT Act extends to all categories of funds and other assets.

**(c)** Section 68A(2) of the AML/CFT Act prohibits nationals or any persons and entities within Guyana from making any funds or other assets, economic resources, or financial or other related services, available, directly or indirectly, for the benefit of listed persons and entities; however, this prohibition does not extend to persons and entities acting on behalf of, or at the direction of, designated persons or entities. Additionally, Reg.4(6) of the AML/CFT Regulations as amended in 2023 establishes prohibitions as per c.6.5(c). However, Reg.4(6) only applies in respect of “designated persons or entities” which means those designated pursuant to UNSCR 1267(1999), and therefore does not apply in respect of those designated pursuant to UNSCR 1988 (2011) or 1373(2001).

**(d)** Guyana has two mechanisms for communicating designations to FIs and the DNFBPs: (i) The Minister with responsibility for Legal Affairs may communicate designations to persons and entities that may be holding funds or other assets according to section 68B(1)(d) of the AML/CFT Act; and (ii) pursuant to Reg. 3 and 4 of the AML/CFT Regulations, the Director of the FIU shall publish on the FIU’s Website, i) UNSC Lists and ii) the names of persons or entities designated pursuant to UNSCR 1373 (2001) and notify FIs and DNFBPs through their respective SA of the publication of those lists and any changes thereto. Whilst Reg. 3 includes the term without delay in respect of the publication on the UNSC Lists, it does not apply in respect of Reg. 4(2)- individuals and entities designated pursuant to UNSCR 1373 (2001). However, section 2(2)(19) provides for the Director of the FIU to publish without delay on the website of the FIU any listing, delisting or amended order. Additionally, Guyana needs to update guidance issued to FIs and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms in light of the 2023 amendments to the AML/CFT Act. The FIU of Guyana has also began issuing public notices addressed to all natural and legal persons; however, this public notice is limited to the press release issued by the relevant sanctions committee of the UNSC. Emails are also sent to FIs and DNFBPs via the relevant SAs communicating designations and their obligations in taking action under freezing mechanisms.

**(e)** In relation to designations made in accordance with UNSCR 1373 (2001), regulation 4(3) of the AML/CFT Regulations provides that where a person or entity has been declared a specified person or entity, all other persons or entities shall determine whether they are holding funds or other assets for that specified person or entity and shall immediately report to the Director of the FIU of such holdings. Similarly, s.68A(4) of the AML/CFT Act provides for a person or entity to adhere to prohibitions in respect of property of listed persons or entities and to report to the Director of the FIU if they are in possession of such property. FIs and DNFBPs are also required to submit quarterly reports to the FIU on whether or not they have in their possession, funds or other assets of a listed person or entity. Further, Reg. 5(4) of the AML/CFT Act provides for natural and legal persons to report to the Director of the FIU on property frozen, action taken or attempted or aborted transactions.

(f) Reg. 4(7) of the AML/CFT Regulations provides that a freezing order granted by the Court in relation to any UNSCR or decision by any United Nations Security Council Committee shall not prejudice the rights of any third party acting in good faith. However, the aforesaid provision does not protect the rights of bona fide third parties acting in good faith when implementing the obligations under Recommendation 6 in its totality.

**Criterion 6.6** – Guyana has some 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 as follows: (a) Section 68B(1)(b) of the AML/CFT Act and Reg. 9 of the AML/CFT Regulations establish the procedure by which de-listing requests can be made to the relevant UNSC sanctions Committee in the case of persons and entities designated pursuant to the UNSC Sanctions Regimes that, in the view of Guyana, do not or no longer meet the criteria for designation. (b) Section 2(2)(10)-(12) of the AML/CFT Act provides for the delisting of individuals or entities specified by Order under s.2(2) of the AML/CFT Act (designated pursuant to UNSCR 1373). Section 68B(1)(a) of the AML/CFT Act and Reg. 8 of the AML/CFT Regulations provide the legal authority for the unfreezing of funds or other assets of persons and entities designated pursuant to UNSCR 1373 (2001) in circumstances where they no longer meet the designation criteria. Where a freezing order is issued by the court, the Director shall immediately advise the DPP to apply for an order of the court for revocation. (c) Section 2(3)-(8) sets out the procedures which allow, upon request, a review of the designation, that was made pursuant to UNSCR 1373(2001), by the Minister responsible for Finance (s.2(3)) and by a Judge (s.2(6)); (d) Reg. 13 (2) of the AML/CFT (Amendment) Regulations No.10 of 2023 provides that where an individual or entity has been placed on the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, the Director shall, as far as practicable, inform the individual or entity of the availability of the United Nations Office of the Ombudsperson or focal point for De-Listing, as appropriate, for the purposes of petitioning the removal from the Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) List or the 1988 List, as the case may be; (e) Reg. 13(3) of the AML/CFT Regulations provides that the Director of the FIU shall inform persons or entities on the Al-Qaida Sanctions List, of the availability of the United Nations Office of the Ombudsperson or Focal Point for delisting, for the purpose of petitioning their removal from the UNSC 1267 Sanctions List; (f) Section 2(2)(16) of the AML/CFT Act sets out the procedure for unfreezing of the funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism (i.e. a false positive) pursuant to section 68A or 68E, upon verification that the person or entity involved is not a designated person or entity. However, as previously outlined, despite have a freezing mechanism in s.68A of the AML/CFT Act, section 2(2)(2A) also provides for a separate freezing mechanism for funds and assets of those designated pursuant to UNSCR 1373(2001). Section 2(2)(16) does not apply to the freezing actions under section 2(2)(2A); and (g) there are mechanisms for communicating de-listings and unfreezings only to FIs and DNFBPs that may be holding assets by virtue of UNSCR 1267; section 2(2)(18) of the AML/CFT Act provides for the Director of the FIU to publish on its website, without delay, all delistings and sufficient particulars, however, the guidance to FIs and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action need to be updated following the 2023 amendments.

**Criterion 6.7** – Sections 68C and 68D of the AML/CFT Act provides for the authorisation of access to funds or other assets where it is determined that it is necessary for basic and extraordinary expenses. These provisions relate to persons designated domestically pursuant to UNSCR

1373(2001). Reg. 10 of the AML/CFT Regulations provide for the authorisation of funds in accordance with the procedures in UNSCR 1452 and successor UNSCRs.

### ***Weighting and Conclusion***

Guyana has largely addressed the deficiencies in their TFS-TF Regime by amending the relevant provisions of the AML/CFT Act, as well as applicable processes and procedures. Minor shortcomings remain. **Recommendation 6 is rated Largely Compliant.**

## **Recommendation 7 – Targeted financial sanctions related to proliferation**

These are new requirements that were not assessed in Guyana’s previous MER.

**Criterion 7.1** – The AML/CFT Act contains provisions for the implementation of targeted financial sanctions related to PF. Sec.68E of the Act establishes a freezing mechanism and sets out prohibitions to comply with UNSCR 1718(2006) and UNSCR 2231(2015) and their successor resolutions. Sec. 68E(3) provides that there is an obligation for a person or entity to determine on a continuing basis if they are in possession or control of property owned or controlled by or on behalf of a listed person or entity. Section 68E(4) to (11) goes further to set out the action to be taken when a person or entity determines that they are in possession or control of any property of a listed person or entity. Additionally, the AML/CFT (Amendment) Act 2023 established subsections 68E(3A) and (3B). Pursuant to section 68E(3B), where a person or entity has determined that they are in possession or control of property, funds or other assets referred to in section 68E(3) and (3A), they shall, without prior notice and without delay, freeze all the property held by it in relation to the listed person or entity. However, it is noted that in respect of the asset freeze, section 68E(3A) references the term “designated person or entity” to define property to which section 68E(3) and section 68E(3B) applies. S.68E(1) defines the term “listed person or entity” to mean all persons or entities included on the UNSC 1718 and 2231 Sanctions Lists. It is therefore not clear whether “designated person or entity” is intended to cover all individuals and entities on the UNSCR 1718 and 2231 Sanctions Lists. Another issue relates to the definition of property reference being made to “terrorist act, plot or threat” in ss. (3A) as “all property, funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat”. S.68E(1) clearly sets out the remit of s.68E-I as being relative to PF pursuant to the definition of “listed person or entity” therein. As such, the AT is unsure why there is any reference to “terrorist act, plot or threat”.

The above outlined freezing process (pursuant to section 68E of the AML/CFT Act) is only triggered upon the identification of such property, or by a determination being made by a person or entity that they are in possession of property of a listed person at which point they are required to freeze the funds and assets and submit a report to the Director of the FIU. Nothing in the AML/CFT Act or no further information provided by Guyana establishes that the asset freeze and prohibitions are implemented within a matter of hours of a person or entity being added to either of the UNSCR Sanctions Lists or that the freezing requirement applies to all natural and legal persons. Furthermore, there is no time frame within which the asset freeze and prohibitions at 68E(2)(a) and (b) are triggered.

However, Guyana has introduced another freezing mechanism in section 75C(2) of the AML/CFT Act, which provides that where an individual or entity is included in a UNSCR Sanctions List as

persons or entities involved in or suspected to be involved in PF, the DPP shall at the same time apply to a Judge for an order to freeze their property, where such property is situated in Guyana.

**Criterion 7.2 – (a)** As stipulated at c.7.1 above, s.68E of the AML/CFT Act contains provisions for the implementation of targeted financial sanctions related to PF. S.68E of the Act establishes a freezing mechanism and sets out prohibitions to comply with UNSCR 1718(2006) and UNSCR 2231(2015) and their successor resolutions. S.68E(2)(a) provides that no person shall deal directly or indirectly with the property of a listed entity or individual. The definition of “person” under s. 2 of the AML/CFT Act covers both natural and legal persons. S.68E(2)(b) further provides, that no person or entity shall enter into or facilitate, directly or indirectly, any transaction related to a dealing with property referred to in ss.(a).

The mechanism for freezing property continues in s.68E(4) to (11) which, goes further to set out the action to be taken when a person or entity determines that they are in possession of control of any property of a listed person or entity. However, in respect of the freezing mechanism at s.68E, there is nothing within the AML/CFT Act or any other information provided by Guyana which demonstrates that TFS are implemented without delay or apply to all natural and legal person, as the freezing orders are made specific to any property found.

Section 68E(2)(a) does not require prior notice to be given to a listed entity in terms of the requirements set out therein for persons to not deal with property of a listed person. Additionally, where the DPP applies to the court for a freezing order in relation to specific property identified, the application is made ex parte.

Further to the foregoing, Guyana has introduced another freezing mechanism in section 75C(2) of the AML/CFT Act, which provides that where an individual or entity is included in a UNSCR Sanctions List as persons or entities involved in or suspected to be involved in PF, the DPP shall at the same time apply to a Judge for an order to freeze their property, where such property is situated in Guyana.

**(b)** The freezing measures set out in section 68E(2) to (8) of the AML/CFT Act, extends to all funds and assets detailed in c.7.2(b).

**(c)** Pursuant to section 68E(2)(d) of the AML/CFT Act, all persons and entities in Guyana are prohibited from making any property or any financial and other related services available, directly or indirectly, for the benefit of a listed person or entity, a, unless an authorisation is granted by the Minister responsible for Legal Affairs based on section 68H of the AML/CFT Act or fall within an exemption pursuant to section 68F of the AML/CFT Act. Section 68H(2) provides in the case of each provision for access to frozen funds, prior to granting access, the Minister must first notify the relevant United Nations Security Council Sanctions Committee of the Minister's intention to authorise, where appropriate, the funds, other financial assets and economic resources and (i) in the case of basic expenses proceed in the absence of a negative decision by the Sanctions Committee within five working days of such notification or (ii) in the case of extraordinary expenses await approval.

**(d)** Reg. 3 of the AML/CFT Regulations 2015 provides that the director of the FIU shall publish on the FIU's website, the List established and maintained by the United Nations Security Council with respect to any natural or legal person or entity, or any other List of a similar nature maintained by the United Nations Security Council and notify FIs and DNFBPs through their respective SA of such publication and of any change thereto. However, the need to communicate designations to FIs and

DNFBPs “immediately” is not captured in the foregoing clause. On September 2, 2023, via Official Gazette, the BOG published amendments to Supervision Guidelines No.13 which included updates to PF and the obligations of FIs relative to TFS-PF.

(e) Section 68E(4) provides that a person referred to in subsection (2) and (3) shall report to the Director of the FIU, if that person or entity is in possession or control of any property. The BOG Supervision Guidelines No.13 as amended in September 2023 requires FIs to report any actions taken in compliance with the prohibition requirements to be implemented pursuant to the TFS-PF designation, asset freeze and prohibitions. The aforesaid Guidelines, pursuant to Regs. 19 and 21 of the AML/CFT Regulations 2010, are enforceable means. However, there are no provisions in the AML/CFT Act or other binding documents which require DNFBPs to report on actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions.

(f) Guyana has not adopted measures to protect the rights of bona fide third parties acting in good faith when implementing the obligations under Recommendation 7.

**Criterion 7.3** – The BOG Supervision Guidelines No.13 as amended in September 2023 allows the SA to monitor and ensure compliance by FIs with their obligations on TFS-PF. Pursuant to Reg. 19 of the AML/CFT Regulations 2010, failure to comply with the Guidelines is a summary offence and punishable. Guyana does not have measures for monitoring and ensuring compliance by DNFBPs with the relevant laws or enforceable means governing the obligations under Recommendation 7. On the other hand, (i) the failure to comply with the prohibitions to deal with property of, facilitate transactions for, provide financial or other services for, or make property available for designated person or entity, and (ii) the failure to inform the Director of the FIU about the possession or control of property owned or controlled by or on behalf of a designated person or entity are breaches subject to criminal liability applicable to natural and legal persons, according to section 68E(12) of the AML/CFT Act. However, the breaches enumerated above do not cover the obligations referred to in sub-criteria 7.2(a), (b), and (e).

**Criterion 7.4** – Guyana has developed publicly known procedures to submit de-listing requests to the Security Council in the case of designated persons and entities that, in the view of the country, do not or no longer meet the criteria for designation. These include:

(a) enabling listed persons and entities to petition a request for de-listing at the Focal Point for de-listing established pursuant to UNSCR 1730, or informing designated persons or entities to petition the Focal Point directly, pursuant to section 68G(1) of the AML/CFT Act;

(b) procedures by which a person or entity, with the same or similar name as the listed person or entity (i.e., a false positive), who/which is inadvertently affected by the freezing action, may apply to the Court for a revocation order to unfreeze the funds or other assets, upon verification that the person or entity involved is not a designated person or entity, as set out in section 68G(5) of the AML/CFT Act. Such procedures are publicly known in virtue of being published in the Official Gazette and on the FIU’s website;

(c) authorising access to funds or other assets, where the Minister responsible for Finance has determined that the exemption conditions set out in UNSCRs 1718 and 2231 are met, as provided for in section 68H of the AML/CFT Act. Section 68H(2) provides in the case of each provision for access to frozen funds, prior to granting access, the Minister must first notify the relevant United Nations Security Council Sanctions Committee of the Minister's intention to authorise, where

appropriate, the funds, other financial assets and economic resources and (i) in the case of basic expenses proceed in the absence of a negative decision by the Sanctions Committee within five working days of such notification or (ii) in the case of extraordinary expenses await approval.; and

**(d))** the immediate communication by the Minister responsible for Legal Affairs of de-listings and unfreezings to the person or entity who reported that they are holding funds or other assets of a designated person or entity in accordance with section 68G(3) of the AML/CFT Act. Additionally, section 2(2)(13)-(19) of the AML/CFT (Amendment) Act 2023 provides for steps to be taken by the AG, DPP and Director of the FIU, upon individuals and entities being removed from the UNSC Sanctions Lists, such as publication of the delisting electronically, in the official gazette and daily newspapers. However, whilst section 68G ensures that those entities which reported that they held funds receive information on delistings and unfreezings and section 2(2)(13)- (19) provide for publication of the orders electronically, there are no provisions for immediate communication of delistings and unfreezings directly to all FIs (save and except those supervised by BOG) and DNFBPs. The BOG Supervision Guidelines No.13 as amended in September 2023, Guideline No. 1 of 2022 on TFS-TF and TFS-PF dated October 2022 provide general guidance and guidance to REs on their obligations in respect of delistings and unfreezings.

**Criterion 7.5** – With regard to contracts, agreements or obligations that arose prior to the date on which accounts became subject to TFS: **(a)** section 68F of the AML/CFT Act permits the addition, to the accounts frozen pursuant to UNSCRs 1718 or 2231, of interest or other earnings due on the account or payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or where the person or entity receives funds transferred to the account; and **(b)** section 68F(2) provides for exceptions to the freezing action and permits designated persons and entities to make any payment due under a contract entered into prior to be designated and sets out the conditions upon which the exemption applies.

### ***Weighting and Conclusion***

The AML/CFT Act establishes processes and procedures for the implementation of TFS related to proliferation financing. However, several deficiencies remain in this respect, such as the need for immediate communication of designations to FIs and DNFBPs, no reporting obligations are established for DNFBPs in respect of action taken in compliance with prohibition requirements, no protection of bona fide third party rights and other deficiencies which together do not allow for a complete TFS regime on PF. **Recommendation 7 is rated Partially Compliant.**

## **Recommendation 8 – Non-profit organisations**

Guyana was rated as ‘NC’ for R.8 (formerly SR. VIII) in the 3rd MER. This rating was based on the absence of an adequate and effective legislative and supervisory system to prevent the misuse of the non-profit sector by terrorists or for terrorism purposes. Also, there was no record keeping and retention requirements for NPOs; limited measures for authorities to investigate with regard to examining NPOs and no appropriate points of contact and procedures to respond to international requests for information regarding NPOs that are suspected of terrorist financing or other forms of terrorist support. In 2016 R.8 was substantially reviewed. Guyana addressed the technical deficiencies such as record keeping and retention requirements for NPOs with amendments to the AML/CFT Act and its Regulations–.

**Criterion 8.1 – (a)** According to the NPO TF Risk Assessment Report 2022 Guyana has identified the subset of legal persons and organisations that fall within the FATF’s definition of NPO. In Guyana, NPOs are categorized as: (i) Friendly Societies (FS), including Registered Charities, registered under the Friendly Societies Act, Chapter 36:04 (the FSA); (ii) Not-For-Profit Companies (NPCs) registered under the Companies Act; and (iii) LAs formed under the Deeds Registry Act. Guyana submits that the active FS, NPCs as well as the LAs registered under the Deeds Registry Act (totalling 1547) are engaged in religious, educational, social, charitable and cultural activities. This was based on information provided by the respective registrars, the NPO TF Risk Assessment Report of November 2022 and Legal Persons and Arrangements Risk Assessment of 2023.

In assessing the TF risk, sources of information used by Guyana included the NRAs of 2017 and 2021, the Guyana Police Force-SOCU, FIs, open sources and NPOs. Guyana conducted an NPO/TF risk assessment on 38 NPOs which were registered with the FIU. The risk assessment identified the 38 NPOs (36 FSs, 1 NPO Trust/Arrangement and 1 NPC) as the ‘subset of NPOs most at risk for TF abuse’. According to the report, these 38 NPOs were referred by the respective Registrars to register with the FIU prior to the conduct of the NPO risk assessment. It was not clear what features of these 38 NPOs required this action.

The AT is of the view that, notwithstanding the risk assessment that confirmed active FSs, NPCs, and Trust/Arrangement are NPOs under the FATF definition, Guyana conducted a further assessment on a small portion of NPOs falling under the FATF definition. Hence, the assessments did not adequately identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of TF abuse. Also, not all relevant sources of information were used to determine those NPOs most at risk in Guyana.

**(b)** Guyana, via the 2022 NPO TF Risk Assessment, has identified some threats to NPOs, which considered available TF typologies developed as well as the proximity of terrorist threats to the sector. However, the report, nor any other mechanism, did not identify how terrorist actors can abuse those NPOs. The recently enacted Compliance Commission Act (2023) appoints the Compliance Commission as the authority that shall, from time to time, conduct a risk assessment of the NPO sector in Guyana to identify the nature of threats posed NPOs which –re at risk as well as how terrorist actors can abuse those NPO.

**(c)** The results of the 2022 NPO TF Risk Assessment have been used to make recommendations to review and improve the adequacy of various laws and regulations that relate to the various categories of NPOs. Guyana enacted the Compliance Commission Act in 2023 to give supervisory oversight over the NPO sector to the GCC. However, the Act has not yet been reviewed given its recency.

**(d)** The 2022 NPO risk assessment was the first targeted assessment of the TF risk to the NPO sector. Although there is currently no established periodic reassessment of the NPO sector, the GCC is responsible for regularly reviewing information on the vulnerabilities of the sector, according to the second schedule of the Compliance Commission Act (2023).

**Criterion 8.2 (a)** The Compliance Commission Act of 2023 provides for the registration of NPOs and which authorizes the Commission to supervise NPOs ensuring they keep proper financial records and submit audits as well as conduct outreach and training. Additionally, the FIU issued Guideline No 2 of 2023 dated April 2023 which speaks to best practices for donors, beneficiaries, use of regulated financial channels, etc.;

**(b)** The NCC conducted outreach for the NPO sector which included information on the results of the NPO risk assessment. The results of the sector risk assessment were also published on the FIU's website, the Commercial Registry's website and was disseminated to NPOs and all relevant supervisory agencies. Guyana has undertaken some, outreach and educational programmes to raise and deepen awareness and measures on how NPOs can protect themselves. However, outreach to the donor community was limited to FI and some private sector entities who may be donors to NPOs;

**(c)** Guyana has developed best practices to address TF risk and vulnerabilities and protect NPOs from TF abuse included in Guideline No 2 of 2023 issued by the FIU. Guyana indicated that information from the interaction and consultations during training and also information gathered during the NPO risk assessment were taken into consideration when developing this guideline; and

**(d)** The FIU issued and published Guideline No 2 of 2023 dated April 2023. The guideline encourages NPOs to conduct transactions via regulated financial channels. Guidelines on measures and best practices, record keeping and red flags are some guidelines issued by the FIU and included at outreach sessions for NPOs.

**Criterion 8.3** – Guyana has taken steps to promote the effective supervision of NPOs with the designation of the GCC as the supervisor and the publication of guidelines for the NPO sector issued by the FIU. Guyana has not demonstrated that these measures are risk based. The AT noted some NPOs, namely Registered Charities, are classified as an activity subject to regulation under the AML/CFT Act (2009) and therefore required to comply with the same AML/CFT obligations for FIs and DNFBPs including CDD, record keeping, reporting and appointment of a compliance officer. This expansive burden is not in keeping with the FATF Standards and treatment of NPOs.

Also, the Second Schedule of the Commission Act lists general rules for the NPO sector which promotes effective monitoring of the NPOs. These rules are not indicative of risk based measures as they apply to all NPOs.

**Criterion 8.4 – (a)** The Register of Friendly Societies (RFS), under S.22. (2) of the AML/CFT Act, 2009, has the power to supervise and oversee FS as well as issue guidelines and instructions for FS to secure compliance with the AML/CFT requirements (including reporting obligations) under the AML/CFT Act (2009), which applies to all REs. However, the obligations under the AML/CFT Act go beyond what is required in R.8. Moreover, in accordance with Rule 2 under the Second Schedule in the Compliance Commission Act (2023), the Commission shall be guided by R.8 of the FATF Standards with respect to monitoring the NPO sector. The deficiency stated in c8.3 cascades here; and

**(b)** as the GCC and the RFS can apply some sanctions for violations by NPOs. Registered charities, a type of NPO, are subject to regulation under the AML/CFT Act (2009). As such, the RFS can apply sanctions for violations with the relevant sections in the AML/CFT Act (2009). Other NPOs (NPCs and LAs registered under the Deeds Registry Act) face cancellation (recommended by the GCC to the Registrar) of registration if found guilty of an offence under the AML/CFT Act. Also, the controller of an NPO is subject to penalties prescribed under S.23 (2) of the AML/CFT Act, which applies to REs. Pursuant, S.58 (3) of the Compliance Commission Act (2023) provides sanctions to be applied to persons acting on behalf of NPOs. The sanctions do not apply to non-compliance with all provisions of R.8 and are not proportionate. The dissuasiveness could not be determined.

**Criterion 8.5 – (a)** Guyana has established mechanisms to ensure cooperation, coordination and information exchanges between CAs possessing relevant information on NPOs. Section 22 (2) (g)



of the AML/CFT Act 2009, provides for SAs in Guyana to cooperate, request and exchange information with agencies performing similar functions in investigations, proceedings or prosecutions relating to proceeds of crime, ML/TF, and to violations of the laws and administrative regulations dealing with REs. There are signed MOUs for effective cooperation, coordination and information sharing among the relevant authorities i.e. CCDO, FIU, the Commercial and Deeds Registry and all SAs. Further, the Commercial Registry provides information regarding the status of businesses and Companies (including NPCs) to external stakeholders upon request by email request or via letter. Additionally, the Registrar of FS and of the Commercial Registry are signatories to the MOU of August 30, 2023 that provides for the cooperation and information exchange in the execution of supervisory and regulatory functions.

**(b)** Sections 24, 28, 29 & 30 of the AML/CFT Act 2009, provide for the investigations of a serious offence or ML/TF offences in Guyana. The CAs, including SOCU, received training on TF investigation. The staff of the GPF, SOCU, and FIU possess investigative expertise and can examine those NPOs suspected of either being exploited by or actively supporting the terrorist activity or terrorist organizations. Currently, Guyana's risk of NPOs' involvement in TF is rated as low. However, should more capacity building be needed due to a change in the status of NPO as it relates to their involvement in TF, the laws allow for increased capacity and expertise to be provided.

**(c)** Section 9(4)(k) of the AML/CFT Act 2009, provides the FIU with the power to request and receive information from any RE, any supervisory agency and any law enforcement agency, any other CA in Guyana or elsewhere for purposes of this Act; and

**(d)** Mechanisms are in place to provide warnings, initiate procedures and inform the relevant authorities promptly when it is suspected, or when there are reasonable grounds to suspect, that an NPO is being exploited or used for TF purposes. Section 22(2)(f) of the AMLCFT Act 13 of 2009 makes provision for the RFS as a SA to submit a report to the FIU after acquiring information concerning suspicious transactions or activities that could be related to ML, terrorist financing or the proceeds of crime. Further, section 68 of S.68(A)(3) provides for persons or entities including NPOs to continuously monitor transactions and determine if property in their control is terrorist property and if so determine to report immediately to the Director of the FIU.

Section 22(2) (g) of the AML/CFT Act 2009, provides for the SA to exchange information with agencies performing similar functions in other countries and territories in investigations, proceedings or prosecutions relating to proceeds of crime, ML/TF, and to violations of the laws and administrative regulations dealing with REs. Further, section 18 of the AML/CFT Act 2009 requires all REs to submit suspicious reports for ML/TF, or funds used or terrorist or terrorist organisations.

**Criterion 8.6** – In Guyana the MACMA governs the procedures for international requests. S.3 of the MACMA designates the Minister responsible for Home Affairs as the point of contact on ML/TF matters. In addition, s.76 of the AML/CFT Act, 2009 provides for international cooperation connected to ML/TF offences and other serious offences by the Court or CA, which by interpretation includes requests for information about an NPO of concern.

In addition, under section 9(4) (n) of the AML/CFT Act 2009 allows for the FIU to enter into any agreements or arrangements with any international or domestic government institution or agency regarding the exchange of information which appropriate authorities that hold relevant information on NPOs.

### ***Weighting and Conclusion***

Guyana has conducted a risk assessment of NPOs, a further assessment on a small portion of NPOs in the jurisdiction and reviewed the adequacy of measures, including laws and regulations, which relate to the NPO sector. The Risk Assessment has identified that Guyana's risk of NPOs' involvement in TF is low. Guyana has identified the subset of NPOs which fall within the FATF definition of NPOs. Guyana has not adequately identified the features and types of NPOs which by virtue of their activities or characteristics, are likely to be most at risk of TF abuse. There are clear policies (the Compliance Commission Act) to promote accountability, integrity, and public confidence in the administration and management of NPOs. There are mechanisms/processes in place that encourage NPOs to only conduct transactions via regulated financial channels. Effective information sharing is facilitated via MOUs signed between CAs and formal request assistance. Registered Charities, which is a type of NPO, are considered RE. The country has not demonstrated that measures for NPOs are focused, proportionate and risk based. **Recommendation 8 is rated Partially Compliant**

### **Recommendation 9 – Financial institution secrecy laws**

In the 3<sup>rd</sup> Round MER, Recommendation 9 (formerly R.4) was rated 'PC' with factors underlying the rating related to a lack of provisions for the GSC to access information relevant to AML/CFT matters from registrants of the SIA and for the CCDO to share information obtained from a society registered under the CSA with local and international CAs. In the 11<sup>th</sup> FUR, the level of compliance was at 'LC' as Guyana substantially addressed the deficiencies through an amendment to the AML/CFT Act of 2009 and by an administrative measure.

#### **Criterion 9.1**

Sections 111 and 112 of the AML/CFT Act, 2009 set aside secrecy obligations or other restrictions relative to the disclosure of information. Section 22 (2) (c) of the AML/CFT Act, 2009 provides for prompt sharing of information with other domestic CAs.

#### *Access to information by competent authorities*

SAs are empowered to cooperate with and request information from agencies performing similar functions in other countries regarding ML/TF investigations and prosecutions as per Section 22 (2) (g) of the AML/CFT Act, 2009.

#### *Sharing of information between competent authorities*

Section 22 (2) (c) of the AML/CFT Act, 2009 outlines mechanisms that allow for SAs to cooperate and share information promptly with other CAs domestically and in sub-section (g) to cooperate and share information with agencies performing similar functions in other countries regarding ML/TF investigations and prosecutions. However, there are deficiencies in recommendation 11 as it relates to sharing of CDD information and transaction records among all domestic CAs.

#### *Access to information between financial institutions*

The absence of legislative provisions on obligations of ordering and intermediary FIs was identified as outlined in the findings of Recommendation 16. Regarding R.17, Section 15 (8) (a) - (c) of the AML/CFT Act, 2009 and Section 16 (1) to (5) of the AML/CFT Act, 2009 meet the requirements

relative to elements of the CDD measure— set out in Recommendation 10 except for identification of the beneficial owner in R.17.1 (a) - (c). No legislative provision exists with respect to sharing of information among FIs relying on a third party that are part of the same financial group when considering the CDD and record-keeping requirements of Recommendations 10 and 11.

### ***Weighting and Conclusion***

There are deficiencies in Recommendation 16 on completeness of information shared in wire transfers, Recommendation 17 on sharing of information among FIs in the same financial group, and in Recommendation 11 on CDD information and transaction records being made swiftly available to CAs. Notwithstanding, Guyana's AML/CFT legislation specifically prohibits any obligation to secrecy or restriction upon the disclosure of information imposed by any law or otherwise that would impede satisfying the provisions of the Act. **Recommendation 9 is rated Largely Compliant.**

### **Recommendation 10 – Customer due diligence**

Recommendation 10 (formerly R.5) was rated PC in Guyana's 3<sup>rd</sup> MER due to substantial deficiencies. These include no prescribed threshold for the application of CDD measures for occasional transactions, no requirements to obtain information on the ownership of legal persons or LAs. to determine the natural persons that ultimately own or control the customer, the verification of legal status of LAs and no definition of beneficial ownership with regard to legal entities. Additionally, there was no requirement to perform enhanced due diligence for higher risk categories of customers, to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers and no requirement prohibiting REs from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity and to consider making a suspicious transaction report. As reported in the 11<sup>th</sup> FUR of November 2016, the deficiencies were addressed by amendments to the AML/CFT Act, 2009 and enactment of AML/CFT Regulations No 4 of 2010. The recommendation was re-rated largely compliant. Since then, the FATF requirements for CDD have substantially changed.

**Criterion 10.1** – FIs are prohibited from establishing or keeping anonymous accounts or accounts in fictitious names pursuant to section 15 (1) of the AML/CFT Act, 2009. FIs as defined in section 2 of the AML/CFT Act include a bank or FI defined in the Financial Institution Act or other FI specified in the First Schedule of the AML/CFT Act. Financial Institution as defined in the First Schedule of the AML/CFT Act includes any company or business engaged in listed financial activities which cover all FATF financial institution activities. The above provision is therefore applicable to all FATF FIs.

**Criterion 10.2** – (a) Section 15 (2) of the AML/CFT Act, 2009 requires REs to identify and verify the identity of any customer of the RE. Section 15 (3) (a) of the AML/CFT Act, 2009 mandates that the requirements of 15 (2) of the same Act shall apply when a RE is establishing a business relationship. RE as defined in section 2 of the AML/CFT Act means any person whose business includes activities listed in the First Schedule of the AML/CFT Act. Consequently, the above provision is applicable to all FIs. (b) Section 15(3)(b) of the AML/CFT Act, 2009 requires FIs when conducting occasional transactions in an amount equal to or above the amount prescribed by the Minister, whether conducted as a single transaction or several transactions that appear to be linked

and where the amount of the transaction is unknown at the time of the transaction, to undertake identification and verification as soon as the amount becomes known or the threshold is reached. Regulations 4(1) and 4(2)(b) of the AML/CFT Regulation No. 4 of 2010 requires REs to know the true identity of their customers who engage in one or more occasional transactions that equal or exceed GUY\$1,000,000 (USD\$5,000). business activity. (c) Section 15(3)(b)(ii) of the AML/CFT Act, 2009 provides that REs shall establish and verify the identity of any customer when the FI conducts any wire transfer as set out in Section 20 of the AML/CFT Act. (d) The requirement of Section 15(2) of the AML/CFT Act, 2009 of the obligation to identify and verify a customer applies to where customers are engaged in any activity with the FI in any instance where there is a suspicion that the transactions may be linked to money laundering or terrorist financing as set out in Section 15(3)(c) of the AML/CFT Act. (e) Section 15(3)(d) of the AML/CFT Act, 2009 provides that where the FI has doubts as to the veracity or adequacy of previously obtained customer identification data, it must undertake customer due diligence measures.

**Criterion 10.3** – Section 15(2) of the AML/CFT Act, 2009 requires FIs to establish the identity and verify the identity of any customer by requiring the applicant to produce an identification record or such other reliable, independent source documents as the Financial Intelligence Unit may request. Regulation 4(4) of AML/CFT Regulation No. 4 of 2010 provides that customers who are natural persons, the RE shall verify the identity required using identification records or other reliable, independent source documents, data, or information, as may be defined by the FIU. However, this provision is not applicable since it is not possible to establish if REs are FATF FIs.

**Criterion 10.4** – FIs must, when establishing a business relationship, if the transaction is conducted by a body corporate, legal person or legal arrangement, verify that any person purporting to act on behalf of the customer is so authorized, and identify those persons (Section 15 (4)(c)(iii) of the AML/CFT Act, 2009). This provision is limited to legal persons and does not cover all customers. Regulation 4(5)(e) of the AML/CFT Regulation No. 4 of 2010 requires for customers who are LPs or LAs, the RE to obtain and verify the identity of the physical person purporting to act on behalf of the customer, using source documents as provided for in the Regulations. Additionally, 4 (5) (d) requires the RE to obtain the legal provision that authorises the person to act on behalf of the customer. However, the provisions do not apply where the customer is a natural person.

**Criterion 10.5** – When establishing a business relationship with a legal entity, FIs are required to identify the beneficial owner, take reasonable measures to identify and verify its beneficial ownership and control structure including information relating to the customer's name, legal form, address and directors; the principal owners and beneficiaries and control structure (Section 15(4)(c) of the AML/CFT Act as amended by Section 3 of AML/CFT Amendment Act No. 10 of 2015). Further, 'beneficial ownership' is defined in Section 2(1) of the AML/CFT Act (as amended by Section 2 of the AML/CFT Amendment Act No. 1 of 2015 and further amended by Section 2 of the AML/CFT Amendment Act No. 10 of 2015) for the purpose of verifying the identity of 'beneficial ownership', to mean – 'ownership by a natural person or persons who ultimately exercise individually or jointly- voting rights representing at least twenty five per cent (25%) of the total shares, or otherwise have ownership rights of a legal entity; or ownership by a natural person or persons who ultimately owns or controls a customer, or the person on whose behalf a transaction is being conducted and includes those persons who exercise ultimate effective control over a legal person or arrangement. The provision requires the identification and verification of the identity of beneficial owners and AML/CFT Regulations (Amendment) 9 of 2023 section 4 (7) requires verification of beneficial ownership to be done using information and data from a reliable source.

**Criterion 10.6** – Sections 15(2) and 15(4)(a) of the AML/CFT Act, 2009 provide that when establishing a business relationship, a FI is required to obtain information on the purpose and nature of the business relationship. Amendment to Section 15 of the Principal Act, pursuant to the AML/CFT Amendment Bill, 2023 requires a RE to understand the purpose and nature of the business relationship.

**Criterion 10.7** – (a) Section 18(3) of the AML/CFT Act requires FIs to monitor its business relationships and the transactions undertaken throughout the course of the relationship to ensure that its customer due diligence obligations are met and that the transactions conducted are consistent with the information that the FI has of its customer, of the customer’s business and risk profile and source of funds where necessary. This provision fully complies with the requirements of the sub-criterion. (b) Section 16(5) of the AML/CFT Act provides that REs must ensure that documents, data or information collected under the customer due diligence process is kept up to date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships. This provision fully complies with the requirements of the sub-criterion.

**Criterion 10.8** – Section 15(4)(a) of the AML/CFT Act requires FIs to obtain information on the purpose and nature of the business relationship when such relationship is established. Further, Section 15(4)(c) of the AML/CFT Act requires FIs to take reasonable measures to identify and verify the beneficial ownership and control structure of a customer who is a legal entity, including information relating to the principal owners and beneficiaries and control structure. New subparagraph (iv) the AML/CFT Amendment Bill, 2023 of Section 15 (b) requires understanding of the nature of the customer’s business, its ownership and control structure, particularly if the customer is a legal person or arrangement.

**Criterion 10.9** – (a) Criterion 10.9 (a)- Section 15(4)(c)(i) of the AML/CFT Act 2009 requires FIs to take reasonable measures to identify and verify the beneficial ownership and control structure of a customer who is a legal entity, including information relating to the customer’s name, legal form, address and directors. Further, Regulation 4(5)(a) of the AML/CFT Regulation No. 4 of 2010, provides that for customers who are LPs or LAs, the RE shall obtain and verify the customer’s name and legal form, including obtaining proof of incorporation or similar evidence of establishment or existence such as a certificate of incorporation or a trust instrument. (b) Section 15(4)(c)(iii) of the AML/CFT Act, 2009 requires FIs to identify and verify information relating to provisions regulating the power to bind a customer who is a legal entity. Additionally, Regulation 4(5)(b) of the AML/CFT Regulation No. 4 of 2010 requires a RE to obtain for customers who are LPs or LAs the names and addresses of members of the customer’s controlling body such as for companies the directors, for trusts the trustees and for limited partnerships the general partners and senior management such as the chief executive officer. Further 4(5) (f) of the AML/CFT Regulations (Amendment) 9 of 2023 provides provision for the identification and verification of customers that are LPs or LAs. (c) FIs are required to include information relating to the address when conducting transactions with legal entities (Section 15(4) (c)(i) of the AML/CFT Act, 2009). Further, Regulation 4(6) of the AML/CFT Regulations (amended by Regulation No. 9 of 2023) states the address of the registered office and address of the principal place of business (if different from registered office) of legal persons and arrangements must be obtained and verified.

**Criterion 10.10** – (a) Section 15(4)(c) of the AML/CFT Act requires FIs when establishing a business relationship with a legal entity to adequately identify the beneficial owner and take reasonable measures to identify and verify its beneficial ownership structure including information

relating to the principal owners and beneficiaries and control structure. **(b)** Pursuant to section 4 (8) of the AML/CFT Regulations (2023 amendment), for situations where to the extent that there is doubt under (a) as to whether the person(s) with the controlling ownership interest is the beneficial owner(s) or (b) where no natural person exerts control through ownership interests, to obtain information on the identity of the natural person(s) (if any) exercising control of the legal person or arrangement through other means. **(c)** There are measures for where no natural person is identified under (a) or (b) above, to obtain information on the identity of the relevant natural person who holds the position of senior managing official.

**Criterion 10.11** – **(a)** Regulations 4(5)(a), (b), (c), (d) and (e) of the AML/CFT Regulation No. 4 of 2010 requires the RE to obtain and verify evidence of the establishment or existence of a trust instrument, the names and addresses of trustees, the legal provisions that set out the power to bind the customer such as the trust instrument. Further, the RE must obtain and verify the legal provisions that authorize the person to act on behalf of the customer such as a statement of trusts on opening an account and conferring authority on those who may operate the account. Regulation 4(5)(e) makes it a requirement for the RE to also obtain the identity of the physical person purporting to act on behalf of the customer, using source documents as provided and Regulation 4(5) (f) of the AML/CFT Regulations (as amended in 2023) obliges the RE to obtain the identity of the settlor, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. **(b)** Regulation 4(5)(f)(iii) of the AML/CFT Regulations (2023 amendment) provides for persons of equivalent positions in other legal arrangement.

**Criterion 10.12** - **(a)** AML/CFT Regulations (Amendment) 9 of 2023 provision 4 (9) (a) requires a RE, for a beneficiary that is identified as a specifically named natural person, legal entity or legal arrangement, to take the name of the person, entity or arrangement. **(b)** AML/CFT Regulations (Amendment) 9 of 2023, provision 4 (9) (b) requires for a beneficiary that is designated by characteristics or by class, obtaining sufficient information concerning the beneficiary to satisfy the RE that it will be able to establish the identity of the beneficiary at the time of payout. **(c)** The amendment to the AML/CFT Regulations (Amendment) 9 of 2023 at regulation 4 (10) requires verification of the identity of the beneficiary of a life insurance policy or other investment related insurance policy at the time of payout.

**Criterion 10.13** – The AML/CFT Regulations (Amendments) 9 of 2023 section 4 (10) and (11) requires inclusion of the beneficiary as a risk factor in determining the extent of customer due diligence to be undertaken where a RE is required to do so. The amendment requires verification of the identity of the beneficiary, at the time of pay-out.

**Criterion 10.14** – A FI is required by Section 15(2), (3) and (4) of the AML/CFT Act, 2009 to identify and verify the identity of a customer and beneficial owner where the FI establishes a business relationship or conducts transactions for occasional customers. The AML/CFT Regulations (Amendment) 9 of 2023, Regulation 14B of the AML/CFT Regulations (2010) permits completion of the verification after the establishment of the business relationship if it necessary not to interrupt the normal conduct of business, there is little risk of ML/TF, it occurs as soon as practicable, and the ML/TF risks are managed. (a) – (c)

**Criterion 10.15** – There are no provisions that require FIs to adopt risk management procedures related to customers utilising the business relationship prior to verification.

**Criterion 10.16** – Section 16(5) of the AML/CFT Act, 2009 mandates REs to keep CDD information, data and documents up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships. 18 (3) of the above referenced Act also provides for monitoring to ensure transactions are consistent with the customer risk profile and obligations under 15 are met, which includes 15 (3) (d) which speaks to doubts on the adequacy of previously obtained ID. However, there is no requirement to apply CDD measures on the basis of materiality nor an obligation for such reviews to be conducted at appropriate times. Whilst the legislation mandates monitoring to ensure consistency with the customer risk profile, there is no requirement for CDD measures to be applied in such instances where activity is outside of the risk profile.

**Criterion 10.17** – Section 16(6) of the AML/CFT Act (as amended by Section 10 of the AML/CFT Amendment Act No. 1 of 2015) provides that where there are higher risk categories of customers, FIs shall conduct enhanced customer due diligence measures, consistent with the risks identified. The above provision complies with the requirements of the criterion.

**Criterion 10.18** – Section 17(1) of the AML/CFT Act provides that based on an assessment of the risks presented by the type of customer, business relationship or transactions or authorities, the Minister may, by regulations, prescribe circumstances in which the obligations of FIs established in Section 15 shall be reduced or simplified with regard to the identification and verification of the identity of the customer or beneficial owner. Additionally, section 17(2) of the AML/CFT Act prohibits reduced or simplified customer due diligence measures by FIs whenever there is a suspicion of money laundering or terrorist financing or higher risk terrorist activities. The above provisions give the Minister the power to issue regulations prescribing reduced or simplified measures. There are no obligations for FIs to only apply simplified CDD measures where lower risks have been identified, through an adequate analysis of risks by the country or the financial institution and that simplified measures should be commensurate with the lower risk factors. However, section 17(2) of the AML/CFT Act prohibits the application of simplified CDD whenever there is suspicion of ML/TF, or specific higher risk activities.

**Criterion 10.19** – (a-b). Section 15(2A) of the AML/CFT Act (as amended by Section 9(a) of the AML/CFT Amendment Act No. 1 of 2015) provides that where the FI is unable to obtain satisfactory evidence of the identity of any natural or legal person, as required to be obtained under the Act, the FI shall not open an account in favour of the intended customer, commence the business relationship or perform the intended or desired transaction and may consider making a suspicious transaction report in the manner provide under the Act. Additionally, Section 15(11) of the AML/CFT Act (as amended by Section 9(j) of the AML/CFT Amendment Act No. 1 of 2015) provides that where a FI is unable to obtain the information as required under this Act, the FI shall terminate the business relationship and consider making a suspicious transaction report. The above provisions fully comply with the requirements of sub-criteria (a) and (b).

**Criterion 10.20** – S.15 (12) and (13) of the AML/CFT Act, 2009 (as amended by Act #15 of 2023) requires a FI to not perform CDD measures where it suspects that a transaction relates to ML/TF or that performing CDD measures may tip-off the customer. Further, the provision (sub-section 13) requires that the FI file the necessary disclosure with the FIU in such instances.

### ***Weighting and Conclusion***

Whilst Guyana's CDD legislative framework included provisions for prohibiting REs from establishing anonymous accounts and commencing business relationships when unable to comply with CDD measures, as well as the application of a risk-based approach for CDD, there were some observed deficiencies. The requirement to identify and verify a person acting on behalf of a customer is not extended to customers who are natural persons. Furthermore, REs are not mandated to consider materiality during reviews of CDD records or to have risk management procedures related to customers utilising the business relationship prior to verification. With respect to a RBA, FIs are required to apply EDD where high ML/TF risks are identified and whilst there are no SDD measures in place, standard CDD is applied for those scenarios outside of high-risk. **Recommendation 10 is rated Largely Compliant**

### **Recommendation 11 – Record-keeping**

Guyana was rated PC in the 3<sup>rd</sup> Round MER for Recommendation 11 (formerly R.10). The deficiencies related to the lack of a requirement for FIs to ensure that all customer and transaction records and information are made available on a timely basis to domestic CAs upon appropriate authority. Further to provisions in the AML/CFT Regulation, the level of compliance was improved to a LC rating in the 11<sup>th</sup> FUR of 2016.

**Criterion 11.1** - Section 16 of the AML/CFT Act 2009 and Regulation 6 (10) of the AML/CFT Regulations, 2010 stipulate the minimum requirements for FIs regarding record keeping. Section 16 (4), AML/CFT Act 2009 requires REs to keep records of all transactions for a period of at least seven years from the date the relevant transaction was completed or termination of business relationship, whichever is the latter. Regulation 8 (1) of the AML/CFT Regulations, 2010 outlines the limitation period for retention of records for at least seven years in specified circumstances. The AML/CFT Supervision Guideline No. 13, 2013 clause 7.3 Record Keeping Procedures & Retention, states that the document retention policy should incorporate the requirement that FIs are required to keep records of all domestic and international transactions as well as identification data on a customer for a minimum period of 7 years from the date the relevant transaction or series of linked transactions were completed or when the business relationship was terminated, whichever is the latter.

**Criterion 11.2** - FIs are required to establish and maintain records of all transactions as specified in legislation. Section 16 (1) of the AML/CFT Act, 2009 requires REs (including FIs) to establish and maintain records of evidence obtained of a person's identity. Sub-section (1) also requires that records of account files and business correspondence in relation to transactions and CDD are also established and maintained. Further, section 16 (5), AML/CFT Act 2009 stipulates that REs shall ensure that documents, data or information collected under the customer due diligence process are kept up to date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships. The AML/CFT Supervision Guideline No. 13, 2013 clause 7.3 on Record Keeping Procedures & Retention states that in ensuring that records remain up-to-date and relevant, there is a need for FIs to undertake regular reviews of existing records. However, this sub-criterion refers to any analysis undertaken, not solely reviews of CDD information for the sole purpose of updating CDD data.

Section 18 of the AML/CFT Act, 2009 requires REs (including FIs) to keep records of findings in relation to verification of particular transactions for a period of at least seven years from the date the



relevant transaction was completed or on termination of the business relationship, whichever is less. Regulation 8 (1) of the AML/CFT Regulations, 2010 outlines the limitation period for retention of records for at least seven years. The AML/CFT Supervision Guideline No. 13, 2013 clause 7.3 Record Keeping Procedures & Retention, states that the document retention policy should incorporate the requirement that FIs are required to keep records of all domestic and international transactions as well as identification data on a customer for a minimum period of 7 years, from the date the relevant transaction or series of linked transactions was completed or when the business relationship was terminated, whichever is the latter.

**Criterion 11.3** - REs (including FIs) are required to keep specified transaction records that should comprise a copy of the evidence obtained or such information to enable a copy of it to be obtained. Additionally, transactions should contain sufficient details to permit reconstruction of individual transactions (including the amounts and types of currency involved) so as to provide, if necessary, an audit trail and evidence for prosecution of criminal activity and to enable FIs to comply swiftly with information requests from the FIU which is applicable whether or not records are stored off the premises of the financial institution. Regulation 7, AML/CFT Regulations, 2022 requires REs (including FIs) to maintain records that are sufficient to identify the source and recipient of payments from which investigating authorities will be able to compile an audit trail for suspected money laundering or terrorist financing. Furthermore, Section 16 (bb) of the AML/CFT Amendment Bill, 2023 requires that supporting evidence and records of transactions must be sufficient to permit the reconstruction of individual transactions.

**Criterion 11.4** - Pursuant to Section 16(8)A of the AML/CFT Act, 2009 REs (including FIs) are required to have systems to respond promptly to enquiries from a SA, the FIU, the relevant CA or a police officer whether it maintains or has maintained a business relationship with any person and the nature of that relationship. However, the provision does not specify that all CDD information and transaction records be made available swiftly upon appropriate authority.

### ***Weighting and Conclusion***

There are legislative provisions for the retention of records which requires REs (including FIs) to keep records of all transactions both domestic and international for a period of at least seven years. However, there are no provisions which requires all CDD information and transaction records to be made swiftly available to domestic CAs upon appropriate authority, nor the obligation for FIs to retain results of any analysis undertaken. **Recommendation 11 is rated Largely Compliant.**

### **Recommendation 12 – Politically exposed persons**

In the 3<sup>rd</sup> Round MER, Guyana was rated PC with R.12 (formerly R.6) due to the lack of a requirement for REs to obtain senior management approval to continue a business relationship with a customer or beneficial owner who is subsequently found to be a PEP or becomes a PEP. Another deficiency related to limited awareness by FIs of the legal requirements concerning PEPs.

**Criterion 12.1** – According to Section 2 (1) of the AML/CFT Act 2009 a Politically Exposed Person (PEP) refers to domestic as well as foreign persons. As such, in relation to customers and beneficial owners that are PEPs, in addition to performing CDD required under R.10, FIs are required to:

- have appropriate risk management systems to determine whether the customer is a PEP under Section 15(4)(d)(ii) of the AML/CFT Act, 2009;
- obtain the approval of senior management before establishing a business relationship with the

politically exposed person under Section 15(4)(d)(iii) of the AML/CFT Act, 2009  
 take reasonable measures to establish the source of wealth and source of property under Section 15(4)(d)(iv) of the AML/CFT Act, 2009; and  
 conduct regular enhanced monitoring of the business relationship under Section 15(4)(d)(v) of the AML/CFT Act, 2009.

Section 15 (4) (d) (i) – (v), (e) AML/CFT Act, 2009 (as amended) outline EDD measures for customers or beneficial owners falling within the definition of PEPs. Clause 5.3.8 of the AML/CFT Supervision Guideline No. 13, 2013 sets out the due diligence procedures to be followed prior to the commencement of such relationships and post onboarding. However, the legislative provisions do not distinguish between foreign and domestic PEPs nor specify that foreign PEPs relate to this sub-criterion. Clause 12, Guideline issued by the Financial Intelligence Unit under Section 9(4)(e)(iv) of the AML/CFT Act, 2009, treats with International Organisation PEPs and cites that while the definition given in the AML/CFT Act for PEPs do not include specifically the term, ‘International Organisation PEPs’, REs, using a risk based approach should employ procedures for dealing with customers classified as ‘International Organisation PEPs or executive members of those organisations.

**Criterion 12.2** - Guyana does not distinguish between domestic and foreign PEPs and applies the same requirement for any customer identified as a PEP. **(a)** Section 15 (4) (d) (i) of the AML/CFT Act, 2009 requires REs (including FIs) to adequately identify and verify the identity of a customer or beneficial owner’s identity; and **(b)** Where a higher risk business relationship is established, the requirements in c12.1 apply equally to domestic PEPs. The ‘Politically Exposed Persons’ Guidelines No.3 provides guidance on how to manage International Organisation PEPs and the AML/CFT Amendment Bill 2023 provides an amended definition of PEP which includes the category of International Organisation Section 15 (4) (d) (ii) and (iv) sets out reasonable measures to determine whether a customer or beneficial owner is a PEP. Clause 11, Guideline for Politically Exposed Persons issued by the Financial Intelligence Unit under Section 9(4)e(iv) of the AML/CFT Act No. 13 of 2009 that a RE must apply *the same enhanced due diligence* measures when dealing with customers, who are from another country, that fall under any of the categories listed above for PEPs (hereinafter referred to a ‘foreign PEP’). In applying the risk-based approach, the RE must seek to establish the level of ML or TF risks associated with the jurisdiction from which the PEP resides and determine whether or not those risks (if any) impact the transaction being conducted with the foreign PEP. Clause 8.14 (c) of the Guideline for Insurance Companies and Intermediaries on AML/CFT, 2023 (as amended), cites that EDD is also required for business relationships with all foreign PEPs and with higher risk domestic PEPs or international PEPs.

**Criterion 12.3** - The definition of a PEP in Guyana as stated in the AML/CFT Act 2009 includes ‘*family members or close associates of the politically exposed person whether that person is resident in Guyana or not*’. As such the requirements at c12.1 and c12.2 must be applied to family members or close associates of all types of PEPs. Clause 5.3.8, AML/CFT Supervision Guideline No. 13, 2013 stipulates that in addition to the identity information normally requested for natural persons, for PEPs, information on immediate family members or close associates having transaction authority over the account should be obtained. Clause 3 VIII and IX, Guideline No. 3 for Politically Exposed Persons issued by the Financial Intelligence Unit under Section 9(4)e(iv) of the AML/CFT Act No. 13 of 2009, provides a non-exhaustive list of family members and close associates for referencing.

**Criterion 12.4** - For life insurance policies, clause 8.14 (c), Guideline for Insurance Companies and Intermediaries on AML/CFT, 2023 (as amended) cites EDD measures are also required for business relationships with all foreign PEPs and with higher risk domestic PEPs or international PEPs. In instances where higher risks are identified in relation to beneficiaries of life insurance policies or their beneficial owners, senior management must be informed and enhanced scrutiny must be conducted on the whole business relationship with the policyholder, prior to a pay-out being made. This includes determining whether filing an STR is necessary. Additional internal controls for higher risk situations also apply to insurers and intermediaries.

### ***Weighting and Conclusion***

**Recommendation 12 is rated Compliant.**

### **Recommendation 13 – Correspondent banking**

Rec 13, formerly Rec 7 was rated LC in the 3<sup>rd</sup> round MER as there were no requirements for FIs to determine whether a respondent institution had been subjected to ML/TF investigation or regulatory action. Further, FIs were not required to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective. Guyana's 10<sup>th</sup> Follow-up report indicated that the deficiency was addressed at section 9 (d) – page 18 of the AML/CFT (Amendment) Act No. 1 of 2015 which amends section 15(7) of the Principal Act.

**Criterion 13.1 – (a)** – Section 15(7)(a) (ii) of the AML/CFT Act 2009 (as amended by Section 9(c) of the AML/CFT Amendment Act No. 1 of 2015) requires FIs engaging in correspondent banking and other similar relationships to gather sufficient information to understand the nature of business of the person or entity. Further, Section 15(7)(a)(iii) of the Act allows for FIs to determine from publicly available information, the reputation of the person or entity and the quality of supervision to which they are subjected including whether the person or entity has been subject to a money laundering or terrorist financing investigation or regulatory action. The requirement is also provided for in Regulation 14A(3)(a) and (b) of the AML/CFT Regulations which specifically applies to FIs that propose to have a correspondent banking relationship with a respondent.

**(b)** Section 15(7)(a)(iv) of the AML/CFT Act (as amended by Section 9(d) of the AML/CFT Amendment Act No. 1 of 2015) and Regulation 14A(3)(c) of the AML/CFT Regulations permits the bank or FI to assess the person's or entity's AML/CFT controls and ascertain for themselves that such controls are adequate and effective.

**(c)** Section 15(7)(a)(v) of the AML/CFT Act (as amended by Section 9(d) of the AML/CFT Amendment Act No. 1 of 2015) and Regulation 14A(3)(d) of the AML/CFT Regulations requires the bank or financial institution to obtain the approval of senior management before establishing a new correspondent relationship.

**(d)** Regulation 14A (3) of the AML/CFT Regulations requires an FI with correspondent banking relationship to document the respective responsibilities of the respondent and correspondent. However, there is no obligation to clearly understand the AML/CFT responsibilities of each respondent FI.

**Criterion 13.2 – (a)** Pursuant to section 15(7)(b)(i) of the AML/CFT Act as it pertains to payable through accounts, FIs are required to verify the identity of and perform on-going due diligence on those of that person's customers that have direct access to accounts of the financial institution. **(b)**

Section 15(7)(b)(ii) of the AML/CFT Act states that FIs are required to be able to provide the relevant customer identification data upon request to the financial institution.

**Criterion 13.3** – Section 15(7)(a)(vii) of the AML/CFT Act (as amended by Section 9(g) of the AML/CFT Amendment Act No. 1 of 2015) provides that the bank or FI must, in relation to cross border correspondent banking and other similar relationships, satisfy itself that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks. 15 (7 (c) of the AML.CFT Act prohibits Banks or FIs from maintaining any business relationships with other banks that do not have a physical presence under the laws where they were established unless part of a regulated financial group.

### ***Weighting and Conclusion***

The measures are mainly in place notwithstanding the term ‘respondent banking’ is not explicitly stated in the AML/CFT Act, 2009. Also, while FIs engaged in correspondent banking and similar relationships are required to document responsibilities, there is no obligation for them to clearly understand the respective AML/CFT responsibilities of each FI. **Recommendation 13 is rated Largely Compliant**

## **Recommendation 14 – Money or value transfer services**

Guyana was previously rated as PC in the 3<sup>rd</sup> Round MER for this recommendation (formerly SR VI). The deficiencies identified included no requirement for Money Transfer Agencies (MTAs) to maintain a current list of agents which must be made available to the BOG, no system to monitor agents AML/CFT compliance and penalties under the MTALA were not dissuasive or proportionate and did not extend to the directors or senior management.

**Criterion 14.1** – Money or Value Transfer Services (MVTs) are provided by entities referenced in Guyana as a licensed agency (any agency authorized to carry on the business of money transfer). Section 3 of the Money Transfer Agencies (MTA) Act 2009 requires a person desirous of operating a licensed agency to apply to the BOG on the prescribed form. There is a clear prohibition in law for any person that contravenes the MTA Act including operating as a licensed agency without being licensed by the BOG (Section 17 of the MTA).

**Criterion 14.2** – The MTA Act requires the BOG to monitor MTAs and take actions against persons (individuals and legal persons carrying on unlicensed business. Guyana has taken some action with a view to identifying natural or legal persons operating a licensed agency without the required license. There are legislative provisions whereby contravention of the MTA Act is an offence and liable to sanctions. Sec 17 (2) of the MTA Act stipulates that anyone who fails to obtain a licence before conducting money transfer business is liable on summary conviction to a fine of GUY 10,000,000 (USD 47,517) for natural person and GUY 50,000,000 (USD 237,586) for corporate body. The above sanctions are dissuasive and proportionate.

**Criterion 14.3** – Under authority, the Minister appointed the BOG as the supervisor for all Money Transfer Agencies licensed under Section 4 of the MTA Act by letter dated December 20th 2012. The BOG is responsible for supervision, which includes overseeing effective compliance with AML/CFT obligations pursuant to Section 22 (1) and 22(2) of the AML/CFT Act.

**Criterion 14.4** – A licensed agent may appoint a person in writing, with the authority to provide money transfer services on its behalf (Section 7 of the MTA Act). These agents are required to first be registered with the BOG as per Section 8 (1) of the MTA Act.

**Criterion 14.5** – A Licensed Agency/Money Transfer Agency is fully liable for the actions of any agent acting on their behalf. Pursuant to Sec 50 to 54 of the Supervision Guideline No. 12 issued by the authority, MTAs must include agents in their AML/CFT framework and effectively monitor the activities of their agents to assess and address any potential risks which may arise from issues such as inadequate training, lack of internal control procedures, or poor individual judgment or performance.

### ***Weighting and Conclusion***

**Recommendation 14 is rated Compliant.**

## **Recommendation 15 – New technologies**

Guyana was rated non-compliant with these requirements in its 3rd MER because it did not implement any AML/CFT measures relating to the ML/TF threats regarding new or developing technologies, including non-face-to-face business relationships or transactions. In Guyana's 10th Follow-Up Report, the criteria were met. The FATF requirements on new technologies have also changed. R.15 now includes requirements for virtual assets (VAs) and Virtual Asset Service Providers (VASPs) and sets out a new obligation for countries to identify and assess the risks. In line with the Note to the Assessors regarding R.15 (FN 44), Guyana is assessed against criteria 15.1, 15.2, 15.3 (a), 15.3 (b), 15.5 and 15.11 as the jurisdiction has taken measures to prohibit virtual assets and VASPs via Sec. 72 of the Guyana Compliance Commission Act of 2023.

**Criterion 15.1** – Pursuant to S.9(4)(fA) of the AML/CFT Act, the FIU of Guyana is required to carry out research to identify and assess ML/TF risk in relation to the development of new products and new business practices, including new delivery mechanism and use of new or developing technologies (for new and existing products). However, Guyana has not identified and assessed the ML/TF risks associated with the development of new technologies at the country level. Further, there is no specific obligation for the country to identify and assess ML/TF risks as specified in R.15.1. Pursuant to Section 19 (1)(e) of the AML/CFT Amendment Act, 2009 (as amended in 2015), FIs are required to identify and assess the ML/TF risks and take appropriate measures to manage and mitigate those risks which may arise in relation to – (i) the development of new products and new business practices including new delivery mechanisms; and (ii) the use of new or developing technologies for both new and pre-existing products.

**Criterion 15.2** – (a) Pursuant to Section 19 (1)(e) (ii) of the AML/CFT Amendment Act of 2009 FIs shall ensure that the risk assessment takes place prior to the launch of the new products, business practices or the use of new or developing technologies. (b) Section 19 (1) (e) of the AML/CFT Act of 2009 requires REs to take appropriate measures to manage and mitigate the risks.

**Criterion 15.3** – (a) Guyana recognised VAs activities and the activities or operations of VASPs as an emerging threat during the NRA (2021). Thereafter, in 2023 Guyana identified and assessed ML/TF risks of VAs and VASPs. The risk assessment working group comprised of CAs including the BOG, GSC, the FIU of Guyana, SOCU, GRA and Attorney General Chambers. The private sector participated in the risk assessment via survey questionnaires as well as informal discussions.

The risk assessment found an overall ML/TF residual risk rating of very high. The risk assessment was informative and thorough having gathered information from all facets. It was identified there were no VASPs operating in Guyana. The banking, the NBFIs, and the DNFBPs sectors indicated that they did not interact with VA/VASP. **(b)** Based on their understanding of risk, Guyana commenced the implementation of recommendations for a risk based approach. A framework that prohibits VAs/VASPs is outlined in S.72 of the Compliance Commission Act of 2023, as follows: (i) requirement that no person shall conduct VA/VASP activity unless licensed; (ii) restriction on the issue of any license by the Commission in respect of VA/VASP on or before December 31<sup>st</sup> 2025; and (iii) specified penalties relative to persons carrying on the activity prior to commencement of the legislation. Risk based measures implemented by Guyana to ensure the prohibition is implemented included informing the public, FIs and DNFBPs of the prohibition via a public notice; and monitoring compliance with the legislation through the AML/CFT SAs via the conduct of outreach to and inspections of their supervised entities. While the Compliance Commission Act that outlines the prohibition is in effect, Guyana has not designated a SA for VASPs or any relevant CA with responsibility for implementing risk based measures, particularly enforcing the prohibition laws.

**Criterion 15.5** – Guyana has undertaken activities to identify persons (natural and legal) in breach of the provision operating VAs/VASPs as outlined in c.15.3(b). The ML/TF risk assessment of VAs and VASPs identified that there were no VAs/ VASPs operating in Guyana. The extent of the monitoring mechanism and use of technology employed was not clearly outlined. Persons who were carrying on VAs/VASPs activities prior to the commencement of the Act were required to inform the GCC in writing within one month of the commencement. Failure to do so is an offence, liable on indictment to a fine not exceeding GUY\$25,000,000 (USD\$118,793) or to 5 years imprisonment or to both. Additionally, such persons shall cease to operate any VA/VASP activity within three months of the commencement of the Act. A person who fails to comply commits an offence and is liable on indictment to a fine not of GUY\$50,000,000 (USD\$237,586) or to 5 years imprisonment or to both (S.72 (4), (5) and (6) of the GCC Act, 2023). REs in Guyana are prohibited from carrying out VAs/VASPs activities. If found in breach, the RE is subject to a penalty within the range of GUY 10,000,000 (USD 47,517) to GUY 50,000,000 (USD 237,586) or to 5 years imprisonment or to both (S.45 of the GCC Act, 2023). There is no clear offence nor sanctions for persons (natural or legal) found to be carrying out VASP activities without the requisite license or registration beyond three months of the commencement of the Act. As such, the sanctions, are limited to persons that commenced VAs/VASPs activity prior to the commencement of the prohibition provisions and to REs that engage in VA/VASP activities. Persons in breach of the prohibition, as outlined above, can be prosecuted for the serious offence by the GPF or the DPP. While the GCC was not constituted by the end of the onsite nor was an authority designated to monitor. Guyana has indicated the NCC is the mechanism in place to identify breaches given their purview to coordinate and monitor implementation of national AML/CFT strategies. As such, there is a mechanism to apply sanctions on natural or legal persons for contravening the prohibition (within the period specified in law).

**Criterion 15.11** – Pursuant to S.76 of the AML/CFT Act, 2009 (as amended by the AML/CFT amendment Act 15 of 2023) CA in Guyana are required to take appropriate measures to cooperate with foreign CA to provide assistance to matters relating to all ML and TF offences. Further, the MACMA facilitates the exchange of information relative to criminal matters involving VAs/VASPs with foreign counterparts. In Guyana, failure to comply with prohibition requirements (notwithstanding the legislative gaps outlined in 15.5) for VAs/VASPs is considered a serious



offence. Pursuant to S.76 (10) – (12) of the AMLCFT (Amendment) Act #15 of 2023, by virtue of MOUs signed between the FIU and foreign FIUs and being a member of regional organisations, CAs in Guyana can exchange information with non-counterparts to include information on issues related to VAs and VASPs (R.40.20).

### ***Weighting and Conclusion***

The FIU of Guyana and FIs are required to identify and assess the ML/TF risks and take appropriate measures to manage and mitigate those risks which may arise in relation to new technology. However, this assessment has not been done at a country level. The VAs/VASPs risk assessment recognized VAs activities and the activities or operations of VASPs as emerging threats and as such, implemented measures to prohibit VAs/VASPs activity until December 31<sup>st</sup> 2025. Guyana has demonstrated that until the GCC is established, the NCC is the mechanism in place to identify entities in breach of the prohibition which can be prosecuted by the GPF or DPP. However, the GCC with responsibility under the Act had not yet been constituted. Further, shortcomings exist in the limited actions taken to identify persons carrying out VASPs activity and limitation of a clear offence and sanctions which are not applicable to natural or legal persons in breach of the prohibition after the commencement of the Act. Given the ML/TF risk rating of very high, not having constituted the legal body for the legislation pertaining to VAs/VASPs, the nature of VAs/VASPs operations and Guyana's context (existing cash based economy and economic developing due to oil and gas), there can be some exposure to VAs/VASPs activities and therefore these deficiencies are considered moderate. **Recommendation 15 is rated Partially Compliant.**

### **Recommendation 16 – Wire transfers**

R.16, formerly SR VII was rated NC in the 3<sup>rd</sup> round MER. This was primarily due to deficiencies. such as FIs not being mandated to have effective risk-based procedures, lack of measures to effectively monitor FIs for compliance with the recommendation and no definition of originator information in the AML/CFT Act. In addition, the sanctions for breaches of wire transfers were neither dissuasive or proportionate and were not applicable to directors and senior management of REs. According to Guyana's 9<sup>th</sup> FUR these shortcomings were addressed resulting in the recommendation being met.

**Criterion 16.1 – (a)** FIs in Guyana are required to establish and verify the identity of any customer. This requirement is also applicable for wire transfers. S.20 (1) of the AML/CFT Act of 2009 requires an FI (licensed under the Financial Institutions Act) or a money transfer agency shall include accurate originator information (namely (i) the name of the originator; (ii) the originator's account number where such an account is used to process the transaction; and (iii) the originator's address and national identification number, or customer identification number and date and place of birth). Further, S.20(2) of the Act, 2009 requires that the information be included in the message or payment form accompanying the transfer. If there is no account number, a unique reference number shall accompany the transfer. Pursuant to Section 61 of the '*Supervision Guideline – Money Transfer Agencies and Cambios*', MTAs and cambios are required to obtain and maintain accurate and meaningful information of the name of the originator, the originator's reference number where such an account is used to process the transaction and the originator's address, national identification card or passport number and date of birth. The amended supervision guideline No.12 section 16 requires MTAs to ensure that the information remains with the transfer/related messages through the payment

chain. **(b)** Section 5.4.3.2 of the Bank of Guyana Supervision Guideline No. 13 require FIs that initiate wire transfers to obtain the name and address of the ultimate recipient/beneficiary and the account number where such an account is used to process the transaction. In the absence of an account, a unique transaction reference may be included. The supervision guideline No.13 section 5.4.3.2 (1) (as amended) provides for this information to accompany all wire transfers above USD/EUR 1,000. , Section 61 of the Supervision Guideline – Money Transfer Agencies and cambios requires MTAs and cambios to obtain and maintain accurate and meaningful information of the name of the beneficiary’s account number where such an account is used to process the transaction and this is required to remain with the transfer or related messages through the payment chain.

**Criterion 16.2** –The provisions at Sections 15(3)(b)(ii) and 20(2) of the AML/CFT Act, 2009 outline the requirement for FI’s to obtain accurate originator and beneficiary information. Furthermore, Section 20 A (1) of the AML/CFT Act, 2009 requires a batch file for transmission to beneficiaries to contain accurate originator information, full beneficiary information that is fully traceable within the beneficiary country, and the originator’s account number or any unique transaction reference number.

**Criterion 16.3** –to the amended SG No. 12 and SG No. 13 requires both FIs and specifically MTAs to ensure that transactions below any applicable de minimus thresholds (no higher than USD/EUR 1,000) are accompanied by originator and beneficiary information, as well as account numbers or unique transaction reference numbers which permits traceability of the transaction.

**Criterion 16.4** – Pursuant to Section 15(3)(c) FIs are required to verify the identity of a customer where there is a suspicion of ML or TF. Verification includes the applicant’s production of identification record or other reliable source documents.

**Criterion 16.5** – There is no distinction in the provisions for ‘domestic transfers’ beyond the context of the MTA sector, hence requirements refer to all electronic funds transfers. S.20B(1) of the AML/CFT Act, 2009 states that FIs shall not execute an electronic funds transfer, if that FI is not in receipt of the required originator and beneficiary. As it relates to MTAs, section 62 of SG No.12 states MTAs may include full originator information or only the originator’s account number or unique reference number for domestic wire transfers. This is provided the full originator information is available to the recipient MTA and CAs.

**Criterion 16.6** – Section 5.4.3.2 (1) of SG No. 13 issued by the BOG states that FIs must ensure that originator information provided by other means should only include the account number. Further, the information must be made available by the ordering FI within three business days of receiving the request from the beneficiary FI or appropriate CA. There are no provisions for law enforcement to compel immediate production of such information.

**Criterion 16.7** – S.20C of the AML/CFT Act requires beneficiary FIs to maintain, for at least 7 years, all originator and beneficiary information obtained. The provision does not apply to the ordering FI. However, while there are some record keeping measures for FIs and MTAs as required by R.11, there are deficiencies with this Recommendation. Further, section 61 of SG #12 issued by the BOG requires MTAs to obtain and maintain accurate and meaningful information for cross border transactions.

**Criterion 16.8** – Section 15(2A) of the AML/CFT Act (as amended by Section 9(a) of the AML/CFT Amendment Act No. 1 of 2015) provides that when a RE, including a financial institution, is unable to obtain satisfactory evidence of the identity of any natural or legal person as required to be obtained



under the Act, the RE shall not perform the intended or desired transaction and may consider making a suspicious transaction report in the manner provided under the Act. Amendments to SG No. 12 and No. 13 prohibit both ordering MTAs and FIs from executing wire transfers where it is unable to collect and maintain information on the originator or beneficiary, which includes unique transaction reference numbers in the absence of an account.

**Criterion 16.9** – Section 20(5) of the AML/CFT Act, 2009 (as amended) provides that a financial institution or money transfer agency, acting as a receiving intermediary financial institution shall for seven (7) years keep a record of all information received from an ordering FI. However, this applies where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer.

**Criterion 16.10** - Section 20(5) of the AML/CFT Act, 2009 (as amended by) requires FIs or MTAs, acting as a receiving intermediary FI to keep for seven (7) years a record of all information received from an ordering FI where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer. However, this does not extend to beneficiary information, nor to information received from another intermediary financial institution.

Further, Part 5, Section 5.4.3.2 (3), page 66 of the Bank of Guyana-Supervision Guideline, Supervision Guideline No. 13 provides that ‘where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, a record should be kept, for at least seven (7) years, by the receiving intermediary FI of all the information received from the ordering FI or another intermediary FI.

**Criterion 16.11** - Section 20(6) of the AML/CFT Act, 2009 (as amended) provides that all FIs shall adopt and implement effective risk-based procedures to identify and handle wire transfers which are not accompanied by complete originator information. Part 5, Section 5.4.3.2 (3), page 66 of the Bank of Guyana-Supervision Guideline, SG No. 13 provides that ‘an intermediary FI should take reasonable measures to identify cross border wire transfers that lack required originator information or required beneficiary information. Such measures should be consistent with straight-through processing.’ The above measures fully comply with the requirements of the criterion.

**Criterion 16.12** - Section 20(6) of the AML/CFT Act, 2009 (as amended) provides that all FIs shall adopt and implement effective risk-based procedures to identify and handle wire transfers which are not accompanied by complete originator information. Part 5, Section 5.4.3.2 (3), page 66 of the Bank of Guyana-Supervision Guideline, SG No. 13 provides that an intermediary FI should have effective risk-based policies and procedures for determining- (i) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (ii) take the appropriate follow-up action. The above measures fully comply with the requirements of the criterion.

**Criterion 16.13** – The cited provisions do not include requirements for beneficiary FIs to take reasonable measures, which may include post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required originator information or required beneficiary information.

**Criterion 16.14** – S.20C (1) of the AML/CFT Amendment Bill, 2023 requires beneficiary FIs to verify the identity of the beneficiary for electronic fund transfers that are equivalent to at least

US\$956.00 if the identity had not been previously verified. Also, such information must be retained for a period of at least seven years.

**Criterion 16.15** - Part 5, Section 5.4.3.2 (2), page 65 of the Bank of Guyana-Supervision Guideline, Supervision Guideline No. 13 requires beneficiary FIs to have risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.

**Criterion 16.16** – MVTS providers are subject to the requirements of the AML/CFT Act, 2009 and the Bank of Guyana-Supervision Guideline, Supervision Guideline No. 13 both of which include wire transfer obligations. The analysis of the requirements of R.16 for FIs, the obligations in the AML/CFT Act and the Bank of Guyana-Supervision Guideline, Supervision Guideline No. 13 are applicable for MVTS providers. Section 88 of SG No. 12 stipulates that subsidiaries and branches domiciled outside of Guyana are to comply with the requirements of the AML/CFT Act, regulations and guidelines, though there is no reference to agents.

**Criterion 16.17** - (a) There is no specific provision regarding situations where an MVTS provider controls both the ordering and beneficiary side of a wire transfer. However, section 18(4)(a) of the AML/CFT Act requires FIs which includes MVTS providers when preparing to submit an STR to (a)- take reasonable measures to ascertain the purpose of the transaction, the origin and ultimate destination of the funds involved and the identity and address, of any ultimate beneficiary. The above requirement would require an MVTS provider to take into account all the information from both the ordering and beneficiary sides in order to determine whether an STR has to be filed. (b) - Section 7 (b) of the AML/CFT Regulation No. 12 of 2023 requires a RE which controls both the originator and beneficiary side of a wire transfer to file an STR in any country affected by the suspicious wire transfer and make transaction information available to the FIU.

**Criterion 16.18** – FIs are subject to the requirements of Section 68A(2)(a)-(d) of the AML/CFT Act (as amended by Section 18 of the AML/CFT Amendment Act No. 1 of 2015, further amended by Section 4 of the AML/CFT Amendment Act No. 10 of 2015 and further amended by Section 9(1) of the AML/CFT Amendment Act No. 15 of 2016), which imposes prohibitions on transactions with listed persons and entities. Additionally, section 68A(1), section 68A(5) and (6A) of the AML/CFT Act imposes obligations set out in the relevant UNSCRs relating to the prevention and suppression of terrorism and terrorist financing, such as UNSCRs 1267 and 1373, and their successor resolutions. The analysis of the requirements of these obligations in the AML/CFT Act as set out in R.6 is applicable to this criterion.

### ***Weighting and Conclusion***

There are several gaps in the legislation. Substantial deficiencies were identified which pertained to the absence of legislation or guidelines on obligations of ordering and intermediary FIs, and obligations of beneficiary institutions to take steps to ascertain, either post-transaction or in real time whether cross-border wire transfers contain the required originator or beneficiary information. Also the issue of what constitutes a domestic wire transfer remains. **Recommendation 16 is rated as Largely Compliant.**

### Recommendation 17 – Reliance on third parties

This Recommendation, formerly R. 9 was rated PC in Guyana's 3<sup>rd</sup> MER due to fact that authorities did not issue any guidance in relation to which countries third parties that meet FATF conditions can be based. There was also no requirement for FIs to satisfy themselves that third parties are regulated and supervised in accordance with Recs 23, 23 and 29 or have measures in place to comply the CDD requirements set out in R.5. This recommendation has been regarded as met in Guyana's 10<sup>th</sup> FUR.

**Criterion 17.1** – Section 15(8) of the AML/CFT, 2009 (as amended), permits REs to rely on intermediaries or third parties to apply CDD measures or to introduce business. The RE is however required to: **(a)** Immediately obtain from the intermediary or third-party, information and documents as it pertains to CDD. This is according to Section 15(8) (a) of the AML/CFT Act. **(b)** Take adequate steps to satisfy itself that copies of identification data and other relevant documentation relating to customer due diligence requirements will be made available from the third party upon request without delay. This is in accordance with Section 15(8)(b) of the AML/CFT Act and Regulation 5(4) of the AML/CFT Regulation No. 4 of 2010. **(c)** When relying on intermediary or third parties, the FI must satisfy itself that the third party or intermediary is regulated and supervised in accordance with international recommended best practices in relation to regulation and supervision, powers of supervisors and regulation and supervision of DNFPBs and has measures in place to comply with customer due diligence requirements set out in international recommended best practices in relation to a terrorist financing offence and customer due diligence and record keeping, and in any event the ultimate responsibility for customer identification and verification shall remain with the RE including where it seeks to rely on the third party. This is in accordance with Section 15(8)(c) of the AML/CFT Act (as amended).

**Criterion 17.2** - Regulation 5(3) of the AML/CFT Regulation No. 4 of 2010 states a RE, when relying on a foreign FI shall take into account the information available on application and adequacy of implementation of the FATF 40+ 9 recommendations to entities in individual countries, including by examining reports and reviews published by the FATF or any FSRB.

**Criterion 17.3** – **(a)** Part 5, Section 5.3.6 (i) of the BOG SG No. 13 states that FIs should satisfy itself that third parties are regulated and supervised in accordance with FATF Recommendations 23, 24, and 29, and have measures in place to comply with CDD and EDD requirements. Amendment to Supervision Guideline no. 13 requires FIs that are part of any financial group to implement group-wide AML/CFT/CPF programmes which include CDD and record keeping obligations, in line with Recommendations 10 to 12 and 18. In addition, Regulation 3(4) as at Regulation 3 in the AML/CFT (Amendment) Regulations No. 9 of 2023 provides group-wide policies and procedures that facilitate sharing of CDD and transaction information through the application of AML/CFT/CPF compliance functions. **(b)** Amendment to Supervision Guideline No. 13 at 2.2.1 outlines the risk-based supervision of financial groups to be undertaken by the BOG. Additionally, Section 5.3.6 (i) of the Bank of Guyana Supervision Guideline No. 13 states that FIs should satisfy itself that third parties are regulated and supervised in accordance with FATF Recommendations 23, 24, and 29, and have measures in place to comply with CDD and EDD requirements. **(c)** Amendment to the supervision guideline (SG) No. 13 at 2.2.1.2 requires financial groups to apply appropriate additional measures to manage ML/TF/PF risks where the host country is less strict or where effective implementation of AML/CFT/CPF measures are not applied. Section 22(2)(eA)(i) of the AML/CFT Act (as amended by Section 14(c) of the AML/CFT Amendment Act No. 1 of 2015 and further amended by Section

6(2) of the AML/CFT Amendment Act No. 15 of 2016) provides that the SA, in the case of a RE or financial institution, require that the RE or FI ensure that where requirements of the host country are less strict than those under this Act or the FATF recommendations, that branches and majority owned subsidiaries abroad implement the highest standard to that of which the host country laws permit- (i) where the foreign country does not permit the proper implementation of the measures above, financial groups shall apply appropriate additional measures to manage the money laundering and terrorist financing risks, and report the matter to the designated or regulatory authority or the competent disciplinary authority. Also, regulation 3 (4) and (5) as stated in Regulation 3 of the AML/CFT (Amendment) Regulations No.9 of 2023 also refers to higher risk country risk being adequately mitigated by the group's AML/CFT policies.

### ***Weighting and Conclusion***

**Recommendation 17 is rated Compliant.**

### **Recommendation 18 – Internal controls and foreign branches and subsidiaries**

This recommendation is a combination of the previous R.15 and R.22. The former R15 was rated PC in Guyana's 3<sup>rd</sup> MER. Deficiencies for R 15 included (a) no requirement for businesses with less than 5 persons to comply with the requirement of R.15 (b) training obligations of FI's was not ongoing and did not include new developments on ML and TF trends and techniques (c) No requirements for maintaining an independent and adequately resourced internal audit function as well as independent and compliance testing for procedures, policies and controls to include sample testing; (d) restricted access to information for all staff engaged in the compliance function. Regarding R.22, which was rated NC the deficiencies were attributed to the lack of provisions in the Regulations for FIs to apply the required AML/CFT measures to foreign branches and subsidiaries. Guyana's 11<sup>th</sup> FUR noted that all deficiencies identified in R 15 were fully met and for R.22. Two of the four sub-recommendations are fully met while two remained outstanding.

**Criterion 18.1** – Regulation 19 of the AML/CFT Act, 2009 requires FIs to establish and maintain the following internal AML policies, procedures and controls and mechanisms:

- i. appoint a Compliance Officer who shall be at managerial level and be responsible for ensuring compliance with AML/CFT obligations (Section 19(1) (a) and (3) of the AML/CFT Act);
- ii. screen persons before they are hired as employees. However to the provision does not specify such procedures, policies and controls are to ensure high standards (Section 19(1) (b) (vii));
- iii. conduct of ongoing training for officers, employees and agents (Section 19(d));
- iv. establish and maintain an independent audit function with adequate resources to test AML/CFT procedures and systems (Section 19 (c)).

**Criterion 18.2** – (a) Section 22(2)(e) of the AML/CFT Act states a SA shall impose requirements such that the RE (including FIs) shall ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with the Act. Regulation 3 (4) (a) (i) and (6) (b) of the AML/CFT Regulations (Amendment) 9 of 2023 requires group wide policies and procedures for sharing of CDD information and ML/TF/PF risk management. (b) Regulation 3 (6) (c) of the AML/CFT Regulations does not include the requirement for policies and procedures on analysis of transactions or activities that appear unusual. Whilst Section 91 of the Bank of Guyana Supervision Guidelines No.12 requires MTAs and cambios establish internal policies, there is no specific reference to group-

level policies. (c) 3 (4) (a) (ii) of the AML/CFT Regulations (Amendment) 9 of 2023 requires group-wide policies and procedures that ensure adequate safeguard on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off.

**Criterion 18.3** - Pursuant to Section 22(2)(eA) of the AML/CFT Act, 2009 (as amended by Section 14(c) of the AML/CFT Amendment Act No. 1 of 2015 and further amended by Section 6(2) of the AML/CFT Amendment Act No. 15 of 2016) FIs are required to ensure that where requirements of the host country are less strict than those under the AML/CFT Act and the Financial Action Task Force Recommendations, the branches and majority owned subsidiaries abroad should implement the highest standard to that of which the host country laws permits. Further, FIs are required to apply appropriate additional measures to manage the ML/TF risks and report the matter to the designated or regulatory authority where the foreign country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements. Regulation 3 (4) (b) of the AML/CFT Regulation (Amendment) 9 of 2023 requires a RE to apply to the extent permitted by the law of the country measures at least equivalent to those in the Regulations, but this is restricted to customer due diligence, ongoing monitoring and record-keeping. Notwithstanding, 22 (2) (e) of the AML/CFT Act provides for REs to ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with this Act. Additionally, regulation 3 (5) (b) of the AML/CFT Regulation (Amendment) no. 9 requires the RE, in instances where the country does not permit application of equivalent measures to inform the SA and take additional measures to handle the ML/TF/PF risks.

### ***Weighting and Conclusion***

The legislation adequately meets the obligations for ensuring that FIs implement robust programmes against ML/TF. There is also satisfactory legislation in place for how an entity is to manage branches and subsidiaries in jurisdictions with less stringent AML/CFT requirements. There is legislative provision for financial group wide programmes on sharing of CDD and risk management information, safeguarding and confidentiality of information exchanged, compliance, audit and other AML/CFT functions, however this does not include the requirement for analysis of transactions or activities that appear unusual. **Recommendation 18 is rated Largely Compliant.**

### **Recommendation 19 – Higher-risk countries**

Guyana was previously rated NC for recommendation 19 (formerly Recommendation 21). There were no risk-based measures in place for: FIs to apply enhanced due diligence measures to business relationships and transactions; Guyana was required to apply countermeasures when called upon by the FATF or independently and advise FIs of the weaknesses in countries' AML/CFT systems.

**Criterion 19.1** – Section 18 (1)(b) of the AML/CFT Act, 2009 (as amended) requires REs (including FIs) to pay special attention to business relations and transactions with persons in jurisdictions that do not have adequate AML/CFT systems in place. Section 16 (6) of the AML/CFT Act, 2009 requires FIs to apply EDD in higher risk circumstances. Further, the FIU AML/CFT Handbook requires REs to apply EDD measures to business relationships and transactions with customers from countries for which this is called for by the FATF. Furthermore, 5.4.3.5 of the Bank of Guyana Supervision Guideline No.13 defines high-risk countries as those that appear on FATF public lists of high risk and non-cooperative jurisdictions for which EDD measures are to be applied.

**Criterion 19.2** – There are mechanisms in place for the FIU to issue directions to REs to apply EDD or countermeasures to countries that do not apply or insufficiently applies the FATF Recommendations. In addition, section 75E of the AML/CFT Amendment Bill, 2023 refers to the Minister issuing a directive to any person, RE, body corporate, legal person or arrangement conducting business in or from Guyana if the FATF has advised that measures should be taken in relation to a country because of the ML/TF/PF risks. This includes persons, resident or incorporated of that country that poses a significant risk to Guyana. 75E (3) (a) informs that the directive must be proportionate to the risks and may include measures concerning CDD/EDD, ongoing monitoring, systematic reporting, or limiting/ceasing business.

**Criterion 19.3** – The Financial Intelligence Unit of Guyana is required to direct FIs to apply enhanced due diligence or counter measures, proportionate to risks, where it is aware of countries that do not apply or insufficiently apply the FATF Recommendations (Section 16 (7) of the AMLCFT Act).

***Weighting and Conclusion***

**Recommendation 19 is rated Compliant.**

**Recommendation 20 – Reporting of suspicious transaction**

Recommendation 20 was previously covered by Recommendation 13 and Special Recommendation IV which were rated as NC and PC respectively in Guyana's 3<sup>rd</sup> Round Mutual Evaluation. The deficiencies included insufficient reporting requirements related to: activities related to tax evasion, funds linked to, related to or funds to be used for/by terrorist and terrorist organizations, designated offences and reporting all suspicions regardless of the amount. Effectiveness deficiencies were also identified as STR statistics were not presented.

**Criterion 20.1** – Pursuant to Section 18(4)(b) of the AML/CFT Act, 2009 (as amended), REs are required to prepare and send a report to the FIU based on reasonable grounds to suspect that funds, transactions or attempted transactions are connected to the proceeds of criminal activity, ML, or TF used for terrorist activity or by terrorist organisations. The provision requires reports to be submitted as soon as possible but no later than three days after forming the suspicion.

**Criterion 20.2** – Pursuant to section 18(4) of the AML/CFT Act, REs in Guyana are required to submit reports of suspicion regarding funds, completed or attempted transactions connected with criminal activity including ML and TF. There is no minimum threshold for reporting.

***Weighting and Conclusion***

**Recommendation 20 is rated Compliant.**

**Recommendation 21 – Tipping-off and confidentiality**

Guyana was rated as LC with Recommendation 21 (previously R. 14) in their 3<sup>rd</sup> Round Mutual Evaluation. There was general protection for staff of FIs who report suspicious transactions. However, there was no specific provision in law to protect staff of FIs from criminal and civil liability in instances where reports are made but staff does not know the actual criminal activity or whether the illegal activity actually occurred. The legislation was updated in 2015 to address this deficiency.



**Criterion 21.1** – Section 11(2) of the AML/CFT Act provides protection for any person or agent of any RE from criminal and civil liability for making reports of suspicious transaction to the FIU in good faith, even if the precise criminal activity is unknown or did not actually occur.

**Criterion 21.2** – Section 18(14) of the AMLCFT Act prohibits a person who knows or suspects that a report or additional information was sent or is being prepared to be sent to the FIU from disclosing this to another person other than a court or another lawfully authorized person. Section 18(15) makes contravention of this section an offence, liable on summary conviction (for an individual) to a fine not less than one million dollars or more than two million dollars and to imprisonment for a term not exceeding three years, and (for a body corporate) to a fine of not less than two million dollars or more than three million dollars. Section 18(14)A provides that notwithstanding subsection (14), this section is not intended to nor shall inhibit group wide sharing, including with the RE's foreign branches and subsidiaries.

### ***Weighting and Conclusion***

**Recommendation 21 is rated Complaint.**

### **Recommendation 22 – DNFBPs: Customer due diligence**

This recommendation, previously R.12 was rated NC as there were deficiencies such as (a) No SA appointed for the DNFBPs therefore there were no monitoring for compliance and (b) the prohibition of anonymous accounts or accounts in fictitious names was only applicable to FIs. The 10<sup>th</sup> FUR noted the recommendation has been met as there are designated SAs for the various DNFBPs.

**Criterion 22.1** - The First Schedule of the AML/CFT Act, 2009 outlines the following sectors as DNFBPs that are obligated to comply with CDD requirements under R.10 when they conduct the specific activities as outlined in the recommendations and above the stipulated thresholds.: (a) casinos, ; (b) real estate agents; (c) dealers in precious metals and dealers in semi-precious stones; (d) attorneys-at law, notaries, other independent legal professionals and accountants and (e) trust and company service providers. Accordingly, DNFBPs are subject to Guyana's AML/CFT regime, and so, the CDD provisions of the AML/CFT Act, 2009 are applicable to such entities. Moreover, s.15 (2) of the AML/CFT Act, 2009 requires REs (including DNFBP sectors) to establish the identity and verify the identity of any customers of the RE irrespective of the nature or form of the business. Further Section 15(3) of the AML/CFT Act, 2009 outlines the types of records that should be maintained. It includes the name, date of birth, address and occupation, the nature and date of the transaction, the type and amount of currency involved. Consequently, the analysis for R.10 is applicable for DNFBPs and the deficiency identified (Criterion 10.4 10.15, 10.16 and 10.18) has a cascading effect on this criterion.

**Criterion 22.2** - S. 16 (1) of the AML/CFT Act, 2009 requires DNFBPs to comply with the requirements outlined in R.11 including to establish and maintain (i) records of all transactions, (ii) records of evidence obtained of customer identity and (iii) account files and business correspondence in relation to (i) and (ii). Further, S16 (4) of the AML/CFT Act, 2009 states that these records should be kept for a period of at least seven years from the date the relevant transaction was completed, or termination of the business relationship, whichever is the later. The deficiency identified at 11.4 also apply.

**Criterion 22.3.** - DNFBPs are subject to the same PEP requirements as FIs. R.12 is rated compliant and the requirements therein apply to DNFBPs

**Criterion 22.4** - DNFBPs are required to comply with the same provisions regarding new technologies as Fis as per R.15.1 and R15.2. (S.19 of the AML/CFT Act, 2009).

**Criterion 22.5** - DNFBPs are required to comply with the same provisions as FIs when relying on third-parties that are part of the same group. The analysis set out in c17.1 and c.17.2 applies to DNFBPs. In relation to c17.3 (a) Regulation 3(4) (b) of the AML/CFT Regulations as amended requires DNFBPs to adopt group-wide policies and procedures that facilitate sharing of CDD and transaction information through the application of AML/CFT/CPF compliance functions; (b) Pursuant to s.15 (8) (c) of the AML/CFT Act as amended, when relying on intermediary or third party for CDD and record keeping obligations, DNFBPs must satisfy itself that third parties are regulated and supervised in accordance with international best practice. However, there is no provision for CAs of DNFBPs to supervise the implementation of those CDD and record keeping requirements at group level; (c) Regulation 3 (4) and (5) of the AML/CFT Regulations as amended requires DNFBP relying on a third party to satisfy itself that any higher national risk is adequately mitigated by the group's AML/CFT policies.

### ***Weighting and Conclusion***

Guyana has a framework for CDD which includes DNFBPs (First schedule of the AML/CFT Act) that requires identification and verification of the customer and other parties where relevant. The Act outlines the types of records that should be maintained. DNFBPs are subject to PEP requirements as set out in r.12. However, the deficiencies identified in R.10, R.11 applies. DNFBPs are required to identify and assess ML/TF risk relating to new technology and to take appropriate measures to manage and mitigate the risks identified. Guyana has provisions to regulate reliance on third parties by DNFBPs for CDD and record keeping requirements. In addition, the responsibility remains with DNFBPs which must ensure prompt access of data and consider country risks where relevant. It is not common for DNFBPs in Guyana to be part of financial groups as such the deficiency in c.17.3(b) is minor. **Recommendation 22 is rated Largely compliant.**

### **Recommendation 23 – DNFBPs: Other measures**

This recommendation, previously R.16 was rated NC in the 3<sup>rd</sup> round of MER due to factors such as (a) the requirement for STR reporting did not cover all predicate offenses, (b) the reporting requirement for TF did not include funds suspected of being linked or related to or to be used for terrorism, terrorist acts or by terrorist organisations (c) there was no specific requirement that protection should be available to staff even if the staff did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity occurred. According to Guyana's 10<sup>th</sup> follow up report, this recommendation is fully met.

**Criterion 23.1** - (a -c) S. 18(4)(b) of the AML/CFT Act, 2009 a RE (which includes DNFBPs) are required to prepare and send a report to the FIU where it suspects or has reasonable grounds to suspect that funds, a transaction or attempted transaction are connected to the proceeds of criminal activity, ML, TF offences or funds suspected of being linked, or related to or to be used for terrorist acts or by terrorist organisations. The report must be sent to the FIU as soon as possible but not later than three days after forming that suspicion and wherever possible before the transaction is carried out. S. 18(11) of the AML/CFT Act, 2009 requires DPMS entities to report suspicious transactions when they engage in a cash transaction with a customer equal to or above USD9,503.



**Criterion 23.2** - Pursuant to S. 19(1) (a-d) of the AML/CFT Act, 2009, DNFBP's are required to comply with the internal controls outlined in R.18. Therefore, the analysis and conclusion set out in R.18 apply to DNFBPs.

**Criterion 23.3** - S. 16 (7) of the AML/CFT Act, 2009 (*as amended by section 10 of the AML/CFT (Amendment) Act No. 1 of 2015*) requires the FIU to direct REs to comply with higher-risk countries requirements set out in R.19. Requirements of R.19 are fully satisfied and also applies to DNFBPs.

**Criterion 23.4** - Pursuant to S. 11 (1) & (2) of the AML/CFT Act, 2009 DNFBPs are required to comply with the tipping-off and confidentiality requirements set out in R.21.

### **Weighting and Conclusion**

DNFBPs are subject to the same requirements in the AML/CFT Act as FIs. Guyana does have measures for dealing with DNFBPs as it pertains to R. 18-21. The minor deficiency identified in R.18 re no requirement for policies and procedures on analysis of transactions or activities that appear unusual also apply here. **Recommendation 23 is rated Largely compliant.**

## **Recommendation 24 – Transparency and beneficial ownership of legal persons**

Guyana was rated PC with the requirements of this Recommendation in the 3<sup>rd</sup> Round of Mutual Evaluations. At that time, the Registrar of Companies did not have legal authority to ensure that adequate, accurate and complete information about beneficial owners (BO) was available to CAs, and there were no restrictions on the use of nominee shareholders and directors nor it was possible for the Registrar of Companies to determine if nominees were being used. Guyana addressed these deficiencies by 2016 with amendments to the AML/CFT Act and the CA.

**Criterion 24.1 – (a)** In Guyana, the following are the main types of legal persons that can be found, (i) Companies created pursuant to the Companies Act, (ii) External Companies created pursuant to the Companies Act, (iii) Government/State owned companies, (iv) Cooperative Societies created pursuant to the Cooperative Societies Act (CSA), and (v) Friendly Societies created pursuant to the Friendly Societies Act (FSA). The basic features of each legal person can be found in their primary legislation which is available publicly.

There are mechanisms for the creation of those legal persons in the jurisdiction through the following legislation: Sections 4 and 5 of the Companies Act specifies the processes for the creation of companies and section 316 provides for the registration of External Companies. The registration process for Friendly Societies is set out under s. 11 of the FSA Cap. 36:04, and s. 7 of CSA Cap. 88:01 provides for the registration process of Cooperative Societies. Further, s.3 of the Companies Act provides that no association, partnership, society, body or other group constituting of more than 20 persons may be formed for the purposed of carrying on any trade or business for gain. Therefore, a partnership of more than 20 persons would be required to be incorporated under the Companies Act.

**(b)** The process for obtaining and recording of basic and BO information is contained in s. 470 of the Companies Act, as amended by the AML/CFT Amendment Act No. 1 of 2015, 15 of 2016 & 17 of 2018 which empowers the Registrar to obtain basic and BO information. Sections 470A(1B) of the Companies Act requires the Registrar to keep, update and maintain in the Register, all BO information and other information of companies, trusts and other LAs obtained, in accordance with

the requirements of s. 470A. Section 470A(1) of the Companies Act includes the requirements for information in the Register to be adequate, accurate and current. For Friendly Societies, the Registrar must keep a register (s. 8 of the FSA) of all societies registered under the Act and certain basic information must be provided when applying to be a friendly society (s. 11 FSA). For Cooperative Societies, upon application, the cooperative societies must provide the necessary basic information including the rules of the society (s. 6 CSA). By letters of appointment dated December 20, 2012, both the Registrar of Friendly Societies and the Chief Co-operatives Development Officer (CCDO) were appointed as SAs for all charities registered under s. 11 of the FSA and for all cooperatives registered under section 7 of the CSA, respectively. Pursuant to Schedule 1 of the AML/CFT Act, both charities and cooperatives are classified as REs and pursuant to reg. 4 of the AML/CFT Regulations (2023 Amendment), the Registrar and CCDO can collect BO information. However, in relation to Friendly Societies, this only applies to charities that are Friendly Societies and not all Friendly Societies.

**Criterion 24.2** – Guyana conducted a Legal Person and Legal Arrangement Risk Assessment utilising the World Bank’s Risk Assessment Tool which was approved and finalised on September 11, 2023. Four steps were undertaken in the conduct of the risk assessment including the mapping of legal persons and arrangements in the country, a threat assessment (ML), an entity risk assessment and national vulnerability assessment. Questionnaires were issued to various stakeholders through electronic mail and completed via secure link. The report details overall ML/TF Risk of various types of legal persons and all forms of trusts in Guyana, key finds and recommendations. Whilst the risk assessment has assessed ML/TF risks of all types of legal persons and forms of trusts in the jurisdiction, data collection for the sectoral risk assessment was negatively impacted by time constraints, which also impacted findings and ratings, notably, there were findings of insufficient data in respect of several input variables assessed to determine the ML/TF Threat assessment of legal structures.

**Criterion 24.3** – *Companies*- Section 470 of the Companies Act requires the Registrar to maintain a Register of Companies in which to keep the name of the body corporate incorporated under, continued as a company under, registered under or restored pursuant to the Companies Act. Further, pursuant to s. 4 of the Companies Act, the requirements for incorporation of a company include signing and delivery of articles of incorporation to the Registrar. Section 5 of the Companies Act establishes that articles of incorporation must follow the prescribed form and include the proposed name of the company, the names, addresses, occupations and signatories of incorporators and the names and addresses of directors as required by this sub-criterion. Additionally, s. 7 of the Companies Act requires an incorporator to provide to the Registrar, together with the articles of incorporation, the documents required pursuant to section 67(1), section 188(1) and section 479 of the Companies Act which sufficiently cover all the basic information as required under c.24.3. The information referred to above is publicly available according to s. 471(2) of the Companies Act. Further, pursuant to s. 316 of the Companies Act, regarding External Companies, the content in the ‘Application for Registration’ is required to be submitted with a certified copy of the particulars of corporate instruments. *Friendly Societies and Cooperative Societies*- Section 7 of the FSA, provides for the Registrar to maintain a register of all societies registered under the Act. While the FSA does not direct what type of information should be held in the register, the Beneficial Ownership Guidelines for Registrars (No. 2 of 2023) for Legal Persons and Arrangements, issued by the Commercial Registrar in accordance with Reg. 5 of the AML/CFT Regulations No. 12 of 2023, provides for the Registrar, as a SA, to obtain at a minimum, the necessary basic information on the

entities it registers based on the primary legislation (FSA). Notwithstanding that the provisions apply equally to the CCDO, there is no underpinning legal requirement in any legislation for the CCDO to keep a register of the information. Further, the appointment letter for the Registrar of Friendly Societies is limited to charities and does not address all types of friendly societies that can be created.

**Criterion 24.4** – Companies are required to maintain records of their articles of incorporation and byelaws pursuant to ss. 67, 75, 188 and 189 of the Companies Act, which contain the company name, proof of incorporation, legal form and status and basic regulating powers. In addition, section 189(5) to (9) requires companies to maintain a register of directors.

Companies are also required to maintain a register of their shareholders or members pursuant to s. 189 of the CA showing the name and address of each shareholder and a statement of the shares held by each shareholder. Additionally, s. 198 requires companies to maintain a register of substantial shareholders i.e., those that control at least 10% of the unrestricted voting rights. The register includes the names, addresses and particulars of the shares held by each substantial shareholder or nominee (nominees are named).

Section 189(11) provides that a company may appoint an agent to maintain the registers required but it must be maintained at the registered office of the company or some other place in Guyana.

No similar information has been provided for other legal persons.

**Criterion 24.5** – Pursuant to ss. 153, 154 (1) (a) and (b) of the Companies Act, companies are required to submit annual returns, financial statements and auditors' reports to be lodged with the Registrar of Companies. The annual returns include a list of the names and addresses of shareholders and the number of shares held by each, at the date of the return together with the current list of Directors and Secretary of the company. Further, s. 75 of the Companies Act provides that within one month after a change is made among its directors, a company shall send to the Registrar a notice of the change in the prescribed form.

Section 470A(1B) of the Companies Act requires the Registrar to keep, update and maintain in the Register, all BO information and other information of companies, trusts and other LAs obtained, in accordance with the requirements of section 470A. Section 470A(1) of the Companies Act includes the requirements for information in the Register to be adequate, accurate and current.

Additionally, Reg. 4 of the AML/CFT Regulations No. 12 of 2023 provides that every body corporate shall provide accurate and up to date BO information to its respective Registrar. When a body corporate (a) has a change in its registered office or principal place of business, or (b) has a change in BO, director, or partner, the body corporate shall within one month of such change, notify the respective Registrar.

There are no mechanisms that ensure that other types of information required under c24.3 and c24.4 are to be accurate and updated on a timely basis for legal persons other than those created pursuant to the Companies Act.

**Criterion 24.6** – Guyana has adopted a multi-prong approach to facilitate the collection of BO information. Firstly, s. 470A(2) of the Companies Act requires a registered company to provide all information on BO to the Registrar on a regular basis or on demand. The Registrar is responsible for ascertaining BO information and ensuring in a timely manner that the BO information is adequate, accurate and current (s.470A(1)). Section 470A(3) of the Companies Act provides that BO has the same definition as in the AML/CFT Act. Additionally, Reg. 4 of the AML/CFT Regulations No. 12

of 2023 provides that every body corporate shall provide accurate and up to date BO information to its respective Registrar, which includes the Commercial Registrar, Deeds Registrar, Registrar of Friendly Societies and the CCDO. ‘beneficial ownership’ as defined in Section 2(1) of the AML/CFT Act (as amended by Section 2 of the AML/CFT Amendment Act No. 1 of 2015, and further amended by s. 2 of the AML/CFT Amendment Act No. 10 of 2015) provides for the purpose of verifying the identity of ‘BO’, to mean – ‘ownership by a natural person or persons who ultimately exercise individually or jointly- voting rights representing at least 25%) of the total shares, or otherwise have ownership rights of a legal entity; or ownership by a natural person or persons who ultimately owns or controls a customer, or the person on whose behalf a transaction is being conducted and includes those persons who exercise ultimate effective control over a legal person or arrangement. When a body corporate (a) has a change in its registered office or principal place of business, or (b) has a change in BO, director, or partner, the body corporate shall within one month of such change, notify the respective Registrar. However, the requirements of Reg. 4 do not apply to all Friendly Societies.

Secondly, CAs in Guyana can use existing information, such as: (i) The FIU (section 9(4)(k) of the AML/CFT Act), the Police by way of a production order, and supervisors can obtain the information held by FIs and DNFBPs in accordance with R.10 (minor deficiencies in R.10 apply) and 22, according to sections 9(4)(k), 15(2), (4), 22(2)(bB), and 24 of the AML/CFT Act, although the deficiencies found in sub-criteria 10.9(b) and (c) and, consequently, in criterion 22.1 impact the completeness of the BO information obtainable by FIs and DNFBPs. However, the timeliness of accessing this information is unclear; and (ii) The FIU and the Police can determine the BO of a company with information required in criterion 24.3 and that is held by the Commercial Register, according to ss. 9(4)(k) and 24 of the AML/CFT Act; however, there is no certainty about whether this determination can be done in a timely manner.

**Criterion 24.7** – The Commercial Register must maintain BO information of companies accurate and up to date, according to s. 470A(1) of the Companies Act. Further, Reg 4 of the AML/CFT Regulations No. 12 of 2023 provides that every body corporate shall provide accurate and up to date BO information to its respective Registrar. When a body corporate (a) has a change in its registered office or principal place of business, or (b) has a change in BO, director, or partner, the body corporate shall within one month of such change, notify the respective Registrar.

**Criterion 24.8** – There are no mechanisms to address this criterion.

**Criterion 24.9** – Pursuant to s. 454 of the Companies Act, liquidators or any person to whom the custody of books and papers of the company has been committed must keep them for a minimum of five years after the company is dissolved. Additionally, s. 483 of the Companies Act provides that the Commercial Register must keep the basic information it obtains also for a period of five years. In accordance with ss. 15 and 16 of the AML/CFT Act, FIs and DNFBPs are required to keep all records obtained through CDD measures, including beneficial ownership information, for at least seven years from the date the relevant transaction was completed, or termination of business relationship, whichever is the later.

**Criterion 24.10** – The FIU (section 9(4)(k) of the AML/CFT Act), the GPF (section 24 of the AML/CFT Act), and Supervisors (section 22(2)(bB) of the AML/CFT Act) can obtain the information held by FIs and DNFBPs, including basic and BO information of legal persons. Regulation 6 of the AML/CFT (Miscellaneous) Regulations require the Registrars to provide the FIU and relevant CAs with access to basic and BO information promptly. Further, a police officer

has the power to search for and seize documents (section 28 of the AML/CFT Act) pursuant to a warrant for location of documents (section 29 of the AML/CFT). SAs and CAs in Guyana have in place an MOU to facilitate information sharing, which includes BO information. However, other than for the Registrars, there are no provisions that ensure that these authorities can obtain timely access to this information held by FIs and DNFBPs (the aforementioned provisions do not stipulate timeframes within which requested information must be provided).

**Criterion 24.11** – Section 28(9) of the Companies Act prohibits companies from issuing bearer shares or bearer share certificates.

**Criterion 24.12** – Section 470A(2) of the Companies Act requires nominee shareholders to disclose their identity to the Commercial Register and for this information to be included in the relevant register. Guyana’s laws do not provide for the use of nominee directors.

**Criterion 24.13** – The failure to provide the Commercial Register with BO information on a regular basis or on demand, subjects any director of the company to, on summary conviction, a fine of not less than USD47,571 (GUY\$10,000,000) and not more than USD190,068 (GUY\$40,000,000) and to imprisonment for a term not exceeding three years in accordance to s. 470A(1A) of the Companies Act. These particular sanctions are more severe than the rest available in the Companies Act.

Further, s. 487 of the Companies Act also gives the Registrar the power to strike-off a company or any body corporate from the Register of Commercial Register for failing to submit any return, notice, documents or prescribed fee to the Registrar as required pursuant to the Companies Act et al. Section 488 of the Companies further provides that where a company is struck off the Register, the liability of the body corporate and every director, officer and shareholder shall continue, thereby not absolving them from any sanctions in relation to the company.

Where a body corporate fails to provide accurate and up to date BO information to its Registrar (including the Registrar of Friendly Societies and the CCDO) pursuant to Reg. 4(1) of the AML/CFT Regulations No. 12 of 2023, they are liable to be struck off from the register or to be fined (Reg.4(3)).

However, these sanctions do not apply to all the relevant requirements under R.24.

**Criterion 24.14** – Guyana (a) facilitates access by foreign CAs to basic and BO information held by the Commercial Register based on section 471(2) of the Companies Act, i.e., foreign authorities can apply for information and pay the prescribed fee to access any documents received by the Registrar. Additionally, CAs can (b) exchange information on shareholders and (c) use their investigative powers to obtain basic and beneficial ownership information on behalf of foreign counterparts with countries that Guyana has entered into MLA treaties on a bilateral or multilateral basis, pursuant to s. 76 of the AML/CFT Act. In addition, by way of interpretation, the FIU could also provide the information referred to in (b) and (c) to foreign CAs by applying section 9(4) AML/CFT Act.

**Criterion 24.15** – Section 40(c) of the AML/CFT Amendment Act No 15 of 2023 which amended s. 76 of the Principal Act provides at section 76(14) that CAs shall monitor the quality of assistance they receive from other countries in response to requests for- (a) basic and beneficial ownership information, or (b) assistance in locating BO residing abroad.

### ***Weighting and Conclusion***

Guyana has some strengths regarding the maintenance and provision of basic and beneficial

ownership information of companies to CAs. It is also notable that the jurisdiction prohibits companies from issuing bearer shares or bearer share certificates, which is a measure that has preventive relevance. Notwithstanding, these are outweighed by the deficiencies found in relation to the assessment of the ML/TF risks associated with legal persons, the mechanism used by the country to determine the information on the BO of a company, and the sanctions available for non-compliance with the requirements of R.24. Notably, most identified deficiencies are in respect of LPs other than companies. **Recommendation 24 is rated Partially Compliant.**

### **Recommendation 25 – Transparency and beneficial ownership of legal arrangements**

Guyana was rated as NC for Recommendation 25 (formerly R. 34) in the 3<sup>rd</sup> Round Mutual Evaluation. The deficiencies included no legal requirement under the AMLCFTA for the verification of the legal status of trusts; no standard requirement for the recording of beneficial ownership information on trusts, so the nature of information collected will vary; and lawyers and accountants are not subject to monitoring for their AML/CFT obligations and it is not clear how reliable their information on trusts would be.

**Criterion 25.1 – (a)** There are no requirements for a trustee of an express trust governed under the laws of Guyana to obtain and hold adequate, accurate and current information on the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural or legal person exercising ultimate effective control over the trust. **(b)** There are no requirements for a trustee governed under the laws of Guyana to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accounts and tax advisors. **(c)** Professional Trustees in Guyana are listed as RE pursuant to the first schedule of the AMLCFT Act under the following categories: DNFBPs (i.e. attorneys-at-law, accountants) and FIs (i.e. Non-bank trust companies, securities and insurance companies). Section 16 (1) of the AML/CFT Act, 2009 requires DNFBPs to comply with the requirements outlined in R.11 including to establish and maintain (i) records of all transactions, (ii) records of evidence obtained of customer identity and (iii) account files and business correspondence in relation to (i) and (ii). Further, S16 (4) of the AML/CFT Act, 2009 states that these records should be kept for a period of at least seven years from the date the relevant transaction was completed, or termination of the business relationship, whichever is the later.

**Criterion 25.2 –** Pursuant to s. 16(5) of the AML/CFT Act, professional trustees falling within the remit of DNFBPs under the First Schedule of the Act, are required as RE to ensure that documents, data and information collected under the CDD process is kept up to date and relevant. There are no similar requirements for express trusts other than those established by professional trustees.

**Criterion 25.3 –** Reg. 4(5) of the AML/CFT Regulations No. 9 of 2023 provides that for customers who are LPs or LAs, FIs and DNFBPs shall obtain and verify with regard to trusts and other LAs, information about the true identity of the person on whose behalf an account is opened or a transaction is conducted including the name, nature and type of trust or legal arrangement, the identity of the trustee, settlor, protector, controller or similar person holding power to appoint or remove the trustee or persons of equivalent positions in other LAs, the name and classes of beneficiaries, the identity of persons with powers to add beneficiaries, the identity of the person providing the funds if not the ultimate settlor et al.

**Criterion 25.4 –** Given the lack of legislation governing the requirements for trustees, there is nothing in the laws or any other enforceable means that prevents a trustee from providing CAs with

any information relating to the trust, or providing FIs and DNFBPs, upon request, with information on the BO of the assets of the trust to be held or managed under the terms of the business relationship.

**Criterion 25.5** – Pursuant to the AML/CFT Act 2009, a police officer and an authorised officer of the FIU can apply to a Judge in Chambers for a production order where a person is being investigated for a serious offence, money laundering or terrorist financing (s. 24) or search and seize documents relevant to locating property in accordance with a warrant under the Act (s. 29) or consent of the occupier (s. 28). However, these mechanisms do not allow for timely access to information held by the trustee and can only be used at the investigative stage. Further, given the deficiencies in the criteria above, the information that can be obtained by the police and FIU would be limited to information held by FIs and DNFBPs (including professional trustees) as part of their CDD requirements.

**Criterion 25.6** – Pursuant to section 76(3) of the AML/CFT Act 2009, a CA may receive and take appropriate measures with respect to a request from other CAs from another state for assistance related to a civil, criminal, or administrative investigation, prosecution or proceedings involving ML and TF offences. Section 76(4) further provides that the assistance referred to include the sharing of records and documents. The Mutual Assistance in Criminal Matters (MACMA) can also be used as a basis for sharing information with foreign jurisdictions in this regard. However, the exchange of information pursuant to s.76 of the AML/CFT Act is limited to countries that Guyana enters into a MLA treaty with on a bilateral or multilateral basis. Further, the information that can be shared would be limited to the CDD information held by FIs and DNFBPs and information held by the Registrar pursuant to the Companies Act, section 470A(1) and not all the information expected to be held by the trustee pursuant to this Recommendation. Additionally, an MoU on Cooperation and Information Sharing signed amongst the various CAs in Guyana dated August 2023, allows for exchanging domestically available information on trusts for the provision of international co-operation.

**Criterion 25.7** – Professional trustees are REs as per the First Schedule of the AML/CFT Act and as such, the relevant SAs can implement sanctions pursuant to ss. 22 and 23 of the AML/CFT Act. However, there are no sanctions for express trusts created by persons other than a professional trustee.

**Criterion 25.8** - here is no sanction for failing to grant access to CAs on information regarding trusts referred to in c. 25.1.

### ***Weighting and Conclusion***

Professional Trustees, as RE under the First Schedule of the AML/CFT Act are required to establish and maintain some basic and BO information required in c25.1. Additionally, professional trustees falling within the remit of DNFBPs under the First Schedule of the Act, are required as RE to ensure that documents, data and information collected under the CDD process is kept up to date and relevant (Section 16(5) of the AML/CFT Act) and FIs and DNFBPs as REs can obtain some information from customers which are LAs (Reg. 4(5) of the AML/CFT Regulations No. 9 of 2023). While CAs can access information on the trust through the use of production orders and search warrants, this is not timely and the information that can be accessed from FIs and DNFBPs would be limited to CDD information. There are no sanctions for a trustee which fails to comply with its obligations and as such no reciprocal sanction. Further there is no sanction for failure to grant a CA timely access to the trust. **Recommendation 25 is rated Partially Compliant.**

## Recommendation 26 – Regulation and supervision of financial institutions

Guyana was rated as NC for Recommendation 26 (formerly R. 23) in the 3<sup>rd</sup> Round Mutual Evaluation. The regulation and supervision regime did not have measures in place to: supervise FIs (including co-operative societies) for AML/CFT compliance, prevent criminals and/or their associates from holding significant controlling interest, holding management function or being a BO of an FI and evaluate the fitness and propriety of senior management of FIs.

**Criterion 26.1** – Pursuant to Section 22(1) of the AML/CFT Act, 2009, the following authorities have responsibility for the regulation and supervision of FIs for compliance with AML/CFT requirements: (i) The Governor of the Bank of Guyana (BOG): for commercial banks, insurance companies and brokers, licensed agencies (money transfer agencies), building societies, money exchangers (cambios), financial leasing, non-bank FI and payment service providers; (ii) The GSC for securities companies; and (iii) The CCDO, via letter dated December 20<sup>th</sup> 2012, for all cooperatives which includes credit unions.

**Criterion 26.2** – The requirements of this criterion are met as follows: *Commercial banks*: Section 3 (1) and (2) of the Financial Institutions Act requires banking and financial businesses to be licensed by the Bank of Guyana to conduct business in Guyana. Banking and financial businesses may apply for such licenses from the BOG in accordance with Section 5 of the Financial Institutions Act. Contravention of these requirements can result in a fine of no more than GUY\$2,000,000 (US\$ 9,503) and imprisonment of up to one year.

*Insurance companies and brokers*: The Bank may issue a licence in accordance with Section 46 of the Insurance Act 2016 (with or without limitation) provided the requirements of Section 44 are met. Section 44 of the Insurance Act provides that no entity shall be granted a license to carry on the business of an insurer in Guyana unless the requirements such as inter alia minimum capital requirements, appropriate risk, internal and technological systems and fit and proper board of directors and senior management are met. Section 40 of the Insurance Act (IA) prohibits entities from conducting business as an insurer without the required license.

*Money Transfer agencies (MTAs)*: MTAs are required to be licensed by the BOG in accordance with Section 3 of the Money Transfer Agencies Act 2009. Pursuant to Section 8(1) MTA Act no person shall act as a licensed agencies unless that person has first registered with the BOG.

*Foreign Currency, Money Exchangers (Cambios)*: Persons desirous of carrying on the business of buying and selling foreign currency may apply to the BOG for the requisite license as per Section 3 of the Dealers in Foreign Currency (Licensing) Act 1989. The BOG may revoke a license if a licensee has contravened or failed to comply with any conditions subject to which the license was granted (Section 8(1) (B) DFCLA.

*Payment Service Providers*: PSPs in Guyana require a license from the Bank to issue a payment instrument (S.7 National Payment System Act 2018) and operate a payment system (S.8 NPSA 2018). The Bank has the power to revoke a license if the PSP fails to comply with the Act or its regulations (S.16 (b)).

*Securities*: Persons must be registered with GSC to carry on business or hold themselves out as broker, dealer, trader securities intermediary or securities company pursuant to section 47 (1) of the Securities Industry Act 1998. The Council has the power to revoke a license where a licensee contravenes or fails to comply with any condition or restriction applicable to registration or the Act



(S.47 (4) (g)).

There is no provision in Guyana that outright prohibits the establishment or continuation of shell banks. Pursuant to Section 15 (7) (a) (vii) of the AMLCFT Act; banks and other FIs in conducting cross-border correspondent banking and similar relationships shall satisfy themselves that respondent FIs located in foreign countries do not permit its accounts to be used by shell banks. Banks and other FIs shall not maintain business relationships with other banks with no physical presence in Guyana unless they are part of a financial group subject to effective supervision.

**Criterion 26.3 – Banks:** The BOG in determining an applicant’s fitness and propriety relative to a license application shall conduct appropriate investigations and enquires and consider the background, experience and integrity of the applicant and its proposed management (S.5(5) FI Act). The name, permanent address and nationality of every person who owns or proposes to subscribe more than 10% of shares, every director and officer shall be submitted to the Bank in support of such applications as detailed in Supervision Guideline No.2

*Insurance:* Section 11 of the Insurance Act 2016 outlines fitness and propriety criteria for persons probity competence and soundness of judgement and includes enquires into a person's criminal history. The bank can evaluate these criteria as often as necessary or when there is a change in ownership, management or control.

*Licensed Agencies:* are subject to fitness and propriety (S.8 (4) MTA Act 2009) requirements and the BOG may request any information it may need (S. 8 (2) (iv) as part of the licensing criteria. The BOG may also consider the character and antecedents of foreign currency and money exchangers when granting such licenses (S. 4 (1) (c) DFCLA).

In granting licenses to provide *payment services* (S. 10 (1) (f) NPS Act 2018) or operate a payment system (S.11 (1) (d) NPS Act 2018) the BOG shall consider whether the PSP and every officer is fit and proper.

*Securities:* The GSC conducts investigations and enquires to determine an applicant's fitness and proprietary when granting licenses (Section 47A Securities Industry Act) and may evaluate these criteria on a regular basis and whenever there is a change in ownership, management or control (S.47A (2)).

*Credit Unions:* There are no legal or regulatory measures for the Chief Co-operative Development Officer to prevent criminals or their associates from holding a significant or controlling interest or holding a management function in a credit union.

With regard to Foreign Currency, Money Exchangers (cambios), the Dealers in Foreign Currency (Licensing) Act requires the BOG to have regard to the character, experience and financial soundness of the applicant when considering a license application. However, this does not amount to measures to prevent criminals and their associates from holding a significant or controlling interest or holding management functions in cambios.

**Criterion 26.4 – (a)** The information submitted does not cite specific provisions to adequately demonstrate that regulation and supervision of FIs is in line with Basel Committee on Banking Supervision (BCBS). Guyana also noted it is a member of the Council of Securities Regulators of the Americas which is a member of the International Organization of Securities Commissions (IOSCO). However, all of the IOSCO’s core principles have not been incorporated into the securities sector’s regulatory and supervision framework (Core principle 24 and 28). **(b)** All other FIs

including credit unions, licensed agencies (money transfer agencies) and money exchangers and foreign currency (cambios) are subject to regulation, supervision and monitoring to ensure compliance with national AML/CFT requirements in accordance with section 22 of the AML/CFT Act 13 of 2009 as amended which outlines the role of SAs.

**Criterion 26.5** – The BOG uses a risk-based approach in their AML/CFT supervision of the respective licensees under its control guided by the AML/CFT Compliance Manual. The BOG AML/CFT/CPF Risk Based Supervisory Framework details the methods for assessing an institution’s ML/TF risks. The BOG risk-based supervisory framework links the intensity and frequency of supervision to an institution’s overall risk profile and is documented in this framework. The supervisors in Guyana uses the NRA to guide in its understanding of the overall country’s ML/TF risks which helps inform supervisors risk assessment of specific institutions and sectors.

The AML/CFT Supervisory Examination Policies and Procedures (pages 16 -19) of the Guyana Securities Council (GSC) contains appropriate mechanisms to determine the frequency and intensity of onsite and offsite examinations based on the GSC’s assessment of entities’ risk on an ongoing basis. These policies and procedures provide for the scope of work to understand the RE and to consider, inter alia the size, complexity and risk profile (pg. 11 and 16)

The NRA results is used to inform supervisors on a risk-based approach for respective sectors. The FIU Effective Supervision Guideline 2 of 2017 for SA promotes risk-based supervision based on the country’s ML/TF risks.

An AML/CFT supervision manual is being developed for the credit union sector so there is no basis for the frequency and intensity of AML/CFT supervision of the sector.

**Criterion 26.6** – The BOG and GSC requires ongoing analysis and monitoring of REs which includes continuous review of the REs’ risk, general information, meetings with key persons to discuss trends and emerging issues and knowledge of changes in the condition or management of the RE which is used to keep the entities risk matrix and risk assessment report up to date. This requirement does not apply to credit unions.

### ***Weighting and Conclusion***

Whilst most measures in terms of the designation of AML/CFT supervisors and market entry required under R.26 have mostly been put in place in Guyana, there is no provision in Guyana that outright prohibits the establishment or continuation of shell banks. With respect to RBA to supervision and monitoring, all of the IOSCO’s core principles have not been incorporated into the securities sector’s regulatory and supervision framework (Core principle 24 and 28) and there are no measures to demonstrate that regulation and supervision of FIs is in line with the core principles of Basel Committee on Banking Supervision. **Recommendation 26 is rated Largely Compliant**

### **Recommendation 27 – Powers of supervisors**

Recommendation 27 (previously R. 29) was rated as PC in Guyana’s 3<sup>rd</sup> Round Mutual Evaluation. The main deficiencies identified were the Guyana Securities Council’s (GSC) inability to compel production or obtain access to all records, documents or information relevant to AML/CFT compliance monitoring. The legislation was amended in 2015 and 16 to address deficiencies.

**Criterion 27.1** – SAs designated under the AML/CFT Act, 2009, namely, the governor of the BOG, and the GSC, have the powers to monitor and supervise FIs for compliance with AML/CFT

obligations under sections 15, 16, 18, 19 and 20 of the AML/CFT Act, 2009.

**Criterion 27.2** – Supervisors have the authority to conduct onsite and offsite inspections of FIs under Section 22 (2) (bA) of the AMLCFT Act. The Act was amended in 2015 to provide supervisors with the power to enter business premises during ordinary working hours to: inspect, copy or take extracts from relevant documents, inspect premises, observe the execution of certain functions, request information on ML and TF matters and require any person on the premises to provide an explanation on such information.

**Criterion 27.3** – Pursuant to Section 22(2) (bB) of the AML/CFT Act SAs can request and be given information relevant to ML and TF matters from its REs/FIs. This information can be compelled without the use of a court order. REs that fail to comply with such requests can be subject to sanctions under Section 23 of the AMLCFT Act.

**Criterion 27.4** – Supervisory, regulatory and CAs have the power to sanction FIs for breach of obligations set out in the AMLCFT Act (Section 23 AMLCFT Act). The range of sanctions include, *inter alia*, a fine of up to GUY\$15,000,000 (US\$71,276) and up to three years imprisonment, orders to prohibit or remove persons and recommendations to suspend, restrict or withdraw licenses. The identified deficiencies in the assessment of R.35 are applicable.

### ***Weighting and Conclusion***

The deficiencies in the assessment of R.35 affect the rating applied. **Recommendation 27 is rated as Largely Compliant.**

### **Recommendation 28 – Regulation and supervision of DNFBPs**

This recommendation which was previously R.24 was rated NC in Guyana's 3<sup>rd</sup> round MER due to deficiencies such as casinos not being subjected to AML/CFT regulation and supervision, no AML/CFT SA for DNFBPs and inadequate sanction measures. Guyana remediated three of the four deficiencies as indicated in the 11<sup>th</sup> FUR by establishing the Gaming Authority as the SA for casinos, amending the Gambling Prevention Act by inserting section 29A and amending section 32(1) and section 29A of the Gambling Prevention Act to include fit and proper requirements when reviewing applicants for licencing. In addition, Guyana appointed the FIU as SA to oversee DNFBPs for their AML/CFT obligations.

**Criterion 28.1** - (a) In accordance with Section 29 (1) (a)(b) of the Gambling Prevention Act as amended by the Sections 27 and 28 of Gambling Prevention Act, Chapter 9:02, a requires that casino premises licence and a casino operator's licence must be obtained to operate as a casino.

(b) Section 29A of the Gambling Prevention Act as amended by of the AML/CFT Act 2016 authorises the Gaming Authority to conduct investigation and inquiries deemed necessary to determine whether the applicant is fit and proper to be granted a license. Further, Section 29A(1) authorises the Gaming Authority to have regard to the honesty, integrity and reputation of the applicant, partner, shareholder, director or beneficial owner of a significant or controlling interest or office holder of the applicant.

(c) According to the First Schedule of the AML/CFT Act, casinos are included in the scope of DNFBPs. Further, the Minister, by powers under S.22(1)(d) of the AML/CFT Act, has appointed the Gaming Authority as the AMLCFT SA for Casinos by letter dated December 20, 2012.

**Criterion 28.2** - In accordance with the authority granted under section 22 (1) (d) of the AML/CFT Act, 2009 the Minister of Finance has appointed SAs for DNFBPs. The SAs appointed for (i) Dealers in Precious Metals is the GGB; (ii) Dealers in Precious and Semi-Precious Stones and Dealers in valuable Minerals is the GGMC; and (iii) Real Estate Agents/House Agents is the Commissioner General, GRA. Sec 4 of the Guyana Compliance Commission Act designates the GCC as the AML/CFT supervisor for (i) attorneys-at-law, notaries, other independent legal professionals and accountants; and (ii) non- financial trust or company service provider (that provide specific functions). In 2023, the Real Estate Authority was designated as the AML/CFT SA for the real estate sector but had not yet been constituted by the end of the on-site to transition the supervisory functions.

**Criterion 28.3** - Other categories of DNFBPs in Guyana (Dealers in precious metals, dealers in precious or semi-precious stones, dealers in valuable minerals and real estate agents,) are subject to systems for monitoring compliance with AMLCFT requirements. They are supervised and monitored for compliance by their respective SA designated in accordance with section 22 (2) of the AML/CFT Act. The GCC is the authorised authority to ensure attorneys-at-law, notaries, accountants and non-financial TCSP comply with the provisions in the AML/CFT Act. However, the GCC was not constituted by the end of the on-site.

**Criterion 28.4** - (a) S.22 (2) of the AML/CFT Act grants all SAs designated under S.22(1) adequate powers to monitor compliance of with the AML/CFT obligations set out in sections 15, 16, 18, 19 and 20 of the Act. The powers include examination of compliance, issue instruction and guidelines, enter the premises to inspect and take documents and impose sanctions. The GCC also has the powers to conduct inspections, monitor and enforce compliance with the AML/CFT Act. The deficiency in criterion 28.3 applies here.

(b) The GGB, GGMC and GRA have taken the necessary measures to prevent criminals or their associates from being professionally accredited, or holding a significant or controlling interest or holding a management function in licensed or registered entities. There are documented procedures to implement strict entry requirements. For Traders in valuable minerals, or precious stones or valuable minerals and precious stones, the Commissioner of Geological Surveys and Mines has the discretion under S57(10) of the Tax Act to refuse to issue a license only if a person has been convicted of an industry related crime. Admission to practice as an attorney-at-law in Guyana is regulated by the Legal Practitioners Act while entry requirements for Accountants are guided by the Institute of Chartered Accountants of Guyana Act. Attorney-at-law are guided by the Practitioner's Codes of Conduct. There were no documented measures to prevent criminals or their associates from being professionally accredited or holding a significant or controlling interest or holding a management function in accounting sector.

(c) Section 23(1) of the AML/CFT Act outlines the sanctioning powers of Supervisory, Regulatory or CAs for breaches by REs. There are both administrative and criminal penalties with the least severe being written warnings and most being a fine of not less than GUY\$5,000,000 (USD\$23,758) no more than GUY\$15,000,000 (USD\$71,275). Sanctions are applicable to both entities and individuals. The deficiencies of R.35 are applicable.

**Criterion 28.5** - (a) The SAs for DNFBPs have the power to examine DNFBPs to determine its level of compliance with AML/CFT legal and regulatory requirements under the AML/CFT Act, 2009. The FIU's Effective Supervision Guideline 2 of 2017 guides SA on the application of the risk-based supervision measures. The guidelines states that higher risk entities should be subject to more

frequent and comprehensive inspection.

(b) SAs must consider the risk profile of the entities under their jurisdiction and the ML/TF risks posed. The SAs must also consider the risk assessment (criterion 1.9) and the adequacy and implementation, according to a risk-based approach, of the policies, internal procedures and internal control measures by the entities under their authority. This obligation has not been integrated into the supervision of attorneys-at-law, notaries, accountants and non-financial TCSPs given the recent enactment of the Compliance Commission Act.

### ***Weighting and Conclusion***

Guyana has adequate measures for the regulation and supervision of casinos. Supervisors have been designated for other DNFBPs and they have the powers to regulate and supervise the respective sectors for AML/CFT compliance. Measures to prevent criminals or their associates from being professionally accredited, or holding a significant or controlling interest or holding a management function are in place. The GCC was not yet constituted to establish supervisory mechanisms for the attorneys-at-law, notaries, accountants and non-financial TCSP sectors. The deficiencies identified for R.35 are applicable and impact the rating. **Recommendation 28 is rated Largely Compliant**

## **Recommendation 29 - Financial intelligence units**

Guyana was rated NC for R.29 (formerly R.26) in its 3rd MER. The deficiencies underlying the ratings include a lack of security mechanisms. The remaining deficiencies concerned effectiveness which are not required to be assessed for the purposes of technical compliance. In its 11<sup>th</sup> FUR, Guyana was considered to have substantially addressed the major technical deficiencies cited in the MER, to an acceptable level of LC. Following the adoption and publication of Guyana MER, R.29 was revised to explicitly require FIUs to conduct strategic analysis.

**Criterion 29.1** Guyana has established an FIU which serves as the national centre for the receipt and analysis of Suspicious Transaction Reports (STRs) and other information relative to ML, TF or proceeds of crime<sup>12</sup> and associated serious offences. (*s.9(1) of the AML/CFT Act, 2009 as amended*)

**Criterion 29.2** - The FIU should serve as the central agency for the receipt of disclosures filed by REs, including; (a) STRs filed by REs as required by Recommendation 20 and 23 (s.18(4)(b), (5) and (16) of the AML/CFT Act, 2009, as amended). (b) The FIU is authorised to receive reports of transfers exceeding Guyanese dollars (GYD)200,000.00 (US\$952.00) from money transfer agents, purchases and sales exceeding GYD\$400,000.00 (US\$1,904.00) and one million GYD (US\$4,710.00), respectively from cambios and cash transaction exceeding two million GYD (9,523.00) from all REs (Regulation 12 of the AML/CFT Regulations, 2010). The FIU is also authorised to receive reports of suspected TF related properties and properties that have a nexus to

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<sup>12</sup> Proceeds of Crime is extensively defined in the AML/CFT and includes property, income and benefits etc that have been derived directly or indirectly from a serious offence (offences that carries a maximum penalty of life or death or any deprivation of liberty of not less than six months, offences listed in the second schedule and offences which is committed in a foreign state and would constitute an offence if committed in Guyana.

persons and entities designated as per the UNSCR 1718 and 2231 and their successor resolutions (s.68A and E of the AML/CFT Act, as amended).

**Criterion 29.3:** (a) The FIU, be able to obtain and use additional information from REs, as needed to perform its functions which include analysis (s. 9(4)(k) of the AML/CFT Act, 2009, as amended). Further, the FIU is authorised to request and obtain additional information from a RE that has submitted an STR (s.18 (9) of the AML/CFT Act, 2009, as amended). (b) Section 9(4)(k) of the AML/CFT Act, as amended, empowers the FIU to request information from a wide range of databases in and outside of Guyana to conduct its functions, including requesting information from REs, supervisory agency, law enforcement agency, any telecommunication provider and any other CA. This requirement is sufficiently broad to grant the FIU access to the widest range of administrative databases.

**Criterion 29.4:** The FIU is responsible for conducting analysis (s.9(4)(a) of the AML/CFT Act, 2009 as amended). There is no distinction between the different types of analysis (operational and strategic) that should be conducted, and the section is sufficiently broad to be interpreted to be included as both types of analysis. Section 9(4)(b) and (f) of the AML/CFT Act, 2009, as amended, nevertheless explicitly authorises the FIU to conduct both operational and strategic analysis, respectively. (a) **Operational analysis:** Having conducted analysis and the FIU has reasonable grounds for suspecting that the transaction involves ML, proceeds of crime or TF, the FIU is authorised to compile a report and disseminate same to the relevant authority (s.9(4)(b)). (b) **Strategic analysis:** The FIU is authorised to conduct research into trends and developments in the area of ML, TF, improved ways to deter and prevent such activities, educate the public and create awareness on such matters (s.9(4)(f)). The FIU has developed trends and typologies in accordance with its mandate, some of which are published on its [website](#).

**Criterion 29.5:** The FIU is authorised to disseminate information and the result of its analysis to CAs including law enforcement, supervisors, customs and tax agencies (s.9(4)(b) and(c) of the AML/CFT Act, 2009 as amended). The legislation does not limit the manner in which the information can be shared, therefore, this is interpreted to mean both upon request and spontaneous. The method communicated by the authorities on how information is disseminated is secured and protected. Further, the FIU SOP governing information exchange, protection and confidentiality sets out the requirements as to how information should be disseminated.

**Criterion 29.6:** (a) Confidentiality requirement is contained in the legislation and governs the handling of information (s.12 of the AML/CFT Act, 2009 as amended). The section penalised the unauthorised disclosure of information by any person as a result of their connection with the FIU. Through the FIU SOP governing information exchange, protection and confidentiality of information, procedures are set out to address the confidentiality of information and the handling, storage, dissemination, protection of and access to information. (b) The FIU SOP governing information exchange, protection and confidentiality of information sets out that staff should have security clearance at the highest level. The SOP sets out that potential staff should be subjected to a vetting process which includes obtaining police clearance and character reference. Other integrity mechanisms are contained in the SOP including limited/controlled access to specific documents by staff. (c) Access to the FIU including the IT system is limited and controlled in some instances. Given the nature of the security system that was communicated to the AT and reviewed during the on-site and this report being a public document, the security mechanisms in place are not published in the report. Nevertheless, the assessors found the security mechanism in place to be robust and



secure.

**Criterion 29.7:** The FIU is an operational independent and autonomous organisation based on the following: **(a)** The FIU falls under the Ministry of Finance and has the authority and capacity to carry out its functions freely, including the autonomous decision to analyse, request and/or forward or disseminate specific information based on the provisions of s.9(2) and (3) of the AML/CFT Act, 2009, as amended. The Director and his management team are responsible for the management of the FIU based on the provision of the foregoing sections. The Director and Deputy Director are appointed by simple parliamentary requirement following a recommendation from the Parliamentary Committee on Appointments (s. 8(1) of the AML/CFT Act, 2009, as amended). Sub-section 2 of the requirements outlines the qualifications to be selected as Director and Deputy Director. The terms and conditions for the appointments of the Director and Director are determined by the Parliamentary Committee on Appointments. The Director and Deputy Director may be removed from office for cause the Parliamentary Committee on Appointments with the concurrence of a simple majority in Parliament (s.8(4) and (6) of the AML/CFT Act, 2009, as amended). **(b)** The FIU has the ability to make arrangements and engage independently with other domestic CAs or foreign counterparts on the exchange of information (9(4)(n) of the AML/CFT Act, 2009, as amended). **(c)** The FIU is a department within the Ministry of Finance. However, the FIU is a creature of statute, and its functions are separate and distinct from those of the Ministry of Finance. The provisions including section 9 of the AML/CFT Act, 2009, as amended, clearly outline the functions of the FIU which differs from that of the Ministry of Finance. **(d)** The funds and resources of the FIU consist of funds that are appropriated by the Parliament. Nevertheless, the Director as the CEO is responsible for the control and use of the funds and resources of the FIU (s.9(6) and (7) of the AML/CFT Act, 2009, as amended). The foregoing allows the FIU to deploy its resources on an individual and routine basis, free from political and industry influence. The allocation of resources by the national assembly was not treated as a deficiency given that in most democratic society, parliament via law is required to appropriate funds to state agencies.

**Criterion 29.8** The FIU submitted an application to become an Egmont Member. The application was accepted.

### *Weighting and conclusion*

**Recommendation 29 is rated Compliant.**

## **Recommendation 30 – Responsibilities of law enforcement and investigative authorities**

Guyana was rated “NC” for R. 30 (formerly R.27). The deficiencies identified include no documented provision or laws to postpone and waive the arrest of person or seize the cash for the purpose of identifying persons involved in the ML or gathering evidence and lack of trained investigators which limits effective implementation of ML/TF investigations.

**Criterion 30.1:** The **Guyana Police Force (GPF)** is the main agency that is responsible for investigating ML, associated predicate offences and TF. The mandate of the GPF includes the prevention and detection of crime (s.3(2) of the Police Act, 1957, as amended). The GPF mandate is achieved through the establishment of various departments including the Serious and Organised Crime Unit (SOCU) which was established by Cabinet Memo of 2013. The AML/CFT Amendment Act of 2023 formally established SOCU as a semi-autonomous unit of GPF to investigate financial and economic crime, primarily ML and TF. Section 22A of the Narcotic Drugs and Psychotropic

Substances (Control) Act provides the Commissioner-General (means the Commissioner-General of the **Revenue Agency**) and anyone so authorised by him with similar police powers for the purposes of investigation the commission of an offence under the Act. The Guyana Revenue Agency (GRA) is the tax agency and is responsible for enforcing the requirement of the Guyana Revenue Act with its functions outlined in s.10 of the Revenue Authority Act. The **FIU** is authorised to conduct investigations into ML, proceeds of crime and TF, for official purposes (s.9(4)(i) of the AML/CFT Act, 2009, as amended).

**Criterion 30.2:** As a department within the GPF, SOCU received referrals and cases to conduct parallel financial investigations from other departments within the GPF including the Criminal Investigation Department (CID) that is primarily responsible for conducting investigation into predicate offences. The authorities advised that SOCU also shares information with the other agencies that are responsible for conducting investigation into predicate for the conduct of investigations. There are no documented mechanisms within the GPF to mandate the referral of specific cases to SOCU to conduct parallel financial investigations and between SOCU and the other investigative agencies.

**Criterion 30.3:** Police officers have the powers to expeditiously seize, identify and trace assets in accordance with the AML/CFT Act, 2009, as amended (ss.24, 28 -30, 37A of the AML/CFT Act, 2009) and other legislation. S.24 also gives power to a authorize officer to seize, identify and trace property. The Office of the Director of Public Prosecution (ODPP) is authorised to restrain for the purposes of confiscation (s.38 of the AML/CFT Act, 2009 as amended). Further, section 80 and 81 makes provision for an officer/applicant to make an application to the court for an Interim and Restraint Order, respectively which can be used to restraint assets. See criterion 4.2 for further analysis.

**Criterion 30.4:** The Guyana Geology and Mines Commission (GGMC), Guyana Energy Agency (GEA) and the Wildlife Conservation and Management Commission which are law enforcement agencies, per se, all have some level of investigative capabilities to conduct investigation of the predicate offence under their respective legislation (Mining, Guyana Energy Agency and the Wildlife Conservation and Management Acts). These agencies do not have the responsibility to conduct the financial investigations into the predicate.

**Criterion 30.5 (not applicable):** Guyana has established an Integrity Commission. However, the Commission has no investigative authority as its functions are administrative in nature and include receive and verify the accuracy of declarations from persons who are required to file such. The GPF including via SOCU is the agency that is tasked with the responsibility of conducting investigation of corruption offences and ML/TF associated with the predicate.

### ***Weighting and Conclusion***

**Recommendation 30 is rated Compliant.**

### **Recommendation 31 - Powers of law enforcement and investigative authorities**

Guyana was rated “PC” for R. 31 (formerly R.28). The sole identified deficiency was no written law for the taking of witness statements.

**Criterion 31.1:** CAs conducting investigations of ML, associated predicate offences and TF are able to obtain access to all necessary documents and information for use in those investigations, this includes: (a) Where a person is being investigated for a serious offence, ML, TF or has been charged



or convicted, section 24 of the AML/CFT Act enables a police officer or authorized officer of the FIU to apply *ex parte* to a judge in Chambers for a production order where it is suspected that a person has possession or control of any document which can quantify or locate a person's property or any tainted property in relation to the offence. **(b) Search of persons and premises:** Section 28 of the AML/CFT Act allows for a police officer to enter, search and seize with the consent of the occupier of the land or the premises or under a warrant issued under the Act. Section 29 of the AML/CFT Act provides for police officer or authorised officer of the FIU to make an application to a Magistrate for a search warrant. Further, section 18 of the Police Act provides powers to the police to search person and detain persons, aircrafts and vessels in specific circumstances including when there is a suspicion that an indictable offence was committed. **(c) Taking of witness statements:** Article 12 of Standing Order No. 64 of the Police Standing Orders provides for the taking of witness statements. **(d)** Section 29 of the AML/CFT Act, 2009 as amended apply to the criterion. The seizure is specific to s.29 (2). The measures highlighted in (b) above allowed for the seizure of evidence.

**Criterion 31.2:** CAs (specifically the GPF) conducting investigations to some extent are able to use a wide range of investigative techniques for the investigation of ML, associated predicate offences and TF, including: **(a) Undercover operations:** Section 58(3) of the Anti-Terrorism and Terrorist related Activities Act, 2015 (this Act is limited to terrorism offences) provides for Article 20 of the Palermo Convention to have the force of law. Article 20 of the Palermo Convention speaks to Special Investigative Techniques which includes undercover operations. Further, SOCU's SOP provides for the use of undercover operations during an investigation. However, Guyana has not provided any authority for the conduct of undercover operations for TF, ML or other associate offences by other CAs. **(b) Intercepting communication:** Interception of communication is allowed for specified offences in accordance with the Interception of Communication Act. The 12 offences for which interception of communication is applicable include ML, terrorism, firearm and drug related offences, human trafficking, kidnapping, treason, arson and conspiracy, aiding and abetting to commit those offences. Further, section 33 of the AML/CFT Act provides for the ODPP or the AG to apply *ex parte* to a Judge for an interception of communication order, for the purposes of obtaining evidence of the commission of a serious crime as listed in the second schedule, an ML offence, a TF offence and which includes any threat to national security. **(c) Accessing computer:** Access to computer is permitted for the purpose of criminal investigations or proceeding under any law (s.28, 31-33 of the Cyber Crime Act). **(d) Controlled delivery:** Section 58(3) of the Anti-Terrorism and Terrorist related Activities Act, 2015 (this Act is limited to terrorism offences) provides for Article 20 of the Palermo Convention to have the force of law. Article 20 of the Palermo Convention speaks to Special Investigative Techniques which includes controlled delivery. Further, SOCU's SOP provides for the use of undercover operations during an investigation. However, Guyana has not provided any authority for the conduct of controlled delivery for TF, ML or other associate offences by other CAs.

**Criterion 31.3:** **(a)** To identify whether natural or legal persons hold or control accounts in a timely manner. This can be done via the FIU. The FIU is authorised to request information from REs and to also instruct to take steps as may be appropriate to facilitate any investigations anticipated by the FIU (s.4 of the AML/CFT Act, as amended). **(b)** As required by the respective sections of the AML/CFT Act, as amended, production orders, search warrants and other investigatory tools which are used to identified assets are obtained following an *ex-parte* application (which is *ex-parte*) before judge. The *ex-parte* application process allows law enforcement authorities to identify assets without prior notification of the owner.

**Criterion 31.4:** S.9(4) (c) of the AML/CFT Act as amended by 12 of 2022 speaks to sharing of information with CAs, *inter alia*, SOCU, CANU and the Guyana Wildlife Conservation Commission can ask for all relevant information held by the FIU for the purposes of investigation of ML, associated predicate offences and TF based on MOUs established between relevant agencies and the FIU.

### ***Weighting and Conclusion***

Guyana has not provided any authority for the conduct of undercover operations and controlled deliveries for TF, ML and other predicate offences by other CAs. **Recommendation 31 is rated Largely Compliant.**

### **Recommendation 32 – Cash Couriers**

Guyana was rated “PC” for R.32 (formerly SR IX) in the 3rd Round MER. The deficiencies included: the requirement for cross-border did not extend to BNIs and sanctions did not extend to legal persons and were not proportionate and dissuasive.

**Criterion 32.1:** Guyana has implemented a declaration system for incoming and outgoing cross-border transportation of currency and bearer negotiable instruments (BNIs). Section 36 of the AML/CFT Act, 2009, provides that a person who enters or leaves Guyana with foreign currency amounting to more than USD10,000.00 shall make a declaration. Section 6 of the Foreign Exchange (Miscellaneous Provision), Act) provides that a person who transports or causes the transportation of currency into or out of Guyana, exceeding USD10,000.00 shall make a declaration. The definition of ‘currency’ in the AML/CFT Act and the Foreign Exchange (Miscellaneous Provisions) Act includes BNIs.

**Criterion 32.2:** Guyana has in place a written declaration system for all travellers which complies with the requirement of sub-criteria 32.2 (b). A person entering or leaving Guyana with foreign currency amounting to US\$10,000.00 or its equivalent in any other currency shall make a declaration to an authorised officer in the form in the Third Schedule of the legislation (s.36 of the AML/CFT Act, 2009, as amended). Further, s.6 of the Foreign Exchange (Miscellaneous Provision) Act, contains similar provision for the declaration of foreign currency amounting of US\$10,000.00 or its foreign equivalent to the Comptroller of Customs.

**Criterion 32.3 (not applicable):** Guyana does not have a disclosure system.

**Criterion 32.4:** Section 3 of the Customs Act provides that customs officers should have the same powers and privileges as are given to Police Officers. Pursuant to Rule I of the Judges’ Rules, High Court Act, a police officer can, in trying to ascertain whether an offence has been committed, question any person for information. As such, customs officers, by virtue of having the same powers as police officers, can request and obtain further information from a carrier upon discovery of a sale declaration.

**Criterion 32.5:** Section 6(6) of the Foreign Exchange (Miscellaneous Provisions) Act provides that section 6 of the said Act shall be administered by the Comptroller of Customs as though it were part of the Customs Act and the provisions of that Act and regulations apply *mutatis mutandis*. Section 217 of the Customs Act provides that makes a false declaration shall be liable to a fine of GUY\$25,000 (USD119.00) together with imprisonment for three years. Further, section 6(5) of the Foreign Exchange (Miscellaneous Provisions) Act provides that a person who makes a false declaration or knowingly makes a declaration that is untrue is guilty of an offence and liable to a

fine of GUY\$1,000,000 (US\$4,732.00) and two years' imprisonment and the currency forfeited. While there is no penalty for making a false declaration pursuant to the AML/CFT Act, Guyana indicated that a charge will be laid pursuant to the Foreign Exchange (Miscellaneous Provisions) Act and not the AML/CFT Act.

**Criterion 32.6:** Guyana complies with the requirement of criterion by satisfying part b, whereby declaration information is made available to the FIU. The form in the Third Schedule for which used for declaration as required by s.36 of the AML/CFT, Act, 2009, as amended, requires that a copy of the declaration be made to the FIU.

**Criterion 32.7:** Adequate cooperation and coordination exist between the Guyana Revenue Authority (parent body for customs), the FIU and GPF (which includes SOCU and Immigration) related to the implementation of R.32. Guidance have been provided to the GRA on matters including improving the currency declaration form and quality of the declaration report. Guidance have also been provided to SOCU on the powers of police officers related to the seizure and detention of currency in accordance with the provisions of the AML/CFT Act and the Foreign Exchange (Miscellaneous Provision), Act.

**Criterion 32.8:** Cash and BNI can be stop or restraint for a reasonable time (72 hours in the first instance and three months by a Judge following the initial seizure and detention by the authorised officer) to ascertain whether evidence of ML/TF is found in cases; (a) where there is a suspicion of ML/TF or predicate offence (s.37(1)(b)(i)(ii)(iii) of the AML/CFT Act, 2009 as amended); or (b) Where the cash and BNI was brought into or taken out of Guyana after a false declaration or disclosure or failure to disclose (s.37(1)(b)(iv) of the AML/CFT Act, 2009, as amended).

**Criterion 32.9:** Copies of all declaration form which sets out the name and other identification information of the bearer (including passport information), amount of currency declared and are required to be submitted to the FIU and the original copy maintained by the GRA. The FIUs SOP on information exchange, protection and confidentiality mandates that STRs and other reports (interpreted by the AT to also include declarations) must be maintained for a period 7 years. Further, the Access to Information Act, provides that all public authorities must determine the retention period of records, but in no case shall it be less than twenty (20) years.

**Criterion 32.10:** There are adequate safeguards in place to ensure that the proper use of the information collected, via the declaration system. The GRA (S.23 (1) of the Revenue Authority Act), and the FIU (see.c.29.7) have mechanisms in place to ensure confidentiality of the information. Guyana authorities note that the police have confidentiality requirement via the GPF SOP. The authorities have advised that safeguard mechanisms do not restrict trade payments between countries for goods and services or the freedom of capital movements, in anyway. No evidence to the contrary was found by the AT.

**Criterion 32.11:** Travellers carrying out the physical cross-border movement of cash that are linked to ML/TF are: (a) Subjected to penalties articulated in criteria 3.9 and 5.6 which are proportionate and dissuasive. For ML, the penalties are a fine of no less than five million GYD (US\$23,678.00) nor more than 100 million GYD (US\$473,568.00) and to imprisonment for 7 years- summary conviction and on indictment a fine of not less than 10 million GYD (US\$47,376.00) nor more than 120 million GYD (US\$568,282.00). For TF, penalties include fines of no less than five hundred thousand GYD (US\$2,367.00) together with imprisonment for not less than 10 years nor more than 15 years; and (b) Currency that can be confiscated via both criminal and civil regimes including the

provisions of ss.46 and 82 of the AML/CFT Act, 2009, as amended.

### ***Weighting and Conclusion***

**Recommendation 32 is rated Compliant.**

### **Recommendation 33 – Statistics**

In the 3<sup>rd</sup> round MER, Recommendation 33 (formerly R.32) was rated NC due to a lack of regular review of the effectiveness of the AML/CFT systems. The Guyana Revenue Authority should maintain statistics on the number of declarations collected and the number of false declarations detected, and the amounts of currency involved or resultant cash seizures. The authorities should implement a regular review of the AML/CFT systems in Guyana and maintain statistics on MLA or other international requests for co-operation. The authorities should maintain statistics on extradition. Statistics on formal requests for assistance made or received by the FIU or the SAs or spontaneous referrals should be maintained.

**Criterion 33.1 – (a)** The FIU of Guyana, the agency responsible for requesting, receiving, analysing and dissemination of STR and other information relating to ML, TF or proceeds of crime, is required to compile statistics and records as stated at S.9(4)(e)(I) of the AML/CFT Act, 2009. The FIU of Guyana has produced and published annual reports from 2018 to 2021 that contains statistics on STRs received and intelligence disseminated. The statistics on STRs reported are disaggregated by sector, criminal activity and region. In addition, statistics on the intelligence disseminated to local authorities by the FIU are maintained. **(b)** The AML/CFT Act, 2009 at section 109A (1) (j) (ii) provides for the collection of statistics on ML/TF/PF investigations, prosecutions and convictions. Section 2.2 (f) of the Supervision guideline No. 13 treats with the maintenance of statistics concerning measures adopted and sanctions imposed under the Act; (i) with the sharing of information with agencies in other jurisdictions with similar functions as it relates to investigations, prosecutions pertaining to the proceeds of crime, ML, TF, and violations of the law and regulations dealing with FIs. This is further legislated by Section 22 (2) (h) of the AML/CFT Act, 2009 which also refers to the maintenance of statistics concerning measures adopted and sanctions imposed under the AML/CFT Act, 2009. Guyana has asserted that whilst SOCU maintains statistics on ML/TF investigations, the ODPP Chambers preserves statistics on ML/TF prosecutions and convictions. In support, Guyana has provided information on statistics pertaining to ML/TF investigations, prosecutions and convictions for the period 2018 – 2023. **(c)** SOCU and the GRA – Customs have been identified as the authorities responsible for the maintenance of statistics on property frozen, seized and confiscated by their respective agencies. Statistics was provided by SOCU and the GRA for the period 2018 – 2022 and 2018 – 2023 respectively and included property both seized and confiscated. 109A(1)(j)(iii) of the AML/CFT Act, 2009 (amended by Act No.15 of 2023) refers to statistics on confiscation and asset forfeiture. **(d)** The MOHA maintains statistics on MLA requests made and received, as do the FIU. Supporting statistical information provided indicated that a total of 22 MLA requests were made from 15 Countries for the period 2018-2022.

### ***Weighting and Conclusion***

**Recommendation 33 is rated Compliant.**

### **Recommendation 34 – Guidance and feedback**

In the 3<sup>rd</sup> round MER, Recommendation 34 (formerly 25) was rated NC as there lacked the requirement for CAs or the FIU of Guyana to provide FIs and DNFBPs that are required to report

suspicious transactions with adequate and appropriate feedback. No guidelines were issued to assist FIs with implementing and complying with their respective AML/CFT requirements. During Guyana 11th Follow-up report in November 2016, all deficiencies were addressed by amendments to the AMLCFT Act 2009. The FIU and SAs have made significant efforts to provide better guidance and feedback to FIs and DNFBPS.

**Criterion 34.1** – Section 22 (2)(b) of the AML/CFT Act, 2009 mandates the SAs to issue instructions, guidelines or recommendations. SAs are also required to provide training to REs on their obligations and requirements under the AML/CFT Act, 2009 (CDD, record keeping AML/CFT compliance, etc). Further, Section 9 (4) (l) of the AML/CFT Act, 2009 requires the FIU of Guyana shall provide feedback to FIs, DNFBPs, other SAs and other relevant agencies relating to the reports of information given under the Act. Guidance for suspicious transactions reporting is also provided in the AML/CFT Handbook for REs issued by the FIU in 2021. The FIU has also issued guidance for the period 2013 - 2022 on Terrorist Reporting, Suspicious Transaction Reporting, High Risk Customers, General AML/CFT Guidance Notes, CFT Guidelines, Examination Guidelines for AML/CFT supervisory authorities, and sector specific guidance notes for insurance companies and brokers and securities companies. In 2023, the Guyana Securities Council (GSC) issued guidelines for REs in the securities sector. The GGMC issued guidelines on the reporting of suspicious transaction in 2022 targeted to DPMS. In 2023, The BOG updated its Supervisory Guideline No. 13 for commercial banks, insurances, MTA and cambios to address and further provided guidance on the following but not limited to tipping off: reliance on third parties for CDD, CDD for beneficiaries of life insurance policies, PEPs and PF. The BOG also issued sector specific guidelines for the Money Transfer Agencies sector. In addition, in 2023 the NCC issued sector specific guidelines for attorney at law, accountants, TCSP and real estate agents.

### ***Weighting and Conclusion***

**Recommendation 34 is rated Compliant.**

### **Recommendation 35 – Sanctions**

In the 3<sup>rd</sup> round MER, Recommendation 35 (formerly 17) received a PC rating due to underlying factors relative to fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA not being dissuasive. Sanctions of designated SAs under the AMLCFTA were not dissuasive, proportionate nor effective and were not applicable to directors and senior management of REs.

**Criterion 35.1** – R.6 TFS: Any natural or body corporate who contravenes the provisions related to TFS under Section 68 A (11) of the AML/CFT Act, 2009 commits an offence and is liable on summary conviction to a fine ranging from GYD\$5,000,000 (US\$23,759) - GYD\$100,000,000 (US\$ 475,172) or imprisonment for up to seven years for natural persons and GYD\$10,000,000 (US\$47,517.23) - GYD\$200,000,000 (US\$950,345) for body corporate. Body corporate is defined in the AML/CFT (Amendment) Regulations 9 of 2023 to mean legal or juridical person or arrangements, including all legal persons and arrangements.

R.8 NPOs: Sanctions for non-compliance with AML/CFT requirements applicable to REs in Guyana also apply to Registered Charities incorporated under the Friendly Societies Act. NPOs incorporated under the Companies Act and trust/arrangement that are NPOs are subject to Rules under the Second Schedule of the Compliance Commission Act (2023). The Rules allow for the cancellation of registration if an NPO is found guilty of an offence under the AML/CFT Act. Further, a controller

of an NPO is subject to penalties under s.23(2) of the AML/CFT Act where there is a breach of obligations under the AML/CFT Act. Sanctions are not proportionate. See analysis under criterion 8.4 (b).

R.9 – R23 Preventive Measures and Reporting: Section 23 of the AML/CFT Act, 2009 and its amendments outlines the sanctions for non-compliance with breaches of sections 15, 16, 18, 19 and 20 of the Act which deals with the AML/CFT requirements of Rec 9 – Rec 23. The sanctions include written warning, compliance orders and license/registration restrictions. REs that breach obligations under the Act commits an offence and is liable on summary conviction to a fine which range from GYD\$5,000,000 (US\$23,759) to GYD\$15,000,000 (US\$71,276) and imprisonment for a term not exceeding 3 years in the case of a natural person or director, manager, officer or employee of a body corporate. Body corporate is liable to a fine ranging from GYD\$15,000,000 (US\$71,276) to GYD\$40,000,000 (US\$190,069). Section 19 of the AML/CFT Regulations, 2010 makes the failure to comply with the requirements of the Supervision Guideline No. 13 a summary conviction offence. Whilst the sanctions are dissuasive, they are not proportionate.

**Criterion 35.2** - Sanctions applicable to the directors and senior management of REs are included at Section 23 (1)(f) of the AML/CFT Act, 2009 (as amended). The sanctions that can be imposed by a supervisory/regulatory authority or a competent disciplinary authority include fines and directing the RE to remove them from the Board.

### ***Weighting and Conclusion***

Guyana has provisions against REs and their directors and senior management for breaches in the AML/CFT Act, 2009 (as amended). However, these sanctions are not proportionate. Further, sanctions for non-compliance with AML/CFT requirements are applicable to Registered Charities and persons acting on their behalf (controller) as well as other NPOs (NPCs and LAs) under the Compliance Commission Act. While the dissuasiveness of sanctions applicable to NPOs could not be ascertained, these were not effective as the GCC was not instituted. Also, the NPO sanctions do not apply to persons acting on behalf of NPOs and are not effective, proportionate or dissuasive.

**Recommendation 35 is rated Largely Compliant.**

### **Recommendation 36 – International instruments**

Guyana was rated PC with the requirements of this Recommendation (formerly R.35) due to gaps in the legislative framework in relation to the implementation of Articles 7, 8, 10 and 11 of the Vienna Convention, Articles 7, 18, 19, 20, 24, 25, 29 of the Palermo Convention, and Article 1(1) of the Terrorist Financing Convention. By 2016, Guyana broadly addressed such deficiencies with the provisions of the Mutual Assistance in Criminal Matters Act No 38 of 2009 and the Anti-Terrorism and Terrorist Related Activities Act No. 15 of 2015 (ATTRA) and the jurisdiction was re-rated to LC. Since then, the standards include the new requirement to ratify and implement the Merida Convention.

**Criterion 36.1** – Guyana is a party by accession to the Vienna Convention (ratified on March 19<sup>th</sup>, 1993), Palermo Convention (ratified on September 14<sup>th</sup>, 2004), Merida Convention (ratified on April 16<sup>th</sup>, 2008) and Terrorist Financing Convention (ratified on September 12<sup>th</sup>, 2007). Guyana is also party to the Inter-American Convention Against Terrorism.

**Criterion 36.2** - Guyana has implemented the Vienna, Palermo and Terrorist Financing Conventions. According to the AML/CFT Act, 2009, ML is criminalised according to the Vienna



and the Palermo Conventions. Further, section 68 (1) of the AML/CFT Act, 2009 criminalises TF according to the TF Convention. Guyana has also partially implemented the Merida Convention; however, some measures are yet to be implemented including the criminalisation of bribery of foreign public officials and officials of public international organizations.

### ***Weighting and Conclusion***

Guyana is a party to the Vienna Convention, the Palermo Convention, the TF Convention and the Merida Convention. Despite fully implementing the respective articles of the Vienna Convention, the Palermo Convention and the TF Convention; Guyana has also partially implemented the relevant Articles of the Merida Convention. **Recommendation 36 is rated Largely Compliant.**

### **Recommendation 37 - MLA**

Recommendation 37, formerly R. 36 and SR V, were rated Non-Compliant in Guyana's 3<sup>rd</sup> Round MER. Some of the cited deficiencies include: no provisions which allow for the granting of MLA in the absence of dual criminality for less intrusive and non-compulsory measures; no measures for technical differences in categorisation and denomination of offences in laws of other countries not to impede the provision of MLA; and deficiencies in former R. 38-40 had a cascading effect.

**Criterion 37.1** – Guyana has a legal basis that allows it to provide, as soon as a practicable, or within the requesting state's timelines, a wide range of MLA in criminal matters. The MACMA empowers Guyana to provide assistance to Commonwealth countries in relation to criminal matters (Part III). The MACMA also applies to mutual assistance with non-Commonwealth countries, where there is a bi-lateral treaty in existence or where the requesting State is a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (Part IV). Assistance can be rendered for criminal matters which require obtaining evidence, locating or identifying persons or things, serving documents, tracing of property and obtaining restraining orders (sections 26-35). Requests for assistance are to be carried out as soon as practicable (section 23(1)). Further, all requests must state any period within which the country wishes the request to be complied with by Guyana (MACMA Schedule).

**Criterion 37.2** – Guyana has a central authority for the transmission and execution of mutual assistance requests and has established SOPs on MLA to guide the process for fulfilling MLA requests as a matter of urgency. The Minister of Home Affairs is Guyana's central authority (section 3 (1)) and in December 2022 established a SOP for MLA that outlines the process for acknowledging, assessing, and fulfilling requests. The MACMA states that requests shall be accepted and carried out as soon as practicable (section 23 (1)) and that a Requesting State is to state any period within which the request should be complied (paragraph 1 of the Schedule). The SOP mandates that all requests are to be treated with urgency (paragraph 8) and expeditiously (paragraph 10). The MOHA utilises a tabulated Microsoft Word document to monitor progress of requests.

**Criterion 37.3** – The mandatory and discretionary prohibitions against providing MLA are not unduly restrictive and if the nature of the request does fall within the prohibited categories, the central authority will consider whether the request could be facilitated once agreed upon. The MACMA identifies compulsory reasons which would prohibit MLA (section 23 (2)) for instance, cases of a political character; prejudice based on race, place of origin, sex, religion, nationality or political opinions; double jeopardy; military offences; and prejudice to Guyana's sovereignty, security or national interests. The MACMA also categorises matters for which the central authority could exercise its discretion (section 23(3)). In the mandatory circumstances, a refusal is not

necessarily automatic as the central authority may consider whether the request could be carried out, under prescribed conditions (section 23 (5)).

**Criterion 37.4** – Guyana does not refuse a request on the basis that it involved fiscal matters or on the ground of security or confidentiality requirements. (a) The MACMA does not include in its mandatory or discretionary grounds for refusal, offences involving fiscal matters. (b) The MACMA does not include security or confidentiality requirements on FIs or DNFBPs in its mandatory or discretionary grounds for refusal.

**Criterion 37.5** – It is an offence for anyone to breach confidentiality requirements specific to MLA requests. There are three (3) provisions in the MACMA which underscore the confidentiality requirements that must be observed with regard to MLA requests, except where the disclosure is in fulfilment of the request. Section 17 (3) makes it an offence for anyone to disclose the fact that a request has been transmitted or the contents of the request; section 19 (1) makes it an offence for a person to disclose to anyone a foreign document, its purport, or any part of its contents; and section 36 makes it an offence for a person to disclose the fact that the central authority has received a request or the contents of the request.

**Criterion 37.6** – In the absence of dual criminality, Guyana has the discretion to facilitate MLA requests of a less intrusive and non-compulsory nature. The central authority has the discretion to refuse a request where there is no dual criminality (section 23(3) (a) and (b) of the MACMA). Nevertheless, section 6(2) and (3) operate as caveats and qualifications as respectively, orders for mutual assistance can be made notwithstanding the absence of dual criminality and where requests are offered or sought in such instances, the assistance shall be for provisions, deemed by Order, to relate to less intrusive and non-compulsory measures.

**Criterion 37.7** – There is no requirement for a Requesting State and Guyana to place offences under the same categorisation of offence or denominate the offence by the same terminology. Section 23 (3) (k) of the MACMA stipulates that technical differences in the categorisation and denomination of offences in the laws of other countries shall not, without more, be a good reason to refuse a request.

**Criterion 37.8** – Guyana can exercise powers and apply investigative techniques to facilitate MLA. However, these powers and investigative techniques are not extensive. (a) A mutual assistance request to be carried out can require Guyana’s assistance in, *inter alia*, obtaining evidence; locating or identifying a person or thing; obtaining a thing by search and seizure if necessary; arranging attendance of a person; transferring of a prisoner; serving documents; and tracing property (sections 25-33, MACMA). The SOP on MLA reflects that once there is an agreement to facilitate a request, the relevant agencies are contacted (paragraph 5). The agencies’ powers to use compulsory measures with regard to production of records, search of premises and persons, taking of witness statements and seizing and obtaining evidence are however limited by the minor technical deficiencies identified for R. 31. (b) The range of other powers and investigative techniques include *ex parte* applications, undercover operations, accessing computer systems and interception of communications, however, the minor limitations identified in R. 31 will apply.

### ***Weighting and Conclusion***

Guyana’s MACMA establishes a Central Authority for transmission and execution of MLA and provides for a wide range of MLA in relation to ML, TF and relative offences. However, in respect of powers and investigative techniques available to facilitate MLAT requests, minor deficiencies



identified in R.31 cascade. **Recommendation 37 is rated Largely Compliant.**

### **Recommendation 38 – MLA: freezing and confiscation**

Recommendation 38 was rated Non-Compliant in Guyana's 3<sup>rd</sup> Round MER. The cited deficiencies were that there were no guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA; no provisions dealing with requests relating to property of corresponding value; no arrangements regarding co-ordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters; and an inability to assess effectiveness due to lack of statistics and the recent enactment of the AML/CFT Act.

**Criterion 38.1** – The MACMA and the SOP on MLA allow for the carrying out of requests as soon as practicable and expeditiously, respectively. Further, the MACMA provides for tracing property (section 33) forfeiture and confiscation (section 34) and restraints (section 35). The various provisions in the MACMA for providing MLA based on requests from other countries provide for requests for assistance in criminal matters. Included in the definition of 'criminal matters' pursuant to s. 2 of MACMA are forfeiture proceedings; proceedings to restrain dealings with property; proceedings for the confiscation of property; and proceedings for the imposition of pecuniary penalties, calculated by reference to the value of property, arising out of criminal proceedings, whether such proceedings be characterized as criminal or civil proceedings.

**Criterion 38.2** – Assistance can be provided with regard to requests for co-operation made on the basis of non-conviction-based confiscation proceedings and related provisions measures. Section 2 of the MACMA defines 'criminal matters' to include forfeiture proceedings; proceedings to restrain dealings with property; proceedings for the confiscation of property; and proceedings for the imposition of pecuniary penalties, calculated by reference to the value of property, arising out of criminal proceedings, whether such proceedings be characterized as criminal or civil proceedings. There is nothing in the law which prohibits proceedings where a perpetrator is unknown or available by reason of flight or absence. In addition to the foregoing, pursuant to section 34(2)-(4) of MACMA, where assistance is being rendered by Guyana to a country in relation to orders made by that country's CA for confiscating or forfeiting proceeds of a specified serious offence, or imposing on the person against whom the order is made a pecuniary penalty calculated by reference to the value of proceeds of a specified serious offence, the central authority can cause an application to be made to the High Court for the registration of the order concerned. The High Court is then able to make a decision on registering the order in Guyana subject to the conditions in section 34(3), i.e. ((i) that the person against whom the order was made appeared in the proceedings or received notice of the proceedings in sufficient time to enable him to defend them, or that he had died or absconded before such notice could be given to him; and (ii) that the order is not subject to appeal.

**Criterion 38.3** – Sections 33-35 of the MAMCA provides for the provision of assistance by Guyana for certain orders such as restraint orders and for confiscation to be done on behalf of another country. Guyana's SOP on MLA details the coordinating measures for seizure and confiscation actions with other countries and states that the AML/CFT Act provides for the Court to appoint a receiver to *inter alia*, manage or dispose of property (paragraph 11). Para. 11(iv) of the SOP provides for LEAs to consider the nature or kind of property seized or restrained to determine the appropriate mechanism or strategy for handling or dealing with the subject property, including the methods to be employed for its safe keeping, disposal, transfer or sharing with the requesting country.

**Criterion 38.4** – Guyana can share confiscated property with other countries. Section 34 (8) of the MACMA states that property confiscated or forfeited under subsection (7) — (a) shall be distributed between the Consolidated Fund and the requesting country; and (b) may be donated to any person or organisation, as agreed between the central authority for Guyana and the central authority for the requesting country. The AML/CFT (Miscellaneous) Regulations No. 12 of 2023 makes provisions for the giving effect to section 34 of MACMA and the sharing of confiscated property.

### ***Weighting and Conclusion***

**Recommendation 38 is rated Compliant.**

### **Recommendation 39 – Extradition**

In its 3<sup>rd</sup> Round MER, Guyana was rated ‘NC’ and ‘PC’ with former R. 37 and 39, respectively. Deficiencies included the lack of provisions which allowed for extradition in the absence of dual criminality for less intrusive and non-compulsory measures and the inability to assess effectiveness due to the lack of statistics on extradition. These deficiencies were also applicable to TF. The level of compliance was brought up to a ‘LC’ due to amendments to the AML/CFT Act.

**Criterion 39.1** – (a) ML and TF are extraditable offences (s.108 AML/CFT Act). Additionally, ML and TF are captured within the definition of extraditable offences pursuant to s.5 of the Fugitive Offenders Act. (b) The MOHA is the CA for purposes of extradition (s.9 Fugitive Offenders Act). The MOHA has an SOP for Extradition which is dated December 2022. This SOP sets out a clear process and system for the management and execution of extradition requests. It identifies and describes the process to be taken upon receipt of a request. It also sets the time periods for different stages in the process. Para. 14 of the SOP states that all extradition requests are time sensitive and are treated with urgency by all agencies involved. Para. 17 of the SOP also states that all requests for extradition are dealt with expeditiously. The MOHA utilises a tabulated Microsoft Word document to monitor progress of requests. (c) s.8 of the Fugitive Offenders Act sets out general restrictions on extradition. Extradition is prohibited if the offence is of a political nature, to prosecute, punish on account of race, tribe, sex, religion, nationality or political opinions and when the extradited person might be prejudiced at trial or punished, detained or restricted in personal liberty due to race, tribe, sex, religion, nationality or political opinions. None of the foregoing provisions place unreasonable or unduly restrictive conditions on extradition requests.

**Criterion 39.2** – (a) There are no provisions that prohibit the extradition of Guyanese nationals. (b) (N/A) Guyana extradites its own nationals.

**Criterion 39.3** – By virtue of s.5 of the Fugitive Offenders Act, extradition requests are only carried out where dual criminality exists. However, the requirement is satisfied where the act or omission constituting the offence, however described, constitutes an offence under the law of Guyana and of the Commonwealth country or treaty territory making the extradition request. The phrase ‘however described’ implies that there is no requirement for both countries to place the offence in the same category of offence or use the same terminology; rather it is based on the criminalisation of the conduct (act or omission).

**Criterion 39.4** – Sec.14 of the Fugitive Offenders Act provides for simplified extradition. An accelerated procedure allowing for immediate extradition without court proceedings is available when the requested person consents. There is precedent that this can be done as in February 2022 an individual waived his rights to formal extradition proceedings and was extradited in June 2011.

### *Weighting and Conclusion*

**Recommendation 39 is rated Compliant.**

### **Recommendation 40 – Other forms of international cooperation**

Recommendation 40 was rated Partially Compliant in Guyana's 3<sup>rd</sup> Round MER. Deficiencies cited included the absence of a procedure for spontaneous exchange of information, the Commissioner of Insurance did not have confidentiality requirements that include exchanged information; there was an inability to assess effectiveness of 150 international co-operations due to lack of statistics on formal requests for assistance made or received by the FIU or the SAs or spontaneous referrals and the recent enactment of the AML/CFT Act

**Criterion 40.1** – CAs, including the ODPP, FIU, LEAs, supervisors and tax authorities, are empowered to provide a wide range of international cooperation in relation to money laundering, associated predicate offences and terrorist financing. Details on the lawful basis for fulfilling requests are more particularly described in the analysis for c.40.2. Each CA can share information and the ODPP can facilitate any necessary court action. The amendment to section 76 of the AML/CFT Act (by virtue of section 40 of the AMLCFT (Amendment) Act No.15 of 2023 provides for international cooperation to be timely, as well as spontaneous and upon request. The new section 76 (16) extends this obligation to all CAs where the term CA is used. In addition, the FIU, by virtue of its Standard Operating Procedures on Information Exchange, Protection and Confidentiality, is authorised to share information spontaneously.

**Criterion 40.2** – (a) The **ODPP** (and any person authorised by him) is the CA for facilitating international cooperation under the AML/CFT Act (sections 2 and 76 (1)). A wide range of assistance can be rendered in this regard, for instance, identifying, tracing, producing, freezing, seizing or forfeiting property (section 76 (2)). Whilst 76(6) restricts assistance to those countries which Guyana has entered into MLA treaties with, 76 (10) states, that notwithstanding (6), CAs may share information with CAs of another state spontaneously or upon request once certain conditions are met. The **FIU** can exchange information by virtue of the AML/CFT Act (section 9 (4) (j)) can make certain disclosures (section 13) and enter into agreements and arrangements (section 14) with other FIUs. **LEAs** rely on mechanisms such as the INTERPOL, ARIN-CARIB and the RSS to exchange information. 109A (1) of the AML/CFT Amendment Bill, 2023 speaks to SOCU, a semi-autonomous unit within the GPF with specialist functions which include inter alia cooperation with overseas SAs and overseas relevant CAs with requests to identify, freeze, seize or confiscate proceeds of crime, including property or currency. **Customs** authorities are empowered to share information via the Caribbean Customs Law Enforcement Council (CCLEC). **Tax authorities** can rely on section 92A of the Income Tax Act to enter into arrangements with other governments for the sharing of information. **Supervisors** can enforce section 22 (g) of the AML/CFT Act to inter alia cooperate and share information. Section 76 (16) of the AML/CFT Amendment Bill, 2023 refers to the CAs as referenced in 7A (7) of the Act and provides an additional list of CAs that have a lawful basis for providing cooperation. The provision also includes any other authority or institution as designated by the Minister by order. (b) Section 76 (1) of the AML/CFT Act requires the CA to take appropriate measures to provide assistance. There are no legal impediments to any of the CAs cooperating directly with their counterparts or using the most effective means to cooperate. (c) The FIU has secure gateways, mechanisms and channels for information exchanges (Standard Operating Procedures on Information Exchange, Protection and Confidentiality). CAs which use the ARIN-CARIB and INTERPOL are required to share information using secure collaborative gateways based

on requirements imposed by those entities. The AML/CFT Amendment Bill under section 76(8) requires all CAs to have clear and secure mechanism, gateways and channels for the transmission of information. **(d)** s.76(15) of the AML/CFT Act, 2019 (amendment of 2023) mandates all CAs to have clear processes for the prioritisation and timely execution of requests and to ensure negotiation, signing and creation of agreements are done in a timely manner. **(e)** The AML/CFT Act imposes an obligation to ensure that information is kept confidential and the FIU's Standard Operating Procedures on Information Exchange, Protection and Confidentiality contains a process for safeguarding the information received for other CAs. The new s.76(8) requires all CAs to use sealed envelopes, secure electronic communication gateways and other administrative methods that preserves the confidentiality and integrity of the information shared. 76 (10) (a) also refers to the confidentiality of information requested being preserved.

**Criterion 40.3** – S.76(1)(15) of the AML/CFT Act requires the negotiation signing and establishment of agreements to be done in a timely manner with the widest range of foreign counterparts. At the time of the assessment Guyana has demonstrated that it had executed agreements or arrangements with twenty jurisdictions. The FIU may enter into any agreements or arrangements with any international or domestic government institution or agency regarding the exchange of information however this is not a pre-requisite to sharing information.

**Criterion 40.4** – S.76 (15) (b) of the AML/CFT Act, 2019 (amendment of 2023) obliges response to requests for feedback from overseas CAs to be executed in a timely manner.

**Criterion 40.5** – **(a)** No information was presented which reflects a prohibition against sharing of tax information. **(b)** Provisions referring to secrecy or confidentiality shall not be an impediment to compliance when the information is requested by or shared with the Court or CA (Section 76 (5) of the AML/CFT Act). **(c)** No information was presented which reflects a prohibition against sharing information when an inquiry, investigation or proceeding is in progress and the assistance would impede same. **(d)** No information was presented which reflects that the nature of the requesting counterpart authority is different from that of its foreign counterpart.

**Criterion 40.6** – **FIU:** When providing information, the FIU has adequate controls and safeguards by virtue of the AML/CFT Act to ensure that information exchanged is used only for the purpose sought (s.13(b)(i), and by the authorities for which the information was sought, unless prior authorisation has been given by the requested CA (s.13(b)(ii). Furthermore MOUs signed between the FIU and counterpart agencies contain provisions which restrict the use and disclosure of the information shared. s.18 of the MACMA provides adequate controls and safeguards for the Central Authority regarding the purpose for which use of evidence or information was sought pursuant. However, there is no control regarding the further dissemination of that information. Amendment 76 (10) (b) and (c) of the Amendment Bill 2023 mandates that the information will be utilised for the purpose for which it was provided and unless provided by prior consent, there will be no dissemination of the information to other CAs or third parties. Furthermore, the use of the information shall not be used beyond that originally approved.

**Criterion 40.7** – Section 76 (12) of the AML/CFT Act refers to legislative provisions to protect the confidentiality of any request for cooperation and the information exchanged. It also empowers the CA to refuse to provide information if the requesting CA cannot protect the information. CAs must also comply with the Data Protection Act, 2023.

**Criterion 40.8** – Pursuant to Section 76(3) of the AML/CFT Act, CAs in Guyana are able to conduct

inquiries on behalf of a foreign CA, but such inquiries are restricted to the prescribed assistance detailed at section 76(4) of the AML/CFT Act (obtaining witness testimony; facilitating the voluntary presence or availability in the requesting state of persons, including those in custody, to give testimony; locating or identifying persons; service of documents; examining objects and places; executing searches and seizures; providing information and evidentiary items; and provisional measures). Section 76(15) of the AML/CFT Act expands the remit by referring to all information that would obtainable if carried out domestically.

**Criterion 40.9** - Sections 9 (4)(j) and 9 (4) (m) of the AML/CFT Act provide the FIU with adequate legal basis for providing co-operation on ML, TF and offences that are substantially similar.

**Criterion 40.10** – Section 9 of the AML/CFT Act, provides that the FIU should periodically provide feedback to CAs, including of foreign FIUs, relating to information provided under the Act having regard to the Egmont Principles and other international best practices. Section 2 provides that the “Egmont Principles” means the Egmont Group of Finance Intelligence Units Principles for Information Exchange between FIUs. Section 19 of the Egmont Principles provides that upon request, and whenever, possible, FIUs should provide feedback to their foreign counterparts on the use of the information provided, as well as the outcome of the analysis conducted, based on the information provided.

**Criterion 40.11** - (a) Section 14 of the AML/CFT Act as amended by Act No. 12 of 2022 provides that the FIU may enter into a written agreement or arrangement regarding the exchange of reports or information, with an institution or agency of a foreign state or organisation or other body established by a foreign state that has the powers and duties of a Financial Intelligence Unit, and whose principles are consistent with the Egmont Principles and other international best practices, including the FATF Standards. (b) Section 13 of the AML/CFT Act 2009 as amended by Act No. 12 of 2022 also gives the FIU the authority to disclose any report or information as set out under section 18 to an institution or agency of a foreign state or of an international organisation or body established by the governments of foreign states that has powers and duties similar to those of the FIU.

**Criterion 40.12** - Section 76 (3) of the AML/CFT Act 13 of 2009 provides for the court of CA to receive and take appropriate measures to respect a request from a court or other CA from another state for assistance related to a civil, criminal or administrative investigation, prosecution or proceedings including ML/TF offences or other proceeds of crime or violations of the AML/CFT Act. In addition, section 22 (2) (g) of the AML/CFT Act 13 of 2009 requires the SA to cooperate, request and exchange information with agencies performing similar functions in other countries and territories in investigations, proceedings or prosecutions relating to proceeds of crime, ML/TF and to violations of the laws and administrative regulations dealing with REs.

**Criterion 40.13** - Under sections 22 (2) (g) and 76 (3) of the AML/CFT Act 13 of 2009, financial supervisors can exchange with foreign counterparts’ information domestically available to them including information held by FIs, in a manner proportionate to their respective needs.

**Criterion 40.14** - Under sections 22 (2) (g) and 76 (3) of the AML/CFT Act 13 of 2009 and section 2.2 (i) of the supervision guidelines permits financial supervisors are able to exchange information when relevant for AML/CFT purposes, in particular with other supervisors that have shared responsibility for FIs operating in the same group: (a) for regulatory information such as information on the domestic regulatory system and general information on the financial sectors. (b) prudential

information, in particular for core principles supervisors, such as information on the FIs business activities, beneficial ownerships management and fitness and properness and (c) AML/CFT information such as internal AML/CFT procedures and policies of FIs, CDD information, customer files, samples of accounts and transaction information.

**Criterion 40.15** - Under sections 22 (2) (g) and 76 (3) of the AML/CFT Act 13 of 2009, financial supervisors can conduct inquiries on behalf of foreign counterparts. Sec 22A and 22B as amended by the AML/CFT Amendment Act 13 of 2023, permits financial supervisors as appropriate, to authorise or facilitate the ability of foreign counterparts to conduct inquiries themselves in the country, in order to facilitate effective group supervision.

**Criterion 40.16** -The AMLCFT amendment Act No. 15 of 2023 provides for financial supervisors to ensure that they have the prior authorisation of the requested financial supervisors for any dissemination of the information exchanged or use of that information for supervisory and non-supervision purposes unless the requesting supervisor is under a legal obligation to disclose or report the information.

**Criterion 40.17** – S.76 of the AML/CFT Act provides for the Court or the CA (including MOHA, CANU, GPF, Immigration Services, SOCU and GDF) of Guyana to cooperate with the Court or other CA of another state to provide assistance in matters concerning ML, PF and TF offences including the identification and tracing of the proceeds and instrumentalities of crime. Further, pursuant to s.109A of the AML/CFT Act, SOCU, a semi-autonomous unit within the GPF with specialist functions including the investigation of ML/TF/PF and predicate offences, has the authority to establish bilateral and multilateral arrangements to enable joint investigations and any necessary operations with CAs in other states. Additionally, SOCU can assist and request assistance from overseas authorities to identify, freeze, seize or confiscate proceeds of crime.

**Criterion 40.18** – S.76(3) of the AML/CFT Act provides for the Court or CA (including LEAs) to take appropriate measures to facilitate requests for assistance related to a civil, criminal, or administrative investigation, prosecution or proceedings, related to ML and TF Offences or proceeds of crime, or violations of any provision of the AML/CFT Act. Appropriate measures are wide enough to encapsulate all of the powers and techniques noted at c31.1 and c31.2.

**Criterion 40.19** – The range of appropriate measures which the CAs can take in accordance with s.76 AML/CFT Act, does not limit the formation of joint investigative teams. Additionally, pursuant to s.109A of the AML/CFT Act, SOCU, a semi-autonomous unit within the GPF with specialist functions including the investigation of ML/TF/PF and predicate offences, has the authority to establish bilateral and multilateral arrangements to enable joint investigations and any necessary operations with CAs in other states.

**Criterion 40.20** – Pursuant to section 76 (10) – (12) of the AML/CFT (Amendment) Act No 15 of 2023, by virtue of MOUs signed between the FIU and foreign FIUs and being a member of regional organisations such as ARIN CARIB, CAs in Guyana can exchange information indirectly with non-counterparts.

### ***Weighting and Conclusion***

**Recommendation 40 is rated Compliant.**

## *Summary of Technical Compliance – Key Deficiencies*

**Annex Table 2. Compliance with FATF Recommendations**

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	[LC]	<ul style="list-style-type: none"> <li>There were challenges in the collection of data during the 2021 NRA from attorneys-at-law, accountants and real estate agents which may have resulted in a less comprehensive understanding of the ML and TF risks associated with these DNFBP sectors.</li> <li>Limited range of qualitative and quantitative information utilized in the TF assessments.</li> <li>The basis for simplified measures should be consistent with an assessment of the risks represented by the type of customer, business relationship or transactions or authorities and not the country's assessment of its ML/TF risks.</li> <li>DNFBPs and those entities which are not considered either a FIs or a DNFBPs are required to have appropriate mechanisms to provide risk assessment information to CAs and SAs. This does not apply to FIs.</li> <li>There is no obligation for FIs to have policies, controls and procedures, which are approved by senior management, to enable them to manage and mitigate the risks that have been identified (either by the country or by the financial institution).</li> </ul>
2. National cooperation and coordination	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
3. Money laundering offences	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
4. Confiscation and provisional measures	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
5. Terrorist financing offence	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	[LC]	<ul style="list-style-type: none"> <li>TFS pursuant to s.68A of the AML/CFT Act does not extend in its totality to entities or individuals designated by the UNSC 1988 Committee.</li> <li>The processes and procedures for the implementation of an asset freeze which entail various steps that do not allow for the implementation of same without delay.</li> <li>Reg.4(6) only applies in respect of "designated persons or entities" which means those designated pursuant to UNSCR 1267(1999), and therefore does not apply in respect of those designated pursuant to UNSCR 1988 (2011) or 1373(2001).</li> <li>Whilst Reg. 3 includes the term without delay in respect of the publication on the UNSC Lists, it does not apply in respect of Reg. 4(2)- individuals and entities designated pursuant to UNSCR 1373.</li> <li>The rights of bona fide third parties acting in good faith when implementing the obligations under Recommendation 6 is not protected.</li> <li>Section 2(2)(16) does not apply to the freezing actions under section 2(2)(2A).</li> <li>The guidance to FIs and other persons or entities, including DNFBPs, that may by holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action need to be updated following the 2023 amendments.</li> </ul>
7. Targeted financial sanctions related to proliferation	[PC]	<ul style="list-style-type: none"> <li>It is not clear whether "designated person or entity" is intended to cover all individuals and entities on the UNSC 1718 and 2231 Sanctions Lists.</li> <li>Nothing in the AML/CFT Act or no further information provided by Guyana establishes that the asset freeze and prohibitions are implemented within a matter of hours of a person or entity being added to either of the UNSC Sanctions Lists or that the freezing requirement applies to all natural and legal persons.</li> <li>No time frame within which the asset freeze and prohibitions at 68E(2)(a) and (b) are triggered.</li> </ul>



Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>There is nothing within the AML/CFT Act or any other information provided by Guyana which demonstrates that TFS are implemented without delay or apply to all natural and legal person, as the freezing orders are made specific to any property found.</li> <li>Guyana does not have a mechanism for communicating designations to FIs and DNFBPs immediately upon taking such action and does not provide guidance to FIs and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms.</li> <li>Guyana has not adopted measures to protect the rights of bona fide third parties acting in good faith when implementing the obligations under Recommendation 7.</li> <li>Guyana does not have measures for monitoring and ensuring compliance by FIs and DNFBPs with the relevant laws or enforceable means governing the obligations under Recommendation 7.</li> <li>There are no provisions for immediate communication of de-listings and unfreezings to all FIs and DNFBPs nor are there any requirements for providing guidance to FIs and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action.</li> </ul>
8. Non-profit organisations	[PC]	<ul style="list-style-type: none"> <li>The 2022 NPO TF Risk Assessment did not identify how terrorist actors can abuse those NPOs.</li> <li>The adequacy of measures, including laws and regulations, for NPOs have not been reviewed. It was not demonstrated that the measures are focused, proportionate and risk based.</li> <li>Sanctions applicable to NPOs or persons acting on behalf of NPOs are not effective, proportionate and dissuasive.</li> <li>The Risk Assessment did not identify or assess the subset of NPOs at risk to TF abuse.</li> <li>With the recent designation of the GCC, Guyana has not demonstrated that risk based measures are being applied (monitor compliance by NPOs or apply effective, proportionate and dissuasive sanctions for violation by NPOs have not been).</li> </ul>
9. Financial institution secrecy laws	[LC]	<ul style="list-style-type: none"> <li>There are no provisions with respect to sharing of information among FIs relying on a third party that are part of the same financial group when considering the CDD and record-keeping requirements of Recommendations 10 and 11</li> </ul>
10. Customer due diligence	[LC]	<ul style="list-style-type: none"> <li>The provisions requiring FIs to verify that a person purporting to act on behalf of a customer is so authorized, to identify and verify the identity of that person, do not apply where the customer is a natural person.</li> <li>There are no provisions that require FIs to adopt risk management procedures related to customers utilising the business relationship prior to verification.</li> <li>There is no requirement to consider materiality during review of existing CDD records nor for such reviews to be conducted at appropriate times.</li> </ul>
11. Record keeping	[LC]	<ul style="list-style-type: none"> <li>The record keeping provisions do not specify that all CDD information and transaction records should be made available swiftly upon appropriate authority</li> </ul>
12. Politically exposed persons	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
13. Correspondent banking	[LC]	<ul style="list-style-type: none"> <li>FIs engaged in correspondent banking and similar relationships are required to document responsibilities, but there is no obligation for them to clearly understand the respective AML/CFT responsibilities of each FI.</li> </ul>
14. Money or value transfer services	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
15. New technologies	[PC]	<ul style="list-style-type: none"> <li>There is no specific obligation on the country to identify and assess ML/TF risks that may arise in relation to the development of new products and new business practices.</li> <li>Guyana has not implemented any mechanisms that provide for the licensing or registration of entities engaged in VASP activities.</li> <li>Given the restriction on licensing of VAs/VASPs, there are no measures requiring VASPs to take appropriate steps to identify, assess, manage and mitigate their ML/TF risks.</li> <li>There are no provisions in place for risk-based supervision of VAs/VASPs in Guyana.</li> </ul>



Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>Targeted sector-specific guidelines and/or feedback have not yet been provided to VASPs.</li> <li>There are no range of proportionate and dissuasive sanctions applicable the directors and senior management of VASPs.</li> <li>There are no communication mechanisms, reporting obligations and monitoring referred to in R.6 that apply to VASPs.</li> </ul>
16. Wire transfers	[LC]	<ul style="list-style-type: none"> <li>MTAs may include full originator information or only the originator's account number or unique reference number for domestic wire transfers.</li> <li>There are no provisions for law enforcement to compel immediate production of such information.</li> <li>Deficiencies in R.11 cascade</li> <li>The requirement applies where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer.</li> <li>When acting as a receiving intermediary FI, the record keeping requirement does not extend to beneficiary information, nor to information received from another intermediary financial institution.</li> <li>There are no requirements for beneficiary FIs to take reasonable measures, which may include post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required originator information or required beneficiary information.</li> <li>There is no obligation for agents</li> </ul>
17. Reliance on third parties	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
18. Internal controls and foreign branches and subsidiaries	[LC]	<ul style="list-style-type: none"> <li>does not include the requirement for policies and procedures on analysis of transactions and activities that appear unusual.</li> </ul>
19. Higher-risk countries	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
20. Reporting of suspicious transaction	[C]	<ul style="list-style-type: none"> <li>All criteria are met</li> </ul>
21. Tipping-off and confidentiality	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
22. DNFBPs: Customer due diligence	[LC]	<ul style="list-style-type: none"> <li>The deficiencies of R.10, 11 and 15 apply.</li> </ul>
23. DNFBPs: Other measures	[LC]	<ul style="list-style-type: none"> <li>The deficiencies in R.18 apply</li> </ul>
24. Transparency and beneficial ownership of legal persons	[PC]	<ul style="list-style-type: none"> <li>Regulation 4 of the AML/CFT Regulations, in relation to Friendly Societies, only applies to charities that are Friendly Societies and not all Friendly Societies.</li> <li>Whilst the risk assessment has assessed ML/TF Risks of all types of legal persons and forms of trusts in the jurisdiction, data collection for the sectoral risk assessment was negatively impacted by time constraints, which also impacted findings and ratings, notably, there were findings of insufficient data in respect of several input variables assessed to determine the ML/TF Threat assessment of legal structures.</li> <li>Notwithstanding that the provisions apply equally to the CCDO, there is no underpinning legal requirement in any legislation for the CCDO to keep a register of the information.</li> <li>The appointment letter for the Registrar of Friendly Societies is limited to charities and does not address all types of friendly societies that can be created, in relation to the requirements of c24.3.</li> <li>No information was provided for other types of legal persons, other than those created pursuant to the Companies Act, for criterion 24.4.</li> <li>There are no mechanisms that ensure that other types of information required under c24.3 and c24.4 are to be accurate and updated on a timely basis for legal persons other than those created pursuant to the Companies Act.</li> <li>The deficiencies found in sub-criteria 10.9(b) and (c) —and, consequently, in criterion 22.1— impact the completeness of the BO information obtainable by FIs and DNFBPs.</li> <li>It is unclear how CAs in Guyana obtain BO information for other types of legal persons, other than those created pursuant to the Companies Act.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>There are no mechanisms to address criterion 24.8.</li> <li>There are no provisions that ensure that these authorities can obtain timely access to this information held by FIs and DNFBPs.</li> <li>There are no provisions that ensure that CAs, beyond the FIU, can access basic and beneficial ownership information by other agencies beyond the Commercial Register—considering that the information it holds is public—and whether this can be done in a timely manner.</li> <li>There are no similar sanctions for non-compliance with the requirements by legal persons other than those created pursuant to the Companies Act.</li> </ul>
25. Transparency and beneficial ownership of legal arrangements	[PC]	<ul style="list-style-type: none"> <li>There are no requirements for a trustee of an express trust governed under the laws of Guyana to obtain and hold adequate, accurate and current information on the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural or legal person exercising ultimate effective control over the trust.</li> <li>There are no requirements for a trustee governed under the laws of Guyana to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accounts and tax advisors.</li> <li>There are no similar requirements for express trusts in relation to c25.2 other than those established by professional trustees.</li> <li>The mechanisms in c25.5 do not allow for timely access to information held by the trustee and can only be used at the investigative stage.</li> <li>Given the deficiencies in the criteria above, the information that can be obtained by the police and FIU would be limited to information held by FIs and DNFBPs (including professional trustees) as part of their CDD requirements.</li> <li>However, the exchange of information pursuant to s.76 of the AML/CFT Act is limited to countries that Guyana enters into a MLA treaty with on a bilateral or multilateral basis.</li> <li>Further, the information that can be shared would be limited to the CDD information held by FIs and DNFBPs and information held by the Registrar pursuant to the Companies Act, section 470A(1) and not all the information expected to be held by the trustee pursuant to this recommendation.</li> <li>There are no sanctions for express trusts created by persons other than a professional trustee.</li> <li>There are no sanctions (criminal, civil or administrative) for failing to grant CAs timely access to information regarding trusts (R.25.1).</li> </ul>
26. Regulation and supervision of financial institutions	[LC]	<ul style="list-style-type: none"> <li>There are no provisions that outright prohibit the establishment or continuation of shell banks.</li> <li>There are no measures to prevent criminals and their associates from holding a significant or controlling interest or holding management functions in cambios.</li> <li>There is no policy or basis for the frequency and intensity of AML/CFT supervision of the credit union sector.</li> <li>Specific provisions were not provided to adequately demonstrate that regulation and supervision of FIs is in line with BCBS.</li> </ul>
27. Powers of supervisors	[LC]	<ul style="list-style-type: none"> <li>The deficiencies identified for R.35 are applicable to R. 27.</li> </ul>
28. Regulation and supervision of DNFBPs	[LC]	<ul style="list-style-type: none"> <li>Risk based supervision is not applied for attorneys-at-law, Notaries, Accountants and Non-Financial TCSP.</li> <li>The deficiencies identified for R.35 are applicable to R. 27.</li> </ul>
29. Financial intelligence units	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
30. Responsibilities of law enforcement and investigative authorities	[C]	<ul style="list-style-type: none"> <li>All criteria are met</li> </ul>
31. Powers of law enforcement and investigative authorities	[LC]	<ul style="list-style-type: none"> <li>CAs (specifically the GPF) conducting investigations are able to use a wide range of investigative techniques for the investigation of ML, associated predicate offences and TF to some extent for undercover operations and controlled delivery.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
32. Cash couriers	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
33. Statistics	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
34. Guidance and feedback	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
35. Sanctions	[LC]	<ul style="list-style-type: none"> <li>Sanctions against REs and their directors and senior management are not proportionate.</li> <li>Sanctions applicable to persons acting on behalf of NPOs are not proportionate or dissuasive.</li> </ul>
36. International instruments	[LC]	<ul style="list-style-type: none"> <li>Guyana has partially implemented the relevant Articles of the Merida Convention.</li> </ul>
37. MLA	[LC]	<ul style="list-style-type: none"> <li>The deficiencies identified for R.31 are applicable to R. 37</li> </ul>
38. MLA: freezing and confiscation	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
39. Extradition	[C]	<ul style="list-style-type: none"> <li>All criteria are met.</li> </ul>
40. Other forms of international cooperation	[C]	<ul style="list-style-type: none"> <li>All criteria are met</li> </ul>

## *Glossary of Acronyms<sup>13</sup>*

	DEFINITION
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AT	Assessment Team
BO	Beneficial Ownership
BOG	Bank Of Guyana
CA	Competent Authority
CANU	Customs Anti-Narcotic Unit
CCDO	Chief Cooperative Development Officer
CSA	Cooperative Societies Act
DPMS	Dealers in Precious Metals and Stones
EDD	Enhanced Due Diligence
FI	Financial Institutions
FS	Friendly Societies
FSA	Friendly Society Act
GA	Gaming Authority
GCC	Guyana Compliance Commission
GGB	Guyana Gold Board
GGMC	Guyana Geology and Mines Commission
GPF	Guyana Police Force
GRA	Guyana Revenue Authority
GSC	Guyana Security Council
HT	Human Trafficking
ICAG	Institute of Chartered Accountants of Guyana
LA	Legal Arrangements
LFI	Licensed Financial Institutions
LP	Legal Persons
MLA	Mutual Legal Assistance
MOHA	Ministry of Home Affairs
MOU	Memorandum of Understanding
MTA	Money Transfer Agencies
NCC	Anti-Money Laundering and Countering the Financing of Terrorism and Proliferation Financing National Coordination Committee
NPSP	National Policy and Strategy Plan
NRA	National Risk Assessment
ODPP	Office of the Director of Public Prosecution
PSP	Payment Service Provider
RBAP	Risk Based Action Plan
RE	Reporting Entities
SA	Supervisory Authority
SOCU	Special Organised Crime Unit

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Acronyms already defined in the FATF 40 Recommendations are not included into this Glossary.

STR	Suspicious Transaction Report
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
TTR	Threshold Transaction Report
UNSCR	United Nations Security Council Resolution
VA	Virtual Assets
VASP	Virtual Asset Service Provider



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July 2024

## Anti-money laundering and counter-terrorist financing measures – The Cooperative Republic of Guyana

### *Mutual Evaluation Report*

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in The Cooperative Republic of Guyana as at the date of the on-site visit September 4<sup>th</sup> – 15<sup>th</sup> 2023. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of The Cooperative Republic of Guyana's AML/CTF system, and provides recommendations on how the system could be strengthened.