



Anti-money laundering and counter-terrorist financing measures

Anguilla

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

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Executive Summary

1. This report summarises the AML/CFT measures in place in Anguilla as at the date of the on-site visit from June 26th to July 7th, 2023. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Anguilla's AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- a) Anguilla reasonably understands its ML/TF risks that were identified and assessed in its National Risk Assessment (NRA) and Residency By Investment (RBI) programme risk assessment exercises. The NRA assessed the risks of all relevant products, services and sectors including legal persons and legal arrangements, non-profit organisations (NPOs) and virtual asset service providers (VASPs). The overall ML threat level for the jurisdiction was rated medium. AML/CFT/CPF co-ordination is spearheaded by the Anguilla National Anti-money laundering/Countering of Financing of Terrorism Committee (ANAMLC). The framework for national coordination works well and has resulted in improved co-operation among the domestic authorities with joint investigations and information sharing.
- b) The Anguilla Financial Intelligence Unit (AFIU) routinely accesses and uses financial intelligence and other relevant information to develop evidence and to trace criminal proceeds related to ML and associated predicate offences. The Royal Anguilla Police Force (RAPF) and Customs Department seldom use the financial intelligence produced by the AFIU in the investigation of predicate offences. The AFIU's analysis and dissemination supports the operational needs of the FIU-Investigations Division and other LEAs. SARs received from reporting entities (REs) are of a good quality and generally contain relevant and accurate information that assists the AFIU to perform its duties.
- c) The AFIU is the designated LEA with responsibility for conducting ML investigations. Few parallel financial investigations were conducted, consequently, potential ML cases were insufficiently identified and investigated. The RAPF and Customs Department are inadequately trained to identify ML cases. Most ML investigations and prosecutions are of medium ML risk offences. While ML investigations and prosecutions are moderately in line with Anguilla's risk profile and national AML/CFT policies, is not possible to reach to a definitive conclusion about whether the level of ML investigations and prosecutions is consistent with the level of predicate offences occurring in the jurisdiction.
- d) Anguilla has a comprehensive legislative framework that allows for both conviction-based and non-conviction-based confiscation. However, the country's confiscation regime has only been successful in confiscating

proceeds from domestic predicate offences and has not yet managed to confiscate instrumentalities or property of an equivalent value. These results are relatively modest and do not align with the country's ML risk profile.

- e) Anguilla assessed its risk of TF as medium, given the low threat level but elevated vulnerabilities. The absence of investigations or prosecutions of TF cases is consistent with this risk profile. Additionally, competent authorities (CAs) demonstrated adequate capacity and resources to identify and investigate TF. Recently, Anguilla passed legislation aimed at enhancing its implementation of the Targeted Financial Sanctions (TFS) framework pursuant to United Nations Security Council Resolutions (UNSCRs) 1267 and 1373, and UNSCRs relating to the combatting of proliferation financing (PF). However, there are major gaps and deficiencies in Anguilla's TFS regime for TF and gaps in the TFS regime for PF. Anguilla has identified NPOs that are vulnerable to TF abuse but has applied prescriptive measures to all NPOs, which is not in line with the risk-based approach.
- f) FIs and VASPs have a good understanding of ML/TF risks, AML/CFT obligations and preventive measures while DNFBPs' level of understanding varies, with trust company service providers (TCSPs) being the best. The implementation of supervisory oversight by the Anguilla Financial Services Commission (AFSC) over DNFBPs is partially responsible for this heightened awareness of AML/CFT obligations. The suspension of AML/CFT obligations for lawyers, due to a legal stay creates an important gap in Anguilla's AML/CFT framework. However, this weakness is mitigated by the fact that company formation services require a TCSP licence under AFSC supervision and real estate transactions are subject to additional CDD measures through FIs.
- g) The AFSC is the designated AML/CFT supervisory authority for FIs, DNFBPs and VASPs. Under the licensing and registration regime, the AFSC ensures that criminals and their associates are not allowed to hold significant or controlling interest or management positions in FIs, VASPs, and DNFBPs. To supervise these entities, the AFSC follows a risk-based approach, which includes onsite and offsite inspections, compliance visits, and offsite surveillance reporting, based on institutional and sectoral vulnerability assessments. However, the AFSC's supervisory approach for DNFBPs is still in its early stages, with a limited number of onsite and offsite examinations conducted so far due to resource constraints. Additionally, the AFSC has conducted a limited number of inspections of high-risk FIs, which is inconsistent with their corresponding inspection cycle frequency.
- h) The Commercial Registration Electronic System (CRES) was recently launched and is working to expand and simplify access to beneficial ownership (BO) information for CAs. There are significant and varied gaps in the registration requirements of legal arrangements, as detailed in R.25. The CRES platform is managed by the Commercial Registry which was only fulfilling administrative functions at the time of the onsite, since

the newly added regulatory and enforcement functions were only recently introduced. The Commercial Registry is insufficiently resourced to effectively execute its new functions to ensure the information on the CRES platform is accurate and up to date.

- i) Anguilla has measures in place to facilitate formal mutual legal assistance (MLA) and extradition. The MLA regime is divided into three primary regimes; the TIEA administered by the Ministry of Finance (MoF), the MLA USA Act administered by the Attorney General's Chambers (AGC), and the Criminal Justice (international co-operation) (Anguilla) Act (CJICA) administered by the Governor. All three regimes were active during the assessment period, including some limited cooperation for ML-related cases. Only the CJICA and TIEA MLA regimes were active in terms of incoming requests to Anguilla. Additionally, the Proceeds of Crime Act (POCA) provides a sufficient basis for MLA asset recovery cooperation, and the AGC acts as a central authority in relation to these types of requests, however, there was no transnational asset recovery activity during the assessment period. Anguilla neither received nor made an extradition request during the assessment period, which is generally consistent with its risk profile and context. Anguilla provided a range of MLA during the assessment period. Anguilla did not demonstrate that it executes incoming requests in a consistently timely manner, nor did CAs seek feedback from requesting partners to determine the usefulness of cooperation provided. Anguilla's outgoing MLA requests largely concerned minimally complex ML and predicate offences, which is somewhat consistent with its risk profile and context. Anguilla did not demonstrate that cooperation is sought in a consistently timely manner.

Risks and General Situation

2. Anguilla is a British Overseas Territory ("BOT"). It is the northernmost Leeward Island in the Eastern Caribbean. Additionally, Anguilla is situated near Dutch Sint Maarten and French Saint Martin, both of which are gateways to Europe. Anguilla's location and numerous unprotected borders¹ make it vulnerable to being a trans-shipment point for trafficking of drugs, firearms, persons and other trade-based crime. Anguilla's NRA assessed the money laundering threats in relation to the twenty-one (21) FATF designated ML predicate offences; terrorism and terrorist financing threats; vulnerabilities in relation to the proliferation financing; vulnerabilities in relation to twenty (20) sectors and financial products (including NPOs and VASPs); and vulnerabilities in relation to legal persons. The highest threats identified were fraud, human trafficking, trafficking of illegal substances and sexual exploitation. Authorities have cited in the NRA that networks are suspected to be utilizing the cross-border movement of cash into and out of Anguilla in the laundering of the proceeds of such offences. Illegal gambling was identified by LEAs as an emerging threat that received some investigative priority. Anguilla did not identify the proceeds

¹ Anguilla NRA (Full Version – Amended: May 2023). Page 38. 43, 38
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from foreign predicate offences to be a particular ML threat. TCSPs, money services businesses (MSBs), VASPs and lawyers/notaries were identified as being the most vulnerable, thus presenting the highest ML/TF risk. Lawyers/notaries were unregulated over much of the assessed period.

3. Anguilla's GDP in 2022 was XCD 6,231.25m (USD 2,307.87m). The economy is dominated by the provision of services and the largest sectors are hotels and restaurants (17%), real estate (13%), and financial intermediation inclusive of remittances from emigrants - (7%) of 2022 GDP. In 2020, the economy declined by 18% due to the impacts of COVID-19, but GDP has since rebounded to 32% greater than pre-pandemic levels. Anguilla has a small offshore financial sector² and is considered a minimal tax jurisdiction. Anguilla engages in company formation activities on behalf of clients from all over the world, and as of 2020, approximately 17,076 companies were registered there.
4. The NRA assessed the overall TF risk as medium. While some additional information could have been included, Anguilla is reasonably aware of the risks. A separate ML/TF risk assessment posed by Anguilla's Residency by Investment (RBI) programme was conducted. The Assessment Team concluded that the results were reasonable and the due diligence and other preventive measures adequate.

Overall Level of Compliance and Effectiveness

5. Anguilla has made significant improvements to strengthen its anti-money laundering/combating the financing of terrorism (AML/CFT) regime since the last MER. The 2020 NRA resulted in the development and implementation of Anguilla's National Anti-Money Laundering and Countering of Terrorism Policy and Proliferation Financing Strategic Plan. The key part of the National Strategic Plan is the concluding Action Plan, consisting of intended enhancements to Anguilla's AML/CTF regime, organized by Immediate Outcome, objective, relevant agency and priority level. The timeline envisioned for the implementation of the ambitious reform agenda was, for the most part, the first half of 2023. Since the adoption of Anguilla's National Strategic Plan, significant actions have been achieved by CAs, including an increase in measures to facilitate cooperation among LEAs, the passing of key legislation to improve the AML/CFT framework and the raising of awareness of ML/TF related issues among FIs and DNFBPs. The establishment in November 2022 of the Joint Intelligence Working Group (JIWG) consisting of the AFIU, the RAPF, the Immigration Department and the Customs Department to facilitate the sharing of criminal intelligence and coordinate operation activity in particular in relation to AML/CFT, has already yielded results.

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

6. Anguilla conducted its first ML/TF NRA for the period 2014 – 2018. Prior to publication, Anguilla updated the ML threats to include data for 2019 in October

2 The [IMF](#)'s definition of small offshore financial centre 'OFC' (excluding major financial centres) is 'Jurisdictions that have relatively large numbers of financial institutions engaged primarily in business with non-residents and financial systems with external assets and liabilities out of proportion to domestic financial intermediation designed to finance domestic economies'. IMF's report on financial centres notes that small countries with small domestic financial sectors may choose to develop offshore business and become an OFC for a number of reasons e.g. income generating activities and employment in the host economy, and government revenue through licensing fees.



2020. Anguilla's MER on-site inspection was conducted between June and July 2023, so there was a significant period between the NRA Report's final update and its publication date in February 2023, primarily due to COVID-19 pandemic-related delays. Notwithstanding, the Assessment Team is of the opinion that Anguilla has a reasonable understanding of its ML/TF risks that were identified and assessed in its NRA and RBI programme risk assessment exercises, but a contemporary ML/TF risk assessment is necessary to verify if there were any changes to Anguilla's ML/TF risks. The NRA assessed the risks of all relevant products, services and sectors including legal persons and legal arrangements, NPOs and VASPs. The NRA outlines inherent ML/TF risks for mitigation. The NRA findings relate only to "inherent ML/TF risks", as the ratings do not factor in the presence and effectiveness of AML/CFT preventive measures as mitigating controls. Anguilla also assessed the ML/TF risks of its RBI programme which included mitigating measures, resulting in a report which outlines inherent and residual ML/TF risks.

7. The NRA was used as a basis to justify exemptions from AML/CFT requirements or simplified measures for lower-risk scenarios and enhanced measures for higher-risk scenarios in certain circumstances outlined in legislation. VASPs were rated as very high relative to the inherent vulnerability for ML/TF. The AML/CFT Regulations were amended in 2022 to include VASPs licensees as service providers that must adhere to the AML/CFT Regulations.
8. The National AML/CFT Policy and PF Strategic Plan, which is based on the NRA, is the overarching national AML/CFT policy instrument. It informs the activities of the relevant CAs. Since its development, there has been a notable effort to achieve action items in the associated action plan, although there are gaps and weaknesses and 30% of the action items remained outstanding at the time of the onsite assessment. There has been an increase in measures to facilitate cooperation among LEAs, the passing of key legislation to improve the AML/CFT framework and the raising of awareness of ML/TF related issues among FIs and DNFBPs. Other subsidiary or more narrowly tailored national policies and strategies, however, are not always comprehensively in dialogue with the NRA and the National AML/CFT Policy and PF Strategic Plan. Notable gaps include risks associated with international business companies (IBCs) and Anguilla's RBI program, as well as TFS, especially for PF.
9. The framework for national coordination through the ANAMLC works well. Anguilla demonstrated efforts of improved co-operation among the domestic authorities, which has resulted in joint investigations and information sharing.
10. The private sector was minimally involved with the NRA exercise, and the CAs did not conduct NRA sensitization meetings. However, the NRA's executive summary and sectoral portions were disseminated via a press conference, email and through the AFSC's website. Although the FIs, DNFBPs and VASPs did not participate in the NRA, some have basic ML/TF risk awareness and are aware of the NRA or its findings. Many FIs, DNFBPs and VASPs have not integrated the NRA results into their AML/CFT programme and updated their ML/TF risk assessments. Delays in the dissemination of the NRA results impacted the private sector in that they were unable to assimilate the results and update their ML/TF risk assessments in a timely manner and have not received the full benefit of ML/TF risk and sectoral awareness due to the time lapse.



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

11. The AFIU is the premier LEA for the investigation of serious financial crimes, including ML and TF. The AFIU has access to a wide range of financial intelligence and routinely uses financial intelligence and other relevant information to develop evidence and to trace criminal proceeds related to ML and associated predicate offences. This is done to a much lesser extent by the RAPF and Customs Department in the investigation of predicate offences.
12. The information contained in SARs and the quality of the AFIU's analysis results in disseminations which support the operational needs of CAs, particularly the AFIU-Investigations Department. The largest number of SARs are filed by MSBs, banks and company services in keeping with the ML/TF risk profiles. However, potential ML cases are not being identified from lawyers, notaries and independent legal professionals who did not file SARs and who are high-risk for ML. Similarly, the lack of proper implementation of Anguilla's cross-border currency and BNI declaration regime results in potential ML cases being unidentified. ML through the cross-border transportation of currency is also a high-risk ML activity identified by Anguilla. Potential ML cases are insufficiently identified and investigated through parallel financial investigations. There are little to no parallel ML investigations associated with high ML risk predicate offences investigated by the RAPF and the Customs Department. These LEAs are inadequately trained to identify ML cases.
13. Most ML investigations are triggered by direct report from the public to the AFIU and concern minimally complex investigations of domestic predicate offences, somewhat in line with Anguilla's context and risk profile. Most of the ML matters prosecuted are done in the Magistrate's Court by Police Prosecutors
14. Anguilla makes moderate use of its comprehensive confiscation regime. Anguilla has realised results from the confiscation of proceeds from domestic predicate offences. Civil recovery suffers lengthy delays and cash forfeiture sums are modest. Anguilla has not confiscated instrumentalities nor property of an equivalent value. Anguilla's declaration system for cross-border movements of cash or BNIs is not being effectively implemented or enforced despite the high ML risk associated with this activity. Potential ML cases are not being detected. Overall, confiscation results are relatively modest and only somewhat consistent with the country's ML risk profile.

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

15. Anguilla has assessed its risk of TF as medium in the context of (i) the absence of known TF threats, (ii) inherent TF vulnerabilities within the country, and (iii) vulnerabilities associated with various sectors, products and services such as NPOs, VASPs and legal persons. CAs in Anguilla possess sufficient capacity and resources to carry out their functions effectively. They are equipped with broad powers to obtain the necessary financial information for identifying and investigating TF cases. Domestic cooperation frameworks are in place to facilitate information sharing. Anguilla has a National Counter-Terrorism and Counter Terrorist Financing Policy that guides investigations. While TF-related sanctions in the Counter Terrorism Act (CTA) are deemed proportionate and dissuasive, the same cannot be said for some Anti-Terrorism (Financial and other Measures) (Overseas Territories) Order (ATO)



related TF offences where proceedings are conducted summarily. The authorities have access to alternative measures to the prosecution of TF, although there has been no need to employ them thus far.

16. Anguilla has an effective regime for implementing TFS for TF in law. However, it does not have comprehensive measures to verify the compliance of REs. Some sectors, in particular DNFBPs (except for TCSPs), are not aware of, and are not acting on, their TFS obligations. The coming into force of the CTA in June 2023 establishes a comprehensive and unified framework for administering an effective and responsive regime for TFS for TF. Relevant CAs are now in the process of developing monitoring and compliance systems for FIs, DNFBPs and VASPs regarding TFS relating to PF.
17. No assets or accounts associated with sanctioned individuals and entities pursuant to the regime for TFS for TF were identified during the assessment period. This is consistent with Anguilla's risk profile. The mandatory quarterly reporting by REs is a positive innovation. The new electronic reporting system instituted by the AFIU is also a positive step forward. However, all these developments are too nascent to be fully assessed. Policy, procedural, and public guidance documents touching on TFS for TF are outdated at points since the coming into force of the CTA. Supervisors have not provided outreach in relation to TFS and TF, and no specific training has been provided to the private sector in relation to the TF risks of NPOs or the NPO sector. The NPO supervisor has not effectively supervised NPOs, which has resulted in no targeted approach as well as limited outreach and oversight of NPOs.
18. Anguilla has a nascent regime for implementing TFS for PF in law. However, it does not have comprehensive measures to verify REs' compliance. Some sectors, in particular DNFBPs except for TCSPs are not aware of, and are not implementing, their TFS obligations with respect to PF.
19. During the assessment period, no assets or accounts associated with sanctioned individuals and entities according to the TFS for PF regime were detected. This is in line with Anguilla's risk profile. The coming into force of the PFA in June 2023 establishes a unified framework for administering the regime for TFS for PF. This together with the relevant (Orders in Council) which allow for the enforcement of UK statutes formulate the legal framework. The PFA prohibits the dealing with assets of designated persons and entities and creates a freezing mechanism applicable to the assets of designated persons or entities. Policy, procedural, and public guidance documents touching on TFS for PF are outdated at points since the coming into force of the PFA.
20. There is a system in place for the identification of funds or assets belonging to designated persons, however the process results in significant delays. The AFIU provides links to the UK's Consolidated and Sanctions Lists on its website. Notices are created by the AFIU which are issued to FIs and DNFBPs by email with the said notices also uploaded to the AFIU website. Nevertheless, all FIs and most DNFBPs communicated the use of screening/compliance systems/software which contains the names of persons and entities that have been designated by the UN and are updated within hours of a UN designation. They do not rely solely on the AFSC's communication. The efficiency in the communication of sanction designations by the AFSC positively affects the ability of FIs and DNFBPs that rely solely on the communication to freeze without delay funds and assets. At the conclusion of the on-site visit no assets were frozen or cases of potential breaches identified.



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

21. FIs in Anguilla have a reasonable understanding of their ML/TF risks and their AML/CFT obligations which includes carrying out a business risk assessment. The FIs have appointed MLROs and MLCOs/COs who are aware of their AML/CFT obligations concerning the filing of SARs and ensuring institutional AML/CFT compliance with local legislation. A range of ML/TF risk mitigating measures commensurate with identified ML/TF risks are used. These measures include pre-onboarding checks, ongoing monitoring, targeted resource allocation, EDD and AML/CFT staff training.
22. CDD is conducted on new clients, ongoing monitoring of existing clients and records are kept in accordance with legal requirements. BO information is obtained as required. FIs in Anguilla conduct EDD on new clients as well as ongoing monitoring and use information technology systems and public information to comprehensively vet such clients. EDD measures are outlined in respective entities' AML/CFT policies and procedures manuals and common reasons for conducting EDD include PEPs, correspondent banking, the introduction of new technologies, wire transfer rules, targeted financial sanctions relating to ML/TF, and higher risk countries identified by FATF.
23. MSBs, domestic banks and a credit union were the only FIs that submitted SARs to the AFIU during the review period. This is in line with the ML/TF vulnerability profiles of these FIs. Additionally, the AFIU did not receive any SARs concerning TF from FIs. FIs have frequent AML/CFT training and policies and procedures manuals that address and help prevent tipping-off.
24. Most FIs in Anguilla have appropriately documented AML/CFT policies, internal controls, and procedures to guide daily operations. These institutions are also subject to internal and external audits that examine and test their AML/CFT controls. No legal or regulatory requirements impede the application of internal controls or procedures of FIs in Anguilla
25. The DNFBP sector's understanding of risks and subsequent obligations to mitigate specific vulnerabilities is nascent. The level of understanding of ML/TF risks and AML /CFT obligations varied by subsector with the TCSPs demonstrating an adequate understanding of ML/TF risks. During the assessment period lawyers were not subject to AML/CFT obligations due to a legal stay. Interviews with VASPs confirmed that compliance and senior management had a sound understanding of ML/TF risk and obligations. Sectors most vulnerable for ML/TF risks such as TCSPs and VASPs, implemented internal policies and procedures commensurate with their risk and conducted some ML/TF risk assessments. Other DNFBPs such as Real estate agents and DPMSs apply limited risk-based approach in implementing mitigating measures.
26. Most DNFBPs are aware of CDD requirements. TCSPs have implemented appropriate CDD procedures while other sectors such as DPMSs have varying levels of implementation. The AFSC has identified significant shortcomings regarding requirements for CDD, EDD and record keeping. TCSPs identify beneficial owners holding 10% or more interest. VASPs apply requisite CDD measures to deal with digital customers and use a wide range of monitoring tools.
27. VASPs and specific DNFBPs, especially the larger and high-risk entities, have demonstrated a clear understanding of EDD requirements. VASPs and some



DNFBPs, particularly, TCPS apply EDD controls through the use of screening software that performs PEP and sanctions screening. TCSPs submitted a significant number of SARs from DNFBPs. The low level of SARs reported by DNFBPs is not consistent with the ML/TF sector risk profiles. No SARs has been reported by VASPs. The low number of SARs could be due to limited supervisory oversight. In the context of tipping off, there have been no instances in DNFBPs. Some TCSPs and VASPs demonstrated their awareness of the legal prohibition and included tipping off guidance and/or obligations in AML/CFT policies and staff training.

28. TF risk and TF financing generally receive less emphasis in AML/CFT programmes of DNFBPs in keeping with the perceived low risk of TF nationally. CSPs interviewed had appropriate internal controls and risk frameworks. Other DNFBPs had varying levels of internal controls. The risk and compliance systems of TCSPs who had been inspected by the AFSC have been strengthened over time. The suspended implementation of the AML/CFT regime against lawyers significantly impacts the effectiveness of the AML/CFT system given the recognized risk of this sector and the fact that they perform the functions of TCSPs.

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

29. Cooperation between the AFSC and the Commercial Registry significantly prevents criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in FIs, VASPs, and DNFBPs. Supervised entities report all material changes to the AFSC related to directors, shareholders and senior officers which can trigger a “fit and proper test” by the AFSC for approval.
30. The AFSC has a reasonable understanding of the ML/TF risks and has used Anguilla’s NRA, institutional and sectoral vulnerability assessments, trends and typologies identified by the FATF or as identified by the AFIU in its local circulars, onsite/offsite inspections and compliance visits, data received from required returns and information requests to help identify and maintain an understanding of the ML/TF risks.
31. Annually the AFSC conducts a vulnerability assessment of its licensed or registered FIs, VASPs, and DNFBPs to draft a work plan for the following year focusing on the higher vulnerability licensees and registrants that may require inspections, compliance visits, follow-ups, or enhanced monitoring. The AFSC can impose enforcement and remedial actions. Enforcement actions have remained consistent during the review period at approximately two (2) per year. The main types of enforcement actions were revocations and cancellations/surrender of licenses. Given the small number of entities in each sector and the low number of inspection/compliance visits during the review period, there is minimal data to determine if the AFSC’s enforcement actions were effective, proportionate, and dissuasive.
32. The AFSC utilized an array of AML/CFT supervisory tools in relation to FIs, VASPs, and DNFBPs: offsite/onsite inspections and compliance visits; feedback from inspections and compliance visits and monitoring of action plans; imposition of stipulations/conditions on the entities’ licenses or registration; follow-up inspections/compliance visits; information gathered from letters of demand for information and documentation; issued investor alerts; published guidelines and sample guides; and conducted outreach and training with licensees and registrants.



33. The AFSC has conducted an insufficient number of inspections of identified high-risk FIs in accordance with their associated inspection cycles due to insufficient resources.
34. The AFSC communicates AML/CFT obligations to licensees and registrants through multiple channels including, but not limited to, inspections and compliance visits, outreach initiatives, email notifications, investor alerts on its website, social media outreach, “Dear CEO” letters, and formal and informal meetings and private sector trainings. At present, lawyers that carry out activities that would require supervision for AML/CFT purposes are currently the subject of an injunction filed by the Anguilla Bar Association against the AGC. Consequently, these lawyers are not subject to AML/CFT supervision by the AFSC.
35. For DNFBPs, the AFSC is in the nascent stage of its supervisory approach due to the insufficient number of onsite and offsite examinations conducted in the sector. Onsite inspections for some DNFBPs including TCSPs, two (2) lotteries and one (1) MSB have taken place however, these supervisory activities did not occur in all entities within each of the named DNFBP sub-sectors.

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

36. Information on the creation and incorporation of legal persons and legal arrangements in Anguilla is detailed in the enabling statutes and their associated regulations which are available online on the public website of the Commercial Registry. Anguilla’s NRA included an assessment of the vulnerabilities of legal persons created in Anguilla that can be misused for ML/TF. The NRA identifies IBCs in particular as a very high risk for ML/TF abuse, however, this is not meaningfully considered and implemented in relevant policies and procedures.
37. Anguilla has implemented a new registration system called the Commercial Registration Electronic System (CRES). While only recently made operational, it has not meaningfully expanded or made easier the access to BO information by relevant CAs. Only TCSPs can populate CRES with information in line with the registration requirements of legal persons and legal arrangements. There are significant and varied gaps in the registration requirements of legal arrangements in R.25. The CRES platform is managed by the Commercial Registry which was only fulfilling administrative functions at the time of the onsite. CRES registration procedures require TCSPs to submit BO and other information upon registration. While the information is reviewed by the Commercial Registry for completeness, it is not verified for accuracy rather such verification is undertaken by the AFSC during its periodic inspection of TCSPs themselves. The efficacy of this measure is constrained by the frequency of inspections and the sample size utilised during these inspections.
38. In addition to registration, TCSPs are obligated to maintain accurate and up to date BO and CDD information on LPs pursuant to their AML/CFT obligations. Inspections conducted by the AFSC revealed TCSP non-compliance with AML/CFT obligations including some minimal non-compliance with obligations to maintain accurate and updated BO information. The AFSC has required action plans for remedial actions by the TCSPs and has monitored their implementation.
39. The AFIU and the AFSC can compel information from all reporting entities including basic and BO information. The AFIU has access to a broad range of normative investigative powers to secure basic and BO and other relevant information on LPs.



In furtherance of an investigation, the AFIU may share basic and BO information gathered from the CRES and TCSPs with other domestic and international authorities pursuant to MOUs and MMOUs which include information-sharing mechanisms, or with the consent of the AG. The MoF can share BO information for TIEA international exchanges of tax information. The Commercial Registry is insufficiently resourced to effectively execute its new regulatory and compliance functions to ensure the information on the CRES platform is accurate and up to date.

40. Anguilla has a fairly strong and comprehensive regime available for sanctioning persons who do not comply with AML/CFT information requirements, particularly in terms of criminal and administrative enforcement penalties. However, Anguilla has only demonstrated a modest record of employing them effectively, proportionally, and dissuasively.

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

41. Anguilla provided a range of MLA during the assessment period. While Anguilla did not consistently seek feedback on the usefulness of the information provided, the case studies provided to the Assessment Team indicate that Anguilla was typically able to provide the requested evidence and information. Anguilla did not demonstrate that it executes incoming requests in a consistently timely manner. Anguilla neither received nor made an extradition request during the assessment period, which is generally consistent with its risk profile and context.
42. When Anguilla sought MLA the cases concerned minimally complex ML and predicate offences. The limited ML case identification in IO.7, and the weaknesses in the cross-border currency/ BNI declaration regime noted in IO.8, impacts Anguilla's international co-operation experience and is reflected here in the absence of transnational asset recovery requests made during the assessment period. Anguilla's international co-operation experience is only somewhat consistent with its risk profile and context. Anguilla did not demonstrate that cooperation is sought in a consistently timely manner.
43. Anguilla underutilizes international cooperation mechanisms for their own AML/CFT purposes. Only the AFIU consistently sought cooperation for AML/CFT purposes during the assessment period. However, timely engagement in relation to EGMONT and Arin-Carib was not demonstrated. The AFSC reported no outgoing supervisory international cooperation requests.
44. The AFIU, MoF, AFSC, Customs Department and the RAPF executed international incoming requests for assistance. The AFIU provided extensive and constructive spontaneous exchanges of financial intelligence in a timely manner. Similarly, responses to incoming requests were both timely and constructive. For the most part, this is also true of the MOF. Customs Department did not demonstrate constructive and timely provision of cooperation.
45. Anguilla's incoming and outgoing cooperation requests frequently involve requests for BO information. However, the deficiencies noted in IO5 cascade here. Anguilla is unable to consistently obtain accurate BO information to share with requesting jurisdictions.



Priority Actions

Anguilla should:

- a) Update its risk understanding to ensure that it has an accurate and contemporary understanding of its ML/TF risks. This can be achieved by using more up to date and in the context of TF risk, a range of information sources wider than those considered in the current risk assessment, and effectively communicating the results to the relevant CAs, FIs, VASPs, and DNFBPs. This will help these stakeholders better understand the risks involved and enable the adoption of appropriate policies and measures.
- b) Ensure all LEAs, including the RAPF and Customs Department use financial intelligence and other relevant information in investigations to develop evidence related to associated predicate offences.
- c) Ensure Customs Department implements effective measures to detect cross-border movement of currency and that confiscation of instruments is being addressed and applied as an effective, proportionate and dissuasive sanction. Data and statistics relevant to the functioning of the declaration regime should be efficiently maintained.
- d) Ensure that the most significant ML predicate offences in Anguilla investigated by CAs, particularly the RAPF and the Customs Department, are subject to a parallel financial investigation.
- e) Ensure AML training is provided to the RAPF, including police prosecutors, Customs Department, Immigration Department and IRD to assist in the identification of ML and subsequent investigations and prosecutions. Ensure magistrates and Judges are provided with adequate training on ML/TF matters.
- f) Comprehensively review its TFS for TF and PF regimes. This can be done by addressing the deficiencies related to identifying and designating targets for designation, freezing and de-listing, unfreezing funds or other assets, conducting verifications of compliance with TFS requirements; and ensuring that relevant competent authorities have adequate resources and up to date policies and procedures.
- g) Ensure that FIs consider NRA and RBI program risk assessment findings in their risk assessments and implement risk-based measures accordingly and that DNFBPs take appropriate steps to identify and assess their ML/TF risks. This will assist FIs and DNFBPs in understanding their ML/TF risks.
- h) Ensure that lawyers, independent legal professionals and notaries engaged in the activities listed in Rs.22 and 23 are subject to AML/CFT obligations and supervised to verify that they are complying with their AML/CFT requirements.
- i) Increase the resources allocated to the AFSC to carry out its supervisory responsibility for AML/CFT effectively. This includes conducting onsite and offsite inspections, as well as themed inspections and compliance visits. At the same time, the AFSC should ensure the execution of inspections according to its internally set timelines for supervised entities on a risk-sensitive basis.



- j) Comprehensively review the legal persons and arrangements transparency regime. This can be done by addressing gaps identified in Rs. 24 and 25 in relation to capturing beneficial ownership information, increasing the resources of and the availability of the information held by the Commercial Registry, and imposing proportionate and dissuasive sanctions to TCSPs and other relevant reporting entities for non-compliance with their AML/CFT obligations related to legal persons and arrangements.
- k) Ensure CAs investigate more complex ML, including ML associated with cross border currency transportation, and when appropriate, seek transnational asset recovery assistance consistent with its risk profile.

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
ME	ME	ME	ME	ME	ME	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
PC	C	C	C	LC	LC	LC	LC	C	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	LC	C	C	LC	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	PC	PC	LC	PC	LC	LC	PC	C	C
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
C	LC	C	C	PC	LC	LC	PC	LC	LC

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 June 26th to July 7th, 2023.

The evaluation was conducted by an assessment team consisting of:

- Mr. Andel Matamora, Legal Officer, Financial Investigations Branch, Trinidad and Tobago Police Service, Trinidad and Tobago (Law Enforcement Assessor),
- Ms. Luana Laurent, Examiner, Financial Services Unit, Ministry of Finance, Commonwealth of Dominica (Financial Assessor),
- Mr. Alexis Bodden, Chief Analyst, Compliance Division, Cayman Islands Monetary Authority, Cayman Islands (Financial Assessor), and
- Mr. Ivan Nault, Senior Counsel, International Assistance Group, Department of Justice, Canada; and Counsellor, Mission of Canada to the European Union (Legal Assessor).

with support from the CFATF Secretariat:

- Mr. Roger Hernandez³, Financial Advisor (Mission Lead), and
- Ms. Deena-Marie Patterson, Legal Advisor (Co-Mission Lead).

The report was reviewed by Mrs. Shayone Handfield-Gardiner, Principal Crown Counsel (International), Attorney General's Chambers, Turks and Caicos Islands, Ms. Michaela Schuetz, Deputy Head / Head International Department, Money Laundering Reporting Office, Switzerland, Mr. Ahmad Alsalam, Head of Risk Management Division, Financial Intelligence Unit, Kuwait and the FATF.

Anguilla previously underwent a FATF Mutual Evaluation in 2009, conducted according to the 2004 FATF Methodology. The 2010 [evaluation](#) and 2015 [follow-up report](#) has been published and is available on the CFATF website.

That Mutual Evaluation concluded that the country was compliant with 11 Recommendations; largely compliant with 17; partially compliant with 19; and non-

³ At the outset of the Mutual Evaluation, Mr. Kerry Lucio, Law Enforcement Advisor served as the Mission Lead and Mr. Roger Hernandez, Financial Advisor as the Co-Mission Lead. Following Mr. Lucio's departure from the CFATF Secretariat, Mr. Roger Hernandez, Financial Advisor was appointed Mission Lead and Ms. Deena-Marie Patterson, Legal Advisor assumed the role of Co-Mission Lead effective December 14, 2023



compliant with 2. Anguilla was rated compliant or largely compliant with 11 of the 16 Core and Key Recommendations. Anguilla was placed in expedited follow-up. Anguilla's 8th FUR was presented in 2015 at which time Anguilla exited the 3rd round follow-up process.



Chapter 1. ML/TF RISKS AND CONTEXT

46. Anguilla is the northernmost Leeward Island in the Eastern Caribbean. It is a British Overseas Territory (“BOT”) with an area of 35 square miles and a population of 16,187 inhabitants. The capital is The Valley and English is the official language.
47. Anguilla’s GDP in 2022 was XCD 6,231.25m (USD 2,307.87m). The economy is dominated by the provision of services and the largest sectors are hotels and restaurants (17%), real estate (13%), and financial intermediation inclusive of remittances from emigrants (7%). In 2020, the economy declined by 18% due to the impacts of COVID-19, but GDP has since rebounded to 32% greater than pre-pandemic levels. Anguilla has a small offshore financial sector and is considered a minimal tax jurisdiction. Anguilla engages in company formation activities on behalf of clients from all over the world, and as of 2020, approximately 17,076 companies were registered there.
48. Anguilla is a self-governed BOT. The Constitutional Head of State is the King of England who is represented by His Excellency the Governor who is also the presiding officer of the Executive Council which has general control of the direction of Government.
49. Anguilla is a parliamentary representative democratic dependency, with the Premier as the Head of Government, together with a multi-party system. The government consisting of a Ministerial Cabinet and an elected unicameral House of Assembly (“the House”) is elected every 5 years. There are 3 branches of government: (i) the Executive, (ii) the Legislature, and (iii) the Judiciary. Executive power is exercised by the Governor with consultation and advice from the Executive Council. Legislative power is vested in both the Executive Council and the House. The Executive Council (“EXCO”) consists of the Premier, Deputy Governor, 4 other Ministers, and the Attorney-General. The House consists of 13 members made up of 7 elected members from single-member constituencies, 4 elected members from a single island-wide electoral district, and 2 ex-officio members, namely the Deputy Governor and the Attorney-General. The Judiciary is independent of the Executive and the Legislature.
50. The legal system in Anguilla is based on English common law administered by the Magistrate’s Court, the High Court and the Court of Appeal of the Eastern Caribbean Supreme Court of Justice. Anguilla is bound by legal decisions of the High Court and, in the case of appeals, the Eastern Caribbean Supreme Court. The appeal court of last resort is the Privy Council in London, England.
51. Anguilla is a member of the Eastern Caribbean Currency Union and has the second smallest economy. The official currency is the Eastern Caribbean Dollar (XCD) which is pegged to the US Dollar at a rate of XCD 2.70 by the Eastern Caribbean Central Bank. The Eastern Caribbean Central Bank (ECCB) is the prudential supervisor for Anguilla’s domestic banks and the Eastern Caribbean Securities Regulatory Commission is the prudential supervisor for the securities sector. The AFSC is the sole AML/CFT supervisor of FIs, most DNFBPs and VASPs in Anguilla.
52. As a BOT, the government of Anguilla cannot sign or ratify international conventions. The UK is responsible for international affairs and while it must arrange for the ratification of any convention, Anguilla is responsible for seeking to have conventions extended to it.



1.1 ML/TF Risks and Scoping of Higher Risk Issues

1.1.1 Overview of ML/TF Risks

53. The 2018 ML/TF NRA and October 2020 update rated the overall ML and TF risk as 'Medium'. Notwithstanding the relatively low levels of either petty or serious crimes in Anguilla, authorities assessed human trafficking, fraud, sexual exploitation and trafficking of illegal substances as posing a relatively high ML threat. There is no evidence of known or suspected TF threats in Anguilla. There have not been any enquiries from foreign jurisdictions regarding TF specific to Anguilla. The terrorist financing risk to the jurisdiction was assessed as 'Medium'. According to the NRA, this is primarily due to the inherent anonymity of beneficial ownership as it relates to company structures such as International Business Companies that were formerly registered by the jurisdiction, which posed a vulnerability for TF abuse. Additionally, the openness of the borders together with inadequate surveillance and monitoring lends to opportunities for the movement of persons, substances or illegal cross border movements of cash or bearer negotiable instruments ("BNIs").
54. Anguilla is the northernmost Leeward Island in the Caribbean. Anguilla has thirty-three (33) beaches and is surrounded partially by the Atlantic Ocean and the Caribbean Sea. Like many other small islands developing states in the Caribbean, Anguilla can also be used as a drug transshipment point. Additionally, Anguilla is situated closely to Dutch Sint Maarten and French Saint Martin which are gateways to Europe. Although the RAPF routinely conducts brief checks, the beaches are attractive to criminals and vulnerable to being used for smuggling, human trafficking and trafficking in illegal substances.
55. Anguilla imports the majority of its goods from the United States of America and the remaining portion from within the Caribbean region. Due to the high rate in movement of goods Anguilla is susceptible to drug smuggling, the illegal importation of guns, and the illegal movement of cash hidden within products.
56. As it relates to the ML/TF vulnerabilities of various sectors within Anguilla, Trust and Corporate Service Providers, Lawyers, Notaries, Money Services Business, Offshore Banking and Virtual Asset Service Providers were given a rating of 'Very High'. These sectors represent 30% of all 20 sectors assessed under Anguilla's NRA. Casinos are prohibited in Anguilla.

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

57. In 2017, with the assistance of a third-party consultant contractor, Anguilla commenced a comprehensive risk assessment concerning the inherent ML/TF threats and vulnerabilities facing the jurisdiction. The initial assessment period concluded in 2018, but the assessment was not made public before being updated in 2020 to include COVID-19 pandemic-related risks. Anguilla engaged public and some private sector stakeholders throughout the exercise. The result is Anguilla's first National Risk Assessment (NRA) which covers the period 2014-2019. However, Anguilla advised that it was not published until February 2023 due to COVID-19 pandemic-related delays. This NRA exercise is intended to be reviewed and repeated in 2024 for the period spanning 2020-2023, which is necessary to verify if there were any changes to Anguilla's ML/TF risks.



58. The NRA was conducted under the strategic direction of the National Risk Assessment Steering Council, composed of the most senior officials from a broad range of relevant competent authorities (now known as Anguilla's National Security Council (NSC) and more narrowly constituted by the Governor, the Premier, the Attorney General, the Police Commissioner, and a rotating Cabinet Minister). The threat and vulnerability assessments which inform the NRA were conducted by senior working level officials from a broad range of competent authorities from the constituent bodies of Anguilla's National Anti-Money Laundering Committee ("ANAMLC"). The ANAMLC has also absorbed the domestic coordination and cooperation mandate of the previous Anguilla Financial Action Task Force, which had been established in 2010 following Anguilla's 3rd Round MER to lead Anguilla through the 3rd round follow-up process which it exited in 2015.
59. Anguilla's understanding of its ML/TF risks is based on several and different types of ML/TF risk assessments conducted by the country, the AML/CFT supervisor⁴, private sector, and information gleaned from typology exercises. Nationally, two (2) NRA exercises were conducted in December 2018 and October 2020 respectively, which assessed inherent ML/TF risks., and. Anguilla also completed a separate National ML/TF risk assessment of its residency by investment programme just prior to the onsite in June 2023.
60. In deciding which issues to prioritise for increased focus, the assessors reviewed material submitted by Anguilla on its ML/TF/PF risks, publications, and credible open-source information (for example, reports from international organisations). The assessors focused on the following areas which were determined to be of the highest risk and vulnerability. Some of the areas were also highlighted in the NRA.

Higher Risk Issues

- a. ***Residency By Investment (RBI) / High Value Resident (HVR) Programme:*** Anguilla initiated a dual CBI/HVR Programme in 2019. Given its international nature, this type of programme is vulnerable to ML/TF risks. Anguilla completed a National Risk Assessment of this programme in June 2023. The team focused on the measures in place in Anguilla including the due diligence conducted on applicants to mitigate the risks inherent to the programme. The assessment team also focussed on preventive measures, STR reporting, transparency and ownership requirements in practice of the real estate agents engaged in the programme. The assessors also reviewed the measures taken by financial institutions when receiving payments under the programme.
- b. ***Proceeds from Fraud:*** The NRA rated the ML threat from fraud as very high. Anguilla has experienced an increase in the prevalence of frauds perpetrated by domestic and international criminals. Domestic fraud is typically small-scale cheque and debit/credit card fraud, while international fraud includes Nigerian 419 scams and business email compromise fraud. The assessment team focused on domestic co-operation amongst LEAs including, the risk mitigation measures and effectiveness of LEAs' efforts, the effectiveness of international co-operation and efforts to trace, seize/restrain, forfeit and repatriate proceeds. The assessment

⁴ Sectoral risk assessments are conducted by the AFSC as the Supervisor for FIs and DNFBPs. The FIs and DNFBPs are also required to undertake risk assessments.



team also reviewed the extent to which prosecution authorities pursue ML in addition to the fraud offences.

- c. ***Proceeds from Tax Crimes:*** Tax crimes have been rated as a high ML threat in the NRA. The NRA only focused on domestic tax offences perpetrated by “small to medium size businesses and corporations”. During the period 2014 -2018, there were 33 tax evasion investigations. However, no criminal or administrative actions were taken since arrangements were made for tax amnesty. The NRA has not considered the proceeds from foreign tax crimes and the threat posed by Anguilla incorporated entities being used to evade the payment of taxes due to foreign jurisdictions. Anguilla categorises itself as a minimal tax jurisdiction (where corporate taxes are not applied) thereby making the formation of corporate structures attractive for licit business activities but can also be abused for tax evasion purposes. International Business Companies (IBCs) are most suspected of being utilized for illicit activities. Suspicious Activity Reports (SARs) pertaining to IBCs accounted for sixty-nine percent (69%) of all SARs regarding legal structures or arrangements received between 2014 – 2018. The assessment team assessed the extent to which competent authorities, FIs and DNFBPs understand the risks from foreign tax crimes, reviewed their measures to mitigate the identified risks (in the case of FIs and DNFBPs), as well as their ability to detect, investigate and prosecute associated ML offences (in the case of LEAs). The assessment team also examined the use of international cooperation and collaboration in the investigation of foreign tax crimes, Anguilla’s ability to provide international co-operation relative to foreign corporate tax crimes and LEAs’ abilities to trace, identify, confiscate and repatriate illicit proceeds related to foreign tax crimes.
- d. ***Proceeds from Human Trafficking:*** According to the NRA, human trafficking for purposes such as sexual exploitation is an emergent criminal activity which is usually closely correlated with ML and which, accordingly, has been rated as a very high ML threat. There has been a significant uptick in the prevalence of human trafficking investigations during the period 2018 – 2019. The RAPF conducted 8 human trafficking investigations resulting in 8 prosecutions while the Immigration Department initiated 22 investigations during the same period. No ML investigations have been conducted associated with human trafficking investigations. Suspected criminal actors primarily utilize Money Service Businesses (MSBs) for the outflow of human trafficking and sexual exploitation proceeds to neighbouring jurisdictions. The cross-border movement of cash into and out of Anguilla is also suspected as another means of moving illicit proceeds in relation to these predicates. The assessors focused on the authorities’ response to this emerging threat in terms of resource allocation and their ability to carry out ML investigations and mitigate the associated ML/TF risks.
- e. ***Detection of cross-border movements of cash and BNIs:*** Authorities have cited in the NRA that networks are suspected to be utilizing the cross-border movement of cash into and out of Anguilla in the laundering of the proceeds of various higher and high ML threat offences; including, human trafficking, sexual exploitation, trafficking of illegal substances, trafficking of illegal arms and gambling. The assessment team focused on the effectiveness of Anguilla’s declaration regime, including the detection mechanisms for illicit movement of cash/ BNIs, application of sanctions and domestic coordination among relevant authorities and co-operation with foreign authorities.



- f. **Offshore banking sector:** Anguilla assessed the sector as posing a very high ML vulnerability in the NRA. Anguillian authorities are cognizant of the fact that the sub-sector services high-net-worth individuals and PEPs.⁵ There is currently only one (1) offshore bank in operation⁶ that provides banking services to persons within one financial group (captive-type offshore bank). Its asset size is XCD 1.98 billion (USD 736 million). The offshore bank offers loan facilities and accepts deposits. Given that loan payments and deposits are made through other intermediary banks, the sector is exposed to being used to store or move illicit proceeds, terrorist funds or evade sanctions. Additionally, the geographic location of some customers which operate in high-risk jurisdictions and countries of concern for ML/TF adds to the vulnerability to ML/TF abuse.⁷ The services provided within this sub-sector facilitate stronger privacy and asset protections and this too can be abused by criminals for ML/TF and sanctions evasion. The assessment team reviewed the level of supervision of the sector, and whether the degree of supervision is concomitant with the risks identified. The assessment team also focused on the sub-sector's understanding and application of its TF and PF-related TFS obligations, how these are implemented and the degree of coordination among relevant domestic authorities to effect TFS without delay.
- g. **Beneficial ownership (BO):** According to the NRA, Anguilla is considered a minimal tax jurisdiction, where corporate taxes are not applied, thereby making the jurisdiction attractive for persons to incorporate companies. As of 2020, there were over 17,000 companies incorporated in Anguilla. Furthermore, Anguilla recently amended the framework regarding company formation and operation. The Business Companies Act was introduced in 2022 and repeals and replaces the previous International Business Companies Act. Former IBCs now operate under this new regime. Anguilla acknowledges that there is a general ease in the incorporation, management and dissolution of these legal structures which makes it possible for numerous companies to be incorporated for illicit activities. The assessment team focused on the implementation of measures to prevent the misuse of legal persons and legal arrangements. Measures to obtain BO information and the extent this information is accurate and up-to-date, especially for higher risk entities and whether this information can be obtained in a timely manner by competent authorities for domestic and transnational AML/CFT purposes were other areas of focus.
- h. **Virtual Assets Service Providers (VASPs):** Anguilla's NRA assessed and rated VASPs as having an inherent ML/TF vulnerability rating of Very High. The FATF has recently amended its Recommendations relative to this activity. Similarly, Anguilla has recently passed the Anguilla Utility Token Offering Act, (AUTO Act) 2018 and the Utility Tokens Exchange Act, 2022 which governs the supervision of Utility Token Issuers (1), administrators (1) and exchanges (0). Issuers are required to be registered while administrators are required to be licensed. The regulatory framework in Anguilla has only recently been developed and supervision is in a nascent stage. The service providers do not have traditional structures. Transactions are generally conducted indirectly and are transnational in nature.

⁵ Anguilla NRA; Page 53 and 59

⁶ This information represents 1 of the 3 offshore banks. Info as at 2021 financial year end. The other two are in receivership.

⁷ Anguilla NRA; Page 60



The assessment team examined: the comprehensiveness of the assessment of VA activities and VASPs, the capacity of the AFSC and its mechanisms and procedures to effectively monitor VA activities and supervise VASPs in light of the identified technical compliance deficiencies, international co-operation mechanisms and the capacity of the AFIU and RAPF to investigate ML utilizing VAs, prosecute offences, confiscate, repatriate, share and realize VA -related proceeds.

- i. **International co-operation:** Anguilla possesses a relatively small IFC. The jurisdiction offers the creation of corporate structures, primarily entities with IBC features, to the international public. It is commonly accepted that these types of entities have an inherent elevated risk of being used for criminal conduct. Consequently, mechanisms for effective international co-operation are crucial to the functioning of its AML/CFT regime. In its 2020 Transparency and Exchange of Information for Tax Purposes report the Global Forum's assessment of Anguilla revealed deficiencies which impacted effective information sharing about people and companies suspected of tax evasion or committing financial crimes. The assessment team gave higher priority to competent authorities' legal framework and resource adequacy, as well as the systems and procedures to affect the timely execution of requests relative to, inter alia, tax and other foreign predicates and BO information. The assessment team also closely examined the extent to which requests for international co-operation (both formal and informal) by competent authorities are commensurate with identified risks.
- j. **MSBs:** MSBs have been assigned a very high ML/TF vulnerability rating in the NRA. There are four (4) money services businesses ("MSBs") that are licensed and supervised by the AFSC. Two (2) are involved in the traditional activity of transmitting funds. High outflows of money to countries such as the Dominican Republic, Jamaica, Guyana, the United States, and the United Kingdom, have been reported by MSBs with smaller amounts being transferred to some high-risk countries. The true nature of the outflows may not always be accurate and therefore represent an inherent vulnerability. In addition, Anguilla has a large diaspora in countries within the Caribbean region and internationally. It is not known whether any Anguillians living overseas are linked to countries affiliated with high levels of money laundering and terrorist financing. Furthermore, MSBs have been cited in the NRA as a means of facilitating ML for high-risk predicate offences. The assessment team reviewed the AML/CFT supervisory regime for MSBs, the compliance with AML/CFT obligations, cooperation between the Competent Authorities and international cooperation regarding funds flowing through MSBs. Another MSB provides currency exchange services from fiat to bitcoin to customers physically present in Anguilla. Transactions are done through an ATM. A maximum of twenty (20) transactions have been recorded within any month with zero transactions for some months. Repeat customers make up the clientele of this MSB. The highest value of Bitcoin purchased is USD 3,400 and the highest amount redeemed is USD 3,000. This MSB is required to report to the AFSC monthly on its transactions, including the names of the persons engaging in the transactions and the amounts being transacted. The assessment team evaluated whether relevant AML/CFT/CPF measures with regards to VASP activities are applied to this entity



- k. ***Trust and Corporate Service Providers and Independent Legal Professionals:*** All corporate bodies are required to have a registered agent i.e., a trust and corporate service provider in Anguilla. TCSPs offer nominee directorship and shareholder services. The number of registered companies totalled over 17,076⁸ with approximately 15,000 having the features of IBCs. Some of these entities feature complex corporate structures. Independent legal professionals, who are authorised to provide FATF-designated services,⁹ are unregulated due to a stay on the relevant provisions of the POCA. Regarding legal professionals, the FSC are aware of and has issued licenses to three legal professionals to conduct company management business. These three legal professionals are obliged to comply with AML/CFT provisions. However, the AML/CFT Regulations are ambiguous about whether legal professionals even require such a license given the range of activities listed at Section 1 of the AML/CFT Regulations. Additionally, as indicated in the NRA, there is a lack of information on their activities. Both sectors were assigned a very high ML/TF vulnerability rating in the NRA. The assessment team focused on reviewing the TCSP sector's ML/TF risk and the extent to which TCSPs are complying with their AML/CFT requirements. With regard to independent legal professionals, the assessment team sought to ascertain the extent of their activities, their associated risks and any mitigation measures.

Lower risk issues

1. ***Corruption and Bribery:*** The ML threat from these offences were rated as medium in the NRA. In Anguilla, corruption is criminalised under the Criminal Code, R.S.A. c. C140, however, Anguilla asserts that the legislation only refers to public servants. The NRA notes that elected members of government who are most likely to be the actors in this offence are not considered public servants and therefore cannot be prosecuted under this law. Bribery has not been criminalised as a predicate offence but there are provisions made for the crime within the Customs Act, R.S.A c. C169 and the Elections Act No. 18/19. However, pursuant to Part 1 of the Criminal Code a "person employed in the public service" includes a person holding any public office, whether temporarily or permanently, by appointment, by election or by operation of law. According to the 2022 MAPS report, overall, Anguilla has a solid public procurement system that "produces acceptable results" despite some challenges that remain. The assessment team focused its review on Anguilla's understanding of the definition of public officers and how this affects LEAs application of the law.

⁸ As of 2020

⁹Section 1 of the AML/CFT Regulations sets out the following definitions: "Independent legal professional" means a firm or sole practitioner who, by way of business, provides legal or notarial services to other persons, when preparing for or carrying out transactions for a customer in relation to—the buying and selling of real estate and business entities; the managing of client money, securities or other assets; the opening or management of bank, savings or securities accounts; the organisation of contributions necessary for the creation, operation or management of companies; or the creation, operation or management of trusts, foundations, companies or similar structures, excluding any activity that requires a licence under the Trust Companies and Offshore Banking Act or the Company Management Act. Retrieved on 10/03/23 from <http://fsc.org.ai/erspnrsp.php>



- m. **Illegal Gambling:** Gambling was identified as a high threat for ML in the jurisdiction. The Government of Anguilla has taken a policy decision against the operation of casinos. They are prohibited under section 346 of the Criminal Code and the Public Lotteries Tax Act. There are no casinos in Anguilla. However, multiple individual actors operating as part of a suspected organized group have been conducting illegal lottery sales, sometimes from within legitimately established businesses. These sales generally do not enter the financial system but at times may be commingled with funds from the business. Criminal proceeds are suspected of flowing out of Anguilla via MSBs and the cross-border transportation of cash. Authorities have detected occurrences of the offence. There has been a total of 13 illegal gambling investigations, 11 illegal gambling prosecutions and 3 ML investigations and prosecutions. LEAs' efforts have resulted in 10 convictions for the predicate offence and 1 ML conviction. The assessment team focused on associated ML investigations, prosecutions and convictions, the application of proportionate and dissuasive sanctions and asset recovery and related issues of its management and disposition.
- n. **Credit Unions:** This sector is regulated by the AFSC. The sector is small in size, comprising just two (2) entities (one (1) large, one (1) small) with a combined asset size of XCD 41 million (USD 15m). The products and services offered are limited to locals while one credit union is limited to a specified set of members. Combined, the credit unions have a total of one thousand and eighty-six (1,086) members. Additionally, the smaller entity's domestic reach and deposit and loan products reflect a lower risk and reduced focus. The larger of the two (2) credit unions engages in cross-border transactions through wire transfers facilitated via partnership with a domestic bank and offers cheques, credit cards and point-of-sale (POS) services. It also provides services related to the central bank digital currency, DCash. Cash deposit and loan products are also offered. The assessment team reviewed the AML/CFT supervisory regime to evaluate the level of compliance with AML/CFT obligations.

1.2 Materiality

- 61. Anguilla is a small open economy with a narrow economic base focused on high-end tourism and construction. Anguilla is considered a minimal tax jurisdiction. Despite this, the rate of company formations has been in decline.
- 62. Approximately 17,076 companies were registered in Anguilla in November 2020. Anguilla's nominal GDP in 2022 was XCD 6,231.25m (USD 2,307.87m). The economy is dominated by the provision of services and the largest sectors are hotels and restaurants (17%), real estate (13%), and financial intermediation inclusive of remittances from emigrants (7%).
- 63. Anguilla has a small offshore financial sector. Anguilla's financial sector comprises three (3) offshore banks¹⁰, two (2) domestic banks, four (4) money service businesses (MSBs), five (5) mutual funds and twenty-five (25) domestic insurance companies.

¹⁰ Two of the banks are currently under receivership. Only one active captive-style bank is in operation.



Anguilla's offshore banking sector is the most prevalent sub-sector of the financial sector followed by domestic banks with asset sizes totalling XCD 2Bn (USD 741m) and XCD 1.4Bn (USD 519m), respectively. The next largest sub-sector is domestic insurance with an asset size of XCD 241m (USD 89.26m) followed by mutual funds XCD 131m (USD 49m).

1.3 Structural Elements

64. Anguilla has established the key structural and institutional elements within its national infrastructure, that is required for a sound and stable AML/CFT regime, including political and institutional stability, governmental accountability, the rule of law, and a professional and independent legal profession and judiciary. The political hierarchy of the jurisdiction is committed to the improvement of the AML/CFT regime. The AML/CFT framework is made up of the following competent authorities, the AFIU, RAPF, AGC, Customs, IRD and the AFSC.

1.4 Background and Other Contextual Factors

65. Anguilla was devastated in 2017 by a Category 5 Hurricane Irma. Anguilla was among the most severely affected islands and recorded catastrophic damage to 90 percent¹¹ of the island's housing stock. Key infrastructure such as hospitals and the passenger ferry terminal at Blowing Point which provided access to essential goods and services were also severely damaged. This event caused a significant contraction in activity in the regulated sectors which coincides with the beginning of the assessment period. During 2018 and 2019, FIs and DNFBPs were conducting significantly less activity. Efforts of law enforcement were also impacted as resources were directed towards disaster relief.
66. The period of the COVID-19 pandemic falls entirely with the assessment period. Anguilla's ability to carry out its schedule of onsite inspections of regulated sectors was severely affected during 2020 and 2021 because of the COVID-19 pandemic. For a period of six (6) months, the AFSC and FIU were unable to engage in any form of outreach programmes, training and inspections due to the national protocols, particularly social distancing and work-from-home arrangements. The COVID-19 pandemic also hindered the conduct of investigations as law enforcement personnel were required to adhere to all the national protocols, and this affected the regular timeframe within which investigations were conducted. Notwithstanding, the efficiency of cases prosecuted before the Courts relating to ML and predicate offences were not negatively impacted for long; while matters were adjourned briefly, legislative amendments were made expeditiously to allow virtual proceedings.
67. Anguilla is predominantly a cash-intensive society with minimal barriers to individuals conducting financial transactions. Anguilla has few natural resources, manufacturing is virtually non-existent, and exports are minimal. Anguilla has a very mature AML/CFT system as the AFSC has been conducting AML/CFT supervision for a significant amount of time with very knowledgeable staff. The AFSC is the sole AML/CFT supervisor and has a good history of supervision.

¹¹The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported that over 90 percent of structures on hard-hit islands were damaged or destroyed.



1.4.1 AML/CFT strategy

68. AML/CFT/CPF co-ordination is spearheaded by the ANAMLC which is the authority responsible with overseeing the country's AML/CFT/CPF regime and the development and implementation of national AML/CTF policies. Anguilla's National Anti-Money Laundering and Countering of Terrorism Policy and Proliferation Financing Strategic Plan was approved by the National Security Council in December 2022. This Strategic Plan was developed with the aim of filling in the key gaps and deficiencies that were identified as a result of the National Risk Assessment process. Five (5) objectives have been identified to mitigate the ML, TF and PF risk for Anguilla, they are:
- Developing a Sound Legal and Institutional Framework to Prevent and Combat ML/TF and Other Financial Crimes.
 - Improving Effectiveness of predicate offences, ML/TF Investigations and Prosecution in Anguilla.
 - Strengthening and improving International and Domestic Co-ordination and Co-operation
 - Strengthening Capacity-Building and Raising Awareness (amongst the AFIU, Regulators, LEAs, Reporting Institutions, Prosecutors, Judiciary, etc.).
 - Strengthening the supervisory framework surrounding FIs, DNFBPs and VASPs.
69. These objectives are further broken down into an action plan which includes timelines, priority levels, and recommendations and identifies the authorities responsible for each action item.

1.4.2 Legal & institutional framework

70. Much of Anguilla's legal and institutional framework for its AML/CFT/CPF system has changed since its 3rd Round MER. The main laws relevant to Anguilla's AML/CFT/CPF system are the following:
- **Proceeds of Crime Act (POCA):** This statute is the bedrock framework for the criminalization of financial misconduct. It sets out the criminal asset recovery regime and the money laundering-related offences. It also establishes central investigative powers for related investigations. It also details the basis of Anguilla's supervisory, regulatory, enforcement and international cooperation frameworks. The various key regulations authorized thereunder include:
 - **Externally and Non-Regulated Service Providers Regulations (ENRSPRs);** Regulations made pursuant to s. 159 of the POCA): These regulations set out the supervisory framework for externally and otherwise non-regulated entities, including registration, reporting obligations, and administrative penalties for associated breaches;
 - **Non-Profit Organisations Regulations (NPORs);** Regulations made pursuant to s. 161 of the POCA): These regulations set out the supervisory regime for the NPO sector;
 - **Anti-Money Laundering and Terrorist Financing Regulations (AMLTFRs);** Regulations made pursuant to s. 168 of the POCA): These



regulations set out the supervisory framework for FIs, DNFBPs, and corporate service providers;

- **Anti-Money Laundering and Terrorist Financing Code (AMLTFC Code)**; Regulations made pursuant to s. 169 of the POCA): This Code sets out the AFSC's regulatory framework for legal persons.
- **Financial Intelligence Unit Act (FIUA)** – This statute establishes the Anguilla Financial Intelligence Unit (AFIU). It also sets out some of the central powers of the FIU and provides legislative basis for domestic coordination and information sharing as well as for international cooperation with foreign counterparts.
- **Financial Services Commission Act (FSCA)** – This statute establishes the Anguilla Financial Services Commission (AFSC). It sets out the AFSC's powers in relation to its licensee supervisory role, information-sharing, international cooperation with foreign supervisory authorities, and compliance with and enforcement of supervisory requirements. Relevant regulations made pursuant to s. 57 of the FSCA include the **Administrative Penalties Regulations (APRs)**: The APRs further describe the administrative penalties regime which may be imposed by the Anguilla Financial Services Commission (AFSC) for breaches of AML/CFT obligations.
- **Counter Terrorism Act (CTA)** – The CTA is the primary instrument setting out the criminalization of TF and facilitating Anguilla's regime for targeted financing sanctions (TFS) in relation to TF. It was both enacted and came into force immediately before the commencement of the onsite assessment.
- **Proliferation Financing (Prohibition) Act (PFA)** – The PFA is the primary instrument for administering Anguilla's TFS regime for proliferation financing (PF). It was both enacted and came into force immediately before the commencement of the onsite assessment.

71. The agencies responsible for the formulation and implementation of Anguilla's AML/CFT systems or regime are:

- a) **ANAMLC**: ANAMLC is the coordinating authority responsible for the formulation of national AML/CFT policies, strategies and action plans. Their TOR was approved by EXCO. Their mandate is to facilitate the exchange of information and coordination among the various bodies represented in the Committee concerning the development and implementation of AML/CFT and PF policies and activities; and to cooperate, coordinate and share information between members of the committee concerning AML/CFT and PF matters in a timely manner that is compatibility with Data Protection and Privacy rules and other similar provisions. It includes the senior leadership of the key relevant institutions involved in administering the regime.
- b) **HM Governor's Office (Governor's Office)** - The Governor's Office has the responsibility for the administration of Financial Sanctions and Terrorist Financial Sanctions as well as being the designated authority for mutual legal assistance (MLA) matters under the Criminal Justice (International Co-operation) Act (CJICA).
- c) **Attorney General's Chambers (AGC)** - The AGC has the responsibility to prosecute ML/TF/PF and predicate offences. Additionally, they serve as the point of contact for CFATF. The AGC also serves as the designated authority



for MLA matters under the Mutual Legal Assistance (USA) Act (MLA USA Act).

- d) **Anguilla Financial Services Commission (AFSC)** – The AFSC is AML/CFT supervisor for FIs, DNFBPs, and VASPs. Additionally, they evaluate the ML/TF risk management policies and procedures of regulated entities.
- e) **Anguilla Financial Intelligence Unit (AFIU)** – The AFIU is a hybrid FIU with both investigative and administrative functions. As an investigative FIU it serves as the primary law enforcement agency with respect to financial crime investigations including ML, TF, and PF, as well as maintaining intelligence in respect of these forms of misconduct. The AFIU also has the primary function for the receipt, analysis and dissemination of financial intelligence received through suspicious activity reports (SARs) and other forms of information.
- f) **Royal Anguilla Police Force (RAPF)** - The RAPF has the responsibility for the investigation of all crimes in Anguilla.
- g) **Customs Department** - The Customs Department has the responsibility for the detection of cross-border transshipments of currency and securities used in money laundering and the financing of terrorism and proliferation.
- h) **Inland Revenue Department (IRD)** - The IRD is responsible for all tax-related matters in Anguilla, although the Ministry of Finance receives incoming requests under the Tax Information Exchange Act (TIEA).
- i) **Immigration Department** - The Immigration Department has the responsibility to assist in identifying persons who are subject to sanctions lists. They also monitor the entry of persons into Anguilla to prevent human trafficking. They maintain an entry database and make relevant information available to law enforcement agencies in Anguilla to assist in the investigation and prosecution of ML/TF cases.

1.4.3 Financial sector, DNFBPs and VASPs

- 72. The assessors ranked the sectors based on their level of importance in Anguilla's context, given their respective materiality and level of ML/TF risks. The assessors used these rankings to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors. This approach applies throughout the report but is most evident in Chapter 6 on I.O. 3 and Chapter 5 on I.O. 4. The sectors are divided into **Most Important, Very Important, Important** and **Less Important**.
- 73. Anguilla's offshore banking sector is the most prevalent sub-sector of the financial sector¹² followed by domestic banks with asset sizes totalling XCD 2Bn (USD 741m)¹³ and XCD 1.4Bn (USD 519m), respectively. The next largest sub-sector is domestic insurance with an asset size of XCD 241m (USD 89.26m) followed by mutual funds XCD 131m (USD 49m). Although there are only four (4) licensed Money Service Businesses, given Anguilla's concerns with cross-border activities (e.g., human trafficking, trafficking of illegal substances, trafficking of illegal arms,

¹² Only 1 offshore bank is in operation as the other 2 are currently in receivership.

¹³ This information represents 1 of the 3 offshore banks as at the 2021 financial year-end. The other 2 offshore banks are currently in receivership.



etc.) their operations contextually received increased attention by the assessment team.

Table 1.1. Financial Sector Type, Number of Entities and Weight

Financial Sector	Number of Entities	Sector Weight
Offshore Banks	3	Most Important
MSBs	4	Most Important
Domestic Banks	2	Very Important
Domestic Long-term Insurance	25	Important
Mutual Funds	5	Important
Credit Unions	2	Important
Micro-lenders	6	Important
Utility Token Administrator	1	Important
Utility Token Offering Issuer	1	Important
Insurance Intermediaries	32	Less Important
Mutual Funds Intermediaries	4	Less Important
Securities Broker Dealers	0	N/A

74. **Banking Sector:** The banking sector consists of two (2) domestic banks and three (3) offshore banks. No information on the total assets of the domestic banks was provided. However, one (1) offshore bank reported assets of XCD 1,978,845,703 (USD 736,122,946) at the end of 2021. Anguilla's offshore banking sector is weighted as a most important sector based on the materiality, risk, customers, products and services offered. In the NRA, offshore banks were given an inherent vulnerability rating of 'Very High' due to involvement of high-net-worth individuals and PEPs, increased level of privacy and some customers residing in high-risk jurisdictions. Domestic banks were given an inherent vulnerability rating of 'High' in the NRA due to the nature of their products and their central role in the financial sector.
75. **Money Service Businesses:** There are four (4) MSBs in Anguilla which are domestic agents of reputable international companies operating money services business. Total assets for MSBs were XCD 15,929,021 (USD 5,925,534). MSBs were rated in the NRA as having a 'Very High' inherent vulnerability rating due to the range and access of offered products and cash intensity of the business.
76. **Domestic Long-Term Insurance:** A total of twenty-five (25) domestic long-term insurance companies operate in Anguilla with total assets of XCD 241,434,704 (USD 89,812,776). In the NRA, they were rated with an inherent vulnerability of 'Medium' due to the complexity of the sector and accessibility by high net-worth individuals and PEPs.
77. **Mutual Funds:** There are five (5) mutual funds in this sector with reported assets of XCD 131,417,633 (USD 48,886,851). In the NRA, mutual funds were assessed as having an inherent vulnerability rating of 'Medium'.
78. **Credit Unions:** There are two (2) credit unions, one (1) serves the public while the other serves only its members. Total deposits are approximately XCD 11.4 million (USD 4,222,222) with the largest credit union accounting for 98% of the total amount. The sector was assessed as having an inherent vulnerability rating of 'Medium' in the NRA.



79. **Micro-lenders:** There are six (6) micro-lenders in the jurisdiction. Two (2) are considered large due to the number of their customers. No figures about their assets have been provided. In the NRA, they were assigned a ‘Medium’ inherent vulnerability rating due to their small size and relatively low value of loans.
80. **Virtual Asset Service Providers (VASPs):** This is an emerging sector with potential inherent risks to the business, including cross-border activity, non-face-to-face dealings, and possible anonymity. At the time of the onsite, there were two (2) VASPs in Anguilla, a utility token issuer with a total asset size of XCD 1,286,304 (USD 478,500) and a utility token administrator. While the sector was given a rating of ‘Very High’ inherent vulnerability rating in the NRA similar to the banking sector, its total asset size was significantly less than the banking sector.
81. **Insurance Intermediaries:** There are thirty-two (32) insurance intermediaries which act as insurance managers, agents, principal representatives (act like an agent or broker), and sub-agents (act as an agent of the agent) of licensed insurance companies. They were considered less important due to the products and services offered and the limited scale of their operations.
82. **Mutual Funds Intermediaries:** There are four (4) mutual funds intermediaries in this sector that typically conduct mutual fund administration business and mutual fund management for the local mutual funds. They were considered less important due to the services offered and the limited scale of their operations, and they provide the following services: management and administration of the funds, accounting, and investment advice.

Table 1.2. DNFBP Sector Type, Number of Entities and Weight

DNFBP Sector Type	Number of Entities	Sector Weight
Trust and Corporate Service Providers	49	Most Important
Trust Companies General	6	Most Important
Trust Companies Restricted	1	Most Important
Lawyers	65	Most Important
Notaries	60	Most Important
Real Estate Agents	9	Important
Accountants	6	Less important
Dealers in Precious Metals & Stones	2	Less important

83. **TCSPs:** TCSPs include company service providers, trust companies general and trust companies restricted. The company service providers act as registered agents in company formation in Anguilla with total assets of XCD 27,914,851 (USD 10,384,216). The inherent vulnerability of company service providers was assessed as very high in the NRA due to the large number of companies being managed with the majority being IBCs. General trust service providers reported assets of XCD 27,982,316 (USD 10,409,313) and were rated as having a high inherent vulnerability due to the nature of the trust structure and the presence of high-net-worth individuals and PEPs. There is one restricted which was assessed as having high inherent vulnerability.
84. **Lawyers & Notaries:** Anguilla has 65 lawyers carrying on relevant business without being registered and/or licensed with the AFSC for AML/CFT monitoring and



supervision. This is a result of a stay imposed on AML/CFT obligations. Consequently, lawyers have been assigned a very high inherent risk to ML in the NRA. There are only three (3) lawyers who conduct trust and company service business. These lawyers are monitored for AML/CFT obligations as registered TCSPs. Most of the remaining lawyers (which are not also TCSPs) engage in litigation and provision of legal documents. All notaries are lawyers who conduct the certification of documents. They do not conduct TCSP business and are not involved in the RBI programme. Notaries were unregulated during most of the assessment period.

85. **Real Estate Agents:** There are nine real estate agents in Anguilla. Real estate agents are not cash intensive but engage in transactions involving large sums of funds. They are also involved with the RBI program with its requirement for real estate purchase. The sector was given a medium inherent vulnerability in the NRA.
86. **Accountants, DPMS;** Accountants, and DPMS were considered less important based on the products and services offered which were either not FATF activities or of minimal size. There are only six (6) accountants who offer mainly accounting and tax service.

1.4.4 Preventive measures

87. Anguilla's preventative measures are set out in primary legislation and statutory instruments listed above which demonstrate a legislative framework extending to a full range of licensed/registered FIs, VASPs and DNFBPs. Due to a stay imposed on sections of POCA, the ENRSPRs and AMLTFRs, independent legal professionals are not being supervised or monitored for AML/CFT compliance. Though not included by the FATF as a DNFBP, Anguilla has identified high value dealers as a **vulnerable** sector that is required to implement AML/CFT preventive measures.
88. Anguilla's institutional arrangements and legal framework for the combating of ML and TF are codified in the POCA, various orders extended by the UK relating to terrorism and anti-terrorism, the FSC Act (as amended), the AML/TF Regs (as amended) and the AML/TF Code (as amended). The AML/TF Regs and Code are established pursuant to sections 168 and 169 of the POCA respectively, and together set out the AML/CFT requirements with which service providers and externally regulated service providers are required to comply. The AMLTF Code is subordinate legislation, incorporates guidance notes and is enforceable means for the purposes of the FATF Methodology. The enactment of the Anguilla Utility Token Offering Act in 2018 and the Digital Asset Business legislation in June 2023 brings virtual asset business within the ambit of the POCA and includes identification, assessment, management and mitigation of ML/TF risks for VAs and VASPs. NPOs are captured under the Non-Profit Organization Regulations which set out regulatory obligations under the POCA.

1.4.5 Legal persons and arrangements

89. The types of legal persons and legal arrangements that can be established or created under the laws of Anguilla are business companies (BCs), limited liability companies (LLCs) general partnerships, limited partnerships, foundations, trusts, and segregated portfolio companies (SPCs). The Commercial Registry and Beneficial Ownership Registration System Act, 2022 (CRBORS Act) establishes a Registrar of Companies who is responsible for administering and maintaining an electronic registration system



platform called the Commercial Registration Electronic System (CRES). CRES contains three registers: the Beneficial Ownership Register (BO Register), the Customer Due Diligence Register (CDD Register) and the Commercial Register (see R. 25).

90. The NRA, published in February 2023, describes legal structures as they existed before April 2022. It considers foreign trusts as a subtype of trusts generally. It also contemplates a third type of company, that is, international business companies (IBCs). Although there have been legislative reforms since 2018, there is no legal or practical distinction between IBCs and BCs (which the NRA identifies as Ordinary Companies or OCs). The majority of BCs within Anguilla are IBCs in character. Anguilla asserts at some points that General Partnerships and LPs are legal arrangements, presumably because they do not establish a separate legal entity, and at other points that they are legal persons, presumably because they can own property. The NRA identifies trusts as the only legal arrangements available in Anguilla. As of September 2022, the following table presents the number of each type of legal persons and arrangements present in the jurisdiction:

Table 1.3. Legal Persons and Arrangements by Type

Legal Person/Arrangement	Number of Entities
Business Companies (BCs)	12170
Limited Liability Companies (LLCs)	346
General Partnerships	70
Limited Liability Partnerships (LLPs)	39
Trusts (Registered)	16
Foundations	58
Segregated Portfolio Companies (SPCs)	19

91. **Business Companies (BCs):** BCs are governed by the Businesses Companies Act and are distinct legal persons. BCs have all the rights, powers and privileges of an individual and thus can buy and sell property, sue and be sued, enter into contracts, hold assets (including land) in its own name and maintain bank accounts. They can be limited by shares, by guarantees or by both shares and guarantees. All BCs are required by law to have a registered agent (also called a company manager) and a registered office at all times. Unless specifically licensed to do so, BCs may not carry on banking, trust, insurance or company management business.
92. **Limited Liability Companies (LLCs):** LLCs are governed by the Limited Liability Company Act. LLCs provide limited liability to members. They can carry on any business, purpose or activity not prohibited by the laws of Anguilla, including persons in Anguilla. They can also become members of general partnerships, LPs, BCs and any other LLCs. Like BCs, all LLCs are required by law to have a company manager. Unless licensed to do so, LLCs may not carry on banking, trust, insurance or company management business. LLCs are prohibited from owning or holding an interest in real property situated in Anguilla.
93. **General Partnerships:** No formalities are prescribed by the Partnerships Act for the creation of a partnership. General partnerships need not be registered. They do not constitute distinct legal persons. They cannot own property. Due to the structure of general partnerships, beneficial ownership information is not required to be filed with the Commercial Registry unlike limited partnerships but rather the Ministry of Finance collects information on the principals upon licensing.



94. **Limited Liability Partnerships (LLPs):** LLPs are governed by the Limited Liability Partnership Act. Like general partnerships, LLPs are not distinct legal entities. All LLPs must be registered. LLPs are formed by two or more persons entering into a Partnership Agreement, which regulates the conduct of business of the partnership and the rights and obligations of partners. LLPs must have a registered office and agent in Anguilla. LLPs may undertake any lawful purpose within or outside Anguilla and can, among other things, maintain bank accounts in Anguilla, invest in stocks or equities, and own or hold interests in land whether situated in or outside of Anguilla. The ML and TF vulnerability is heightened due to their ability to be used internationally to hold accounts and property by criminal actors. This vulnerability to ML is rated high in the NRA.
95. **Trusts:** No formalities are required to create a trust in Anguilla, other than a unit trust, if the intention of the settlor to create a trust is clearly manifested. A unit trust, identified as a trust established for the purpose, or having the effect, of providing for persons, funds available for investment, or facilities for participation by them as beneficiaries under the trust in any profits or income arising from the acquisition, holding, management or disposal of property must be evidenced in writing. A trust, other than a unit trust, may be created by oral declaration, or by an instrument in writing including a will or codicil, by conduct, operation of law or in any other manner. However, a trust in respect of land situated in Anguilla, other than one arising by operation of law, is unenforceable unless evidenced in writing. A trust is not a separate legal entity. Trust property is therefore held or owned by a trustee and not the trust. The Trust Act provides that a trust exists where a trustee holds property for the benefit of a beneficiary and/or for any valid charitable or non-charitable purposes, which is not for the benefit only of the trustee. The settlor may also be a trustee, beneficiary or protector of the trust. A trustee may be resident in or out of Anguilla. The Trust Act allows for the creation of commercial or charitable purpose trusts, unit trusts, spendthrift trusts, and variant trusts. Registration of all trusts is optional and therefore, there are trusts that are unknown, and trusts for which the purpose is unknown. These structures have a high vulnerability to ML, in particular due to the lack of registration requirement, the availability of the trust structures to PEPs and high net worth individuals, and their lack of transparency of beneficial ownership.
96. **Foundations:** Foundations are governed by the Foundation Act. The contributed assets into a foundation become permanently vested. Foundations are estate-planning vehicles which may be established by one or more natural persons or legal entities by a declaration of establishment evidenced in writing during their lifetime or a will by a single founder which has been probated in the High Court of Anguilla. In Anguilla, foundations are a hybrid entity which have the characteristics of both a corporation and a trust. Unlike a trust but like a BC, a foundation is a separate and independent legal entity from the date of its registration that can buy and sell property, sue and be sued, enter into contracts and hold assets in its own name. Foundations may adopt by-laws which need not be filed with the Registrar of Companies. An initial property endowment of at least USD\$10,000.00, which can be subsequently increased, must be placed under the control of the intended registered agent of the foundation and become the property of the foundation upon registration or deposit of the foundation's documents. Further assets contributed as property endowments of a foundation become irrevocably vested in the foundation and cease to be the assets of the contributor.



97. **Segregated Portfolio Companies (SPCs; previously protected cell companies):** SPCs are governed by Part 9 of the Business Companies Act. Segregated portfolio companies implicate individual portfolios that segregate the assets and liabilities held therein from other portfolios. However, the establishment of a segregated portfolio does not create a legal person distinct from the segregated portfolio company as a whole. A segregated portfolio company is thus one legal entity. In Anguilla, there are segregated portfolio companies in relation to insurance and mutual funds.

1.4.6 Supervisory arrangements

98. The AFSC is the sole AML/CFT supervisory authority in Anguilla for FIs, DNFBPs, and VASPs. The Eastern Caribbean Central Bank is the prudential supervisor for Anguilla's domestic banks and the Eastern Caribbean Securities Regulatory Commission is the prudential supervisor for the securities sector. The POCA states that the AFSC is the supervisory authority for regulated service providers and for externally regulated service providers. "Service provider" and "externally regulated service provider" are defined in section 1 of the AML/TF Regulations (as amended) and are understood to represent a range of FIs and DNFBPs (listed in Schedule 2 and Schedule 3 of the AML/TF Regulations). The POCA also states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations. The FSC Act states the principal functions of the AFSC are (inter alia) to supervise licensees in accordance with, and enforce, the FSC Act, the financial services enactments and the Regulatory Codes and to monitor and enforce compliance by licensees and externally regulated service providers with their AML/CFT obligations. There are no SRBs in Anguilla.
99. The AFSC has issued a series of guidelines in accordance with the FSC Act to guide the activities of FIs, DNFBPs, VASPs and their connected individuals; however, they do not form part of the legal framework for the purposes of the FATF Methodology, and consequently are not considered other enforceable means.

1.4.7 International cooperation

100. Anguilla's mutual legal assistance regime is administered under three distinct statutory frameworks.
101. The Criminal Justice (International Co-operation) (Anguilla) Act (CJICA) constitutes the primary MLA instrument. The CJICA allows Anguilla to conduct a range of activities to provide MLA, including: service of overseas process, seizing evidence, transfer of offenders to give evidence, search and seizure, forfeiture enforcement, securing witness attendance, and taking evidence on oath. Cooperation on the basis of the CJICA occurred mainly with partners from Europe and the Americas. The AFIU is the designated authority for CJICA cooperation. The MLA (USA) Act implements the bilateral MLA relationship between Anguilla and the USA. The AG of Anguilla is designated as the Anguilla MLA Authority for the purpose of the Act.
102. Although the MLA (Tax Matters Act) is still in force, in 2016 it was effectively supplanted by the new MLA tax information sharing regime established by the Tax Information Exchange (International Cooperation) Act (TIEA). As a non-reciprocal, minimal tax, jurisdiction, Anguilla made zero outgoing requests under the regime. The TIEA enables the Comptroller of Inland Revenue or the Permanent Secretary, Ministry of Finance, as the competent authority to administer all relevant powers of



the Act, including executing incoming requests. Anguilla received incoming requests from a broad range of international partners, mostly European.

103. Anguilla does not refuse MLA on the sole ground that the offending conduct involves fiscal matters. Anguilla can ensure some degree of confidentiality of MLA requests. Double criminality is not a requirement for MLA assistance. A range of investigative powers are available on behalf of foreign jurisdictions pursuant to MLA requests.
104. Anguilla has a comprehensive MLA asset recovery framework. However, Anguilla has not demonstrated any transnational asset recovery efforts of any type, whether incoming or outgoing, during the assessment period.
105. Anguilla has a comprehensive extradition framework, updated in 2016 by the UK's extension to the jurisdiction of the Extradition Act 2003 (Overseas Territories) Order 2016. Anguilla can extradite its own nationals. There are no unreasonable or unduly restrictive barriers to extradition. Double criminality is a requirement for extradition and the requisite analysis is conduct-based and irrespective of nomenclature. There are some simplified procedures available.
106. Anguilla's FIU is a member of the EGMONT Group of FIUs. Anguilla has signed a handful of MOUs with foreign FIUs, most of them regional partners. The AFIU is also the lead agency for Anguilla's membership in the Asset Recovery Inter-Agency Network for the Caribbean (ARIN-Carib). There was sustained information and intelligence sharing between the AFIU and foreign FIUs via EGMONT, ARIN-Carib and on a bilateral basis during the assessment period.
107. The Anguilla Financial Services Commission has both bilateral MOUs in place with some foreign regulators as well as multilateral MOUs, primarily with regional partners. During the assessment period, requests generally decreased, owing to the COVID-19 pandemic.
108. Anguilla's Customs Department has no formal agreements in effect with foreign counterparts. However, they are able to coordinate and exchange information with regional partners via membership in the Caribbean Customs Law Enforcement Council (CCLEC).
109. The Royal Anguilla Police Force (RAPF) reports having working relationships with strategic and regional counterparts, however, no formal international cooperation agreements have been concluded.
110. The ML threats identified by the 2018 NRA are predominantly linked to international criminal actors. Additionally, most of the companies in Anguilla are International Business Companies, this type of corporate structure is favourable to foreign institutions as Anguilla is seen as a tax haven. The IBC structure allows these foreign institutions to incorporate companies within Anguilla and potentially avoid taxes. These companies can also be used as a vehicle for illicit/criminal conduct.



Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key findings

- a) Anguilla has a reasonable understanding of its ML/TF risks that were identified and assessed in its NRA and RBI programme risk assessment exercises. Anguilla's NRA was fairly comprehensive, but it only outlines inherent ML/TF risks for mitigation in all relevant products, services and sectors, including legal persons and legal arrangements. The RBI programme's risk assessment was more comprehensive, and it includes inherent and residual ML/TF risks.
- b) The NRA was used as a basis to justify exemptions from AML/CFT requirements or simplified measures for lower-risk scenarios and enhanced measures for higher-risk scenarios in certain circumstances outlined in legislation. VASPs were rated as very high relative to the inherent vulnerability for ML/TF, however its size relative to the banking sector is small. The risk assessment conducted assessed the sector on the nature of the product, its complexity and the nascent stage within the financial sector. The AML/CFT Regulations were amended in 2022 to include VASPs licensees as service providers that must adhere to the AML/CFT Regulations and the AFSC monitors each VASP on a monthly basis
- c) Anguilla has developed the National AML/CFT Policy and PF Strategic Plan (National AML/CFT Policy). It is the overarching national AML/CFT policy instrument implementing the findings of the NRA. It informs the activities of the relevant CAs. Prior to and since its release, there has been a notable effort to achieve action items identified in the associated action plan, although there are gaps and weaknesses and 30% of the action items remained outstanding at the time of the onsite assessment. There has been an increase in measures to facilitate cooperation among LEAs, the passing of key legislation to improve the AML/CFT framework and the raising of awareness of ML/TF related issues among FIs and DNFBPs. Other more narrowly tailored national policies and strategies, however, are not always comprehensively in dialogue with the NRA and the National AML/CFT Policy. Notable gaps include risks associated with IBCs and Anguilla's RBI program, as well as TFS, especially for PF.
- d) The framework for national coordination through ANAMLC works well. Anguilla demonstrated efforts of improved co-operation among the domestic authorities which has resulted in joint investigations and information sharing.
- e) The private sector was minimally involved with the NRA exercise, and the CAs did not conduct NRA sensitization meetings. However, the NRA's executive summary and sectoral portions was disseminated via a press conference, email and

through the AFSC, AFIU and Government websites. Although most FIs, DNFBPs and VASPS did not participate in the NRA, some have reasonable ML/TF risk awareness and are aware of the NRA and its findings.

- f) Delays in the dissemination of the NRA results impacted the private sector in that they were unable to assimilate the results and update their ML/TF risk assessments in a timely manner and have not received the full benefit of ML/TF risk and sectoral awareness due to the time lapse.

Recommended Actions

Anguilla should:

- a) Update its risk understanding to ensure that it has an accurate and contemporary understanding of its ML/TF risks.
- b) Perform a more comprehensive analysis of TF risks, utilizing, for example international TF typologies, information of cross-border flows and immigration records.
- c) Engage in meaningful outreach to ensure the results of the updated risk understanding are shared with regulated entities and the public in a timely manner.
- d) Enhance its national AML/CFT policy framework to ensure that ML/TF threats and vulnerabilities, as identified in the NRA, are prioritized and aligned with the existing and future activities of CAs.
- e) Ensure that the results of the assessments of ML/TF risks are properly used to justify exemptions and support the application of enhanced measures for higher risk scenarios, or simplified measures for lower risk scenarios, by the public and private sectors.
- f) Continue to engage the regulated sector, particularly DNFBPs, on the NRA report findings and provide guidance and information to improve understanding of existing and emerging ML/TF risks.
- g) Maintain its efforts to ensure that the activities of CAs continue to be in line with the National AML/CFT Policy.

111. 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.



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

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

112. Anguilla has a reasonable understanding of its ML/TF risks. Anguilla conducted its first ML/TF National Risk Assessment (NRA) for the period 2014 – 2018. Prior to publication Anguilla updated the ML threats associated with each of the FATF-designated predicate offences to include data for 2019. The October 2020 NRA covering the period 2014 – 2019 was disseminated to private and public sector stakeholders as a summary report in February 2023. Authorities advised that this delay in finalization was due to restrictions and other measures taken following the COVID-19 pandemic. The NRA assessed the ML/TF risks of non-profit organisations (“NPOs”), which are likely to be at risk of TF abuse, the ML/TF risks associated with the legal persons and arrangements and ML/TF risks of virtual assets (VAs) and virtual asset service providers (VASPs).
113. The tool utilized for the NRA process provided a good framework for analysing the inherent ML/TF threats and vulnerabilities affecting the jurisdiction. Anguilla’s NRA defines inherent risks as risks that are present before any controls or mitigating factors are applied. Anguilla identified further work in this area and determined that the inherent risks and vulnerabilities identified will be used as the basis to assess residual risks¹⁴ and gaps in the regime’s controls. The 2020 NRA does not consider any controls or mitigating factors. The assessment considered both qualitative and quantitative data and expert opinion about ML/TF and the vulnerabilities of the financial and non-financial sectors, products and services being assessed. Inputs included questionnaires completed by regulated entities, criminal records, financial databases, interviews with industry experts and national reports from the LEAs.
114. Information was gathered from the databases of the AFIU, RAPF, Customs Department, IRD and Immigration department to determine the ML threats associated with each predicate offence. The AFSC provided information from its inspection programme and surveillance reporting systems. Financial intelligence was obtained from the AFIU and used in the development of the NRA to provide an understanding of the threat of ML and TF as well as the vulnerability of PF. Information from the RAPF included crime reports, investigations, prosecutions and convictions. Along with similar reports, Customs Department provided trade reports, Immigration Department travel reports and the IRD reports on tax offences. Notwithstanding, there were some challenges with obtaining statistics from some public sector stakeholders.
115. The NRA arrived at a risk rating considering the threats posed by each of the 21 FATF designated predicate offence to ML, the inherent vulnerabilities within Anguilla on the basis of its geography, demographics, economy and financial system and the inherent vulnerability of the various FI, DNFBP and VASP sectors, products and services.
116. The NRA resulted in an overall ML threat level for the jurisdiction of medium. The ML Threat Assessment indicated that there are eight (8) predicate offences rated between high to very high threat level for potential ML activity. The remaining thirteen (13) predicate

14 The amount of risk that still exists after controls and mitigating factors have been applied (NRA, page 6).



offences were rated low to medium. The assessment of the ML threats also included illegal gambling which has a high threat level for ML in the jurisdiction. The threat ratings assigned to the predicate offences reviewed in the NRA were based on the identification of the individuals and/or organisational crime groups involved, identifying the extent of the sectors' involvement in committing the criminal act or the actors use of the sectors and estimated value of proceeds of crime.

117. Four (4) offences were rated as very high; fraud, human trafficking, sexual exploitation and trafficking of illegal substances. The NRA identified the cross-border movement of cash as significant threat due to the openness of the borders which increases the propensity for the movement of the proceeds of crimes to other jurisdictions.
118. Additionally, the NRA assessed Anguilla's inherent ML/TF vulnerabilities of twenty (20) sectors and financial products, using five (5) rating criteria: inherent characteristics, nature of products and services, nature of business relationships, geographic reach and nature of delivery channels. Five (5) sectors were given very high ML vulnerability ratings comprising company management, money service business, offshore banking, independent legal professionals and virtual asset service providers. The reasons as stated in the NRA were valid on the basis of the criteria utilised. Considering all the sectoral vulnerabilities identified and their ratings and the assessed threat levels, the overall ML risk level for the 20 financial sectors and products for Anguilla is assessed high.
119. Authorities demonstrated a good understanding of proceeds-generating crimes, sectors and products which are vulnerable to abuse, and aspects of the legal framework that required strengthening. This understanding was facilitated by a subcommittee of the ANAMLC that reviewed Anguilla's legislation, identified legislative gaps and proposed legislative and policy amendments.
120. The NRA also assessed a medium risk rating for TF in Anguilla. The methodology utilized in assessing the TF risk to Anguilla involved the identification of the perceived threats and vulnerabilities to the jurisdiction. The criteria used to make this analysis and determination included the Terrorist Actors' Capacity: the identification of individuals and/or terrorist groups and the actor's capacity, sophistication and resources; the scope of global reach: the identification of the actor's network of supporters in Anguilla, and the estimated amount of funds raised in Anguilla annually. Anguilla considered TF-related STRs, FIU disclosures, terrorism and TF investigations and prosecutions and data on international wire transfers to high-risk countries. However, TF risk assessment is not comprehensive as it did not consider other factors such as international TF typologies or immigration records to supplement the process given the limited statistical data on STRs, AFIU disclosures, etc. which were available.
121. The inherent vulnerabilities to TF of Anguilla's Non-Profit Organisation ("NPO") sector was also assessed. While there is no evidence of abuse of NPOs to finance terrorism, Anguilla also considered vulnerability factors that resulted in a medium risk rating. Primarily, the inherent anonymity of beneficial ownership relating to company structures such as IBCs registered in the jurisdiction can provide a vehicle that is attractive to TF. Additionally, due to the openness of the borders, inclusive of borders that are unmonitored and unsecured, lends to opportunities for the movement of persons or the illegal cross-border movement of cash.



122. There is no evidence nor intelligence to conclude that the NPO sector has been used to facilitate TF either within or outside of Anguilla. There is also no evidence or intelligence suggesting the existence of terrorist groups operating in and targeting Anguilla. The assessment noted that most NPO principals were not sophisticated persons, NPO donations were small amounts of cash mostly from local donors and the majority of NPOs limited their work to local charitable acts and have no international links. NPOs use regulated financial institutions. A few NPOs have an international presence or receive funds from overseas. The mechanisms in place were assessed during interviews. The aforementioned threats and vulnerabilities are collectively considered sufficient to justify a medium TF risk rating for the NPO sector.
123. Anguilla's legal persons and arrangements were assessed in the NRA as well to determine their inherent ML/TF vulnerability which included reviewing the inherent characteristics of legal persons and legal arrangements, the typologies/cases involving legal person/arrangement structures for ML/TF and SARs or disclosures regarding legal person/arrangement structures for ML/TF. The risk of legal structures offered by Anguilla to be used for the movement or raising of funds related to terrorist activities received a medium rating.
124. A separate ML/TF risk assessment of the residency by investment ("RBI") programme was completed in June 2023 by the Government of Anguilla. The RBI programme report contains the results in relation to the ML threats and vulnerabilities, and the overall ML risk of five (5) predicate offences; the threats, vulnerabilities and overall risk of terrorism and TF in Anguilla; vulnerabilities and overall ML risk level in relation to six (6) sectors and financial products; and the vulnerabilities and TF risk level associated with NPOs. Furthermore, the RBI programme report outlines the risk mitigating measures within the RBI programme.
125. The RBI programme's risk assessment focused on five (5) of the twenty-one (21) predicate offences associated with ML, those being: (1) corruption and bribery; (2) forgery; (3) fraud; (4) professional money laundering and (5) tax crimes. The other seventeen (17) predicate offences to ML did not have a direct correlation with the RBI programme. The assessed ML risk associated with the five (5) identified associated predicate offences were low to medium. As such the overall risk associated with the predicate offences being linked to ML and associated with any of the RBI applicants was concluded to be medium. However, the risk level associated with any of the applicants being linked to the offence of TF was determined to be low.
126. Additionally, the RBI programme's risk assessment also focused on six (6) local economic sectors namely: (1) corporate service providers; (2) independent legal professionals; (3) money services businesses; (4) domestic banks; (5) credit unions and (6) real estate agents. The other fourteen (14) sectors did not have a direct correlation with the RBI programme. Local notaries are not involved with the RBI programme, and therefore, a relevant risk assessment was not conducted. In relation to the six (6) financial sectors and products assessed it was concluded that there was a medium risk level in relation to ML. For NPOs, the TF risk rating was assigned as low. The identified risk ratings are determined based on the mitigating factors identified in the extensive due diligence processes outlined for each of



the RBI options as well as the provisions for revocation with the primary legislation governing the application of RBI. Therefore, the overall risk rating presented by the RBI programme initiated by Anguilla was determined to be medium based on the vulnerabilities and threats identified in relation to the applicants of the RBI programme.

127. At the time of the onsite visit, the RBI had received twenty-five (25) applications since its inception in 2017 with the highest number of applications of eleven (11) in 2019. Since 2020, the programme has received eight (8) applications. The total number of approvals is twenty-two (22) with the highest number of twelve (12) in 2019. There has been one (1) denial due to the qualifying investment threshold not being met. There has been no revocation of previous approvals nor has any approved applicant been involved in any investigations of ML/TF or associated predicate offences. The origins of the applicants comprise the United States, Canada and Europe with sixteen (16) applications coming from the United States.
128. Anguilla conducted an assessment of virtual asset providers. The sector was assessed on the basis of the nature of the product, its complexity and the fact that it is a new area in the financial sector. The products and services are created using blockchain technology and cryptography. The digital and virtual nature of this product can appeal to criminals. The owner of the products carries two identities- one digital (public and private keys) and the other from KYC collected by the service providers. Access to the Utility Tokens are open to all countries except those that have bans on this type of activity. Therefore, it is possible that customers from high risk jurisdiction and countries of concerns for money laundering and terrorist financing. Therefore, the overall risk rating was determined to be Very High.
129. During the NRA process and beyond, Anguilla has taken steps to mitigate some of the risks identified. An example of this is the amendments made to the Business Companies Act which increased the transparency of legal persons, especially the former IBC sector (See IO.5). The AT concluded that the changes to the legislative framework has significantly mitigated the risk of higher risk legal persons.
130. The assessors found that Anguilla has a reasonable understanding of its ML/TF risks. The NRA covered all required sectors and involved all required personnel. A wide scope of information was utilized, including qualitative, quantitative and expert opinions and insight. Apart from the separate RBI risk assessment, the inputs into the NRA are dated as it only extends up until 2019. This impacts upon Anguilla's understanding of its risks given the changes to risks and other economic and structural changes brought on during the COVID-19 pandemic.

2.2.2. National policies to address identified ML/TF risks

131. As per its Terms of Reference approved April 5, 2022, the ANAMLC's mandate includes preparing, developing and following up on a national strategy to prioritize the combating of associated predicated offences as well as the detection and prevention of ML, TF and PF in Anguilla, as informed by the NRA. In particular, the ANAMLC is charged with the development of a national plan of action in relation to combating ML, TF and PF, as informed by the NRA. In fulfilment of these responsibilities, the National Anti-Money Laundering and



Countering of Terrorism Policy and Proliferation Financing Strategic Plan (National Strategic Plan) was completed by the ANAMLC and approved by Anguilla's National Security Council (NSC) in December 2022. This is Anguilla's first National Strategic Plan, following its first NRA, approved 4.5 years into the assessment period. Due to its sensitive nature, it is not a publicly available document although it has been shared with relevant CAs. It is a brief high-level policy document, but it is generally responsive to the conclusions of the NRA, in particular the key gaps and deficiencies identified therein. Five broad objectives were identified in mitigating ML, TF and PF risks. These were developing a sound legal and institutional framework to prevent and combat ML/TF and other financial crimes; improving effectiveness of investigations and prosecution in Anguilla, strengthening and improving international and domestic co-ordination and co-operation, strengthening capacity-building and raising awareness, and strengthening the supervisory framework.

132. The key part of the National Strategic Plan is the concluding Action Plan, a five-page overview of intended enhancements to Anguilla's AML/ATF regime, organized by Immediate Outcome, objective, relevant agency and priority level. The timeline envisioned for the implementation of the ambitious reform agenda was, for the most part, the first half of 2023, leading up to the onsite visit. While much of the National Strategic Plan has been achieved, 70% according to Anguilla's own internal analysis, significant implementation items remain outstanding. The Action Plan is intended to be reviewed annually, which has not yet occurred. There has also not yet been a review or comprehensive consideration of the effectiveness of the National Strategic Plan as a whole, nor the NRA of course due to their recent issuance. CAs, in particular the AFSC, the AFIU, and the Commercial Registry, do not have sufficient staffing levels to effectively achieve their mandates.
133. In monthly meetings of the ANAMLC, AML/CFT issues and policies are discussed and adopted, in particular, national policies and procedures for the mitigation of ML/TF risks as identified in the recent NRA. Where such policies and procedures are agreed to by the ANAMLC, they are subsequently provided to one of: the NSC, Anguilla's Executive Council (EXCO), or the AFSC's Board of Directors for approval, as the case may be. The EXCO emanates from the constitution as well as executive prerogative, much like a Cabinet, while the NSC is a creature of executive prerogative alone which deals with sensitive matters of, as the name suggests, national security. While the reporting and approval lines for the ANAMLC's recommendations are not entirely clear, both the EXCO and the NSC are led by the Governor, and the NSC is subordinated to the EXCO, such that the ANAMLC's national policy proposals and recommendations have the clear authorization and support from the highest levels of government where they are approved by one of these two bodies. However, this is not clearly the case for matters approved of only by the AFSC's Board of Directors.
134. Since the development of the National Strategic Plan, the ANAMLC has been engaged in further national policy development targeting more narrow issues relevant to the AML/CFT regime, including: Anguilla's Financial Sanctions Guidance, Anguilla's Sanctions Regime, and Anguilla's National Counter-Terrorism, Terrorist Financing and Proliferation Financing Strategic Plan (National TF/PF Strategic Plan). However, these instruments are not always comprehensively in dialogue with, and responsive to, the NRA and the broader National Strategic Plan. For example, the NRA identifies IBCs as the primary site for PF risk. However,



this is not meaningfully engaged in the National Strategic Plan, nor the more narrowly tailored National TF/PF Strategic Plan. It is also not substantively addressed in the SOP for the AFIU in relation to TF and PF. Furthermore, the Sanctions-related guidance and policy document were already somewhat out of date in the months between their adoption and the onsite visit; due to the coming into force in June 2023 of the PFA and the CTA, they do not account for these enhancements to their regimes.

135. The national policy instruments are so nascent that assessing the effectiveness of their implementation is not yet possible. This is also true of CAs policies (see 1.4). These policy documents suggest that they are generally responsive to gaps and deficiencies noted in the NRA. However, there is a sameness and generality to these documents. Furthermore, there are oversights. For example, Anguilla's RBI scheme as well as the shipping registration system are not meaningfully considered at all in the national policies (nor in the NRA for that matter).
136. Nevertheless, since the adoption of Anguilla's National Strategic Plan, significant actions have been achieved by CAs including an increase in measures to facilitate cooperation among LEAs, the passing of key legislation to improve the AML/CFT framework and the raising of awareness of ML/TF related issues among FIs and DNFBPs. For example, the establishment in November 2022 of the Joint Intelligence Working Group (JIWG) consisting of the AFIU, the RAPF and the Customs Department to facilitate the sharing of criminal intelligence and coordinate operation activity in particular in relation to AML/CFT, has already yielded results in an illegal gambling investigation.

2.2.3. Exemptions, enhanced and simplified measures

137. There are provisions under the AML/CFT laws in Anguilla that allow for exemptions, simplified measures, or enhanced measures relative to CDD under certain circumstances. Under section 12 of the AML/CFT Regulations (amended) which amends section 14 of the AML/CFT Regulations, simplified due diligence measures may be used in relation to a particular business or transaction under circumstances explained in the section. This amendment was made in December 2022 in response to the findings of the NRA.
138. The NRA was used as a basis to justify exemptions from AML/CFT requirements or simplified measures for lower-risk scenarios and enhanced measures for higher- risk scenarios in certain circumstances outlined in legislation. VASPs were rated as very high relative to the perceived vulnerability for ML/TF and the AML/CFT Regulations were amended in 2022 to include VASPs licensees as service providers that must adhere to the AML/CFT Regulations.
139. Although there is a provision in the legislation, the AFSC has not seen, during its supervisory monitoring, any use of simplified due diligence as it was not allowed by legislation before. Reporting entities must undertake EDD for customers having a higher risk profile. The NRA results were made available to reporting entities who were expected to utilize the information of the NRA to conduct their own risk assessments. Any attempt by reporting entities to



implement simplified due diligence in cases that do not adequately contemplate the NRA is not allowed by the AFSC.

2.2.4. Objectives and activities of competent authorities

140. The objectives and activities of the competent authorities in Anguilla are largely informed by the National Strategy which deals with the ML/TF/PF risks identified in Anguilla's NRA. Under the guidance of ANAMLC, competent authorities prepare work plans based on the National AML/CFT Strategy and NRA that are intended to guide their activities.

141. The AGC has increased its focus on addressing the prosecution of financial crimes and treating with the confiscation of criminal property. They have demonstrated that they meet regularly with LEAs to discuss the progression of investigations and provide guidance on dealing with issues that touch and concern ML and other serious financial crimes. Several pieces of legislation that are relevant to and address combatting ML/TF/PF and other predicate offences have been pioneered by the AGC between December 2022 and July 2023. These pieces of legislation include:

- Proceeds of Crime (Amendment) Act
- Anti-Money Laundering (Amendment) Regulations
- Anti-Money Laundering (Amendment) Code
- Externally and Non-Regulated Service Providers (Amendment) Regulations
- Commercial Registry and Beneficial Ownership Registration System (Amendment) Act
- Financial Services Commission (Amendment) Act
- Magistrate's Code of Procedure (Amendment) Act
- Universal Social Levy (Amendment) Act
- Criminal Justice (International Co-operation)(Anguilla)(Amendment) Act
- Criminal Procedure (Amendment) Act
- Elections (Amendment) Act
- Proliferation Financing (Prohibition) Act
- Counter Terrorism Act

142. The AFSC has incorporated the results of the NRA into their Risk Based Approach to supervision. Such actions include, risk taking exercise of all registrants of AFSC, registration of all NPOs. The AFSC has conducted risk ratings of all of its licensees and registrants at the end of the year in preparation for drafting its annual work programme. The individual risk ratings for licensees and registrants took into consideration the ratings within the NRA. The AFSC was a part of the National Risk Assessment exercise and as a result has been considering the vulnerabilities of all financial sectors identified since the start of the NRA process in 2016 and the initial risk rating exercise in 2018.

143. In its 2021-2023 Annual Plan, the AFIU prioritizes the use of confiscation and civil recovery proceedings to confiscate proceeds of criminality and instrumentalities linked to offences which have been rated as very high and high risk in line with the risk profile for the jurisdiction. It also sets out the prioritization of investigations of matters that are linked to high-risk offences. The AFIU has demonstrated that efforts are being made to increase



outreach to reporting entities particularly domestic banks and MSBs, which are high risk sectors. Outreach to these entities were mainly in the form of advisories sent via email.

144. During the review period the Customs Department increased its operations with the RAPF as it relates to dealing with very high and high-risk offences. More resources have been allocated to the Department to assist in carrying out its functions. Most notably, was the acquisition of a currency-detection canine to support the Department's increased focus on currency detection. Efforts are being made by the Customs Department to draft legislation that will assist in proper targeting and monitoring of shipments that pose high threats in line with the NRA.
145. The RAPF has conducted an administrative and operational review with an aim of ensuring adequate resources are allocated. In 2018, the RAPF established a Human Trafficking Department comprising of officers trained to investigate such matters. The RAPF have been restructured to ensure that the appropriate human resources are allocated to better deal with the high-risk areas. Other specialist department has also been formed to deal with high-risk areas including the newly formed Drug Department and the Corporate Development Department to deal with maintaining and retrieving data.
146. As a result of the NRA the IRD bolstered the audit and compliance teams to enhance the ability to detect tax crimes. A risk assessment process has been adopted by the IRD, specifically tailored to identify and mitigate potential risks associated with tax compliance. Given the high risk of tax crimes in the jurisdiction, a greater emphasis is placed on evaluating taxpayers' information and transactions.
147. As stated in the previous paragraph, the NRA identifies tax crimes as high risk. The Ministry of Finance, through the Registry and the International Tax Cooperation Unit, is, at the time of the on-site, in the process of advancing amendments to the Registry Acts to improve the transparency of Anguillan legal entities and arrangements. This includes repealing the IBC Act (completed), increasing the scope of identity and ownership information submitted to the Registry and increasing supervision of the activities of Anguillan companies by the Commercial Registry. This action was necessary as it was recognized that where ownership information is less readily accessible to government authorities, the risk of misuse of Anguillan legal structures were increased.
148. The Immigration Department has prioritized providing information to other LEAs as requested to assist in their respective investigations. OTRICS (law enforcement database) has been tailored for the use of Immigration and upgraded to allow for faster processing. There has been training for officers on Human Trafficking and Smuggling of Migrants and a general increase in manpower at border entry points to curtail human trafficking in the jurisdiction.
149. Anguilla demonstrated that there has been a focus on the coordination and cooperation among competent authorities in the fight against ML with specific focus on high-risk areas as identified in the NRA.

2.2.5. National coordination and cooperation

150. The competent authorities in Anguilla coordinate and cooperate in the development and implementation of policies and activities to combat ML/TF both on a policy and operational level.



151. The Anguilla National Anti-Money Laundering Committee (ANAMLC) is the body that coordinates activities to identify, assess and understand Anguilla's ML and TF threats, risks and vulnerabilities. The ANAMLC was approved by the Executive Council in 2022, thereby negating the need for the competent authorities to sign an agreement specifically for ANAMLC. The ANAMLC consists of the following membership:
- Attorney General's Chambers (Chairperson);
 - Anguilla Financial Services Commission;
 - Ministry of Finance;
 - Financial Intelligence Unit;
 - Royal Anguilla Police Force;
 - Customs Department;
 - Inland Revenue Department;
 - HM Governor's Office;
 - Immigration Department;
 - Registry of Commercial Activities; and
 - Representatives of other Departments may be invited to attend the meeting, upon the invitation of the Chairperson.
152. The ANAMLC started meeting under this name in January 2019 and has met about 20 times with recorded minutes kept and circulated to the members. Attendance at meetings are recorded and a majority of the competent authorities are present for discussions about Anguilla's AML/CFT/CPF work. Prior to ANAMLC, the group met under the NRAWG and prior to this as the AFATF. The terms of reference for ANAMLC includes, "facilitating the exchange of information and coordination among the various bodies in the Committee concerning the development and implementation of AML/CFT and PF policies and activities."
153. In addition to ANAMLC, there are other structures in place for sharing of information between relevant supervisory and law enforcement agencies through the development of inter-agency MOUs and other inter-agency working groups which have aided in the effective exchange of information and policy development at a national level.
154. There are domestic MOUs in place between the following agencies for the co-ordination of sharing of information:
- AFIU & FSC (December 2022)
 - Customs Department & AFIU (June 22, 2022)
 - IRD & AFIU (February 7, 2019)
 - AFIU & Immigration (December 17, 2018)
 - AFIU & RAPF (19th May 2023)
155. All MOUs deal with the development and/or implementation of AML/CFT policies. Relationships between all CAs existed prior to the formalization of the cooperation and coordination. The MOUs relate primarily with the cooperation and coordination of AML/CFT/CPF activities and facilitate interagency information sharing in a timely manner.



These MOUs lessen the delay in the transfer of information. Anguilla demonstrated co-operation among the domestic authorities which has resulted in joint investigations and information sharing.

Box 2.1. Case Summary: Successful National Interagency Coordination & Cooperation.

Case FC#02/21 and FC#03/21, 2021

The AFIU in conjunction with IRD initiated investigation into the alleged gambling (illegal lottery) activities being undertaken by various persons across the island. As a result of, investigation undertaken, two females were located in two separate locations. It was revealed that the subject was facilitating the operation of an illegal lottery (Dominican Republic Lottery) from both locations. The FIU-ID utilized powers of search under section 346 of the Criminal Code to initiate action. The FIU-ID also obtained assistance from the RAPF in conducting the operation. As a result, searches were conducted at both locations and the two females were arrested and charged with gambling and money laundering offences. Additionally, the FIU-ID sought financial intelligence from the AFIU in relation the proceeds of the illegal lottery. The information correlates with the fact that the two individuals being nationals of the Dominican Republic did not utilize the financial system within the jurisdiction. Thus, no other proceeds of the illegal lottery were identified as it relates to the two females.

Source: Anguillan Authorities

156. Additionally, Anguilla's Joint Intelligence Working Group (JIWG) consists of the AFIU, RAPF, Immigration and Customs Department was established in November 2022. The JIWG facilitates the sharing of criminal intelligence, co-ordination of operational activity and joint partnership working, with emphasis on addressing Anti-Money Laundering, Countering Financing of Terrorism ("AML/CFT") and Proliferation Financing ("PF") issues. Through this group, Anguilla is able to share intelligence regarding ML/TF risks as a result of SARs.
157. The function of this working group aids in the detection, identification, assessment and neutralization of threats or risk to the jurisdiction. There have been two meetings held for the JIWG. The JIWG MOU allows for collaboration amongst its members to focus on cooperation and coordination in the sharing of intelligence, trends or typologies regarding criminal activities, financial crimes, AML, CFT issues and matters pertaining to the PF, development and implementation of joint operations and investigations to address criminal activities, financial crimes, AML/CFT issues and matters pertaining to the PF, identification of intelligence capability shortfalls and knowledge gaps, assistance with intelligence gathering, research and analysis of cases upon a formal request (by electronic means as appropriate) in a timely manner, development of joint strategic plan or objectives to address existing or emerging inherent risk associated with predicate offences and ,make available expertise or resources to support or coordinate and conduct joint operations and/or court proceedings, where necessary.
158. The NRA exercise has reinforced the implementation of interagency cooperation. As part of the National Strategic Plan strengthening and improving domestic co-ordination and co-



operation of AML/CFT/CPF activities is one of five broad objectives. The functions of ANAMLC, the establishment of domestic MOUs between domestic CAs and the function of the JIWG serve to facilitate the National Strategic Plan objective., no coordination and cooperation mechanisms identified to combat the financing of proliferation of weapons of mass destruction. In addition, there are no co-ordination mechanisms identified in place to facilitate taking action to address TF risks or to implement targeted financial sanctions for TF and PF.

2.2.6. Private sector's awareness of risks

159. The NRA was published 21 February 2023, mere months before the onsite visit. It was only at this time that results of the NRA became widely known among FI, DNFBPs and VASPs. Prior to this, in August 2022, a detailed NRA Summary Report consisting of all threat and vulnerability assessments and risk rating was developed. However, whether this was shared with sectors affected by the application of the FATF Standards and the extent to which it was shared is unknown.
160. Discussions with the FIs, DNFBPs and VASPs confirm that there was limited participation in the NRA by the private sector. Only three (3) representatives all from the TCSP sector actively participated. However, information was sought from FIs and DNFBPs on their operations to analyse the sector without their direct participation. While most of the interviewed private sector entities consistently demonstrated awareness of the NRA, few demonstrated awareness of the results. Additionally, those that were aware only became aware in the weeks leading up to the onsite assessment. Given the short timeframe between the finalization of the NRA and the onsite, few FIs had integrated the NRA results into their AML/CFT programme and updated their ML/TF risk assessments following the dissemination of the NRA report. While the authorities involved in the NRA process had insights into the results and opportunities to take required actions during that long delay between 2020 and 2023, delays in the dissemination of NRA results impacted private sector's level of ML/TF risk awareness and delayed updates to their ML/TF risk assessments. The benefit of being able to incorporate issues relating to country-level ML/TF risks into their AML/CFT risk management programmes within the assessment period has not been realized by private sector entities. This is viewed as a major shortcoming.
161. Notwithstanding, Assessors found that the FIs have a better understanding of ML/TF risks when compared to the DNFBPs. Many of these FIs are members of financial groups domiciled in Anguilla, which have group AML/CFT policies, compliance and internal audit functions. Based on interviews conducted, some DNFBPs, however, do seem to have some nascent awareness of their exposure to ML/TF and the risk associated with the activities that they carry out, with TCSPs appearing to have a greater understanding of their ML/TF risk than the other sectors. In the context of Anguilla, the risk awareness and understanding of the TCSP sector along with other material sectors such as banks (offshore and onshore) were weighted more heavily.
162. The separate ML/TF risk assessment of the residency by investment ("RBI") programme was completed in June 2023 by the Government of Anguilla. The dissemination of which to FIs and DNFBPs has not been evidenced. However, assessors did not give much weight to this as this programme is not within the scope of the FATF Standards. Additionally, the residency programme does not have the same ML/TF risks that may be attributable to a citizenship



programme. Nonetheless, the assessment team were satisfied with the due diligence and other preventive measures articulated by the authorities.

Overall Conclusions on IO.1

163. Anguilla has a reasonable understanding of its ML/TF risks. The NRA methodology provided a robust framework. Apart from some limitations regarding the inputs to the TF risk aspect, the quality of the NRA inputs was satisfactory. The assessors concluded that the NRA results were reasonable. However, while information was sought from private sector, the NRA will benefit from improved private sector participation in the NRA process. Additionally, at the time of the onsite, private sector, while being largely aware of the NRA results, had insufficient time to integrate it into their AML/CTF compliance programmes. Furthermore, entities were only recently being made aware of a risk assessment based on data and analysis that is over three (3) years old. The assessors are of the view that the NRA results are dated and this has negatively impacted Anguilla's risk understanding.
164. The NRA was used as a basis to justify exemptions from AML/CFT requirements or simplified measures for lower-risk scenarios and enhanced measures for higher-risk scenarios in certain circumstances outlined in legislation. However, local competent authorities need to engage in enhanced outreach to ensure that all stakeholders are aware of the changes in AML/CFT obligations as a result of the NRA.
165. The objectives and activities of CAs are reasonably in line with the National AML/CFT policy and ML/TF risks identified. The objectives of each CA have been detailed within Anguilla's National AML/CFT policy. These objectives were developed in line with the key gaps and deficiencies that were identified as a result of the NRA process. Anguilla has demonstrated that the operations of CAs are geared towards the achievement of the identified objectives.
166. Based on the factors identified above, the AT found that IO.1 is achieved to some extent, major improvements needed

Anguilla is rated as having a Moderate level of effectiveness for IO.1.



Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Use of financial intelligence and relevant information (IO 6)

- a) The AFIU routinely accesses and uses financial intelligence and other relevant information to develop evidence and to trace criminal proceeds related to ML and associated predicate offences. While the RAPF and Customs Department have accessed financial intelligence through the AFIU, authorities did not demonstrate it was meaningfully used during the investigation of predicate offences.
- b) SARs received from reporting entities are of a good quality and generally contain relevant and accurate information that assists the AFIU to perform its duties. Most SARs are filed by MSBs, banks and CSPs, consistent with their ML/TF risk profiles. However, lawyers are not submitting SARs in line with their risk and therefore, useful financial intelligence that may be obtained from such reports are not being obtained due to a stay on the AML/CFT obligations. While reports on currency and bearer negotiable instruments are available electronically to the AFIU via the OTRICS electronic database system, financial intelligence that may be obtained from such reports are similarly being inadequately obtained.
- c) Authorities demonstrated that the AFIU's analysis and dissemination supports the operational needs of the FIU-Investigations Division who is the largest recipient and user of intelligence reports. Feedback on AFIU disseminations to other LEAs indicate that their operational needs are supported by the AFIU, however they were unable to produce supporting data or case studies to support these assertions.
- d) The predicate offences linked to disseminations by the AFIU are moderately in line with the very high and high ML risk offences identified in the NRA.
- e) The Analysts assigned to the AFIU have benefitted from a comprehensive range of AML/CFT training that contributes to their ability to produce high quality products. However, the length of time taken to analyse reports is of concern considering that the matters are not of a complex nature. Also, there may be a need for additional analysts at the AFIU to improve the timeliness of responses to requests for intelligence.
- f) There is a high degree of cooperation and coordination between the AFIU and other competent authorities. Various electronic databases are integrated allowing access by LEAs with necessary security provisions and confidentiality.

Additionally, LEAs have formed joint investigative teams and established the Joint Intelligence Working Group to foster co-operation, however due to its recent implementation its effectiveness could not be completely assessed.

ML identification, investigation and prosecution (IO7)

- a) The AFIU is the designated LEA with responsibility for conducting ML investigations. Investigators and analysts at the AFIU have been exposed to a wide range of training to assist in the identification and investigation of such cases. There is, however, an absence of training for investigators relative to the investigation of legal persons. Most ML investigations were not of a complex nature and resulted from direct reports to the AFIU. Notwithstanding the role of the RAPF and the Customs Department in the investigation of predicate offences, referrals of ML cases to the AFIU occurred rather infrequently and insufficiently.
- b) Potential ML cases are insufficiently identified and investigated, including through parallel financial investigations. There are little to no parallel ML investigations associated with high ML risk predicate offences investigated by the RAPF and the Customs Department. These LEAs are inadequately trained to identify ML cases.
- c) ML identification, including more complex ML, is also hampered by the lack of implementation of the cross-border declaration measures and legal provision exempting legal practitioners from SAR filing obligations.
- d) ML investigations and prosecutions are minimally in line with Anguilla's risk profile and national AML/CFT policies. There is a lack of investigations and prosecutions associated with high risk and very high risk offences including drug trafficking, human trafficking and Professional ML. ML investigations connected to fraud are pursued however corresponding prosecutions for ML associated with fraud is minimal.
- e) The majority of ML cases pursued were related to the self laundering of domestic predicate offences namely theft, robbery and fraud. Anguilla is not pursuing complex matters involving third party laundering, laundering of proceeds of foreign predicate offences or stand alone ML.
- f) Considering the sentencing powers available to the Courts in ML cases, the sentences and fines issued are comparatively low. This may be attributed in part to the characteristics of the cases being mainly the self laundering of proceeds from theft, robbery and fraud. Other factors considered by the court in issuing sanctions were not provided. Additionally, most of the matters prosecuted are done in the Magistrate's Court by Police Prosecutors, which means they are dealt with summarily.

Confiscation (IO 8)

- a) Anguilla has a comprehensive legislative framework that provides for conviction based and non-conviction-based confiscation.
- b) Anguilla's confiscation regime has only realised results from the confiscation of proceeds from domestic predicate offences. Anguilla has not confiscated instrumentalities nor property of an equivalent value. Lengthy delays in the forfeiture of instrumentalities and NCBC has impacted confiscation results. These results are relatively modest and are somewhat consistent with the country's ML risk profile.
- c) Insufficient effort is being made to detect cases of undeclared or falsely declared currency or BNIs relating to the cross-border movements. Few cases have been detected. In most cases, when detected, the currency/BNI is restored to the subject and a minimal fine is imposed.
- d) Anguilla's declaration system for cross-border movements of cash or BNIs is not being effectively implemented or enforced despite the high ML risk associated with this activity in the NRA. There have been no instances wherein ML investigations have been initiated based on detections from the declaration system. This is not reflective of the risks identified in the NRA.
- e) Statistics relevant to the effectiveness of the cross-border declaration regime is not being comprehensively maintained.
- f) The sanctioning regime is not sufficiently dissuasive as confiscation in cross-border cash transportation cases is not applied to a satisfactory extent.
- g) Confiscation results are somewhat reflective of ML/TF risks. Theft and Robbery account for over 30% of confiscation proceedings initiated during the review period. The NRA classified Theft and Robbery as posing a medium ML risk. The one concluded criminal confiscation matter also concerned theft. Both civil recovery matters concerned the very high ML risk of fraud and drug trafficking. The predicate offences for cash seizures are also somewhat in line with the country's risk profile. While some of the associated predicate offences were identified via case studies, comprehensive information was not provided to determine the full extent. Another ongoing civil recovery proceeding is relative to drug trafficking, also a very high ML risk.

Recommended Actions

Use of financial intelligence and relevant information (IO 6)

Anguilla should ensure:

- a) The RAPF and Customs Department use financial intelligence and other relevant information in investigations to develop evidence related to associated predicate

offences thereby providing for a more robust investigation and increasing the ability to identify criminal proceeds.

- b) That the Customs Department's reports on currency and BNI contain relevant and accurate information that assists them in performing their duties and that records of these reports are well maintained to ensure that the financial intelligence and other information from such reports can be utilized by the relevant authorities. Also as explained in IO 8 this deficiency may be as a result of the Customs Department being inadequately resourced and inadequately trained. Emphasis should be placed on increasing staff at the Custom's Department and that systems are in place for the recording and maintaining of information. The AFIU should continue providing feedback to reporting entities and increase its outreach and in person training provided to them to further improve the quality of reports submitted to the AFIU. Also, notwithstanding the stay on reporting for lawyers, Anguilla should prioritize ensuring that lawyers are subject to AML/CFT requirements and supervision.
- c) That the AFIU is adequately staffed by increasing its contingent of analysts to improve on the timeliness of responses and provide for a more efficient flow of information.
- d) The AFIU continues to disseminate financial intelligence products which support the investigation of proceeds generating crimes to LEAs. Customs Department and RAPF should enhance their use of financial intelligence to support their investigations of predicate offences. Further training in the use of financial intelligence by LEAs other than the AFIU may be needed to effectively use financial intelligence to support their investigations
- e) That LEAs continue to co-operate and exchange information and financial intelligence. Also given the important role of the JIWG as it relates to cooperation associated with AML/CFT and PF issues, Anguilla should prioritise the efficient operation of this group to demonstrate its effectiveness.

ML identification, investigation and prosecution (IO7)

Anguilla should ensure:

- a) Given the important role parallel financial investigations play in the identification of potential ML cases and tracing the proceeds of crime, Anguilla should ensure they are utilized appropriately, at least, requiring parallel investigations for serious acquisitive crimes.
- b) AML training is provided to the RAPF, including police prosecutors, Customs Department, Immigration Department and IRD to assist in the identification of ML and subsequent investigations and prosecutions. Training topics may include, the use of investigative tools provided by legislation, advocacy programs targeted at police prosecutors to improve representations before the Court, understanding the offence of ML for LEAs tasked with the investigation of predicate offences and investigating legal persons.

- c) The Judiciary is provided with adequate training on adjudicating over ML matters with a focus on assessing appropriate sanctions and penalties with consideration given to the formulation of specific sentencing guidelines for money laundering.
- d) ML investigations and prosecutions pursued are in line with the country's threats and risk profile and national AML/CFT policies. Anguilla should prioritize resources towards combatting high risk offences/sectors.
- e) Pursuit of a greater variety of ML cases, including stand-alone and third-party ML against both natural and legal persons.

Confiscation (IO 8)

Anguilla should ensure:

- a) Confiscation is pursued as a policy objective by all stakeholders. The AGC, RAPF and Customs should establish clear policies to address confiscation. Where policies do exist, steps should be taken to encourage adherence, including but not limited to periodical assessments or monitoring of confiscation activities to not only ensure that policies are being pursued but to also assess the extent they are being pursued and identify shortcomings to inform future actions.
- b) The confiscation of the proceeds of high ML threat offences, including proceeds moved abroad, is pursued. This can be achieved through the increased use of parallel financial investigations to identify proceeds whether or not they have been moved abroad.
- c) Remedy delays encountered in the forfeiture of instrumentalities and NCBC.
- d) Seized and confiscated assets are effectively managed and converted into cash or utilized by authorities. Anguilla should implement an asset management system that provides for the maintenance of seized assets and quick conversion when so ordered by the Court.
- e) Customs Department is allocated greater resources, including human resources, to effectively implement Anguilla's cross-border declaration regime. Officers should be adequately trained to effectively detect falsely/ non-declared cross-border movements of currency/BNI and identify ML/TF.
- f) Customs Department implements effective measures to detect cross-border movement of currency. Moreover, the Customs Department should ensure that it maintains comprehensive statistics on the functioning of the cross-border declaration regime.
- g) Customs Department improves its sanctioning of false or undeclared cross-border transactions of currency/BNIs to ensure the regime is being applied as an effective, proportionate and dissuasive sanction.
- h) Confiscation results are more reflective of the assessment of ML/TF risks. This is a cascading issue that is ultimately connected to the identification and investigation of ML/TF cases. Where identification and investigation of ML/TF cases are more

reflective of the risks, the results of confiscation should also become more reflective of the assessment of ML/TF risk.

167. 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)

168. The FIU is the dedicated agency responsible for the investigation, detection, prevention and control of financial crimes and related matters. As a hybrid model, the AFIU is divided into two divisions, Intelligence and Investigations. The Intelligence Division is the only authority in Anguilla tasked with the responsibility of receiving, analysing and disseminating financial intelligence to foreign FIUs and domestic competent authorities, spontaneously or upon request. Intelligence reports produced as a result of analysis conducted by the Intelligence Division on SARs received from reporting agencies are enhanced with other information gathered from public or private sector entities. The basis for dissemination occurs when the AFIU conducts analysis that suggests the suspicion TF, ML, or associated predicate offences.

3.2.1. Use of financial intelligence and other information

169. Anguilla's investigative authorities have access to a wide range of financial intelligence and other relevant information. There is variable use of this information among the various LEAs to develop evidence and trace criminal proceeds related to ML and associated predicate offences and TF, when applicable. While the AFIU demonstrated routine use of such information, deficiencies were noted with regard to the RAPF. Given the role played by the RAPF, the assessment team considered these deficiencies as moderately weighted. Additionally, important financial intelligence is not being obtained due to Anguilla's limited implementation of its cross-border currency/ BNI declaration/ disclosure system. This has a cascading impact on IO.7 and IO.8. The NRA assigned a high ML risk associated with the physical transportation of cash across its borders. Consequently, the assessment team also weighted this deficiency as moderate.
170. The assessment team's findings are based on an examination of qualitative and quantitative data held by the AFIU, interviews with investigative and prosecutorial authorities, and reviews of numerous case files made available during the onsite.
171. Anguilla's FIU was established as a Department of the Government of Anguilla in accordance with the enactment of the Financial Intelligence Unit Act, 2020 in December 2020 (see analysis in R.29). The main consumer of AFIU Intelligence reports is the FIU - Investigations Division. Intelligence produced as a result of analysis conducted by the Intelligence Division on SARs received from reporting agencies are enhanced with other information gathered from public or private sector entities and includes law enforcement and financial databases. The Intelligence Division has both direct and indirect access to a wide range of databases to access financial intelligence/ information and other relevant information. There is direct access to the FIU database, the Overseas Territory Regional Criminal Intelligence System (OTRICIS/PATRIARCH) which includes Immigration, Customs and Police records, the Standard Integrated Government Tax Administration System "SIGTAS" and Multi Tax

Solution “MTS” and Company Registry Database/CRES which contain records of all payable government taxes, business registry records, motor vehicle and driver’s licence registration. There is also indirect access to information held by the FSC regarding activities of licensed entities, financial intelligence from the Egmont Group and Asset Recovery Inter-Agency Network (ARIN Carib), information on business licences applications from the Ministry of Finance, information on property registered and owned, work permits, employment and social security, births, marriages, and deaths from relevant agencies.

172. The AFIU routinely uses financial intelligence and other relevant information to conduct analysis into ML/TF and associated predicate offences. In addition to the information accessed directly, the AFIU made a total of 112 requests to competent authorities over the period 2018 – 2023 (up to 7/7/23) for information to bolster or clarify information presented to the AFIU through the submission of SARs or requests for information (See Table 3.1 below). Additionally, the AFIU has the power to request and obtain information other than information that is privileged material from any person (legal or natural) directly by written notice. A significant portion of requests (86.7%) were made to the Companies Registry and the Land & Survey Department to assist in the tracing of criminal proceeds and identification of assets. The AFIU has direct access to OTRICS granting access to LEA-held information which contextualizes the relatively low number of requests.

Table 3.1: FIU – Intelligence Division REQUESTS TO CAs

	Immigration Department	Acorn/ Company Registry	RAPF	Marine	Land & Survey Department	Customs	Totals
2018	-	12	-	-	5	1	18
2019	-	16	-	-	3	1	20
2020	4	2	-	-	15	-	21
2021	4	7	-	1	12	-	24
2022	2	9	1	-	8	-	20
2023 (to 7/7/23)	-	1	-	-	7	1	9
Total	10	47	1	1	50	3	112

173. Pursuant to Section 20(1) and (2)(b) of the FIU Act, a written notice is used to access information held by reporting entities, regardless of a SAR being previously submitted, and any other agencies/departments. During the period 2018 to 2023¹⁵, a total of 679 Notices were sent from the FIU – Intelligence Division to reporting entities. The notices consisted of 364 (54%) sent in relation to the analysis of SARs, 236 (35%) made to obtain financial intelligence to satisfy an external enquiry from domestic LEAs and foreign FIUs and 84 (11%) for information on wire transfer data.

174. FIs received 284 notices for the period accounting for 41.8% - the largest portion of written notices, followed by MSBs and CSPs with 271 (39.9%) and 76(11.1%) respectively. (See Table 3.2). These sectors were identified as the higher risk sectors. As such, this is consistent

¹⁵ Data obtained up to July 7th 2023.



with the risk and context of Anguilla. Information sought included but was not limited to BO information and information of financial transactions.

Table 3.2- Number of FIU written notices issued.

Year	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Totals
FIs	50	23	57	40	58	56	284
CSPs	36	12	10	11	4	3	76
Social Security	8	-	-	-			8
MSBs	19	26	63	37	59	67	271
Credit Unions				5	5		10
Micro-lenders			1	3	9	2	15
FSC					2	1	3
CED			3	1			4
Other	4		2	3	1	2	12
Total	117	61	136	96	138	131	679

NB: *Written Notices are no longer issued for these agencies. Information is collected through emails request.

175. When necessary, financial intelligence and relevant information are also accessed through requests by other CAs that use the AFIU as a resource for information. Table 3.3 below records the number of requests for financial intelligence made by the RAPF, AFIU – Investigations Division, Customs Department, the AFSC and Anguilla Commercial Registry. Law enforcement and administrative information may be accessed directly by the RAPF, Customs Department, Immigration Department, IRD and other CAs through their own respective access to Patriarch (OTCRIS), SIGTAS, MTS and Anguilla Commercial Registry.

Table 3.3 Requests for intelligence received by the AFIU from domestic LEAS and CAs: 2018-2023¹⁶

Requesting Authority	2018	2019	2020	2021	2022	2023	Total
RAPF	5	5	1	9	3	2	25
FIU – ID	8	5	4	10	12	5	44
Customs Department	3	1	1	5	3		13
AFSC	-	-	1	-	-		1
Anguilla Commercial Registry	-	-	1	-	-		1
Total	16	11	8	24	18	7	84

176. The AFIU received a total of 84 requests for intelligence from domestic CAs during the period 2018-2023¹⁷. There were 25 requests made by the RAPF, 44 by the FIU-ID, 13 by

¹⁶ Data extends up to July 7th 2023

¹⁷ 2023 data extends up to July 7th 2023

Customs Department, one (1) each by the AFSC, and the Anguilla Commercial Registry. Given the respective mandate of the CAs and the generally low crime rate in Anguilla, the extent to which CAs access financial intelligence is proportionate. However, neither the RAPF nor the Customs Department demonstrated meaningfully how the requested financial intelligence was used. This deficiency is amplified for the RAPF who have also not demonstrated that they have utilized the financial intelligence contained in Spontaneous Disclosures in any meaningful way (This has a cascading impact on IO.7). The assessment team gave a moderate weighting to the deficiency concerning the RAPF given the significant role it plays in investigating ML-associated offences. However, the deficiency is mitigated to some extent as the AFIU investigates the higher-risk offences and routinely utilizes available financial intelligence. Less weight was given to the lack of use of financial intelligence by the Customs Department. While the Customs Department do have responsibility for investigating customs offences, such offences were not particularly high-risk for ML. Rather, more weight was given to the absence of financial intelligence being recorded by the Customs Department through the proper implementation of Anguilla's cross-border cash/BNI regime.

177. On the basis of financial intelligence contained in its SAR database, intelligence and other relevant information accessed from the range of databases noted above as well as via notices, the FIU – Intelligence Department disseminated 236 spontaneous reports to domestic and foreign LEAs and FIUs as outlined in Table 3.4 below. The number of reports disseminated in 2020 and 2021 decreased proportionate to the decrease in the number of SARs received which was on account of the slowdown in activity during the COVID-19 pandemic. While not all SARs result in a spontaneous dissemination, there were also spontaneous disseminations as a result of the analysis of external enquiries (EE). Forty-three (43) spontaneous reports went to domestic LEAs. However, the vast majority of the suspicious criminal activity contained a nexus to foreign jurisdictions and resulted in a spontaneous disclosure to foreign FIUs. The Assessors note responses received from three foreign jurisdictions who agreed that the information received from these spontaneous disclosures were useful. The AFIU also has access to intelligence through the EGMONT Group of FIUs. During the review period, 43 requests for information were made through EGMONT, 86% of which responses were obtained.

BLE 3.4: Number of Spontaneous Disseminations compared to SARs: 2018 – 2023¹⁸

Year	2018	2019	2020	2021	2022	2023	Totals
SARs	54	59	35	22	23	33	226
EES	49	31	20	40	25	13	178
Spontaneous Disseminations	45	88	33	23	27	20	236
Local	3	11	3	7	12	7	43
Regional	3	24	7	1	1	2	38
International	39	53	23	15	14	11	155

178. While financial intelligence is accessible to competent authorities by way of requests for intelligence and spontaneous reports, the FIU-ID has the remit for the investigation of ML,

¹⁸ Date up to July 7th 2023

serious financial crimes, TF and PF in Anguilla. During the period 2018-2023 the FIU-ID conducted 52 investigations. Within the corresponding period, 44 requests for intelligence were made to the AFIU by the FIU-ID. Considering the number of investigations conducted, there was a substantial number of requests made for intelligence by the FIU-ID.

179. The FIU-ID has demonstrated that it makes use of intelligence received to develop evidence and trace criminal proceeds to a reasonable extent. As a result of intelligence accessed and used in the analysis and investigations, production orders, LORs/MLAs and search warrants were obtained. The use of these investigative tools enabled investigators to convert financial intelligence into evidence that ultimately led to several ML charges being proffered and the forfeiture of cash in civil proceedings during the review period. During the period under review, 37 requests for financial intelligence resulted in 19 production orders, 13 search warrants, 4 restraint orders, 5 cash forfeitures and 14 cases with ML charges. (See Table 3.5).

TABLE 3.5: Result of Intelligence Requests 2018 – 2023

Year	2018	2019	2020	2021	2022	July 2023	Totals
Intelligence Requests	8	4	4	10	6	5	37
Production orders	3	1	10	0	4	1	19
Restraint orders	3	0	1	0	0	0	4
Search warrants	1	0	4	4	3	1	13
LOR/MLATS	0	2	1	1	0	0	4
Cash Forfeitures	0	3	0	2	0	0	5
Charges proffered	2	3	3	3	1	2	14

180. The following case studies (Box 3.1 and 3.2) demonstrates the use of financial intelligence and other relevant information by the FIU-ID in investigations to develop evidence and trace criminal proceeds related to ML and associated predicate offences.

Box 3.1 Use of Financial Intelligence By AFIU

In February 2018, the FIU – Investigations Division received a report of theft from a domestic bank. The report alleged that an employee whilst completing her duties stole approximately US\$108,000 from the account of a local supermarket chain between 2016 – 2018. A request for intelligence was submitted to the FIU - Intelligence Division, where interim report feedback was provided to the FIU-ID and full analysis was completed and a response provided within two (2) months of the request. As a result of the intelligence obtained, the investigator was able to obtain production orders which contributed to the evidence that led to the employee being charged for Theft and ML offences.

Source: Anguillan Authorities

Box 3.2 Use of Financial Intelligence and Other Relevant Information

In 2020, a request for intelligence was made by FIU - Investigations Division pertaining to an investigation into alleged theft by an employee of a domestic FI. The FIU - ID sought information on the subject such as full bio, banking information, financial analysis and any assets or property held by the subject that would be linked to the allegation. The FIU - Intelligence Division sent written notices to FIs for financial information, to the MSBs for information on all outgoing and incoming remittances conducted during the period under review. Information was sought from other governmental departments to employment history, gross earnings and contributions made as well as property owned and the ownership of the property where the subject resided. As a result of the information gathered, the FIU - Intelligence Division presented an interim response to the request on the 28th of May 2020. The findings showed that the subject had unexplained funds flowing through her accounts that exceeded the means provided by her monthly income. Analysis showed that the subject did not utilize any lending facilities over the period under review, however, was able to register two (2) motor vehicles and property in her name. Additionally, the subject maintained very little savings prior to being employed with a FI. It was also noted that the subject utilized her credit card to make purchases over the assigned limit for the credit card which were accommodated by substantially large payments made towards the card. Overall, there was substantial intelligence to suggest that the subject was engaged in an unexplained activity which generated considerable income, which was then used to acquire assets such as land and motor vehicles. Subsequently, a restraint was placed on the property, two motor vehicles and bank accounts owned by the subject. The subject was charged with several counts of theft and ML. The matter is pending before the Court.

Source: Anguillan Authorities

181. While the AFIU is responsible for the investigation of ML/TF and serious financial crimes, the RAPF is technically also responsible for the investigation of all predicate offences including financial crimes. In practice the AFIU takes the lead on most financial investigations. Although the RAPF has made requests to the AFIU to access financial intelligence, no tangible evidence of the use of this intelligence was provided. The assessors are unaware of the number of investigations, if any, or the nature of those investigations conducted by the RAPF which utilized the financial intelligence requested. Considering the RAPF's role in the investigation of predicate offences other than serious financial crimes, this deficiency was assessed as major.
182. Furthermore, while the RAPF received 30% of spontaneous disclosures disseminated over the period (see section 3.2.3), no information on the use of the information contained in such disclosures to initiate investigations or support investigations were provided. Based on interviews with the RAPF, spontaneous disclosures from the AFIU are utilized to inform the operations of the RAPF through its filtering in the Daily Management Meetings (DMM) Taskings. Officers are tasked, for example to undertake particular lines of enquiry, patrol routes or surveillance of persons or places resulting from information contained in AFIU disclosures. During the interviews, the assessors were presented with details of the process and examples of how the AFIU intelligence is incorporated in the DMM Taskings. Given the



lack of evidence and demonstrated outcomes, the assessors are of the view that the DMM Taskings are only a basic use of financial intelligence.

183. Similarly, although the Customs Department are the third largest recipient of spontaneous dissemination from the AFIU and account for the third most number of requests for intelligence made to the AFIU, insufficient evidence was provided to establish how financial intelligence and other relevant information are used to develop evidence and trace proceeds related to predicate offences under the domain of the Customs Department.
184. While the AFIU is the lead entity and is accessing and using financial intelligence to a reasonable extent, the deficiencies cited amount to major improvements needed.

3.2.2. STRs received and requested by competent authorities

185. SARs can be submitted in paper form and via the AFIU email. However, the majority of SARs are submitted through email which are encrypted by way of password. Over the period 2018 – 2023¹⁹ the AFIU received a total of 221 SARs originating mostly from the domestic banking, MSB and CSP sectors. This is moderately consistent with the risk profile of the jurisdiction as TSPs and Lawyers were assessed as high risk for ML and only accounted for the filing of minimal number of SARs. The authorities indicated that the quality of SAR reporting is good and generally sufficient for their needs. This was evidenced by the sample of SARs presented to the assessors during the onsite visit for review. SARs generally contained relevant information including the reason(s) for suspicion and an indication of the suspected predicate offence. Based on the cross-section of files provided by the AFIU, the assessors observed that SARs are received by the AFIU between a few days and on occasions in excess of 6 months from the date the suspicious activity occurred.
186. The Lawyer/Notaries Sector only reported three (3) SARS to the AFIU notwithstanding the sector has a risk rating of “very high”. This is primarily due to a stay being in place on sections of the POCA, which require lawyers to comply with the SAR filing requirement. SAR filings for TSPs were also inconsistent with their risk profile. Assessors considered these deficiencies as major shortcomings on account of the risk, the important role of Lawyers as gatekeepers to the financial system, the very high-risk rating given to these DNFBPs in the NRA and the limitation it creates on the AFIU’s ability to obtain information that may lead to the identification of ML cases. Table 3.6 below shows the number of SARs received by the AFIU disaggregated by reporting entity. Overall, the AFIU recorded a steady decline in SARs received from 2020 – 2022. This was due to the slowing down of economic activity brought upon by the COVID-19 pandemic. It is noted that the number of SARs already reported for 2023 as at July 7, 2023 (25) is greater than the number of 23 reported for 2022 and suggests a return to reporting levels similar to pre-COVID years.

TABLE 3.6: SARs received: 2018 - 2023²⁰

Year	Risk Rating	2018	2019	2020	2021	2022	2023	Total
SECTORS								
Domestic Banks	High	15	15	9	14	7	6	66

¹⁹ Data up to July 7th 2023

²⁰ Data up to July 7th 2023

CSPs	Very High	10	7	1	1	1	1	21
MSBs	Very High	25	37	23	7	13	23	128
Credit Unions	Medium	-	-	1	-	-		1
Regulators		-	-	-	-	1		1
Lawyers/ Notaries	Very High	2	-	1	-	-		3
Insurance	Medium	2	-	-	-	-	1	3
TSPs	Very High	-	-	-	-	1		1
Other*							2	2
Total		54	59	35	22	23	33	22

Other - relates to consent to transact SARs submitted by non-regulated businesses/individuals.*

187. The FIU - Intelligence Division, also receives a copy of the Report of International Transportation of Currency or Monetary Instruments submission from Customs Department collected at the two ports of entry, Clayton J. Lloyd International Airport and the Blowing Point Ferry Terminal. The Intelligence Division also has direct access to this information which is inputted into the Overseas Territory Regional Criminal Intelligence System (OTRCIS) – Patriarch database (see 3.2.1 for description). The assessors, however, have concerns about the extent that the cross-border regime is being implemented, the extent to which these reports being collected and inputted into OTRCIS and consequently the quality of financial information that is accessible to the AFIU. Additionally, comprehensive statistics is not being maintained relative to the operation of the regime. The significant decline in reports over the period 2020 – 2022 was due to the closure of borders, a measure taken to mitigate the risks associated with the COVID-19 pandemic.
188. In conducting analysis on any subject of a SAR or External Enquiry (EE), the OTRCIS/PATRIARCH Database is used as an information resource. When obtained, currency reports are recorded within the database and cash importation patterns form part of the analysis of the subjects’ and is therefore disseminated within the intelligence report. The case below demonstrates the AFIU’s ability to access and use currency reports when available, to bolster analysis and disseminate information to competent authorities to assist in their duties.

Box 3.3. Use of Customs Declarations to support analysis and investigations.

An FI made a report against one of its clients suspected of conducting ML through the banking system. The subject was a retail business owner in a neighbouring island with accounts at the domestic bank in various currencies. The subject would transport cash across borders for deposit into his accounts. Thereafter, the funds would be transferred to different merchants. The FI was concerned about the level of GBP currency being deposited which would deviate from his normal expected business and the currencies used by the neighbouring island.

Outcomes/Results

To complete the analysis, the FIU - Intelligence Division obtained information from the FI as well as the Company Registry and conducted searches of its own databases and law enforcement databases. Further, the FIU was able to use the International Transportation of Currency or Monetary Instruments reports from Customs to obtain information regarding the subject’s movement of cash to further analyse and enhance the information provided in the SAR. The AFIU made further enquiries with neighbouring



jurisdictions to determine if the subject owned a legitimate business which operated with various local businesses in that jurisdiction. The jurisdiction confirmed that the subject is the owner of at least five (5) businesses varying in different trade activities. One of the businesses owned by the subject was engaged in Cambio services.

Dialogue with the MLRO regarding the matter resulted in interim feedback being provided which instructed the FI continue to transact, monitor activities and make supplemental reports as well as to conduct a site visit as part of its onboarding and compliance procedures. Several supplemental reports were submitted concerning similar transactions conducted by the subject.

As a result of the intelligence gathered, the AFIU in its final feedback advised the FI of the various businesses linked to the subject and the types of businesses involving the subject. There was no evidence of criminality.

Source: Anguillan Authorities

189. Notwithstanding the quantitative information provided that suggest currency reports are collected to some extent and sent to the FIU, the assessment team observed there may be a deficiency with obtaining records pertaining to the cross-border declaration of currency. The Customs Department asserted that all persons entering and leaving Anguilla, must fill out a declaration form which is done in triplicate. Contrary to this information provided, no member of the assessment team, comprising four assessors and two CFATF mission leads, arriving from different ports of origin, were provided with declaration forms or even asked questions as to whether they were in possession of anything to declare at both the Clayton J. Loyd International Airport and the Blowing Point Ferry Terminal. The experience was the same for the assessment team when leaving Anguilla. As explained in Anguilla's NRA, the ML risk associated with the cross-border currency transportation is high, however the number of recorded incoming and outgoing declarations were low. During the review period Anguilla only recorded 119 incoming declarations and 7 outgoing declarations made by travellers. It must be noted that the year 2019 accounted for over 63% of incoming declarations. Additionally, there were only 5 cases of undeclared cash discovered by the Customs Department which were all determined not to be linked to criminal activity and dealt with by Customs internally. There also seems to be a deficiency in the Customs Department's ability to record statistics relative to cross-border declarations as statistics for incoming and outgoing declarations for 2018-2021 were unavailable along with the value of currency reports for 2018. Cumulatively, these issues raised concerns that Anguilla's cross-border currency/BNI declaration/ disclosure system is poorly implemented.
190. The FIU-Intelligence Division under Section 20 of the FIU Act, also makes requests on a quarterly basis for information related to large wire transfers completed by FIs and MSBs. The information received is the sum of outgoing wire transfers to each jurisdiction during the quarter. The information is compiled, analysed and a report is produced either bi-annually or annually. The reports are disseminated to the two domestic banks and the two MSBs. Additionally, the reports have been disseminated to domestic LEAs for use in carrying out their functions.



191. Anguilla's financial services industry also comprises of non-regulated service providers inclusive of real estate agents and DPMS. During the period of review there has been no SARs received by the AFIU by any entity within these sectors. The DPMS sector is comprised of two (2) entities that engage in relatively low business activity. Although Anguilla assessed DPMS as having a high ML risk, given the low business activity and small size of the sector minimal weight was placed on the absence of SARs from this sector. As it relates to Real Estate Agents, the information provided by Anguilla suggest that most activities pertaining to the sale and purchase of land are dealt with by the Lawyers. As a result, minimal weight was placed on the absence of SAR filing by this sector.
192. During the period of review the AFIU issued five (5) directives to reporting entities. Directives are issued to reporting entities in extenuating circumstances or where it is warranted. These directives were related to the monitoring of customers' deposit and wire transfer activities over a determined period of time and the subsequent reporting to the AFIU. Directives also included information on forgery conducted via debit cards and the corrective action to be taken by MSBs to improve the quality of its SARs. In addition to assisting reporting entities mitigate their ML risk, these directives contribute to the improvement of the identification of suspicious activity and has the cascading effect of improving the quality of SARs submitted to the AFIU. The following case demonstrates how the AFIU provides guidance and give directives to reporting entities in the course of performing their duties.

Box 3.4 Feedback and Directives issued based on SAR submission.

The SAR submissions by a domestic bank reported on behalf of clients who made complaints of observing transactions on their accounts that they did not recognize or where unaware of. The clients claimed that the cards were not stolen or lost and was in their possession. The intelligence gathered was compiled and disseminated to the AFIU Investigations Division. Feedback was provided to the reporting entity. Additionally, a directive was issued to FIs on educating customers with regards to the threat and risk associated with debit cards as well as the safety in the using of debit cards. In addition to the directive, the AFIU produced a typology report "Forgery through the use of stolen or lost Debit Cards" which was disseminated to reporting entities in March 2021.

Source: Anguillan Authorities

193. Feedback received by the assessors indicate that the information received from the AFIU is useful and contributed to an increase in the quality of SARs. However most reporting entities were unable to recall the last time face to face or virtual training was received from the AFIU. Some reporting entities suggested that the most recent training from the AFIU was more than one (1) year prior to the on-site.
194. The FIU-Intelligence Division conducts weekly reviews of its SARs. The review is spearheaded by the Financial Analysts with the Director. The review entails a discussion of all open SARs in an effort to ensure that the analysis is progressing, provide guidance, discuss/design next steps, discuss or resolve issues that may be hindering the analytical process and to make note of any case files closed. During the period, the AFIU closed one hundred and sixty-four (164) case files with ninety-six (96) of the matters disseminated either



domestically or to foreign counterparts. There were sixty-eight (68) matters closed with no further action required. In those instances, analysis showed that there were insufficient grounds to substantiate the suspicion of ML/TF or other unlawful activity. At the end of 2022 there were only seven (7) active SARs and for the period 2023 (up to 7/7/23) there were 10 active SARs. Closed files are saved electronically after being scanned and maintained on the AFIU assigned government storage server housed by the Department of Information Technology & E-Government Services (DITES).

195. The AFIU has demonstrated that the SARs received from reporting entities contain relevant and accurate information that provides the basis for their analysis and investigations. They have further shown that efforts are being made to ensure that reporting entities are properly guided in the submission of SARs. However, the lack of SARs from lawyers and TSPs, which were identified as high-risk sectors, is weighted heavily and impacts negatively on the functioning of this aspect of the AML/CFT regime.

3.2.3. Operational needs supported by FIU analysis and dissemination

196. The FIU-Intelligence Division provides and disseminates analytical products, financial intelligence and relevant information to the FIU-Investigations Department, the RAPF, Customs Department and other competent authorities such as the AFSC, Anguilla Commercial Registry and Anguilla Air and Sea Ports Authority (AASPA) pursuant to the legislative provisions of the FIUA. The AFIU conducts both strategic and operational analyses. The AFIU's analysis and dissemination contribute both to the commencement of new criminal investigations and to supporting ongoing cases. The AFIU's analysis and dissemination supports the operational needs of the FIU - Investigations Division to a large extent. However, this is less so for the RAPF and Customs Department. This section of the report provides further details on how the AFIU ensures that its analysis supports the operational needs of competent authorities.
197. The AFIU's staff comprises six (6) staff members, a Director (who is also an investigator) and Deputy Director (who is also an investigator), two (2) analysts and two (2) investigators. The Director of the AFIU is responsible for the management of the Unit including making decisions regarding analysis and dissemination. The AFIU receives its own yearly budget that is managed by the Director as accounting officer. The assessors observed that there was a significant decrease in the budgetary assignments to the AFIU from 2022 to 2023. Despite this, the AFIU indicated that it is able to carry out its functions and make use of training and resources available through the OTs Forum, etc. The FIU is an independent entity with the ultimate decision on which SARs to analyse and disseminate residing with the Director of the FIU.

Operational Analysis

198. The FIU conducts both operational and strategic analysis. AFIU's analysts have been trained in operational and strategic analysis and are exposed to ongoing training from The Egmont Centre of FIU Excellence and Leadership (ECOFEL), Caribbean Customs Law Enforcement Council (CCLEC), The Asset Recovery Inter-Agency Network for the Caribbean (ARIN-CARIB), United Nations Office on Drugs and Crime (UNODC), The Caribbean Community (CARICOM) Implementation Agency for Crime and Security (CARICOM IMPACS) and enterprise-specific training in the use of analysis packages developed by private sector

entities. The FIU-Intelligence Division is responsible for all information gathering, analysis and the dissemination of intelligence. The AFIU disseminates information and intelligence on its own initiative and upon request to competent authorities in order to prevent and combat ML (and other related crimes) and TF.

199. SARs are reviewed by the analysts for completeness as well as quality tested based on the guidelines for the completion of the SAR. If the SAR has any deficiencies, the MLRO is contacted by telephone or email to address the deficiencies. All SARs undergo the preliminary processes before being submitted to the Director for review, tasking, prioritization, and any other functions that the Director may deem necessary. In keeping with the AFIU's Procedural Policy for the Handling of SARs, all SARs are analysed by the AFIU staff member assigned and developed by using the various tools available including: Written notices, open source research, OTRCIS (Patriarch) research (law enforcement databases), KYC Due Diligence Applications – Safety Net and Lexis Nexis, Financial data analysis utilizing analytical tools and other relevant software such as Altia, IRD related databases, data retrieved from various Government Departments, information from foreign FIUs and other information or intelligence.
200. The Intelligence Division follows a systematic process for the analysis of all SARs received. This process consists of 6 stages from the receipt of the SAR to the closure of the file. The preliminary actions taken include the assignment of an index number and inputting into the Overseas Territory Regional Criminal Intelligence System – Patriarch database (OTRCIS). All cases related to the AFIU are 'coverted' whereby the information inputted on the database can only be viewed by members of the FIU – Intelligence Division. The file then moves to the Director of the AFIU for a priority and risk rating, tasking and assignment. The analyst proceeds to complete preliminary information searches using the directly available data resources from local LEAs, governmental departments and open search databases as may be necessary depending on the reported suspicion. Where information can be obtained, a Written Notice request is issued for the department/agency/entity. Financial analysts are required to utilise all available investigative tools to achieve a comprehensive assessment. The Analyst may determine that other intelligence is required for the development of the case file and may make a request for intelligence from foreign FIUs and LEAs. Received intelligence is reviewed in conjunction with gathered intelligence and analysed. Results of analysis are compiled, and a determination of dissemination is made.
201. Table 3.7 below shows the number of SARs received categorized by the FATF designated predicate offences. The predicate offences are determined based on the suspicion provided in the SAR submission.

Table 3.7 Number of SARs received from reporting entities by predicate offence type: 2018 – 2023

Offence	RISK RATING	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Corruption/ Bribery	Medium	1	-	1	-	-		2
Human Trafficking	Very High	-	2	-	-	-		2
Drug Trafficking	Very High	1	-	-	-	-		1
Robbery/ Theft	Medium	-	-	1	-	1	1	3
ML (self)		-	24	9	5	6	15	59

Fraud	Very High	8	23	22	17	14	14	98
Tax Crimes (domestic)	High	-	1	-	-	-		1
Professional ML	High	44	9	1	-	-		54
Forgery	Medium	-	-	1	-	1	1	3
Trafficking in illegal arms	High	-	-	-	-	1		1
TF	Medium						2	2
Total		55	59	35	22	23	33	226

202. Over the period, the suspected predicate offences identified in the SARs received by the AFIU were concentrated in a few areas, namely fraud, professional ML and ML. SARs concerning fraud is consistent with Anguilla's risk profile. Fraud was identified as a high threat ML offence in the 2020 ML/TF NRA. Anguilla classifies all SARs from Corporate Service Providers (CSPs) and that related to an Anguillan-registered legal person as pertaining to professional ML given the gatekeeper role of these entities. Given that Anguilla does a relatively large amount of company formation business, the number of SARs associated with the sector is consistent with Anguilla's risk profile.
203. While human, drug and illicit arms trafficking were all identified as inherently high-risk for ML, there were very few SARs associated with these offences., The authorities provided information which informed the NRA ratings. Concerning human trafficking, the NRA worksheets noted that this is an emerging threat and the industry sectors most affected (Banks/MSBs) may not have the capacity to identify the risk associated with human trafficking which may explain why no SARs have been received that are conclusively linked to this offence. Information do not point to a significant ML threat from drug and illicit arms trafficking. The inherent ML risk rating was heavily influenced by the inherent vulnerability of Anguilla given the many unsecured borders. The low number of SARs associated with these activities were considered minor.
204. The analysis of a SAR may include request for financial intelligence and other information from foreign FIUs and domestics REs, LEAs and CAs. Completion of that analysis may result in a spontaneous dissemination to domestic and/or international CAs or filing for intelligence purposes. In both instances, feedback is provided to the reporting entity. As shown in Table 3.4 above, there were forty-three (43) spontaneous disseminations were made to local competent authorities which provided intelligence on subjects that were either under investigation or being probed for further investigation.
205. The assessors reviewed numerous samples of the AFIU's operational analysis reports and found that they were of a consistently high quality. The reports demonstrated that financial and other relevant information were accessed and effectively used in the analysis. The reports provided clear direction for its users and contained information pertaining to the financial profile of the subject, the suspected predicate offence and financial flows.
206. Table 3.6 reflects a sharp and general drop in SARs during the period 2020-2022 which is attributed to the effects of the COVID-19 pandemic. The effects are mirrored in Table 3. which identifies the LEAs and CAs that received AFIU disclosures.

TABLE 3.8: Spontaneous disclosures to LEAs and other CAs

Offence	2018	2019	2020	2021	2022	2023	Total
---------	------	------	------	------	------	------	-------

FIU-Investigations Division	1	3	1	4	6	3	18
RAPF	1	2	2	2	3	2	12
Customs Department	1	2	0	1	1	1	6
AASPA					1	1	2
FSC					1		1
Land and Surveys		2					2
ACORN		1					1
Totals	3	10	3	7	12	7	42

207. The AFIU disseminated a total of 42 spontaneous disclosures to LEAs and other CAs over the assessment period. The FIU_ID received 43% of these disclosures, the RAPF 29%, and the Customs Department 14%. Other competent authorities that received disclosures include Land & Survey, ACORN/CRES and AFSC. The majority of spontaneous disclosures were in relation to higher risk predicate offences such as fraud and suspicions of ML itself.
208. Of the reports received by the FIU-ID, 35% (14) triggered a ML investigation. The assessors considered this to be a high rate of investigations attesting to the quality of AFIU's analysis. The FIU-ID indicated that the AFIU's analysis supported their operational needs. No similar information was provided relative to the RAPF and Customs Department concerning what use was made of the disclosures received which amounts to 43% of the AFIU's disclosures. While the RAPF and the Customs Department indicated that the AFIU's analysis is robust, adds value to their work and supports their operational needs, the assessment team is unable to corroborate this as insufficient information on the commencement of criminal investigations or how to ongoing investigations are assisted by the AFIU's analysis and disseminations was provided. While the AFIU is the premier LEA for the investigation of ML/TF and other serious financial crimes, these LEAs are still a major part of the AML/CFT framework. This deficiency therefore represents a major shortcoming.
209. To ensure that the AFIU's analysis supports the operational needs of competent authorities, the AFIU takes the following steps:
- (a) the FIU-Intelligence Division seeks to respond to LEA's requests for information within the shortest possible time. Incoming requests are reviewed by the AFIU's Director to determine the priority to be assigned. High risk matters identified in the NRA and matters pertaining to higher risk jurisdictions are assigned a higher priority. The assessors reviewed a few completed case files provided by the AFIU which demonstrated that responses are timely and comprehensive. However, based on the quantitative information provided to the assessment team, a significant number of responses to domestic requests for intelligence took 2 months and more some than six months. The case study provided at Box 3.1 also demonstrates the length of time taken to respond to domestic requests, in that case it took approximately 2 months to disseminate a response to the FIU-ID. As asserted by AFIU this is attributed to staff shortages. Given the extent of analysis required to support investigations, the number of reports and requests received, the length of time taken to provide a response to requesting agencies taken together with the fact that the matters engaging the attention of the analysts are not of a complex nature, these factors are indicative that there is a need for additional analysts. Additionally, the effect of this



apparent staff shortage may be exacerbated by the new responsibilities of the AFIU with respect to the supervision of reporting entities' compliance with TFS.

(b) The FIU – Intelligence Division meets periodically, formally and informally with the officers of the FIU – Investigations Division. On such occasions, the AFIU's analysts obtain feedback on the usefulness of their reports and ways the Intelligence Division can better support the Investigations Division. The AFIU provided the assessors with minutes of the formal meetings held over the period 2021 - 2023.

TABLE 3.9: Breakdown of Spontaneous Disseminations to Competent Authorities by Predicate Offence : 2018 – 2023²¹

Offence	2018	2019	2020	2021	2022	2023	Total
Human Trafficking	-	2	2	-	-		4
Drug Trafficking	1	-	-	-	-		1
Robbery/ Theft	-	-	-	1	2	2	5
ML	1	5	-	-	5		11
Fraud	-	1	1	5	5	2	14
Tax Crimes (domestic)	-	-	-	1	-		1
Murder	1	-	-	-	-		1
Failure to declare	-	1	-	-	-		1
Forgery						1	1
Total	3	9	3	7	12	5	39

210. Table 3.9 above categorizes the operational reports according to the suspected predicate offence. These disseminations by the FIU - Intelligence Division is moderately in line with the high ML threat offences identified in the NRA. There were no TF-related disseminations which is consistent with Anguilla's risk profile.

211. The AFIU's operational analysis has also led to investigations and prosecutions in numerous ML cases (52 investigations and 15 prosecutions) which were reviewed by the assessors, some of which are referenced throughout the report (See Box 3.1 and Box 3.2). Whilst it is clear that many cases benefitted from financial and relevant information obtained and analysed by the AFIU, authorities also advised that investigations were initiated as a result of the AFIU's analysis of SARs. This however, this was not demonstrated.

212. The FIU-ID has been able to utilize reports received from the FIU-Intelligence Division to obtain cash forfeitures and prosecutions during the review period. As it relates to other CAs, the assessment team observed that there is a general consensus that the AFIU produces high quality information that is useful in their respective investigations. The following case study (Box 3.6) demonstrates how the FIU-ID uses spontaneous disclosures from the AFIU to support its operations.

²¹ Data up to July 7th 2023

Box 3.5 Use of Dissemination to support FIU-ID's Operations

In 2019 the FIU-ID received Spontaneous Dissemination relating to suspected ML. The information provided in the report bolstered information and evidence already held in respect of the subject and aided in obtaining a letter of request in respect of evidence from the USA to aid in a cash seizure investigation against the subject. A forfeiture order was obtained for £10,420.00 and \$4,152.50.

Source: Anguillan Authorities

Strategic Analysis

213. The AFIU also conducts strategic analysis of the SARs received. In so doing the AFIU have identified trends and patterns in crimes being committed. These trends and patterns are packaged into strategic analysis reports, typology reports or advisories. Over the period, the AFIU produced two typology reports (Forgery through the use of Stolen/Lost Debit Cards, The prevalence and impact of Nigerian 419 type Scams committed against persons in Anguilla and an Analysis on terrorist financing in Anguilla) and numerous advisories to private sector and the general public. These reports are distributed to the reporting entities and competent authorities and uploaded to AFIU's website. An example of such a report is the strategic analysis report titled 'The prevalence and impact of Nigerian 419 Types scams committed against persons in Anguilla' which was published on 26 April 2021. The report was disseminated to the FIs, MSBs and DNFBPs as well as uploaded to the AFIU's website for view by the general diaspora. The document covered information on the offence, key findings from the analysis, the impact of the offence, methods used, actions taken, how to protect oneself and how to make a report. This included indicators of scams. In 2022, the AFIU compiled an analysis on "forgery through the use of stolen or lost debit cards". The analysis sought to examine the emerging threat, how it is conducted, tips to prevent the fraud, and provided indicators of the fraud.
214. The FIU-Intelligence Division also provides actionable intelligence to the AFSC, the Land and Survey Department, and the Ministry of Finance with respect to Anguilla's Residency by Investment programme. The assessors were provided with completed case files evidencing the various requests for due diligence checks by the aforementioned authorities, the nature of the request and demonstrating the extent of the analysis and usefulness of the reports produced. Based on the information identified in typologies and trends given by the AFIU, the AFSC has provided additional training in these areas to their staff in the detection of the identified trends and typologies through certain supervisory tools. The AFSC has also sensitized its licensees to the emerging trends and typologies identified by the AFIU. The Commission has published investor alerts on its website.
215. The AFSC has also shared the AFIU issued guidance in relation to the completion of SARs with its licensees via its website and via direct email. This is to further help the AFSC's licensees to meet their AML/CFT obligations.



216. As an outreach initiative, the AFIU issues advisories to the reporting entities and in some instances, information is extended to the general public. Advisories are disseminated to reporting entities via email as well as posted on the AFIU's website. Additionally, the AFIU utilizes the Government of Anguilla's electronic notification system located in two of its high traffic areas; Anguilla General Post Office and the IRD, to create awareness of AML/CFT matters including high risk offences, trending crimes and matters of public interest. During the period August 2018 to July 7, 2023, the AFIU issued 22 advisories consisting of alerts on various types of financial scams and frauds, tips to avoid such crimes and potential indicators of PF.
217. Training is provided to staff of the AFIU relevant to their individual roles and function. This training covers a wide range of AML/CFT topics including but not limited to: Use of Investigation Toolkits and Financial Analysis Toolbar, Corporate Vehicles and Financial Products, Operational Analysis, Trade Based Money Laundering, Cross boarder transportation of Cash, Virtual Assets Analysis and Money Laundering. This training positively impacts the staff's ability to provide quality products.
218. LEAs and other CAs in receipt of dissemination from the AFIU agreed that the AFIU's products provide necessary support to their operational needs however specific examples were not provided by agencies other than the FIU-ID. Given that the FIU-ID is the primary recipient of SARs, the weight applied to the lack of qualitative information obtained from other CAs is minimal.
219. The case examples related to ML investigations and prosecutions, identification and recovery of assets, domestic cooperation and coordination, international cooperation that are referenced throughout the report (see IOs 2,7, and 8), along with the case examples that were provided to and reviewed by the assessors but not referenced in the report, were taken into consideration by the assessors, and demonstrated the importance of the AFIU's operational analysis to competent authorities. These cases assisted the assessors in forming the basis and arriving at the conclusion that the AFIU's analysis supports, to a large extent, the operational needs of LEAs. The assessors' findings were also supported by the documented feedback provided by the LEAs to the AFIU and reviewed by the assessors.

3.2.4. Cooperation and exchange of information/financial intelligence

220. Joint investigations teams (JIT) can be formed pursuant to section 19(1)(b) of the FIU Act, 2020 and its amendments. JITs are formed on a case-by-case basis. Additionally, Anguilla has established a joint intelligence working group (JIWG) which consist of the AFIU, RAPF, Immigration Department and Customs Department. The JIWG was recently established, only seven (7) months prior, in November 2022. The purpose of the JIWG is to facilitate the sharing of criminal intelligence, co-ordination of operational activity and joint partnership working, with emphasis on addressing AML/CFT and PF issues. This working group is intended to aid in the detection, identification, assessment and neutralization of threats or risk to the jurisdiction. Despite its recent formation, the JIWG has had success in coordinating an investigation. Authorities provided an example of a case supported by the JIWG. The case at Box 3.7 in IO7 demonstrates effective co-operation and exchange of information among LEAs in Anguilla. However, while this is noteworthy and an encouraging result, the amount

of evidence at this stage is very limited and insufficient to demonstrate conclusively that such co-operation is characteristic of the JIWG.

221. The AFIU has direct access to the IRD via the SIGTAS and MTS platforms and conducts unfettered searches relative to the database. Table 3.11 below details the number of times SIGTAS was accessed to retrieve information.

Table 3.11. SIGTAS and MTS Requests: 2020 – June 2023

2018	2019	2020	2021	2022	2023
69	60	56	44	40	39

222. The SIGTAS and MTS platforms are accessed during the analysis of case files submitted to the intelligence Division. Searches are conducted on both individuals and businesses. The AFIU uses the SIGTAS and MTS systems as an alternative means of identifying individuals and obtaining any available tax related information. Searches are conducted to obtain information relative to driver licenses, motor vehicles registration, vendor/merchant or profession licenses issued in the name of an individual. Information gathered from the platform also includes any enterprises linked to an individual, valid business licenses and payment history or any default therein. In seeking such information, the AFIU has accessed the SIGTAS and MTS databases three hundred and seven times over the period 2018 – June 30, 2023. In rare occasions the AFIU will seek information via written correspondence to IRD. However, in the development of case files for evidentiary purposes, the FIU-Investigations Division has also sought information from the IRD.

Table 3.12. Requests to IRD: 2020 – June 2023

	2020	2021	2022	2023
FIU Intelligence Division	1	-	-	-
FIU Investigations Division	1	-	5	6

223. The AFIU has MOUs with the Immigration Department, IRD, Customs Department and AFSC, which provide for co-operation and exchange of information between signatories. The RAPF and the AGC are parties to the “Serious Crimes Protocol Between the Commissioner of Police and the Attorney General Regarding Criminal Prosecutions that Involve Serious Crimes”. This Policy serves as a general guide to the co-operation between the parties.
224. The IRD, Customs Department, RAPF and AGC face no impediments to obtaining information from the AFIU, and as such that information is readily accessible when needed. The LEAs often request information from the AFIU to support their investigations as demonstrated in table 3.1. In addition to providing information, the AFIU also provides feedback that may assist in ongoing and future investigations. The AGC has demonstrated that guidance is provided to the AFIU and RAPF in the development of their respective investigations. There is a high level of cooperation among the AFIU and other LEAs.
225. The AFIU uses computer systems and servers supplied by the Government’s Department of Information Technology and E-Government Services (D.I.T.E.S). These computer systems run the Microsoft Windows 10 and the servers are Microsoft 365 servers which are maintained and updated on a regular basis. To facilitate the exchange of information and correspondence the AFIU uses the government’s portal via Office 365 which issues 365 E3 licenses in addition to the built-in O365 cloud security features such as multifactor



authentication. Additionally, the AFIU ensures that all documents shared with competent authorities are password encrypted with a unique password created and issued by the AFIU. Passwords are communicated face to face or via telephone communication to the department's contact person.

Overall conclusions on IO.6

226. The AFIU is the main conduit of financial intelligence and other relevant information in Anguilla. Financial intelligence and other relevant information are obtained from a wide range of sources. SARs received are generally of good quality as a result of feedback and training provided by the FIU. However, SARs are inadequately filed by TSPs and lawyers, both classified as very high-risk in the NRA. Assessors considered these deficiencies as major shortcomings on account of the risk, the important role of lawyers as the gatekeepers to the financial system and the limitation it creates on the AFIU's ability to obtain information that may lead to the identification of ML cases. Additionally, assessors are concerned about the quality and quantity of financial intelligence being obtained from the currency declaration system given its limited implementation and in the context of cross-border cash transportation being identified as a high-risk ML activity. Notwithstanding the high risk associated with cross-border cash transportation, this was assessed as a moderate deficiency considering that financial intelligence and other relevant information are being captured to some extent. It is not the case that a currency declaration system is non-existent.
227. Through the AFIU's analytical process, financial and other relevant information is analysed and converted into high quality intelligence. The FIU-ID is designated with responsibility for investigating ML/TF and other serious financial crimes. Through the submission of qualitative and quantitative data, the assessment team found that AFIU's intelligence is routinely used by the FIU-ID to, inter alia, investigate ML offences and associated predicate offences and supports its operational needs.
228. Apart from the AFIU-ID, there is little evidence that financial intelligence and relevant information is being used by the RAPF and Customs Department. Anguilla's inability to demonstrate how these agencies use financial intelligence in their respective investigations of associated predicate offences is assessed as a major deficiency.
229. Anguilla demonstrated that the analysts within the AFIU are adequately trained however there may be a need for additional analysts due to the length of time taken for the AFIU to respond to requests pertaining to matters that are not complex.
230. For the above-mentioned reasons the AT determined that IO.6 is achieved to a moderate extent with major improvements needed.

Anguilla is rated as having a Moderate level of effectiveness for IO.6.

3.3. Immediate Outcome 7 (ML investigation and prosecution)

3.3.1. ML identification and investigation

231. Anguilla has criminalised the offence of ML in line with the Vienna and Palermo convention (see analysis in R.3) Anguilla has an established legal and institutional framework that grant responsibilities and powers to LEAs to identify and conduct ML investigations, despite the existence of minor deficiencies (see R. 30 and 31). Anguilla assessed the overall ML threat as Medium in the 2020 NRA. Potential ML cases can be identified through the FIU-Intelligence Division upon the receipt of SARs, requests for intelligence made by foreign LEAs/FIUs, MLA requests, direct reports from a complainant or referral from other LEAs. A total of 52 ML cases were identified during the period. Direct reports to the AFIU are the leading source of ML cases in Anguilla.
232. The AFIU is the primary LEA for the investigation of serious financial crimes and ML (pursuant to FIU Act, 2020). Notwithstanding that the RAPF is responsible for the investigation of all offences (s.3, 20 Anguilla Police Act), it is the policy as denoted in the AFIU Policy for the investigation of Financial Crimes, ML, TF and PF offences and also the practice for the FIU- Investigations Division to take the lead with respect to ML, other serious financial crime²² investigations as well as cash seizure and other civil recovery investigations. In May 2022, the AFIU formalized this long-held practice by the introduction of this policy which also promotes the pursuit of ML investigations. Among other things, the policy addressed the referral of matters to the AFIU and the prioritization of financial investigations. The policy seeks to ensure that financial investigations become the cornerstone of all major proceeds generating cases. This policy is in accordance with the FIU-ID's strategic plan which underlines the commitment and prioritization of conducting ML investigations and asset recovery measures.
233. During the course of an investigation into predicate offences by the RAPF, suspected ML offences are reported to the AFIU for investigation. However, this occurred rather infrequently and insufficiently. Considering the role of the RAPF within the framework coupled with the importance of parallel financial investigations in identifying ML matters, it is expected that there would be a higher number of referrals from the RAPF to the AFIU. However, the vast majority of matters investigated by the RAPF are classified as petty crimes that may not warrant referral to the AFIU. The Customs Department has the responsibility for the investigation and prosecution of customs-related offences. Similarly, the IRD is responsible for investigating tax-related offences. The policy is for predicate offences investigated by the CD and IRD which disclose suspected ML offences to be referred to the AFIU. The information provided to the assessors also demonstrated that such instances seldom occurred. While the weight given to this lack of ML identification by the IRD was less important, given the relatively low risk of domestic tax crimes in Anguilla, this was not

²² Serious financial crimes mean any financial crime where the money or benefit exceeds the threshold of US\$10,000.00 or XCD27,000.00.

the case for the Customs Department. Anguilla's NRA attributed a higher risk of ML through the cross-border transportation of currency from a range of high-risk offences. However, no potential ML cases were identified by the Customs Department and referred to the FIU-ID. The limited implementation of the cross-border regime is considered more in IO.8. In terms of ML investigations, these were conducted strictly by the FIU-ID, in keeping with Anguilla's policy on ML investigations.

234. . All financial investigators have been trained in the conduct of ML investigations. Anguilla has demonstrated that continuous training is undertaken by financial investigators. Basic financial investigation training is provided to all new officers upon joining the AFIU. Evidence of the specialist training in Financial Investigations, Civil Recovery, Tax crimes investigations, VA investigations, and Trade-base ML were presented to the assessors. FIU-ID investigators can identify ML and utilizes financial intelligence and other information to a reasonable extent to assist in the detection and progression of ML investigations (See IO. 6). While ML training acquired by officers are not specific to the investigation of legal persons, there were elements of the use of various investigation techniques for the investigation of natural and legal person.
235. The FIU-ID's investigation of ML matters is prioritised through scheduled weekly financial investigation meetings between investigators within the FIU-ID. Additionally, there are daily investigative meetings to discuss the progress of matters and actions to be taken. There are also regular meetings with the Senior Crown Counsel (SCC) involved in ML matters at AGC.

Table 3.13 – How potential ML cases were identified by the AFIU between 2018 – 2023 (up to 7/7/23)

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Referred from the Royal Anguilla Police Force	-	3	1	1	1	0	6
Spontaneous Reports disseminated from the FIU - Intelligence Division	2	1	1	-	4		8
Direct Report	6	4	6	7	11	4	38
Total	8	8	8	8	16	4	

236. Table (3.13) above shows a breakdown of how reports of potential ML cases were identified during the review period. Eight (8) potential ML cases (15%) originated from operational analysis disseminations from the FIU- Intelligence Division, six (6) cases (12%) referred from the RAPF and includes parallel investigations and (38) cases (73%) from direct reports to the AFIU. Given the AFIU's role and reputation as the premier authority for the investigation of serious financial crimes, it is unsurprising that some potential ML cases would come from direct reporting from the public. However, the disparity in the number of direct reports as compared to referrals from the RAPF and spontaneous dissemination is atypical. Based on adopted MERs, typically, the main sources for opening investigations are disseminations from the FIU and investigations into predicate offences. The RAPF engaged in the investigation of 476 predicate offences, predominately involving petty theft, which may provide an explanation for the low levels of referrals. Petty crimes may not warrant referrals to the AFIU due to its trivial nature. While parallel investigations are being conducted by the



AFIU, it is done to an insufficient extent. Of the 52 ML investigations conducted by the AFIU, 32 parallel investigations were also conducted internally (meaning that the AFIU conducted both the ML investigation and the parallel financial investigation). The lack of referrals, particularly from the Customs Department and to a lesser extent the RAPF also limited the opportunities to conduct parallel investigations. The lack of training for LEAs discussed below may have contributed to the low number of referrals by the RAPF. Over the review period the FIU-Intelligence Division analysed 221 SARs, resulting in only eight (8) spontaneous reports to the FIU-ID for investigation. Considering the number of SARs analysed, the number of corresponding reports sent to the FIU-ID is comparatively low. ML charges and subsequent convictions resulted from two (2) spontaneous disclosures and two (2) are still under investigation. The FIU-ID also investigated and proffered ML charges in a further 11 cases emanating from direct reports. In total the FIU-ID obtained ML convictions in five (5) cases.

237. Out of the 36 spontaneous disclosures made by the FIU-Intelligence Division over the assessment period, the RAPF received 11 spontaneous disclosures (31%). While the financial intelligence contained within the reports informed the RAPF's the Daily Management Meetings (DMM) Taskings (See Section 3.2.1) and was used to conduct targeted strategic operations against the subjects and suspected predicate offences, the assessment team was not provided with conclusive information on the use of these reports by the RAPF to initiate ML or predicate offence investigations. No investigative orders emanated from the receipt of these 11 spontaneous disclosures received by the RAPF. The case study below demonstrates the extent to which the FIU-ID investigates and prioritizes high-risk crime (gambling) and associated ML offences.

Box 3.6. Identification and investigation of ML matter.

The FIU-ID received a spontaneous disclosure on a subject relative to possible ML and illegal gambling and subsequently received information from IRD. A joint investigation was initiated with the IRD into the alleged gambling (illegal lottery) activities being undertaken by various persons across the island.

As a result of the investigation, the locations of the illegal gambling operations were identified. Two females were discovered at two separate locations. It was revealed that the subjects were facilitating the operation of an illegal lottery from both locations. The FIU-ID utilized powers of search under section 346 of the Criminal Code to initiate action. The FIU-ID also obtained assistance from the RAPF in conducting the operation. As a result, searches were conducted at both locations and the two females were arrested and charged with gambling and money laundering offences. Additionally, the FIU-ID sought financial intelligence from the FIU in relation the proceeds of the illegal lottery. The information correlates with the fact that the two individuals being nationals of the Dominican Republic did not utilize the financial system within the jurisdiction. Thus, no other proceeds of the illegal lottery were identified as it relates to the two females.

Offender 1 entered guilty plea at the Magistrate Court to all five (5) charges proffered against her which included a money laundering charge, possession of criminal property. She was fined XCDEC\$2,000 to be paid by the 28th of February 2022 or 3 months imprisonment. Cash in the sum

of XCD2703.44 was forfeited. Additionally, she was fined XCD500. to be paid by 9th December 2021 or one month in imprisonment. She was reprimanded and discharged on the three other counts.

Offender 2 entered a guilty plea on four (4) of the charges proffered against her. A money laundering charge, possession of criminal property was proffered to which she was fined XCD2,000) to be paid by the 28th of February 2022 or 3 months imprisonment. Cash in the sum of XCD10,001.19) was forfeited. Additionally, she was fined XCD500 to be paid by 9th December 2021 or one month in imprisonment. She was reprimanded and discharged on the two other counts. The offender entered a not guilty plea on the charge of holding a lottery without permission (section 3 (a)) of the Public Lotteries Tax Act revised statutes of Anguilla Chapter 135, no evidence was offered for this offence.

Source: Anguillan Authorities

238. A spontaneous disclosure, upon receipt by the FIU-ID, is reviewed by the Director and Deputy Director and the assigned investigator with a view towards identifying whether there are reasonable grounds which show that a person has engaged in the ML. This process includes the use of financial intelligence or information from the FIU-Intelligence Division. An intelligence request will be made by investigator via the appropriate request form. The request for intelligence will seek to identify and trace criminal proceeds, as well as provide financial information which can then be used to further the investigation into the subject. Cases relating to the NRA identified higher-risk ML offences such as fraud and drug trafficking, and cash seizures are prioritized. FIU-ID investigators meet weekly with the AFIU's Deputy Director and bi-weekly with the AGC to guide the investigation process. Minutes of said meeting were provided to the assessment team.
239. Out of the 52 investigations conducted by the FIU-ID into suspected criminal offences, 29% (15) of these investigations resulted in ML prosecutions, while roughly another 29% are still being investigated. Of the remaining investigations, 37% were closed without prosecution and 12% is still pending at the Courts.

Table 3.14 – Breakdown of the status of investigations conducted by the FIU-ID

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Investigations	8	8	8	8	16	4	52
Matters brought to Prosecution	3	4	3	3	1	1*	15
Matters still being investigated	-	1	1	-	12	1	15
Matter closed with ml conviction	1	2	-	3	-		6
Matter closed with predicate offence conviction	2	1	-	-	1		4
Closed no prosecution	5	3	4	4	2	1	19
Matters still pending at Court	-	1	2	1	2	1	7



240. The AFIU has demonstrated that it makes appropriate use of financial investigative tools provided within Anguilla's legislative framework for the investigation of financial crimes. Table 3.15 below outlines the tools used by the FIU-ID to further develop investigations.

Table 3.15. Use of investigative tools

Investigative Order	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Search warrants	2	1	5	3	6	4	21
Production orders	-	3	10	3	4	-	20
MLA/LOR	4	6	-	1	1	2	14

241. Given that the AFIU conducted 52 investigations during the review period, the comparative use of search warrants, production orders and MLA/LOR was found to be reasonable. Each investigation by the AFIU benefitted from the use of at least one of the identified investigative tools.
242. While a wide range of AML/CFT training is provided for the AFIU, training for the RAPF, Customs, Immigration and IRD are limited. Anguilla has two (2) Magistrates and one (1) Judge who have also received limited training in the area of AML/CFT. Granted that AFIU investigates all ML cases and one of the sources of ML cases are referrals to the AFIU by other LEAs, the lack of training for LEAs may directly affect their ability to identify potential ML cases.
243. The lack of implementation of an efficient cross-border declaration system as discussed in IO 6 and below in IO 8 has a cascading impact on authorities' ability to identify and investigate potential ML cases. The lack of records pertaining to the cross-border movement of currency may restrict the Customs Department and AFIU's ability to identify potential ML cases that originate or are linked to cross border movement of currency.
244. As identified in IO6 the lack of SARs received from high ML risk sectors such as Lawyers, CSPs and TSPs also limits Anguilla's ability to identify and subsequently investigate potential ML cases.
245. The RAPF made 237 drug seizures over the period 2018 – June 30, 2023. The seizures were of Cannabis (66.5Kgs) valued at XCD715,977.69 (USD264,926.71) and Cocaine (2000Kgs) valued at XCD 164,856,238.20 (USD 61,000,253.63). Geographically, Anguilla is situated in close proximity to Sint Martin (an overseas Collectivity of France) and Sint Maarten (a constituent country of the Kingdom of the Netherlands) hereby making it susceptible to traffickers who wishes to move narcotics into Europe via Sint Maarten. Anguilla identified drug trafficking in the 2020 NRA as having an inherently high ML risk on account of vulnerabilities linked to the porous borders. Table 3.16 details the quantities and values of Cannabis and Cocaine seized by the RAPF. There is an absence of ML investigations being identified and investigated for these high ML risk cases. Furthermore, there are three parallel financial investigations associated with . Despite the absence of significant drug seizures (particularly Cocaine) in 2020 and 2021, the threat of similarly large transshipments persists as does the NRA identified vulnerability. Furthermore, there were only three parallel investigations conducted by the AFIU associated with drug trafficking. Given the high risk of drug trafficking and the number of drug seizures effected, the number of parallel

investigations associated with drug trafficking is relatively low. Moreover, parallel investigations associated with high-risk offences like Human Trafficking, Professional Money Laundering, Gambling, Sexual Exploitation and Trafficking of Illegal Arms are minimal to nil. While there were a reasonable number of parallel investigations into Fraud, more parallel investigations are expected from other high-risk offences. This may be attributed to the low number of referrals made to the AFIU by other LEAs.

Table 3.16 – Drug seizures

Substance	2018	2019	2020	2021	2022	2023
Cannabis	31.6Kgs	4.2Kgs	6.5Kgs	9.6Kgs	12.7Kgs	1.7Kgs
	XCD85,314	XCD112,946	XCD176,981	XCD259,796	XCD34,523.02	XCD46,415
Cocaine	89Kgs	.025Kgs	.049	-	-	1,945.6Kgs
	XCD7,256,538	XCD2,097	XCD4,001.4	-	-	XCD157,593,600

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

246. The assessors found that ML investigations and prosecutions are partially in line with Anguilla’s ML risk profile as identified by the NRA and National AML/CFT Policy. While the ML investigations and prosecutions largely relate to medium to very high-risk offences, the number of investigations and prosecutions into theft are higher than the very high and high-risk offences although it is rated as a medium ML risk. Similarly, there is a lack of ML investigations associated with drug trafficking offences and human trafficking which was assessed by Anguilla as posing a Very High ML risk. The investigations into Fraud and Gambling are relatively consistent with the Anguilla’s ML risk as identified by the NRA.
247. Based on Anguilla’s NRA, Human Trafficking, Fraud, Sexual Exploitation and Trafficking of Illegal Substances were rated as Very High ML Threats. Professional Money Laundering, Gambling, Tax Crimes, Trafficking of Illegal Arms were rated “High”. During the review period the FIU-ID conducted one (1) investigation into Human Trafficking with no prosecutions. There were fifteen (15) investigations conducted into fraud by the FIU-ID resulting in two (2) ML prosecutions, ten (10) investigations into the offence of theft, which was rated Medium ML threat, resulting in four (4) ML prosecutions and six (6) investigations into illegal gambling that resulted in three (3) ML prosecutions. While the investigations and prosecutions into the offences of Fraud and Gambling are commensurate with the country’s threats and risk profile, associated ML investigations relative to high-risk offences like drug trafficking and human trafficking do not reflect a similar trend. Additionally, according to Anguilla’s NRA, theft and robbery has a medium ML threat rating yet this category of offence resulted in a relatively high number ML investigations and prosecutions during the period.
248. Given the high ML risk associated with drug trafficking and human trafficking, the corresponding number of investigations and prosecutions does not reflect any consistency with Anguilla’s risk profile. The high-risk offence of Fraud accounted for the most investigations during the period, which is commensurate with the risk, however the number of ML prosecutions arising from fraud is comparatively low and is not a reflection of the risk associated with Fraud. Also, considering Anguilla’s risk and context, particularly the large



number of registered companies and the number of financial intelligence disseminated abroad, the fact that there are no investigations and prosecutions associated with the high risk offence of professional ML is not consistent with Anguilla's risk profile. The case study below is an example of ML investigation, prosecution and seizure in line with the high-risk offence of gambling. Additionally, the case demonstrates the extent to which the FIU – ID cooperates and coordinates with other CAs and LEAs to prioritize high-risk offences.

249. Anguilla's NRA accounted for the period 2014-2019. Statistics concerning investigations conducted by the RAPF were provided by Anguilla for the period 2018- 2023. The assessment team observed that during the period 2020 up to the last day of the on-site there were no investigations into tax crimes, sexual exploitation, human trafficking, professional money laundering. Additionally, there were minimal investigations into illicit trafficking of controlled substances and illicit trafficking of illegal arms which were all rated either "very high" or "high" in Anguilla's risk assessment. The type of offences reported and investigated shows an apparent shift in the actual threat and risk profile and may provide an explanation as to why ML investigations and prosecutions are not in line with Anguilla's NRA.

Box 3.7. Example of ML investigation, prosecution and seizure in line with High-risk offence of Gambling.

A lottery company in Anguilla reported to the RAPF that a female came to the establishment and presented a ticket, claiming winnings from a lottery. However, on examination, the ticket was not purchased from a local lottery company. It was suspected that the ticket was bought at an illegal lottery outlet. Further information revealed that the ticket was purchased at an illegal lottery, which is also a bar operated by Spanish nationals, at a known location.

The information was shared at the JIWG forum for the coordination of resources to conduct an operation. Additional information was received regarding other illegal lottery outlets. Officers from the AFIU and RAPF conducted surveillance on locations to obtain peak days and times.

A joint task force comprising members of the AFIU, Customs Department, and the RAPF executed a search warrant on the illegal lottery outlet in question. Customs Canine with currency search capabilities was also used. Three Spanish nationals were arrested. Cash amounting to US\$7,577.02 was found. Cash seizure proceedings were initiated.

One female and male were charged with the following offences: 1. Possession of Criminal property contrary to section 127(1) (c) of the Proceeds of Crime Act, Revised Statutes of Anguilla, Chapter P98. 2. Carrying on a business without a licence, contrary to section 16 (b) of Trades, Businesses, Occupations and Professions Licensing Act, Revised Statutes of Anguilla, Chapter T40. 3. Gambling Contrary to section 346 (1) of the Criminal Code Revised Statutes of Anguilla Chapter C140. 4. Holding a public lottery without the written permission of the Governor in Council, Contrary to section 2 (3) (a) of the Public Lotteries Tax Act, Revised Statutes of Anguilla, Chapter P135. The subjects were granted bail.

The matter is still pending in court.

Source: Anguillian Authorities

250. Anguilla's National AML/CFT Policy identified five strategic objectives informed by their NRA. One of the objectives is improving the effectiveness of predicate offences, ML/TF Investigations and Prosecutions in Anguilla. Although this policy is dated November 2022, Anguilla has taken steps in accordance with their action plan to meet this objective. These include establishing joint intelligence units and improving cooperation and coordination between the AFIU and RAPF. There has been some increase in the number of investigations associated with "medium" to "very high" ML risk rating, which supports the AFIU's assertion that there is a focus on combatting high-risk activities. However, the increase is only marginal and is only accounted for during the period 2021-2022. There was no corresponding increase in prosecution during that year. Given the findings of the assessment team, it cannot be said conclusively that Anguilla has met this objective of its National AML/CFT Policy
251. The AGC has the constitutional responsibility for all criminal proceedings in Anguilla. The SCC is the assigned prosecutor with expertise in the prosecution financial crimes, including ML and asset recovery. Additionally, where matters are allocated to be tried summarily through the RAPF prosecution department, the matter is assigned to a dedicated Police prosecutor who has expertise in the investigation and prosecution of ML matters. This Police prosecutor is very experienced in the investigation and prosecution of ML and was a member of the AFIU for over nine years. The RAPF Prosecution Department is responsible for the prosecution of matters in the Magistrates Court, while the AGC has the responsibility for prosecution in the High Court and certain matters in the Magistrates Court. The AGC, however, has the authority to prosecute all criminal matters in Anguilla.
252. Due to the increased focus in combatting high-risk activities by the AFIU and the AGC has prioritised dealing with financial crimes and connected matters. Consequently, the AGC regularly provides guidance to the AFIU to assist in the progression of their investigations.

3.3.3. *Types of ML cases pursued.*

253. The ML cases investigated and during the review period were mostly the self-laundering of illicit proceeds based on predicate offences. The majority of the ML investigated related to Fraud, Theft/Robbery and illegal gambling. One (1) standalone ML case was pursued and no third-party ML cases were prosecuted. Also, there were no prosecutions related to foreign predicate offences (See Table 3.17 below).

Table 3.17 – Types of ML prosecuted

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Total Number of Investigations	8	8	8	8	16	4	52
Total Number of Prosecutions	3	4	3	3	1	1	15
Types of ML Cases							
Stand Alone	-	-	-	1	-		1



Self-laundering of proceeds of Predicate Offence	3	4	3	2	1	1	14
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254. Anguilla has had success in converting intelligence into evidence and bringing matters to the prosecution stage. Most of the success concerns the prosecution of ML offences where there is a known predicate offence, usually theft, fraud or illegal gambling. However, Anguilla is not prosecuting complex ML matters, including third party laundering or laundering of proceeds of foreign predicate offences. Anguilla is not investigating standalone ML to a sufficient degree given the large number of SARs received classified as suspected professional ML, that is, the use of CSPs and corporate structures to launder proceeds. Based on the information provided to the assessment team, there were fifteen (15) ML cases prosecuted during the period 2018-2023²³. For the corresponding period there were six (6) ML convictions. While Anguilla has a relatively large company formation sector comprising largely of a foreign clientele there have been no ML investigations of foreign predicates or corporate entities. Furthermore, while 83% of all spontaneous disclosures were disseminated to foreign jurisdictions, no domestic investigations were initiated to pursue the suspected foreign predicate offence. According to Anguilla, this was due to the fact that the funds were remitted outside of Anguilla and the criminal actors were located in foreign jurisdictions. The assessment team placed minimal weight on this assertion by the jurisdiction considering that even though funds were remitted outside of Anguilla and the criminal actors were located in foreign jurisdictions, the circumstances mentioned in the two previous sentences coupled with the high risk associated with professional money laundering creates opportunities for the use of corporate structures to launder money, assisted by gatekeepers acting on behalf of actors located abroad.
255. Although the investigative and prosecutorial framework and policies in Anguilla are established, the ability to pursue a range of ML cases is hampered by the limited human resources available to investigate multiple cases concurrently and a lack of specific training to investigate legal persons. Given that such types of ML cases have not been pursued, the assessors were unable to determine whether the capacity to prosecute exists. Anguilla's focus on relatively less complex ML cases, as shown in Table 3.18 and discussed below, have resulted in convictions largely for the self-laundering of proceeds. This subsequently yields sanctions that are on the lower end of the spectrum.

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

256. The ML Offences created under sections 125-127 of POCA provides that a person is liable on summary conviction to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$200,000 or to both; and on conviction on indictment, to imprisonment for a term not exceeding 14 years or to a fine without limit or to both. This applies to both natural and legal persons see the analysis of criterion 3.8 for further details pertaining to sanctions.
257. Based on the information provided to assessors, in 2018 a defendant was found guilty of Possession of Criminal Property and two counts of conspiracy to commit false accounting. He was sentenced to imprisonment for one year on each count in the High Court. In 2019, a

²³ Data extends up to July 7th 2023.



defendant was also found guilty of possession of criminal property and sentenced to 1 year and 7 months, in the Magistrates Court. In 2021, fines were instituted against two defendants for EC\$2,000 each and cash was forfeited (in the Magistrates Court). These matters represent three (3) of the six (6) ML convictions obtained by Anguilla. At the time of the onsite one (1) matter which was sent to the high court of sentencing were still pending. There have been no sanctions applied against legal persons, as no legal person has been charged for ML.

258. The assessors were advised that the magistrates and judge consider a range of factors including, the proceeds involved, criminal record, nature of charge and age of defendant among other aggravating and mitigating factors when determining the appropriate sentence. Considering the sentencing powers available to the Courts in ML cases, the sentences and fines issued are comparatively low. This does not necessarily suggest that the sanctions were not effective, proportionate or dissuasive, consideration has to be given to the factors considered by the court. While the characteristics of the cases being pursued, being mainly self laundering of theft, robbery and fraud, may explain in part why convictions were on the lower end of the sentencing scale, further information, relative to the other factors considered by the court was not provided to adequately assess the effectiveness, proportionality and dissuasiveness of sanctions.

3.3.5. Use of alternative measures

259. In determining the prospect of prosecution, the AFIU will seek advice from the AGC. In cases where there is no likelihood of a ML prosecution, the AFIU has utilized other measures under the Proceeds of Crime Act which includes cash seizures, civil recovery proceedings and prosecution for an offence other than ML. During the period the AFIU commenced eleven (11) cash seizure matters in which the cumulative amount of US\$33,316.51 was seized. Of the 11 cash seizures, seven (7) forfeiture orders were obtained totalling US\$22,063.69 Anguilla also demonstrated that, in instances where an ML prosecution is not possible, consideration is given to pursue prosecution for another offence. Such was the case in a matter in 2018 whereby a charge of forgery was proffered against a female in the absence of sufficient evidence to pursue a ML prosecution.
260. One (1) civil recovery investigation was initiated in 2020 in relation to a motor vessel along with a grey dingy seized by the RAPF in 2018. The estimated value is US\$37,000 (EC\$99,463.40). The motor vessel is linked to drug trafficking offences. There was no likely conviction in relation to the seizure of the vessel and drugs. The quantity of the three (3) bales drugs seized was 62.596 kilograms of cocaine and had a retail street value of US\$6,009,216. The civil recovery proceeding is being undertaken by the AGC and at the time of the onsite was still pending. There was no use of property freezing orders in relation to the motor vessel as it was already in the possession of the RAPF. The following case study in box 3.10 demonstrates the use of other criminal justice measures when ML conviction or prosecution could not be pursued. Additionally, the AGC will utilize confiscation powers under s. 13(5) of the Drugs (Prevention of Misuse) Act with respect to the two motor vessels seized relative to drug seizure on 7/7/23. The section allows for the courts to order the forfeiture of vessels, aircraft or vehicles used for the purpose of conveying controlled drugs based on conviction of an offence under the Act.

Box 3.10. Use of other Criminal Justice Measures

A French national residing in Saint Martin and visiting Anguilla was arrested and charged in 2019 with offences linked to the theft and skimming of ATM machines across the island. The arrest was effected by the RAPF however the FIU conducted the investigation. He was subsequently charged for several offences including theft, conspiracy to commit theft and ML offences. The subject through his attorney made an application to the Magistrate Court to leave the jurisdiction and return for the trial. As such bail was set in the cash amount of fifty-three thousand seven hundred and sixty-four dollars Eastern Caribbean currency (EC\$53, 760.00). He subsequently failed to return. The sum of cash securing his bail was forfeited and cash previously seized from the defendant and used as exhibits in the matter was forfeited to the National Forfeiture Fund under the cash seizure proceedings. The offences however are still pending before the court.

Source: Anguillian Authorities

261. Given the relatively low crime rate, together with the culmination of the use of cash seizures and forfeitures, civil recovery and prosecution of alternative offences the extent to which Anguilla applies the use of c alternative measure to confiscation is reasonable.

Overall conclusions on IO.7

262. ML activities are identified and investigated by the FIU-ID to a limited extent. Potential ML cases are brought to the attention of the AFIU through referrals from other LEAs, direct reports or through the submission of SARs with direct reports accounting for 73% of cases. Minimal ML cases are identified through referrals from the RAPF and no referrals from other LEAs. Considering that the RAPF, IRD and Customs Department play a significant role in the identification and investigation of ML, the assessment team found that the training provided to them is limited and may be directly correlated to the low number of referrals. The lack of AML training for LEAs is assessed to carry a moderate weighting in this context given that referrals account for one of only three ways in which ML may be identified, the role LEAs play in the identification of ML cases, the under reliance of this method of identification and over reliance of direct reporting to the AFIU.
263. Parallel investigations were insufficiently used to identify potential ML cases. This deficiency was assessed as moderate considering that the overall ML risk is medium based on Anguilla's NRA coupled with their low rate of crime but also taking into consideration the importance of parallel financial investigations in identifying potential ML cases. The investigation and prosecution of ML is partially in line with Anguilla's threat and risk profile as identified by Anguilla's NRA and AML/CFT Policy. However, given the shift in the types of predicate offences investigated between 2020 – 2023, ML investigations and prosecutions are more reflective of those investigations investigated by the RAPF and AFIU.

264. The vast majority of ML cases pursued by Anguilla relates to the self-laundering of proceeds of predicate offences. There was only one stand-alone matter pursued and no third-party laundering or laundering of proceeds from foreign predicates. Given Anguilla's risk as identified by their NRA, particularly as it relates to the relatively large company formation sector, there is a reasonable expectation that more complex ML matters involving stand-alone, third-party laundering and laundering of proceeds of foreign predicates are pursued. The lack of investigations into foreign predicates or corporate entities was attributed to some extent, to the fact that funds were remitted outside of Anguilla and the criminal actors were located outside of the jurisdiction. Anguilla's inability to pursue a range of ML cases may also be attributed to the limited human resources available to investigate multiple cases concurrently and a lack of training to investigate legal persons.
265. Considering the sanctions available to the court for ML offences, the sanctions issued by the court during the period are comparatively low. This may be due, in part, to the fact that the cases being pursued are self-laundering cases of theft, robbery and fraud. Further information relative to the factors considered by the court in determining the appropriate sentences was not provided. In the absence of this information the penalties issued by the court cannot be assessed as being effective, proportionate and dissuasive.
266. Based on the aforementioned information the AT concluded that IO.7 is achieved to some extent with major improvements needed.

Anguilla 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*

267. Anguilla has a comprehensive legal framework for confiscation and provisional measures, as detailed under Recommendation 4, and it has been used to a moderate extent. While the freezing/seizure of the proceeds of crime is not promoted as a policy objective within Anguilla's National AML/CFT Policy, it is strongly promoted via the legislative regime and with the AFIU's department level policies, annual strategic plan and training.
268. Anguilla's legislative regime allows for a judge to decide whether the defendant has a criminal lifestyle (s.15(2), POCA). Thereafter, the court shall make certain assumptions (s.18(1) POCA) for the purposes of—(a) determining whether the defendant has benefited from his general criminal conduct; and (b) determining his benefit from the conduct. These assumptions cast a wide net targeting for confiscation any property received by the subject six (6) years prior to the date when proceedings were instituted.
269. The AFIU is the main agency that is responsible for identification and tracing of assets that may be subject to confiscation pursuant to section 6 (2) (a) of the AFIU Act and conducts criminal and civil recovery investigations. The AFIU pursues the confiscation of criminal proceeds, instrumentalities and property of equivalent value as a policy objective. The Policy for the investigation of financial crimes, ML, TF and PF offences addresses the use of



confiscation provisions. The policy prioritizes the pursuit of confiscation as an effective, proportionate and dissuasive sanction. The policy also provides that where it is not possible for criminal proceedings to be instituted, civil recovery proceedings should be instituted. All investigations are assessed to determine if confiscation measures are applicable. As discussed in IO 7, there is a lack of parallel investigations conducted by the AFIU with other LEAs responsible for the investigation of predicate offences. Considering that parallel investigations are conducted not only to identify ML but to also identify assets for confiscation, the opportunities to assess investigations are limited. The AFIU operates through several policies and procedures which provides guidelines for its confiscation procedures. The policies and procedures that governs the AFIU's confiscation activities are: AFIU's Standard operating procedures (SOPs) for the seizure of cash, AFIU/RAPF Cash Seizure prosecution, and AFIU Procedural Policy for the Investigations of Financial Crimes.

270. The AFIU pursues confiscation of criminal proceeds, instrumentalities and property of equivalent value on a case-by-case basis where a serious financial crime has been identified and assets have been traced and identified and where these assets are available for confiscation proceedings (criminal or civil). The assessment team considered the way confiscation is pursued to be a deficiency. Limiting confiscation to instances where serious financial crimes have been identified restricts the AFIU from pursuing confiscation in other instances, for example drug trafficking and other high-risk offences that fall outside the parameters of 'serious financial crimes'.
271. The AFIU's case management for all investigations provides for systematic assessment of the possibility of asset recovery mechanism to be used. There are regular investigative meetings from which cases are discussed and all investigative avenues including the pursuit of confiscation of assets. The search for property subject to seizure and ultimately confiscation often includes searches at the IRD, Land Registry, Commercial Registry, Fisheries Division, FIs and Open Sources. Additionally, the annual plan of the AFIU places the confiscation of criminal proceeds, instrumentalities and property of equivalent value as a strategic policy objective.
272. AFIU officers have been exposed to yearly training on the use of confiscation measures. Adequate tools are provided for the detection, restraint and confiscation of instrumentalities and proceeds of crime. The AFIU also addresses the management of frozen, seized and confiscated assets as a policy objective. Investigators are required to determine the most optimal enforcement option to undertake in conjunction with the AGC or the Police Prosecutor. The FIU's policy for the investigation of financial crimes, ML, TF and PF offences requires that adequate resources are allocated, and consideration given to preserving the value of the assets at the pre-seizure planning phase of the investigation. The types of measures that can be undertaken are: A) freezing orders that provide for restrictions to be placed on the use of an asset; B) seizure of the asset from the custody of the owner or possessor; C) pre-confiscation sale or disposal, in particular of perishable and depreciating assets, and preservation of the proceeds of the sale; D) interim use by law enforcement, a government agency or a third party; and E) destruction of unsafe or hazardous property. The costs of storing, safeguarding and maintaining assets seized over the long run is also evaluated. The policy also details a requirement to monitor and evaluate seized assets through inspections and site visits.

273. The legal framework in place also allows for a sound non-conviction based civil recovery regime. The Attorney General is the designated Civil Recovery Authority. Matters related to conviction-based confiscation, civil cash forfeiture and civil recovery are forwarded to the Civil Recovery Authority. However, no information was provided to demonstrate that the recovery of assets is being pursued as a policy objective of the Civil Recovery Authority. No prosecution policy, guidance, strategy or training emphasizing or giving priority towards pursuing confiscation and property of equivalent value as a priority was provided by the AGC. The assessment team considers this deficiency as significant given the integral role of the AGC, both in terms of prosecution and as the Civil Recovery Authority. No information was provided relative to the RAPF or the Customs Department. Both LEAs investigate predicate, inclusive of higher risk offences such as drug trafficking, human trafficking (very high risk) and smuggling (medium risk) offences. Similarly, the assessors considered this a major weakness.
274. Notwithstanding the policy objectives in place addressing confiscation, Anguilla is only pursuing these policy objectives to a moderate extent. As mentioned above the lack of parallel investigations and referrals from LEAs restricts the potential opportunities for the confiscation of assets. Less than 30% of investigations resulted in prosecutions, however there was no indication by way of qualitative information from Anguilla whether the possibilities of confiscation were considered in the matters where prosecution was not pursued. Additionally, given the high ML risk of acquisitive crimes including fraud, drug trafficking, gambling and the prevalence of theft and robbery offences the results of confiscation are modest at best and not commensurate with Anguilla's policy objectives.

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

275. Anguilla's implementation of its policy and strategic objectives with regard to the confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad has produced modest results. This is reflected in the case examples and statistical information provided to the assessors. While limited, the targeting of proceeds from domestic predicates, and the consequent successes, is still greater than the targeting of proceeds from foreign predicates and proceeds located abroad. The limited cases of foreign predicate and the absence of confiscation of proceeds located abroad is consistent with Anguilla's risk profile. Assessors also considered Anguilla's context, including the nature of its offshore financial sector and company formation business when weighting shortcomings. Assessors considered it unlikely that significant assets from foreign predicate offences may be located in Anguilla since its only offshore bank is a captive-type bank and therefore does not offer services to the general public but rather only legal persons that are members of the same group of companies to which the bank belongs. The financial assets and holdings of the legal entities registered in Anguilla but operating overseas are not held or transferred through Anguilla-based financial institutions.

Confiscation of proceeds from foreign predicates and proceeds located abroad:

276. Anguilla has the legal and institutional systems and the requisite capacity within the AFIU, AGC and the Courts to confiscate the proceeds from foreign predicate offences that are located in Anguilla. Anguilla is not investigating and prosecuting ML associated with foreign

predicate offences (See IO.7). Similarly, there are no instances of the detection of proceeds from foreign offences during the assessment period and its confiscation. Anguilla does have some experience in utilizing its legislative and institutional framework to obtain a provisional freezing order against property obtained from a foreign predicate offence. Assessors are of the view that the requisite framework and expertise is in place to do so again and to execute a confiscation order as the circumstances arise. This is demonstrated in the 2017 case example at Box 3.11 below. Assessors weighed the fact that Anguilla's NRA did not identify the proceeds from foreign predicate offences to be a notable threat for ML. Assessors also considered experiences of the global network relative to criminal proceeds flowing into Anguilla from foreign predicate offences. Of the 16 MLA requests received, two (2) were for bank account information and property held in Anguilla. However, no investigations into the subjects of the requests were initiated domestically. The majority of the MLA requests responded to by Anguilla concerned company formation and BO information of Anguilla-registered IBCs that were suspected to have been used to launder funds abroad. In these instances, the suspected proceeds did not enter Anguilla's financial system. While Anguilla is not confiscating the proceeds from foreign predicate offences, the absence of such cases over the review period is consistent with Anguilla's ML threat profile.

Box 3.11. Use of provisional measures involving a foreign predicate offence.

An individual was charged in Sint. Maarten with ML, tax fraud, and drug trafficking offences. The subject held properties and bank accounts in Anguilla. In 2017, the authorities in Sint Maarten sent a letter of request, asking that the properties and bank accounts be frozen. An application for freezing order was made to the High Court and was granted.

Source: Anguillan Authorities

277. Anguilla has not confiscated proceeds, instrumentalities and property of corresponding value involving proceeds which have been moved to other countries. Anguilla does have experience in identifying and tracing assets moved abroad. Anguilla had two cases where criminal proceeds were moved overseas and identified during the course of investigations. In one case, funds were fraudulently transferred from Anguilla to Sint Maarten. The FIU-ID conducted investigations and issued a letter of request through the AGC to Sint Maarten for banking information, CCTV footage and account information. Additionally, a request has been made for the restraint, seizure and return of funds to Anguilla. This matter is still pending however it demonstrates Anguilla's commitment, through its competent authorities to confiscate the proceeds of crime moved abroad.
278. The AFIU also actively investigated cases and pursued evidence via MLA requests to foreign jurisdictions as identified in IO 7. However, there were no instances where the proceeds were located abroad. During the reporting period the AFIU disseminated 83% (170) of its spontaneous disclosures to foreign jurisdictions. These reports emanated primarily from SARs received from MSBs relative to various forms of advance-fee frauds. While the threshold for initiating a domestic investigation was not attained, the AFIU was proactive in sharing this information with its foreign counterparts. Anguilla's NRA identified MSBs as having an inherently very high ML risk. The SARs and disseminations to foreign jurisdictions

are consistent with the risk. However, there were no concomitant domestic investigations with a view to identifying proceeds or property of equivalent value that may be subject to confiscation.

Confiscation of proceeds from domestic predicates:

279. The authorities in Anguilla are pursuing criminal confiscation, civil cash forfeiture and non-conviction-based confiscation of criminal proceeds and instrumentalities using the various legislative and provisional tools that enable the tracing and identifying of these assets. The authorities have demonstrated that they are seizing and confiscating proceeds and instrumentalities from domestic predicates to a moderate extent.
280. The Proceeds of Crime Act provides that a police officer may seize cash (above a prescribed amount) obtained from or intended to be used in criminal conduct. During the review period the AFIU commenced Eleven (11) cash seizure matters totalling USD33,316.51 and obtained seven (7) forfeiture orders as a result. The amount of cash forfeited totalled USD22,063.69. The case in **Box 3.12** is an extract taken from a forfeiture order consequent upon a Customs Department detection of a false declaration, the subsequent AFIU seizure and investigation and forfeiture order by the Magistrate Court. The case is also an example of coordination and the effective forfeiture of criminal proceeds.

Box 3.12. Effective forfeiture of criminal proceeds

Extract of Forfeiture Order

It hereby ordered that the sum of ten thousand, four hundred and twenty pounds (£10,420) and three thousand six hundred and fifty dollars United States currency US\$3,650), which is equivalent to forty-four thousand and eleven dollars Eastern Caribbean currency (EC\$44,211) and which is reasonably suspected to be the proceeds of crime from unlawful conduct, namely failing to declare currency, cheques or monetary instruments, or any combination thereof or exceeding twenty-seven thousand dollars Eastern Caribbean currency (EC\$27,000), or the equivalent in any currency or combination of currencies whilst leaving Anguilla which is reasonable suspected to be proceeds of crime, namely failing to declare currency, be forfeited together with interest accrued thereon to be paid into the National Forfeiture Fund in 30 days.

Source: Anguillan Authorities

281. The case listed in Box 3.12 represent a non-conviction-based forfeiture. Table 3.18 below gives the breakdown of cash seizures, forfeitures and cash returned over the period. The 11 cash seizures were associated with higher ML threat offences such as drug possession (3), theft (2), illegal gambling (3), human trafficking (1) robbery (1) and failure of declare cash (1).

Table 3.18- Details and status of matters under cash seizure provisions

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Number of Cash Seizures matters	4	2	1	3	-	1
Amount of Cash Seized (USD)	4,012.00	5,985.00	-	1,998.00	-	7577.02

Amount of Cash Seized (XCD)	270.00	-	1,948.29	296.00	-	-
Amount of Cash Seized (Pound Sterling)	-	10,420.00	-	-	-	-
Number of Forfeiture Orders Obtained	2	2	1	2	-	-
Amount of Cash Forfeited (USD)	2,932.00	4,152.50	-	1,268.00	-	-
Amount of Cash Forfeited (XCD)	180.00	-	1,948.29	296.00	-	-
Amount of Cash Forfeited (Pound Sterling)	-	10,420.00	-	-	-	-
Number of matters where amounts were released or returned	2	-	-	-	-	-
Amount Released or returned (USD)	1,719.0	-	-	-	-	-
Amount released or returned (XCD)	90.00	-	-	-	-	-
Amount released or returned (Pound Sterling)	-	-	-	-	-	-
Restitution to victim (US)	-	1,817.50	-	-	-	-

282. The Prosecution Department of the RAPF aides in the presentation of civil cash forfeiture at the Magistrates Court. The Police prosecution department has dedicated persons to prosecute ML and pursue asset recovery matters and includes an officer who previously served in a senior capacity at the AFIU for a number of years and had previously received training in ML and asset recovery investigations. During the review period, the AGC obtained one restraint order which was instituted against properties linked to an investigation being undertaken by the AFIU. The details of the property restrained is listed in table 3.19 below. Restraint Orders are utilized on a case-by-case basis. No details were provided by the authorities regarding the measures instituted to manage these assets subject to restraint.

Table 3.19 - Property under restraint pursuant to a FIU investigation

Year	Predicate Offence	Items restrained	Value (US\$)	Status/Outcome
2020	Theft	Motor Vehicles (2)	\$14,630.00	Matter is still pending at court (PI Hearing)
		Property (undeveloped land)	\$38,000.00	
		Bank Accounts	\$14,200.00	

283. In addition to the utilization of restraint orders, the AFIU have also used search warrants to seize property linked to criminal activity as demonstrated in the cases at Box 3.13 below. Anguilla obtained one Confiscation Order over the period, emanating from a criminal investigation into the offence of theft. Details of the case which led to the successful confiscation order are provided in the second case at Box 3.13 below. There is also one (1) other case pending confiscation. A confiscation request has been initiated for another matter where conviction was obtained at the Magistrate Court. This matter is linked to the predicate offence of theft. The AGC and the Prosecution Department of the RAPF have initiated proceedings under Section 56 of POCA for the matters to be committed to the High Court for sentencing and confiscation proceedings.



Box 3.13. Case 1: Tracing and Restraint of Proceeds of Crime

The subject worked at a local FI since February 2019, specifically functioning as a night deposit bag teller. In February 2020, a complaint was made to the bank by one of its clients, a local business. The business indicated that there were several night deposits which did not appear on their account held at the bank. An internal investigation conducted by the bank revealed that the subject in her capacity as teller at the night deposit station conducted an elaborate system which led to the theft of monies belonging to the bank's client.

Investigation conducted by the Financial Intelligence Unit – Investigations Division through the use of production orders and search warrants showed that the subject utilised the stolen monies to purchase property (undeveloped land) as well as two motor vehicles. Additionally, the subject made several deposits to her account held at a local FI. As a result, the Financial Intelligence Unit – Investigations Division through the Attorney General's Chambers obtained a restraint order against all property owned by the subject. The subject was arrested and charged with theft in the sum of XCD252,165.74 (USD93,306.59) over a three-month period, possession of criminal property, false accounting and issuing a false instrument.

Case 2: Use of Search Warrants to identify criminal property and successful confiscation order

In 2018, the subject obtained the debit card and pin from a friend and withdrew monies from his bank account without his approval as well as to use the debit card to conduct point of sales (POS) transactions in a neighbouring jurisdiction. Investigation conducted by the Financial Intelligence Unit – Investigations Division revealed that the subject made several customs declaration of items purchased in the neighbouring jurisdiction. As a result, a search warrant was executed on the premises of the subject and several items including a Samsung 65' (NU6950) Smart television, a 13" Mac Book Pro and a JBL Bar 5.1 speaker system were seizing in addition to various invoices, ATM withdrawal slips and payment receipts. The subject was arrested and charged with theft in the sum of XCD19,665.54 (USD7276.66), possession of criminal property and converting criminal property. The matter is tried at the Magistrate Court and the subject was found guilty. An application was made to the Magistrate to commit the matter the High Court for sentencing and for confiscation to be considered which was granted by the Magistrate. The relevant documents have been filed in the High Court. The matter is still pending. On July 4th, 2023, the High Court ordered confiscation in the amount of XCD19,665.54 (USD 7,276.66) as the amount the respondent benefitted from criminal conduct. The Court also ordered the identified assets auctioned and issued a fine of XCD35,000

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284. The AGC is the Civil Recovery Authority. Table 3.20 lists details of number of civil recovery matters undertaken over the review period. The Civil Recovery Authority was successful in obtaining one Civil Recovery Order. In 2020 the proceeds of a foreign predicate offence related to fraud were held at two former offshore banks which are now in administration. The subject was convicted and sentenced in the United States of America and the sum of US\$97,970.25 was recovered from two accounts. While the Order was granted in 2020, at the



time of the onsite in 2023, authorities had not yet finalized the recovery of the funds from the now defunct offshore banks. No reasons for this extended delay were provided. Anguilla has one (1) civil recovery matter currently before the High Court. Details of the case are provided in Box 3.15 below.

Table 3.20 - Civil recovery matters

Number	Year	Predicate Offence	Type of Asset recovered	Value (US\$)	Status
1	2018	Trafficking in illegal substances (Cannabis)	Motor vessel, Dingy	\$37,000.00	Ongoing
2	2020	Fraud (foreign predicate)	Bank balance	\$97,970.25	Completed

Box 3.15. Ongoing civil recovery matter

One (1) civil recovery investigation was initiated in 2020 in relation to a motor vessel along with a grey dingy seized by the RAPF in 2018. The estimated value is US\$37,000 (EC\$99,463.40). The motor vessel is linked to drug trafficking offences. The motor vessel was found washed ashore and three bales of cocaine was found some twenty-five feet away from the said vessel. The three (3) bales of cocaine seized weighed 62.596 kilograms and had a retail street value of US\$6,009.216. The cocaine was subsequently handed over to the United States Drug Enforcement Agency for safe-keeping and subsequent disposal. No one was arrested or charged for the vessel or cocaine. The civil recovery proceeding is being undertaken by the AGC and is still pending. There was no use of property freezing order in relation to the motor vessel as it was already in the possession of the RAPF.

The AFIU conducted intelligence gathering on the ownership and registration of the vessel through the ARIN Carib network with Saint Martin and Sint Maarten. For evidentiary purposes, an MLA request was disseminated to Sint Maarten for information on the registration and ownership of the vessel.

Source: Anguillan Authorities

285. Regarding repatriation, there has been one (1) instance when restitution was ordered by the Court. The defendant has commenced restitution to the victim and XCD4,000.00 (USD1,480.08) has been paid thus far.
286. Anguilla has engaged in the confiscation of instrumentalities of crime to a very limited extent. Anguilla reported two (2) instances where instrumentalities were seized. One of the matters pertain the same ongoing civil recovery matter described at Box 3.15 above. The other matter concerns a joint international operation executed on July 3, 2023 and described at Box 3.8 above. None of these matters have been completed and therefore there not been any confiscation of instrumentalities. No information on the management of the seized and confiscated assets or details of the total funds deposited into the National Forfeiture Fund (NFF) and its subsequent uses were provided.

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

287. Travellers leaving or entering Anguilla and carrying more than US\$10,000 in currency/ BNI or its equivalent must declare this amount. Where currency exceeding US\$10,000 or its



equivalent is not declared and has been seized but there are no grounds to suspect the currency is the proceeds of crime it is restored to the subject and a monetary penalty or sanction is imposed. Where there are grounds to suspect the currency is the proceeds of crime, the matter is reported to the AFIU who then initiates the AFIU Cash Seizure procedures.

288. The Anguilla Customs Department has numerous responsibilities, including revenue collection, and other trade and non-trade related administrative functions, audit, verifications and classifications public relations, post clearance, etc. There is also an Enforcement Unit that has several responsibilities, including border patrol, investigations, ports and the canines. The Customs Department is currently operating with approximately 60% of its staff complement. Reasons offered for this staff shortage are retirement and budgetary restrictions. Given the results of Anguilla's currency/BNI declaration regime, the assessors are of the view that the Customs Department is inadequately resourced, and staff are inadequately trained to detect and confiscate falsely and undeclared currency and BNIs and suspicious activity associated with ML/TF. This shortcoming is exacerbated by the ML risks associated with the physical cross border transportation of cash. Authorities have cited in the NRA that networks are suspected to be utilising the cross-border movement of cash into and out of Anguilla in the laundering of the proceeds of various higher and high ML threat offences, including, human trafficking, sexual exploitation, trafficking of illegal substances, trafficking of illegal arms and gambling. Anguilla's geographic location makes it an attractive transshipment point for the trafficking of drugs or currency/BNI to Europe via its neighbouring territories.
289. Upon arrival/ departure in Anguilla, passengers are required to fill out declaration forms and may be subject to further questioning by Customs officials. Based on the passengers' responses and general observations during the primary examination, a decision may be made to physically search passengers and their belongings as part of the secondary examination. Customs officers have been trained in behavioural profiling and investigative interviewing to improve on their detection of suspicious individuals. Customs Department has also increased resources towards the identification of undeclared USD currency in the form of another detection canine which was added to its fleet in 2022. This canine specializes in USD currency detection. This asset is strategically deployed at the Clayton J. Lloyd International Airport, Road Bay port and the Blowing Point Ferry Terminal. The CED has not yet realized the impact of this measure, possibly due to the recency of implementation. The priorities of the Customs Department are seen in the specializations of its canine resources. The canines target, drugs, firearms, ammunitions and explosives and cash.
290. Table 3.23 shows the number of incoming and outgoing declarations made over the period with the corresponding total amount declared. Cross-border movement of cash is primarily conducted by financial institutions for banking operations and merchants traveling between the islands to collect sales revenue and make purchases for resale. Statistics were not maintained in manner which facilitated the disaggregation of the declarations to distinguish between declarations by travellers from corporate entities. As such, the assessors were not able to verify these claims. While authorities were not able to determine what value of currency declarations were attributable to business purposes, customs authorities, based on their experience and knowledge determined that such activities accounted for a significant value of the amount declared.

Table 3.21 – Customs declarations

Year	No. of declarations	USD	No. of declarations	Pound Sterling	No. of declarations	XCD
Incoming						
2018 – 2021	-	-	-	-	-	-
2022	29	10,854,490.10	0.5	10,000	1	91,215
2023 (up to 7/7/23)	2	2,960,000.00	-	-	-	-
Outgoing						
2018 – 2021	-	-	-	-	-	-
2022	5	42,813.99	-	-	-	-
2023 (up to 7/7/23)	2	46,430.26	-	-	-	-

291. The Customs Department were not able to provide statistics on incoming and outgoing declarations for the period 2018-2020, as such, the assessment team was unable to gauge the full extent of declarations made during the review period. The lack of maintenance of data and statistics on matters relevant to the functioning of Anguilla's AML/CFT system is a deficiency which not unique to the Customs Department but is noted to be consistent throughout many institutions in Anguilla.

292. Forfeiture for breaches of the cross-border declaration system is applied in all cases where the circumstances lead to a suspicion of ML/TF. Table 3.22 below lists the available data of all seizures of currency/BNI from 2018 – 2023 (July 07).

Table 3.22 - Details of all seizures of currency/BNI

No. of seizures	Amount Seized	No. of forfeitures	Amount Forfeited	Percentage forfeited	Fines Levied	Percentage recovered via Fines
5	XCD239,239.91 USD88,523.77	1	XCD44,211.00 USD16,358.99	18%	XCD17,475.00 USD6,466.12	9%

293. Over the review period, Customs Department detected five (5) cases of undeclared cash totalling XCD\$239,239.91. Two (2) cases were persons departing and three (3) cases were persons arriving in Anguilla. Once cash or BNIs are seized, the AFIU becomes involved and initiates an investigation. If the funds are found to be related to criminal activity, then the funds would be seized under the POCA. Of the five (5) cases, one case resulted in the forfeiture of the equivalent of XCD\$44,211.00 (USD16,358.99). Details of this matter are outlined in the case study in box 3.16 below. If, however, the cash/BNIs are found to be legitimate, then a fine is administered for the non-declaration or false declaration and the funds are returned to the person. As it relates to the four (4) other cases, their undeclared sum of cash was restored to the subjects as it was determined that there were no grounds to suspect the currency was the proceeds of crime. There were no pending cases as at the onsite. The assessors have determined that the five (5) cases are inconsistent with the risk profile of the jurisdiction. Furthermore, the forfeiture in only one case was also assessed as inconsistent



with the risk profile and demonstrated that the Customs Department is implementing the cross-border currency/BNI declaration regime to a minimal extent.

294. The Customs Act gives the Comptroller of the Customs Department the authority to levy fines and penalties for any breaches of the Customs Act or any other customs enactment. During the review period, matters of false declarations or undeclared cash were investigated by the AFIU. By mutual consent, the Customs Department administered a penalty in instances where undeclared or falsely declared cash was restored. The Comptroller of Customs Department levied fines against the individuals for failure to declare. These fines totalled XCD\$17,475.00 (USD6,466.12) for the period.
295. The Customs Act confers on the Comptroller of Customs Department the discretion to prosecute Customs offences in Court or to “compound” i.e. to deal with the matter through an administrative penalty system which does not result in a recorded conviction. The AGC and the Customs Department has coordinated in the development of guidelines, dated August 11, 2021 for the prosecution of Customs offences. These are very similar to “Sentencing Guidelines” used in a Court and assists the Customs Department in exercising this statutory discretion. The guidelines ensure Customs Department applies a consistent approach in the exercise of this discretion and to ensure the operations of the Customs Department were beyond approach with regards to any allegation of abuse or favouritism. The guidelines have been instructive in determining when it is appropriate to prosecute or compound and the factors to consider when calculating the fine under the Compounding procedure. No matters were prosecuted at the time of the onsite visit.
296. The factors to consider when calculating the fine includes a focus on the recovery of duty loss (if any) and imposing appropriate punitive penalties. Fines account for only 9% of the total amount of detected currency/ BNIs that were falsely or not declared. The sanction applied to the false/ non declaration of currency/ BNIs are assessed as not effective and dissuasive.
297. The cross-border transportation of cash was identified as a high risk for ML in the NRA. Anguilla was not able to provide statistics on incoming and outgoing declarations for the three-year period of 2018-2021, neither were they able to provide adequate qualitative information demonstrating that the currency declaration regime was implemented during this time. Confiscation regarding falsely/ not declared or disclosed cross-border movements of currency/ BNIs is only negligibly addressed and not being applied as an effective, proportionate and dissuasive sanction by the Customs Department. The Customs Department is not identifying, seizing and confiscating in line with Anguilla’s risk profile.

Box 3.16 Confiscation of Undeclared Cross-Border Transaction of Currency

On the 6th of February 2019, the defendant (a US national) and a female were amongst passengers who presented themselves for security check prior to departure at Clayton J. Lloyd International Airport. Security Officers at the Clayton J. Lloyd International Airport scanned the bags through the X-ray machine when they discovered a large sum of money inside the passenger’s bag. The cash found comprised of two different currencies namely, United States dollars and United Kingdom Pounds Sterling. The defendant was cautioned and asked whether he was in possession of cash to the value of US\$10,000.00 or its equivalent to which he denied. Upon searching the luggage, the cash was retrieved, and the defendant was

asked to account to which he replied by saying the money was an inheritance from his deceased father. The defendant then gave several different stories surround the possession of the funds. The funds amounting to three thousand six hundred and fifty dollars United States currency (US\$3,650) and ten thousand four hundred and twenty pounds sterling (£10,420) which is equivalent to forty-four thousand two hundred and eleven dollars Eastern Caribbean currency (XCD44,211) was seized by Security Officers at the Airport. The defendant and his female companion were allowed to depart the island. The funds were handed to over to the FIU – Investigations Division and a cash seizure investigation was conducted. Full investigations refuted the claims and stories around his stay in Anguilla. A forfeiture application was made and granted by the court and the full sum was forfeited to the National Forfeiture Fund.

Source: Anguillan Authorities

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

298. For the review period, there were 11 cash seizures resulting in seven (7) civil cash forfeitures. Theft/robbery accounted for 27% of the seizures, gambling 27%, 9% was linked to human trafficking and 27% linked to drugs. Human Trafficking, Illicit trafficking of drugs and gambling were rated as high ML threats. Additionally, the only confiscation order secured by Anguilla was linked to Theft. Robbery and Theft, however, were rated as a medium ML threat.
299. The only civil recovery proceedings being pursued by the AGC is linked to the Trafficking of illegal substances. The two conviction-based confiscation proceedings initiated during the period of review are linked to the offence of theft. One case has since been concluded while the other is ongoing. One restraint order has also been secured by the jurisdiction relating to the offence of theft.
300. The result of confiscation reflects the assessment of ML/TF risks and national AML/CFT policies and priorities to a limited extent. Most of the assets recovered, either through criminal confiscation or civil forfeiture, relate to predicted offences ranging between medium to very high-risk ML threats. Additionally, the non-conviction based confiscation being pursued currently also relate to a high ML threat offence, being drug trafficking. While confiscation results are reflective in some instances of the risk, there have been minimal confiscation cases and minimal results achieved.

Overall conclusions on IO.8

301. Anguilla has a sound legislative framework in place that address confiscation of proceeds, instrumentalities and property of equivalent value. While there are policies in place within the AFIU that addresses confiscation, there are no clear policy within the AGC as the Civil Recovery Authority, RAPF or Customs Department that address confiscation. The assessors found that the policies identified within the AFIU are pursued to a minimal extent. Though Anguilla has the necessary framework and expertise to deal with confiscation of foreign predicate offences and proceeds located abroad, there have been no such cases during the review period. The Assessors found this to be consistent with Anguilla's risk profile based on the findings of the NRA.

However, given the high number of spontaneous disclosures made to foreign jurisdictions and MLA requests received, there is no evidence to suggest that efforts were made to initiate investigations to identify the existence of proceeds from foreign predicate offences and proceeds located abroad.

302. With regard to proceeds from domestic predicate offences, Anguilla demonstrated that they are seizing and confiscating proceeds of domestic predicate offences to a moderate extent. This is primarily due to the cash seizures and forfeitures, the assessors noted minimal use of other forms of confiscation. There are concerns that the method utilized by the Customs Department for the detection of cross-border movement of currency may have a low rate of efficacy. The implementation of further measures, including the use of scanning equipment for incoming and outgoing travellers and luggage should be utilized to effectively detect cross-border movement of currency.
303. The AT also considered the sanction regime relative to the false cross-border disclosures or declaration, which was assessed to lack dissuasiveness considering the low fines issued by the Customs Department in cases where the false/ non-disclosure of cross-border movement of cash were detected. The Assessors found that the results of confiscation is not commensurate with the with Anguilla's risk profile.
304. . Despite the identified deficiencies, Anguilla had some successes with the seizing and confiscating of proceeds of domestic predicate offences which cater for most ML cases prosecuted. They have also demonstrated the willingness to pursue confiscation of various forms. Based on this, the AT found that IO. 8 is achieved to some extent, major improvements needed.

Anguilla 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) Anguilla assessed its TF risk as medium. While there is no evidence of TF threats to the jurisdiction, there are vulnerabilities associated with IBCs and unsecured borders. There is no evidence of known or suspected acts of terrorism or TF in Anguilla and no terrorist groups or individuals linked to terrorism or terrorist groups have been identified in the jurisdiction. Consequently, there were no TF investigations or prosecutions during the assessment period. This is reasonably consistent with the TF threat profile.
- b) Anguilla did not identify or investigate any TF during the assessment period. Key Anguillan CAs, most crucially the AFIU and the AGC, have participated in some modest external TF-related training activities. There were adequate capacity and resources available to identify and investigate TF during the assessment period.
- c) With no convictions, Anguilla has not had an opportunity to apply sanctions. Therefore, the effectiveness, proportionality and dissuasiveness of sanctions could not be measured. The measures provided in the CTA do appear proportionate and dissuasive. However, the same is not true of some ATO TF offences where proceeded summarily.
- d) Alternative measures are available to authorities in Anguilla, inclusive of asset freezing, refusal of entry and deportation, revocation of Anguillan status where acquired through marriage or residency and non-admission. Authorities have not had cause to apply these measures.

Immediate Outcome 10

- a) Anguilla recently passed legislation aimed at improving the implementation of TFS-TF pursuant to UNSCRs 1267 and 1373. However, there are major gaps and deficiencies identified in Anguilla's TFS regime for TF (R.6).
- b) There were no assets or entities subject to TFS-TF identified in the jurisdiction, and consequently no freezing or other TFS-related actions taken during the assessment period. This is consistent with Anguilla's TF threat profile.
- c) Anguilla has not provided data that covers the entire assessment period. In the period for which statistics were provided, sanctions orders do appear to be

implemented in law without delay and notices were issued in a timely manner. However, not all REs were reviewing account holder information to determine whether they hold sanctioned assets and ensuring that they prohibit in dealing in assets of listed persons and entities. Anguilla reports that 70% of REs are responding to sanctions notices, however, 70% of REs subscribed to the optional email notification system administered by the AFIU and is largely constituted by the TCSP sector and FIs. It does not include all obligated persons and entities. Neither the AFIU nor the AFSC have comprehensive measures to verify RE compliance. Some sectors, in particular DNFBPs except for TCSPs, are not aware of, and are not acting on, their TFS obligations.

- d) The mandatory quarterly reporting by REs required of the new CTA statute is a positive innovation. The new electronic reporting system instituted by the AFIU is also a positive step forward. However, all these developments are too nascent to be fully assessed.
- e) Policy, procedural, and public guidance documents touching on TFS for TF are outdated at points since the coming into force of the CTA.
- f) Supervisors have not provided outreach in relation to TFS and TF, and no specific training has been provided to the private sector in relation to the TF risks of NPOs or the NPO sector.
- g) Anguilla has identified NPOs that are vulnerable to TF abuse and has applied prescriptive measures to all NPOs which is not in line with the risk-based approach.
- h) The NPO supervisor, has not effectively supervised NPOs which has resulted in no targeted approach, limited outreach and oversight of NPOs.

Immediate Outcome 11

- a) Anguilla has recently passed legislation aimed at improving their implementation of TFS-PF. However, there are gaps and deficiencies identified in Anguilla's TFS regime for PF (R.7).
- b) There were no assets or entities subject to TFS-PF identified in the jurisdiction, and consequently no freezing or other TFS-related actions taken during the assessment period.
- c) Anguilla has not provided data that covers the entire assessment period. In the period for which statistics were provided, sanctions notices were implemented in law without delay and issued in a timely manner, except on one occasion. However, not all REs are reviewing account holder information to determine whether they hold sanctioned assets and ensuring that they prohibit in dealing in assets of listed persons and entities. Anguilla reports that 70% of REs are providing responses to sanctions notices, however, that is only 70% of REs subscribed to the optional email notification system administered by the AFIU and is largely constituted by the TCSP sector and FIs. It does not include all obligated persons and entities. Neither the AFIU nor the AFSC have comprehensive measures to

verify RE compliance. Some sectors, in particular DNFBPs except for TCSPs, are not aware of, and are not acting on, their TFS obligations.

- d) The Financial Sanctions Guidance and the PFA are the primary tools available to guide the identification of funds or other assets of designated entities (but not persons). The NRA identifies BCs as the primary site for PF risk, however, this is not meaningfully engaged in the National AML/CFT/PF Strategy and the broader AML/CFT/PF policy framework.
- e) The AFIU provides links to the UK's Consolidated and Sanctions Lists on its website. Notices are created by the AFIU which are issued to FIs and DNFBPs by email with the said notices also uploaded to the AFIU's website. Nevertheless, all FIs and most DNFBPs communicated the use of screening/compliance systems/software which contains the names of persons and entities that have been designated by the UN and also rely on the AFSC's communication.
- f) Relevant CAs are now in the process of developing monitoring and compliance systems for FIs, DNFBPs and VASPs regarding TFS relating to PF.

Recommended Actions

Immediate Outcome 9

Anguilla should:

- a) Ensure the AFIU and the AGC undertake further training on TF identification and investigation.
- b) Conduct further outreach and training on TF risks with REs and all relevant CAs and stakeholders.
- c) Remedy the technical compliance deficiencies in R.5.

Immediate Outcome 10

- a) Anguilla should address the moderate deficiencies noted at R.6 in regard to its technical compliance of the TFS for TF regime.
- b) CAs, in particular the AFSC and the AFIU, require greater resources to carry out compliance and verification checks on persons and entities subject to TFS for TF obligations.
- c) Anguilla should conduct further outreach to all REs promoting subscriptions to its email notifications of TFS listings, including the electronic response feedback form, as well as the new quarterly reporting requirements, in a manner consistent with its TF risk and context.

- d) Anguilla should increase training efforts for CAs in relation to TFS for TF, as well as conduct greater outreach to REs and all persons and entities subject to TFS for TF obligations, especially in relation to DNFBPs except for TCSPs.
- e) CAs should update policies, procedures, and public guidance to reflect changes in the TFS regime for TF following the coming into force of the CTA.
- f) Continue to conduct sector specific outreach to raise awareness of the nexus of the potential vulnerabilities of TF, TF abuse and the NPO sector. Information can also be shared via sector specific guidance.
- g) Apply mitigating measures to NPOs vulnerable to TF abuse in line with the risk-based approach.
- h) The AFSC should adopt a risk-based approach (materiality and risk) for the conduct of AML/CFT onsite examinations of NPOs and remedy the deficiencies noted in R.8.
- i) CAs should conduct targeted supervision and sector specific outreach to ensure NPOs understand their TF risks.

Immediate Outcome 11

- a) CAs, in particular the AFSC and the AFIU, should consider increasing staffing levels in order to carry out compliance and verification checks on persons and entities subject to TFS for PF obligations.
- b) Anguilla should increase training efforts for CAs in relation to TFS for PF, as well as conduct greater outreach to REs and all persons and entities subject to TFS for TF obligations, in particular in relation to DNFBPs except for TCSPs.
- c) CAs should update policies, procedures, and public guidance to reflect changes in the TFS regime for PF following the coming into force of the PFA, and to integrate the PF risks associated with BCs as reflected in the NRA.
- d) Anguilla should conduct further outreach to REs promoting subscriptions to its email notifications of TFS listings, including the electronic response feedback form, as well as the new quarterly reporting requirements.
- e) The AFSC should ensure that further training and/or guidance are provided more frequently to all FIs and DNFBPs, informing them of their obligations and emerging global trends and typologies.
- f) Remedy all TC deficiencies in R.7.

305. 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

306. Anguilla has never experienced a terrorist attack in its history, nor has there been any evidence or intelligence of any terrorist or terrorism financing activity connected to the jurisdiction. Demographic and geographical factors pose a low risk of domestic terrorism. There is no information which would indicate that any terrorist organisation operates in or has any links to Anguilla. There has been no formal international cooperation related to TF during the assessment period, that is, no MLA or extradition requests, whether incoming or outgoing. Anguilla has not had the opportunity to demonstrate the effective prosecution of TF.
307. As discussed in IO.1, the 2014-2018 NRA, updated in 2020, assessed Anguilla's inherent TF risk as medium, despite the absence of any terrorism or TF prosecutions and convictions. Anguilla has not demonstrated a more current understanding of its inherent and residual TF risk since the NRA.
308. In response to the TF risks identified in the 2020 NRA update, Anguilla revamped its company management regime in April 2022. The vulnerabilities associated with the concealment of BO of IBCs were mitigated by the repealing of the IBC Act and its replacement with the Business Companies Act, 2022. These mitigating measures are consistent with Anguilla's risk profile. However, these actions are all very recent and the assessment team is unable to determine the extent of their impacts (See IO.1).
309. The AFIU has formalized a SOP for terrorism, TF and PF intelligence analysis and investigations wherein the investigative focus and broad parameters are set out. The SOP also addresses domestic co-operation, the forming of joint investigative teams and the respective responsibilities of each authority and international cooperation. However, the SOP has not been revised to reflect changes in the regime, including enhancements to the criminalization of TF, resulting from the coming into force of the CTA in June 2023. Furthermore, the NRA's emphasis on TF risk associated with company structures and in particular IBCs does not inform the SOP, nor does it meaningfully inform the National Strategic Plan or the more narrowly tailored TF/PF Strategy. However, the AFIU does rely on the NRA assessment of TF, including risks associated with corporate structures, in developing its Strategic Analysis on TF policy document.
310. The AGC is responsible for prosecuting TF offences. Following the enactment of the CTA and PFA, immediately before the June 2023 onsite, the AGC completed a policy document indicating paramount prioritization of matters falling under those acts, including TF offences. No training has been received by the AGC in relation to the prosecution of TF offences. The AGC does participate in the CFT OT Forum as well as the International Association of Prosecutors, which hosts a Counter Terrorism Prosecutors Network, through which they are able to engage TF prosecution expertise should the need ever arise.
311. Anguilla has a reasonable understanding of its TF risks. The assessment team concludes that the absence of TF prosecutions and convictions is commensurate with the risks identified by the authorities in Anguilla.



4.2.2. TF identification and investigation

312. The AFIU has the mandate to investigate terrorism and TF matters. The RAPF can also investigate any crime in Anguilla. The authorities consider a range of sources to identify potential TF cases, including analysis of SAR submissions, information from quarterly TF property reports, information from domestic authorities dealing with matters such as immigration and customs, and information from other jurisdictions or international bodies. Somewhat consistent with its risk profile, Anguilla has never had a TF investigation. In these circumstances, the Assessors considered the suitability of the mechanisms implemented and the capacity and capability of LEAs to identify and investigate TF, as a proxy, in the absence of TF investigations.
313. The AFIU completed the strategic analysis on TF in March 2023. The strategic analysis looked at the overall risk rating of NRA as well as global trends and how they potentially impact on Anguilla. The objectives of the strategic analysis on TF were to: identify and understand Trends, Typologies in relation to TF; analyse the AFIU's internal strategies; and determine short-term and long-term plans to mitigate and address TF. While there were insufficient TF-related SARs or other domestically available information to conduct any meaningful analysis, the analysis took into consideration a wide cross-section of international typologies of TF. The analysis identified TF indicators. However, the indicators are more relevant to ML and are not specific to the context of Anguilla's risk profile.
314. During the assessment period, the AFIU received four (4) SARs from REs concerning TF. Upon analysis by the AFIU-Intelligence Division, the SARs were filed as the analysis did not substantiate a TF investigation. The Assessors reviewed sanitized copies of such files and were satisfied with the rigor of the analysis completed. Reporting Entities are guided in their detection of TF-related suspicious activity by a list of TF indicators published on the AFIU's website.
315. In September 2021, the AFIU issued a two-page circular on ML/TF indicators to members of the AFIU as well as REs. It was also published to AFIU's website. Also in 2021, a member of the AFIU completed a virtual one-day training offered by Canada's FIU, administered through the EGMONT Group, that concerned effective intelligence analysis in relation to TF. Also in 2021, a member of the AFIU participated virtually in a three-week training by the OECD on tax crime investigations which touched upon TF investigations.
316. The AFIU created a Terrorism and TF Help Desk in 2022. The help desk is a mechanism to create awareness of the global terrorism and TF threats. It produces a high-level Daily TF Intelligence Report comprising of news relating to terrorism and TF. The aim is to facilitate and maintain a dynamic understanding of the potential scope of international and domestic terrorism and TF threats and the global risk situation. Authorities advised that an understanding of these issues would enable persons/organizations with the ability to identify and mitigate potential threats and risks in Anguilla. The AFIU indicated that this report is also disseminated to REs and all CAs. The assessment team was not provided with evidence of the development or dissemination of this report, nor did REs make mention of receiving any such reports. Consequently, the effectiveness of this measure to assist in the identification and subsequent investigation of TF could not be assessed.



317. In addition to the four (4) TF SARs received, the AFIU received three (3) TF-related requests through the Egmont ESW. Anguilla received no other incoming intelligence requests on any platform, bilateral or multilateral, in relation to TF. All incoming ESW requests and SARs were given high priority in their analysis or execution. The ESW requests, concerned global call outs not specific to Anguilla and their execution yielded negative responses communicated within four (4) days to the requesting authorities in all cases. The requests concerned inquiries into asset details, bank account records, travel details, etc. With regard to TF SARs the summary below (Box 4.1) illustrates the AFIU's handling of a suspected TF-related case from a SAR.
318. Based on the actions taken, the assessors are of the view that Box 4.1 demonstrates that Anguilla authorities were able to expeditiously establish that there was no credible TF activity being undertaken. The Assessors are of the view that the AFIU has the willingness and the ability to identify and investigate TF matters.

Box 4.1. Identification of a suspected possible TF-related case from a SAR.

An Anguillan MSB reported that their client conducted four (4) remittances to two (2) high-risk jurisdictions. These transactions were considered suspicious due to the countries to which the funds were being sent to and possible terrorist financing as well as the reason given for the transfers (gift/charity).

Information was received on the 15th March 2023. The matter was referred to the TF Desk for review. To conduct the analysis, the FIU – Intelligence Division requested information through the issuance of Written Notices for a complete profile on the client and all known associates. On 22nd March 2023 a Written Notice was issued to three (3) reporting entities. The information requested in Written Notice was received on 23rd March 2023. Further Written Notices were issued on 5th May 2023 to obtain additional information from 2017 to 2023. This information was received on 9th May 2023.

A request for intelligence was disseminated to the two identified jurisdictions to facilitate the information gathering process to determine the extent and veracity of the suspected terrorist financing activity, one via ESW and the other via password-protected email since the jurisdiction was not an EGMONT member. Information received indicated that the recipients of the funds were not linked to terrorist actors or groups and that the funds were likely used for personal reasons. On 18th April 2023, the subject attempted to remit two thousand dollars United States currency (US\$2,000.00) via a second Anguillan MSB to an individual believed to be residing in one of the same high-risk jurisdictions. The transaction was refused based on the country being a high-risk jurisdiction and the suspicion of TF. A report concerning the same was submitted to the AFIU. As a result, the file was closed. The AFIU provided feedback to the RE.

The subject was a member of an NPO registered with the AFSC.

The TF Desk conducted weekly meetings to discuss possible actions to be taken.

Source: Anguillan Authorities

319. The Quarterly Terrorist Property Report (QTR) is also a mechanism for TF identification and investigation. However, the requirement for Reporting Entities to submit a QTR is a recent element of Anguilla's CTF regime (2023). On account of this, Anguilla could only demonstrate its implementation from June 2023, about the time of the onsite assessment. The assessment team were provided with details of the returns provided by the banking sector, however, returns from DNFBPs and other FIs were missing from the report.
320. In June 2023, the AFSC issued a Sanctions Questionnaire for TF and TFS to licensees within the following sectors identified in the NRA as having a very high and high inherent vulnerabilities for TF: TCSPs, MSBs, VASPs, Domestic Banks, General and Restricted Trusts, and DPMS. The questionnaire improved the AFSC's understanding of the sanctions screening policies, procedures, systems and controls implemented and the frequency and scope of sanctions screening conducted, by its licensees and registrants. At the end of the onsite the AFSC advised of planned action in the form of further outreach, guidance, thematic inspections and request for information and subsequent directives to non-compliant licensees and other enforcement action to ensure compliance. This work is expected to have a positive impact on the identification of possibly TF activity and terrorist property.
321. While the RAPF is empowered to investigate all crimes in Anguilla, the AFIU, in particular its Investigations Division, is the lead investigative and law enforcement authority for terrorism and TF. The RAPF concluded a two-page policy document on terrorism and TF investigations on June 23, 2023, however this policy document provides little meaningful guidance. In the last twelve months of the assessment period, the AFIU developed a suite of policy and procedural instruments including: SOPs for Terrorism, TF and PF Intelligence Analysis and Investigations for both the Intelligence and Investigations Divisions; Policy for the Investigation of Financial Crime, ML, TF, and PF Offences; and the Strategic Analysis on TF.
322. As part of CAs training on TF investigations, the AFIU and the RAPF participated in a tabletop exercise on 21/06/2023. The exercise was geared towards analysing and investigating a potential TF matter relevant to Anguilla's risk profile. Under the framework of the CT OT Forum, the tabletop exercise was conducted by the Technical Assistance Advisor – Counter Terrorist Finance, HM Treasury, Sanctions and Illicit Finance Team, International Group. The exercise included a brief presentation on the basic principles of a TF investigation and a scenario based on a TF investigation undertaken in the UK. The tabletop exercise entailed the use of a practical scenario which was tailored to be commensurate with Anguilla's TF risk and context. The tabletop exercise was attended by five (5) members of the AFIU (Intelligence and Investigations Divisions) and one member of the RAPF. Authorities advised that the exercise was useful and ensured that attendees had a clear understanding of how to conduct a TF investigation into various TF activities, identifying relevant intelligence and evidential opportunities as well as taking steps to freeze terrorist property.



323. In 2018, one representative each from the AGC and the AFSC attended a two-day training in Barbados on basic CFT investigative techniques, facilitated by the World Bank. In 2018, one representative each from the AGC and the AFSC participated in a 3.5-day training on CFT in Antigua and Barbuda. No other CAs have received TF investigations-related training.
324. Anguilla has implemented several mechanisms to assist REs, CAs and the public at large to identify suspicious TF activity and relevant training for LEAs. However, most of these were recently implemented and its impact on effective TF identification and investigation are yet to be realised in full. The assessment team notes that within the AFIU, there is expertise to investigate TF if need be. However, increasing demand upon the AFIU, including its new TFS mandate, has exacerbated the shortages in human resources at the AFIU and it raises concerns about its ability to effectively carry out its functions. The assessment is limited by the recent emergence of indicators of effectiveness in terms of identification and investigation of TF.

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

325. Anguilla has a National Counter-Terrorism, Terrorist Financing and Proliferation Financing Strategic Plan. It was approved by National Security Council and Executive Council in June 2023, immediately before the onsite. This national plan provides direction for the coordination and implementation of strategic and operational initiatives to combat TF, PF, terrorism and Foreign Terrorist Fighters. The implementation of this strategy is built on the principals of the four (4) pillars model as described by the United Nations Global Counter Terrorism Strategy but adjusted to reflect the key areas for the jurisdiction. The four areas under which actions were developed are Prevent, Protect, Prosecute and Response. It is envisaged that the plan will be utilized by CAs as a measure to detect and deter possible threats to Anguilla.
326. AFIU has developed and implemented a SOP for TF/PF investigation and intelligence gathering which serves as a manual for investigation and analysis. In the absence of any history of TF investigations, the assessment team cannot assess the degree to which TF investigations are integrated with, and used to support, national CT strategies and investigations.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

327. In the period under review, there were no TF prosecutions or convictions in Anguilla. This is consistent with Anguilla's TF risk profile, but as a result the Assessors cannot determine whether sanctions or measures applied against natural and legal persons convicted of TF offences are effective, proportionate and dissuasive. However, it must be noted that comprehensive criminal sanctions exist under the CTA legislative framework in accordance with R. 5 (in particular, see c.5.6 and c.5.7). Furthermore, the gaps in criminalization of TF, for example the lack of criminalization of financing the travel of individuals who travel to another state for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training (see c.5.2), cascade here.



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

328. In the period under review, there have been no TF investigations in Anguilla. The authorities have not applied alternative measures in lieu of proceedings with TF charges. This is generally consistent with Anguilla's TF risk profile, but as a result the Assessors cannot determine the extent to which alternative measures are employed to disrupt TF activities where it is not practicable to secure a TF conviction.
329. There are a number of alternatives to TF conviction available. Firstly, criminal charges other than for TF would be pursued where viable, including reliance on associated asset restraint and forfeiture measures, as part of an "all offence" disruption strategy. Secondly, there are relevant immigration type of measures available, including: expulsion from Anguilla on the basis of breach of peace and good order (s. 2 Undesirable Persons Expulsion Act); refusal of entry or removal/deportation (s. 2 and s. 11 Immigration and Passport Act); and, where an indictable conviction is secured, revocation of Anguillan status where acquired through marriage or residency of at least 15 years (s. 8 Anguillan Status Act).
330. Anguilla advised that some of these measures have been used effectively in relation criminal misconduct other than TF, although this has not been demonstrated. Anguilla further advised that a registered entity suspected of TF misconduct could be "removed from the jurisdiction" however, it is unclear how that might be accomplished. Finally, the AFIU's SOP on TF investigations does not address disruption methods or alternatives to prosecutions. The AGC's policy and procedural instruments similarly do not address disruption methods or alternative measures to TF convictions.

Overall conclusions on IO.9

331. There were no TF investigations or prosecutions during the assessment period. Anguilla has a reasonable understanding of its TF risks. However, TF risks associated with corporate structures, in particular IBCs, have not been fully integrated into national policy instruments. Key Anguillan CAs, most crucially the AFIU, the AFSC, and the AGC, have participated in some modest external TF-related training activities. However, relevant outreach and training for REs other CAs and stakeholders are insufficient.
332. The new CTA provides a streamlined legislative regime for comprehensively criminalizing and sanctioning TF with criminal penalty ranges that are proportionate and dissuasive. Policy, procedural, and public guidance documents touching on TF are recently updated, however, they are already somewhat outdated since the coming into force of the CTA.
333. Considering the above-mentioned factors, the country has achieved IO.9 to some extent, with major improvements needed.

Anguilla 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

334. Anguilla has a regime for the implementation of TFS for TF. Recent enhancements to the regime, in particular the coming into force of the CTA and the use of new technologies and strategies to facilitate reporting, are promising. However, they are too nascent to be thoroughly assessed and the policy framework, outreach and training efforts are lagging in terms of updates. As noted at R.6, there are minor gaps and shortcomings. Staffing levels noted elsewhere at some CAs, in particular at the AFIU and the AFSC, are not sufficient to effectively discharge their mandates with respect to TFS.
335. During the assessment period, and consistent with its risk profile, Anguilla recorded no listings or designations, no identification of assets or accounts of sanctioned individuals or entities, no exemptions or de-listings, and no associated investigations or enforcement actions undertaken. Anguilla has a mechanism in place to consider implementation of TFS to give effect to the request of another country, however, this did not occur during the assessment period.
336. Anguilla has made strides through recent changes in its TFS framework. However, legislative gaps remain. Technical shortcoming in some of these measures are analysed in Recommendation 6 of the TC Annex of this report. The statutory and legal framework for implementing TFS for TF has been subject to significant change over the assessment period; the pre-Brexit framework, the post-Brexit regime ushered in by the UK's Sanctions and Anti-Money Laundering Act, 2018 (SAML) and its associated Regulations and Orders-in-Council (OICs) AKA Overseas Territories Orders (OT Orders); and the streamlined, HE Governor-centred, approach, established on June 16th, 2023, days before the onsite visit, with



the coming into force of the Counter-Terrorism Act, 2023 (CTA), to complement and supplement the SAMLA regime. The policy, procedural, and training framework to support the statutory and legal changes in the TFS regime have lagged considerably, such that both CAs and other stakeholders with TFS responsibilities have variable understanding of the TFS for TF regime as well as their respective obligations in implementing TFS for TF.

337. As a BOT, Anguilla implements the international obligations of the UK. These obligations are extended by the UK to Anguilla through OICs issued by the UK Privy Council. In particular, the UK gives effect to the UNSC's TFS and to its own autonomous TFS regimes via the SAMLA. Designations made by the UNSC under various UNSCRs dealing with CT and TF, including 1267, and successor resolutions, and 1373, are given effect in the UK by means of Regulations issued under: the SAMLA (implement UN obligations specified under resolution 1988(2011); the implementation of UN obligations imposed under resolutions 1267(1999), 1333(2000) and 2253(2015); and the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019). These SAMLA Regulations are modified by the UK and extended to Anguilla by means of OICs (the Afghanistan (Sanctions) (Overseas Territories) Order 2020; the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (Overseas Territories) Order 2020; and the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020). Accordingly, SAMLA Regulations in force in Anguilla are referred to as 'Modified Regulations' and the OICs known as "OT Orders".
338. One of the key recent innovations is the localization of primary TFS functions from UK competent authorities to the Anguillian Governor, which is reflected in the CTA. In the two-week window between the passing of the CTA and the commencement of the onsite assessment, the ANAMLC produced guidance, called Sanctions Regime, describing each of the obligations under the OT Orders, however, it makes no reference to the CTA and its attendant enhancements to the regime for TFS for TF. The CTA further clarifies and consolidates TFS primary implementation responsibilities in the Anguilla Governor, including the implementation of the sanction regimes under UNSCRs 1267 and 1373. Anguilla's TFS regime for TF also assigns roles and responsibilities to other competent authorities as well, in particular a subset of those Departments and Agencies that make up the ANAMLC:
- i. **Attorney General's Chambers:** Formally, the primary role of the AGC in Anguilla's TFS regime is to prosecute breaches of TFS obligations, including the requirement to freeze the accounts of designated entities. Practically, the AGC plays a central coordinating and leadership function for the TFS regime. The CTA empowers the AGC to freeze the funds of listed entities. The CTA also bestows consultation and authorization roles to the AGC for some gubernatorial and LEA powers under the Act. The AGC has produced internal guidance on the appropriate procedures and prioritization of enforcement action under the CTA. The AGC, along with the AFIU and the AFSC, attends virtual monthly meetings of the UK-led Sanctions Forum for BOTs.
 - ii. **Anguilla Financial Intelligence Unit:** Although it is not formally delegated by the Governor, the AFIU is the primary agency publishing and disseminating sanctions notices and receiving disclosures. The CTA empowers the AFIU to monitor compliance with TFS and for assessing suspected breaches. The CTA also designates the AFIU as

the competent authority to receive TFS reports. In June 2023, the AFIU partnered with the AFSC in delivering a well-attended virtual training session on TFS and sanctions compliance for reporting entities. In May 2023, the AFIU distributed an online training module on TFS, essentially a 65-slide deck, to CAs and REs. It was comprehensive in its description of the TFS regime and the responsibilities of CAs and REs. It did not substantively address the then pending CTA and PFA legislative enhancements to the regimes. The deck links to other AFIU resources on TFS, in particular, an undated 2-page circular summarizing the pre-Brexit OIC TFS Regime and, crucially, the AFIU website page that links to the UN consolidated sanctions list, the UK OFSI consolidated list and the UK Sanction List.

- iii. **Anguilla Financial Services Commission:** The AFSC inspects REs, including FIs, MSBs, DNFBPs and NPOs, to monitor compliance with relevant legislation, including 19 full scope inspections during the assessment period during which REs were questioned about their TFS knowledge and practices. While the specific outcomes on the TFS inquiries were not disclosed, the AFSC noted significant gaps in understandings of TFS. Although there is no legal requirement, the AFSC regularly publishes on its website the Orders in Councils as it pertains to international sanctions. In 2022, AFSC representatives gave a presentation at a foreign national conference on the topic of TFS and sanctions compliance. In May 2023, the AFSC distributed a Questionnaire on TF and TFS to licensees in high-risk sectors, namely TCSPs, MSBs, VASPs, domestic banks, trustees, dealers in precious stones and high value dealers. While the results were not provided, the AFSC concluded that it is necessary to take further action in terms of outreach, guidance, thematic inspections, requests for information, issuing directions to non-compliant licensees and other enforcement actions in order to ensure compliance. This had not occurred at the time of the onsite assessment.

- 339. In interviews with CAs and REs conducted by the assessment team, many participants were able to identify that they had received communications in the preceding weeks and months about the TFS regime, however, the sheer volume of AML/CFT-related products and communications received from Anguillian authorities over this period leading up to the onsite assessment appeared to be too overwhelming to take particular notice of all relevant features and enhancements to the regime and their obligations thereunder, including and perhaps especially in relation to the TFS regime.
- 340. The UK's FCDO publicizes UN listings as well as the UK's own designations and sends notices of the same to the Governor. The UK's OFSI adds those persons and entities subject to TFS to the Consolidated List. The OFSI Consolidated List and the UK Sanctions List are the primary resources relied upon by Anguilla CAs and REs subject to TFS obligations, although some more sophisticated entities utilize industry-known services which enables them to screen new and, in some cases, current clients immediately upon any change to a relevant sanctions list. The AFIU links to the Consolidated List on its public website in addition to publishing all OFSI and FCDO sanctions notices as well.
- 341. The AFIU maintains a voluntary email distribution for reporting entities that choose to receive sanctions notices directly. The listserv has many subscribers, primarily FIs, MSBs, and some TCSPs, but it does not approach universal subscription of all persons and entities with TFS obligations. Anguilla's policy is to publish and disseminate sanctions notices within



24 hours, a timeline which has been demonstrated in relation to only a six-month period during the five-year assessment period. Anguilla has not provided comprehensive statistics. The sanctions notices include a link to the Consolidated List. They give clear direction on RE obligations to freeze assets in cases of an addition or amendment to the Consolidated List and unfreeze assets in instances where persons or entities are removed from the Consolidated List.

342. The freezing directions include directions to report any findings to the AFIU. The CTA requires that REs provide even nil responses to the AFIU. However, there is considerable variability in REs' understanding of this obligation. Anguilla advises that 70% of REs respond, however, that statistic relates only to REs subscribed to the email distribution list, and not to all obligated persons and entities nor those not subscribed to the email list. The sanctions notices also remind REs of the criminal sanctions applicable to non-compliance. The notices issued after the CTA are consistent with the pre-CTA practice of identifying the OFSI regime and related to the applicable Sanctions Regulations pursuant to the SAMLA. Contemporaneous with the coming into force of the CTA in June 2023, the AFIU instituted an electronic feedback form that asks REs to confirm their review of the sanctions notice, that they have reviewed their client files accordingly, indicate whether there are any responsive accounts, and provide optional feedback; however, the tool is too nascent to be assessed. The AFIU's notice procedure is detailed in the Procedural Policy for the Handling of Financial Sanctions Notices, published for the first time in March 2023, but already it is somewhat out of date. Anguilla provided statistics on notices for 18 events related to the Consolidated List spanning January to June 2022. Anguilla reports that in every case, notice was disseminated to REs on the same day that OFSI and FCDO issued the addition, removal, or amendment.
343. The AFIU acknowledges the need for further outreach in terms of training, advisories, guidance, etc., but this has not yet occurred in a significant way. The CTA requires REs to submit report comprehensive TFS reports on a quarterly basis, however, since this came into force just before the onsite, the effectiveness of this strategy could not be assessed as no quarterly reports were yet due.
344. FIs and other service providers, including TCSPs and DNFBPs, are required to promptly report to the AFIU any knowledge or suspicion of funds or property belonging to: a natural or legal person engaged in terrorism or TF, is a designated entity (but not person), or acts on behalf of, at the direction of, or in association with a designated entity (but not person). The AFIU is the competent investigative agency for potential breaches of TFS. The AFIU is empowered to seek judicial authorizations for: detention orders, information-gathering orders, search warrants, customer information orders and ongoing monitoring orders. In two internal policy documents issued by the AFIU in November 2022 and February 2023, respectively, for the first time the AFIU developed SOPs for the investigation and intelligence-gathering efforts related to terrorism, TF and PF. However, the policies do not contemplate TFS.
345. Publication and sanctions notices appear to be typically implemented without delay, although there are gaps in the available data to determine this conclusively. However, in interviews with VASPs, TCSPs, and DNFBPs and other obligated persons, the assessment team observed that the TFS obligations of persons and entities in Anguilla are frequently not being implemented without delay, or not at all, in particular in regards to screening, due diligence, and reporting. In December 2022, Anguilla issued, for the first time, comprehensive public

guidance on TFS implementation and compliance. The Financial Sanctions Guidelines were made available on the respective websites of the Governor and the AFIU. While the guidelines are somewhat out-of-date, in that they reflect the post-Brexit SAMLA regime period but do not include the subsequent CTA enhancements, they remain the most useful tool for FIs, DNFBPs and other obligated persons in supporting compliance with TFS obligations.

346. As set out in the CTA, Anguilla has some procedures in place in relation to de-listing requests, revocations and for addressing false positives. The CTA also sets out the regime for issuing domestic designations, whether in its own right or on behalf of another country, and subsequently submitting them to the relevant UN Committees. FIs, MSBs, and some TCSPs subscribe to the email notifications from the AFIU, review their clients records expeditiously, and respond with nil responses, aided now by the electronic platform introduced in June, 2023. However, the authorities actually involved in implementing sanctions and their attendant notice regimes are somewhat unclear. Not every entity receives the email alerts, which are optional, nor reviews their client records accordingly, nor provide nil responses. DNFBPs except for TCSPs in particular appear to have an insufficient understanding of TF risks and the TFS obligations required of them. Anguilla has not demonstrated the implementation of TFS for the first 3 years of the 5-year assessment period.

347. The absence of UNSCR 1373 designations is consistent with Anguilla's TF risk profile.

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

348. The TF risks associated with NPOs were assessed as part of Anguilla's NRA. In so doing Anguilla identified the NPOs most vulnerable to TF abuse to inform their implementation of a risk-based supervisory approach. The AFSC is the competent authority for the regulation of NPOs and has the appropriate regulations and enforcement powers in place to take action against NPOs that are in breach of their governing regulations (NPO Regulations 2014).

349. As of 2020, when the NPO risk assessment was conducted the sector consisted of 314 NPOs (159 Registered and 155 Exempted). This includes churches/religious organisations, charities, youth, environmental and historical groups, sports clubs, as well as other social and recreational societies. The assessment revealed that most NPOs do not have a global reach nor transact with jurisdictions with known TF activities or active TF threats.

350. All NPOs are required to apply to the AFSC to determine their registration status and for monitoring purposes. Subject to section 5(2) of the Non-Profit Regulations, an NPO whose gross annual income does not exceed EC\$5,000.00 and whose assets do not exceed EC\$10,000.00 in value is exempted from registration. The registration process also identifies NPOs for oversight and enforcement activities.

351. Registration requirements were implemented since 2014 and requires the completion of a fit and proper assessment of all applicants. Fitness and propriety tests have also been implemented for directors and officers of NPOs. This information is available to the AFSC and law enforcement agencies.

352. The NPO assessment found that most NPOs do not have a global reach nor transact with jurisdictions with known TF activities or active TF threats. Few NPOs receive funds from overseas. In these instances, the funds are from an affiliated or parent organisation such as



Federation Internationale de Football Association (FIFA) and the British Red Cross. Some NPOs in Anguilla were considered by the authorities to be at risk for TF based on their characteristics and activities. The measures implemented by the Anguillan authorities apply to all NPOs and the focus is not solely on those NPOs that are likely at risk for TF abuse.

353. The legislation governing NPOs, including its oversight is limited and does not address fully the requirements that are mandated by the FATF (see R.8). Anguilla's NPO sector is relatively small and entities are mainly engaged in domestic charitable work, such as sport associations and humanitarian organizations providing food and clothing. Funding is generally provided by local donors and through activities such as raffles and sale of food and other items as well as reputable international donors. The AFSC and Commercial Registry, have given some attention to the work of NPOs. As a result, there are few gaps in the registration information of NPOs and in the nature and purpose of NPOs.
354. The assessment of the NPO sector used available data and determined that NPOs generally were at medium risk for being abused for TF purposes. There was no evidence to indicate that Anguilla residents have been radicalised or have joined foreign conflicts. The medium risk is reinforced by the fact that the NPO sector collects and distributes funds, locally to a significant extent, and those funds remitted overseas go to other reputable donor organisations.
355. Some NPOs have policies and procedures within their network in relation to the overseas transmission of funds, which require that the local NPO branch only transmit funds to the NPO headquarters, in accordance with their own policies and procedures with regard to the identification of recipients of donations. During an interview with a large internationally active NPO, the assessors were informed that there are policies and procedures in place for receiving monetary donations. Interviewees indicated that the receipt and repatriation of funds with the parent and/or affiliate NPO are through regulatory channels. All NPOs interviewed expressed that the likelihood of TF abuse in Anguilla's NPO sector is low and equally viewed the overall TF risk as low.
356. The implementation of a risk-based approach had not yet been fully implemented. Given that neither remedial actions or sanctions had been applied, the appropriateness cannot be effectively assessed, but as noted in Recommendation 8 the framework is in place.
357. Outreach to the sector included training in targeted financial sanctions and compliance and legislative changes conducted shortly before the onsite.

4.3.3. Deprivation of TF assets and instrumentalities

358. At the time of the on-site there had been no investigations or prosecutions into TF. As such there has been no opportunity to deprive terrorists, terrorist organizations or terrorist financiers of assets and instrumentalities related to TF activities. Also, there has been no identified assets linked to subjects of TFS. REs, and more so the FIs and more sophisticated DNFBPs, demonstrate an awareness of the procedures in place to identify and freeze any assets without delay as part of the implementation of targeted TF sanctions. Although variable, entities interviewed confirmed regular screening against sanction lists. While there have been no instances to deprive assets related to TF activity, Anguilla has a legislative framework in place to address the deprivation of TF assets and instrumentalities both in relation to TF investigations and TFS.



359. The AFIU, as the designated authority for the investigation of TF, has policies and mechanisms in place for the tracing and confiscation of assets related to TF activities. There has been no criminal freezing or confiscation orders in relation to terrorists, terrorist organizations or terrorist financiers in keeping with Anguilla's TF risk profile. Should TF assets and instrumentalities be identified however, Anguilla has demonstrated that there are mechanisms in place to ensure that terrorist and terrorist organizations can be deprived of such assets.

4.3.4. Consistency of measures with overall TF risk profile

360. Anguilla's NRA Report reflects the overall threat level for TF risk as **Medium**. There is no evidence of known or suspected acts of terrorism or TF in Anguilla and no terrorist groups or individuals linked to terrorism or terrorist groups have been identified to date in the jurisdiction. However, it was determined that the propensity or possibility of a terrorist act or financing of terrorism being facilitated through Anguilla's corporate structures (especially IBCs) exist. Nevertheless, Anguilla conducted the TF risk assessment which focused on terrorist actors' capacity, scope of global reach and estimated amount of funds raised in the country annually.

361. CAs in Anguilla have the legal authority pursuant to the CTA to implement TFS as required by UNSCRs 1267 and 1373. During the assessment period, and consistent with its overall TF risk profile, Anguilla recorded no listings or designations, no identification of assets or accounts of sanctioned individuals or entities, no exemptions or de-listings, and no associated investigations or enforcement actions undertaken. Anguilla has a mechanism in place to consider implementation to TFS to give effect to the request of another country; however, this did not occur during the assessment period.

362. While there have been no instances to deprive assets related to TF activity, Anguilla has a legislative framework in place to address the deprivation of TF assets and instrumentalities both in relation to TF investigations and TFS.

363. Furthermore, Anguilla revamped its company formation regime by updating the legal framework, giving the Commercial Registry supervisory powers and creating a new registry (CRES). The legislation enacted improves BO transparency of legal persons. These measures are generally consistent with Anguilla's overall TF risk profile.

364. Although Anguilla has identified NPOs that are vulnerable to TF abuse, it has applied prescriptive measures to all NPOs which is not in line with the risk-based approach. Such actions can discourage legitimate NPO activities.

Overall conclusions on IO.10

365. Anguilla has recently enacted the CTA, aimed at improving their implementation of TFS-TF. However, there are major gaps and deficiencies identified in Anguilla's TFS regime for TF (R.6). There were no assets or entities subject to TFS-TF identified in the

jurisdictions, and consequently no freezing or other TFS-related actions taken during the assessment period.

366. Sanctions orders appear to be implemented in law without delay and notices were issued in a timely manner. However, not all REs were reviewing account holder information to determine whether they hold sanctioned assets and ensuring that they prohibit in dealing in assets of listed persons and entities. Neither the AFIU nor the AFSC have comprehensive measures to verify RE compliance. Some sectors, in particular VASPs and DNFBPs, are not aware of, and are not acting on, their TFS obligations.
367. Policy, procedural, and public guidance documents touching on TFS for TF are outdated at points since the coming into force of the CTA. The policy and procedural frameworks also don't integrate the NRA's findings with respect to the TF risks associated with BCs.
368. NPOs are governed under the NPO Regulations and supervised by an established and experienced Supervisor. Mechanisms are implemented to ensure fitness and probity of NPO operators. Cross-border transfers are conducted within the regulated financial sector. While Anguilla has identified NPOs that are vulnerable to TF abuse, it has applied prescriptive measures to all NPOs which is not in line with the risk-based approach.
369. No freezing measures occurred in accordance with UNSCRs 1267 and 1373, and no TF funds have been restrained, which is consistent with the overall TF risk profile of the country.
370. Even though there had been no opportunity to deprive terrorists, terrorist organizations or terrorist financiers of assets and instrumentalities related to TF, Anguilla's legislative framework has measures in place to address the deprivation of TF assets and instrumentalities.
371. Considering the above-mentioned factors, the country has achieved IO.10 to some extent, with major improvements needed.

Anguilla 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

372. Anguilla has a regime for the implementation of TFS for PF without delay, however, there are deficiencies and gaps identified in the regime (R.7). Otherwise, Anguilla implements TFS related to PF in a manner that is largely congruent with the TFS for PF regime outlined above at IO.10. As with that regime, the TFS for PF regime has transformed substantially over the assessment period, and the policy, procedural, training and outreach frameworks to support the current regime have lagged considerably. Recent enhancements to the regime, in particular the coming into force of the PFA and the use of new technologies and strategies to facilitate reporting, are promising, however, they are too nascent to be thoroughly assessed. Staffing levels noted elsewhere at some CAs, in particular at the AFIU and the AFSC, are not sufficient to effectively discharge their mandates with respect to TFS.

373. PF was deemed to have a medium risk rating in Anguilla's NRA. There has been no PF investigations or prosecutions. The jurisdiction does not have a manufacturing industry which would use or provide the materials or dual use goods for PF or delivery mechanisms that would be attractive to actual proliferation. Additionally, there is no public offshore banking facilities which could be used for the funding of PF activities. There is no direct or known indirect trade with PF high risk jurisdictions DPRK and Iran. and the Customs Department monitors for suspicious or flagged importers and imports. Thus, the threat level was identified as being low. However, the existence of corporate structures, such as the IBCs, at the time presented a high vulnerability level. Thus, the overall risk level of PF was determined to be medium based on the methodology used for the NRA. After the NRA the jurisdiction enacted the Business Companies Act which repealed the IBC Act and provided for more transparency and scrutiny with the company structures which are incorporated in Anguilla.
374. As described in relation to IO.10, as a BOT, Anguilla implements the international sanctions obligations of the UK. These obligations are extended by the UK to Anguilla through OICs issued by the UK Privy Council. Therefore, the UK's obligations under UNSCRs relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing are implemented by Anguilla through this means. Specifically, the UK gives effect to all of the UNSC's TFS regimes, primarily by means of the SAMLA. Designations made by the UNSC under various resolutions and successor resolutions dealing with proliferation of WMD and PF are given effect in the UK by means of Regulations issued under SAMLA. These SAMLA Regulations under the various sanction regimes, are modified by the UK and extended to Anguilla, and other BOTs, by means of OICs. Accordingly, SAMLA Regulations in force in Anguilla are referred to as 'Modified Regulations' and the OICs referred to as 'OT Orders'. The OT Orders extending the relevant sanctions regimes, mirror or reflect, with necessary modifications, the UK's own sanctions requirements, inclusive of the requisite obligations and penalties.
375. Two weeks before the onsite, the Proliferation Financing (Prohibition) Act, 2023 (PFA) was passed. The PFA provides for the criminalization of PF, a domestic designation regime and other related matters. Consistent with the Modified Regulations, the Governor is the statutorily designated CA under the PFA, with responsibility for implementing UNSCRs 2231 and 1718. The PFA prohibits the dealing with assets of designated persons and entities, and allows for the freezing of the assets of designated persons or entities.
376. The UK gives effect to obligations under UNSCR 2231 (Iran) through SAMLA Regulations (Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019). These regulations have been extended to Anguilla by means of an OT Order (Iran (Sanctions) (Nuclear) (Overseas Territories) Order 2020). Existing designations made by the UNSC that remain in effect under UNSCR 2231(2015), have legal effect in Anguilla, and any modifications that occur as a result of the JCPOA will also have immediate effect in Anguilla. This is because the Iran Sanctions OT Order allows all changes to the designations made under the UNSC Iran sanctions regimes to have automatic legal effect in Anguilla.
377. The UK gives effect to obligations under UNSCR 1718 (DPRK), and its successor resolutions, through regulations made under SAMLA, namely, the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019. These regulations have been



extended to Anguilla by means of the Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2020. The DPRK Sanctions OT Order ensures that all designations made by the UNSC under UNSCR 1718 automatically have legal effect in Anguilla, including any changes made to the designations from time to time.

378. Consistent with TFS for TF, as noted in IO.10, all designations made under the financial sanctions regimes established by UNSCRs are published in the UK, and are available by means of a Consolidated List managed and maintained by the UK's OFSI. The Consolidated List is the primary resource relied upon by Anguilla CAs and REs subject to TFS obligations, although some more sophisticated entities utilize industry-known services which enable them to screen new and, in some cases, current clients immediately upon any change to a relevant sanctions list. The AFIU links to OFSI's Consolidated List, as well as the UN Consolidated List, on the TFS sanctions notices in relation to PF which it posts on its public website. The AFIU maintains a voluntary email distribution for reporting entities who choose to receive sanctions notices directly, but this is optional, and many REs do not subscribe.
379. Anguilla's policy is to publish and disseminate sanctions notices within 24 hours, a timeline which has been demonstrated in relation to 12 of 13 total amendments and corrections during nine months in 2022 of the five-year assessment period. One DPRK-related amendment was not subject to notification during a three-month period. Anguilla indicated that this was due to an administrative oversight but provided no further details. Anguilla provided no other statistics, etc. in relation to notices for the remainder of the assessment period, nor any other statistics, etc., in relation to implementation of TFS for PF more generally.
380. The AFIU's notice procedure is detailed in the Procedural Policy for the Handling of Financial Sanctions Notices, published for the first time in March 2023, but already it is somewhat out of date in light of the subsequent enactment of the PFA. Contemporaneous with the coming into force of the PFA in June 2023, the AFIU instituted an electronic feedback form that asks REs to confirm their review of the sanctions notice, that they have reviewed their client files accordingly, indicate whether there are any responsive accounts, and provide optional feedback; however, the tool is too nascent to be meaningfully assessed. Anguilla reports that only 70% of recipients return the feedback sought. Furthermore, not all REs have signed up to receive the optional email disseminations. The AFIU acknowledges the need for further outreach in terms of training, advisories, guidance, etc., but this has not yet occurred.
381. In two internal policy documents issued by the AFIU in November 2022 and February 2023, respectively, for the first time the AFIU developed SOPs for the investigation and intelligence-gathering efforts related to terrorism, TF and PF. However, the policy does not contemplate TFS, whether for TF or PF. The ANAMLC completed Anguilla's National Counter-Terrorism, Terrorist Financing and Proliferation Financing Strategic Plan, approved in January 2023 and published on the public websites of the AFIU and the AGC. This national strategy also does not substantively address TFS, whether in relation to TF or PF.
382. TFS for PF obligations of persons and entities in Anguilla are not being implemented without delay, consistently. In particular, DNFBPs except for TCSPs were identified by the assessment team during onsite interviews as minimally aware of their TFS obligations, especially in relation to screening, due diligence, and reporting.



383. As described at IO.10, in December 2022, Anguilla issued, for the first time, comprehensive public guidance on TFS implementation and compliance. The Financial Sanctions Guidelines were made available on the respective websites of the Governor, Government of Anguilla, the AFSC and the AFIU. While the guidelines are somewhat out-of-date since the adoption of the PFA, they remain the most useful tool for FIs, DNFBPs and other obligated persons in supporting compliance with TFS obligations, including in relation to PF.
384. The ANAMLC produced guidance, called Sanctions Regime, describing each of the obligations under the OT Orders, including the PF-related OT Order. The AFSC and the AGC published it on their respective public websites and the AFSC sent it to NPOs and TCSPs.
385. As described at IO.10, recent outreach fatigue of REs appeared to be a real factor in outreach effectiveness, especially in relation to the recent enhancements to the TFS regime.
386. The AGC produced internal guidance on the appropriate procedures and prioritization of enforcement action under the PFA. The AGC, along with the AFIU and the AFSC, attends virtual monthly meetings of the Sanctions Forum for BOTs.
387. CAs do not have a sufficient understanding of TFS, whether in relation to TF or PF. For example, it was only the month of the onsite that internal guidance was issued in relation to TFS for the Anguilla Maritime Administration and Shipping Registry. No other policy document, strategy, plan, procedural document, risk assessment, etc. contemplates this CA's ML/TF risks, let alone its role in implementing TFS for PF without delay.
388. Anguilla has not demonstrated the implementation of TFS-PF for the first 3 years of the 5-year assessment period.

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

389. Anguilla has not identified any funds or other assets belonging to a designated person or entity in relation to TFS-PF and consequently no reports have been made to the AFIU and there has been no operational activity in terms of TFS for PF. The Financial Sanctions Guidance and the PFA are the primary tools available to guide the identification of funds or other assets of designated entities (but not persons), and those acting on their behalf or at their direction, and such entities prevented from operation or from executing financial transactions related to proliferation.
390. As set out in the PFA, the Governor is the Anguilla CA, with support from the AFIU and in consultation with the AGC, to make a designation based on reasonable grounds to suspect that the criteria for designation has been met. Designations are made to the relevant UN body via the FCDO. PF-related designations are subject to the completion of a Designation Impact Assessment (DIA), and further, PF-related designations can also be made on behalf of requesting jurisdictions, however, there is no statutory bases for these features, nor has any supporting information or materials been provided.
391. The AFIU has a procedural policy for the identification and development of targets for designation, inclusive of TFS related to PF, which reflects or is consistent with the PFA and which centres upon the completion of a Designated Impact Assessment. Anguilla advises that the 2023 prescribed reporting forms for TCSPs will capture information regarding PF

risks and mitigating measures, however, this has not yet been implemented and it is not clear whether this includes reporting forms for REs other than TCSPs.

392. The PFA requires FIs and service providers to report suspicious transactions, in addition to the PFA obligation on all persons who hold assets of designated persons or entities to report the same, to the AFIU. Furthermore, a person who holds an asset which they suspect is, or may be, owned, controlled or held on behalf of, or at the direction of, a designated person or entity may make a request in writing in a prescribed form to the “Unit” to verify that suspicion (s. 32 PFA; presumably “Unit” refers to the AFIU, however, this is not clear as there is no definition of the term at s. 1 of the PFA where the term “Agency” is defined as the AFIU). In this way, REs can seek to address instances where there may encounter a false positive.
393. In relation to PF, Anguilla’s National Counter-Terrorism, TF and PF Strategic Plan is not comprehensively in dialogue with, and responsive to, the NRA and the broader National AM/CFT Policy and Proliferation Financing Strategic Plan. The NRA identifies BCs as the primary site for PF risk. However, this is not meaningfully engaged in the National AML/CFT/PF Strategy, nor in the more narrowly tailored TF/PF Strategy. It is also not substantively addressed in the SOP for the AFIU in relation to TF and PF, nor in the risk assessment completed in June 2023 in relation to shipping/shipping registration and PF.

4.4.3. FIs, DNFBPs and VASPs’ understanding of and compliance with obligations

394. There are no separate measures employed by FI and DNFBPs with respect to PF. Screenings of customers are done against the UN Sanctions Lists and searches are conducted on customers using software tools such as World Check and Lexis Nexus.
395. FIs have a full understanding of their obligations as well as a good awareness of the importance arising from the relevant UN sanctions regime relating to the proliferation of weapons of mass destruction. Most FIs rely on online sources to screen their clients against sanction list (e.g. OFAC) and the outsourcing of screening using third party automatic software to screen their client databases and transactions against the most recent PF related sanction lists. They also consult with open-source websites. No positive match has ever been reported. Other than FIs, only TCSPs and VASPs appear to have a good understanding of their PF obligations and were generally aware of the UNSCRs and their obligations in relation thereto.
396. To a large extent, the financial sector understands the importance of TFS with regard to proliferation. The desire to ensure compliance is largely attributable to the linkages the sector has with the global markets and overall risk appetite of the larger entities of the financial sector. While all FIs understand the obligation to freeze assets and are aware of the reporting requirements, only some DNFBPs, namely TCSPs shared that same awareness.
397. Smaller DNFBPs such as DPMSs and real estate agents demonstrated a lack of understanding of PF, which can explain the infrequency of identification controls applied. This is reflective of the fact that the FSC have not engaged the sector sufficiently to ensure they understand proliferation risks and are able to identify PF.



4.4.4. Competent authorities ensuring and monitoring compliance

398. Part 6 of the recently enacted Proliferation Financing (Prohibition) Act, 2023 provides supervision responsibility and enforcement powers to the AFIU relative to PF-related TFS. The AFIU's full staff contingent of six (6) are jointly responsible for their traditional financial intelligence duties as well as monitoring and ensuring compliance by FIs, DNFBPs and VASPs with their obligations regarding TFS relating to PF. The AFIU's financial budget dedicated to the aforementioned processes was not disclosed to the AT; however, it was evident that the AFIU was competently executing its new relevant duties.
399. The AFIU developed a Proliferation Financing and Targeted Financial Sanctions Monitoring and Supervision Manual and an inspection and monitoring timetable covering the period July 1, 2023 – December 31, 2023. The inspection will cover six (6) entities through onsite or virtual inspection process.
400. There has been some degree of training for CAs involved in implementing PF related TFS. For example, a Financial Sanctions Implementation Training was undertaken in January 2023 by several persons from the ANAMLC, Maritime Department, etc. This technical assistance was provided by the Office of Financial Sanctions Implementation, HM Treasury, United Kingdom and included a specific session on Proliferation Finance and supervision. Additionally, the AFSC and AGC are members of the sanctions forum for BOTs and participate in their monthly meetings.
401. In terms of awareness raising measures, the AFIU, AFSC, AGC and the Governor's Office disseminated guidance developed by the ANAMLC of PF-related TFS. The AFIU held outreach sessions for FIs and DNFBPs in relation to the implementation of PF TFS and the rollout of the AFIU's digital reporting platform.

Overall conclusions on IO.11

402. There were no assets or entities subject to TFS-PF identified in the jurisdiction, and consequently no freezing or other TFS-related actions taken during the assessment period.
403. Anguilla recently passed legislation aimed at improving their implementation of TFS-PF. However, there are gaps and deficiencies identified in Anguilla's TFS regime for PF (R.7).
404. Anguilla does not consistently implement TFS-PF without delay. Not all REs and obligated persons and entities are reviewing account holder information to determine whether they hold sanctioned assets and ensuring that they prohibit in dealing in assets of listed persons and entities. Some sectors, in particular VASPs, DNFBPs and TCSPs, are not aware of, and are not acting on, their TFS obligations.
405. Neither the AFIU nor the AFSC have comprehensive measures to verify RE compliance. Staffing levels of these CAs are insufficient to effectively achieve their mandates.



406. Relevant CAs are developing monitoring and compliance systems for FIs, DNFBPs, and VASPs and have issued guidance regarding TFS relating to PF. Consequently, Anguilla still has to demonstrate effective monitoring and compliance systems.

407. Considering the above-mentioned factors, the country has achieved IO.11 to some extent, with major improvements needed.

Anguilla 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) FIs, VASPs and TCSPs in Anguilla have a reasonable understanding of their ML/TF risks. With the exception of TCSPs, DNFBPs have a less developed understanding of their ML/TF risks. FIs, DNFBPs and VASPs did not participate in the NRA process. Risk understanding is largely based on business risk assessments, trends and typologies identified by the FATF or as identified by the AFIU and/or AFSC at onsite/offsite inspections and compliance visits. In general, ML/TF risk understanding did not fully reflect the findings of the NRA due to its recent dissemination.
- b) TF risk and TF generally receive less emphasis in AML/CFT programmes in keeping with the perceived lower risk of TF nationally.
- c) FIs, VASPs and TCSPs have a reasonable understanding and implementation of AML/CFT obligations in relation to CDD, EDD ongoing monitoring and record keeping consistent with their risk profile. The understanding and implementation of AML/CFT obligations varied across DNFBP sectors. FIs in Anguilla conduct EDD on new clients as well as ongoing monitoring and use information technology systems and public information to comprehensively vet clients. EDD measures and triggers are outlined in some FI's AML/CFT policies. TCSPs identify the beneficial owners holding 10% or more interest. VASPs and TCSPs apply EDD controls using screening software that performs PEP and sanctions screening. As a result of interactions with the AFSC, TCSPs' risk and compliance systems have been strengthened over time. VASPs apply requisite CDD measures for digital customers and use a wide range of monitoring tools. Other DNFBP sectors such as DPMS and real estate apply a limited risk-based approach in implementing mitigating measures. Although most DNFBPs are aware of CDD and EDD requirements as outlined in their internal policies, the FSC has identified significant shortcomings regarding requirements for CDD, EDD and record keeping.
- d) Overall SAR reporting remained low. Of FIs, only MSBs, domestic banks and a credit union filed SARs, while of DNFBPs, only TSCPs filed SARs. No SARs were filed by VASPs. While SAR reporting by FIs is somewhat in line with Anguilla's risk profile, this is not the case for DNFBPs and VASPs. FIs employ

effective practical measures such as frequent AML/CFT training and policies and procedures manuals that address and help prevent tipping-off, while VASPs and some TCSPs have included some guidance in their policies and staff training. Most FIs in Anguilla have established AML/CFT policies, internal controls and procedures which have been appropriately documented in manuals that guide day-to-day operations. These institutions are also subject to internal and external audits that test their AML/CFT controls. There are no legal or regulatory requirements that impede the application of internal controls or procedures of FIs in Anguilla.

- e) The suspension of AML/CFT obligations for lawyers due to a legislative stay creates an important gap in Anguilla's AML/CFT framework. However, it does not completely undermine the effectiveness of Anguilla's AML/CFT regime as there is a framework in place which mitigates the ML risk identified. In Anguilla, company formation services require a TCSP license and all TCSPs are subject to AFSC supervision. Additionally, real estate transactions are subject to additional CDD measures through FIs.

Recommended Actions

- a) Anguilla should take proactive steps to develop the ML/TF risk understanding of FIs, DNFBPs and VASPs. In particular:
 - (i) The AFSC should ensure that all FIs, DNFBPs and VASPs are notified of the findings of the NRA and the RBI programme risk assessment.
 - (ii) Anguilla should take supervisory action inclusive of guidance and outreach to ensure that DNFBPs are aware of their ML/TF risks.
 - (iii) Anguilla should develop the understanding of TF risks across all sectors by sharing more information on TF methods and typologies.
- b) FIs, DNFBPs and VASPs should develop their understanding of ML/TF risks in line with the findings of the NRA and RBI assessment and implement appropriate risk-based measures.
- c) Upon the completion of revised business risk assessments, pursuant to section 3 of the AML/TF Code, FIs, DNFBPs and VASPs should ensure that regular staff training is conducted annually to update and remind staff of the respective institutional inherent ML/TF risks and the risk-mitigating measures that are utilized.
- d) Anguilla should provide enhanced guidance to DNFBPs, in particular, regarding compliance with CDD, BO and PEP requirements, identifying suspicious activity and filing a SAR and complying with TFS obligations to foster the robust application of preventive measures consistent with ML/TF risks.
- e) Anguilla should immediately take steps to ensure that lawyers form part of the AML/CFT regime and that AML/CFT obligations apply to this sector.

408. The relevant Immediate Outcome considered and assessed in this chapter is IO.4.²⁴ 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)²⁵

409. In weighting the relative importance of the various FI and DNFBP sectors in Anguilla, the assessment team considered the size of the sectors, extent of facilitation of cross-border

²⁴ When assessing effectiveness under Immediate Outcome 4, assessors should take into consideration the risk, context and materiality of the country being assessed. Assessors should clearly explain these factors in Chapter One of the mutual evaluation report under the heading of Financial Institutions, DNFBPs and VASPs, as required in the instructions under that heading in the Methodology.

²⁵ The first paragraph should give a short summary of what relative importance assessors have given to the different types of financial institutions, designated non-financial businesses and professions and VASPs, taking into account the risk, context and materiality of



activities, customer profiles (including geographic range, nature, PEPs, high net-worth, etc.), cash intensity of transactions, and dominant services or products or portfolio of services and products.

410. The implementation of preventive measures by the relevant sectors is weighted **Most Important** for offshore banks, MSBs, TCSPs, lawyers and notaries; **Very Important** for domestic banks; **Important** for domestic long-term insurance, mutual funds, credit unions, and micro lenders, real estate agents and VASPs (utility token administrator and utility token offering issuer); and **Less Important** for insurance intermediaries, mutual fund intermediaries, accountants and DPMS. This weighting is based on the relative importance of each sector and Anguilla's risk, context and materiality, as explained in Chapter 1.

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

411. FIs, DNFBPs and VASPs are required to identify, assess and understand their risk by conducting a business risk assessment which is to be submitted to the AFSC upon request. Through supervisory action, the AFSC identified shortcomings regarding the requirement. However, through the action plan and monitoring process following individual inspection/compliance visit reports, the AFSC received up-to-date business risk assessments that were significantly improved versions of those submitted during the inspection/compliance visit process. In cases where no business risk assessments were provided, a draft was provided.

FIs

412. FIs in Anguilla have a reasonable understanding of their ML/TF risks and their AML/CFT obligations, but they did not participate in the NRA exercises. The assessment team interviewed senior representatives of FIs from the banking, insurance and mutual funds' sectors, MSBs, a credit union and a micro-lender. No representatives from the securities' sector were interviewed as there were no such licensees at the time of the mutual evaluation's onsite inspection. All the interviewed FIs had designated MLROs and MLCOs/COs.
413. The interviewed FIs generally relied on business risk assessments (individual and group-wide); background checks; trends and typologies identified by the FATF or as identified by the AFIU and/or AFSC in their local notifications; onsite/offsite inspections and compliance visits (when applicable) by the AFSC to help them identify and maintain an understanding of their ML/TF risks and AML/CFT obligations.
414. Additionally, all the interviewed FIs received a copy of the NRA's Summary Report in 2023, but their AML/CFT policies and procedures manuals do not directly reflect the ML/TF risks identified in the report, in particular the TF risks of some of the small FIs (e.g., credit unions,

the country being assessed. This should be supplemented by a cross-reference to the more detailed information in Chapter One on how each sector has been weighted (based on risk, context and materiality) (as required in the instructions under that heading in the Methodology).



micro-lenders, etc.). This was due to the recent dissemination of the NRA Summary Report in February 2023. Furthermore, it was not evident that any of the interviewed FIs had received a copy of the RBI programme's risk assessment.

415. Anguilla's FIs typically use checklists, application forms, and information technology systems to assist with their CDD (basic and enhanced) and there was a standard awareness that ML/TF related suspicious activities/transactions should be reported to the AFIU. It was evident that the staff of these FIs received regular AML/CFT training during the review period, with the exception of staff of some of the small FIs (e.g., credit unions, micro-lenders, etc.).
416. **Banks:** The assessment team interviewed senior representatives from all the banks operating in Anguilla and noted that they were aware of the inherent sectoral ML/TF risks outlined in the NRA Summary Report. Additionally, the banks had identified and documented various institutional ML/TF risks in their AML/CFT policies and procedures manuals such as: multiple delivery channels required to provide banking services; foreign clients who may not adhere to local laws; online banking network exposure; human trafficking; high-risk jurisdictions; PEPs who may abuse their power and influence to facilitate ML/TF; and NPOs who may facilitate ML/TF. However, the banks' AML/CFT policies and procedures manuals were not revised to include the findings of the NRA Summary Report or the RBI programme's risk assessment. Nevertheless, it was evident that the banks had a reasonable understanding of their institutional ML/TF risks and AML/CFT obligations.
417. **MSBs:** The MSBs in Anguilla are typically affiliated with international groups and have a good understanding of their institutional ML/TF risks as high cash intensive businesses in a jurisdiction where there is a perceived 'Very High' threat level of human trafficking. The interviewed MSB representatives satisfactorily identified sectoral ML/TF risks and their firms' AML/CFT policies and procedures manuals outlined the following ML/TF risks: cash intensive; customer activity involving many transactions, sometimes to high-risk countries; high-risk clients conducting transactions with no apparent business or lawful purpose or on behalf of undisclosed third parties; PEPs who may abuse their power and influence to facilitate ML/TF; and corporate clients who may facilitate ML/TF. However, the MSBs' AML/CFT policies and procedures manuals were not revised to include the findings of the NRA Summary Report or the RBI programme's risk assessment. Nevertheless, MSBs had a reasonable understanding of their institutional ML/TF risks and AML/CFT obligations.
418. **Insurance, Mutual Funds, Credit Unions and Micro-lenders:** Each of these financial sectors are relatively small (6 operating entities) except for Insurance, which has twenty-five (25) domestic long-term insurance firms and thirty-two (32) insurance intermediaries that are required to adhere to the FATF Standards. The representatives of these FIs were satisfactorily able to identify the ML/TF risks of their respective entities and sectors and each had AML/CFT policies and procedures manuals with relevant documented ML/TF risks. Additionally, the representatives were satisfactorily aware of their AML/CFT obligations.

DNFBPs & VASPs

419. The DNFBP sectors' understanding of risks and subsequent obligations varies by sub-sector but is generally less developed than that of FIs. Some entities were unable to demonstrate an understanding of the risks affecting their businesses and, therefore were unable to discuss their plans for mitigating those risks. TCSPs showed a better understanding of ML/TF risks due to the increased supervisory contact with the sector. However, some DNFBPs did not demonstrate that risk assessments were documented or kept up to date, while others provided their business risk assessments to the AFSC, voluntarily and on request. Given that the general understanding of AML/CFT risk was mostly based on business risk assessments, some DNFBPs do not have a well-developed understanding of risk.
420. Although DNFBPs were not part of the NRA process, interviewees from the DNFBP sectors confirmed that the results of the NRA were shared with them during the six-month period prior to the onsite. The results were delivered through emails and placed on the AFSC's website. Some attended a Press Conference where the findings were delivered publicly, and questions were posed and answered. Institutions received a sanitized summary of the NRA results and were able to study and fully understand the risks related to other sectors or the country risk.
421. **Lawyers:** Although lawyers execute a pivotal function in relation to the RBI programme, real estate sector and company management, they are not covered by the AML/CFT framework. The Anguilla Bar Association filed for and obtained an injunction which prevents lawyers from being supervised for AML/CFT purposes. This is a major gap in the implementation of Anguilla's AML/CFT regime for DNFBPs since the NRA recognised lawyers as being facilitators of ML. On July 4th, 2023, an application was made to the Court to remove the stay on the provisions of POCA by the legal professionals. A draft consent order was signed by both the Bar Association and the Attorney General Chambers to remove the stay on the provisions on POCA. This consent order is currently being perfected for filing before the Court.
422. Of the four (4) lawyers interviewed, one (1) provided services as a registered agent, corporate service provider and trust service provider between 2018 and 2023, and because they are not required to comply with AML/CFT obligations, there is no record that this entity conducted any business risk assessments. However, assessors found the interviewee to have a general understanding of the AML/CFT risks and obligations. In Anguilla, in order to conduct trust and company service business, the business must receive a license. Therefore, the interviewed lawyer that conduct company formation possesses a license under the Companies Management Act and Trust Companies and Offshore Banking Act and is supervised by the AFSC.
423. **Accountants & Auditors:** These sectors are considered low ML/TF risk based on the nature of the services they provide (bookkeeping, preparation of financial statements, tax services and audits-including AML audits) which are outside the scope of the FATF requirements. However, the AFSC indicated that they have a basic knowledge of ML/TF risks and AML/CFT obligations based on client service interactions with AML requirements.
424. **TCSPs:** The TCSP sector in Anguilla is very significant with 56 TCSPs licensed as at June 30th 2023; 49 company service providers and 7 trust service providers incorporated or registered in Anguilla as of December 31, 2023.



425. The TCSP sector has been assessed as having a high ML risk. TCSPs were aware of their ML/TF risks and of some of the ways they could be misused for ML/TF. Some TCSPs interviewed were members of international financial groups and were able to discuss specific risks factors that determined their institutional ML/TF risks. These entities use a wide range of sources to conduct ML/TF assessments including their knowledge of business operations, global developments within sectors, and group information. However, some risk rating frameworks utilised were not as developed as that of the banks.
426. **Real Estate Agents:** The real estate sector conducts transactions with international clients (US, UK, Canada) and on a lesser scale, domestic and regional clients. The services include sale, rental or leasing of properties and property management. The interviewed entity was aware of the NRA's findings on the real estate sector, and had existing AML/CFT policies and procedures, however, did not demonstrate that risk assessments were documented nor kept up to date. While the interviewed entity is no longer engaged in active real estate business, it demonstrated a general understanding of the inherent ML risks associated with the sector and a basic understanding of AML/CFT obligations when processing real estate transactions.
427. **DPMS:** The DPMS sector comprises two (2) entities with a predominantly domestic clientele. There was an uptick in sales during the Covid-19 period because people could not travel. The interview with one representative in this sector revealed that the entity possesses a business license from the Ministry of Finance but is not licensed with the AFSC. The interviewee considered the risks posed to be relatively low due mainly to low transaction activity (less than 10,000 USD), low value of product offering (less than 50,000 USD) and the use of standard mitigating measures. However, there was no evidence that risk assessments were documented or kept up to date.
428. **VASPs:** VASPs interviewed included one (1) utility token administrator and one (1) utility token issuer offering a HST Token. This token supports and promotes a system network which is a closed area to transact. Users can only transact among themselves and use the tokens to pay for services from within the network. Tokens are used to pay administration fees to gain access to the Issuer's network which allows for the storage of virtual assets. Through the Issuer, there is no exchange from VA to VA under this license as this is only possible under the Utility Token Exchange Act with necessary approvals from the AFSC. Fiat to Fiat exchanges are accepted, however this occurs in small amounts and is reported to the AFSC. The subscribers are physical persons who have been invited to buy utility tokens from which the proceeds are used to fund the development of the network. Ultimately, the token cannot be used as a means of payment or for investment related purposes.
429. The Utility Token Administrator's purpose is to present a physical presence in Anguilla that is licensed to act to assist the Issuer to comply with the AUTO Act and AML/CFT Regulations and facilitate the initial coin offerings.
430. The VASP sector is an established sector subject to registration and licensing processes. Interviews confirmed that compliance staff and senior management had a sound understanding of ML/TF risk. The two VASPs are related entities and have both conducted risk assessments that considered the ML/TF risks of their VASP business. These covered the product/service offerings, geographical risk and the delivery channels. Risk assessments will



be updated this year (2023) based on the results of the NRA. A full assessment of this sector has been conducted by the AFSC.

5.2.2. *Application of risk mitigating measures*

FIs

431. In order to determine whether FIs adequately assess, understand and mitigate their ML/TF risks, the AFSC reviews all business risk assessments and the AML/CFT manuals during inspections/compliance visits. Local legislation also requires that all FIs conduct business risk assessments and have policies and procedures which outline what risks the FI faces and the measures which it takes to mitigate such risks.
432. The interviewed FIs conduct ML/TF risk assessments, some of which are sent to the AFSC for their review on a quarterly and/or annual basis and/or during onsite inspections/compliance visits. Some FIs rely on the ML/TF risks identified by their financial groups which are documented in their AML/CFT policies and procedures manuals. Upon identifying their risks, FIs employ a range of mitigating measures such as: pre-on boarding checks with banks using software such as World-Check and ongoing and enhanced monitoring of clients; checklists to conduct CDD; rejecting transactions if CDD is incomplete; banks establishing wire transfer limits which require a clearly identified transaction purpose; conducting comparative searches using internal and external watch lists (e.g., PEPs, FATF, OFSI, etc.); allocating additional resources (financial and labour) to address higher risk matters; training in relation to the risks identified; documenting current risks in their AML/CFT policies and procedures manuals; internal and external AML/CFT audits with reports for remediation; requiring EDD for higher risk clients/transactions; and senior management review and approval for higher risk clients/transactions.
433. The above measures are reasonably commensurate with the FIs' ML/TF risks and are generally applied by all FIs to varying extents based on the resources available to the relevant FI. Small FIs such as MSBs, credit unions and micro-lenders require face-to-face meetings with their clients as a part of CDD. The means of ongoing monitoring would also be determined by the customer risk profile and resources availability of the FI.

. DNFBPs & VASPs

434. Some TCSPs and VASPs apply mitigating measures commensurate with risks at the time of onboarding, however, this is done to a lesser extent with regard to on-going monitoring.
435. Sectors most vulnerable for ML/TF risks such as TCSPs and VASPs demonstrated a fair application of risk mitigation measures, implemented internal policies and procedures commensurate with their risk and conducted some ML/TF risk assessments. Some TCSPs and all VASPs indicated that they are in the process of updating their risk assessments following a review of their ML/TF risks and the NRA findings. Some TCSPs and the VASPs interviewed conduct formal reviews of low-risk relationships every 3 years and formal reviews of high-risk relationships are conducted every year regardless of triggering events. Most interviewees from the DNFBP sectors have documented and approved AML/CFT compliance manuals. NRA results were disseminated in Q4 2022 and Q1 2023 and all DNFBPs interviewed were informed of the findings.

436. TCSPs implement robust onboarding processes which include strict adherence to internal requirements for the type of company structures; provision of certified organizational structure charts where customers comprise complex legal entities; global screening of key personnel and rejection of business unless CDD is completed. Additionally, checking sanctions lists is a practice that is enshrined in some policies for this sector. TCSPs' understanding of ML/TF risks associated with customers, high risk jurisdictions and product/services resulted in the implementation of a risk-based approach to execute CDD and EDD measures. This includes obtaining source of funds and source of wealth from clients.
437. Interviews revealed that real estate agents often placed reliance on the "checks and balances" of other regulated entities when payment was involved. This is done to assist in mitigating risk when transactions are conducted via regulated FIs and lawyers. Identification of PEPs is based on recognition by client-facing staff, internally compiled PEP lists and accurate self-declarations by individuals categorized as PEPs.
438. The DPMS sector was aware of the process for identifying risk and applying risk mitigating measures. However, the AFSC does not actively supervise DPMS based on the assertion that the value of the sector's sales do not bring them under the remit of the FATF Recommendations. Due to the small size of the DPMS sector the application of risk mitigating measures such as duty segregation is challenged by smaller staff numbers. The AFSC has not carried out inspections of real estate agents and other DNFBPs in the past five (five) years.
439. **VASPs:** Licensees implemented controls commensurate with their risks including: advanced on boarding techniques for non-face-to-face business, ML/TF risk assessments, sanctions screening, and use of manual and automated screening tools to monitor VASP activity, such as monitoring transactions to external wallets and block chain activity.
440. VASPs and DNFBPs demonstrated a basic level of awareness of TF risks in the jurisdiction. The AFSC and AFIU provided training sessions to regulated entities which included TF reporting and risk mitigating measures. Additionally, the AFSC and AFIU disseminated guidance to DNFBPs on matters pertaining to TF and risk mitigation. As a result, DNFBPs and VASPs are aware of TF reporting requirements or TF risk mitigating measures. However, the understanding of TF risks needs to be improved.

5.2.3. Application of CDD and record-keeping requirements

FIs

441. FIs in Anguilla conduct adequate CDD measures on new clients and ongoing monitoring on existing clients. Generally, all FIs reject business relationships/transactions if CDD is incomplete and if they are unable to identify the ultimate beneficial owners (natural persons) and/or controllers of the client to gain an understanding of the nature of the entities' business activities and the reason for establishing the business relationship. Ongoing monitoring entailed periodic vetting of clients' records for material changes (in particular in the nature of transactions) and frequent vetting on a risk sensitive basis using open sources and subscription risk intelligence databases. FIs adhere to the FATF Standard of maintaining transaction records for a minimum of five (5) years.



442. The interviewed FIs utilize CDD checklists and application forms (some electronically) that must be fully completed prior to proceeding with a business relationship. The FIs endeavour to identify ultimate beneficial owners, politically exposed persons, high-risk jurisdictions, sanctioned persons/entities and sources/use of funds using an array of information technology systems and public information. If high ML/TF risks are identified with a potential or existing client, EDD is conducted on the individual/entity, which is indicative of a satisfactory risk-based approach.

DNFBPs

443. DNFBPs are required to comply with the same CDD requirements as FIs. Controls are in place for some entities in the DNFBPs sector, however, the AFSC identified several areas of concern. Inspections/compliance visits identified significant shortcomings regarding requirements for CDD, EDD and record keeping. (Refer to table 6.9). Additionally, themed inspections were conducted on some TCSPs the results of which were communicated to the respective TCSPs in writing. These included a deadline to remedy the determined breaches of the AML/CFT requirements.
444. Most DNFBPs request basic customer identification and verification documents – such as a driver's license or passport and are adequately cognizant of the requirement to carry out CDD. TCSPs have demonstrated reasonable knowledge of their CDD obligations, although other sectors such as DPMSs have not. Customer identification documents are collected and, in the case of TCSPs, due diligence is carried out on new clients along with fitness and propriety assessments. Source of funds are determined, but for the other DNFBPs, there was no mention of determining the source of wealth.
445. TCSPs understood the importance of obtaining BO information. In the case of corporate clients, TCSPs identify the beneficial owners by drilling down to the ultimate beneficial owners/controllers of the client (holding 10% or more interest), gaining an understanding of the nature of the entities' business activities and the reason for establishing the business relationship. TCSPs indicated that BO information was readily available and upon request. These actions assist the jurisdiction in preventing misuse of legal persons and arrangements. During the assessment period, the lawyers, accountants, notaries and independent legal professionals did not obtain BO information due to the stay on the legislation. According to the AFSC, training was provided, and guidance was issued on the topic which included examples of different ownership structures.
446. TCSPs generally seek further information from their clients. Larger institutions employ search engines to obtain corroborating information for higher risk relationships as standard practice and some TCSPs rely on third parties to conduct CDD. Ongoing monitoring has been identified as a deficiency with TCSPs, although not their most significant AML/CFT weakness which according to the AFSC is record keeping.
447. Real estate agents are required to conduct CDD prior to forming business relationships with clients. The potential purchaser is required to provide all relevant information and a customer risk profile is created prior to the commencement of the business relationship. CDD measures also include screening against an internally generated PEP list. Transactions are not completed if CDD information and documentation is incomplete. Real estate agents relied on

the clients to provide original documents for the identification and verification BOs. As indicated previously, since the realtor does not accept payments on behalf of his clients for the transaction, reliance is placed on lawyers which are not subject to Anguilla's AML/CFT regime to ensure that this is done. However, all funds presented by lawyers on to the banks undergo thorough CDD measures. Nonetheless, realtors are still required to perform CDD measures.

448. The DPMS interviewed have also to a lesser extent implemented identification and record keeping measures and, in some instances, required identification for transactions over particular amounts for example sales over USD1 000, which is a more stringent approach to the requirements of the FATF Recommendations.
449. All DNFBPs interviewed indicated that they will not conduct business with an individual when they are unable to conduct CDD or access customer identification information. While there are CDD measures being applied, the extent of compliance by DNFBPs could not be fully assessed given the limited supervisory oversight.

VASPs

450. In the VASP sector which is purely digital or non-face-to-face, in addition to certified proof of address and government ID, the institutions used enhanced due diligence methods for on boarding. The VASPs described a wide range of monitoring tools including compliance and sanctions screening software, transaction and virtual asset monitoring systems and biometric tools and on a risk sensitive basis. All VASPs interviewed indicated that if CDD could not be completed, the transaction and business relationship would be discontinued.

Record keeping:

451. DNFBPs demonstrated knowledge of record-keeping obligations. Sectors interviewed indicated that all records are maintained beyond the stipulated five-year minimum retention period. Therefore, information required by the relevant authorities can be accessed upon request.
452. The VASPs demonstrated a high-level of understanding and implementation of record-keeping requirements in keeping with the AFSC's findings. Interviewees with this sector indicated that CDD information and documentation and transaction records obtained during the course of business are retained.

5.2.4. Application of EDD measures

FIs

453. FIs in Anguilla conduct EDD on new and ongoing business transactions and relationships and use information technology systems and public information to comprehensively vet clients. EDD measures are outlined in some entities' AML/CFT policies.
454. **Politically Exposed Persons (PEPs):** Generally, measures for PEPs are similar for all FIs in accordance with legal obligations. However, differences in the application of measures to comply with PEP requirements are based on the resources available to different FIs. PEPs are screened at onboarding with some entities using registers of international and domestic PEPs. Source of wealth and source of funds forms are required to be completed and verified and approval of such relationships are subject to senior management approval. Enhanced



ongoing monitoring of these relationships is carried out in accordance with the available resources of the relevant FI.

455. **Correspondent banking:** Anguilla's three (3) operational banks act as respondent banks only and are not correspondent banks. They have good relationships with their correspondent banks during the review period. Due diligence for ML/TF risks have been conducted on each of these banks by their correspondent banks, and up to the time of the mutual evaluation onsite inspection, these relationships continued unabated. The AFSC has not encountered any significant issues with the banks and correspondent banking.
456. **Wire transfers:** Banks actively monitor their wire transactions with one (1) requesting additional information on the purpose of the funds above a specific threshold (US\$13,703.70/XCD37,000). The banks collect additional information in relation to the purpose of the funds when wires are proposed to high-risk jurisdictions. The interviewed credit union conducts wire transfers for members only between US\$5,000 (XCD13,500) to US\$10,000 (XCD27,000), and the Manager or a designated official is responsible for the daily review of wire transfer activity and reporting unusual activity to the AML Monitoring/Reporting Officer for further review. The AFSC has not encountered any deficiencies in this area during its desk-based reviews.
457. **New Technologies:** The implementation of new technologies by FIs is dependent on the risk appetite and the types of products and services offered to customers. The large FIs typically conduct risk assessments of all new technologies prior to the launch or implementation of both new and pre-existing products. Approval of new technologies is done at the managerial level with some FIs consulting with the AFSC. The small FIs which offer traditional products and services are generally risk averse and do not appear to have policies and procedures addressing the introduction of new technologies. The AFSC has not encountered any deficiencies in this area during its desk-based reviews.
458. **Higher risk countries:** Generally, FIs monitor the FATF website for its lists of higher risk jurisdictions and use the information to vet their customers. Some FIs collect additional information in relation to the source and use of funds for transactions to or clients from higher-risk countries and further analyse the background of customers originating in those jurisdictions. One (1) MSB has a software system that downloads and identifies changes to the FATF lists on an ongoing basis and freezes transactions to and from such countries for compliance review. Overall, the majority of FIs incorporated higher risk countries in their geographic risk analysis and AML/CFT risk framework.
459. **Targeted Financial Sanctions relating to TF:** FIs are aware of TFS obligations. FIs conduct ongoing monitoring in relation to designated persons and generally have policies in place requiring them to comply with TFS obligations software which enable them to regularly screen potential and current clients against the relevant lists. If positive matches are identified, the FIs are required to immediately freeze the accounts and formally notify the AFIU.



Procedures require that the client/portfolio must be screened at onboarding, payout, or frequently during the course of the business relationship. Sanctions' notifications from the AFIU and/or AFSC are also used to vet the FIs' clients and formally report to the AFIU as soon as possible on the results of the scan, which are frequently nil. The interviewed micro-lender relies on a financial group third party reviewer to vet its potential clients and update the micro-lender in relation to potentially sanctioned parties. Sanctions' notifications received from the [AFSC](#) are sent to the financial group third party reviewer by the micro-lender to vet its current clients.

460. Notwithstanding, there have been no instances in which targeted financial sanctions have been applied. Following the Russian Crisis in February 2022, the AFSC required all of its service providers to conduct a scrub of their portfolios to identify if any customer (in relation to MSBs, domestic banks and credit union) appeared on the sanctions' list. The service providers were also required to provide the names of any companies, principals of companies or customers that had a link to Russia. Through this exercise, the services providers provided the required details to the AFSC. No sanctioned persons were identified. The AFSC has seen more of an awareness in relation to financial sanctions and the need to regular conduct sanction compliance measures. The AFSC has issued a public statement in relation to the Russian Sanctions and has uploaded the Anguilla Financial Sanctions Guidelines to its website.

DNFBPs & VASPs

461. Interviewees from the DNFBP sectors (particularly TCSPs and real estate agent) demonstrated their understanding and identification of high risk factors through documented policies and procedures. Interviewees demonstrated a clear understanding of instances when EDD ought to be applied, either at the commencement of a business relationship, during a business transaction, and/or throughout the lifecycle of an account, and evidenced the additional enhanced measures that would and have been implemented during such instances. In practice, EDD implementation usually depended on the source of the funds and whether the person involved is a PEP and/or non-resident or from a high-risk jurisdiction.
462. **PEPs:** Issues relating to the identification and classification of foreign and domestic PEPs identified among the FIs are also relevant to the DNFBPs. There is a general awareness among the DNFBPs of what constitutes a PEP and the requirements for these customers. PEPs are mostly understood to mean domestic politicians and their families, close associates, residents entrusted with prominent functions by an international organisation or foreign politicians. Some entities such as TCSPs, and real estate agents also require customers to declare whether they are PEPs as part of the CDD process.
463. Discussions with the private sector highlighted that most PEP clients are domestic PEPs known locally and there is a requirement as per the AML/CFT Regulations and the POCA, to conduct enhanced due diligence on this category of PEPs. Some DNFBPs commonly determine who is a PEP based on perceived knowledge about the customer, as in the case of domestic politicians who are widely known in the small community of Anguilla. While this

approach is understandable, it undermines the appropriate identification of PEPs and application of mitigating measures commensurate with risks.

464. VASPs and some TCSPs, DPMS and real estate agents interviewed had appropriate measures in place to mitigate risks associated with high-risk customers including PEPs. These measures generally included: (i) requiring senior management's approval for establishing a high risk relationship; (ii) using a wider range of sources (as opposed to when conducting CDD) in verifying the customer's identity and generally seek further information to verify the source of that customer's source of funds and source of wealth; (iii) annual review of high risk customers; and (iv) higher levels of scrutiny where transactions are being conducted with or facilitated through TCSPs.
465. **Higher Risk Countries:** FATF and CFATF lists of higher risk jurisdictions designations were circulated to DNFBPs. Some TCSPs from international firms adequately identified high-risk jurisdictions and applied appropriate EDD measures. The real estate sector was not generally aware of the requirement to treat business relationships and transactions related to high-risk countries with greater scrutiny.

New Technologies

466. An understanding of the requirement to manage risks associated with new technologies and apply enhanced measures but this understanding was not demonstrated by all DNFBP representatives interviewed. Gaps in the knowledge of AML/CFT obligations by DNFBPs as well as lack of consistent and frequent AML/CFT supervisory oversight of the sector may have contributed to this lack of understanding.
467. Interviewed TCSPs belonging to financial groups tended to avoid introducing new products and services, for instance one TCSP indicated that it had no intention of venturing into bitcoin or electronic currency. Real estate agents and DPMS do not generally introduce new products or technologies due to the nature of their business. Therefore, these sectors do not maintain policies relating to the assessment of risks associated with the implementation of new technologies.
468. VASPs have 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 existing products. This was demonstrated with the launch of a repository by the Utility Token Issuer which is established as a separate company regulated under the MSB Act with reporting regulations and a full-time Compliance Officer. A separate risk assessment was conducted to understand the ML/TF risk of this new service and the AFSC conducted a review before the license was approved. Through Hamilton System Ltd, 50 subscribers are not able to transact on the block chain, rather, they can only conduct transactions between themselves. It operates as a closed network as they cannot transact with individuals outside of the network.

5.2.5. Reporting obligations and tipping off

FIs

469. During the review period, the AFIU received a total of one hundred and ninety (190) SARs from FIs originating mostly from the domestic banking and MSB sectors.



Table 5.3: No of SARs submitted by FIs during the period 2018 – 2023 (up to 7/7/23)

FI Sector	ML/TF Vulnerability Rating	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
MSBs	Very High	25	37	23	7	13	18
Domestic Banks	High	15	15	9	14	7	6
Credit Unions	Medium	0	0	1	0	0	0
Totals		40	52	33	21	20	24

470. The associated predicate offences linked with the SARs received were generally as follows: Corruption and Bribery; Human Trafficking; Drugs Trafficking; Robbery and Theft; Money Laundering (self); Fraud; Tax Crimes; Professional Money Laundering; Forgery; and Trafficking in Illegal Arms. The AFIU did not receive any SARs from FIs with respect to funds in support of terrorism in line with Anguilla's risk profile.
471. In 2020, there was a significant decrease in SAR submissions during the COVID-19 pandemic. Since 2021, the average amount of SARs submitted has remained consistent at twenty (20) or more submissions per year. The MSB and domestic banking sectors report the most. This can be attributed to regular AML/CFT training provided to employees. The only other FI to submit a SAR during the review period was a credit union, which submitted a single SAR in 2020. Insurance firms and intermediaries, mutual funds and intermediaries and micro-lenders have not submitted SARs. This may be due to products and services offered, AML/CFT training that focuses more on ML than TF, and CDD, EDD and ongoing monitoring measures which prevent the onboarding and retention of high-risk clients.
472. FIs in Anguilla have appointed MLROs responsible for filing SARs with the AFIU. The AFIU indicated that SAR quality is good and generally sufficient for their needs. FIs have documented policies and procedures outlining their respective SAR filing processes, and there is a keen awareness across FIs that tipping-off is against the law.
473. Practical measures used by FIs to prevent tipping-off include: regular staff training in relation to the SAR filing process; maintenance of SAR records in secure locations that are only accessible by the MLRO and DMLRO; and AML/CFT policies and procedures manuals which comprehensively address tipping-off.

DNFBPS

474. During the review period, the FIU received a total of 26 SARs from DNFBPs originating mainly from the company service providers.

Table 5.4: No of SARs submitted by DNFBPs during the period 2018 - 2023



Financial Sector	ML/TF Vulnerability Rating	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Company Services	Very High	10	7	1	1	1	1
Lawyers	Very High	2	0	1	0	0	-
Trust Service Providers	Very High	2	0	0	0	0	-
Totals		14	7	2	1	1	1

475. In general, reporting by DNFBPs has decreased since 2018. While company services filed the most SARs these levels are not commensurate with their very high ML/TF vulnerability. Further due to the small size of most TCSPs, staff turnover may affect the capacity of the entity to satisfy this obligation. Despite the low submission levels, some TCSPs interviewed have incorporated AML/CFT policies and procedures for transaction monitoring, detecting suspicious activity and filing SARs with the AFIU.
476. In the case of the lawyers, only three (3) SARs were submitted during the assessment period. Lawyers are not obliged to adhere to AML/CFT obligations including the requirement to file SARs, therefore this may explain the low levels of submissions to the FIU.
477. TCSPs are generally aware of the requirement to file reports of suspicious activities with the AFIU. However, interviewees from the DNFBP sectors did not fully understand the obligation to also report suspicions of funds associated with TF, perhaps because it is generally presumed in Anguilla that the risk of TF is low. Through interviews, it was determined that MLROs are independent and do not have to seek authority to file SARs from any higher authority.
478. Some DNFBPs such as the real estate agents, and DPMS still employ manual transaction monitoring procedures to identify unusual transactions which may offer reason for low levels of filings among DNFBPs. According to the AFIU, no SARs have been received from DNFBPs and VASPs with respect to TF.
479. DNFBPs would benefit from targeted and frequent outreach from the AFSC, including sharing of specific and varied examples of suspicious activities. Furthermore, greater AML/CFT supervisory oversight, would add value in understanding the issue and developing remediation measures to address same.

Tipping Off

480. With regard to DNFBs, no instances of tipping-off violations have been identified. VASPs and some TCSPs are aware of their tipping-off obligations and have included guidance and procedures in AML/CFT policies and staff training. The extent to which the other entities like the DPMSs, real estate agents, and lawyers within this sector effectively understand and implement their tipping off obligations is not clear. Due to the injunction obtained by the Anguilla Bar Association, lawyers are under no obligation to adhere to any AML/CFT obligations.



5.2.6. Internal controls and legal/regulatory requirements impending implementation

FIs

481. FIs have established internal controls and procedures. FI's AML/CFT policies and procedures are appropriately documented in manuals that guide day-to-day operations. These institutions are also subject to internal and external audits that examine their AML/CFT controls. Additionally, the appointment of MLCOs/COs at FIs assists with ensuring that these controls are appropriately implemented. The banks, insurance firms, mutual funds and micro-lenders in Anguilla that form part of a financial group have minimum AML/CFT group standards that they must adhere to. MSBs also have internal policies, procedures and controls established by their international affiliates to ensure compliance with AML/CFT requirements.
482. There are internal requirements for banks, insurance firms, mutual funds, micro-lenders and MSBs that operate as part of an international group to be audited by group internal auditors, which provides another layer of quality assurance. There are no legal or regulatory requirements that impede the application of internal controls or procedures of FIs in Anguilla. These control measures and procedures within the banks, insurance firms, mutual funds, micro-lenders and MSBs have been effective in ensuring a good level of compliance with local AML/CFT requirements.
483. Although the interviewed credit union is not a part of a financial group, its internal controls and procedures also appear to have been effective in ensuring a good level of compliance with AML/CFT requirements.

DNFBPs & VASPs

484. The levels of implementation of internal controls by DNFBPs are varied. Some TCSPs and the VASPs that form part of a larger international organisation have implemented a robust AML/CFT framework and have a dedicated MLRO or department in place. Other TCSPs and DPMSs interviewed have internal procedures manuals in place that address both operational and AML/CFT matters. Some DNFBPs also have internal audit staff. Following the themed inspections conducted by the AFSC, other TCSPs are updating their compliance and procedures manuals or developing such manuals.
485. However, there are inadequate systems in place for monitoring customer transactions. The real estate agent interviewed did not have AML/CFT policies and procedures in place, does not have a MLRO with relevant qualifications and experience, and failed to pursue continued general governance and AML/CFT training. VASPs interviewed implemented internal control mechanisms to mitigate ML/TF risk. The MSB which conducts VA activity does not have procedures for monitoring and testing compliance. Some TCSPs and the VASPs that form part of a larger international organisation have implemented a robust framework and have a dedicated compliance officer or department in place. Some of these organisations also have internal audit staff. Some TCSPs and DPMSs interviewed have internal procedures manuals in place that address both operational and AML/CFT matters. Following the themed inspections conducted by the AFSC, other TCSPs are now taking their AML/CFT obligations into account in updating their compliance and procedures manuals, or developing such



manuals, however there are inadequate systems in place for monitoring customer transactions.

486. All DNFBPs are required to appoint an MLRO. However, not all DNFBP interviewed complied with this requirement while only the TCSPs and one DPMS appointed MLROs complied. For some smaller DNFBPs including the realtor and company service providers, compliance functions are conducted by the member of staff that has other ancillary functions.
487. While AML/CFT staff training is provided internally, training has also been sought from the AFSC and AFIU or an external professional. DNFBPs have indicated their inability to conduct training on an annual basis is due to several factors, including the COVID-19 pandemic. Where there is insufficient training with respect to TCSPs, the risks of misuse of legal persons and arrangements are greatly increased.
488. Apart from the injunction there are no legal or regulatory impediments to the implementation of internal controls by DNFBPs and VASPs.

Overall conclusions on IO.4

489. There is a modest framework in place for the implementation of AML/CFT preventive measures. FIs, particularly those categorised as most important and very important, and VASPs have demonstrated commendable compliance with preventive measures illustrating a strong commitment to combatting ML/TF risks. With the exception of lawyers, DNFBPs are similarly bound by these requirements, however, the degree of implementation across different sectors varies, with TCSPs being the most compliant.
490. The suspension of AML/CFT obligations for lawyers, due to a legislative stay, is an important gap in Anguilla's framework for the application of preventive measures. While Lawyers are required to comply with AML/CFT obligations, they are not supervised and monitored for compliance. However, this is mitigated by the fact that company formation services require a TCSP license under AFSC supervision and real estate transactions are subject to CDD measures through FIs. In addition, the RBI Programme does not rely on legal professionals for CDD.
491. FIs, DNFBPs and VASPs are required to conduct a business risk assessment with FIs and TCSPs being most compliant with this requirement. In general, Anguilla's FIs and VASPs and TCSPs possess a reasonable understanding of their ML/TF risks and obligations and have implemented appropriate risk-mitigating measures. DNFBP sectors have varied levels of understanding of their ML/TF risks and obligations which impacts the implementation of mitigating measures. Additionally, there is a gap regarding the integration of findings from Anguilla's NRA and RBI risk assessment into the AML/CFT policies and procedures of FIs, DNFBPs and VASPs.

492. FIs generally had policies and procedures regarding CDD and EDD or specific measures and implemented these measures to a greater extent than DNFBPs. The businesses with more resources were better able to meet these requirements. FIs, DNFBPs and VASPs are required to maintain records for at least five years. The AFSC noted shortcomings in DNFBP's application of CDD, EDD and record keeping requirements. Inconsistencies in the documentation of AML/CFT policies especially among DNFBPs, shortcomings in the DNFBP's understanding of PEP identification and obligations and measures to be applied in relation to TFS and transactions/clients/business relationships involving higher risk jurisdictions necessitate attention.
493. The training of staff in FIs on ML/TF risks and local AML/CFT obligations is widespread, with a need for improvement identified among smaller institutions. The establishment of internal controls, documentation of AML/CFT policies in manuals, and the oversight provided by MLCOs strengthen the institutional framework for AML/CFT compliance. For financial groups, the adherence to minimum AML/CFT standards further underscores the collective effort in risk mitigation.

Anguilla 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) Anguilla has a strong licensing/registration framework which requires some FIs (domestic banks and micro-lenders), VASPs, and DNFBPs to be registered only, while other FIs must be licensed to operate. Ongoing cooperation between the AFSC and the Commercial Registry significantly prevents criminals and their associates from being beneficial owners or holding significant interests in FIs, VASPs, and DNFBPs. Additionally, it is a requirement for all supervised entities to report all material changes to the AFSC including those related to directors, shareholders and senior officers in accordance with their respective laws and regulations, which can trigger the “fit and proper test” by the AFSC for these individuals on an ongoing basis.
- b) The AFSC’s resources are limited given the volume and intensity of supervision.
- c) The AFSC has a reasonable understanding of the ML/TF risks which is supported by NRA reports, institutional and sectoral vulnerability assessments, trends and typologies identified by the FATF or the AFIU in its local circulars, onsite/offsite inspections and compliance visits, data received from required returns and information requests.
- d) The AFSC applies risk-based supervision. Since 2020, the AFSC conducts a vulnerability assessment of its licensed or registered FIs, VASPs, and DNFBPs and drafts a flexible work plan for the following year which focuses supervisory action on the higher vulnerability licensees and registrants and outlines projects which the AFSC intends to conduct concerning high vulnerability areas.
- e) The AFSC provided statistics in relation to its enforcement actions during the review period, but it did not provide comparative statistics for remedial actions. Enforcement actions concerning applicable FIs have remained fairly consistent during the review period at approximately two (2) per year. The main types of enforcement actions were revocations and cancellations/surrender of licences. In accordance with a risk-based approach, the AT expected potentially more enforcement actions in relation to the MSBs and the banks. However, given the small number of entities in each sector and the low number of inspection/compliance visits during the review period, there is minimal data to determine if the AFSC’s enforcement actions were effective, proportionate, and dissuasive.

- f) The AFSC utilized an array of mechanisms as part of its AML/CFT supervisory efforts in relation to FIs, VASPs, and DNFBPs: offsite/onsite inspections and compliance visits; feedback from inspections and compliance visits and monitoring of action plans; imposition of stipulations/conditions on the entities' licenses or registrations; follow-up inspections/compliance visits; information gathered from letters of demand for information and documentation; issued investor alerts; published guidelines and sample guides; and conducted outreach and training with licensees and registrants. However, the AFSC has conducted an insufficient number of inspections of some high-risk FIs. Additionally, the AFSC is in the nascent stage of DNFBP supervision. Of DNFBPs, only TCSPs were subject to onsite inspections and supervisory activities did not cover all DNFBP sectors. These supervisory actions had a moderate impact on AML/CFT compliance by FIs, VASPs, and DNFBPs, as they typically encouraged subject-related compliance, but they did not always ensure it.
- g) The AFSC communicates AML/CFT obligations to licensees and registrants through multiple channels including, inspections and compliance visits, outreach initiatives, email notifications, investor alerts on its website, social media outreach, "Dear CEO" letters, and formal and informal meetings and private sector trainings.
- h) Due to an injunction filed by the Anguilla Bar Association against the AGC, lawyers are not currently subject to Anguilla's AML/CFT regime. However, it does not completely undermine the effectiveness of Anguilla's AML/CFT regime. There is a framework in place which mitigates the ML risk posed due to lack of AML/CFT supervision for lawyers.

Recommended Actions

- a) Anguilla should ensure that lawyers, independent legal professionals and notaries are subject to AML/CFT requirements and supervision.
- b) Anguilla should ensure that the AFSC is given additional resources (both human and technological) to better enable it to conduct its AML/CFT supervisory function, in particular, inspections (including onsite, offsite and themed) and compliance visits.
- c) The AFSC should update its supervisory guidance in relation to ML/TF risks and vulnerabilities for lawyers and DPMSs by incorporating the findings of the NRA.
- d) The AFSC should ensure that it is conducting AML/CFT inspections and compliance visits in accordance with its internally set timelines for supervised entities on a risk-sensitive basis.

- e) The AFSC should maintain annual qualitative and quantitative data to demonstrate the application of remedial actions and/or effective, proportionate and dissuasive sanctions.
- f) The AFSC should increase its supervisory engagement with FIs, DNFBPs and VASPs to continuously promote an enhanced understanding of their AML/CFT obligations and ML/TF risks by conducting assessments and inspections in the medium and low-risk sectors, engaging in outreach and awareness sectors and ensuring that effective framework for monitoring compliance with AML/CFT obligations across DNFBP sectors and implementing sanctions and penalties for non-compliance.

494. 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)

495. The AFSC is the sole AML/CFT supervisor of FIs, most DNFBPs (TCSPs and real estate agents) and VASPs in Anguilla. The Eastern Caribbean Central Bank (ECCB) is responsible for the prudential regulation of domestic banks and the Eastern Caribbean Securities Regulatory Commission (ECSRC) for the securities sector.

496. As detailed in Chapter 1, when examining the effectiveness of Anguilla's AML/CFT supervisory framework, the AT assigned the highest importance to the offshore banking and money service businesses, TCSPs and lawyers, followed by domestic banks. Real estate agents, insurance firms, mutual funds, credit unions, utility token administrators, utility token issuers and micro-lenders were considered to be of a medium level of importance. The AT considered insurance and mutual fund intermediaries, DPMS and accountants to be of less importance.

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

FIs

497. The AFSC is the licensing and registration authority in Anguilla for FIs, VASPs and DNFBPs and has a comprehensive licensing framework. The AFSC seeks to prevent criminals and their associates from holding or being beneficial owners of a significant or controlling interest or holding a management function in FIs through its vigorous licensing and registration processes. The licensing/registration process with the AFSC for AML/CFT purposes tends to vary by sector whereby some FIs (domestic banks and micro-lenders) and

DNFBPs are required to be registered only, while other FIs must be licensed to operate. Credit unions and VASPs captured under the Digital Asset Business Act are subject to a licensing process. The variances in the process does not impact the licensing/registration regime as the majority of the information submitted for each application across all sectors and the reviewing process of each application remains the same. The AFSC requires the incorporation documents, the nature and purpose of an applicant's business in order to assess the financial position of the applicant. The AFSC also requires all directors, shareholders and senior officers of potential licensees or registrants to complete a personal questionnaire requiring the disclosure of involvement in any criminal matters. The above group includes owners, controllers and beneficial owners of applicants.

498. Due diligence checks are conducted on all parties affiliated with the application. The AFSC adheres to the established Fit and Proper Guidelines and takes a person's competence and ability into consideration. Further factors to be considered include whether the person has the relevant work experience, track record, appropriate knowledge, qualifications and skills in the context of the specific duties and responsibilities of the position in question. Additional considerations relate to character and include key elements such as the probity, honesty, integrity, and reputation of the individual concerned. The AFSC also considers a person's past record of compliance with relevant laws, regulations or guidelines, whether in Anguilla or overseas, that relate to protecting the interests of clients. Additionally, the AFSC has regard to a person's previous business connections and practices. A review of the AFSC's licensing policies and procedures (including fit and proper requirements), due diligence and vetting processes found that the supervisor has a robust licensing process.

499. To verify that the information provided by the applicant is correct, the AFSC conducts searches on the applicant, and can reach out to local, regional and international authorities to verify the information provided. During the fit and proper assessment, the AFSC usually sends a letter of request to competent and law enforcement authorities to gather information on key personnel such as directors, shareholders, MLROs and MLCOs. The AFSC usually requests information from the AFIU such as detailed due diligence searches. Where information has been requested from local competent authorities as well as foreign supervisory authorities in relation to an applicant, the AFSC records the request in its registers which outlines the details of the request, when it was sent, and any responses that were provided.

Case Study 6.1. Implementation of fit and proper requirements on licensee 2020 - 2021

In October 2020, the AFSC received notification from a licensed domestic insurer ("licensee") that a whistle-blower's report was received by the licensee in June 2020. The licensee had already completed its own internal investigation into the matter and submitted its report, advising that an independent third party would be engaged to conduct an independent investigation. One of the persons named in the whistle-blower's report, and against whom several serious allegations were lodged, was a key senior officer of the licensee. Following consultation with the other home regulator of the financial group to which the licensee



belonged, the AFSC wrote to the licensee in November 2020 recommending that the senior officer be suspended with immediate effect until the independent investigation was completed, and that a replacement be identified. In addition, the AFSC required more independent representation on the Board of Directors, as all members were appointed as representatives of the shareholders. Several new independent Board members were appointed by March 2021, thereby resulting in a majority of independent directors. The findings of the independent investigation report were sufficient for the AFSC to deem the senior officer no longer fit and proper to hold office. In July 2021, the AFSC advised the licensee of its conclusion and recommended that the licensee review the senior officer's continuation in the role given the Commission's position.

The licensee terminated the senior officer from all roles within the group in November 2021.

Source – Anguillian Authorities

500. In the case of complex legal structures, the AFSC conducts enhanced due diligence on the natural person owning or controlling 10 percent or more of the entity. In addition to criminal records, fit and proper questionnaires are collected which include information such as personal information of applicants, source of wealth, and PEP status.
501. If any party is determined to be a criminal or associated with criminals, that information is used to recommend whether the application is rejected or more information is required. The AFSC will advise the Commercial Registry about licensing or registering of the applicant. The Commercial Registry will not incorporate or register an entity unless it receives a notification from the AFSC confirming that it intends to register or licence an applicant. Therefore, the cooperation between the AFSC and the Commercial Registry significantly prevents criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in FIs. Additionally, it is a requirement for all supervised FIs to report all material changes to the AFSC including those related to directors, shareholders and senior officers in accordance with their respective laws and regulations, which can trigger the “fit and proper test” by the AFSC for these individuals on an ongoing basis. The AFSC's approval has to be sought prior to changing any director, shareholder and management staff in order for fit and proper tests to be conducted.
502. The AFSC rejects an application due to the principals (e.g., directors, managers, beneficial owners, etc.) affiliated with the applicant not complying with fit and proper standards or the AFSC having sufficient evidence that the parent company of an applicant is conducting its affairs in a manner that is detrimental to the public. Such evidence is usually obtained during the AFSC's due diligence checks using open-source databases and due diligence subscription programs. Additionally, responses received from conducting checks with other regulators may also provide proof of the Applicant's fitness and propriety.



503. Please see case studies 6.2 and 6.3 below for an example of an application denied at the registration stage and the rejection of an application for a MLRO and CO. The case studies below demonstrate that controls are in place to reject unsuitable registrants and senior management.

Case Study 6.2. Refusal to grant registration as a Non-Regulated Service Provider – 2022/2023.

The principals and primary place of business of company X were located in another jurisdiction yet were requiring registration to conduct services surrounding virtual assets in Anguilla. The principals appeared not to possess the necessary expertise, knowledge and qualifications needed for the type of business. The AML/CFT policies submitted were not tailored to the proposed business operations. Further, the business was not licensed or registered in the jurisdiction in which it is headquartered or any other jurisdiction. On that basis, the Commission considered that the principals are not fit and proper. Further, that the business could not be effectively regulated for AML/CFT compliance, the applicant represented a significant money laundering or terrorist financing risk in accordance with section 5 2(b) of the Externally and Non- Regulated Service Provider Regulations.

Source: Anguillian Authorities

Case Study 6.3. Application for MLCO and CO rejected.

In October 2020, two individuals were put forward by a Licensee for the AFSC's approval as MLCO and CO respectively. Both applicants did not appear to have the relevant work experience, knowledge and skills to assume the roles. As such the applications were denied. The AFSC gave the Licensee until 30 November 2020 to submit an application for a suitably qualified person(s) for the roles.

Source: Anguillian Authorities

DNFBPs

504. DNFBPs are subjected to a registration regime that is effective in preventing criminals from holding interests in or managing entities within the sector. TCSPs, real estate agents/firms, DPMSs, and accountants must be registered with the AFSC. The same processes described above for the licensing of FIs are done for the DNFBPs, including TCSPs and VASPs. DNFBPs, except for TCSPs, also receive a license from the Ministry of Finance before approval from the Commercial Registry and AFSC. Due diligence forms part of the licensing application process at the Ministry of Finance and requires that a license be granted by the AFSC. The Ministry of Finance may grant a business license before an application is made to the AFSC. However, the application must be filed with the AFSC pending the approval of the business license by the Ministry before starting operations. The license from the Ministry forms part of the AFSC's registration approval therefore an approval from the AFSC is not guaranteed without the license from the Ministry.

505. During the period 2018 – 2022, the AFSC received twenty-six (26) license/registration applications, approved thirty-three (33) and denied one (1). The sole denied application was for an insurance intermediary applicant, but the basis for the denial was not disclosed. Although the number of denied applications was minimal, the AFSC required all directors, shareholders and senior officers of the applicants to complete a personal questionnaire requiring the disclosure of involvement in any criminal matters. The number of applications and approvals/denials vary because of reviews cascading into different time periods.

Table 6.1: No of Licensee/Registrant applications received, approved and denied by the AFSC during the period 2018 – 2022

	2018	2019	2020	2021	2022	Totals
Applications	4	4	4	9	5	26
Approvals	6	6	7	9	5	33
Denials	0	0	1	0	0	1

506. During the aforementioned period, the AFSC also received numerous applications for licensee/registrant changes in directors, shareholders and senior officers in accordance with the relevant legal provisions and regulatory measures. ‘Change to Director’ applications were most common and ‘Change to Shareholders’ were least common. The annual number of incoming applications for all categories was above seventy (70) until 2020, after which a small decline was noted, possibly due to the COVID-19 pandemic.

Table 6.2: No. of Licensee/Registrant applications received for Change of Shareholders, Directors, and Senior Officers by the AFSC during the period 2018 – 2022

Application Type	2018	2019	2020	2021	2022	Totals
Change of Shareholder	15	14	14	11	4	58
Change of Director	46	38	39	35	35	193
Change of Senior Officer	26	20	31	23	28	128
Totals	87	72	84	69	67	379

507. Notwithstanding, based on the statistics in tables 6.1 and 6.2, the AT is satisfied that the AFSC’s licensing/registration requirements are reasonably preventing criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in FIs, VASPs, and DNFBPs. The statistics suggest that the AFSC is conducting due diligence on the relevant parties at the time of entity licensing/registration and on an ongoing basis if there are applicable changes to supervised entities.

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

508. The AFSC has a reasonable understanding of the ML/TF risks of FIs due to its participation in the NRA, consideration of the NRA’s findings, sectoral vulnerability assessments and



business risk assessments, trends and typologies identified by the FATF or as identified by the AFIU in its local circulars, onsite/offsite inspections and compliance visits, and data received from required returns and information requests to help the AFSC identify and maintain an understanding of the ML/TF risks.

National Risk Assessment

509. The AFSC contributed to the 2018 and 2020 NRA exercises and considered the NRA's findings when formulating its own risk assessments. Being integrally involved in the conduct of Anguilla's NRA, the AFSC identified inherent ML/TF vulnerabilities for the entities it supervises as well as their respective financial sectors (since 2020). To determine institutional and sectoral ML/TF risks, the AFSC collectively considered the aforementioned vulnerabilities and other data received from licensees and registrants (e.g., annual reporting forms/confirmations, audited accounts, inspection/compliance visit information, etc.) as well as their knowledge from their role as a supervisory authority. However, notably missing from the AFSC's ML/TF risk assessments were identified and assessed ML/TF threats.

Sectoral and entity risk assessments

510. To contribute to the NRA exercise, the AFSC undertook an internal inherent vulnerability rating exercise for each financial sector which included completion of inherent vulnerability profiles for each financial sector. The factors considered included characteristics such as size, complexity and integration with other sectors and location. Other factors considered included the nature of products and services provided, nature of the clientele, geographic reach of the sector's activities and nature of delivery channels. The last fully updated sectoral analysis was done in 2022.
511. The vulnerability rating model used by the AFSC is the same used for the NRA report which allowed for the vulnerability rating of each sector. Senior regulators and management of the AFSC provided the information required for each sector. This information consisted of general knowledge about the entities within a sector; the information from reporting forms; any news items or current concerns about a sector; and any trends the AFSC had identified within a sector as a result of its onsite and offsite inspections and compliance visits. Since the completion of the NRA, the AFSC has used this model to rate the vulnerability of its licensees and registrants; however, based on the methodology used by the AFSC, the ratings outline sectoral vulnerabilities instead of sectoral ML/TF risks.

Table 6.3 AFSC – Sectoral Vulnerability Rating for the end of 2022

Sector	Sector Vulnerability Ratings
Company Service Providers	Very High
Offshore Banks	Very High
Lawyers and Notaries	Very High
Virtual Asset Service Providers	Very High
Money Service Business	Very High
General Trust Service Providers	High
Domestic Banks	High
Restricted Trusts	High



Long Term Insurance	Medium
Credit Unions	Medium
Lotteries	Medium
Mutual Funds	Medium
Real Estate Agents	Medium
Accountants	Low
Micro Lenders	Low

512. The above table indicates that the sectors with the highest vulnerability ratings are TCSPs, offshore banking, lawyers and notaries, VASPs and MSBs. These ratings were the same in the NRA.

513. Sectoral vulnerability assessments are derived from institutional vulnerability assessments. Individual licensee and registrant vulnerability ratings have been completed annually since 2020, at the end of the year just before the finalization of the AFSC's work plan. The risk ratings are completed by a team comprising of the Director, two (2) Deputy Directors and the Head of AML/CFT Compliance and Enforcement. The AFSC has conducted three (3) years of individual risk assessments for all its licensees and registrants. The ratings inform the annual work plan for AML/CFT departments. In relation to certain sectors, the vulnerability associated is the same for all entities within the sector due to the inherent characteristics.

514. The AFSC maintains an up-to-date understanding of vulnerabilities in the sector by using data gathered during on-site and off-site inspections, and AML/CFT annual data filing from FIs and TCSPs to update its assessment of vulnerabilities across and within sectors. This approach allows the AFSC to maintain an ongoing understanding of ML/TF vulnerabilities in the supervised sectors and their component entities, and to calibrate its supervisory focus and priorities when circumstances change. In addition, the ML/TF risk assessments conducted by the supervised entities on their businesses provide additional institutional risk information to inform the supervisors' vulnerability profiling activities, even when the vulnerability ratings conducted by AFSC vary from those reported by entities. The AFSC uses different sources of information to develop individual licensees' and registrants' risk ratings. These sources include CFATF circulars, FATF papers and webinars, different trends and typologies as identified by the AFIU locally, as well as internationally, and questionnaires and surveys to obtain information from FIs about their operations. The main sources of information were onsite/offsite inspections and compliance visits and periodic returns and required reporting.

Onsite/Offsite Inspections and Compliance Visits

515. During the AFSC's onsite/offsite inspections and compliance visits, the AFSC receives information about its supervised entities that may support an original vulnerability rating assigned or may change the AFSC's view as to how the entity is to be vulnerability rated. In particular, for each inspection and compliance visit, the AFSC requests a documented business risk assessment ("BRA"). The AFSC reviews the BRA to identify the vulnerabilities that the entity is facing which is then used to inform the vulnerability risk profile.

Data received from the periodic returns and other required reporting

516. FIs and DNFBPs are required to submit a range of returns to the AFSC on a monthly, quarterly, and annual basis based on their sector (e.g., Monthly Transaction Report, Quarterly/Annual Reporting Form, Annual Audited Accounts, etc.). From the information included in the returns, the AFSC is able to identify information such as jurisdictions in which the entity does business; types of customers; services provided; the movement of funds and in what quantities. The information in the forms and returns is used to create vulnerability profiles for each licensee and registrant. In some cases, vulnerability profiles are fully completed after an onsite/offsite inspection or compliance visit. Material changes or events that may occur during a reporting period are also considered and may warrant a change in the vulnerability profile prior to the annual vulnerability rating exercise which is conducted before the annual work plan is completed for the following year.

Table 6.4 AFSC – Risk rating of Supervised Entities as at December 31, 2022

Institution	Risk rating		
	High	Medium	Low
Banks (domestic and offshore)	5	0	0
Insurance Companies	21	17	100
Credit Unions	1	0	0
MSBs	4	0	0
Real Estate	9	0	0
Company Managers	44	6	1
Trusts	7	0	0
Mutual Funds	12	4	0
Legal Professionals	57	0	0
Lotteries	2	0	0
Micro-lenders	3	2	0
Utility Token Offering Issuer	1	0	0
Utility Token Offering Administrator	1	0	0
Escrow	1	0	0
Credit Acquisition	1	0	0
Mortgage Company	1	0	0
Total	210	29	101

517. The above table 6.4 indicates that two hundred and ten (210) of the AFSC's supervised entities have been rated as high risk. This has a direct impact on the AFSC's work plan as will be detailed in this report.

518. As stated above, all of the information collected from the sources listed above are used during the AFSC's vulnerability rating exercise which it completes annually before finalising its work plan. Resources are shifted to the higher vulnerability licensees or registrants in the work plan. This may include a compliance visit/onsite inspection which focuses on specific areas of concern. For lower vulnerability entities, the AFSC has taken the position to monitor them through themed inspections which generally entails a full sweep of a specific sector looking at specific topics and through the AFSC's annual return submission requirement.



519. There have been cases where the vulnerability rating has had to change due to certain trigger events which include: intelligence provided by the AFIU; trends identified in the media; typologies and trends identified by the AFIU or through meetings and seminars/trainings; publications by FATF and other international bodies identifying potential risks; sanction listings/geographical risks; findings during onsite and offsite inspections/monitoring; and complaints from the industry and the general public.
520. A trigger event may cause the AFSC to shift its resources to a particular licensee or registrant that was not scheduled to be reviewed during a certain period. Where this occurs, a meeting is convened with the Director, two (2) Deputy Directors, Head of AML/CFT Compliance and the Senior Legal Counsel. The work programme is amended, and a plan is drafted as to the approach to be taken in relation to elevated risk of the entity. Further investigations and research may be carried out. A request for information and documentation may be sent to the entity initially to gather more information, and then, depending on the findings, a compliance visit may be done. Or, the compliance visit may be immediately performed without a request for information and documentation according to the severity of the issue raised.
521. Changes in relation to the vulnerability ratings of entities are communicated to the AML/CFT staff as soon as possible via emails; staff meetings; training and updates. Updates are made to the work programme and the process of enhanced monitoring commences. The rating of the entity is changed and moved upwards if a lower rating was initially given.
522. The AFSC uses the results of the NRA and other information-gathering methods in order to determine the vulnerability ratings to assign to each sector and licensee/registrant; the mechanisms that would need to be developed by the AFSC in order to counteract the vulnerability; whether more resources are needed in the supervision of a sector or entity that has been identified as high vulnerability; whether amendments are required to the AFSC's policies and procedures as it relates to its supervision of its licensees and registrants e.g., wider sampling during onsite inspections of higher vulnerability entities, whether training is required for the AFSC's staff and the AFSC's licensees and registrants and which outreach strategies should be used; whether guidance or training.
523. The AFSC's understanding of the ML/TF risks of its other DNFBP registrants eg. lawyers, and DPMSs is very limited. One reason for this is that the findings in the NRA on these sectors were often speculative, based on assumptions and lacked support in supervisory, regulatory, investigative and enforcement information. The other reason is that these sectors, like the real estate sector, have been subjected to limited AML/CFT supervision, which could have helped in understanding the risks.
524. In light of the AML/CFT supervisory responsibility for TCSPs, as part of the licensing process, priority was given to a thematic review of all licensed TCSPs. The supervisor has a robust understanding of the inherent risks in this business line.
525. VASPs are an emerging sector in Anguilla, following the recent enactment of the Anguilla Utility Token Offering Act. The Digital Assets Business Act and Regulations was also



recently enacted on the 4 July 2023. In the VASP sector, currently, only one Administrator and one Issuer is licenced by the FSC to offer virtual asset business services. Though, the FSC is still at the nascent stage of developing and implementing an AML/CFT supervisory framework for the virtual assets business services offered by these entities, a risk assessment was conducted and the AFSC has an extensive understanding of the ML/TF risks of this sector.

526. AFSC's risk-based supervisory framework extends to ERSPs and NRSPs that are not otherwise licensed or affiliated with an AFSC licensed group.

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

FIs

527. In assessing risk-based supervisory effectiveness, the AT reviewed the supervisors' onsite work plans, ML/TF vulnerability assessments, supervisory activities and risk-based supervisory framework. The AFSC indicated that a risk-based approach to ensure compliance with ML/TF risks was adopted. In the case of the VASP sector, the AFSC is still at the nascent stage of developing and implementing an AML/CFT supervisory framework for the virtual assets business services offered by these entities. The AT was advised that the risk management framework encompasses desk-based supervision and onsite inspections, and a risk rating model is utilized to prioritize institutions based on specific indicators for inspection.
528. At the end of each calendar year since 2020, the AFSC conducted a vulnerability assessment of its licensed or registered FIs and drafts a flexible work plan for the following year which focuses on the higher risk licensees and registrants that may require inspections, compliance visits, follow-ups, or enhanced monitoring to commence or continue. The work plan highlights any AML/CFT related projects which the AFSC intends to conduct concerning high vulnerability areas. The AFSC's AML/CFT Department is comprised of a Head of AML/CFT Compliance and Enforcement ("Head of Compliance") and two (2) Regulators. The Deputy Director, Supervision (Prudential) oversees the AML/CFT Department and works closely with its staff. The AML/CFT Department is responsible for the registration of ERSPs and NRSPs for AML/CFT purposes and the supervision of all the AFSC's licensees and registrants for AML/CFT purposes. The AML/CFT Department conducts inspections, compliance visits, and desk-based reviews. To assist in these areas, the AFSC relies on staff within the Prudential Department to assist with the AML/CFT inspections in the sector which they are prudentially responsible for. The AFSC's supervisory focus has been on higher ML/TF vulnerability institutions and there have been delays with the completion of the AFSC's work plans for the period 2018 to 2023 due to the long-term effects of Hurricane Irma (2017) and the COVID-19 pandemic (2020). Additionally, there have been some delays due to resources constraints.
529. The onsite examination of FIs may comprise a full scope examination, themed or limited scope examination, or follow-up examination. The AFSC makes an early decision as to which type of examination should be undertaken in each case. Factors that may be taken into account in making the decision include: (1) Whether the FI has ever been examined; (2) Where a specific issue has arisen in relation to a FI that warrants an examination; (3) Having



undergone a previous examination, the FI has demonstrated serious deficiencies that required remedial action; and (4) Whether, having regard to the nature, size and complexity of the FI and the type of financial services business it carries on, the FI is of low, medium or high vulnerability to regulatory objectives.

530. The frequency of onsite inspections for medium to low-vulnerability entities falls within the 3 to 5-year period. In such instances, the scope may not be as wide, for example, the number of files sampled to review during those inspections may be smaller when compared to a licensee rated as high vulnerability. They may however be included on themed inspections and demand request which are not on a rotating scheduled and are conducted when necessary. Generally, desk-based supervisory measures are used in monitoring medium to low vulnerability service providers to avoid mismanaging resources.

Full Scope Examination

531. A full scope examination involves a review of the full operations and lines of business of the FI. Full scope is used to refer to the full range of AML/CFT obligations assessed which include: Policies, Procedures, Systems and Controls; Risk Assessment; Complex and Unusual Transactions/Structures; Customer Due Diligence; Customer Risk Assessment; Enhanced Due Diligence; Countries that do not comply with FATF Standards/International Standards; Politically Exposed Persons; Monitoring Customer Activity; Reporting Suspicious Activity and Transactions; Employee Training and Awareness; and Record Keeping.

Themed or Limited Scope Examination

532. A themed or limited scope examination is a review of a particular line of business or a particular function of the FI (e.g., compliance or internal audit). The AFSC may look at areas that may not be high vulnerability for a particular licensee, but it may be a high vulnerability for the sector as a whole. This means that the themed inspections capture not only high vulnerability, but also low to medium vulnerability entities as well. During themed inspections, there is typically an entire sweep of the entities in the sector. However, the focus of the themed inspections is on high vulnerability areas and topics. Themed inspections give the AFSC a gauge on the level of compliance in an identified area and whether some licensees require closer attention in relation to a specified area. This information informs the AFSC's outreach initiatives on whether further training and guidance are needed in specific areas.

Follow-up Examination

533. In a follow-up examination, the AFSC evaluates the progress of the FI or DNFBP in implementing the recommendations of the AFSC following the conclusion of an earlier onsite examination. A follow-up inspection usually takes the same format as a usual inspection/compliance visit. However, the AFSC uses the findings of a past inspection/compliance visit as its beginning basis. An AML/CFT questionnaire is sent to the entity to provide updated information. Information on areas that were identified as non-compliant or partially compliant is requested concerning changes since the last inspection.



Generally, during a follow-up inspection the AFSC focuses on the areas which were deficient in the last inspection.

Onsite/Offsite Inspections and Compliance Visits

534. An onsite inspection is generally conducted where the licensee is located within Anguilla and the AFSC can physically go to their premises. An offsite inspection is usually for licensees that are not within Anguilla and the AFSC is unable to attend their premises.
535. The scope of the inspection, whether onsite or offsite, is the same. The AFSC requests the same information, sample files and interviews are conducted with key personnel. The only difference is the location of the inspection. During offsite inspections, Zoom, Webex, Teams or teleconference mechanisms are used. The term “compliance visit” is used in relation to the AFSC’s registrants (externally and non-regulated service providers). A compliance visit is generally the same as an onsite visit with the sole difference being the terminology used when referring to a registrant instead of a licensee.

Desk-based reviews

536. These are generally done where the AFSC reviews submissions that are generally required to be submitted by the licensee or registrant to the AFSC as per legislation. This also includes the review of information provided during requests for information by licensees and registrants. A desk-based review may be done before the AFSC decides to undertake an inspection or compliance visit. This is the case for medium and low vulnerability entities.
537. Generally, the AFSC provides AML/CFT reports following onsite inspections. Each report outlines the rating assigned for each area assessed and an overall rating of the entity’s AML/CFT compliance. Reports include recommendations and deadlines for the corrective actions to be carried out. Action plans are also submitted by the entities and a tracker is used to monitor compliance. The AFSC can also requested additional measures such as periodic reports on progress.

Table 6.5 AFSC –No. of onsite inspections and compliance visits conducted on FIs: 2018 - 2023

Regulatory Type	Institution Type	Date conducted	Type of Inspection	Risk Rating of Entity
Licensee	Offshore Bank	19 – 23 March 2018	Onsite (Full scope)	High
Registrant	Domestic bank	19-21 April 2022	Follow-up Compliance Visit	High
Registrant	Domestic bank	10-14 October 2022	Compliance Visit (Full scope)	High
Licensee	Money Services Business	15-17 February 2023	Onsite (Full scope)	High

538. During the review period, there were four (4) AML/CFT examinations of FI as indicated in Table 6.5 above. Two (2) of these examinations were full scope onsite inspections of an offshore captive bank and a MSB, respectively. The other two (2) examinations were a compliance visit and a follow up compliance visit to two (2) domestic banks. Based on Anguilla’s NRA report, MSBs have the highest inherent ML/TF Vulnerability Rating, so the AT expected to observe a greater amount of attention by the AFSC on MSBs. Notwithstanding, the AFSC was able to conduct compliance visits on both local domestic



banks in 2022 (100 percent coverage for the sector), which conforms to the AT's expectations for a high-risk sector in accordance with the findings of the NRA. The remaining FI sectors were rated "Medium" in the NRA report, so the lack of inspections and compliance visits could possibly be attributed to a risk-based approach to supervision by the AFSC.

Table 6.6 AFSC –No of onsite inspections and compliance visits conducted: 2018 - 2023

Type of Inspection	2018	2019	2022	2023
Offsite (Full scope)	9	4	0	0
Onsite (Full scope)	2	1	0	1
Compliance visit	0	0	2	0
Follow-up Compliance Visit	0	0	1	0
Totals	11	5	3	1

539. As indicated in table 6.6 above, the AFSC conducted twenty (20) onsite inspections during the period 2018 – 2023 (up to 7/7/2023). No onsite inspections were conducted in 2020 and 2021 due to the COVID-19 pandemic. The inspections included four (4) FIs as indicated in the previous paragraph, fifteen (15) TCSPs and one (1) lottery. The inspection of the TCSPs is in line with the institutional vulnerability profiles of TCSPs as high and the sectoral vulnerability rating of very high. Additionally, in 2020 – 2022 the AFSC conducted a themed inspection of fifty-four (54) entities within the trust and corporate service provider sector. This sector was chosen due to nominee directorship and shareholder services being identified as high risk and an area which the AFSC had not assessed before.
540. Notwithstanding, the AT noted that the AFSC generally attempts to inspect or conduct compliance visit of licensees and registrants every year to two (2) years for high vulnerability licensees and registrants and every three (3) to four (4) years for medium and low vulnerability licensees and registrants. Therefore, given that the number of supervised entities that the AFSC is responsible for, approximately two hundred and ten (210) regulated entities and approximately four (4) persons at the AFSC are responsible for verifying their compliance with their AML/CFT obligations, (two (2) regulators, the Head of Compliance and the Deputy Director, Supervision (Prudential), it is evident from the total amount of inspections and compliance visits during the review period that the AFSC's AML/CFT Department is under-resourced to achieve its time-sensitive objectives.

Resourcing

541. The AFSC has indicated that human resources are limited given the volume and intensity of supervision required. Accordingly, the AT is of the view that this impedes the AFSC from being able to optimally and effectively perform their supervisory mandates. In 2010, the AFSC established a dedicated AML/CFT Unit ("the Unit") with responsibility for conducting AML/CFT onsite examinations on a risk based consolidated approach. Although this Unit is currently operating, there has been limited inspections conducted over the assessment period due to COVID-19. (See Table 6.5) The establishment of the dedicated AML/CFT Unit at the AFSC with intent to increase capacity will enable persons in the Unit to develop the necessary expertise in the conduct of AML/CFT examinations.



Table 6.7 AFSC – No. of onsite inspections and compliance visits planned versus conducted: 2018 - 2023

Type of Inspection		2018	2019	2020	2021	2022	2023	Totals
Onsite planned	Inspections	8	10	1	1	1	1	22
Onsite conducted	Inspections	11	5	0	0	3	1	20

542. Table 6.5 represents the number of compliance visits/inspections done for the period in which a report has been issued. It does not include the separate fifty-four (54) themed inspections of TCSPs.

543. For the assessment period, the AFSC conducted inspections on only twenty (20) entities out of a total number of approximately two hundred (200) supervised entities. Only eighteen (18) reports have been completed and submitted to the entities as of December 2022. This low level of inspection demonstrates the insufficient capacity at the AFSC to monitor and supervise the entities under its supervision effectively.

Training

544. The AFSC ensures that staff is adequately trained. Such training includes: 1. Internal training provided by members of staff or by an external facilitator; 2. Local training provided by other local competent authorities; 3. Training at overseas facilities; 4. Virtual training provided by external institutions such as ACAMS, CFATF, CARTAC, ECCB, Financial Stability Institute, Bank for International Settlements and World Bank; and 5. Other webinars, seminars and conferences.

545. The AFSC’s staff regularly attend seminars and conferences on areas relating to its AML/CFT supervision. At such events, the AFSC’s staff gain knowledge concerning trends and typologies which may be present in other jurisdictions that may not be present in Anguilla, share experiences and learn from others. The AFSC keeps a record of all training and conferences which staff has attended and completed by maintaining its training register. Copies of certificates of participation, completion and credits are placed on file for each staff member.

546. Notably, four (4) members of staff of the AFSC have successfully completed the Certified Anti-Money Laundering Specialist certification (CAMS) by the Association of Certified Anti-Money Laundering Specialists (“ACAMS”). All four (4) CAMS certified members of staff are involved in the AML/CFT supervision of the AFSC’s licensees and registrants. One (1) member of staff has completed the Certified Global Sanctions Specialist (CGSS) course by ACAMS. The AFSC also has two (2) staff members who are CFATF trained assessors for the Fourth Round Mutual Evaluation.

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

FIs



547. The AFSC has procedures to determine remedial actions and/or inform the application of sanctions for AML/CFT breaches. The AFSC issued reports with findings and deadlines for remediation along with action plans following its 2018 onsite inspection of an offshore captive bank and its 2022 follow-up compliance visit of a domestic bank. The remediation plan for the offshore captive bank was completed within the AFSC's specified timeframe and the domestic bank has until 31 December 2024 to update its customers' files. However, with the exception of the other domestic bank and a MSB that were compliance visited and onsite inspected by the AFSC in April and October 2022, respectively, the other supervised FIs were not inspected or compliance visited during the review period.
548. Remedial actions by the AFSC include: (1) issuance of warning letters to licensees and registrants; (2) requirement to produce progress reports monthly or quarterly – used when there are severe deficiencies in AML/CFT compliance; and/or (3) requirement to implement action plans with deadlines – a standard remedial action used following an inspection or compliance visit.
549. Enforcement actions by the AFSC are taken for serious AML/CFT breaches. Enforcement measures available to the AFSC in relation to regulated service providers include: the revocation or suspension of a licence, applying for a protection order, issuing a directive, appointing an investigator to conduct an investigation, taking disciplinary action where the licensee has committed a disciplinary violation, removal of director and other persons; the imposition of a penalty on a director or senior manager; and the imposition of an administrative penalty.
550. Enforcement measures available to the AFSC in relation to Externally Regulated Services Providers (ERSPs) and Non-Regulated Service Providers (NRSPs) include: issuing of a directive; appointment of an investigator; deregistration; the imposition of a penalty on the registrant for committing a disciplinary violation; and the imposition of a penalty against a director or senior manager.
551. Typical reasons for enforcement actions are: legislation breaches; compulsory winding up, voluntary winding up or dissolution; the appointment of a receiver in respect of the financial services business carried on by the licensee or possession has been taken of any of its property by or on behalf of the holder of a debenture secured by a registered charge; a person having a share or interest in the licensee, whether equitable or legal, or any director, officer or key employee of the licensee is not a fit and proper person to have an interest in or be concerned with the management of a licensee, as the case may be, or, the licensee or a subsidiary or holding company of the licensee has refused or failed to co-operate with the AFSC on a compliance visit. The AFSC is entitled to take enforcement under a provision in a financial services enactment; contravention of any AML/CFT obligations; failure to comply with a directive given by the AFSC; breach of any term or condition of registration; providing the AFSC with any false, inaccurate or misleading information, whether on making an application for registration or subsequent to registration; refusal or failure to co-operate with an appointed investigator; and carrying on any type of relevant business without being registered for that type of relevant business under the ENRSP Regulations.

552. The AFSC can impose administrative penalties on the basis of: the nature and seriousness of a disciplinary violation committed by the licensee; whether the licensee has previously committed a disciplinary violation and, if so, the number and seriousness of the licensee's previous disciplinary violations; whether the disciplinary violation was deliberate or reckless or caused by the negligence of the licensee; whether any loss or damage has been sustained by third parties as a result of the disciplinary violation; whether there has been any gain to the licensee as a result of the disciplinary violation; and the ability of the licensee to pay the penalty.

Table 6.8 AFSC – Enforcement Actions taken by the AFSC against FIs: 2018 – 2023

Financial Sector	2018	2019	2020	2021	2022	Feb 2023	Total
Offshore Banks	0	0	0	0	0	0	0
Mutual Funds	3	0	0	0	2	0	5
Domestic Insurance	1	1	0	1	0	0	3
NRSP	0	1	2	0	2	2	7
ERSP	0	0	0	0	0	0	0
MSBs	0	0	0	0	0	0	0
Total	4	2	2	1	4	2	15

553. The AFSC's enforcement actions concerning applicable FIs has remained fairly consistent during the review period at approximately two (2) per year. The main types of enforcement actions were revocations and cancellations/surrender of licences. Based on the identified risks, the AT expected to observe more enforcement actions by the AFSC in relation to the MSBs and the banks, but given the small number of entities in each sector and the low number of inspection/compliance visits during the review period, there is minimal statistical data available to determine whether enforcement actions were effective, proportionate, and dissuasive.

554. The AFSC has taken a conservative approach to conducting enforcement action during the review period. Instead, the AFSC focused on full-scope inspections of high-risk entities to ensure that they had the proper AML/CFT structure in place. Additionally, the AFSC focused on issuing more guidance and conducting outreach initiatives during the review period, such as the AFSC's outreach plan for 2019 to 2021. Furthermore, with the COVID-19 pandemic and its challenges, the AFSC moved towards the themed inspection project, which was a desk-based exercise that could be done virtually.

555. The AFSC has used remedial actions more than enforcement actions to rectify AML/CFT deficiencies. The AFSC has seen more compliance in the issuing of action plans and requirements for continuous reporting. The AFSC, in its reports, gives guidance and tracks the progress of the entities in implementing the appropriate mechanisms.

Case Study 6.4. Imposition of Administrative Penalty on a Corporate Service Provider 2018

The licensee incorporated a company in which the previous corporate service provider resigned. This company was noted to be conducting high risk business. Previously, there were complaints against the noted company and the AFSC issued an investor alert published on its website identifying the company. Further, another investor alert was published identifying off-exchange forex and binary options trading as high risk, including for fraud, theft and abusive trading. The AFSC considered that the licensee had not conducted any enhanced due diligence and that the company represented a high risk of money laundering and terrorist financing. The AFSC imposed an administrative penalty in the amount EC\$50,000 for failure to conduct customer due diligence measures and ongoing monitoring and failure to conduct enhanced customer due diligence. The licensee filed an application for leave to apply for judicial review. The court declined to give leave to apply for judicial review.

6.2.5. Impact of supervisory actions on compliance

FIs & DNFBPs

556. The following mechanisms have been used by the AFSC as part of its AML/CFT supervisory efforts in relation to FIs:

Offsite/onsite inspections and compliance visits

557. The AFSC has made an impact on compliance through onsite inspections and deficiencies identified during the inspection, remedial and action plans that entities are required to follow by a specified time. For example, after the onsite of an MSB, the MSB was then able to properly review the source of funds documentation from the banks and finalize the implementation of its BRA which was then provided to the AFSC.

558. A separate themed inspection project was conducted with fifty-four (54) TCSPs over the period, 2020-2022. The AFSC notes that there are some gaps which are highly concentrated in the following AML/CFT areas listed below in Table 6.9:

Table 6.9 AFSC breakdown of AML/CFT deficiencies for the period 2018-2022 as identified in the inspection and compliance visit reports.

Deficiencies	Compliant	Largely Compliant	Partially Compliant	Non-Compliant
Policies, Procedures, Systems & Controls	0	0	15	2
Business Risk Assessment	0	1	7	9
Complex & Unusual Transactions/Structures	0	4	7	6
Customer Due Diligence	0	3	13	1
Customer Risk Assessment	1	1	12	2
Enhanced due diligence	1	2	6	8
Countries that do not comply with FATF standards	1	1	8	6
Politically Exposed Persons	2	2	6	6
Monitoring customer activity	0	1	12	4



Reporting suspicious activity transactions	0	2	9	5
Employee training & awareness	3	4	7	3
Record keeping	6	1	6	3

559. Table 6.7 above outlines a breakdown of AML/CFT deficiencies for the period 2018 - 2022 as identified in the inspection and compliance visit reports. The results included fifteen (15) TCSPs, one (1) captive bank, and one (1) lottery.

560. Following the onsite inspections, the AFSC has offered guidance within each report and through its monitoring process with the requirement to provide evidence, the AFSC has seen an increase in compliance since the results of the initial AML/CFT inspections/compliance visits. For example, in relation to business risk assessments, there were still some gaps which entities needed to address. However, through the action plan and monitoring process following the furnishing of the individual inspection/compliance visit reports, the AFSC received up-to-date business risk assessments that were significantly improved versions of those submitted during the inspection/compliance visit process. In cases where there were no business risk assessments provided, a draft was provided.

Feedback from inspections and compliance visits and monitoring of actions plans

561. The AFSC identified a number of deficiencies as a result of a compliance visit of a domestic bank in 2017, the report was completed and disseminated in 2018 which is within the review period. The four (4) main action items were to: update and review customer due diligence information; train staff; review and update information technology systems; and implement record keeping obligations. Additionally, the bank had to provide the AFSC with an overall action plan including other areas for improvement within the bank's AML/CFT system. Due to monitoring activities conducted by the AFSC, the domestic bank provided the supervisors with reasonable timelines and action items to address the deficiencies highlighted in the report. At the time of the follow-up compliance visit in April 2022, the bank was able to demonstrate the items (staff training and information technology systems) that were remedied and provided the AFSC with an update on the measures that have been taken to address the CDD deficiencies.

Imposition of stipulations/conditions on the entities' licenses or registration

562. Following the compliance visit of a domestic bank in 2017, after completing the inspection report in 2018, the AFSC required monthly updates and reports to follow the implementation of the AFSC's recommendations. The inspection report was delayed due to the passage of Hurricane Irma in 2017. This reporting changed to quarterly in 2021. The AFSC found that this encouraged compliance in relation to rectifying the deficiencies outlined within a specified timeframe knowing that the AFSC was constantly monitoring the domestic bank's remedial efforts.

Follow-up inspections/compliance visits

563. The AFSC conducted a follow-up compliance visit in 2022 for a domestic bank to monitor its compliance with its AML/CFT obligations following its full-scope onsite inspection in



2017. While progress was slow as identified by its quarterly reporting requirements to the AFSC, the AFSC noted that by the time the follow-up inspection came around, the domestic bank was able to identify areas in which major progress was being made and what areas still required attention. The AFSC issued a report which outlined the areas which still needed some work and where priority should be given. The AFSC observed that the follow-up inspection forced the domestic bank to further prioritise its efforts into remedying the deficiencies identified in the 2017 onsite compliance visit in a timely manner.

Information gathered from letters of demand for information and documentation

564. A request for information was sent to all domestic banks and MSBs to provide confirmation of the identification of any Russian entity or person sanctioned by the United Kingdom. The AFSC required the submission of further information and documentation where positive matches were made. During this exercise none of the licensees reported having a sanctioned entity or person as a Russian affiliate of a company formed in Anguilla. No enforcement action was required to be taken. Since then, the AFSC has observed greater awareness in relation to sanctions compliance in terrorist financing and proliferation financing. During the inspections conducted after the Russian sanctions' requirement, the AFSC has identified that the registrants that were assessed, all had policies in relation to sanctions and conducted screening.
565. The AFSC, during its themed inspection project, used letters of demand for information and documentation to request information from its licensees. The AFSC sent two (2) sets of requests for information and documentation. After the second request for information, the AFSC found that missing information was provided in compliance with the AML/CFT legislation.

Issuing Investor Alerts

566. The AFSC has issued a series of Investor Alerts on its website during the review period, some of which address the AML/CFT obligations of FIs and DNFBPs (e.g., licensing/registration requirements) and others that address unregulated investment business such as Forex Trading. These Investor Alerts have helped FIs and DNFBPs to adhere to their AML/CFT obligations.

Publishing guidelines and sample guides

567. The AFSC published an AML/CFT guidelines for policies and procedures manuals in December 2020. The AFSC also provides licensees and registrants with a copy of a sample guide in relation to drafting an AML/CFT manual. The AFSC has seen more complete and improved drafts of the AML/CFT manuals being submitted upon registration or licensing. In addition, the inspection team uses the guidelines and guide as references during inspections and licensees and registrants have found them useful.

Conducts outreach and training with licensees and registrants

568. The AFSC has conducted one-on-one meetings and training via Microsoft PowerPoint presentation with a registered micro-lender company in relation to its AMLCFT obligations and the need to be registered and comply with the AML/CFT obligations as outlined in legislation. Since then, the NRSP completed its registration as a non-regulated service



provider and has produced an AML/CFT manual in order to comply with its AML/CFT obligations.

569. The aforementioned supervisory actions collectively had a moderate impact on AML/CFT compliance by FIs, as they typically encouraged subject-related compliance, but they did not always ensure it. Additionally, the examples provided did not fully cover all of the FI types supervised by the AFSC.
570. The impact of the AFSC's supervisory actions on compliance is most evident among TCSPs as this sector was subject to greater supervisory scrutiny than any other DNFBP sector. However, the AFSC has not demonstrated through quantitative data that the level of compliance among TCSPs has been improved through supervisory contact inclusive of remedial action. Additionally, based on the deficiencies noted in the examination reports and representation in the NRA, the sector's continuing moderate levels of AML/CFT compliance suggest that supervisory efforts are not sufficiently robust.
571. The injunction currently in place which prevents lawyers from being subject to AML/CFT obligations is a significant weakness in Anguilla's AML/CFT regime. Anguilla's NRA identified lawyers as facilitators to ML, especially given their ability to carry out the services as registered TCSPs. Despite the injunction, some practitioners which are TCSPs are required to comply with the requirements.
572. The extent of the AFSC's supervisory interactions with the DNFBP sector is limited to registration and a single thematic review of the TCSP sector. The AFSC indicated that it recommended remediation actions to the sector to address the low levels of compliance awareness identified by the review. There have been improvements in the compliance culture of other DNFBPs through onsite inspections and review of the procedures. In the case of VASPs, the AFSC receives monthly reports of transactions conducted within the network.

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

FIs & DNFBPs

573. The AFSC has developed and deployed general and sector-specific outreach regarding prudential and AML/CFT matters to a variety of stakeholders. The AFSC has facilitated nine (9) private sector training courses over the past four (4) years, the last three (3) occurring in 2022 dealing mainly with Fintech and compliance issues. In addition, where necessary the AFSC undertakes one-on-one training with certain entities. The AFSC publishes guidance and posts industry updates including directives, guidance and newsletters on its website. The AFSC has also issued "Dear CEO letters" sent to CEOs/MDs detailing the AFSC's expectations in relation to specific AML/CFT obligations. Investor alerts have been published on the AFSC's website over the years to notify industry of unregulated entities purporting to operate from or within Anguilla. The development of these outreach efforts was prompted by trigger events such as deficiencies and weaknesses observed during onsite and offsite inspections and compliance visits, changes in legislation in relation to AML/CFT and the need to provide clarity as a result of questions asked and feedback provided by supervised entities.



574. The AFSC can be contacted via email or through scheduled meetings with its supervised entities to provide any guidance and feedback. The AFSC conducts meetings with potential licensees and registrants, and NPOs in addition to existing ones. The AFSC meets with the Anguilla Compliance Association at least twice a year to discuss compliance issues, changes in legislation, items of interest and training.
575. The AFSC engages with its supervised entities at least once a year during its annual industry day (termed the “FinTech and Compliance Conference” since 2021). In 2019, the AFSC hosted its first compliance conference. Due to the pandemic, there was no conference in 2020, instead the Commission launched its FinTech and Compliance series on its YouTube channel and other social media platforms. In 2021 and 2022, the Commission resumed with its conference virtually with presentations addressing topical fintech and compliance issues. Industry participants and other professionals regionally and internationally attended this conference. The virtual conferences have allowed for greater participation from licensees and industry participants.
576. The AFSC has engaged its sectors through various forums and training programmes developed to prepare these sectors for AML/CFT supervision. These mechanisms aided DNFBPs, namely the TCSPs, in their understanding of the obligations under the AML/CFT regime, as observed through the follow up assessment of these entities.
577. To promote understanding of AML/CFT obligations and ML/TF risks, the AFSC provided annual training, electronic bulletins and updates on legislative or supervisory changes, as well as seminars delivered jointly throughout the period under review on compliance and risk management. The AFIU has also taken measures to ensure that DNFBPs are aware of AML/CFT risks and obligations. These actions include meetings with the different reporting entities, publications and providing feedback.
578. TCSPs were generally aware of the results of the NRA through the summary of results published by the AFSC, but they were not involved in the NRA process. Generally, licensees’ awareness of ML/TF risks were based on their own knowledge of the environment, independent research, training courses and/or information shared amongst group institutions.
579. Although the AFSC has industry outreach mechanisms in place, there are still several DNFBPs that require further supervisory contact in order to increase their understanding of ML/TF risks and implementation of AML/CFT preventive obligations.

Overall conclusions on IO.3

580. Ongoing cooperation between the AFSC and the Commercial Registry significantly prevents criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in FIs, VASPs, and DNFBPs. Additionally, the AFSC conducts “fit and proper test” on the directors, shareholders and senior officers of its licensees and registrants at the time of their onboarding, on an ongoing basis and when triggered to do so by notifications.
581. The AFSC has a reasonable understanding of the ML/TF risks, and it has used Anguilla’s NRA reports; individual sector and entity vulnerability assessments; trends and typologies identified by the FATF or as identified by the FIU in its local circulars; onsite/offsite inspections and compliance visits; data received from required returns and information requests to help the AFSC identify and maintain an understanding of the ML/TF risks and vulnerabilities.
582. At the end of each calendar year since 2020, the AFSC conducted a vulnerability assessment of its licensed or registered FIs, VASPs, and DNFBPs and drafted a flexible work plan for the following year which focuses on the higher vulnerability licensees and registrants that may require inspections, compliance visits, follow-ups, or enhanced monitoring to commence or continue. The work plan highlights any AML/CFT related projects which the AFSC intends to conduct concerning high vulnerability areas. However, the AFSC is not conducting AML/CFT inspections and compliance visits in accordance with its internally set timelines due to a lack of resources.
583. The suspension of AML/CFT obligations for lawyers, due to a legislative stay, is an important gap in Anguilla’s supervisory framework as lawyers are not monitored for compliance. Additionally, independent legal professionals and notaries are not supervised.
584. Although the AFSC took remedial and enforcement action during the review period, it has not demonstrated that the actions taken were effective, proportionate, and dissuasive.
585. The AFSC communicates AML/CFT obligations to licensees and registrants through multiple channels including, inspections and compliance visits, outreach initiatives, email notifications, investor alerts on its website, social media outreach, “Dear CEO” letters, and formal and informal meetings and private sector trainings.
586. Considering the above-mentioned factors, the country has achieved IO.3 to some extent with major improvements needed.

Anguilla 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) Incorporation and other creation information on legal persons (LPs) and legal arrangements (LAs) is detailed in the enabling statutes and their associated regulations. These instruments are available on the public website of the Commercial Registry.
- b) Anguilla's NRA included an assessment of the inherent vulnerabilities of LPs that can be misused for ML/TF purposes. Significant changes to the creation and regulation of LPs occurred later in the assessment period and subsequent to the development of the NRA.
- c) Anguilla has implemented a new registration system called the Commercial Registration Electronic System (CRES), replacing the previous ACORN electronic registration system. Having only recently been made operational at the time of the onsite, Anguilla has not demonstrated that CRES has facilitated enhanced access to BO information by relevant CAs. TCSPs are exclusively empowered to populate CRES in fulfilment of the registration requirements of LPs. The CRES platform is managed by the Commercial Registry and was fulfilling exclusively administrative functions at the time of the onsite. CRES registration procedures are configured such that TCSPs must submit BO and other information upon registration. The Commercial Registry does not verify the accuracy of BO and other information, rather, such verification is undertaken by the AFSC during its periodic inspections of TCSPs themselves. The efficacy of this measure is constrained by the frequency of inspections and the sample size utilised during these inspections.
- d) Despite the roll-out of the CRES registration system, the TCSP sector remains the primary mechanism for the collection and retention of basic and BO information on LPs. TCSPs are obligated to maintain comprehensive, accurate and up to date BO and CDD information on LPs pursuant to their AML/CFT obligations. Over the period of January 2018 to May 2019, the AFSC carried out inspections of 16 high risk TCSPs, representing about 30% of the sector. These inspections revealed significant non-compliance with AML/CFT obligations in the TCSP sector, but only 2 of the TCSPs were found to have some non-compliance issues with respect to BO identification and the maintenance of accurate and up to date basic and BO information. Additionally, of the samples chosen by the AFSC from these 2 TCSPs, the AFSC found that the instances of deficiencies relating to BO identification and documentation were few. Further fulsome inspections and



compliance verifications on TCSPs were not pursued during the remaining 4+ years of the assessment period.

- e) Anguilla has not demonstrated effective strategies to mitigate the ML/TF risks associated with LAs. Furthermore, there are technical compliance gaps in R.25 that hinder the effectiveness of the AML/CFT regime as to risks associated with trusts. Anguilla has not demonstrated any action during the assessment period seeking to identify the basic and BO ownership information related to trusts, whether for domestic investigations or pursuant to foreign requests.
- f) The AFIU and the AFSC can compel information from all REs including basic and BO information. The AFIU has access to a broad range of normative investigative powers to secure basic and BO and other relevant information on LPs. In furtherance of an investigation, the AFIU may share basic and BO information gathered from the CRES and TCSPs with other domestic and international authorities pursuant to MOUs and MMOUs which include information-sharing mechanisms, or with the consent of the AG. The MoF can share BO information for TIEA international exchanges of tax information. The Commercial Registry is insufficiently resourced to effectively execute its new regulatory and compliance functions to ensure the information on the CRES platform is accurate and up to date.
- g) Anguilla has a comprehensive regime available for sanctioning persons who do not comply with AML/CFT information requirements, particularly in terms of criminal and administrative enforcement penalties. However, Anguilla has only demonstrated modest record of employing them effectively, proportionally, and dissuasively.

Recommended Actions

- a) Anguilla should enhance its BO information regime with respect to LAs to address the gaps and deficiencies identified in R.25.
- b) Anguilla should continue to develop its understanding of risks associated with LPs, in particular IBCs and other BCs, and integrate this deeper understanding in relevant policies, procedures and strategies.
- c) Anguilla should enhance training and outreach efforts to TCSPs and other REs on ML/TF risks associated with LPs and LAs and compliance with AML/CFT information requirements.

- d) Anguilla should ensure that the ASFC is sufficiently resourced to effectively and more consistently inspect and conduct compliance verifications on TCSPs with respect to their AML/CFT obligations.
- e) Anguilla should ensure that the Commercial Registry is sufficiently resourced to effectively fulfil its supervisory and compliance verification functions with respect to ensuring that TCSPs are registering comprehensive, accurate and up to date BO information.
- f) Anguilla should intensify its monitoring and enforcement efforts and use the full suite of sanctions available to enhance compliance with AML/CFT obligations of TCSPs and other REs.

587. 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.

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

588. As discussed in R.24.1, there are four types of LPs that can be established in Anguilla: business companies (BCs), limited liability companies (LLCs), limited partnerships (LtdPs), and foundations. Express Trusts can be created in Anguilla. Trusts are not subject to mandatory registration, rather it is optional, therefore the actual numbers of each of them is unknown to CAs. This poses a significant barrier to supervision of LAs (see IO.3). General partnerships require no formalities as per the Partnership Act and they cannot own property and they do not constitute distinct LPs, however the AT assesses them where possible/relevant. Furthermore, general partnerships are not subject to registration, since they are not legal persons, but they are subject to mandatory annual licensing by the MoF and therefore their numbers are known. Table 7.1 lists the types of legal persons and arrangements, and their numbers, as at September 9, 2022.

Table 7.1: Types and numbers of legal persons and arrangements registered in Anguilla as at 9 September 2022

Type of Legal Person/Arrangement	Number
LPs:	
Business Companies (BCs)	12170
Limited Liability Companies (LLCs)	346
Limited Partnerships (LtdPs)	39
Foundations (voluntarily registered)	58
LAs:	
Trusts (voluntarily registered)	16
Other:	
General Partnerships	70

Totals	12699
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589. There are multiple types of BCs as elaborated in the 2022 Business Companies Act (BCA), including: private companies, public companies, foreign companies, exempted companies, segregated portfolio companies (SPCs), and ‘ordinary’ companies (OCs). Anguilla did not make comprehensive individual submissions nor disaggregated data available with respect to individual types of BCs. The most consequential change with the establishment of the 2022 BCA regime in the middle of the assessment period is the merging of international business companies (IBCs) with OCs under the new AML/CFT regime for BCs (see 7.2.2. for discussion on associated risk issues). Anguilla acknowledges that the majority of BCs operating in the jurisdiction are, in fact, foreign companies.
590. Incorporation and other creation information on LPs and LAs is detailed in the enabling statutes and their associated regulations: Business Companies Act (BCA) for BCs; Limited Liability Company Act (LLCA) for LLCs; Limited Partnership Act (LPA) for LtdPs; the Foundation Act for foundations; and the Trust Act for trusts. Like general partnerships, express trusts are not subject to any formalities, and may therefore be created by oral declaration, in writing, by conduct, or by law. The enabling statutes are published in the Gazette and available online, including their associated regulations and amendments, on the public website of the Commercial Registry. Anguilla does not maintain any user-friendly public guidance on the incorporation and creation of LPs and LAs.

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

591. The NRA identifies and assesses inherent, but not residual risks of each type of legal entity. This analysis was informed by the nature of the legal entity as well as the associated intelligence requests and SARs over the period 2014-2018 in relation to each of them. However, there are some gaps in Anguilla’s understanding of ML/TF risks and vulnerabilities of legal entities.
592. The NRA was developed before the period in which the distinction between IBCs and OCs gave way to the consolidated LPs, now known as BCs, with the coming into force of the BCA in 2022. Consequently, the NRA treats the inherent ML/TF risks for each of them separately. IBCs are understood to have Very High ML/TF risks because of their susceptibility to be abused by sophisticated foreign criminal actors owing to the degree of anonymity that they allowed and their general ease in being incorporated, managed, and dissolved. The merging of IBCs with OCs to create BCs was done to bring the supervisory and regulatory requirements for IBCs in line with OCs, however, it also has the effect of obfuscating the particulars of IBCs, which are of particular concern in the NRA and Anguilla’s understanding of risk. Anguilla’s history of intelligence and SAR activity in relation to IBCs supports Anguilla’s assessment of this vulnerability. OCs were seen as posing a Medium ML/TF risk because of domestic requirements subjecting OCs to register BO information, and because of domestic economic and cultural factors that point towards less abuse by domestic actors. The intelligence and SARs history of Anguilla generally supports this conclusion. Despite the claim that the BCA’s replacement of IBCs and OCs with BCs to mitigate the inherent risks previously associated with IBCs, Anguilla submitted to the assessment team that the ML/TF



risk understanding associated with BCs is Very High. Anguilla submits that this risk rating may overstate the associated risks and may be revisited in updated future assessments.

593. The NRA concludes that the inherent ML/TF risks associated with LtdPs, is High. According to the NRA, this is due to the ability of criminal actors to use partnerships internationally and for criminal actors to hold accounts and property under their cloak. LtdPs are not subject to requirements to keep basic and BO information accurate and current under the LPA, however, they are required to have TCSPs, who are subject to such requirements.
594. The NRA considers the characteristics of LLCs and concludes that the associated ML/TF risks should be rated High, however, it does not meaningfully consider the relevant inherent factors that support the assessment. There was some limited operational activity in relation to LLCs that point to a somewhat elevated risk.
595. The NRA considers SPCs, then called protected cell companies, separately from other BCs and concludes that the ML/TF risks associated with SPCs is Medium. This does not reflect a history of operational law enforcement activity in relation to them, but rather, it is due to the inherent risks associated with two related regulated sectors which Anguilla rated as a Medium risk, namely mutual funds and captive insurance. The actual risk assessment of SPCs as a structure is perfunctory.
596. The NRA assesses the ML/TF risks associated with foundations as Medium. There is little by way of demonstrated law enforcement or intelligence activity to suggest a known threat by such legal entities. The ML/TF risk analysis is somewhat perfunctory but concludes that the risk rating is supported by their inherent risks, specifically, their ability to purchase, own and sell property and their susceptibility to ML and fraud abuse. Like LtdPs, foundations are not subject to requirements to keep basic and BO information accurate and current under the enabling statute, the Foundation Act, however, they are required to have TCSPs, who are subject to such requirements.
597. The inherent risks associated with trusts are addressed in the NRA and rated as High. TCSPs are required to comply with some relevant AML/CFT obligations with respect to trusts, however, registration is optional for all trusts and non-professional trustees are not subject to regulation. As Anguilla acknowledges, the number and nature of trusts are unknown. In the months leading up to the onsite, CAs and REs received a summary of the NRA. It was circulated through email distribution lists and published on various Government of Anguilla websites. In discussions with CAs and REs, including TCSPs, the assessment team confirmed that the NRA had been widely circulated. Actual understandings of ML/TF risks associated with legal entities was variable between CAs and REs, but was generally sufficient and consistent with the themes identified in the NRA. Some CAs and REs engaged by the assessment team expressed a view that in the absence of any identifiable history of terrorism and TF in Anguilla that the TF risks associated with legal entities were somewhat overblown in the assessment.

i. Mitigating measures to prevent the misuse of legal persons and arrangements

598. The passage of the BCA and the transition to a new electronic registration system constitute the two leading mitigation innovations during the assessment period. One of the core objectives of Anguilla's passage of the BCA was to mitigate the inherent risks associated with IBCs by bringing them into the same regime as OCs and thereby subject them to stronger

transparency and AML/CFT requirements. However, absent disaggregated data and detailed submissions on compliance of foreign companies in terms of their new obligations, effectiveness of this strategy to prevent their misuse cannot be assessed.

599. The Commercial Registry and Beneficial Ownership Registration System Act, 2022 (CRBORS Act) established a new electronic registration system platform called the Commercial Registration Electronic System (CRES), replacing the previous ACORN electronic registration system. A migration/transition period occurred over April 2022 to May 2023, during which CRES became operational and the ACORN was decommissioned. The CRES can be accessed via three (3) registers: the Customer Due Diligence Register (CDD Register); the Beneficial Ownership Register (BO Register); and the Commercial Register. TCSPs, licensed with the AFSC, are exclusively empowered to populate the Registers of CRES in fulfilment of the registration requirements imposed on LPs. The voluntary registration of trusts renders CRES a minimally helpful tool in relation to LAs. At the time of the onsite, LPs registered on CRES numbered: 19,481 active BCs and LLCs, collectively; 17 foundations; 16 trusts; and 17 LtdPs. The substantial inconsistencies between these CRES registration statistics, current as at June 30, 2023, and the ACORN-era statistics provided at September 9, 2022 (see Table 7.1 above), are concerning, especially given that the migration and reconciliation procedures between the two systems are said to have been completed as at May 31, 2023.
600. The CRES platform is managed by the Commercial Registry. The CRBORS Act envisions a new regulatory and compliance function for the Commercial Registry, however, there are insufficient human resources at the Commercial Registry (five (5) staff total) to carry out such functions, therefore, the Commercial Registry was only fulfilling its longstanding administrative functions at the time of the onsite. Resources have not been allocated to establish an operational compliance unit. The Commercial Registry is regulated by the AFSC.
601. The AML/CFT obligations on TCSPs remain the primary manner in which Anguilla seeks to mitigate risks and facilitate access to accurate and up to date BO and CDD information on LPs. The AML/CFT Code and its associated Regulations, establish the relevant obligations for TCSPs:
 - the full name of the legal entity and any trading names that it uses;
 - the date of the incorporation, registration or formation of the LP;
 - the legal form of the legal entity, the law under which it is governed and the powers that regulate and bind it;
 - any official identifying number;
 - the registered office or, if it does not have a registered office, the address of the head office of the LP;
 - the name and address of the registered agent of the legal entity (or equivalent), if any;
 - the mailing address of the LP;
 - the principal place of business of the legal LP;
 - the names of the directors of the legal entity and of the senior persons responsible for the management and operation of the LP; and



- identification information on those directors who have authority to give instructions to the service provider concerning the business relationship or occasional transaction; and identification information on individuals who are beneficial owners.
602. All LPs must retain at all times a licensed TCSP. For BCs, LPs and LLCs, the applicable TCSP is required to populate the CRES system with basic, commercial, CDD, and BO information, and submit associated filings, as required by the enabling statutes of the LPs and the CRBORS Act. CRES registration procedures are configured such that TCSPs must submit BO and other information upon registration, otherwise CRES will not authorize the registration. All information, including BO information, submitted by TCSPs is reviewed for completeness by a Processing and Decision Officer of the Commercial Registry. However, the information submitted is not verified for accuracy by the Commercial Registry rather, such verification is undertaken by the AFSC during its periodic inspections of TCSPs themselves. The efficacy of this measure is constrained by the frequency of inspections and the sample size utilised during these inspections. As noted in R.24 and above, foundations are not compelled to register, but where registration is voluntarily sought, the relevant basic and BO information is delivered to the Registrar and recorded separately from CRES in a Register of Foundations. Information contained in the Register of Foundations is accessible to the AFSC, the TCSP of the Foundation, and upon an order of the High Court.

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

603. Anguilla has moderately effective mechanisms in place to ensure that BO information is accurate and current and is accessible in a timely manner. Basic information on LPs, except for foundations, is available to the public, both via the free online CRES search function as well upon making a request for records and paying a fee. The CDD Register, which contains some BO information, is accessible to the AFSC. The BO Register, which facilitates access to comprehensive BO information, is made available directly to the AFIU, the AFSC, and the MoF. As stated above, foundations must have TCSPs, who are required to provide basic and BO information on foundations to the Registrar and such information is accessible to the AFSC. In March 2021, the Commercial Registry concluded a comprehensive new user manual for the then pending release of the CRES system, which is particularly beneficial for TCSPs.
604. In practice, the electronic registration system is secondary to the role TCSPs play in timely CAs access to adequate, accurate and current BO information on LPs. TCSPs are required to appoint a Money Laundering Reporting Officer (MLRO) and a Money-Laundering Compliance Officer (MLCO) for LPs. The broad information gathering regimes available to the AFIU and the AFSC allow these CAs to compel information from all relevant persons, including MLCOs and MLROs, for production of relevant documentation and information, including basic and BO information. The AFIU has access to a broad range of normative investigative powers as well to secure basic and BO and other relevant information on LPs. In furtherance of an investigation, the AFIU may share basic and BO information gathered from the CRES and TCSPs with other domestic and international authorities pursuant to MOUs and MMOUs which include information-sharing mechanisms, or with the consent of the AG. They can also share informally. The MoF can share BO information for TIEA

international exchanges of tax information. CAs have conducted limited outreach and training to MLROs and MLCOs during the assessment period.

605. As set out at R. 25, there are sanctions applicable for TCSPs non-compliance with requirements to keep BO information up-to-date. The AFSC has the authority to check compliance of TCSPs, however, resourcing levels are insufficient to carry out this vital mandate in a sufficiently robust manner. TCSPs non-compliance with AML/CFT obligations is an issue. Over the period January 2018 to May 2019, the AFSC conducted 14 offsite inspections and 2 onsite inspections of TCSPs. The inspected TCSPs constituted about 30% of the TCSP sector licensed in Anguilla. The results showed widespread non-compliance with AML/CFT obligations (see IO.4, including on the remedial action plans and monitoring implemented following these inspections). However, only two (2) of the TCSPs were found to be non-compliant with respect to basic and BO information requirements. Additionally, of the samples chosen by the AFSC from these two (2) TCSPs, the AFSC found that the instances of deficiencies relating to BO identification and documentation were few. Over the period 2020-2022, the AFSC conducted desk-based thematic inspections targeting 54 TCSPs, virtually covering the entire sector, operating in Anguilla. Nominee shareholder and directorship services were identified as salient high-risk factors in relation to TCSPs' management of LPs. The AFSC communicated findings to REs via "Dear CEO" letters. The AFSC has required action plans for remedial measures by the TCSPs and has monitored their implementation. The AFSC has reported that all action plans are on schedule. With over 300 REs, including approximately 55 TCSPs, the AFSC is insufficiently resourced to implement an effective ongoing and comprehensive inspection and compliance verification strategy with respect to TCSPs and their AML/CFT obligations.
606. The MoF can access basic and BO information from the Commercial Registry, and in 2022 the MoF made four (4) such requests for basic information on LPs and five (5) requests for BO information in relation to specific owners of LPs.
607. Anguilla provided statistics in relation to the AFSC's demands for information from licensees, as they are empowered to do by statute. There were limited uses of this power, but they spiked during the period of the thematic inspections. Anguilla did not demonstrate that these demands sought basic and BO information in relation to LPs nor whether these requests concerned investigations or compliance checks.
608. Table 7.2 below presents the number of requests per year from the AFIU to the Commercial Registry, ACORN, TCSPs and the AFSC for BO Information on LPs. These requests include requests relevant to both domestic investigations and foreign requests. Anguilla reported that all such requests resulted in the receipt of the requested BO information within 24 hours. The completeness, accuracy, and usefulness of the information received, however, has not been demonstrated.

Table 7.2: AFIU obtaining BO information from Commercial Registry/ACORN, TCSPs and AFSC

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Number of BO information requests to Commercial Registry/ACORN	44	24	12	25	13	9

Written notices to TCSP for BO information	16	9	8	8	1	2
Written notices to AFSC for BO information	0	0	0	0	1	0

609. Table 7.3 below identifies the number of times per year the AFIU sought BO information in relation to domestic financial investigations over the period 2018-2023 (up to 7/7/23), as well as the relevant CAs from which the BO information was obtained. It is not known how many and what type of investigations these requests related to.

Table 7.3 Number of times the AFIU sought BO information for financial investigations

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Number of times the FIU has obtained BO information during a financial investigation	2	2	0	4	3	5
Information obtained from IRD	1	1	0	3	1	3
Information obtained from Registrar	1	1	0	1	0	2
Information obtained from AFSC	0	0	0	0	1	0
Information obtained from TCSPs	0	0	0	0	1	0

Case Study 7.1. AFIU search warrant for BO

In 2022, the AFIU began pursuing an investigation into issuance of false documents by an Anguilla-registered BC. As part of the investigation, the AFIU made a consent request to the Anguilla Company for basic and BO information of the LP. The Company provided all information relative to the LP formation and BO information was produced within two days of the request. Additionally, the AFIU obtained and served a search warrant on the AFSC in furtherance of the investigation, as the LP was registered with the AFSC under the ERNPB Act. The information was received the same day. All information sought, including basic and BO information, was obtained. The investigation was ongoing at the time of the onsite assessment.

610. Anguilla also provided statistics for the AFIU's efforts in obtaining BO information from CAs, namely the IRD, as presented in table 7.4 below. No detailed timeliness information was provided. The number of responses received, and their usefulness, was not provided.

Table 7.4: Requests by the AFIU to IRD for BO information on LPs

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Request to the Inland Revenue Department	4	3	1	2	1	4

For international co-operation purposes

611. During the assessment period, the AFIU received via the EGMONT ESW system a consistent level of incoming international financial intelligence requests seeking, in whole or in part, BO information on LPs (see IO.2). Table 7.5 below presents the number of incoming and outgoing requests received and sent through the ESW with respect to BO information on LPs. Timelines provided by Anguilla indicate that responses, where they were executed, were mostly completed within 2-14 days of receipt of the request.

Table 7.5: Incoming and Outgoing Requests for BO information on LPs via ESW

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Incoming Requests	25	15	11	10	3	3
Outgoing Requests	4	1	1	4	1	0

612. Anguilla provided statistics on incoming requests for BO information pursuant to a bilateral agreement with the UK (in relation to IO.2) and on those which were executed. Table 7.8 below presents these statistics. Anguilla provided no explanation for the disparities but noted that no such incoming requests were declined.

Table 7.6: Incoming requests and responses for BO information on LPs from UK via Bilateral Agreement

	2018	2019	2020	2021	2022
Incoming Requests	0	2	1	2	1
Outgoing Responses	0	2	1	2	1

613. The AFIU responded bilaterally to three BO information requests from foreign counterparts during the period 2018-2022, outside of established channels. One each was executed in 2018, 2020, and 2021. One such request was executed within 7-14 days, one within 14-21 days, and the other “more than 14 days”. Anguilla did not have any BO information exchanges with foreign partners via ARIN-Carib, although it is able to make and receive such requests. Anguilla provided two (2) case studies on access to BO information on LPs on behalf of foreign partners, however, neither of the requests yielded any BO information and Anguilla did not provide reasons for this.

614. As discussed at section 8.2.5, 20 of the 27 incoming TIEA tax information requests to the MoF were for, or included requests for BO information in relation to LPs. Anguilla was able to provide BO information in 16 of the 20 relevant requests. The four (4) requests which could not be executed were due to disorderly winding down of LPs by TCSPs such that the requested information was no longer available.

615. Also as discussed at section 8.2.5, Anguilla reports that half of its outgoing MLA requests under CJICA and the MLA USA Act, that is, four (4) out of eight (8) (see Table 8.4), constituted or included requests for basic and BO information. All four (4) outgoing MLA requests from Anguilla concerned professional ML or fraud misconduct. Table 7.7 below presents incoming MLA requests during the same period, most of which included requests for BO information.

Table 7.7: Incoming MLA requests, including for BO information, 2018-2022

	2018	2019	2020	2021	2022
Total MLA	4	2	3	7	0
Provision of BO information	4	1	3	6	0

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

616. Anguilla has not demonstrated that any domestic CAs, whether acting on its own or on behalf of a foreign CA pursuant to an international cooperation request, has sought to access BO information on Anguillan trusts. Trusts are not subject to mandatory registration, as discussed above, and furthermore, trustees are not required to employ the services of a TCSP. Only where they employ a TCSP is the TCSP subject to basic and BO information collection requirements. There are significant gaps identified in basic and BO requirements as to LAs, as identified in R.25. TCSPs and trustees, where they are known, are subject to the broad disclosure demand regimes available to the AFSC as the applicable regulator, and the AFIU, as the lead ML/TF LEA (they may share information obtained with domestic CAs pursuant to information-sharing mechanisms in MOUs and MMOUs). There are no barriers to sharing such information pursuant to international request for assistance.
617. During the assessment period, and despite the High ML/TF risk rating assigned to trusts during the NRA exercise, neither the AFSC nor the AFIU delivered relevant training or conducted outreach to TCSPs of the 16 registered trusts nor known trustees. Nor has it been demonstrated that members of these CAs accessed such training themselves.

7.2.5. Effectiveness, proportionality and dissuasiveness of sanctions

618. As noted at C.24.13 and C.25.7, Anguilla has a fairly strong and comprehensive regime for sanctioning persons who do not comply with information requirements, in particular in terms of criminal and administrative enforcement sanctions. Table 7.9 below sets out the enforcement actions taken by the AFSC for the period 2017 to May 2023. No further information about these statistics was provided, including whether all or only some of these relate to sanctions for breaches of BO information requirements and/or other AML/CFT information requirements by LPs and/or LAs and/or TCSPs acting on behalf of LPs and/or LAs. This table is said to include the non-complying or partially complying TCSPs identified via the thematic inspections conducted 2020-2022. Anguilla also provides information on two cases (Case Studies 7.2 and 7.3 below) active during the assessment period that resulted in significant pecuniary administrative penalties sanctioning relevant breaches. As indicated previously, the Commercial Registry has not yet assumed its legislative supervisory function, and thus they had no sanctioning capacity during the assessment period.

Table 7.8: Administrative enforcement actions taken by the AFSC, 2017-May 2023

Enforcement Activity	2017	2018	2019	2020	2021	2022	To May 2023
Notices of Intent to Suspend	6	5	18	6	4	0	0
Suspensions	4	3	6	0	4	3	0

Notices of Intent to Revoke	17	12	16	6	4	4	0
Revocations	10	9	12	2	4	4	2
Notices of Intents to Impose an Administrative Penalty	19	8	3	0	0	1	0
Administrative Penalties	19	4	1	0	0	0	1
Directives	0	0	0	0	1	1	1

Case Study 7.2. Benjamine Company Services v Anguilla Financial Services Commission

In a reported case before the Eastern Caribbean Supreme Court, concluded in 2018, the AFSC's \$50,000 administrative penalty imposed on an Anguillan TCSP was upheld. The licensee incorporated a company in the off-exchange forex and binary options trading sector. An investor alert had been published advising of this sector as high risk for fraud, theft and abusive trading. In support of the pecuniary penalty, the AFSC determined that the licensee had not conducted the necessary CDD, ongoing monitoring, and enhanced customer due diligence as required and that the company represented a high risk of ML and TF. The licensee litigated the sanction which was upheld. Whether the CDD-related breach involved a breach of BO information requirements is unknown.

Case Study 7.32. Imposition of administrative penalty by AFSC

In January 2022, the AFSC imposed on a DNFBP an administrative penalty of \$60,000 for four (4) contraventions of information requirements under the AML/CFT Code and associated regulations:

1. Contravention 1 – Failure to carry out and document a risk assessment contrary to section 3 of the AML/CFT Code;
2. Contravention 2 - Failure to establish and maintain an adequately resourced and independent audit function to test compliance with the policies, procedures, systems and controls established under the AML/CFT Regulations and the AML/CFT Code contrary to section 5(3) of the AML/CFT Code;
3. Contravention 3 – Failure to meet its training obligations, contrary to section 19 of the AML/CFT Regulations and section 32 of the AML/CFT Code; and
4. Contravention 4 – Failure to provide written notice of changes in senior officers within 14 days of the change occurring, contrary to section 7 of the ENRSP Regulations

None of these breaches related to BO information requirements.

619. The AFSC indicates that it prefers to issue Directives to non-complying REs, but no relevant cases, statistics, etc. were provided in support of that. Prior to the COVID-19 pandemic, and under the former LPs enabling statutory regime and decommissioned ACORN system, REs were automatically struck from the register for non-payment of registration fees and failure to appoint a registered agent, ie. TCSP, following the resignation/departure of the previous agent. Table 7.10 below sets out these statistics. No such statistics were provided in relation to the post-pandemic period, or under the new CRES framework. Anguilla did provide statistics on pending strike-offs under the CRES system, but no action has yet been taken.

Table 7.10: REs struck from the Commercial Registry

Year	IBC	COC	LLC	Resignations	Totals
2018	4985	111	18	0	5114
2019	4146	193	20	87	4446
2020	133	0	3	219	355
2021	0	0	0	170	170
To 31 Mar 2022	0	0	0	41	41
Totals	9264	304	41	517	11126

Overall conclusion on IO.5

620. Anguilla makes information on the creation and types of LPs and LAs publicly available by maintaining their enabling statutes on a public website.
621. Anguilla's NRA assesses the risks and vulnerabilities of legal entities. This analysis was largely informed by the inherent ML/TF risks associated with the legal entities and supported somewhat by Anguilla's past operational experience. The NRA was shared widely with CAs and REs in the months ahead of the onsite assessment, and a version was posted publicly online. Although there was some variability in their individual understandings of the ML/TF risks associated with legal entities, CAs and REs engaged by the assessment team generally had a sound understanding of the risks elaborated in the report.
622. Anguilla's risk mitigation strategy centres upon the AML/CFT obligations of TCSPs, including requirements as to the maintenance of adequate, accurate, and current basic and beneficial ownership information of legal entities. Since trusts are not required to retain a TCSP, LAs largely exist outside of the AML/CFT regulatory framework. Furthermore, the TCSP sector has consistently been found by the AFSC to be in widespread breach of their AML/CFT obligations, however the ongoing inspection, compliance, and sanctioning strategies for TCSPs are insufficiently robust. The AFSC appears to be insufficiently resourced to carry out these functions more consistently.
623. During the assessment period, Anguilla transitioned to a new electronic registration system, CRES, but it remains too nascent to fully assess. However, the assessment team

has concerns that the Commercial Registry that maintains the CRES system is insufficiently resourced to undertake its new compliance and verification mandate and therefore ensure that the information registered in the system is consistently accurate. The registration regime is an important tool to supplement the primary TCSP mitigation strategy.

624. The applicable sanctions regimes are fairly comprehensive; however, it has not been demonstrated that they are effectively pursued so as to improve compliance with AML/CFT obligations. Actual enforcement actions are low. Furthermore, Anguilla has not provided the sufficient evidentiary basis to conclude that it is consistently able to facilitate timely access to adequate, accurate and current basic and BO information on LPs, whether in regards to domestic investigations or pursuant to international requests. With respect to LPs, there is no such activity substantiated during the assessment period.
625. Considering the above-mentioned factors, the country has achieved IO.5 to some extent with major improvements needed.

Anguilla 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) Anguilla has a comprehensive legal framework for receiving and seeking extradition of criminally accused persons. No incoming extradition requests were received during the assessment period. No outgoing extradition requests were made as authorities reported that there were no prosecutions initiated of offenders not in the jurisdiction. The absence of extradition activity during the period is generally consistent with Anguilla's risk profile and context, including the size of the jurisdiction. The modest policy and administrative framework supporting Anguilla's extradition regime is appropriate given the dearth of such activity.
- b) Anguilla provided a range of MLA cooperation during the assessment period. However, the volume of requests received was somewhat low, as was the relative complexity of the assistance, although these outcomes are not entirely out of line with the jurisdiction's risk profile and context. The quality and usefulness of the MLA assistance provided are not well established. Anguilla did not demonstrate that it executes incoming requests in a consistently timely manner.
- c) Anguilla's outgoing MLA requests largely concern minimally complex ML and predicate offences, which is somewhat consistent with its risk profile and context. No transnational asset recovery requests were made during the assessment period, which is not consistent with its risk profile and context. Anguilla did not demonstrate that cooperation is sought in a consistently timely manner. Only the AFIU and the Immigration department sought formal MLA cooperation.
- d) The RAPF, the Customs Department and the AFIU sought cooperation from foreign counterparts during the assessment period outside of MLA procedures. Only the AFIU did so consistently for AML/CFT purposes. Anguilla has not demonstrated timely outgoing engagement in relation to EGMONT and the Arin-Carib network. The AFSC reported no outgoing supervisory international cooperation requests. Anguilla underutilizes international cooperation mechanisms for their own AML/CFT purposes.
- e) CAs executed international incoming requests for financial intelligence assistance. The AFIU provided extensive and constructive spontaneous exchanges of financial intelligence in a timely manner. Similarly, responses to incoming requests were both timely and constructive. To a large extent, this is also true of the MoF. However, other LEAs did not consistently demonstrate constructive and timely provision of cooperation.

- f) Key CAs are engaged in regional and multilateral fora and mechanisms for international criminal and intelligence cooperation, including for AML/CFT purposes. However, Anguilla has not consistently demonstrated the timeliness and usefulness of the cooperation sought and received in relation to all CAs.
- g) Anguilla's incoming and outgoing cooperation requests frequently involve requests for BO information. However, Anguilla has not provided sufficient information to demonstrate that these requests are consistently executed by the provision of the BO information sought. There is a risk that domestic BO information barriers identified in IO.5 may cascade in the provision of BO-related cooperation.

Recommended Actions

Anguilla should:

- a) Identify and demonstrate the quality and usefulness of the MLA sought and received from foreign jurisdictions.
- b) Make more frequent use of outgoing requests for MLA, as necessary, to support the investigation and prosecution of ML and associated predicate offences, especially by LEAs other than the AFIU and the Immigration Department.
- c) Enhance transnational asset tracing efforts and recovery efforts and prioritize seeking asset recovery assistance consistent with its risk profile and context.
- d) Ensure LEAs, especially the RAPF, make greater use of informal and international cooperation mechanisms, in particular, regional and multilateral forums and frameworks, for ML and predicate offence investigations and prosecution and other AML/CFT purposes.
- e) Address the deficiencies noted in IO.5 and shortcomings identified in R.24-25 in order to ensure the consistent provision of comprehensive, accurate, and up-to-date BO information to requesting jurisdictions.
- f) Consider establishing a central authority for MLA-based co-operation.
- g) Consider pursuing tax information in foreign jurisdictions to further ML and predicate offence investigations where appropriate.

626. 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)

8.2.1. *Providing constructive and timely MLA and extradition*

627. Anguilla has comprehensive measures in place for formal international cooperation. This includes a comprehensive extradition regime, updated in 2016 by the UK's extension of the UK's Extradition Act 2003 to the jurisdiction via the Extradition Act 2003 (Overseas Territories) Order 2016, and in relation to which it benefits from the UK's broad network of treaty partners. Anguilla can extradite its own nationals. There are no unreasonable or unduly restrictive barriers to extradition. Double criminality is a requirement for extradition; however, the requisite analysis is appropriately conduct-based and irrespective of nomenclature. There are some simplified procedures available. There is a modest policy framework for extradition in place, specifically an undated 4-page internal policy document prepared by the AGC which describes the extradition regime and briefly outlines relevant procedures. There is no clear case management system nor prioritisation policy for extradition. There is no public guidance on extradition for requesting states. There were no incoming or outgoing extradition requests active during the assessment period, therefore the assessment team gives minimal weight to the modest policy framework and absent case management and prioritisation. The lack of public guidance has not been identified as a barrier to requesting extradition to Anguilla.

628. Anguilla has comprehensive measures in place to facilitate formal mutual legal assistance (MLA), also supported by a modest policy framework. The MLA regime is fragmented, divided into three primary regimes, each with distinct central authorities: the TIEA tax information sharing regime administered by the MoF, the MLA USA regime administered by the AGC, and the CJICA regime administered by the Governor. It is unclear whether the absence of a central authority negatively impacts the volume of requests received and the quality and timeliness of the assistance provided, but any such concerns may be mitigated by the close and cooperative working relationships between the relevant CAs. The assessment team did not observe that any foreign jurisdictions had difficulty in making their MLA requests to Anguilla due to the fragmentation of the MLA regimes and absence of a national central authority. Anguilla indicated that no incoming requests involved requests implicating multiple regimes, however, if that occurred, Anguilla advises, only one request would be necessary as the receiving CA would direct parts of requests outside of its competence to the responsible CA(s). The relevant MLA officials at the MoF, the Governor's Office, and the AGC, appear to have a clear understanding of their respective roles under their respective MLA regime and there are no information-sharing barriers to coordinating on incoming MLA requests.

629. In 2022-2023, the Governor's office, the AGC, and the AFIU individually produced internal policy guidance documenting the existing informal MLA policies and procedures. These instruments lack comprehensiveness and clarity and were introduced towards the end of the assessment period. Consequently, the impact on Anguilla's international cooperation regime is minimal.

630. All three MLA regimes saw operational activity during the assessment period, including some limited cooperation for ML-related cases. Only the CJICA and TIEA MLA regimes were

active in terms of incoming requests to Anguilla. Anguilla received no MLA requests under the MLA USA regime.

631. Additionally, the POCA provides a sufficient basis for MLA asset recovery cooperation, and the AGC acts as a central authority in relation to these types of requests. However, there was no transnational asset recovery cooperation via MLA observed during the period, which is not in line with Anguilla's risk profile.

Incoming MLA Requests

632. Anguilla approved 16 incoming requests over the period 2018 to July 7, 2023, under the CJICA regime (Table 8.1 below). At least one incoming MLA request under the CJICA was refused for insufficiency of information. The Governor's office uses a spreadsheet to track and manage requests. The volume of incoming CJIC requests is low such that the spreadsheet used by the Governor's Office may be a sufficient mechanism to track incoming requests, however it contains minimal information on the nature and circumstances of the requests.

633. In practice, the Governor's Office plays a monitoring role more than an active role in individual requests, which are conveyed to the AGC to oversee. The AGC determines the sufficiency of the request and recommends the Governor's authorization, whose approval it then provides to the Magistrate's Court. Where judicial authorization is necessary, the AGC seeks it and, where granted, coordinates with the AFIU in executing the request. Requested evidence is subsequently provided to the Governor's office for transmittal to the requesting state.

Table 8.1 – Incoming MLA requests approved under the Criminal Justice (International Co-operation) Act, 2018 – July 2023

Requesting Jurisdiction	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Sint Maarten	2	1	1	3	-	-
Russia	1	-	-	-	-	-
Poland	-	1	-	-	-	-
France	-	-	-	2	-	-
Peru	1	-	1	-	-	-
UK	-	-	-	1	-	-
Republic of Slovak	-	-	-	1	-	-
Netherlands	-	-	1	-	-	-
Sub-totals	4	2	3	7	-	-
Total	16					

634. Generally consistent with its risk profile, 15 of the 16 approved incoming CJICA MLA requests related to ML and predicate offences, namely: ML, including professional²⁶ and third-party ML (11); fraud/theft (2); drug trafficking (1); and trafficking in illegal arms (1) (the last remaining request was in relation to a murder case unrelated to ML/TF). There were no incoming TF or PF-related requests, which is also consistent with Anguilla's risk profile. The requests came from numerous diverse foreign jurisdictions, including regional and strategic partners. The incoming CJICA MLA requests concerned minimally complex

²⁶ Anguilla records requests wherein the subject is a legal person created by an Anguilla- registered Company Service Provider as Professional ML.



production-of-documents/records type of investigative strategies, namely: company information, bank account information, BO information, communications records, immigration and customs-related information, criminal records checks, firearms licensing information, and property valuation information. Over 80% of the requests related to company information of IBCs. Anguilla did not provide comprehensive details about all 16 requests, however, the statistics, case studies provided, and the outcomes indicated for each request that Anguilla was largely able to provide the assistance requested under the CJICA to the requesting state.

635. The lack of a formal central authority and the presence of governmental layers risks inefficiency and confusion. The relatively low volume of requests, small jurisdiction size, and close cooperation between the relevant authorities, especially the practical coordinating functions performed by the AGC, serve to mitigate these concerns to some degree. However, timeliness is a concern. Anguilla's execution of incoming MLA requests was not consistently completed in a timely manner (Table 8.2 below). About a third were executed in under three months; another third in three to six months, and the final third took over six months, in one case over a year. Regarding the six (6) requests that took six (6) months or more execute, Anguilla indicated that the reasons were variable, including: requesting states sent supplemental requests extending the time required to execute the requests; travel by agents of requesting jurisdictions necessary to execute the requests was delayed due to COVID-19 related restrictions; and delays in receiving further necessary information and documents from requesting jurisdictions in support of their requests. Anguillan CA internal guidance provides for normative timeframes for some procedural stages, typically measured in hours or days, and provides that incoming MLA requests should be accorded the highest priority, however, the modest delays in the execution of incoming requests demonstrates that these policy goals are not consistently achieved.

Box 8.1. Case Summary: 2020 CJICA Incoming Request

Case Summary 1: 2020 CJICA request from Sint Maarten

In 2020, Anguilla received a request from the Public Prosecutor's Office of a regional partner seeking evidence in Anguilla in respect of an IBC registered in Anguilla. The matter pertained to a criminal investigation for ML in the requesting state. The subject individual was alleged to have incorporated a company in Anguilla which was used to operate businesses and bank accounts in the requesting state to conceal the true origin of monies as well as the movement of funds amounting to approximately \$4,000,000.00 USD. The information sought concerned criminal records, tax information, incorporation and commercial information, and BO information. The Governor authorized the request. The AFIU used CJICA legislative powers to pursue the information sought. Positive responses were received in relation to most information and evidence sought while efforts to secure criminal records and tax information yielded negative responses. All information and evidence obtained were transmitted to the requesting state 19 days from the date of the request. The outcome of the case is unknown.

Source: Anguillan Authorities

Table 8.2 – Timeliness of incoming MLA requests approved under the Criminal Justice (International Co-operation) Act, 2018 – July 2023

Year	2018	2019	2020	2021	2022	2023 (up to 7/23)
Less than a month	1	1	1	-	-	-
-1 month to less than 3 months	-	-	-	2	-	-
-3 months to less than 6 months	1	-	2	3	-	-
Greater than 6 months to a year	2	1	-	1	-	-
Greater than a year	-	-	-	1	-	-

636. Anguilla received 27 incoming requests for tax information pursuant to the TIEA which was established in 2016 (supplanting the previous MLA (Tax Matters) Act regime). Anguilla considers tax information exchanges as a form of MLA, although it requires no separate or additional request. Anguilla has 20 bilateral tax exchange agreements, for which it largely employs the OECD model agreement, as well as a near universally adopted multilateral agreement. Table 8.3 below presents data provided by Anguilla in relation to these requests. Incoming requests during the period were from diverse and strategic partners. Anguilla's policy is to execute bona fide incoming TIEA requests in 90 days, however, this is not consistently achieved and the reasons for delays, some of which are considerable, are associated with deficiencies in the processing, administration and resourcing of the tax EOI regime. The MoF relies on two employees for TIEA requests, both of whom have other responsibilities, and they rely on the efforts of the Companies Registry, the AFSC, and the IRD, which often hold the requesting information, in fulfilling this mandate. The TIEA regime is slow at the stage of seeking production orders to execute the requests. The MoF anticipates that more streamlined access to relevant information held in the CRES remedies these delays, however, this was not yet observed. The MoF acknowledges that delay is an issue and, as at the onsite assessment, the MoF purported to be implementing quality control measures.

Table 8.3 – Incoming requests received under Tax Information Exchange (International Cooperation) Act, 2018-2022

Year	Country	Civil or Criminal	Status	Time of Response (days)
2018	Japan	Civil	Completed	165
2018	Lithuania	Civil	Completed	44
2018	United Kingdom	Civil	Completed	83
2018	United Kingdom	Civil	Completed	83
2018	United Kingdom	Civil	Completed	83
2018	United Kingdom	Civil	Completed	83
2018	Pakistan	Civil	Completed	1
2018	Pakistan	Civil	Completed	14
2019	Sweden	Civil	Completed	8
2019	India	Civil	Completed	40
2019	Latvia	Civil	Completed	205
2019	France	Civil	Completed	8
2020	Netherlands	Civil	Completed	68

2020	Bulgaria	Criminal	Declined (due to absence of nexus with Anguilla)	10
2020	Belgium	Civil	Completed	54
2020	Brazil	Civil	Closed	6
2020	Brazil	Civil	Closed	6
2020	Brazil	Civil	Closed	6
2020	United Kingdom	Civil	Completed	292
2020	France	Civil	Ongoing	Ongoing
2021	France	Civil	Completed	46
2021	France	Civil	Completed	163
2021	Canada	Civil	Completed	323
2021	Netherlands	Civil	Completed	7
2021	Israel	Civil	Completed	8
2021	France	Civil	Completed	133

637. In December 2022, the AGC completed comprehensive public [guidance](#) for foreign jurisdictions making MLA requests to Anguilla under the CJICA, the TIEA, and the MLA USA Act, as well as in relation to POCA asset recovery requests. Among other considerations, such as language and costs, it outlines clear steps to be followed when dealing with MLA requests. The guidance is available [online](#).

638. Competent authorities from five (5) foreign jurisdictions provided international cooperation feedback with respect to Anguilla during the assessment period, however, none of these jurisdictions made MLA requests to Anguilla during the assessment period in relation to CJICA and the TIEA. Nor did any such jurisdictions report having declined to make an MLA request to Anguilla because of inability to discern how to make it or which authority to direct it to.

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

639. As indicated above, the assessment period saw no international cooperation activity, including in relation to outgoing requests, pursuant to the extradition regime and the POCA. Anguilla is a non-reciprocal tax exchange jurisdiction, that is, since it has no corporate or personal income tax and it is of the view that tax information held elsewhere is unnecessary to enforce its domestic tax regime, Anguilla sees no need to make international requests for tax information; consequently, there was no outgoing activity pursuant to the TIEA regime during the assessment period. In the circumstances of its particular domestic tax regime, Anguilla's policy decision not to seek tax information from foreign jurisdictions is understandable, however, the refusal to consider pursuing foreign tax information in domestic investigations could potentially limit worthwhile avenues for investigation and transnational cooperation. The NRA identifies tax crimes as a high threat predicate offence and 33 cases of tax crimes were pursued during the period 2014-2018. Anguilla made outgoing MLA requests pursuant to the CJICA and MLA USA regimes during the assessment period.

Outgoing MLA Requests

640. The AFIU and the Immigration Department initiated outgoing MLA requests during the period, however, the RAPF and the Customs Department did not. Over the period 2018-2023, Anguilla made seven (7) outgoing requests under the CJICA regime. Anguilla made three (3) outgoing MLA requests during the same period to the USA, pursuant to the MLA USA Act regime, for which the AGC is the central authority. All ten (10) outgoing MLA requests related to ML and associated predicate offence misconduct, namely: ML (4), fraud (3), theft (2) and drug trafficking (1); none concerned TF or PF. This is in line with Anguilla's risk profile.

Table 8.4 – Outgoing MLA requests from Anguilla under Criminal Justice (International Co-operation) (Anguilla) Act and the Mutual Legal Assistance Treaty (USA) Act, 2018-2023 (up to 7/7/23)

Requested jurisdiction	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Sint Maarten	-	1	-	1	-	2
Saint Vincent and the Grenadines	-	1	-	-	-	-
Sweden	-	1	-	-	-	-
British Virgin Islands	-	1	-	-	-	-
USA	-	2	-	-	1	-
Sub-totals	-	6	-	1	1	2
Total	10					

641. For the period, 3 of the 10 requests received a response within less than a month, 4 requests within 3 months, 2 within 6 months, and 1 has been outstanding since 2019. Anguilla acknowledges that 1 of its outgoing MLA requests from 2019 was denied on the basis that the request did not meet the requisite evidentiary standard in the requested jurisdiction. Additionally, 1 MLA request made in 2023 was still outstanding at the time of the onsite assessment. Regarding the especially lengthy outstanding matter, the requested state has been non-responsive, but Anguilla has regularly pursued the request.

642. Anguilla pursues MLA to a minimal degree. The outgoing MLA request volume is low. This is mitigated somewhat by some more robust forms of cooperation outside of the MLA regimes (see 8.2.3) for some LEAs. Of the five (5) foreign jurisdictions that provided the AT with international cooperation feedback, one (1) of them noted MLA cooperation sought by Anguilla during the period and they did not note any issues or concerns. All outgoing MLA requests were for minimally complex production-type assistance, including: criminal records checks, immigration information, company and BO information, bank and transaction records, and motor vehicle ownership and registration information. Anguilla has not used MLA procedures to pursue more complex forms of evidence-gathering, such as search and seizure, nor in relation to more serious offences. However, Anguilla's use of MLA is generally consistent with its risk and context.

643. Anguilla has concluded investigations into potential ML and predicate offences and prosecuted based on evidence obtained from responses to MLA requestions (See Box 8.2). However, limited information was provided such that it could not be established that this occurs on an ongoing basis. In addition to the AFIU and the Immigration Department, the



RAPF and the Customs Department were aware of the process when seeking MLA through formal channels although they made no such requests during the assessment period and no specific guidance for outgoing MLA for their respective agencies has been implemented. The AT is particularly concerned that the RAPF, as the LEA responsible for investigating most predicate offences, does not appear to consistently consider the potential transnational dimensions of predicate offences and therefore does not place a policy or resource priority on pursuing formal MLA where it might be appropriate to do so. The limited use of police-to-police and Interpol mechanisms outside of MLA by the RAPF (See 8.2.3) underscores these concerns.

Box 8.2. CJICA Case Summaries

Case 1: 2019 outgoing CJICA request

The AFIU investigated a resident of a regional partner for alleged theft and ML offences in Anguilla. The subject was arrested by the RAPF for suspected theft from Automated Teller Machines (ATMs) across Anguilla using top-up cards from a telecommunications company based in the jurisdiction of the resident. Upon arrest, the subject was in possession of a number of the top-up cards as well as USD2,320.00. The subject was charged with several counts of theft and possession of criminal property. As a result, the AFIU conducted a parallel cash seizure and ML investigation into the monies seized. Relying on intelligence received via Arin-CARIB, the AFIU enlisted the AGC in disseminating a MLA request to the resident's jurisdiction to gather information on the criminal record and conviction history of the subject which would support the contemplated forfeiture proceedings. The requested criminal records checks were returned to Anguilla within 3 weeks. The subject had criminal convictions for similar and analogous misconduct, which was discovered by the RAPF via Interpol assistance, which was submitted to the court in the forfeiture and proceedings. The subject also pleaded guilty in Anguilla to theft and ML offences.

Source: Anguillian Authorities

Case 2: 2021 outgoing CJICA request

In 2018, a boat ran aground on the shores of Anguilla and was found abandoned. The RAPF investigated and found on the boat approximately 62.5 kg of what appeared to be cocaine. Subsequent analysis of the substance by a foreign partner with the capacity for drug testing confirmed that the substance was cocaine. The RAPF seized the boat, valued at approximately USD7,000.00. The drug investigation yielded no criminal charges, however, in 2021, the RAPF requested that the AFIU undertake civil recovery proceedings in relation to the seized boat. The AFIU gathered intelligence via the ARIN-Carib network that pointed to ownership and registration of the vessel in the jurisdiction of a regional partner. Subsequently, Anguilla prepared and transmitted a MLA request to the jurisdiction to obtain the resignation and ownership information so as to secure evidence necessary for the civil recovery proceedings contemplated. The records were received by Anguilla within 3 weeks. At the time of the onsite assessment in July 2023, the civil recovery proceedings had not concluded.

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

644. Four (4) Anguillan CAs, namely the RAPF, the AFSC, the Customs Department, and the AFIU, are empowered to seek other forms of transnational cooperation from foreign jurisdictions and foreign counterparts. However, Anguilla has only demonstrated that two of these CAs, namely the RAPF and the AFIU, have effectively used these mechanisms during the assessment period, and only one, that is, the AFIU, has done so with any regularity and consistently for AML/CFT purposes. Additionally, regarding of AFIU-led outgoing cooperation, specifically in relation to EGMONT and ARIN-Carib information-sharing regimes, Anguilla has not demonstrated timely outgoing engagement.

The AFIU

645. The AFIU is the CA responsible for engaging with three (3) relevant information exchange mechanisms: the EGMONT Group ESW regime; the ARIN-Carib network, and bilateral FIU-to-FIU information sharing based on MOUs.
646. The EGMONT Group provides a platform for the secure exchange of expertise and financial intelligence to combat ML/TF with 163 member jurisdictions. During the period 2018-2023 (up to 7/7/23), the AFIU made 42 outgoing requests for intelligence via the EGMONT ESW information-sharing regime. Table 8.5 below breaks down these requests by year and suspected criminal misconduct.

Table 8.5 - Outgoing ESW intelligence requests broken down by offence type, 2018-2023 (up to 7/7/23)

Offence	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Human Trafficking	-	2	-	-	-	-	2
Drug Trafficking	-	1	-	-	1	-	2
Robbery/ Theft	-	-	-	-	-	1	1
ML (self)	-	3	-	2	1	-	6
Fraud	2	3	4	3	1	3	16
Tax Crimes (domestic)	-	-	-	2	-	-	2
Professional ML	3	2	-	-	-	1	6
Illegal Gambling	-	-	-	2	1	-	3
Murder for Hire	-	-	1	-	1	-	2
Terrorist Financing	-	-	-	-	-	2	2
Sub-totals	5	11	5	9	5	7	
Total	42						

647. The offence types are consistent with Anguilla's risk profile. The outgoing ESW requests for intelligence were made to numerous and diverse regional and strategic partners and other jurisdictions. However, Anguilla did not demonstrate that the information obtained was consistently used to advance investigations and prosecutions.



Box 8.3. 2021 outgoing ESW request

Based on information received by way of a SAR, in 2021 the AFIU sought information from a regional partner through the ESW system. The relevant SAR pertained to the suspected offence of gambling and involved two individuals, both of whom were nationals of the regional partner but residents of Anguilla. The AFIU sought information pertaining to business details, travel history, criminal records, export/import information and financial information. The FIU of the other jurisdiction, provided a full response to the request 8 months after it was made. The AFIU relied on the information received in completing its analysis of the subjects and their financial activities. The investigation was ongoing at the time of the onsite.

Source: Anguillian Authorities

Box 8.4. 2021 outgoing ESW request

The case demonstrates how well the Financial Intelligence Unit – Investigations Division has identified assets overseas and have sought confiscation measure for the repatriation of the said asset.

On 1st of October, 2021 a local resort received an online booking through a travel agency by the name of Booking.com on behalf of a prospective customer. The booking was done for a 14 night stay. The agent requested to make a full payment for the intended period of stay, although the hotels policy is that at the time of booking a guest is only required to make a 50% payment. A credit card number was used to make the reservation and book the room in the sum of US\$16,056.46.

The hotel's policy is that if the guest cancels within 14 days of the booking, then they are entitled to a full refund and usually the refund would be reversed to the same credit/debit card that was charged. However, if a refund is not made within the 14 days period, the sum related to the booking would be placed within a sundry account until refunded. The travel agency requested to cancel the booking within the 14 days period. However, a refund was not made as per the hotel's policy and the monies were held in the resort's account at a domestic bank. In August 2022, the funds were transferred from the accounts of the local resort on the basis of a refund request. The funds were apparently returned to an account in a neighbouring jurisdiction.

On 12th of August 2022, the resort received a report from a bank in the neighbouring jurisdiction stating that a female attempted to conduct a transaction in the amount of US\$16,000.00 with a prepaid debit card which was issued in Curacao. However, personnel at the bank observed that the prepaid debit card only had a limit of US\$2,000.00 relevant to the said account that the funds were returned and as such the transaction was refused and blocked.

The FIU - Investigations Division sought intelligence from the FIU - Intelligence Division with respect to intelligence from the other jurisdiction as well as banking information from a local financial institution. The FIU – Investigations Division has conducted investigations into the matter including the issuing of a Letter of Request to the other jurisdiction for bank information, CCTV footage and account information. Additionally, a request has been made for the restraint, seizure and return of funds to Anguilla.

Matter is still pending.



Source: Anguillian Authorities

648. Anguilla's engagement with the Asset Recovery Inter-Agency Network for the Caribbean (ARIN-Carib) is conducted via the AFIU. As a result of its membership, the jurisdiction can exchange information with other law enforcement and judicial practitioners in relation to asset tracing, freezing, seizure and confiscation. During the period 2018 to 2023 (up to 7/7/23) Anguilla made 16 requests for information via ARIN-Carib in relation to civil recovery and ML investigations: 1 in 2018; 13 in 2019; and 2 in 2020. The 16 requests were conveyed bilaterally to the following jurisdictions, including regional and strategic partners. 12 of 16 of the requests concerned fraud/theft; 3 concerned drug trafficking; and 1 concerned ML (See Table 8.6 below). This is generally consistent with Anguilla's risk profile. However, the unexplained drop of outgoings requests after 2019, and absence of any such requests after 2022, is concerning and suggests that transnational asset tracing dimensions are not being consistently prioritized.

Table 8.6 - Number of outgoing ARIN-CARIB requests broken down by offence type, 2018-2023 (up to 7/7/23)

Offence	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Robbery/ Theft	-	5	-	-	-	-	5
Fraud	1	6	-	-	-	-	7
Drug Trafficking	-	1	2	-	-	-	3
ML	-	1	-	-	-	-	1
Total	16						

Box 8.5. Case Study: 2019 Outgoing ARIN-Carib request sent to the USA

A foreign national failed to declare cash (US\$3,650.00 and £10,420.00), an amount above the declaration threshold, when seeking to leave Anguilla by air. Anguilla authorities seized the cash and the subject exited Anguilla. The AFIU subsequently made an ARIN-Carib request to the home country of the foreign national, seeking business details, travel history, criminal records, and financial information, in relation to the individual. The requested country provided a response six days after Anguilla made the request. The information received via ARIN-Carib grounded an outgoing MLA request to the same jurisdiction for the evidence. The individual did not return to Anguilla and the cash was subsequently ordered forfeited. The usefulness of the MLA evidence is unknown, as is the mechanism for confiscation.

Source: Anguillian Authorities



649. In addition to the EGMONT framework, the AFIU signed five (5) new bilateral MOUs containing information exchange provisions over the assessment period with the FIUs of South Africa, Guernsey, Jamaica, Malta and the Dominican Republic, bringing its total bilateral financial information sharing partners to 13 partner FIUs. In terms of outgoing requests for information during the assessment period, Anguilla made nine (9) requests to one regional partner over the period 2019-2023 (up to 7/7/23) in relation to ML, forgery, and illegal gambling, and made eight (8) requests to another regional partner over the same period in relation to fraud and drug trafficking. 4 of 5 jurisdictions that provided international cooperation feedback reported receiving incoming requests from the AFIU during the assessment period. The feedback was positive. The case studies and discussions with the AFIU demonstrate that the information obtained via these MOUs was consistently useful in advancing the relevant investigations.

The AFSC

650. The AFSC is empowered to exchange information transnationally on a regulator-to-regulator basis by its enabling statutory regime (FSC Act). There was considerable outgoing activity on this basis during the assessment period (107 such requests from January 2018 to February 2023). In addition to its statutory power to cooperate with foreign regulators, the AFSC has an MOU/MMOU network inclusive of six (6) instruments, including four (4) concluded in 2018 during the assessment period, with regional and strategic partners. These MOUs allow for the effective exchange of information between the AFSC and foreign supervisory bodies, including for AML/CFT purposes, however, Anguilla reports that there was no information-sharing activity during the assessment period. Two (2) of five (5) jurisdictions that provided international cooperation feedback reported receiving requests from the AFSC and the feedback was generally positive. Anguilla explains that the disconnect here is that the requests were in fact outside of the assessment period.

The Customs Department

651. While there are no formal agreements between Anguilla's Customs Department and foreign counterparts, Anguilla can coordinate and exchange information with regional partners via the Caribbean Customs Law Enforcement Agency (CCLEC). Anguilla advises that there were six (6) information exchanges pursuant to CCLEC during the assessment period, however, no details were provided to the AT regarding the precise CCLEC assistance sought, whether they were incoming and/or outgoing requests, the information received, and the outcomes of the relevant cases.

The RAPF

652. The RAPF does not have any formalized bilateral relationships with foreign LEAs, however, Anguilla reports that the RAPF does have working relationships with regional and strategic counterparts and is able to exchange information via participation in the Caribbean Association of Commissioners and other informal police-to-police relationships. The RAPF reports three (3) outgoing intelligence requests during the assessment period. One (1) request made in 2020 concerned a case of attempted murder, and the requested LEA responded within seven (7) days (see Case study below). In 2021, the RAPF made one (1) outgoing request in relation to human trafficking and received a response again within seven (7) days. In 2022, the RAPF realized one (1) outgoing information request in relation to a case of fraud. During



the assessment period, the RAPF reports making 2 requests to foreign policy via Interpol to advance money laundering and theft investigations, respectively. Anguilla provided information about one case (see. Box 8.2 Case Study #1, above) in which the information gathered via Interpol was used effectively in prosecution and sentencing. The low volume of outgoing RAPF requests for cooperation is concerning, especially in light of the absence of formal MLA requests as well (See 8.2.2). The low levels of RAPF international cooperation does not appear to be in line with Anguilla's risk profile as expressed in the NRA.

Box 8.6. Case study: 2020 RAPF outgoing request

In 2020, the RAPF sent an intelligence request to the police force of a neighbouring country in connection with an investigation into a suspected murder conspiracy by a suspected money launderer. The murder never occurred. The information received within 7 days of the request was sufficient to confirm the RAPF's suspicions of attempted murder but was insufficient for evidential use in a prosecution case.

Source: Anguillan Authorities

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

653. Anguilla has a framework in place for CAs to provide other forms of international co-operation to exchange financial intelligence and supervisory, law enforcement and other information, including spontaneously, with foreign counterparts. The AFIU, the MoF, the AFSC, the Customs Department and the RAPF executed international requests for assistance. However, Anguilla has not demonstrated that the assistance provided by the MoF and the Customs Department, was constructive and timely.

The AFIU

654. The AFIU is able to respond to incoming international cooperation requests via: the EGMONT Group ESW system including spontaneous disseminations, the ARIN-Carib network, and bilateral MOUs with foreign FIUs. During the assessment period, Anguilla reports that it received two (2) incoming requests via ARIB-Carib related to the offences of fraud and ML, however, no details were provided. The AFIU received 73 incoming ESW requests for financial intelligence over the period 2018-2023 (up to 7/7/23). These requests related overwhelmingly to ML and predicate offences; none related to TF or PF misconduct.

Table 8.7 - Number of incoming ESW intelligence requests broken down by offence type, 2018-2023 (up to 7/7/23)

Offence	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Professional ML	16	11	6	2	2	-	37
Fraud	4	1	-	2	-	-	7
Drug Trafficking	-	2	1	-	-	-	3
Insider trading/Market Manipulation	-	1	-	-	1	-	2

Tax Crimes	4	-	-	3	-	-	7
ML (self)	1	2	1	-	-	-	4
Illegal Gambling	-	-	-	-	-	-	0
Murder	-	-	-	-	-	-	0
Human Trafficking	-	-	-	1	-	-	1
Robbery/ Theft	-	-	-	-	-	-	0
Corruption and Bribery	3	1	3	2	1	-	10
Terrorism/Terrorist Financing	-	1	-	1	-	-	2
Trafficking in illegal arms	-	-	-	-	-	-	0
Forgery	-	-	-	-	-	-	0
Sub-totals	28	19	11	11	4	0	73

655. Anguilla reports that two (2) of 73 incoming ESW requests took longer than six (6) months, with 63 of them being executed in less than a month. The requests were received from numerous and diverse jurisdictions including regional and strategic partners.

Box 8.7. Case study: 2020 Incoming ESW request

In 2020, the AFIU received, via ESW, a request for intelligence from FFIU of a strategic partner. The subject was believed to have registered and/or incorporated a company in Anguilla. The subject and co-conspirators were suspected of facilitating ML through various shell companies used to establish bank accounts through which real property was purchased around the world. The requesting jurisdiction sought to obtain information relative to SARs, financial records, business records, property and asset information, criminal record information and travel history associated with the subject. It is unknown what records were obtained by Anguilla, but the request was executed and a response was sent within 14 days. The AFIU granted the FIU of the requesting jurisdiction permission to further disseminate relevant information to LEAs in the jurisdiction of the requesting state. Anguilla is unaware whether the information provided was useful.

Source: Anguillan Authorities

656. The AFIU is empowered to make spontaneous disseminations to foreign FIUs. Over the period 2018-2023 (up to 7/7/23), the AFIU issued 192 such disseminations to foreign counterparts. All spontaneous disseminations were sent through the ESW system.

Table 8.8 - Number of spontaneous Disseminations made by the AFIU to foreign FIUs, 2018-2023 (up to 7/7/23)

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Regional/Caribbean Basin	3	24	7	1	1	11
International/All others	39	53	23	15	14	2
Sub-totals	42	77	30	16	15	13
Total	192					

657. Anguilla did not provide information that demonstrated the timeliness or usefulness of the information shared spontaneously. The intelligence spontaneously disseminated over the period was overwhelmingly associated with fraud and professional ML.

Table 8.9 - Number of spontaneous disseminations made by the AFIU to foreign FIUs, broken down by offences, 2018-2023 (up to 7/7/23)

Offence	2018	2019	2020	2021	2022	2023 (up to 7/7/23)	Total
Fraud	17	33	23	9	14	11	107
Drug Trafficking	2	1	-	-	-	-	3
Professional ML	22	35	4	2	1	2	66
Forgery	-	1	2	2	-	-	5
Human Trafficking	-	5	1	-	-	-	6
Failure to declare	-	1	-	-	-	-	1
Theft	1	-	-	1	-	-	2
Tax Crimes	-	1	-	1	-	-	2
Sub-totals	42	77	30	16	14	13	
Total	192						

Box 8.8

Case study 1: 2020 spontaneous dissemination from the AFIU to a foreign FIU via ESW

The AFIU received information by way of a SAR on a subject resident in Anguilla who conducted multiple remittances via a MSB to different individuals in different jurisdictions. Additionally, during the period under review by the MSB, the subject processed three (3) remittances to an individual in one of the jurisdictions. The three transactions were flagged for fraud indicative of an advance fee type scam as the remittances were outside of the subject's normal behaviour. The recipient of the funds resided in the other jurisdiction. The AFIU conducted an analysis of the SAR. As a result, intelligence was spontaneously disseminated via ESW to the other jurisdiction.

Case study 2: 2022 spontaneous dissemination from the AFIU to a foreign FIU via ESW

The AFIU received information by way of a SAR on a subject attempting to conduct an outgoing remittance to a foreign state. Upon questioning about the reason for the transfer, the subject claimed that he knew the recipient and was sending the funds to cover the cost of a package being sent to him. The transaction was flagged as attempted fraud indicative of an advance fee type scam and it was refused by the MSB. A consent review of the subject's phone by the MSB found a contact number for suspected individual number 2 who was supposedly instructed by suspected individual number 1 to send the package to the subject on their behalf. The information and analysis was spontaneously disseminated via ESW to the FIU of the foreign state.

Source: Anguillan Authorities

658. Over the period 2018-2023 (up to 7/7/23), the AFIU received 16 incoming financial intelligence requests from three (3) foreign partners pursuant to bilateral MOUs containing information exchange mechanisms. Outcomes, timeliness, usefulness, and whether they



related to ML, TF or predicate offences, are unknown. Two (2) of five (5) jurisdictions that provided international co-operation feedback reported issuing requests to the AFIU. The feedback was positive.

The MoF

659. As previously indicated, Anguilla is a non-reciprocal jurisdiction for exchanges of tax information, meaning it does not make outgoing tax information requests although it does respond to such requests via the TIEA (See 8.2.1) Similarly, Anguilla also does not receive spontaneous or automatic disseminations as to tax information but it does send both spontaneous and automatic disseminations to foreign tax authorities. However, there were no spontaneous disseminations during the assessment period. Table 8.10 below sets out Anguilla's outgoing automatic tax information activity during the assessment period, under the Common Reporting Standard.

Table 8.10 – Outgoing automatic dissemination of tax information requests under the Common Reporting Standard

Year	Number of jurisdictions requests sent t	Total number of bank accounts
2018	24	617
2019	15	332
2020	16	674
2021	16	1399
2022	*	*

The AFSC

660. Anguilla did not report any incoming regulator-to-regulator assistance requests to the AFSC on the basis of applicable information-sharing agreements in place. Pursuant to its statutory authority to receive and respond to foreign regulator requests generally, the AFSC received 41 requests over the period 2018-2023. Anguilla reports that the AFSC seeks to execute such requests within 3 days where the matter concerns information in the AFSC's possession and within 2 weeks for more complex matters where the information sought is not in the immediate possession of the AFSC. No further information, statistics, or case studies were provided. Anguilla has not demonstrated that any of the AFSC's incoming cooperation activity during the assessment period related to AML/CFT purposes. 2 of the 5 jurisdictions that provided international co-operation feedback reported sending requests to the AFSC. The feedback was positive.

The Customs Department

661. As indicated above, Anguilla can cooperate transnationally with foreign Customs authorities via its membership in CCLEC. Anguilla reports that there were eight (8) exchanges pursuant to this mechanism during the assessment period, however, no further details were provided, including whether any of these requests were received on an incoming basis and whether any were for AML/CFT purposes.

The RAPF



662. Over the assessment period, the RAPF responded to four (4) incoming requests for assistance on an informal police-to-police basis: one (1) in 2019 concerning a murder; two (2) in 2020 both related to robbery offences; and one (1) in 2022 again in relation to a murder. The RAPF executed all incoming requests within seven (7) days of receipt of the requests.

Box 8.9. Case study: Incoming request from foreign police to the RAPF

In 2020, the RAPF responded to a request from the police force of a regional partner. The detectives of the requesting state had apprehended an individual for suspected robbery misconduct. The suspect had given a false identify and the requesting police required assistance to identify the suspect accurately. The individual was known to the RAPF for firearm-related and other offences. The RAPF was able to identify the suspect and confirm his identity and biographical details with the foreign police force within 24 hours of receiving the request.

Source: Anguillan Authorities

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

663. Anguilla has a framework that can facilitate international exchanges of basic and BO information of legal persons and arrangements, in particular via: the ESW regime, bilateral information-sharing agreements, the CJICA and USA MLA regimes, ARIN-Carib, and via the TIEA tax information exchange mechanism. The CJICA, MLA USA, and ESW regimes were active during the assessment period, on both incoming and outgoing bases, regarding basic and BO information. However, Anguilla has not demonstrated that the country provided cooperation assistance for requests seeking basic and BO information in relation to legal arrangements. Furthermore, domestic efforts to obtain accurate, comprehensive and up-to-date basic and BO information, as identified in IO5, may hamper the ability to execute a significant number of incoming requests for such information from foreign partners, however, Anguilla did not provide sufficient information to assess this. The CAs active during the assessment period were the AFIU and the MoF; Anguilla has not demonstrated any relevant activity undertaken by the AFSC, the RAPF and the Customs Department.

The AFIU

664. The AFIU has access, directly or indirectly upon request or juridical authorization, to domestic and other databases containing BO information including, crucially for legal persons, the Commercial Registry Electronic System (CRES) including its commercial and BO registers (see R.24). This access allows the AFIU to respond in a timely manner to incoming requests from foreign FIUs seeking BO information on legal persons. Anguilla has demonstrated that it was responsive to such incoming requests, primarily through the EGMONT ESW platform as well as some modest activity on a bilateral basis and that it has also sought BO information via the ESW regime. However, Anguilla has provided details on BO cooperation in relation to legal persons only or has otherwise not distinguished between legal persons and legal arrangements, such that the assessment team could not assess whether Anguilla is able to respond to incoming requests for BO information for legal arrangements

in addition to legal persons, a particular concern given that trusts are not subject to mandatory registration.

665. Table 8.11 below shows the number of incoming ESW requests for BO information over the period 2018-2023 (up to 7/7/23). There were 67 incoming and 42 outgoing such intelligence requests. The incoming ESW requests came from 23 countries, including regional and strategic partners. Anguilla reports that most requests, 43 out of 67, were executed within one month of receipt of the request. Two (2) took longer than 6 months. Anguilla reports that the nature of the request, for example whether the information sought might be reasonably accessible by the RE or whether the RE might need more time to produce such records, and the location of the RE, for example if they are no longer in the jurisdiction, may impact on the occasional delay. The comprehensive data provided to the AT considered responses, without distinguishing whether the responses indicate negative or positive results to foreign request or whether there were any barriers to obtaining the requested information. Therefore, the effectiveness of the BO-related ESW cooperation provided is unclear and the deficiencies regarding obtaining BO information domestically (See IO5) pose a significant concern for international cooperation on BO information as well.

Table 8.11 –Incoming Requests and responses for BO information on LPs via ESW

	2018	2019	2020	2021	2022	2023 (up to 7/7/ 23)
Incoming Requests	25	15	11	10	3	3

666. The AFIU also sought BO information via the ESW during the assessment period. Table 8.12 breaks down the 12 outgoing requests by year. Anguilla reports that 11 of the requests were in relation to professional ML misconduct and that one (1) (the 2022 request) was undertaken in relation to drug trafficking.

Table 8.12 - Number of AFIU outgoing requests in relation to BO information, 2018-2023 (up to 7/7/23)

	2018	2019	2020	2021	2022	2023 (7/7/23)
Number of Request for Intelligence related to Company and BO information	4	1	1	4	1	1

667. Under a bilateral agreement with the UK, the AFIU and UK LEAs can exchange BO information. Anguilla made no requests pursuant to the agreement and received six (6) incoming requests from UK authorities, all of which related to ML and/or predicate offences and all of which were executed within one (1) month, four (4) of which were executed within seven (7) days. It is unclear how this timeliness data squares with Anguilla's submission (in IO.5) that it executed only 3 such requests. Anguilla has not demonstrated that it provided or sought BO information from foreign authorities during the assessment period on the basis of any other bilateral or multilateral information-sharing agreements. There were no BO information exchanges pursuant to ARIN-Carib cooperation.

Box 8.10. Case study: Incoming 2021 request for BO information via ESW.

In 2021, the AFIU received an incoming request via ESW from a foreign FIU concerning an ongoing investigation into professional money laundering involving an Anguilla-registered company. In addition to information pertaining to SARs, criminal convictions, financial records, and company registration, the request sought BO information in relation to the subject company. All available information, unspecified by Anguilla, was retrieved by the AFIU and transmitted to requesting FIU within 6 days of receipt of the request.

Source: Anguillan Authorities

668. Anguilla reports significant incoming MLA activity during the assessment period in relation to BO information for companies. These are CJICA requests (see Table 8.1). While the AGC is the relevant central authority, the AFIU executes such requests. Table 8.4 summarizes all 16 approved incoming CJICA requests. 14 of these 16 requests concerned, or included, requests for BO information of legal persons.

Box 8.11 Case study: Incoming 2021 MLA request for BO company information.

In 2021, Anguilla received an incoming MLA request from the General Prosecutor's Office of foreign state in relation to an investigation into theft and professional ML. The request indicated that an Anguilla-registered company was suspected of being used to acquire property and assets in foreign jurisdictions using proceeds of crime. The Governor approved the request. The AGC sought and obtained judicial authorization of the request from the Magistrate's Court, and the AFIU sought and obtained the requested information, specifically BO and company information. The request was executed in full. Anguilla did not indicate how long this request took to execute.

Source: Anguillan Authorities

669. Half of Anguilla's outgoing MLA requests under CJICA and the MLA USA Act, four (4) out of eight (8) (see Table 8.4 above), constituted or included requests for basic and BO information. All four (4) outgoing MLA requests from Anguilla concerned professional ML or fraud misconduct. The relevant requested jurisdictions were the USA and Sint Maarten. The table below presents incoming MLA requests, most of which included request for BO information.

Table 8.13 - Incoming MLA requests, including for BO information, 2018-2023 (up to 7/7/23)

	2018	2019	2020	2021	2022	2023 (up to 7/7/23)
Total MLA	4	2	3	7	-	-
Provision of BO information	4	1	3	6	-	-

The MoF



670. Table 8.3 above, summarizes the 30 incoming requests received from foreign authorities under the TIEA tax information exchange regime. Twenty-three of the requests concerned legal persons, 20 of which sought BO information. Anguilla was able to provide BO information in 16 of the 20 relevant requests. The four (4) requests which could not be executed were due to disorderly winding down of legal persons by TCSPs such that the requested information was no longer available. This is a significant portion of the requested cooperation concerning BO.

Overall conclusions on IO.2

671. Anguilla has a comprehensive extradition framework in place, although no extradition cooperation occurred during the assessment period. Anguilla's MLA regime was operationally active during the assessment period, especially regarding incoming requests for assistance.

672. Both incoming and outgoing MLA, were predominantly in relation to ML and predicate offences. Requests were minimally complex, mostly production-type assistance, consistent with Anguilla's risk and context. However, Anguilla did not consistently execute incoming requests in a timely manner. Furthermore, the usefulness of the assistance sought and provided were not consistently demonstrated. Additionally, the provision of BO information sought by foreign jurisdictions may be hampered by inadequate access to comprehensive, accurate and up-to-date information by domestic authorities.

673. Anguilla had no transnational asset recovery assistance during the period, on either an incoming or outgoing basis, and Anguilla does not prioritize asset recovery cooperation as a policy priority. Anguillan authorities do not access or disseminate training aimed at enhancing international cooperation capabilities and increasing prioritisation of the pursuit of the transnational dimensions of domestic investigations or prosecutions. Anguilla is engaged in informal and other cooperation mechanisms, but not all authorities make frequent use of them.

674. Considering the above-mentioned factors, the country has achieved IO.2 to moderate extent, with major improvements needed.

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



TECHNICAL COMPLIANCE

1. 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.
2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in July, 2010. This report is available from <https://www.cfatf-gafic.org/cfatf-documents/mutual-evaluation-reports/anguilla-1/2-anguilla-3rd-round-mer/file>.

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

This recommendation was developed in February 2012 and is being evaluated for the first time during this mutual evaluation. R.1 requires countries to assess and apply a risk-based approach (RBA).

Criterion 1.1 – Anguilla has identified and assessed its ML/TF risks. Anguilla conducted its first ML/TF National Risk Assessment (“the NRA”) for the period 2014 – 2018, which was updated in October 2020. The NRA assessed the ML/TF risks of non-profit organisations (“NPOs”), legal persons and arrangements, virtual assets and virtual asset service providers. The risk rating considered the threats posed by each FATF designated predicate offence to ML, and the vulnerability of the various FI, DNFBP and VASP sectors. There were a wide range of stakeholders involved in the NRA represented in the NRA Working Group (Anguilla National Anti-Money Laundering Committee) by senior officials from law enforcement agencies, regulators, and some members of the private sector. Additionally, the Government of Anguilla conducted a separate ML/TF risk assessment of its residency by investment (“RBI”) programme in June 2023.

Criterion 1.2 – Anguilla has designated the Anguilla’s National Anti-Money Laundering Committee (ANAMLC) to co-ordinate actions to assess ML/TF risks (EX MIN 22/145).

Criterion 1.3 – The Terms of Reference for the ANAMLC (para. 10) charges the ANAMLC with the responsibility to keep risk assessments up to date and ensure that revisions are implemented in updated policies.

Criterion 1.4 – The results of the NRA have been published on the websites of the FIU, GoA and the AFSC and have been disseminated to all relevant government agencies, FIs and DNFBPs and VASPs.

Criterion 1.5 – The National AML/CFT Policy and Strategic plan was developed to be in line with the key gaps and deficiencies that were identified as a result of the NRA findings. The Policy gives an indication of Anguilla’s approach to the implementation of measures to prevent or mitigate ML/TF through its five (5) objectives, (which are broken down into further recommendations). However, the Policy and Strategic Plan



inadequately addresses a risk-based allocation of resources and measures to prevent or mitigate ML/TF. While the general aim of the National Policy and Strategic Plan was quoted to be based on the risk presented in the NRA, the objectives and action plan identified therein are not sufficiently targeted to clearly identify that the measures are implemented or are to be implemented to address risk. Additionally, this Policy does not address the allocation of resources.

Criterion 1.6 – Anguilla has applied all FATF Recommendations requiring FIs and DNFBPs to take required actions.

Criterion 1.7 (Met) – (a) S.12(2) of the AML/CFT Regulations requires a service provider, to apply on a risk-sensitive basis enhanced customer due diligence measures (and undertake enhanced ongoing monitoring under specified circumstances. (b) Further, s.16 (1)(f) of the AML/CFT Regulations 2014 and s.3 of the AML/CFT Code provides for the requirement to carry out and document risk assessments and s.10(3) provides for service providers to taking into account all relevant risks including the use of the business risk assessments to inform customer risk assessments. However, this provision does not require service providers to include information from the NRA in the risk assessments.

Criterion 1.8 – S. 14 of the AML/TF Regulations as amended by s. 12 of the AML/TF (Amendment) Regulations, 2022 outlines when simplified measures for some of the FATF Recommendations requiring FIs or DNFBPs to take certain actions are acceptable, provided that lower risk has been identified by a service provider and is consistent with the country's assessment of its ML and TF risks. Ss. 14(b) of the AML/TF Regs requires FIs and DNFBPs to consider any relevant warnings, information, advice or guidance issued by the FIU or the AFSC concerning the risks of money laundering and terrorist financing affecting Anguilla or any part of the financial services sector in Anguilla.

Criterion 1.9 – Ss. 3(1) to 3(3) of the FSC Act outlines the functions of the AFSC and they include ensuring FIs and DNFBPs are implementing their obligations under Rec.1. Additionally, ss. 154(1) and 154(2) of the POCA outline that the AFSC is the supervisory authority in Anguilla for regulated service providers and for externally regulated service providers, which includes FIs and DNFBPs. Furthermore, ss. 155(1) to 155(5) of the POCA outline the objective, functions and powers of the AFSC, which includes ensuring FIs and DNFBPs are implementing their obligations under Rec.1. However, all DNFBPs are not supervised by the AFSC to ensure that they are implementing their obligations under Rec. 1 as identified in Rec. 28. Therefore, this significant deficiency has a cascading effect on this criterion.

Criterion 1.10 – Pursuant to s.3 of the AML/TF Code, a service provider which includes both FIs and DNFBPs shall carry out and document a risk assessment to assess the ML/TF risks that it faces. Additionally, under ss. 16(1)(f) of the AML/TF Regs a service provider shall establish, maintain and implement appropriate risk-sensitive policies, systems and controls to prevent and detect ML and TF, including policies, systems and controls relating to risk assessment and management.

(a) – S.3(1)(b) requires FIs and DNFBPs to carry out and document a risk assessment to determine how best to manage and mitigate those risks.

(b) – Ss 3(2)(b) - 3(2)(e) of the AML/TF Code require FIs and DNFBP to consider all the relevant risk factors, taking particular account of risk factors relating to its customers, countries or geographics, products and services, transactions and delivery channels.

(c) – S.3(3) of the AML/TF Code requires that FIs and DNFBP shall regularly review and update the risk assessment if there are material changes to any of the matters specified in s 3(2) of the AML/TF Code.



(d) – Pursuant to s.3(2a) of the AML/TF Code as amended by s.3 of the AML/TF (Amendment) Code, 2022, FIs and DNFBPs must, on request of the supervisory authority, provide the supervisory authority with the risk assessment that it has prepared and the information on which that risk assessment was based.

Criterion 1.11 – (a) – S.16 of the AML/TF Regs and ss. 3 and 5(2)(b) of the AML/TF Code requires FIs and DNFBPs to have policies and procedures, which are approved by senior management, to enable them to manage and mitigate the risks identified. (b) – S.16(4) of the AML/TF Regs requires FIs and DNFBPs to maintain adequate procedures for monitoring and testing the effectiveness of the policies and procedures maintained under this section. However, there is no requirement to enhance them if necessary. (c) – S.12 of the AML/TF Regs requires FIs and DNFBP to take measures to manage and mitigate the risks where higher-risk situations are identified.

Criterion 1.12 – S.14(1) of the AML/TF (Amendment) Regs 2022, a service provider may apply simplified measures in relation to a particular business relationship or transaction if it determines that the business relationship or transaction presents a low degree of risk of ML/TF. In addition, s. 14(5)(c) requires that FIs and DNFBP must not continue to apply simplified measures if it suspects ML or TF. The deficiencies noted at c1.9 and c1.11 above have a cascading effect on this criterion.

Weighting and Conclusion

Anguilla has identified and assessed its ML/TF risks in its NRA which was completed in October 2020. There are procedures in place to ensure that the NRA is reviewed and kept up to date. While Anguilla has developed a National AML/CFT Policy and Strategic Plan it inadequately provides for a risk-based allocation of resources and measures. These deficiencies are considered moderate.

Recommendation 1 is rated Partially Compliant.

Recommendation 2 - National Cooperation and Coordination

Recommendation 2 formerly R31 was rated C in Anguilla's 3rd MER.

Criterion 2.1 – The National Anti-Money Laundering and Countering the Financing of Terrorism Policy (the Plan) was developed based on the findings of the NRA. It outlines the directions, limitations, principles, and guidance for decision-making in respect of AML/CFT/PF. This policy applies to both policymakers and agencies at the operational level. The Plan provides for review every two years. The Plan is dated November 2022, and was approved in December 2022

Criterion 2.2 – Anguilla's Executive Council approved the formation of and Terms of Reference (the "TOR") for the ANAMLC dated 5 April 2022, on 12 May 2022 (EX MIN 22/145). The TOR lists the ANAMLC's mandates which includes the development of policies, procedures and guidelines in co-ordination with the competent authorities, and the monitoring of their implementation.

Criterion 2.3 – ANAMLC is the co-ordinating authority responsible for the formulation of national AML/CFT policies, strategies and action plans. Their mandate is to facilitate the exchange of information and coordination among the various bodies represented in the Committee concerning the development and implementation of AML/CFT and PF policies and activities; and to co-operate, co-ordinate and share information between members of the committee concerning AML/CFT and PF matters in a timely manner that is compatible with Data Protection and Privacy rules and other similar provisions. ANAMLC comprises policy makers, the AGC, the AFIU, law enforcement authorities, supervisors and relevant competent authorities who are required to meet once every month. Additionally, the AFIU has established bilateral



MOUs with various competent authorities including the RAPF, AFSC, Customs Department, IRD and Immigration Department that provide for co-operation and the exchange of information at an operational level.

Criterion 2.4 – The ANAMLC is Anguilla’s mechanism for general co-operation and co-ordination by domestic competent authorities on PF at the policymaking level. The National Anti-Money Laundering and Countering the Financing of Terrorism Policy and Proliferation Financing Strategic Plan, dated January 2023, is largely informed by the NRA and sets out the responsibilities of operational authorities in combatting PF. The Plan was approved by the National Security Council.

Criterion 2.5 – There are no laws in place which would inhibit the ability of competent authorities to co-operate and co-ordinate to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules. The ANAMLC Terms of Reference as well as at least four MOUs between the AFIU and, respectively, the ASFC, the RAPF, the Customs Department, the IRD and the Immigration Department, provide for co-operation in accordance with Data Protection and Privacy rules.

Weighting and Conclusion

Recommendation 2 is rated Compliant.

Recommendation 3 - Money laundering offence

R. 3 (formerly R.1 & 2) were previously both rated ‘LC’. The 3rd MER notes that the deficiency with R.3 was that there were no ML prosecutions under the POCA. The Anguillan Authorities should ensure that the relevant bodies engage in consistent and apposite training on the ML provision of the POCA with the aim of obtaining ML prosecutions and convictions. The issue was no longer raised in the 8th Follow-Up Report. (There were also criticisms which related to effectiveness).

Criterion 3.1 – Anguilla established provisions whereby ML is criminalized on the basis of the Vienna Convention and the Palermo Convention. S. 125 of POCA Chapter P98 creates the offence of concealing, transferring, disguising, converting or removing criminal property (from Anguilla). Additionally, s.127 provides that the acquisition, possession and use of criminal property is an offence. Criminal property is defined under s.123 of POCA as property that constitutes a person’s benefit from criminal conduct or property that represents such a benefit, in whole or in part whether directly or indirectly and the alleged offender knows or suspects that said property constitutes or represents such a benefit. These provisions are in line with Article 3(1)(b) and (c) of the Vienna Convention and Article 6(1) of the Palermo Convention.

Criterion 3.2 – Criminal conduct is defined under s.1 of POCA as conduct which constitutes an offence; where proceeded with on indictment or tried summarily would constitute an offence if it had occurred in Anguilla. The predicate offences for ML cover all offences in Anguilla.

Criterion 3.3 – Anguilla determines the underlying predicate offence by reference to all offences (Section 1 of POCA, definition of “criminal conduct”).

Criterion 3.4 – ML offences extend to any type of property regardless of its value, which directly or indirectly represents the proceeds of crime. S. 1 of POCA defines property as property of every kind, whether situated in Anguilla or elsewhere, including money, all forms of real or personal and heritable or moveable property and things in action and other intangible or incorporeal property. S. 123 provides that property may be criminal property if it constitutes a person’s benefit from criminal conduct or it represents such a benefit, in whole or in part, whether directly or indirectly.



Criterion 3.5 – The ML offences created under POCA (Ss. 125-127) do not require that a person be convicted of a predicate offence when proving that property is the proceeds of crime. Pursuant to s.123 of the POCA “criminal property” is property which constitutes or represents a person’s benefit from criminal conduct, in whole or part and whether directly or indirectly; and the alleged offender knows or suspects that it constitutes or represents such a benefit. s.123 also provides that it is immaterial who carried out the conduct or who benefited from it.

Criterion 3.6 – Predicate offences for ML extend to criminal conduct that occur in another country which would have constituted an offence had it occurred in Anguilla. The criminal conduct required for ML refers to conduct which constitutes an offence or would constitute an offence if it occurred in Anguilla (S. 1, POCA).

Criterion 3.7 – In defining criminal conduct, s.123 of POCA provides that it is immaterial who carries out or benefits from the (criminal) conduct. Consequently, the ML offences apply to persons who commit the predicate offence.

Criterion 3.8 – S.11 of the Criminal Code makes it possible to infer intent from objective factual circumstances. Pursuant to secs. 125-127 of POCA, the ML offence requires a person to ‘know or suspect’ which incorporates the ability to prove ML from objective factual circumstances.

Criterion 3.9 – Proportionate and dissuasive criminal sanctions apply to natural persons convicted of ML. Pursuant to s.125-127 of POCA a person convicted of a ML offence is liable on summary conviction to a fine of XCD200,000.00 or imprisonment for a term of 5 years or to both imprisonment and fine; and conviction on indictment to imprisonment for a term not exceeding 14 years or a fine without limit or both imprisonment and a fine.

Criterion 3.10 – By virtue of s.2 of the Interpretation Act and General Clauses Act, criminal liability and sanctions apply to legal persons. As such, criminal liability and sanctions under ss. 125(4), 126(3) and 127(4) of POCA also apply. Although a legal person would not be liable to imprisonment as prescribed by secs. 125-127, legal persons are subject to proportionate and dissuasive sanctions as the fine of XCD\$200,000.00 (on summary conviction) and a fine without limit (on conviction on indictment). Based on the court’s discretionary power to impose an unlimited fine for an indictable offence, the sanctions that are applicable to legal persons for ML offences are proportionate and dissuasive. Where criminal liability and sanctions apply under secs. 125-127, parallel criminal, civil or administrative proceedings with respect to legal persons are not precluded. Forfeiture (s.112) and civil recovery (s. 60) under POCA are done without prejudice to the criminal liability of legal persons. Legal persons are subject to administrative sanctions under ss 35 and 36 of the FSCA including the revocation or suspension of a legal person’s license, disciplinary action or Court mandated dissolution.

Criterion 3.11 – Pursuant to s.1 of POCA, there are appropriate ancillary offences to the ML offence that includes conspiracy to commit, attempt, aiding and abetting, facilitating and counselling. s.126 of POCA an additional ML offence that applies to persons participating or associating with arrangements that facilitate ML.

Weighting and Conclusion

Recommendation 3 is rated Compliant.

Recommendation 4 - Confiscation and provisional measures

R.4 (formerly R.3) was rated LC in the 3rd round MER. The single deficiency that was cited was related to effectiveness. There were no revisions to R.4.

Criterion 4.1 – Anguilla established provisions under part 2 of their POCA to enable the confiscation of property whether held by criminal defendants or by third parties. S. 6 of POCA provides that any property held by the defendant, or the recipient of a tainted gift is ‘realizable property’.

(a) Property laundered: Where a defendant has been convicted for an offence or offences and has benefitted from his criminal conduct (general or particular), the Court is authorised to make a confiscation order requiring him to pay the amount. Confiscation orders under s.14 of POCA are applicable to property laundered.

(b) Proceeds of (including income or other benefits derived from such proceeds), or instrumentalities used or intended for use in, ML or predicate offences: Confiscation applies to all proceeds including benefits (see analysis in (a) above). A person is considered to have benefitted from criminal conduct if he obtains a pecuniary advantage in relation to the conduct or a sum of money equal to the value of the pecuniary advantage (s. 4 of POCA) and is therefore applicable to all benefits and income that may have been derived from such pecuniary advantage. Instrumentalities used or intended for use in a criminal conduct are liable for confiscation as part of Anguilla’s civil recovery regime (s.60 of the POCA). S 62 of POCA provides that the Civil Assets Authority can recover property obtained by unlawful conduct including property intended to be used in unlawful conduct. Additionally, S 67 enables the recovery of profits earned from recoverable property.

(c) Property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations: Ss. 15 and 16 of the ATO provides measures to enable the confiscation of property that is the proceeds of, used in or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organizations. s.5 of the TUNMOTO allows the Governor to freeze funds in certain circumstances. Schedule 2, s.5 of the Anti-terrorism Financial and Other Measures (OT) Order 2002 gives the High Court the power to grant a restraint order on application of the prosecutor where either a forfeiture order was made, or it appears to the court that one will be made in the proceedings for the offence. There are also provisions for the seizure of cash under this Order. The civil recovery provisions contained in the POCA is applicable to all criminal conduct including TF offences based on the definition of criminal conduct in the POCA (s.62 of POCA see analysis in b above). Therefore, there is no requirement for a person to be convicted of a TF offence for Anguilla’s authorities to comply with all the requirements of the sub-criterion. Further, confiscation proceedings are applicable to property associated with TF as TF is a predicate offence for ML.

(d) Property of corresponding value: Confiscation under s.14 of POCA incorporates property of corresponding value. s.54 of POCA provides for the realization of property of corresponding value for the purpose of satisfying any confiscation order.

Criterion 4.2 – **(a)** Under POCA, law enforcement authorities have several information gathering measures available to them. These measures include customer information orders (s.143), search and seizure warrants (s.140), production orders (s.136) and account monitoring orders (s. 147). s.20 of the FIU Act provides that the FIU may require any person to produce information for the purpose of conducting a financial investigation. **(b)** S.42 of POCA enables a Court, on application of the prosecutor, to make a restraint order which prevents a person from dealing with realizable property that may be subject to confiscation. By virtue



of s. 43, a restraint order application may be made ex-parte. (c) Anguilla has established a provision under s.48 of POCA whereby no distress can be levied against realizable property subject to a restraint order except with the Court's leave. (d) Competent authorities have appropriate investigative measures available to them under the POCA, FIUA, ATO and The Terrorism (UN Measures) (OT) Order 2001.

Criterion 4.3 – There are several measures in place to provide protection for the rights of bona fide third parties. Under s.14 of POCA the Court has the power to take proceedings instituted by a victim for the recovery of a loss, injury or damage arising from a defendant's criminal conduct into consideration when determining the recoverable amount. s.68(1) provides that recoverable property does not include property that is transferred to a third party, "in good faith, for value and without notice that it was recoverable property. Sec. 100 of POCA allows a person who claims property alleged to be recoverable property to apply to the court for a declaration to that effect. Where a declaration is made under this section the property it relates to is not recoverable property. s.115 allows cash that was detained to be released to a third party (victim and owner). s.16 Schedule 3 of the ATO provides that where a person disposes of terrorist property and the person who obtains said property in good faith, for value and without notice, the property may not be followed into that person's hands.

Criterion 4.4 – Anguilla has mechanisms in place for managing and disposing of property frozen, seized or confiscated. S.46 of POCA provides for the appointment of a management receiver (in relation to Restraint Orders). Likewise, sections 78 – 80 of POCA provides for the appointment of receivers in relation to freezing orders. The receiver has the power to manage property to which the order applies (Schedule 1 POCA). The National Forfeiture Fund was also established to deal with forfeited cash (s.164 of POCA). The Governor may authorize payments to be made out of the fund for specific purposes (s.164(3)).

Weighting and Conclusion

Recommendation 4 is rated Compliant.

Recommendation 5 - Terrorist financing offence

Anguilla received a rating of 'LC' for the criminalisation of terrorist financing under SR. II in the 3rd ME due to deficiencies related to effectiveness that, under the 4th Round Methodology, is assessed under Immediate Outcome 9. Criteria 5.1, 5.2, 5.2bis, 5.4, 5.6, 5.7 and 5.8 have been added or modified to Recommendation 5.

Criterion 5.1 – Anguilla criminalizes TF on the basis of Article 2 of the International Convention for the Suppression of TF (TF Convention). Anguilla's legislative framework in relation to TF is captured primarily in domestic legislation, namely the CTA. However, where the CTA does not cover specific elements of the TF offence, authorities can rely on the OICs related to TF issued by the United Kingdom, specifically, the AT(FOM)(OT)O. Anguilla appropriately criminalises the collection (s. 2, 3, 7 and 23 of the CTA) and provision of funds (s.2,3 7 and of the CTA; and Arts. 4, 5 and 6(3) of the AT(FOM)(OT)O) in the manner prescribed by Art. 2(1) of the TF Convention.

Criterion 5.2 – TF offences extend to any person who wilfully provides (s.2, 3,7 and of the CTA; and Arts. 4, 5 and 6(3) of the Anti-terrorism Financial and Other Measures (OT) Order (AT(FOM)(OT)O) or collects s. 2, 3, 7 and 23 of the CTA) funds 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 to carry out terrorist acts, by a terrorist organisation or by an individual terrorist. Definitions of 'economic resources', 'financial services', 'funds', 'property' in a. 1 of the CTA and the definition of "property" and

“terrorist property” in Arts. 3 and 5 of the AT(FOM)(OT)O are in line with the FATF’s definition of “funds or other assets”. “Person” is broadly defined at s. 2 of the Interpretation and General Clauses Act to include “any corporation, either aggregate or sole, and any club, society, association or other body, of one or more persons”. “Terrorist property” defined in s. 3(1) of the CTA includes proceeds from the commission of terrorist acts; money or other property that has been, is being or is likely to be used to commit a terrorist act; money or other property which has been collected to fund a terrorist act or terrorist organisation; or property belonging to a terrorist or terrorist organisation. The definitions of “terrorist property” in the CTA and the AT(FOM)(OT)O imply that there is no requirement for a link to specific terrorist acts.

Criterion 5.2bis – Anguilla’s TF offences as outlined at c.5.1 criminalize the financing of terrorist acts (defined at s.2 of the CTA) which include traveling for the purpose of planning a terrorist act (s. 15(1)(a) of the CTA), committing a terrorist act (s. 15(1)(b) of the CTA), facilitating the commission of a terrorist act (s. 15(1)(d) of the CTA), and supporting a terrorist act which includes an offer to provide or the provision of expertise or a skill or an offer to provide or the provision of documents (s. 15(1)(b) and 15(4) of the CTA). The offence of traveling for the purpose of committing a terrorist act (s. 15 of the CTA) is a terrorist act according to s. 2 of the CTA. Therefore, the offence of participation in the commission of a terrorist act in s. 5 of the CTA applies to the offences in s. 15 of the CTA. Therefore, financing traveling for the purpose of participation in a terrorist act is covered. However, the financing of traveling for the purpose of receiving terrorist training is not criminalised.

Criterion 5.3 – TF offences extend to any funds or other assets whether from a legitimate or illegitimate source. S. 1 of the CTA, in particular the definitions of funds and economic resources, makes explicit that TF offences include assets and funds whether legitimately or illegitimately obtained. Art. 3 of the AT(FOM)(OT)O define “property” in sufficiently broad terms as such that no distinction is made whether the source of the funds is legitimate or illegitimate.

Criterion 5.4 – TF offences do not require funds or assets to be (a) actually used to carry out or attempt a terrorist act(s) or (b) be linked to a specific terrorist act(s) (s. 2, 3, 7 and 23 of the CTA; and s.2,3 7 and of the CTA; and Arts. 4, 5 and 6(3) of the AT(FOM)(OT)O)

Criterion 5.5 – The longstanding principle of English common law, which is applicable in Anguilla, provides that intent can be inferred from objective factual circumstances. Additionally, s.11(4) of the Criminal Code provides that, in determining whether a person has committed an offence, a Court or jury, “shall decide whether he did intend or foresee that result by reference to all the evidence, drawing such inferences from the evidence as appear proper in the circumstances.”

Criterion 5.6 – Natural persons convicted of TF or individual terrorists are subject to sanctions that are somewhat proportionate and dissuasive.

The TF offences in the CTA are generally subject to proportionate and dissuasive sanctions. The central TF offences in ss. 23 and 7 of the CTA is punishable by 25 years imprisonment and a fine of \$500,000 (s. 23(3) CTA) and by imprisonment for 20 years (s. 7 of the CTA).

Under the AT(FOM)(OT)O, TF offences are hybrid, that is, they may be prosecuted by way of indictment or via summary procedure. Where the TF offences established by s. 6-9 of the AT(FOM)(OT)O are prosecuted by indictment the maximum penalty is fourteen years imprisonment and/ or an unlimited fine; where prosecuted summarily, the maximum penalty is six months imprisonment and/or a fine up to the “statutory maximum”. It is not clear what the statutory maximum is. The criminal penalties available for TF offences under the AT(FOM)(OT)O, where the prosecution proceeds summarily, are insufficient to constitute proportionate or dissuasive sanctions. However, Anguilla relies on the UK’s sentencing

guidelines in giving effect to the AT(FOM)(OT)O which outlines comprehensive measures for considering culpability, harm and the seriousness of the offence committed. Therefore, although TF offences tried summarily under the AT(FOM)(OT)O are subject to lower penalties, the application of the sentencing guidelines ensures that sentencing is proportionate to the level of offending.

Criterion 5.7– Criminal liability for TF extends to legal persons pursuant to the definition of “person” at s. 2 of the Interpretation and General Clauses Act which applies to all laws in Anguilla. This includes any corporation, either aggregate or sole, and any club, society, association, or other body, of one or more persons. The same penalties apply as for natural persons. Facilitating the financing of terrorism, (s. 23 of the CTA) explicitly makes legal persons criminally liable for a fine of XCD 500,000 which is sufficiently dissuasive. However, TF offences in the CTA relation to the provision of funds (s.2,3 7 and of the CTA) are only punishable by way of imprisonment. Under Art. 6(3) of the AT(FOM)(OT)O, where tried by way of indictment, a legal person may be subject to an unlimited fine. Additionally, under Art. 6(3) of the AT(FOM)(OT)O, where tried by way of summary proceedings, a legal person may be liable to a fine up to the “statutory maximum”. However, Anguilla has not clarified what is meant by the “statutory maximum”. Criminal sanctions applicable to legal persons are without prejudice to the criminal liability of natural persons. Anguilla does not have administrative or civil sanctions for legal persons convicted of TF.

Criterion 5.8 – (a) S. 1 of Anguilla’s Criminal Code defines “offence” as an “act, attempt or omission punishable by law”. (b) Accomplice liability is established by s. 25 of the Criminal Code, which criminalizes aiding, abetting, counselling, and procuring an offence. (c) S. 1 of the CTA establishes direction and organisation as modes of liability for the TF offences established by the Act. (d) S. 1 of the CTA make it an offence to participate as an accomplice in, and to contribute to, the commission of a TF offence under that instrument.

Criterion 5.9 – S.1(a) of the POCA defines “offences” so as to include those which may be proceeded by indictment, including hybrid offence, or those that may only be tried summarily and for which, if the offence was to be committed by an individual, the maximum penalty would be a term of imprisonment of 1 year or more. Eligible offences are therefore ML predicate offences (s. 124-126 of the POCA). As such, the straight indictable TF offences under the CTA (s. 6-14, 18 and 23), the hybrid TF offences under the CTA (s. 15-17) and all offences, are ML predicate offences.

Criterion 5.10 – S. 23 of the CTA and TF offences established by the AT(FOM)(OT)O apply, regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organisations(s) is located or the terrorist act(s) occurred/will occur (s. 23(2)(c) of the CTA; Art. 4(4) of the AT(FOM)(OT)O).

Weighting and Conclusion

Anguilla has minor shortcomings with respect to criminalizing TF, in particular: not fully criminalising the financing of travel for the purpose of terrorism; TF offences tried summarily under the AT(FOM)(OT)O are subject to lower penalties which are not proportionate or dissuasive in all instances; and the statutory maximum fine for the TF AT(FOM)(OT)O offence tried summarily is unclear.

Recommendation 5 is rated Largely Compliant



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

In the 3rd MER, Anguilla was rated “LC” with former SRIII. The 3rd MER notes that the deficiency with R. 6 was that the arrangement for listing and delisting can be compromised and there were no restraint orders made with regard to TF, thus effectiveness could not be duly determined.

Anguilla’s TFS(TF) regime is captured in the domestic legislation and policies and as a BOT, any gaps are addressed by the UK’s legislative framework extended to Anguilla through Orders in Council which have direct legal effect in Anguilla. The relevant domestic legislation and policies are: the CTA, the PFPA, The AFIU’s Procedural Policy for the Identification and Development of Targets for Designations, June 2023 and Financial Sanctions Guidelines, December 2022.

U.K. Regulations relevant to the UNSCR 1267/1989 (Al-Qaida) and 1988 sanctions regimes (collectively referred to as “UNSCR 1267 etc.”) are: the Afghanistan (Sanctions) (EU Exit) Regulations 2020 (“the Afghanistan Sanctions Regulations”) and the ISIL (Da’esh) and Al-Qaida (UN Sanctions) (EU Exit) Regulations 2019 (“the ISIL Sanctions Regulations”) as extended to Anguilla by the Afghanistan (Sanctions) (Overseas Territories) Order 2020 and the ISIL (Da’esh) and Al-Qaida (UN Sanctions) (Overseas Territories) Order 2020 respectively. U.K. Regulations relevant to UNSCR 1373 are: the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 (“the CTSR”) as extended to Anguilla by the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020. These Regulations are made pursuant to the Sanctions and Anti-Money Laundering Act 2018 (“the SAMLA”)²⁷.

Criterion 6.1 (*Met*) –

(a) Ss 40 and 56(1) of the CTA, 2023 establish the Governor as the competent authority responsible for proposing listings for designating entities and persons²⁸ to the relevant UN Committees via the FCDO and the Secretary of State. The Governor may propose an entity to be listed as a designated terrorist entity where there are reasonable grounds to suspect or believe that the entity is involved in one or more terrorist acts, the entity is owned or controlled directly or indirectly by a terrorist entity or the entity is acting on behalf of or at the direction of a terrorist entity. The term ‘terrorist act’ as defined in s. 2 of the CTA is sufficiently broad to cover the relevant designation criteria.

(b) The AFIU’s Procedural Policy for the Identification and Development of Targets for Designations provides guidance on how the FIU can identify and develop targets for designation, based on the designation criteria set out in UNSCR 1267 etc.

(c) Ss 40 and 56(2) of the CTA, 2023 provide that the Governor must apply the evidentiary standard of reasonable grounds to suspect or believe that the entity is involved in one or more terrorist acts, the entity is owned or controlled directly or indirectly by a terrorist entity or the entity is acting on behalf of or at the direction of a terrorist entity. The CTA does not contain any requirement for an existing criminal proceeding to be a precondition for a proposal.

(d) Anguilla follows the procedures and standard forms for proposing a listing, as adopted by the 1267/1989 of 1988 Committees (s. 56(3)(a) CTA).

²⁷ UK legislation.

²⁸ See definition of person- Section 9(5) of the SAMLA defines person as including (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons.



(e) Anguilla can provide as much relevant information as possible on the proposed name (s. 56 (3)(b) CTA); a statement of case which contains as much detail as possible on the basis for the listing (s. 56 (3)(c)(i)-(iv) CTA); and (in the case of proposing names to the 1267/1989 Committee), specify whether their status as a designating state may be made known (s. 56(3)(d) CTA).

Criterion 6.2 –

(a) Under the CTA and the CTSR, the Governor of Anguilla, in consultation with the Secretary of State is the competent authority responsible for designating entities (ss 38(2) (interim designation) and 40(1) (final designation) of the CTA 2023) or persons (Regs. 5(1) and (2) CTSR) that meet the specific criteria for designation, as set out in UNSCR 1373, on its own motion. The definition of “person” (Reg. 5 of the CTSR); S. 9(5) of the Sanctions and Anti-Money Laundering Act 2018) includes individuals, bodies of persons corporate or unincorporate, any organisation and any association or combination of persons. Additionally, the AFIU’s Procedural Policy for the Identification and Development of Targets for Designations, provides that the designation power under the CTA can be used by the Governor to make designations upon the request of other countries. Further, in the exercise of its designation power, the Governor is to act within their discretion (Reg. 4A of the CTSR) which is sufficiently broad to include designations on its own motion and those made after examining or giving effect to the request of another country.

(b) The AFIU’s Procedural Policy for the Identification and Development of Targets for Designations provides guidance on how the FIU can identify and develop targets for designation, including the process where a request is received from another jurisdiction.

(c) The AFIU’s Procedural Policy for the Identification and Development of Targets for Designations provides that a requesting country must complete a Designations Impact Assessment Form (DIAF) and submit same to the AFIU which is then forwarded to the Governor by the AFIU. The Governor and the AFIU will then liaise with the Attorney General who will promptly assess the information from both a legal and policy standpoint and make a prompt determination as to whether to pursue the proposed measures.

(d) The Governor, after consultation with the Secretary of State, can make an interim or final designation, if he reasonably suspects or believes that the entity or person has met the UNSCR 1373 designation criteria (s.38(2) and 40(1) of the CTA; Reg, 6 CTSR). There is no condition for the existence of criminal proceedings.

(e) When requesting another country to give effect to the actions initiated under freezing mechanisms, Anguilla must provide as much identifying information and specific information supporting the designation as possible (s. 40(6) and 40(7) of the CTA).

Criterion 6.3 –

(a) The Governor has the power to collect or solicit information to identify entities who meet the criteria for an interim or final designation. (s. 38(4) of the CTA; s.40(2) of the CTA, 2023 for final designations)

(b) The effect of ss 38 and 40 of the CTA, 2023 allows for the Governor to designate an entity ex parte.

Criterion 6.4 –

Anguilla implements TFS for TF without delay. Designations by UNSC Committees, including pursuant to UNSCR 1267, are immediately effective in Anguilla (s. 7(1) of the PFPA). Consequently, obligations to freeze and report are triggered as soon as a UN designation has been made. The designation of a person or entity by the UNSC is published in the Gazette as soon as practicable (s. 7(3) of the PFPA). Additionally, designations pursuant to UNSCR 1373 take effect upon being made (s.39(b) and 41(c) of the CTA).

Criterion 6.5 (*Mostly Met*) –

(a) Persons (both natural and legal persons- s. 2 of the Interpretation and General Clauses Act), FIs and service providers are required to freeze, without delay and without providing prior notice, the funds or economic resources of designated entities (s. 65(1)(d) of the CTA ; s. 66 (1) of the CTA) whether the designation is made by the Governor or by the UNSCR (s. 63 of the CTA). “Without delay” is a defined term in the CTA (s. 1) to mean within a matter of hours not exceeding 24 hours. Similar provisions are outlined in Reg. 11 of the CTSR in conjunction with Regs. 5 and 6 of the CTSR.

(b) Persons (natural and legal persons- s. 2 of the Interpretation and General Clauses Act) FIs and service providers (s. 65(1)(d)) are obligated to freeze funds in accordance with s. 66(1) of the CTA which extends to: (a) all funds or other assets that are owned or controlled by the designated entity, and not just those that can be tied to a particular terrorist act, plot or threat; (b) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated entities; and (c) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated entities, as well as (d) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities. Additionally, Reg. 11 of the CTSR in conjunction with Regs. 5 and 6 of the CTSR also meets the requirements of c. 6.5(b).

(c) Anguilla explicitly prohibits all persons (s.19-22 of the CTA; Regs. 12 -15 of the CTSR; Regs. 9-12 of the A(S)(EU)R; Regs. 9-12 of the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019) and entities²⁹ (Regs. 12 -15 of the CTSR; Regs. 9-12 of the A(S)(EU)R; Regs. 9-12 of the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019) Anguillan or otherwise, from making any funds, economic resources, or financial services, available, directly or indirectly, wholly or jointly, for the benefit of designated entities and designated persons; entities owned or controlled, directly or indirectly, by designated entities and persons; and persons and entities acting on behalf of, or at the direction of, designated entities and persons. ‘Funds’, ‘economic resources’ and ‘financial services’ in s. 1 of the CTA are defined broadly to align with the definition of funds or other assets in the FATF methodology and to encapsulate the meaning of financial or other related services. Similarly, the meanings of ‘funds’ ‘economic resources’ and ‘financial services’ in s. 60-61 of the SAMLA are broadly defined to align with the requirements of this criterion.

(d) - Where the UNSCR or the UK’s OFSI have published a list of designated persons or entities to whom, or a list of funds or economic resources or a class of funds and economic resources to which, measures against terrorism and TF shall apply, the AFIU shall, without delay, disseminate the list to all persons, reporting entities, competent authorities or the public in such media or format as it considers appropriate (s. 37 of the CTA; definition of unit at s. 1 of the CTA). However, in relation to designations pursuant to UNSCR 1373, s. 39 of the CTA and s. 41 of the CTA, 2023 conflict with the requirements set out in s. 37 of the CTA. These provisions state that the public is notified as soon as practicable by a notice published in the Gazette.

Anguillan government websites publish clear guidance on freezing obligations. Additionally, the AFIU maintains an email distribution list to clearly notify voluntary subscribers, whether they are FIs, DNFBPs, or other persons or entities that may be holding targeted funds or other assets, of their freezing obligations. The CTA imposes an obligation on the AFIU to maintain up-to-date designation lists and circulate them periodically every 3 months or immediately upon receipt of new designations to all FIs, via fax, to all FIs and service providers, including DNFBPs (s. 64 of the CTA).

²⁹ see definition of “person”- Section 9(5) of the Sanctions and Anti-Money Laundering Act 2018



(e) Anguilla requires FIs and service providers, including DNFBPs, to report to the AFIU any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs (s. 67(1) of the CTA). This reporting obligation includes attempted transactions (s. 67(3) of the CTA). The form of reporting is a SAR, the requirements of which are found at Schedule 1 of the CTA.

(f) The bona fide rights of third parties acting in good faith when implementing the obligations under R.6 are protected in accordance with ss. 24(4) and (5), 84(3) and 90(3) of the CTA.

Criterion 6.6 –

(a) S. 56(1) of the CTA provides that the Governor, through the FCDO, may propose to any relevant UNSC Committee that an entity be de-listed from any list maintained by the UNSC, where the Governor believes that the entity no longer meets the criteria for designation. S. 56(5) further provides for the Governor to establish procedures for de-listing and s. 56(6) describes what those procedures may include. Section 6.3 of the Financial Sanctions Guidelines outlines that a petition for de-listing may be made to the UN Office of the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee. Alternatively, if the designated person is an Anguillan or a resident of the Anguilla or an entity incorporated or otherwise established in Anguilla, a petition the Governor can be made, who, following an assessment of the petition, will submit the delisting petition to the UK Government, who will decide whether to take the delisting forward to the relevant UN Sanctions Committee or the Security Council

(b) The Governor of Anguilla, after consulting the Secretary of State, has the legal authority to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to UNSCR 1373, that no longer meet the criteria for designation by virtue of s. 22 of the SAMLA which was extended to Anguilla by Schedule 3, Clause 1 of the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020. Pursuant to Section 6 of the Financial Sanctions Guidelines where a delisting is made, a Financial Sanctions Notice will be made. The UK OFSI issues a notice in respect of UN or UK listings and the AGC issues a corresponding Financial Sanctions Notice which is sent to the FSC, FIU and other stakeholders. The FSC sends out AML alerts advising of delisting or removal from the lists. The notices and/or alerts are posted on websites of the GoA, FSC and FIU and disseminated to the financial businesses by the FSC within 24 hours. Additionally, after an entity is de-listed, the AFIU must communicate without delay the de-listing and unfreezing to all FIs and service providers (s. 57(2) of the CTA).

(c) S. 50 of the CTA, 2023 provides that nothing in the CTA prevents a person from bringing any judicial review or other proceedings before a court arising out of, or relating to, the making of a designation under this Act. Regarding designations pursuant to UNSCR 1373, the Governor is the competent authority empowered to establish procedures to allow, upon request, review of a designation before a court or other independent competent authority (s. 56(6)(b) CTA). By virtue of s. 38 of the SAMLA as extended to Anguilla by Schedule 3, Clause 4 of the Counter-Terrorism (Sanctions) (Overseas Territories) Order 2020 the person named by the designation may apply to the High Court of the Eastern Caribbean Supreme Court for the decision to be set aside. In determining whether the decision should be set aside, the court must apply the principles applicable on an application for judicial review. If the court decides that a decision should be set aside it may make any such order, or give any such relief, as could be made or given in proceedings for judicial review of the decision subject to the provisions of s. 39(1) to (4) of the SAMLA.

(d) S. 6.3 of the Financial Sanctions Guidelines highlights that petitions for delisting can be sent to the UN Focal Point mechanism established under UNSCR 1730 for petitioners other than those whose names are inscribed on the ISIL (Da'esh) and Al-Qaida Sanctions List and directs persons to the UN's website.



(e) S. 6.3 of the Financial Sanctions Guidelines highlights that a petition for delisting can be made to the UN Office of the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee for UN listings under the ISIL (Da'esh) and Al-Qaida (UNSCR 1267/1989) sanctions regime and directs persons to the UN's website.

(f) The Governor is the competent authority empowered to establish procedures to unfreeze the funds or other assets of entities (but not persons) with the same or similar name as designated entities, who are inadvertently affected by a freezing mechanism, upon verification that the person or entity involved is not a designated person or entity (s. 56(6)(e) of the CTA). However, no such procedures have been established.

(g) The AFIU is mandated to communicate de-listings and unfreezing to FIs and service providers, including DNFBPs, without delay after an entity is de-listed or funds or other assets are unfrozen, in a manner it considers appropriate (s. 57(2) of the CTA) and maintain and make public lists of de-listed entities and unfrozen assets (s. 57(3)). Anguilla maintains public guidance, available to anyone including FIs and DNFBPs that may be holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action (Section 6.2 of Anguilla's Financial Sanctions Guidelines, December 2022).

Criterion 6.7 – Anguilla has a regime in place to allow designated persons and entities to appeal the Governor's designation decision in order to facilitate access to frozen funds or other assets which have been determined to be necessary for expenses. Under the CTA, permissible fees, expenses, services charges, and expenses include: mortgage or rent payments; allowances for food, medicine and medical treatment; any payments due as a result of an Order of the court; the reasonable living expenses of dependents, including educational expenses; medicines and medical treatment of dependents; taxes, insurance premiums and public utilities; legal expenses; expenses necessary to enable a person to carry on working; fees associated with routine financial maintenance; and any other condition that the court considers necessary and reasonable (s. 58(4) CTA). However, s. 58(4) CTA does not fully align with the requirements of UNSCR 1432 as it does not cover expenses necessary for extraordinary expenses. Consequently, s. 58(4) CTA does not authorise sufficient access to funds as required where freezing measures are applied to persons and entities designated pursuant to UNSCR 1373.

The ISIL Sanctions Regulations and the Afghanistan Sanctions Regulations allow the Governor to grant licenses, to allow for access to frozen funds and assets for: basic needs (for a designated person or their family member(s); legal fees and disbursements; fees and services charges for routine holding or maintenance of frozen funds or economic resources; to satisfy prior court judgements or arbitration decisions against a designated person or entity; to satisfy prior contractual obligation of the designated person; and to enable an extraordinary expense of a designated person to be met (Schedule 2 of the ISIL Sanctions Regulations and the Afghanistan Sanctions Regulations). These provisions are a sufficient basis for the granting of licenses in line with the requirements under UNSCR 1452. For designations under UNSCR 1373, Reg. 19A of the CTSR contains general language on exemptions (asset freeze obligations shall not apply where a license has been granted), however, this provision does not have sufficient details to ensure that the requirements under UNSCR 1452 are met.

Weighting and Conclusion

Anguilla has a mechanism to implement TFS(TF) without delay. However, minor shortcomings remain: the obligation to publish designations pursuant to UNSCR 1373 is not immediate; there are no procedures to



unfreeze the funds or other assets of persons and entities with the same or similar name as designated entities, who are inadvertently affected by a freezing mechanism, upon verification that the person or entity involved is not a designated person or entity; and there are insufficient provisions to ensure that the requirements under UNSCR 1452 are met in relation to UNSCR 1373.

Recommendation 6 is rated Largely Compliant.

Recommendation 7 – Targeted financial sanctions related to proliferation

Recommendation 7 is a new recommendation, there is therefore no previous rating or country information.

Anguilla's PF regime comprises of domestic legislation namely the Proliferation Financing (Prohibition) Act (PFPA) and UK regulations extended to Anguilla by way of Overseas Orders in Council i.e. the DPRK (Sanctions) (Overseas Territories) Order 2020 (the DPRKR Order) and the Iran (Sanctions) (Nuclear) (Overseas Territories) Order 2020 (the Iran Order). The UK regulations relevant for PF are the DPRK (Sanctions) (EU Exit) Regulations 2019 (DPRKR) and the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (ISNR). S. 65 of the PFPA provides for the use of similar powers under the PFPA or another enactment or Order-in-Council.

Criterion 7.1 – Anguilla is implementing TFS-PF without delay in regards to the prohibition against dealing with the assets of designated persons and entities. A designation of a person or entity by the UNSC or its Committees under a UNSCR shall apply in Anguilla with effect from the date of the designation (s. 7(1)(a) of the PFA. It has the immediate effect (s. 7(1)(b) PFA) with prohibitions against: dealing with the assets of a designated person or entity or on behalf of or at the direction of a designated person or entity (s. 14(1) PFA) and making assets available to a designated person or entity or to person or entity that is controlled by, acting on behalf of, or for the benefit of, a designated person or entity (s. 15(1) PFA).

Criterion 7.2 – The Governor is the competent authority to implement TFS relating to PF in Anguilla. Under s. 8 of the PFPA the Governor has the legal authority to designate a person or entity. The PFPA has also made the Unit the competent authority, responsible for supervision and enforcement of the Act. (Part 5). Section 5A of both the DPRKR and the ISNR give the Governor the authority to implement the provisions of the orders, including to designate persons for asset freezes.

(a) Persons in Anguilla are prohibited from dealing with assets of or related to a designated person or entity or making assets available to a designated person or entity or a person related to a designated person or entity. This provision is equivalent to a requirement to freeze since the definition of 'dealing with' is in line with the denotation in the FATF glossary. There is no obligation for prior notice and the freeze takes immediate effect (section 8(4)(a)). The term "person" includes natural and legal persons.

(b) The freezing obligation is applicable to assets owned, controlled, or held directly or indirectly, wholly or jointly by a designated person or entity, on behalf of a designated person or entity, or at the direction of a designated person or entity (PFPA s. 15, DPRKR s. 13, ISNR s. 12). There is no requirement for the funds or economic resources to be tied to a particular act, plot, or threat of proliferation.

(c) The PFA prohibitions (s. 14 and s. 15) are caveated with a Gubernatorial authorization regime (s. 53-56) in accordance with the relevant UNSCRs.

(d) The Anguilla Governor is mandated to notify, without delay and using any necessary means, FIs and services providers, including DNFBPs, of all designations made pursuant to UNSCRs (s. 12(1) and (2) PFA). Unlike with TFS (TF) pursuant to the CTA, the meaning of "without delay" is not defined for the purpose of



the PFA. Anguilla maintains public guidance, available to anyone including FIs and DNFBPs and other persons and entities that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms (s. 4.8 of Anguilla's Financial Sanctions Guidelines, December 2022).

(e) FIs and service providers are required to report the holding of an asset that belongs or is connected to a designated person or entity under s. 33(1) of the PFPA. Other reporting requirements include actual and attempted transactions where the amounts exceed XCD10,000 (s. 36(1)(a) of the PFPA) and any account opening or attempted account opening by a designated person or entity is required to be reported (s. 36(1)(b) of the PFPA). S. 99 of the DPRKR and s. 46 the ISNR require relevant institutions to inform the Treasury as soon as practically possible where they know or suspect that a customer is a designated person or if the institution acquired knowledge of or reasonable suspicions about a designated person. In such cases, the institution is required to report the details of any funds they hold that belong to a suspected designated person but not on any attempted transactions. Neither the domestic law nor the orders require reporting on any compliance actions taken.

(f) S. 67 of the PFPA protects the rights of bona fide third parties by excluding persons from being subject to civil or criminal liability, action, claim, or demand for anything done or omitted to be done in good faith in accordance with the Act.

Criterion 7.3 – The PFPA mandates the Unit to take appropriate measures to monitor FIs and service providers, including DNFBPs, for the purpose of securing compliance by those persons with the requirements of the Act and any directions given by the Unit (s. 63). These measures are: seeking the assistance and cooperation of the Commission (defined at s. 1 as the AFSC) in relation to persons licensed and supervised by the AFSC or incorporated or registered by the Registrar of Corporate Affairs (s. 63(2)); and seeking the assistance of any other person or authority and authorising that person or authority to perform requested tasks (s. 63(3)). The later measure does not include issuing directions under the PFPA (s. 63(4)). The Unit is not defined. Failure to comply with the PFPA prohibitions is a criminal offence (s. 14(3) and s. 15(3)). The penalty for legal persons is a \$500'000 fine while the penalty for natural persons is 3 years imprisonment and/or a fine of \$250'000 (Schedule 5 PFA).

Criterion 7.4 (Met) – (a) S. 6.3 of the Financial Sanctions Guidelines highlights that petitions for delisting can be sent to the UN Focal Point mechanism established under UNSCR 1730 for petitioners other than those whose names are inscribed on all UN listings. This will include delisting requests regarding PF. (b) A person or entity whose asset has been frozen may apply to the Governor to unfreeze an asset (s. 60(1) PFA) on the basis that the applicant is not a designated person or entity and the asset is not connected to PF (s. 60(3)(a) PFPA). Anguilla's Financial Sanctions Guidelines, December 2022, publicly announces this procedure, indicating that the Governor endeavours to provide a response on name-based false positive requests within 48 hours (s. 4.5). (c) The Anguilla Governor may authorize access to funds or other assets on the basis of the exemption conditions set out in UNSCRs 1718 and 2231, in accordance with the procedures set out in those resolutions (s. 53-56 PFPA). (d) As set out in Anguilla's Financial Sanctions Guidelines, December 2022 (s. 6) where a de-listing is made, a Financial Sanctions Notice will be made. UK OFSI issues a notice in respect of UN or UK listings and the AG of Anguilla issues a corresponding Financial Sanctions Notice which is sent to the AFSC, the AFIU and other stakeholders. The AFSC sends out AML Alerts advising of delisting or removal from the lists. The notices and/or alerts are posted on websites of the GoA, the AFSC and the AFIU and disseminated to the financial sector by the AFSC within 24 hours. Unfreezing obligations and respect for delisting guidance is also found in the Guidelines (Sections 4 and 6).



Criterion 7.5 – (a) The PFA prohibition against making assets available (s. 15) allows for a payment, including by way of interest or other earnings, made to an account containing frozen assets, where that payment is also frozen (s. 15(4)(b)). However, the PFA prohibition against dealing with subject assets does not contain a similar permission. Reg. 81(3) of the DPRKR and the 37(4) of the ISNR allow a relevant institution to credit a frozen account with interest or other earnings due on the account as long as the account remains frozen. These provisions include both making assets available and dealing with assets. **(b)** A designated person or entity may apply, in writing, to the Governor for an authorization to make any payment due under a contract entered into prior to the listing, provided that the payment is not for the benefit of a designated person (s. 53(2)(g) PFA). Before issuance of such an authorization, the Governor is required to seek any approvals required by the UNSC or its associated Committees (s. 55(2)(a) PFA). However, the Governor is not expressly required to consider or determine that the contract is not for a prohibited purpose as referred to in UNSCR 2231 and its successor resolutions, nor is the Governor required to consider or determine that the payment is not directly or indirectly received by a person or entity subject to the measures in paragraph 6 of Annex B to UNSCR 2231.

Weighting and Conclusion

Anguilla is implementing TFS-PF with regards to the prohibition against dealing with the assets of designated persons and entities. Neither the domestic law nor the overseas orders require reporting on any compliance actions taken by FIs and service providers. The Governor is not expressly required to consider all the requirements of sub-criterion 7.5 (b). These shortcomings are considered minor.

Recommendation 7 is rated Largely Compliant.

Recommendation 8 – Non-profit organisations

This Recommendation, formerly SR. VIII, was rated Non-Compliant in the 3rd MER due to deficiencies such that there is no supervisory programme in place to ensure compliance with AML/CFT legislation, all NPOs are not registered therefore the relevant information on all NPOs is not publicly available, existing NPOs are not required to adhere to AML/CFT legislation, there is no specified period for all NPOs to keep records, and the inability to assess the effectiveness of domestic cooperation due to the current status of the NPO sector.

Criterion 8.1 –

(a) In 2019, the AFSC conducted a risk assessment exercise of both registered and exempted NPOs. The findings are included in the NRA. The NRA identifies the NPO sector as one with medium level TF risk. The POCA defines NPO in a manner consistent with the FATF Standards for the purpose of Recommendation 8 (s. 1). All NPOs are regulated by the Non-Profit Organisations Regulations (NPO Regulations) made pursuant to the POCA (s. 161). The AFSC is the NPO supervisor (s. 2 NPO Regulations). One of the functions and duties of the AFSC, in its capacity as the NPO supervising authority, is to monitor the effectiveness of the NPO legislation in, *inter alia*, ensuring the compliance of Anguilla with the FATF Recommendations as they apply to NPOs (s. 3(1)(c)(ii) NPO Regulations). The NRA reveals a risk-based approach to identifying the subset of organisations that fall within the FATF NPO definition (s. 5.2, NRA). The AFSC, in its role as the NPO supervisor, keeps a spreadsheet detailing the risk ratings assigned for each NPO. To arrive at these ratings, Anguilla uses its NPO application form to collect initial information. However, the completion of this form is an obligation of new NPOs since the advent of the form and is not retroactive on previously registered NPOs. This is mitigated by due diligence checks conducted by the AFSC on all NPOs and their principals. NPOs registered prior to the updating of the application form were included in the risk assessment of the NPO sector within the NRA. The NRA identifies the subset of NPOs falling with the FATF definition



and the features of those NPOs which, by virtue of their characteristics, are likely to be at risk of TF abuse, including: the type and purpose of the NPO, total amount of funds raised in Anguilla (over XCD \$15,000) annually, total amount of funds dispersed outside of Anguilla (over EC \$15,000), and whether the NPO is affiliated with a corporate structure outside of Anguilla.

(b) During the risk assessment, Anguilla identified the threats posed to NPOs based on factors including the type and purpose of the NPO, total funds raised in Anguilla, total funds dispersed outside of Anguilla and affiliation with international corporate structures. The AFIU sends Terrorism and TF High Level Reports to the AFSC. These reports are intended to facilitate an understanding of the potential scope of international terrorism and TF threats and risks in order to enable the identification of potential threats and risks, and to mitigate those risks. The AFSC uses these reports to inform the risk ratings of NPOs operating in Anguilla. The NRA concludes that the types of NPOs that are most susceptible to TF are those engaged in funding humanitarian efforts and service activities outside of Anguilla, especially in higher risk jurisdictions more susceptible to terrorist financing.

(c) S. 3(1)(d) of the NPO Regulations mandates that the NPO Supervisor undertake periodic review of the non-profit sector in Anguilla for the purpose of identifying the features and types of non-profit organisations that are at risk of being used for terrorist financing. The AFSC last conducted such a review between 2020 and 2022 which informed the amendments to the NPO Regulations.

(d) An initial risk assessment of the NPO sector was conducted in 2019 and NPOs were subsequently rerated using a new methodology approved by the Board of the AFSC in June 2023, days before the onsite visit commenced. However, Anguilla has not used new information on the sector's vulnerabilities to terrorist activities to ensure effective implementation of mitigation measures.

Criterion 8.2 – (a) S. 3(2)(b) of the NPO Regulations mandates that outreach activities of the NPO supervisor to promote transparency, accountability, integrity and public confidence in the administration and management of NPOs. Further, the Guidelines on Combatting the Abuse of Non-Profit organisations approved by the Board of the AFSC on February 18, 2014, outlines best practices that NPOs should undertake as it relates to financial transparency, programmatic verification and administration. S. 11 of the Non-Profit Organization Regulations requires registered NPOs to keep financial records to show and explain transactions within and outside Anguilla as well as keep the records for a period of at least 5 years. The requirements for application to register subject to Section 6 of the Non-Profit Organization Regulations provide for full disclosure of the charity's details and individuals representing the charity on the Application form issued by the AFSC.

(b) S. 3 (1) (ea) of the NPO (Amendment) Regulations, 2023 mandates the AFSC to provide guidance to registered non-profit organizations and their donors regarding best practices in relation to the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse. In addition, Guidance on Best Practices for Combatting the Abuse of Non-Profit Organisation was published in 2014. S. 3(2)(a) of the Non-Profit Organization Regulations further outlines the power of the supervisor to undertake the necessary outreach to NPOs. For 6 months in 2023, there were outreach and educational programmes to raise and deepen awareness among NPOs as well to the donor community, about the legislative amendments and potential vulnerabilities of NPOs to TF abuse and risks and measures that NPOs can take to protect themselves against such abuse. Correspondence and guidance were issued to the domestic banks and the Credit Union so that they are aware of the NPOs obligations prior to entering into a business relationship with them.



(c) S. 3(1) (ec) of the NPO (Amendment) Regulations 2023 provides for the AFSC to obtain annually through annual returns information on the purposes and activities of the NPO. In addition, the AFSC gathered information from the CFT survey which included donors, beneficiaries and financial information to develop and refine best practices to address TF risks and vulnerabilities and thus protect them from abuse.

(d) The Guidelines on Combatting the Abuse of Non-Profit organisations approved by the Board of the AFSC on February 18 2014, highlights the principle of financial transparency where NPOs are urged to conduct financial transactions where possible through regulated financial institutions. It recommends that funds are kept in bank accounts and use formal financial channels to transfer money. Anguilla further states that all banks require identification information and other CDD information on the person handling the account and a letter from AFSC regarding the status of the NPO.

Criterion 8.3 – S.3(1)(d) of the NPO Regs. states that the AFSC acts as the NPO registration, supervision and enforcement authority which undertakes periodic reviews of the non-profit sector in Anguilla for the purpose of identifying the features and types of NPOs that are at risk for TF as well as monitors compliance. S. 3(1) (ec) of the NPO (Amendment) Regulations 2023 provides for the AFSC to obtain annually through annual returns information along with audited financial statements on the purposes and activities of the NPO.

Criterion 8.4 – (a) S.3(1)(b) of the NPO Regs. empowers the AFSC to monitor compliance by NPOs with the registration requirements of the Regulations and by registered NPOs with the NPO Legislation. However, the legislation does not specifically include monitoring compliance with the risk-based measures being applied to them

(b) S.5(3) (Requirement to Register), s.9 (De-registration), s.1 (3) (Records), s.12(7) (Provision of records to the NPO Supervisor) and s.13 of the NPO Regs. (Offence, false and misleading information) empowers the AFSC to apply sanctions for non-compliance by NPOs. Sanction ranges from XCD20,000 – XCD50,000 for both individuals and entities which are proportionate and dissuasive. The violations do not extend to persons acting on behalf of NPOs as provided for in s. 3A (j) of the NPO (Amendments) Regulations 2023 which allows the AFSC to order the removal of officers from involvement in the non-profit organization

Criterion 8.5 –

(a) Anguilla has measures to ensure effective cooperation, coordination and information-sharing to the extent possible among relevant authorities, namely the AFIU (as the primary investigative TF body) and the AFSC (as the NPO Supervisor). This is primarily achieved by the December 23, 2022, MOU between the AFIU and the AFSC regarding information exchange, the Addendum dated April 26, 2023, of which includes permissible cooperation and coordination and information-sharing regarding suspected TF abuse of NPOs.

(b) The AFIU has the requisite investigative capability and expertise as the staff has been exposed to extensive training over recent years. Further, the POCA (s. 135 to 149) provides for ML/TF investigative powers including production orders, search and seizure warrants, customer information orders, account monitoring orders, and orders to grant entry to obtain materials ordered to be produced.

(c) The NPO Regulations set out the mandatory record-keeping requirements for NPOs (s. 11). These requirements include both financial and programmatic information. The AFSC is authorized under the NPO Regulations to access these records in order to assess the extent to which a registered NPO is being used, or may in the future be used, for TF (s. 12). The AFIU and the RAPF may access such records via compelling judicial process.

(d) As noted above, an MOU between the AFSC and the AFIU provides for the exchange of information, including, by virtue of the April 26, 2023, Addendum, suspected TF abuse by NPOs. This mechanism



provides for the prompt sharing of information between the relevant competent authorities for the purpose of taking preventive or investigative action when there is a suspicion or reasonable grounds to suspect an NPO: (1) is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; or (2) is being exploited as a conduit for TF, including for the purpose of escaping asset freezing measures or other forms of terrorist support; or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations.

Criterion 8.6 – Anguilla has several points of contact to respond to different types of international requests for information regarding particular NPOs suspected of TF or involvement in other forms of terrorist support, namely: the AFIU, the AFSC, the AG, the Governor, and the Permanent Secretary of Finance.

The FIU Act sets out the procedure for complying with foreign FIU requests for financial intelligence (s. 21), without any barriers in relation to NPO abuse. The procedures require an MOU or similar instrument with the foreign FIU, in relation to which at least a few have been concluded. The AFIU Director is responsible for providing a response to the requesting FIU.

The applicable procedures for international cooperation for tax information sharing is set out in the Tax Information Exchange (International Co-operation) Act 2016. S. 1(d)(2) of the Act indicates the Permanent Secretary, Ministry of Finance, of Anguilla as the appropriate point of contact.

In terms of applicable evidence sharing with the United States, the AG of Anguilla, or a person designated by them, is the appropriate point of contact (s. 3 MLA (USA) Act).

No mechanism identifies it, but the AFSC can share information regarding NPOs with foreign supervisors via MOUs. The Director of the AFSC is responsible for providing a response to requesting foreign supervisors. It is unknown whether any such MOUs have been concluded.

The Governor's office is the *de facto* contact with respect to requests for evidence, including evidence in relation to NPOs, under the CJICA, however, no formal authority for this is known.

Weighting and Conclusion

Anguilla has created a licensing regime for NPOs with fit and proper requirements. AML/CFT obligations are extended to NPOs. A new methodology approved by the Board of the AFSC in June 2023, days before the onsite visit commenced, provides for periodic reassessments, however Anguilla has not gathered new information on the sector's vulnerabilities to terrorist activities to ensure effective implementation of measures. There were outreach and educational programmes to raise and deepen awareness among NPOs as well the donor community about the potential vulnerabilities of NPOs to TF abuse and risks, and measures that NPOs can take to protect themselves against such abuse. The legislation empowers the AFSC to apply sanctions for non-compliance by NPOs, the violations extend to persons acting on behalf of NPOs. information was provided by the Anguillan authorities to evidence that work was undertaken with the NPOs to develop and refine best practices to address TF risks and vulnerabilities and thus protect them from abuse.

Recommendation 8 is rated Largely Compliant.

Recommendation 9 – Financial institution secrecy laws

Recommendation 9 formerly R.4 was rated LC in Anguilla's 3rd MER since the AFSC's ability to share information with foreign regulators could be subject to court override. This was addressed by amendments to the FSC Act as indicated in the 5th FUR dated May 2014.



Criterion 9.1 – Anguilla has legislation which prevents financial institution secrecy laws from inhibiting the implementation of the FATF Recommendations.

Based on the provisions of ss 3(1)(a), (c), (h) and (l) of the FSC Act, the AFSC has the legal authority to access information it requires from FIs to properly perform its functions with combating ML and TF. Additionally, ss 25(1), 25(2) and 26(1) to 26(8) of the FSC Act outline the AFSC's duty and ability to co-operate with local law enforcement agencies and foreign regulatory authorities. Ss. 155(3) of the POCA provides that the AFSC in performing its supervisory functions for FIs and DNFBPs has the information gathering powers set out in the FSC Act and those in POCA. These include the ability to access information from FIs and DNFBPs and share information with domestic CAs and foreign supervisory authorities. Additionally, ss. 156(1) of POCA provides for the AFSC to co-operate with the FIU, law enforcement agencies in Anguilla and other supervisory authorities. Based on the provisions of ss. 6(1) to 6(6), 21(1), 21(2) and 22(1) of the FIU Act, Anguilla's FIU (the primary institution in Anguilla with responsibility for the maintenance and conducting of investigations concerning financial crimes including ML and TF offences) has the legal authority to access and share information concerning FIs with local and foreign competent authorities.

The RAPF and the Customs Department can make applications to a local judge for an information production order, search and seizure warrant, customer information order, and account monitoring order, pursuant to the provisions under PART 5 of the POCA, to assist with criminal recovery investigations, including TF investigations, money laundering investigations, and civil recovery investigations. The joint intelligence working group (JIWG) which consist of the AFIU, RAPF, the Immigration Department and the Customs Department facilitates the sharing of criminal intelligence and co-ordination of operational activity. The RAPF, as a member of Interpol, is able to exchange information with foreign counterparts. Anguilla's CAs are also members of ARIN-CARIB, where the AGC and AFIU are points of contacts. The Customs Department and the RAPF can also utilize this sharing platform through the AFIU. As a member of the Caribbean Customs Law Enforcement Council (CCLEC), the Customs Department can exchange information with regional counterparts. Additionally, the Customs Department can exchange information internationally via participation in Sea Port Cooperation Project (SEACOP) V.

Furthermore, there is no legislation that prevents the sharing of information between financial institutions where this is required by R.13, 16 or 17.

Weighting and Conclusion

Recommendation 9 is rated Compliant.

Recommendation 10 – Customer due diligence

Recommendation 10 formerly R.5 was rated PC in Anguilla's 3rd MER since effectiveness could not be assessed due to the recent passage of the POCA, AML/TF Regs and AML/TF Code. Additionally, the supervision regime for domestic banks and their offshore subsidiaries was ambiguous and there was no requirement for enhanced due diligence for private banking, trusts that operate as personal holding vehicles and nominee arrangements. The deficiencies were addressed by amendments to the POCA, AML/TF Regs and the AML/TF Code as indicated in the 5th FUR dated May 2014.

Criterion 10.1 – S.15(2) of the AML/TF Regs prohibits a service provider from setting up or maintaining a numbered account or anonymous account or an account with a false name. Service provider is defined in section 1 of the AML/TF Regs as being specified in Schedule 2 of the AML/TF Regs which includes all



entities licensed under the Banking Act, the Trust Company and Offshore Banking Act, a licence under the Company Management Act and licences under the Insurance Act, the Mutual Funds Act, the Securities Act and the Money Services Business Act. These entities and the financial activities listed in Schedule 2 cover all FATF FIs.

Criterion 10.2 – (a) – Pursuant to s.10(1) (a) of the AML/TF Regs a FI shall apply CDD measures before it establishes a business relationship or carries out an occasional transaction.

(b) – S.10(1)(a) of the AML/TF Regs also requires FIs to apply CDD before carrying out an occasional transaction. Ss. 3(1) and 3(2) of the AML/TF Regs as amended by s.4 of the AML/TF (Amendment) Regs, 2022 defines an occasional transaction as a single transaction not part of a business relationship carried out as one or two or more linked transactions totalling XCD2,500(USD925) carried out in a money services business and XCD37,500(USD13,876) for any other transaction. The above provisions comply with the sub-criterion requirements with the limit of US\$13,876 well within the threshold of USD\$15000.

(c) – S.(3)(2)(a)(ii) amended by s.4 of the AML/TF (Amendment) Regulations, 2022 includes wire transfers within the meaning of s. 44 of the AML/TF Code as amended by the s. 19 of the AML/TF (Amendment) Code, 2022 as occasional transactions thereby requiring FIs to undertake CDD when carrying out occasional wire transfer transactions in amounts of \$2,500 (USD925.). The requirements of R. 16 for wire transfers are set out in Part 9 of the AML/TF Code.

(d) – S.10(1)(b)(i) of the AML/TF Regs requires a FI to apply CDD measures where the FI suspects ML/TF. It does not specify any exemptions or thresholds.

(e) – S.10(1)(b)(ii) of the AML/TF Regs requires a FI to apply CDD measures where the FI doubts the veracity or adequacy of documents, data or information previously obtained under its CDD measures or when conducting ongoing monitoring.

Criterion 10.3 – Ss 4(1)(a) and 4(1)(c) of the AML/TF Regs define CDD measures to include the identifying and verifying of the identity of the customer. Additionally, s. 4(3) of the AML/TF Regs stipulates CDD measures to include verifying the identity of any person whose identity is required to be verified, on the basis of documents, data or information obtained from a reliable and independent source. The term customer is not explicitly defined to include whether permanent or occasional, and whether natural or legal person or legal arrangement.

Criterion (10.4) – S.4(2) (a) of the AML/TF Regs as amended by s 5(c) of the AML/TF (Amendment) Regulations 2022 states that FIs are required to verify that any person purporting to act on behalf of the customer is authorised to do so and to identify and verify the identity of that person.

Criterion 10.5 – S.4(1)(d) of the AML/TF Regs requires the identification of each beneficial owner of the customer. S. 4(1)(e) of the AML/TF Regs as amended by s.5 of the AML/TF (Amendment) Regulations, 2022 states that CDD measures include taking reasonable measures to verify the identity of each beneficial owner of the customer so that the FI is satisfied that it knows who each beneficial owner is. Beneficial owner is defined in s. 1 of the AML/TF Regs as amended by s. 2 of the AML/TF (Amendment) Regulations, 2022 to include an individual who ultimately owns or controls a body corporate. Body corporate is defined subject to Section 9-12 of the Commercial Registry and Beneficial Ownership Registry System Act and comprises trusts, partnerships and legal arrangements. It ultimately winds down to a natural person. Additionally, s. 4(3) of the AML/TF Regs stipulates CDD measures to include verifying the identity of any person whose identity is required to be verified, on the basis of documents, data or information obtained from a reliable and independent source.



Criterion 10.6 – S. 4(1)(f) of the AML/CFT Regs as amended by s. 5 of the AML/TF (Amendment) Regulations, 2022, defined CDD measures to include taking the measures necessary to understand and, as appropriate, obtaining information on the purpose and intended nature of the business relationship or occasional transaction.

Criterion 10.7 – (a) - S.10(3) of the AML/TF Regs requires a FI to conduct ongoing monitoring of a business relationship. S.4(5)(a) of the AML/TF Regs defines ongoing monitoring as scrutinising transactions undertaken throughout the course of the relationship, including where necessary the source of funds, to ensure that the transactions are consistent with the FI's knowledge of the customer and his business and risk profile.

(b) - Ongoing monitoring is also defined in s. 4(5)(b) of the AML/TF Regs as keeping the documents, data or information obtained for the purpose of applying CDD measures up-to-date and relevant by undertaking reviews of existing records. S. 10 (1) (c) of the AML/CFT Regs as amended by ss.7 (a) and 7 (b) of the AML/CFT (Amendment) Regulations 2022 ensures that a risk-based approach to the categories of customers must be taken when considering a review of the existing records.

Criterion 10.8 – S. 4 of the AML/TF Regs as amended by ss. 5(a)(iii) of the AML/TF (Amendment) Regulations, 2022 includes ss. 4(1)(fa) and (fb) which outline that CDD for customers that are legal persons or legal arrangements would require the FI to understand the nature of the customer's business and its ownership and control structure.

Criterion 10.9 – (a) – S. 15 of the AML/TF Code requires FIs to obtain identification information with respect to a legal entity that it is required to identify by the AML/TF Regs and AML/TF Code. S. 1 of the AML/TF Code defines legal entity to include a company, a partnership, whether limited or general, an association or any unincorporated body of persons, but does not include a trust.

Legal Entity

S. 15 of the AML/TF Code as amended by ss. 6(a)(i) of the AML/TF (Amendment) Code, 2022 includes ss. 5(2)(a) and (ba) which require FIs to obtain the full name of the legal entity and any trading names that it uses and information on the legal form of the legal entity. Additionally, s. 16 of the AML/TF Code as amended by s. 7 of the AML/TF (Amendment) Code, 2022 includes ss. 16(2)(a) to 16(2)(f) which require FIs to verify the name of the legal entity, information pertaining to the formation of the legal entity, and proof of the legal entity's existence using evidence from at least one (1) independent source.

Trust

S. 18 of the AML/TF Code as amended by s. 9 of the AML/TF (Amendment) Code, 2022 includes ss. 18(1)(a)(i) and 18(1)(a)(iv) which require FIs to obtain the name of the trust and the legal form of the trust. Additionally, s. 19 of the AML/TF Code as amended by s. 10 of the AML/TF (Amendment) Code, 2022 includes ss. 19(1)(a)(i), 19(1)(a)(ii), and 19(1)(a)(vii) which mandates FIs to verify the name of the trust, the legal form of the trust, and proof of the trust's existence if it is required to by the AML/TF Regs.

Foundation

S. 20 of the AML/TF Code requires FIs to obtain identification information on a foundation. Ss. 20(1)(a) of the AML/TF Code requires FIs to identify the full name of the foundation while ss 21(a), 21(b) and 21(e) as amended by s. 12 of the AML/TF (Amendment) Code, 2022 require FIs to verify the name, legal form of the foundation, and proof of the foundation's existence using evidence from at least one (1) independent source.

Legal arrangement similar to a Foundation



S. 20 of the AML/TF code as amended by ss. 11(d) of the AML/TF (Amendment) Code, 2022 requires FIs to apply s. 20 of the AML/TF code as amended by the AML/TF (Amendment) Code, 2022 to the identification of a legal arrangement that is similar to a foundation, with such modifications as are necessary and appropriate.

(b) –

Legal Entity

FIs are required to obtain and verify information on the powers that regulate and bind a legal entity as well as the names of directors and senior persons responsible for the management and operation of the legal entity. (Ss. 15(2)(ba), 15(2)(h), 16(2)(g), 17(1)(a) and 17(1)(b) of the AML/TF Code as amended by ss. 6, 7 and 8(a) of the AML/TF (Amendment) Code, 2022.)

Trustees are required to identify and verify the powers that regulate and bind a trust as well as the names of persons, other than the trustees, that have a senior management position in the trust or its property. (Ss. 18(1)(a)(v), 18(1)(a)(vii), 19(1)(a)(v) and 19(1)(a)(viii) of the AML/TF Code as amended by ss. 9(b) and 10(b) of the AML/TF (Amendment) Code, 2022.)

Foundation

FIs are required to identify and verify the powers that regulate and bind a foundation as well as the names of any persons, other than the Foundation Council members, that have a senior management position in the foundation or its operation. (Ss. 20(1)(bb), 20(1)(j), 21(1)(e) and 21(1)(h) of the AML/TF Code as amended by ss. 11(b) and 12(b) of the AML/TF (Amendment) Code, 2022.)

A legal arrangement other than a trust or a Foundation (or a legal arrangement similar to a Foundation)

S. 22A of the AML/TF Code as inserted by s. 14 of the AML/TF (Amendment) Code, 2022 requires FIs to apply ss. 18 to 21 of the AML/TF Code as amended by the AML/TF (Amendment) Code, 2022, with such modifications as are appropriate, where FIs are required to identify and verify a legal arrangement other than a trust or a foundation (or a legal arrangement similar to a foundation).

(c) (Met) –

Legal Entity

FIs are required to identify and verify information on the registered office of a legal entity or, if it does not have a registered office, the address of the head office and the principal place of business of the legal entity. (Ss. 15(2)(d) to 15(2)(g) of the AML/TF Code, and 16(2)(e) as amended by s. 7 of the AML/TF (Amendment) Code, 2022.)

Trust

FIs are required to identify and verify the mailing address of the trustees. (Ss. 18(1)(a)(viii) and 19(1)(a)(vi) of the AML/TF Code as amended by ss. 9(b) and 10(b) of the AML/TF (Amendment) Code, 2022.)

Foundation or equivalent

FIs are required to identify and verify the registered address of a foundation or equivalent, or if the foundation does not have a registered address, the address of the head office and, if different, its principal place of business. (Ss. 20(1)(d) and 20(1)(f) of the AML/TF Code and 21(1)(f) as amended by ss. 12(b) of the AML/TF (Amendment) Code, 2022.)



Criterion 10.10 – (a) – Ss. 4(1)(d) and 4(1)(e) of the AML/TF Regs stipulate CDD measures include the identification and the verification of the identity of each beneficial owner of the customer and third party. Beneficial owner is defined in s. 1 of the AML/TF Regs as amended by s. 2 of the AML/TF (Amendment) Regulations, 2022 to include an individual who ultimately owns or controls a body corporate.

(b) – Ss. 4(1a) and 4(1b) of the AML/TF Regs as amended by s. 5 of the AML/TF (Amendment) Regs 2022 outline that if the FI has exhausted all possible means of identifying the beneficial owner of the customer or third party and—has not succeeded in doing so; or is not satisfied that the individual identified is the beneficial owner, then the FI shall identify and take reasonable measures to verify the identity of the individual who holds the position of senior managing official in relation to the customer or third party.

The definition of beneficial owner is defined in section 1 of the AML/TF Regs as having the meaning specified in ss 9 to 12 of the Commercial Registry and Beneficial Ownership Registration System Act, 2022 (“the CRBORSA”). Therefore, the CRBORSA’s definition is expressly imported into the AML/TF Regs as a defined term. S. 1(2) of the AML/TF Code provides that any word or phrase defined in the POCA or the AML/TF Regs has, unless the context otherwise requires, the same meaning in the AML/TF Code. This has the effect of incorporating the CRBORSA’s definition of beneficial owner into the AML/TF Code. S. 9 of the CRBORSA defines beneficial owners for the purposes of the AML/TF Regs and the beneficial owners of a body corporate means an individual who ultimately controls the body corporate and includes an individual who—

(a) exercises ultimate control over the management of the body corporate;

(b) ultimately owns or controls (in each case whether directly or indirectly), including through bearer share holdings or by other means, more than 25% of the shares or voting rights in the body corporate; or

(c) controls the body corporate.

(c) – Pursuant to ss. 4(1a) and 4(1b) of the AML/TF Regs as amended by s. 5 of the AML/TF (Amendment) Regulations, 2022 where a FI has not identified a beneficial owner of a legal person or is not satisfied that the individual identified is the beneficial owner, the FI must identify and take reasonable measures to verify the identity of the individual who holds the position of senior managing official in relation to the customer or third party.

Criterion 10.11 – (a) – Ss. 18(1)(a) of the AML/TF Code as amended by s. 9 of the AML/TF (Amendment) Code, 2022 requires FIs to identify beneficial owners of customers that are legal arrangements through the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership). The definition of beneficial owner as already noted incorporates the CRBORSA’s meaning specified in ss 9 to 12 of the CRBORSA. S. 11 of the CRBORSA defines beneficial owners for the purposes of the AML/TF Regs and by extension the AML/CFT Code and the beneficial owners of an Anguilla trust includes the class of beneficiaries and any individual exercising ultimate effective control over the trust whether by means of direct or indirect ownership or by other means.

(b) – S. 22A of the AML/TF Code as amended by s. 14 of the AML/TF (Amendment) Code, 2022 requires FIs to identify beneficial owners of customers that are other types of legal arrangements other than a trust or a foundation (or a legal arrangement similar to a foundation) applying ss. 18 to 21 of the AML/TF Code regarding beneficial owners of trusts. S. 12 of the CRBORSA defines beneficial owners for the purposes of the AML/TF Regs and the AML/TF Code and the beneficial owners of a legal entity or legal arrangement that does not fall within ss 9 to 11 of the CRBORSA (relating to body corporate, partnership, and trust) are—



- (a) any individual who benefits from the property of the entity or arrangement;
- (b) where the individual or individuals who benefit from the entity or arrangement have yet to be determined, the class of persons in whose main interest the entity or arrangement is set up or operates; and
- (c) any individual who exercises control over the property or management of the entity or arrangement.

Criterion 10.12 – (a) – Ss. 12A(1)(a) of the AML/TF Regs as amended by s. 10 of the AML/TF (Amendment) Regulations, 2022 outlines that as soon as the beneficiary of a life insurance or other investment related insurance policy has been identified or designated, FIs are required to take the full name of the designated person or legal arrangement. The term “person” would also include legal persons as per s. 2 of the Interpretation and General Clauses Act.

(b) – Ss. 12A(1)(b) of the AML/TF Regs as amended by s. 10 of the AML/TF (Amendment) Regulations, 2022 outlines that FIs are required to conduct CDD measures on life insurance and other investment related insurance policies, as soon as the beneficiary is identified or designated. FIs are required to obtain sufficient information on a beneficiary that is designated by characteristics or by class or by other means to satisfy themselves that they will be able to establish the identity of the beneficiary before any payment is made under the insurance policy.

(c) – Ss. 12A(2) of the AML/TF Regs as amended by s. 10 of the AML/TF (Amendment) Regulations, 2022 outlines that FIs are required to complete the verification of the identity of the beneficiary of life insurance and other investment related insurance policies, before any payment is made under the insurance policy.

Criterion 10.13 – Ss. 12A(3) and 12A(4) of the AML/TF Regs as amended by s. 10 of the AML/TF (Amendment) Regulations, 2022 outline that FIs are required to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. Additionally, if the FI determines that a beneficiary who is a legal person or a legal arrangement presents a higher risk, it is required to take enhanced measures which include reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary, before any payment is made under the policy.

Criterion 10.14 – Ss. 10(1)(a) of the AML/TF Regs requires a FI to apply CDD measures before the FI establishes a business relationship or carries out an occasional transaction. Ss. 10(5) of the AML/TF Regs as amended by s. 7 of the AML/TF (Amendment) Regs 2022 states that a FI can verify the identity of the customer and beneficial owner after the business relationship has been established if:

- (a)** – Verification of identity is completed as soon as reasonably practicable after contact with the customer is first established.
- (b)** – It is necessary not to interrupt the normal conduct of business.
- (c)** – The risk of ML and TF can and will be effectively managed.

Criterion 10.15 – S.10(6a) of the AML/TF Regs as amended by s. 7(d) of the AML/TF (Amendment) Regulations, 2022 states that a FI must not permit a customer to utilise a business relationship prior to verification unless the customer has adopted risk management procedures concerning the conditions under which the business relationship may be used. The above provision requires a customer to adopt risk management procedures concerning the conditions under which a business relationship may be used prior to verification rather than the requirement being upon the FI, as required by criterion 10.15.

Criterion 10.16 – S. 10(1)(c) of the AML/TF Regs as amended by ss 7(a) of the AML/TF (Amendment) Regulations, 2022 requires FIs to apply CDD measures to existing customers if the FI becomes aware that any circumstances of the customer material to the customer’s risk assessment have changed, or at other



appropriate times as determined on a risk-based approach. In determining when it is appropriate to apply CDD measures to existing customers, a FI must take into account, among other things the conditions listed in s. 10(1a) of the AML/TF Regs as amended by s. 7(b) of the AML/TF (Amendment) Regulations, 2022, which includes taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.

Criterion 10.17 – Ss. 12(2)(a) to (12)(2)(f) of the AML/TF Regs as amended by s. 9 of the AML/TF (Amendment) Regulations, 2022 outline the requirements for a FI to perform enhanced due diligence where the ML/TF risks are higher. Additionally, s. 12(2)(f) of the AML/TF Regs specifically mandates a FI to conduct enhanced due diligence in any other situation which by its nature can present a higher risk of ML or TF.

Criterion 10.18 – S. 14 of the AML/TF Regs as amended by s. 12 of the AML/TF (Amendment) Regs 2022 stipulates simplified CDD measures where lower risks have been identified, through an adequate analysis of risks by the respective FI. The simplified measures are commensurate with the lower risk factors and are not acceptable whenever there is suspicion of ML/TF, and there is no longer a low risk of ML and TF.

Ss. 14(1) to 14(5) of the AML/TF Regs as amended by s. 12 of the AML/TF (Amendment) Regulations, 2022 outline the simplified due diligence measures allowed in Anguilla in line with risk assessments conducted by FIs.

Criterion 10.19 – (a) – Ss. 11(1), 11(2) and 11(3) of the AML/TF Regs mandate that when a FI is unable to comply with relevant CDD measures it is required not to open the account, commence business relations or perform the transaction; or is required to terminate the business relationship. (b) – Ss. 11(4) of the AML/TF Regs mandate that when a FI is unable to comply with relevant CDD measures it is required to consider making a SAR in relation to the customer.

Criterion 10.20 – Ss. 128 – 130 of the POCA as amended by ss. 9 – 11 of the Proceeds of Crime (Amendment) Act, 2022 outline the legal duty of staff of FIs to disclose information to their MLRO or to the AFIU if they know or suspect, or have reasonable grounds for knowing or suspecting, that another person is engaged in ML, TF or criminal activity, and the aforementioned information came to them in the course of a relevant business. While the method of the disclosure is not specifically identified (e.g., SAR), it is understood that the section speaks to the filing of a SAR. However, there is no mention of FIs' consideration of the impact of their suspicion(s) of ML or TF on their CDD process, in particular if they reasonably believe that the CDD process will tip-off their customer, and provisions to circumvent the process and filing of a SAR.

Weighting and Conclusion

Anguilla has met most of the requirements for CDD measures for all customers including legal persons and legal arrangements, beneficiaries of life insurance policies, timing of verification and existing customers. There is no explicit requirement for FIs to stop the CDD process upon suspicion of ML/TF if it will result in tipping-off. Additionally, there is no requirement for FIs to adopt risk management procedures concerning the conditions under which a business relationship may be used prior to verification. The deficiencies are considered minor.

Recommendation 10 is rated Largely Compliant



Recommendation 11 – Record-keeping

Recommendation 11, formerly Rec. 10, was rated LC in Anguilla's 3rd MER since effectiveness could not be assessed due to the recent passage of the POCA, AML/TF Regs and AML/TF Code.

Criterion 11.1 – Ss. 17 and 18 of the AML/TF Regs as amended by ss. 16 and 17 of the AML/TF (Amendment) Regulations, 2022 and part 7 of the AML/TF Code outline FIs' obligations for record keeping. S. 17(2)(c) of the AML/TF Regs requires FIs to keep a record containing details relating to each transaction carried out during any business relationship or occasional transaction. S. 18(1)(b)(i) of the AML/TF Regs outlines the minimum five (5) year transaction records keeping requirement for FIs from the date on which the transaction was completed.

Criterion 11.2 - S. 17(2) of the AML/TF Regs as amended by s. 16 of the AML/TF (Amendment) Regulations, 2022 requires FIs to keep all records obtained through CDD measures, account files and business correspondence and results of any analysis undertaken. Ss. 18(1)(a)(i) and (ii) mandate that the records shall be kept by FIs for at least five (5) years following the date on which the occasional transaction is completed or the date on which the business relationship ends.

Criterion 11.3 – S. 17(3) of the AML/TF Regs and s. 35(3) of the AML/TF Code require transaction records to be sufficient to permit reconstruction of individual transactions and enable an audit trail of the movements of incoming and outgoing funds or asset movements to be readily constructed.

Criterion 11.4 – S. 7(1) of the AML/TF Regs requires FIs to keep CDD records in a form to make them available on a timely basis to the AFSC or law enforcement authorities in Anguilla when lawfully required. Additionally, ss. 34(1) and (2) of the AML/TF Code further outline the manner in which FIs should maintain their records.

Weighting and Conclusion

Recommendation 11 is rated Compliant.

Recommendation 12 – Politically exposed persons

Recommendation 12 (formerly Rec.6) was rated LC in Anguilla's 3rd MER due to the inability to assess effectiveness of implementation given the recent passage of the AML/TF Regulations and Code and the limited human resource capacity both in the FSC and at most service providers. The deficiencies were addressed by amendments to the AML/TF regulations in 2013 as per the 4th FUR and increased capacity of the FSC.

Criterion 12.1 (a) - S5 (1) of the AML/TF Regs defines a PEP to mean a foreign and domestic PEP and a person who is or has been entrusted with a prominent public function by an international organization. s.12(1) of the AML/TF Code outlines the requirement of an FI to establish, maintain and implement appropriate risk management systems to determine whether a customer, third party or beneficial owner is a foreign politically exposed person and those risk management systems should take into account that a person may become a foreign politically exposed person after the establishment of a business relationship.

(b) -Ss. 12(2) and 12(3) of the AML/TF Code require FIs to obtain board and senior management approval before establishing (or continuing, for existing customers) business relationships with foreign PEPs. S.12(3) requires that where a FI has established a business relationship with a customer and the customer, third party



or beneficial owner is subsequently identified as a PEP, the business relationship shall not be continued unless the approval of the board or senior management has been obtained.

(c) - S.12(5) of the Code requires FIs to take reasonable measures to establish the source of wealth and the source of funds of customers, third parties and the beneficial owners identified as foreign PEPs.

(d) - Ss. 12 (2) (d) & (e) of the AML/TF Regs as amended by s. 9 of the AML/TF (Amendment) Regulations, 2022 require FIs to conduct enhanced ongoing monitoring in relation to foreign PEPs or family members or close associates of foreign PEPs.

Criterion 12.2 (a) – Ss 12A(1)(a) and (b) of the AML/TF Code require a FI to take reasonable measures to determine whether a customer, third party or beneficial owner is a domestic politically exposed person or a person entrusted with a prominent function by an international organisation.

(b) - S.12(2) of the AML/TF Regs requires FIs to apply on a risk-sensitive basis enhanced due diligence measures and undertake enhanced ongoing monitoring for PEPs which by definition in s. 5(1) of the AML/CFT Regs includes domestic PEPs and persons who have been entrusted with a prominent function by an international organization. Further s. 12A(2) of the AML/TF Code states that where a FI is required to apply enhanced due diligence measures or undertake enhanced ongoing monitoring in relation to PEPs, s.12 of the AML/TF Code applies as if the person were a foreign politically exposed person. This would include the requirements of sub-criteria 12.1 (b) to (d) which are detailed in ss.12(2), 12(3) and 12(5) of the AML/TF Code.

Criterion 12.3 – S.12(6) and s.12(6) of the AML/TF Code require FIs to identify persons who are family members or close associates of foreign, domestic or international organisation PEPs. s.12(2)(d) of the AML/TF Regs requires FIs to apply on a risk-sensitive basis enhanced due diligence measures and undertake enhanced ongoing monitoring for family members or close associates of PEPs which according to s.5(1) of the AML/CFT Regs includes foreign and domestic PEPs and persons who have been entrusted with a prominent function by an international. Measures applicable to family members or close associates of foreign PEPs should not be done on a risk sensitive basis.

S.12A(2) of the AML/TF Code states that where a FI is required to apply enhanced due diligence measures or undertake enhanced ongoing monitoring in relation to PEPs (domestic and international organizations), politically exposed persons, their family members and close associates, s.12 of the AML/TF Code applies as if the person were a foreign politically exposed person. As such all the requirements of criteria 12.1 and 12.2 as set out in s. 12 of the AML/TF Code are applicable to family members or close associates of all PEPs.

Criterion 12.4 – Additional CDD measures and ongoing monitoring for life insurance policy or investment related insurance policies are provided for in ss. 12A (5) - (7) of the AML/TF Regs as inserted by s.10 of the AML/TF (Amendment) Regulations, 2022 whereby FIs are required to take reasonable measures to determine whether the beneficiaries and or the BO of the beneficiary are PEPs. Further it provides that FIs should be required to inform senior management before the pay-out of policy proceeds and conduct enhanced scrutiny on the whole business relationship with the policyholder and to consider making an STR.

Weighting and Conclusion

While most of the criteria have been met, measures applicable to family members or close associates of foreign PEPs are risk sensitive which are not in accordance with FATF requirements.

Recommendation 12 is rated Largely Compliant.



Recommendation 13 – Correspondent banking

Recommendation 13 (formerly Rec.7) was rated LC in Anguilla's 3rd MER due to inability to assess effectiveness as a result of the recent enactment of the AML/TF Code and the lack of requirements for other financial institutions that may engage in relationships similar to correspondent banking relationships. Requirements with regard to relationships similar to correspondent banking relationships were extended to other financial institutions by amendment to the AML/CFT Code in December 2013 as noted in the 5th FUR.

Criterion 13.1 – As per s. 42A of the AML/TF Code correspondent banking requirements set out in ss. 41 and 42 of the AML/TF Code are applicable to banks and to financial businesses that undertake securities transactions or funds transfers on a cross-border basis or provide finance to facilitate international trade thereby including similar relationships. **(a)** Ss. 41(c) of the AML/TF Code requires an Anguilla bank that is, or proposes to be, a correspondent bank to apply customer due diligence measures on respondent banks using a risk-based approach that enables the bank to fully understand the nature of the respondent bank's business. Additionally, ss. 14(d) of the AML/TF Code requires the Anguilla bank to determine from publicly available sources the reputation of the respondent bank and the quality of its supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action. **(b)** – Ss. 41(e) of the AML/TF Code requires an Anguilla bank to assess the respondent bank's AML/TF systems and controls to ensure that they are consistent with the requirements of the FATF Recommendations. **(c)** – Ss. 41(f) of the AML/TF Code requires an Anguilla bank to not enter into a new correspondent banking relationship unless it has the prior approval of senior management. **(d)** – Ss. 41(g) of the AML/TF Code requires an Anguilla bank to ensure that the respective anti-money laundering and counter terrorist financing responsibilities of each party to the correspondent relationship are understood and properly documented.

Criterion 13.2 (a) – S. 42(1)(a) of the AML/TF Code mandates that with respect to “payable-through accounts”, an Anguilla bank is required to satisfy itself that the respondent bank—has undertaken appropriate customer due diligence and, where applicable, enhanced customer due diligence in respect of the customers that have direct access to the correspondent bank's services. **(b)** – S. 42(1)(b) of the AML/TF Code mandates that with respect to “payable-through accounts”, an Anguilla bank is required to satisfy itself that the respondent bank is able to provide relevant customer due diligence information and verification evidence to the correspondent bank upon request.

Criterion 13.3 – S. 15(1)(a) of the AML/TF Regs as amended by ss. 13(a) of the AML/TF (Amendment) Regulations, 2022 prohibits a FI from entering into or continuing a correspondent banking relationship with a shell bank. S. 15(1)(b) of the AML/TF Regs as amended by ss. 13(b) of the AML/TF (Amendment) Regulations, 2022 requires enhanced measures to be conducted by a FI to satisfy itself that it is not entering into, or continuing, a correspondent relationship with a credit institution or FI which allows its accounts to be used by a shell bank.

Weighting and Conclusion

Recommendation 13 is rated Compliant

Recommendation 14 – Money or value transfer services

Recommendation 14 formerly SR.VI was rated PC in the 3rd MER due to non-implementation of the Money Services Business Act, no provisions for licensed or registered operators to maintain a current list of agents and no effective, proportionate, and dissuasive sanctions for breaches of the law. These short comings have been rectified as noted in the 7th FUR of May 2015.



Criterion 14.1 – Pursuant to s.3(1) of the Money Services Business Act, 2009, (MSB Act), a person is required to hold a licence to carry on money services business in Anguilla. S.1 of the MSB Act defines money services business to include: (i) the transmission of money or monetary value in any form (ii) cheque cashing, (iii) currency exchange, (iv) the issuance, sale or redemption of money orders or traveller’s cheques and (v) any other services the Minister may specify by notice published in the Gazette and (vi) the business of operating as an agent or franchise holder for a money service business. While there is no definition of the term “person” in the MSB Act, s. 2 of the Interpretation and General Clauses Act which is applicable to all legislation defines person so as to include both natural and legal persons.

Criterion 14.2- Anguilla has taken pro-active measures to identify persons carrying on unlicensed money service business and apply sanctions to such persons. Pursuant to s. 5 of the Licensing of Business Act 2021, all businesses are required to have a license to operate business in Anguilla. S.2 of the MSB Act designates the FSC as the authority responsible for licensing and supervising MVT operators in Anguilla. The business license to operate is issued by the Ministry of Finance. There is close communication between the FSC and the Ministry of Finance. The FSC requests a list from the Inland Revenue Department of companies that should be licensed/registered with the FSC as outlined in schedule 2 of the AML/TF Regulations. The Commercial Registry that incorporates companies has a list of prescribed terms/titles that can only be used if the entity is licenced by the FSC. Trust and Corporate Service Providers are also required to know the nature of business of each company that is incorporated and whether a license registration is needed from the FSC to operate. The FSC also reviews all social media platforms to identify any unlicensed business that may be operating in the space and receives information from the public.

A person commits an offence for carrying on money service business without a license. Pursuant to s.3(4) of the MSB Act, a person that does not comply with s. 3(1) of the MSB Act commits an offence and is liable on summary conviction to a fine of XCD50,000 (USD18,500) or to imprisonment for a term of 2 years or to both. This is considered proportionate and dissuasive.

Criterion 14.3 – S.1(a) of Schedule 2 of the AML/TF Regs stipulates that a person carrying on any kind of regulated business is a service provider. In accordance with s.1 of the AML/TF Regs, a regulated business requires a regulatory licence under Schedule 1 of the AML/TF Regs which includes the MSB Act. Consequently, MSBs are service providers and must comply with the AML/TF Regs and AML/TF Code in relation to AML/TF compliance.

Sec.3(c) of the FSC Act provides that the FSC monitors and enforces compliance by licensees with their AML/CFT obligations. Licensees as defined in sec.1 of the FSC Act are persons granted licences under a financial services enactment which include the MSB Act. Consequently, MVTS providers are subject to monitoring for AML/CFT compliance.

Criterion 14.4 –S.1(b) of the MSB Act defines a money services business to include the business of operating as an agent or a franchise holder of a money service business. As such pursuant to s. 3(1) of the MSB Act, an agent or a franchise holder is required to hold a licence in order to carry on money services business in Anguilla. S. 18(2) of the MSB Act requires MVTS to maintain a list of agents which must within 15 days of the end of every financial year, be filed with the AFSC.

Criterion 14.5 – S.16 of the AML/TF Regs as amended by s. 14 of the AML/TF (Amendment) Regulations 2022, and 16A of the AML/TF Regs as amended by s.15 of the AML/TF (Amendment) Regulations 2022, outline the requirements to include agents in the AML/CFT programs of MVTS providers and to monitor agents for compliance with their AML/CFT Programmes.

Weighting and Conclusion



Recommendation 14 is rated Compliant.

Recommendation 15 – New technologies

Recommendation 15 formerly R.8 was rated LC in the 3rd MER due to the inability to assess the effectiveness of the POCA, AML/TF Regs and the AML/TF Code because of its recent passage. The FATF revised R.15 in 2019 to provide for virtual assets (VAs) and virtual asset service providers (VASPs).

Criterion 15.1 - S.3 of the AML/CFT Code as amended in s.2 of the AML/CFT (Amendment) Code, 2023 require FIs to identify and assess ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products. This provision is only applicable to FIs and there is no similar country obligation for Anguilla.

Criterion 15.2– (a) and (b) S. 3 (2) (b) (iii) of the AML/CFT Code as amended by s. 3 of the AML/CFT (Amendment) Code, 2022 provides for FIs to carry out risk assessments prior to the launch of new technologies and to take appropriate measures to manage and mitigate the risks.

Criterion 15.3 – (a) Anguilla conducted its NRA which considered and assessed the inherent vulnerabilities of entities that function as VASP (as defined by FATF). The NRA assessed VASPs as '*Very High Risk*'. The analysis takes into account the nature of the business, its complexity of the product and that it is a new area in the financial sector. Additionally, one (1) operator has a physical presence in Anguilla and the other operates remotely from another jurisdiction. Anguilla did not provide information on mechanisms or provisions that require such assessments to be conducted on emerging ML/TF risks. (b) – AFSC follows a risk-based approach in order to determine the steps to be taken to mitigate the risks identified by VASPs. A review of the risk-based approach to supervision for VASPs was completed in 2nd quarter of 2023. As part of the risk-based supervision strategy, the AFSC conducts monthly reviews of transactions of VASPs. (c) – In Anguilla VASPs, also referred to as regulated businesses, are listed as service providers as per s. 1 (a) of Schedule 2 of the AML/TF Regulations. As service providers, VASPs are required under s. 3 of the AML/TF Code to take appropriate steps to identify, assess, manage and mitigate their ML and TF risks as required by c1.10 and c1.11.

Criterion 15.4 - (a)- Obligations which govern the supervision of Utility Token Issuers, administrators and exchanges can be found in the Anguilla Utility Token Offering Act, 2018 (“AUTO Act”) and the Utility Tokens Exchange Act, 2022. S. 4 of the AUTO Act provides for the registration of Issuers with the AFSC. S. 15 of the AUTO Act requires administrators to be licensed. S. 2(1) of the Utility Token Exchange Act requires the licensing of exchanges. Entities licensed under the AUTO Act as an issuer or as a utility token offering administrator and under the Utility Tokens Exchange Act are referred to as regulated businesses as per Schedule 1 of the AML/TF Regulations (amended 2022). Relevant business" as defined under s. 1 of the Externally and Non-Regulated Service Provider (ENRSP) Regs and s.1 of the AML/TF Regs and Schedule 2 as amended by AML/TF Amendment Regs 2018 includes VASP activity other than those covered by the AUTO Act. Other VASPs are required to be registered under the ENRSP Regulations as an Non-Regulated Service Provider (NRSP) subject to s.158 of the POCA. S.3 (1) of the ENRSP Regs requires a person who carries or intends to carry on a relevant business in or from within Anguilla to register that type of business. Ss. 3 (1) and (2) and S. 4 of the Digital Asset Business Act provides for when the VASP is a legal person, in the jurisdiction(s) where it is created and when the VASP is a natural person, in the jurisdiction where its place of business is located as conditions for licensing or registration. Pursuant to S. 4 of the Digital Asset Business Act, all entities licensed under the AUTO Act and the ENRSP are also subject to the Digital Asset



Business Act. AUTO Act allows for VASPs that are issuers and administrators. **(b)** – S. 17 of the AUTO Act requires the AFSC to be satisfied that utility token administrators applicants are fit and proper to engage in the proposed business. S. 1(4) of the AUTO Act defines fit & proper to include taking into account a person’s financial status or solvency, education or other qualifications, the ability to carry on the activity for which a person is responsible, reputation, satisfactory completion of exam requirements and other matters relevant to the AFSC. S.17(2) (a) of the AUTO Act requires the AFSC to grant a license to an administrator only if the applicant is a fit and proper person, has the required expertise and has appointed an auditor approved by the AFSC. During the application process, the AFSC reviews personal questionnaires and conducts checks. The same procedure is applied to the exchanges. During the application process for other VASPs and NRSPs, the AFSC reviews the personal questionnaires and does due diligence checks. S. 5 (1)(d) of the ENRSP Regs allows for the AFSC to refuse an application for registration if the applicant’s directors, senior officer, owners or associates have committed an offence which constitutes criminal conduct. This currently covers other VASPs as they are required to be registered under the ENRSP Regs.

With regard to a Utility Token Issuer, s.6(2) of the AUTO Act provides for the AFSC to refuse an application where any director, significant shareholder, officer, or any affiliates of the issuer is not fit and proper. S.10 of the Digital Asset Business Regulations 2023 requires the submission of personal questionnaires for the approval of directors and senior officers and shareholders of persons conducting virtual/digital assets business by the AFSC to prevent criminals from holding a significant or controlling interest or being the BO or holding a management function in a Utility Token Exchange or other VASPs and NRSPs. S. 2 of the Digital Assets Business Act outlines the definition and requirements of fit and proper assessment for subsequent changes in ownership, directors and management of the above entities. There is no provision under the AUTO Act or the DABA Act that provides for associates to be subject to fit and proper assessments.

Criterion 15.5 – All entities that are Utility Token Issuers, Administrators or Exchanges are required to be licensed/registered and Anguilla has measures to identify entities performing the activities without the requisite authority.

All businesses are required to have a business license pursuant to s.5(2) of the Licensing of Business Act 2021, unless they have a license under a financial services enactment. This business licence is issued by the Ministry of Finance. There is close communication between the AFSC and the Ministry of Finance. During the process of issuing a business license, the Ministry of Finance highlights the requirement to be licensed/registered by the AFSC to the applicant. Anyone who attempts to or carries on business without a license is guilty of an offence and is liable to summary conviction to a fine of XCD5,000 or imprisonment for a term of 3 months and in the case of a continuing offense a further fine of XCD250 in respect of each day the offence continues.

Further, the AFSC requests a list from the Inland Revenue Department of companies that should be licensed/registered with the AFSC as outlined in schedule 2 of the AML/TF Regulations. In addition, the Commercial Registry that incorporates companies, has a list of prescribed terms/titles that can only be used if the entity is licensed by the AFSC. The applicants are referred to the AFSC.

Trust and Corporate Service Providers (“TCSPs”) are also required to know the nature of business (as it’s an AML/CFT Obligation and to fulfil the economic substance requirements) of each company that is incorporated and whether a licence or registration is needed from the AFSC in order to operate.

Once identified, letters are sent to entities in relation to the requirements to be licensed and or registered. Additionally, the AFSC keeps abreast with all social media platforms in order to identify unlicensed business operating in the space. The AFSC also receives information from the general public.



Pursuant to s.23(2) of the AUTO Act, an administrator or issuer who commits an offence under the AUTO Act in any case is liable on summary conviction to a fine of not more than XCD50,000/USD18,403 (for body corporates) for each offence and XCD5,000/USD1840 where the person is a natural person for each offence.

S.2(2) provides for failure to obtain a license as a utility token exchange. A person would be liable on summary conviction to a fine of XCD25,000/USD9,201 or to imprisonment for 2 years or to both in the case of an individual; to a fine of XCD50,000/USD18,403 in the case of any person other than an individual; and if the offence is a continuing offence, the person is liable to further fine of XCD1000/USD369 for every day that the offence continues after conviction.

Pursuant to s.158(3) of the ENRSP, a person who operates without being registered as an NRSP is guilty of an offence and is liable— (a) on summary conviction, to imprisonment for a term of 12 months or to a fine of XCD50,000/USD18,403 or to both; or (b) on conviction on indictment, to imprisonment for a term of 5 years or to a fine of XCD100,000 or to both.

Criterion 15.6 - (a) Pursuant to s. 1 (I) of the Schedule 2 of AML/TF Regulations as amended by s.2 of the AML/TF (Amendment) Regulations, 2020, VASPs including utility token issues, administrators and exchanges are included as service providers. By virtue of being service providers entities licensed under the AUTO Act and the Utility Tokens Exchange Act are subject to supervision by the AFSC for compliance with AML/CFT requirements. The AML/CFT Risk Based Supervisory Framework outlines a risk-based supervision strategy, which includes types and frequency of onsite inspections for all entities including VASPs under the remit of the AFSC. **(b)** With regard to the supervisory powers of the AFSC see analysis of R27.

Criterion 15.7 – The AML/TF Code, Revised Regulations of Anguilla, P98-5, provides extensive guidance throughout the body of the legislation to assist the AFSC’s licensees with the interpretation of the sections of the Code in applying national measures to combat ML & TF. The Code also includes guidelines interspersed with the relevant sections of the Code.

Other guidelines issued include AML/CFT Issues Guide for Procedures Manuals, Guidelines on Combatting the Abuse of Non-Profit Organisations, Approval of Compliance Officers., Guidelines for the Conduct of Company Management Business Through an Intermediary.

Pursuant to s.6(2) (d) of the FIU Act, 2020, the FIU can provide guidelines and feedback to FIs and DNFBPs in applying national AML/CFT measures and in particular, in detecting and reporting suspicious transactions. The FIU issued Guidance notes for the filing of a suspicious activity report in February 2020.

Criterion 15.8 –S.2 of the Financial Services (Amendment) Act 2022 provides for the inclusion of S. 49A on the imposition of penalties against director or senior manager which allows the AFSC to impose a penalty against a director or senior manager of the licensee for the licensee failing to comply with its AML/CFT obligations through disciplinary violation and penalty in the sum not exceeding \$50,000. This captures licensees under the AUTO Act and the Utility Token Exchange Act. The penalty is proportionate and dissuasive. S. 2 of the Externally and Non-Regulated Service Provider (Amendment) Regulations provides for penalties to be applied and levied against directors, senior officers of other VASPs for non-compliance in fulfilling its AML/CT obligations.

Criterion 15.9 – Subject to s.1 (i) of Schedule 2 of the AML/TF Regulations as amended by s. 2 of the AML/TF (Amendment) Regulations, 2020, VASPs are referred to as service providers. As such VASPs are subject to the same AML/CFT obligations as FIs and DNFBPs and the requirements of R10 to R21 and analyses of these Rs are applicable. **(a)** - The Anguilla Utility Token Offering (XML/TF) Regulations 2018



provides for registered issuers to collect and maintain a list of subscribers and information for subscriptions ranging from USD\$5,000 – USD\$1,000,000. Pursuant to S. 3 (3) of the AML/TF (Amendment) No.2 Regulations 2023, in the case of a virtual asset provider, a single transaction or two or more linked transactions shall be regarded as an occasional transaction regardless of the amount, and the minimum amounts specified in subsection (2) do not apply. **(b)** – As service providers, VASPs will be subject to the AML/CFT obligations of R16 applicable to all other FIs and DNFBPs in Anguilla. As such the analysis in R16 is applicable. Part 4a of the AML/CFT (Amendment) (No.2) Regulations, 2023 provides for the transfers of virtual assets in relation to obligations that apply to FIs when sending or receiving virtual asset transfers on behalf of a customer.

Criterion 15.10 – By virtue of VASPs in Anguilla being categorised as service providers, VASPs are subject to supervision and the requirements in place to address TFS-TF/PF, specifically those pertaining to c.6.5, (d and e), 6.6 (g) 7.7.2(d and e), 7.3 and 7.4 are applicable to this type of activity. As such, the analysis of those criteria are also applicable here (see analysis of the applicable criteria in R. 6 and 7).

Criterion 15.11 – S.26 of the FSC Act provides for the provision of assistance to foreign regulatory authorities. Pursuant to s. 156 of the POCA, the supervisory authority shall take appropriate steps to cooperate with the Reporting Authority, law enforcement in Anguilla and any other supervisory authorities. The cooperation may include the sharing of documents and information which the supervisory authority is not prevented by law from disclosing. Ss 2,3,4 of POCA (Amendment) (No.2), 2023 and ss 2,3,4 of the Financial Services Commission (Amendment) Act, 2023 which speaks to the FSC as a supervisory authority for disclosure to a foreign AML/CFT supervisory authority. However, the law does not provide a legal basis for VASP supervisors for exchanging information with their foreign counterparts, regardless of the supervisors' nature or status and differences in the nomenclature or status of VASPs.

Weighting and Conclusion

Anguilla has created a licensing regime for VASPs with fit and proper requirements. AML/CFT obligations applicable to FIs and DNFBPs have been extended to VASPs and the deficiencies identified in the analyses of the relevant Recs are also applicable to VASPs. VASPs are subject to the regulation and supervision of the AFSC with its concomitant deficiencies. These deficiencies are considered moderate.

Recommendation 15 is rated Largely compliant.

Recommendation 16 – Wire transfers

This recommendation (formerly SRVII) was rated as PC in Anguilla's 3rd MER as there was no requirement for each intermediary and beneficiary FI to ensure that full originator information accompanied transfers. Additionally, the supervision regime and sanction powers for domestic banks and their offshore subsidiaries were ambiguous. Effectiveness could not be assessed since the POCA, AML/TF Regs and AML/TF Code were recently passed and limited supervisory actions had taken place. During the follow up process deficiencies were rectified by legislative amendments to the ENRSP Regs. and the AML/TF Code as indicated in the 5th FUR dated May 2014.

Criterion 16.1 – **(a)** – FIs are required by ss. 46(1) of the AML/TF Code as amended by s. 21 of the AML/TF (Amendment) Code, 2022 to ensure that every transfer of funds is accompanied by full originator payer information. S. 43 of the AML/TF Code as amended by s. 18 of the AML/TF (Amendment) Code defines “full originator information” to include all required details of 16.1(a)–



S. 46(3) of the AML/TF Code as amended by s 21 of the AML/TF (Amendment) Code, 2022 requires the FI of the payer to verify the full originator information.

(b) – FIs are required by ss. 46(1) of the AML/TF Code as amended by s. 21 of the AML/TF (Amendment) Code, 2022 to ensure that every transfer of funds is accompanied by full beneficiary information. S. 43 of the AML/TF Code as amended by s. 18 of the AML/TF (Amendment) Code, 2022 defines “full beneficiary information” to include all details of 16.1(b).

Additionally, s. 46(3) of the AML/TF Code as amended by s. 21 of the AML/TF (Amendment) Code, 2022 requires the FI of the payer to verify the full beneficiary information.

Criterion 16.2 – Ss. 46(2)(a) and 46(2)(b) of the AML/TF Code as amended by s. 21 of the AML/TF (Amendment) Code, 2022 outlines the requirements where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file must contain required and accurate originator information, and full beneficiary information, that is fully traceable within the beneficiary country; and the FI is required to include the originator’s account number or unique transaction reference number. Batch file transfer is defined in s.43 of the AML/TF Code as, “means several individual transfers of funds which are bundled together for transmission.”

Criterion 16.3 – Anguilla does not have a *de minimis* threshold.

Criterion 16.4 – Anguilla does not have a *de minimis* threshold, as such, these requirements are not applicable to the jurisdiction.

Criterion 16.5 – Ss. 46(1) of the AML/TF Code as amended by s. 21 of the AML/TF (Amendment) Code, 2022 requires every transfer of funds to be accompanied by full originator payer information. This requirement will therefore include domestic wire transfers. S. 43 of the AML/TF Code as amended by ss. 18(b) of the AML/TF (Amendment) Code defines “full originator information,” which covers this requirement.

Criterion 16.6 – Ss. 46(7), (8) and (9) of the AML/TF Code as amended by s. 21 of the AML/TF (Amendment) Code, 2022 mandate that in relation to the domestic transfer of funds between FIs:

- The FI of the payer is required to include the account number of the payee or a unique identifier that allows the transaction to be traced back to the payer, where the payer does not have an account number;
- The FI of the payer shall, upon request from the FI of the payee, make available to the FI of the payee the full originator information within three (3) working days, excluding the day on which the request was made; and
- Where a FI of the payer fails to comply with a request to provide the full originator information within the aforementioned three (3) working days, the FI of the payee may notify the AFSC which shall require the FI of the payer to comply with the request immediately.

Law enforcement authorities can compel the immediate production of such information (See s31.1(a).

Criterion 16.7 – Ss. 46(6) of the AML/TF Code as amended by s. 21 of the AML/TF (Amendment) Code, 2022 mandates that the FI of the payer shall keep records of full originator information on the payer and full beneficiary information that accompanies the transfer of funds for a period of at least five (5) years.



Criterion 16.8 – Ss. 46(11) of the AML/TF Code as amended by s. 21 of the AML/TF (Amendment) Code, 2022 outlines that the ordering FI should not be allowed to execute the wire transfer if it does not comply with the requirements specified above at criteria 16.1-16.7.

Criterion 16.9 – S. 48(2) of the AML/TF of the AML/TF Code as amended by s. 23 of the AML/TF (Amendment) Code, 2022 requires the intermediary FI to ensure that all originator and beneficiary information accompany a wire transfer.

Criterion 16.10 – S. 48(6) of the AML/TF Code as amended by s. 3 of the Anti-Money Laundering and Terrorist Financing (Amendment) Code 2023 states that an intermediary FI that uses a system with technical limitations which prevents the information on the payer or beneficiary from accompanying the transfer of funds shall keep records of all the information on the payer or beneficiary that it has received for a period of at least five years.

Criterion 16.11 – Pursuant to ss. 48 (6a) and (6b) of the AML/TF Code as amended by s. 23 (6)(a-b) of the AML/TF (Amendment) Code, 2022 an intermediary FI is required to take reasonable measures, consistent with straight through processing to identify transfers of funds that lack full originator or full beneficiary information. S. 48 (6B) of the AML/TF Code defines “straight through processing” as funds transfers that are conducted electronically without need for manual intervention.

Criterion 16.12 – S. 48(6c) of the AML/TF Code as amended by s. 23 (6)(c) of the AML/TF (Amendment) Code, 2022 provides for intermediary 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 16.13 – Pursuant to s. 47(2) of the AML/TF Code as amended by s. 22 of the AML/TF (Amendment) Code, the payee’s (beneficiary’s) FI is required to take reasonable measures which may include post-event monitoring or real-time monitoring where feasible, to identify funds transfers with any missing or incomplete, full originator information or full beneficiary information.

Criterion 16.14 – S. 47(2a) of the AML/TF Code as amended by s. 22(2a) of the AML/TF (Amendment) Code requires in relation to a fund transfer exceeding XCD2500 (USD925) the FI of the payee (beneficiary) to verify the identity of the payee (beneficiary) if the identity has not been previously verified and keep evidence of the identity for a period of 5 years (See ss 17 (1) and 18 (1) of the AML/CFT Regs). The above provision complies with the required threshold of USD1,000.

Criterion 16.15 – S. 47(4) of the AML/TF Code as amended by s. 22 of the AML/TF (Amendment) Code, 2022 provides for FI of the payee (beneficiary) to establish and maintain risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and the appropriate follow-up action.

Criterion 16.16 – Pursuant to s. 48A(1) of the AML/TF Code as inserted by s. 24 of the AML/TF (Amendment) Code, 2022 a MVTS provider shall comply with all the relevant requirements of Part 9 (ss. 43 to 48) Wire Transfers of the AML/TF Code in the countries in which it operates, whether directly or through its agents.

Criterion 16.17 – Ss. 48(A)(2)(a) and 48(A)(2)(b) of the AML/TF Code as inserted by s. 24 of the AML/TF (Amendment) Code, 2022 creates the requirement for money or value service providers that control both the originating FI of the payer and the beneficiary FI of the payee to: a) consider the information from both the originating FI of the payer and the beneficiary FI of the payee to determine whether a suspicious activity report should be filed (S 48A.(2) (a)); and b) file a SAR or STR in the country from or to which the suspicious



transfer of funds originated or was destined, respectively and make transaction information available to the FIU and the relevant authorities in the country.

Criterion 16.18 – FIs are required to freeze, without delay and without providing prior notice, the funds or economic resources of designated entities (s. 66 (1) CTA). However, the provisions do not oblige them to comply with prohibitions from conducting transactions with designated persons and entities in the context of processing wire transfers.

Weighting and Conclusion

There are measures in place for ordering, intermediary and beneficiary FIs involved in payment chains to conduct CDD including relevant originator and beneficiary information, verify the identity of customers and maintain records. MVTs providers and their agents are required to comply with the relevant requirements of R.16 and are required to file a SAR when necessary. Though there are measures in place for FIs to take freezing action and comply with targeted financial sanctions against designated persons, it does not provide in the context of processing wire transfers. This deficiency is not heavily weighted given the relatively low risk of TF, transactions to lower risk countries and the nature of the cross-border relationships that exist.

Recommendation 16 is rated Largely Compliant.

Recommendation 17 – Reliance on third parties

Recommendation 17 (formerly R.9) was rated PC in Anguilla's 3rd MER due to deficiencies in FIs' ability to immediately obtain necessary CDD information, the level of risk posed by introducers or intermediaries and inability to assess effectiveness due to the recent passage of the POCA, AML/TF Regs and AML/TF Code. Deficiencies were addressed by amendments to AML/TF Regs and AML/TF Code as indicated in the 4th FUR dated November 2013.

Criterion 17.1 – FIs may rely on an introducer or intermediary to apply CDD measures with respect to a customer, third party or beneficial owner (ss. 13(1) AML/TF Regs). CDD measures as defined in s. 4 of the AML/TF Regs include but is not limited to elements (a)-(c) of the CDD measures set out in Rec.10 (identification of the customer; identification of the beneficial owner; and understanding the nature of the business). In such circumstances the FI remains liable for any failure to apply these measures (ss. 13(4) of AML/TF Regs). FIs are required to:

(a) – To immediately obtain from the introducer or intermediary, CDD information concerning the customer, third party or beneficial owner required to comply with the requirements of the AML/TF Regs and AML/TF Code (ss. 13(3) of the AML/TF Regs as amended by s. 11 of the AML/TF (Amendment) Regs, 2022). CDD information is defined in s. 10(2)(a) of the AML/TF Code to include identification information on a customer, third party or beneficial owner and relationship information that includes information on the purpose and intended nature of the business relationship.

(b) – Before relying on an introducer or intermediary, obtain adequate assurance in writing from the intermediary or introducer that a record of, the evidence of identification and other relevant information relating to the CDD measures are is kept and will be provided without delay to the FI upon request (secs. 13(2)(b) and (c) of the AML/TF Regs as amended by s. 6 of the AML/TF (Amendment)(No. 2) Regs, 2023).

(c) – Satisfy themselves that the introducer or intermediary is regulated and subject to requirements in relation to CDD and record keeping equivalent to those in the FATF Recommendations and are effectively supervised



for compliance with those requirements (s. 26(1)(a) of the AML/TF Code as amended by s. 15 of the AML/TF (Amendment) Code, 2022).

Criterion 17.2 – Ss. 13(2a)(b)(i) and 13(2a)(b)(ii) of the AML/TF Regs as amended by s. 11 of the AML/TF (Amendment) Regulations, 2022 require a FI before relying on an introducer or intermediary, to consider the level of country risk for the country in which the introducer or intermediary is established. Additionally, ss. 13(2a)(b)(i) and 13(2a)(b)(ii) of the AML/TF Regs as amended by s. 11 of the AML/TF (Amendment) Regulations, 2022 mandate that a FI shall not rely on an introducer or intermediary if the introducer or intermediary is established in a country–

- (i) that is subject to any warnings issued by the AFIU or the AFSC that indicates the country presents a high risk of ML or TF, or
- (ii) the FIs, whether as a result of its own risk assessment carried out under sec.3 of the AML/TF Code or otherwise, has reason to believe presents a high-risk of ML or TF.

Criterion 17.3 – (a)-(c) – R.17.3 sets out circumstances in which relevant competent authorities may also consider that the requirements of sub-criteria 17.1 and 17.2 are met. There are no provisions in the AML/TF Regs or the AML/TF Code that relaxes the requirements in relation to R.17 for reliance on group entities. Therefore, competent authorities do not have the power to regard R.17.1 and 17.2 as met on the basis of the reduced factors set out in R.17.3. Consequently, R.17.3 is not applicable in Anguilla.

Weighting and Conclusion

Recommendation 17 is rated Compliant.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

Recommendation 18 was formerly Rs 15 and 22. Anguilla was rated C for former R.22 and LC for former R.15 in the 3rd MER. The main deficiencies were no provisions to maintain an independent audit function adequately resourced to test AML/CFT compliance and no provisions that enable the appropriate staff to have timely access customer identification and CDD information. Deficiencies were addressed by amendments to the AML/TF Code.

Criterion 18.1 – FIs are required to establish, maintain and implement risk sensitive policies, systems and controls to detect and prevent ML and TF (ss. 16(1) of AML/TF Regs). Ss. 5(2b) of the AML/TF Code as amended by s. 4 of the AML/TF (Amendment) Code, 2022 requires the policies, procedures, systems and controls to be proportionate to the size and nature of the FI's business and approved by the FI's board or senior management. The policies, procedures, systems and controls include:

(a) – The monitoring and management of compliance and appointment of an individual approved by the supervisory authority as its money laundering compliance officer (in accordance with ss. 20(1) of the AML/TF Regs) and ensure the individual is of an appropriate level of seniority (s. 20(3)(a) AML/TF Regs). Additionally, ss. 8(1)(c) - (g) of the AML/CFT Code states that the MLCO (c) possess sufficient independence to perform his role objectively; (d) have sufficient seniority in the organisational structure of the licensee to undertake his responsibilities effectively and, in particular, to ensure that his requests, where appropriate, are acted upon by the FI and its staff and his recommendations properly considered by the board; (e) report regularly, and directly, to the board and have regular contact with the board.

(b) – Ss. 16(1)(d) of the AML/TF Regulations as amended by s. 14 of the AML/TF (Amendment) Regulations, 2022 requires FIs to implement programmes against ML/TF, which have regard to the ML/TF



risks and which also include internal policies, procedures and controls relating to the screening of employees. Additionally, ss. 32(1)(c) of the AML/TF Code requires a FI to vet the competence and probity of employees at the time of their recruitment and at any subsequent change in role and that their competence and probity is subject to ongoing monitoring.

(c) – Ss. 19(1) to 19(4) of the AML/TF Regs as amended by s. 14 of the AML/TF (Amendment) Regulations, 2022 require FIs to implement programmes against ML/TF, which include internal policies, procedures and controls and an ongoing employee training programme.

(d) – Ss. 5(3) of the AML/TF Code outlines that FIs are required to implement programmes against ML/TF, which include internal policies, procedures and controls and an independent audit function to test the system.

Criterion 18.2 –

(a) – Ss. 16A(1) and 16A(2)(a) of the AML/TF Regs as amended by s. 15 of the AML/TF (Amendment) Regulations, 2022 outline that financial groups are required to implement group-wide programmes against ML/TF, which are applicable, and appropriate to, all branches and majority-owned subsidiaries of the financial group. These include the measures set out in criterion 18.1 and policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management.

(b) – Ss. 16A(2)(b) of the AML/TF Regs as amended by s. 15 of the AML/TF (Amendment) Regulations, 2022 outlines that group-wide programmes against ML/TF, should include the provision, at group-level compliance, audit, and/or AML/CFT functions, of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes. Additionally, ss. 16(2) of the AML/TF Regs as amended by s. 7 of the AML/TF (Amendment) (No. 2) Regulations, 2023 inserted the receipt by branches and subsidiaries of customer, account, and transaction information from group level compliance, audit, and anti-money laundering and anti-terrorist financing functions when necessary for AML/CFT purposes. However, these measures do not allow for the provision of information and analysis of transactions or activities which appear unusual (if such analysis was done) nor provide for branches and subsidiaries to receive similar information from the group-level functions when relevant and appropriate to risk management.

(c) – Ss 16A(2)(c) of the AML/TF Regs as amended by s. 15 of the AML/TF (Amendment) Regulations, 2022 requires group-wide programmes against ML/TF, to include adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off.

Criterion 18.3 – Ss. 9(2), 9(3), and 9(4) of the AML/TF Regs as amended by s. 6 of the AML/TF (Amendment) Regulations, 2022 mandates FIs to ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country, to the extent that host country laws and regulations permit. Additionally, if the host country does not permit the proper implementation of AML/CFT measures consistent with the home country's requirements, financial groups are required to apply appropriate additional measures to manage the ML/TF risks and inform the AFSC in writing.

Weighting and Conclusion

FIs and Financial Groups are required to implement the requirements of the recommendation except for the provision of information and analysis of transactions or activities which appear unusual (if such analysis was done) and the requirement for branches and subsidiaries to receive information from group-level functions when relevant and appropriate to risk management. These deficiencies are considered minor.



Recommendation 18 is rated Largely Compliant.

Recommendation 19 – Higher-risk countries

Recommendation 19, previously R.21 was rated PC in Anguilla's 3rd MER due to the inability to assess effectiveness as the POCA, AML/TF Regs and AML/TF Code were recently passed. Additionally, the obligation for service providers to apply enhance customer due diligence and ongoing monitoring were only applied to countries with weak AML/CFT systems. These deficiencies were addressed by amendment to the AML/TF Regs in September 2013 as reported in the 5th FUR dated May 2014.

Criterion 19.1 – S. 12(2)(b) of the AML/TFR Regs as amended by s. 9 of the AML/TFR (Amendment) 2022 provides that a FI must, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring where the FI has, or proposes to have, a business relationship with, or proposes to carry out an occasional transaction with, a person connected with a country or territory that does not apply, or insufficiently applies, the FATF Recommendations, or against which the FATF calls for countermeasures. While there is no definition of the term “person” in the AML/TF Regs, s. 2 of the Interpretation and General Clauses Act which is applicable to all legislation defines person to include any corporation, either aggregate or sole, and any club, society, association or other body, of one or more persons. As such both natural and legal persons are covered.

Criterion 19.2 – S. 23 of the AML/TFR Regs as amended by s. 20 of the AML/TF (Amendment) 2022 Regulations provides for the AFSC to give directions to FIs. Ss. 23(2)(a) and (b) of the AML/TF Regs as amended by s. 20 of the AML/TF (Amendment) Regulations allows for the AFSC to issue directions on the basis of the FATF advising that measures should be taken in relation to a country because of ML/TF risk or the AFSC has determined the same for any country independently.

Criterion 19.3 – The AFSC may from time to time— (a) issue advisory warnings to entities and professionals, advising entities and professionals of weaknesses in the AML/CFT systems of other jurisdictions; and b) publish the list of jurisdictions that have strategic AML/CFT deficiencies on the AFSC website.

Weighting and Conclusion

Recommendation 19 is rated Compliant

Recommendation 20 – Reporting of suspicious transaction

Recommendation 20 (previously Rec 13 and SR. IV) was rated ‘PC’ in the 3rd round MER due to no explicit requirement to include attempted transaction in SARs and issues regarding the effective implementation of sanctions. These deficiencies were addressed by amendments to the AML/CFT Regulations and Code along with the coming into force of the ENRSP Regulations as noted in the 5th FUR dated May 2014.

Criterion 20.1 – S. 128(1) of the POCA as amended by s. 9 of the Proceeds of Crime (Amendment) Act 2022 stipulates that where a person knows or suspects or has reasonable grounds to know or suspect that another person is engaged in ML, TF or criminal activity, he shall promptly disclose the information or other matter to the relevant money laundering reporting officer (MLRO) or the AFIU. S. 129(1)(b) of the POCA as amended by s. 10 of the Proceeds of Crime (Amendment) Act 2022 requires the MLRO for FIs to report promptly any disclosure received under s. 128 to the Reporting Authority. According to s. 118(1) of the POCA the Reporting Authority is the FIU.



Criterion 20.2 – Pursuant to s.28(1)(f) of the AML/TF Code, FIs are required to report attempted transactions and business that have been refused, regardless of the amount.

Weighting and Conclusion

Recommendation 20 is rated Compliant.

Recommendation 21 – Tipping-off and confidentiality

Recommendation 21 (formerly R.14) was rated PC in the 3rd MER as there was no protection for FIs, their directors and employees from civil and criminal liability for breach of contract for reporting STRs. In addition, the tipping-off offence did not apply to SARs that are being reported. The deficiencies were addressed by amendment to POCA in September 2013 as noted in the 4th FUR dated November 2013.

Criterion 21.1 – S. 134(3) of the POCA protects FIs and their directors, officers and employees, from both criminal and civil liability for breach of any restriction of disclosure of information, where a protected disclosure or authorized disclosure is made to the FIU. A protected disclosure or authorized disclosure, as defined in s.134(1) of the POCA, includes all STRs made to an MLRO or the FIU. Disclosures are made based on suspicion and having reasonable grounds for suspecting criminal activity (s.128(1) of the POCA); therefore, the person does not require knowledge of whether the act occurred, and neither do they need to know the specific offence. S. 12 of the FIU Act also creates an additional provision whereby no criminal or civil action suit or proceedings for breach of confidentiality may be brought against any person who, in good faith under the FIU Act or other relevant enactment, provides or transmits information requested by the Unit.

Criterion 21.2 – S. 132 of the POCA prohibits a person (natural and legal) from making a relevant disclosure, which includes the fact that an STR or related information is being filed with the FIU. This provision does not inhibit information sharing under recommendation 18.

Weighting and Conclusion

Recommendation 21 is rated Compliant

Recommendation 22 – DNFBPs: Customer due diligence

Recommendation 22 (formerly R.12) was rated PC in the 3rd MER because effectiveness could not be assessed due to the recent enactment of the AML/CFT code and effective implementation of the AML/CFT measures related to all DNFBPs could not be assessed. The deficiencies were addressed in the main part when the deficiencies for R. 5 were dealt with. Additionally, the measures for the supervision of DNFBPs were addressed by the ENRSPs Regulations, 2013 which allow for the supervision of persons providing accountancy or audit services, real estate agents, independent legal professionals and high-value dealers.

Criterion 22.1 DNFBPs in Anguilla must adhere to the same AML/CFT obligations as FIs. They are categorized as service providers under Schedule 2 of the AML/TF Regulations and are therefore required to comply with the obligations outlined in the AML/TF Regulations and the AML/TF Code. DNFBPs are required to comply with CDD requirements as set out in the analysis of R.10 with the following qualifications:

- (a) Casinos – No casinos are operating in Anguilla. Under ss. 346(1) and (8) of the Criminal Code, casinos are prohibited.



- (b) Real estate agents as set out in s. 1e(ii) of Schedule 2 of the AML/TF Regulations when involved in a transaction concerning the buying and selling of real estate.
- (c) DPMS as high-value dealers as set out in s.1 of Schedule 2 of the AML/TF Regs. S.1 of the AML/TF Regs defines high-value dealers as including persons who in the usual course of business trade in goods which include precious metals and stones, and receive at least XCD35,000 (USD12,950) or equivalent currency in a one-off transaction or multiple-linked transactions. The threshold is well within the required standard.
- (d) Independent legal professionals as defined in s.1 of the AML/TF Regs provide all services covered in this criterion except for the buying and selling of business entities. S.2 (e) of the AML/CFT (Amendment) Regulations 2023 requires lawyers, independent legal professionals and notaries to comply with AML/TF obligations when providing the said covered services. However, they are not supervised and monitored for AML/CFT purposes due to a stay on the provisions of the POCA and the AML/TF Regulations and Code by the Court concerning the obligations placed on lawyers, independent legal professionals and notaries. Accountants, though not providing any of the covered services, are subject to AML/TF obligations when providing services (s.2 (e) of the AML/CFT (Amendment) Regulations 2023). This is mitigated since accountants in Anguilla do not conduct the FATF described activities.
- (d) TCSPs are included in the AML/CFT regime as service providers in ss. (b) and (c) of Schedule 1 of the AML/TF Regulations and s.1(b) of Schedule 2 of the AML/TF Regulations. The definition of the services provided by TCSPs is in Schedule 2 of the AML/TF Regs, s.1 of the Company Management Act and s.1 of the Trust Companies and Offshore Banking Act and includes FATF activities.

Criterion 22.2 – All DNFBPs except for those subjected to the stay imposed by the Court (see c.22.1 (d) are required to comply with the same record keeping requirements as FIs. See analysis of R.11.

Criterion 22.3 – All DNFBPs except for those subjected to the stay imposed by the Court (see c.22.1 (d)) the exclusions noted in 22.1 are required to comply with the same PEP requirements as FIs. See analysis of R.12.

Criterion 22.4 – All DNFBPs except for those subjected to the stay imposed by the Court (see c.22.1 (d) are required to comply with the same requirements as FIs for R 15.1 and 15.2. See analysis of c15.1 and c.15.2.

Criterion 22.5– All DNFBPs except for those subjected to the stay imposed by the Court (see c.22.1 (d)) the exclusions noted in 22.1 are required to comply with the same reliance on third-parties' requirements as service providers.

Weighting and Conclusion

Independent legal professionals and notaries are required to comply with AML/TF obligations for providing services stipulated in the FATF requirement. However, they are not supervised and monitored for AML/CFT purposes due to a Court imposed stay on the provisions of the POCA. This is a major deficiency in Anguilla's risk and context. The AML/TF Regulations and Code by the Court in relation to the obligations placed on lawyers, independent legal professionals and notaries. Deficiencies in criterion 151 are applicable.

Recommendation 22 is rated Partly Compliant.

Recommendation 23 – DNFBPs: Other measures

Recommendation 23 (formerly R.16) was rated PC in the 3rd MER due to deficiencies identified for R.13, R.15 and R.21 in sections 3.7.3 and 3.6.3 in the report applying to DNFBPs. It was difficult to assess whether

all DNFBPs had been filing SARs due to the recent enactment of the Code and DNFBPs were not required to file SARs on attempted transactions regardless of the amount of the transactions. These deficiencies were addressed in the Code requiring service providers to implement internal controls that will require reporting with regards to attempted transactions and where businesses have been refused and there is suspicion of money laundering or terrorist financing. All measures to address R.13, R.15 and R.21 have been satisfied as noted in the 5th FUR dated May 29, 2014.

Criterion 23.1 – As noted in R.22 DNFBPs in Anguilla are partially subject to the AML/CFT regime. DNFBPs are subject to STR requirements with the following qualifications:

- (a) Lawyers, notaries and independent legal professionals are required to comply with AML/TF obligations according to s.2 (e) of the AML/CFT (Amendment) Regulations 2023, however, they are not supervised and monitored for AML/CFT purposes due to a stay by the Court on the provisions of the legislation requiring them to follow the requirements outlined in the AML Regulations and Code and the POCA. This is a major deficiency in Anguilla’s risk and context. The activities of accountants are also covered in Section 2 (e) of the AML/CFT (Amendment) Regulations 2023.
- (b) DPMS as high value dealers are subject to AML/CFT obligations, including STR requirements, under ss. 128 & 129 of POCA as set out in the analysis for R.20 when engaging in one-off or multiple-linked transactions of at least XCD35,000 (USD12,950) or equivalent currency.
- (c) TCSPs are service providers according to schedule 2 of the AML/CFT Regulations.

Criterion 23.2– All DNFBPs except for those subjected to the stay imposed by the Court (see c.23.1 (a) are required to comply with the same internal control requirements as FIs. See analysis of R.18.

Criterion 23.3 – All DNFBPs except for those subjected to the stay imposed by the Court (see c.23.1 (a) are required to comply with the same higher risk countries’ requirements as FIs. See analysis of R.19.

Criterion 23.4 – All DNFBPs except for those subjected to the stay imposed by the Court (see c.23.1 (a) are required to comply with the same tipping-off and confidential requirements as FIs. See analysis of R.21.

Weighting and Conclusion

All the activities of DNFBPs captured by this Recommendation are covered within the AML/CFT regime and independent legal professionals and notaries are required to comply with AML/TF obligations when providing the noted services. However, they are not supervised and monitored for AML/CFT purposes due to a stay on the provisions of the POCA and the AML/TF Regulations and Code imposed by the Court concerning the obligations placed on lawyers, independent legal professionals and notaries. This is considered a major deficiency in Anguilla’s context. Deficiencies in Recommendation 18 are also applicable.

Recommendation 23 is rated Partially Compliant

Recommendation 24 – Transparency and beneficial ownership of legal persons

This Recommendation (previously R.33) was rated ‘C’ in the 3rd round MER.

Criterion 24.1 –

(a) There are four types of legal persons in Anguilla and the following publicly available statutes identify and describe their forms and basic features at the noted sections:

- i. Business companies (BCs) – Business Companies Act (BCA) (Described throughout Parts 1-7), including Segregated Portfolio Companies (SPCs; previously called Protected Cell Companies) – BCA (Described primarily at Part 9, Division 2);
- ii. Limited liability companies (LLCs) – Limited Liability Company Act (LLCA) (Described in particular at Part 1, ss. 1-10);
- iii. Limited Partnerships (LtdPs) - Limited Partnership Act (LPA) (Described throughout but in particular at ss. 3-10); and
- iv. Foundations – Foundation Act (FA) (Described throughout the Act, but in particular Part 3, ss. 17-30).

General partnerships require no formalities as per the Partnership Act. They cannot own property and do not constitute distinct legal persons. They are therefore not subject to registration, however, the MoF collects basic information on the principals of general partnerships upon their mandatory licensing with the MOF.

(b) The enabling statutes, publicly available online and listed and hyperlinked from the AFSC website, identify and describe the processes for the creation of legal persons:

- i. Business companies (BCs) – BCA (Described throughout Parts 1-7; Incorporation procedures at Part 2, Division 1), including Segregated Portfolio Companies (SPCs) - BCA (Described primarily at Part 9, Division 2; Approval and Registration regime at Part 9, Division 1);
- ii. Limited liability companies (LLCs) – LLCA (Described in particular at Part 1, ss. 1-10; Creation procedures described at Part 2, ss. 11-20);
- iii. Limited Partnerships (LtdPs) - LPA (Described throughout but in particular ss. 3-10; Creation procedures described at s. 11); and
- iv. Foundations – FA (Described throughout the Act, but in particular Part 3, ss. 7-30; Part 2, ss. 3-16 describe creation procedures).

The Commercial Registry and Beneficial Ownership Registration System Act, 2022 (CRBORS Act) establishes a Registrar of Companies who is responsible for administering and maintaining an electronic registration system platform called the Commercial Registration Electronic System (CRES). It launched in April 2022. The CRES can be accessed via 3 registers:

- . Customer Due Diligence Register (CDD Register);
- i. Beneficial Ownership Register (BO Register); and
- ii. Commercial Register.

The CRBORS Act defines the beneficial ownership for bodies corporate (s. 9), partnerships (s. 10), trusts and foundations (s. 11), and other legal arrangements (s. 12). The BO Register requirements apply only to Anguilla companies, defined as BCs and LLCs (s.1 CRBORSA). The comprehensive BO information subject to mandatory registration is detailed at s. 26, Division 2, Part 4, of the CRBORS Regulations made pursuant to s. 50 of the CRBORS Act. Trust and Corporate Service Providers (TCSPs), registered with the AFSC, are exclusively empowered to populate the Registers of CRES in fulfilment of the registration requirements imposed on legal persons.

The information available to the public via the Commercial Register is limited to basic information only and does not include BO information. Access is available online. The CDD Register is accessible only to the



AFSC. The BO Register, which facilitates access to comprehensive BO information, is made available only to the AFIU, the AFSC, and the MoF.

Criterion 24.2 – The NRA includes an assessment of the ML/TF risks associated with all types of legal persons available in the country, that is: BCs (including SPCs), LLCs, LtdPs, and Foundations (Chapter 6).

Criterion 24.3 – S. 36 of the CRBORS Act establishes the publicly accessible Commercial Register to handle the registration requirements established in the individual Registry Acts (s.1 of the CRBORS Act defines Registry Acts to include the four enabling statutes of LPs indicated at c. 24.1).

The BCA sets out the registration requirements of BCs (Division 2 Articles and Bylaws). Registered articles and by-laws are required to state the name of the company, legal form and status, proof of incorporation, the name and address of the registered office, and basic regulating powers (ss.6-15 BCA). The registration of directors is required to be filed with the Commercial Registry separately (s.260 BCA).

An LLC is formed on the date specified in the certificate of formation issued by the Registrar (s.11(3) LLCA), upon the articles of formation being filed with the Registrar in the prescribed form (s.11(3) and (6) LLCA). The articles of formation must include the name of the LLC, the address of its first registered office and the name of its first registered agent (s. 11(2)(a)-(b) LLCA). The LLC (Amendment) Act 2023 adds that the identities of LLC members and managers must also be included in the articles of formation (s.3). However, the LLCA does not require that the articles of formation record the legal form and status, relevant proof of incorporation, nor basic regulating powers.

LtdPs must register by filing a statement with the Registrar in the prescribed form (ss.11(1)-(2) LLPA). The requisite statement must include the name of the partnership, the general nature of its business, and the address of the registered office (s.11(2) LLPA). The statement must contain the identities of all general partners, but not limited partners (s.11 (f) LLPA). Where one or more of the general partners is also a corporate general partner, a term which is not defined in the LLPA, the statement must include a certificate of incorporation or a certificate of registration (s.11(3) LLPA). The statement is not required to record legal form and status nor basic regulating powers.

Foundations are not compelled to register (s.14(1) Foundation Act). Where registration is sought, a declaration of establishment must be delivered to the Registrar and recorded in a separate Register of Foundations (s.13 Foundation Act). Where registration is not sought, the declaration of establishment must still be delivered to the Registrar and recorded separately in the Register of Foundations and basic and BO information is disclosable only upon an Order of the High Court or upon request by the Foundation's registered agent or the AFSC (s.14 and s.61 Foundation Act). Declarations of establishment require the name of the Foundation, its purpose, the initial property endowment, basic regulating powers, legal form and status, and the identities and addresses of Foundation Council members, the registered agent, founders/assignees and designated beneficiaries (s.4 Foundation Act). Anguilla has not demonstrated a mechanism granting public access to the Register of Foundations.

Criterion 24.4 – The BCA requires that BCs keep a register of members, including shareholders, containing the number of each class and series of registered shares by each shareholder (sec. 41). The registered articles must include the nature of associated voting rights (s.8(1)(e) BCA). The BC's registered agent must maintain the articles, and therefore all of the information set out in criterion 24.3 in relation to BCs, as well as the register of members, at its office at a location known to the Registrar and located within Anguilla (ss.80-81 BCA).



LLCs are required to keep and maintain at their registered office in Anguilla, which must be provided by a registered agent in Anguilla, a register containing the identity of every member as well as the amount of capital to which each member is entitled (s.5-6 LLCA). LLC Agreements may provide for classes or groups of members having relative rights, powers and duties (s.22 LLCA) however, Anguilla has not identified any mechanism by which LLCs are required to maintain such an agreement within a register in Anguilla nor in a manner where it is promptly available upon request.

The LLPA requires that LLPs be registered in Anguilla (s. 11) and maintain a registered agent (s. 7) and registered office in Anguilla (s.7 LLPA). The relevant information, however, is limited only to names and addresses associated with the business, the office, the agent, and the general partners.

Foundations must at all times maintain a registered agent in Anguilla (s.17 Foundation Act), however, as noted in the analysis of c. 24.3, registration is voluntary and accessible only in limited circumstances.

Criterion 24.5 – S.22 of the CRBORS Act imposes on BCs, and LLPs an ongoing duty to maintain and update BO information. Additionally, s.24 imposes the obligation on beneficial owners themselves. To ensure accuracy, s. 46 of the CRBORS Act sets out the offence of filing false or misleading information, however, there is no corresponding offence for failing to update information. It is unknown whether Anguilla has mechanisms in place to ensure that the requirements in c.23.3 and c.23.4 are accurate and updated on a timely basis for LLCs and Foundations.

Criterion 24.6 – The following enabling company formation statutes require that the following legal persons have a Registered Agent (RA), that is, a TCSP and a registered office located in Anguilla at a specified location:

- i. BCs – RA (s.80 BCA) and registered office (s. 79(1)(a) requires physical office in Anguilla; s. 79(2) indicates registration procedures for office);
- ii. LLCs – RA (s. 6 LLCA) and registered office (s. 5(1) specifies the requirement of a physical office in Anguilla);
- iii. LLPs – RA (s. 7 LPA) and registered office (s. 6(1) specifies the requirement for location in Anguilla; s.6(2) provides for that registration procedure); and

Foundations – RA (s.17 FA; Foundations are not required to have a registered office in Anguilla). TCSPs are included in the definition of “company management business” within the meaning of the Company Management Act (s.1). Company management businesses in Anguilla must be licensed (s. 4.), application to which shall be made to the AFSC (s. 5). The AFSC is empowered to gather information and documentation from licensees (s. 21 FSCA).

S.2 of the AML/TF (Amendment) Regs, 2022, incorporates by reference the definition of a BO for the purposes of the CDD Register at s. 9-12 of the CRBORS Act (s. 9 for BCs and LLCs; s. 10 for LLPs; s. 11 for Foundations).

Part 4 of the CRBORS Act sets out the BO and BO registration regime (s.16-35) for Anguilla companies, defined as BCs and LLCs, for the purposes of the BO Register. sec.17 defines a beneficial owner; s.19 imposes a duty on BCs and LLCs to ascertain BOs and obtain BO information and to make and retain a written record of BO information; s.22 imposes a duty on the BC or LLC to keep such information up to date in written records; s.24 imposes a similar obligation on other people. Ss. 6-8 of the CRBORS Act grounds access to the CRBORS registration system by the Registrar, the AFSC, and AFIU.



Criterion 24.7 – S. 19 of the CRBORS Act imposes a duty on BCs and LLCs to make and retain records on beneficial owners and BO information. As discussed above, ss.22 and 24 of the CRBORS Act imposes on BCs and LLCs the obligation to keep those records up to date. Further, s.4(5) of the AML/CFT Regs imposes an obligation on TCSPs to monitor business relationships and keep CDD document data and information up to date and relevant by undertaking reviews of existing records. The CRBORS (Amendment) Regulations 2023 (s.6) add s.26A to the CRBORS Regulations, thereby requiring TCSPs to file a notice of change in prescribed BO information within 21 days of the BCs and LLCs first becoming aware of the change. However, there is no requirement of up to date and accurate BO information for LLPs and Foundations.

Criterion 24.8 – TCSPs are required to appoint a Money Laundering Reporting Officer (MLRO) and a Money-Laundering Compliance Officer (MLCO) for legal persons (ss.20-21 AML/CFT Regulations). The broad information gathering regimes available to the AFIU (s.20 FIU Act) and the AFSC (s.21 FSC Act) allow these competent authorities to compel information on all relevant persons, including MLCOs and MLROs, for the production of relevant documentation and information, including basic and BO information.

Criterion 24.9 – The AML/CFT Regulations require TCSPs (as defined at Schedule 2) to maintain records for five years after the business relationship ends (s.18) where the records (defined at s.17, inclusive of BO information) do not relate to particular or occasional transactions. However, Anguilla has not demonstrated that other persons, authorities and entities, and the company itself, are required to maintain information and records for at least five years after the date on which the company is dissolved or otherwise ceases to exist.

Criterion 24.10 – The FIU Act provides, upon written notice from the AFIU, for disclosure of any non-privileged information from any person pursuant to an investigation under the Act (s.20(1)(b)). Such disclosures may, with the consent of the Attorney-General of Anguilla, be further disclosed to any domestic LEA (s.22(1)). This would exclude cases of predicate offences. The degree of timeliness is unknown. Part 5 of the POCA incorporated by reference in the FIU Act (s.25), endows domestic authorities, in particular police and customs officers, with normative investigative powers applicable to accessing BO information: seeking production orders (ss. 136-139), search and seizure warrants (sec. 140-141), customer information orders (secs. 142-146) and account monitoring orders (ss.147-150). Peace officers, including RAPF and Customs officials, may seek judicially authorized search warrants for BO information (s.38 Magistrate's Code of Procedure Act). No other relevant LEA powers are known. Competent authorities, both domestic and foreign, may have access to BO information pursuant to tax information exchange efforts under the TIEA or other lawful functions (s.278 BCA; s.28(1)(a) CROBORSA).

Criterion 24.11 – Anguilla prohibits all BCs, including SPCs, from issuing bearer shares and converting or exchanging registered shares to bear shares (s.37 of the BCA). Only these legal persons are share-issuing entities.

Criterion 24.12 – Anguilla permits nominee shareholders for BCs, including SPCs (s.1 of the Company Management Act), but not nominee directors. However, Anguilla has not demonstrated that there are mechanisms in place to prevent misuse of nominee shareholders.

Criterion 24.13 – Anguilla provides for liability and proportionate and dissuasive sanctions for legal and natural persons that fail to comply with BO obligations.

The AML/CFT Regulations establish an offence punishable by up to XCD 100,000 (USD3 700) for TCSPs who breach the BO information and CDD obligations articulated thereunder (sec. 10). Record keeping violations, including those related to BO information and CDD, are punishable by a fine of up to XCD 50,000 (USD7 362).



BCs are required to maintain the following business records at the office of their TCSP: articles or by-laws, register of members, register of directors, notices and documents filed by the company with the Registrar; they are also required to update the registers of directors and members within 15 days and changes to the location of the records within 14 days (sec. 87 of the BCA). Breaches of any of these obligations are offences liable for a fine of up to XCD 10,000 (USD3 700).

The FSC Act provides for: revocation and suspension of a license (s. 36), application for protection orders (s.37), and issuing directives (sec.38). The AFSC may also apply for liquidation and dissolution of a company (s.217(1)(b) BCA and s.35(2)(f) FSC Act). The AFSC is also empowered by the regime set out at Part 7 of the FSC Act to undertake disciplinary action against licensees for breaches of the FSCA, any financial services enactment, any regulatory code, or any AML/CFT obligations (s.44(1)). The associated pecuniary penalties for breaches are set out in the Administrative Penalties Regulations made pursuant to sec. 57 of the FSC Act. Fines of up to XCD5 0,000 (USD1 850) may be issued personally to Senior Managers and Directors for egregious disciplinary violations (s.2 FSC(Amendment) Act 2022 adding s.49A *et seq.*).

Criterion 24.14 – The AFIU is empowered to access BO information contained in the BO Register in satisfaction of any requests made by, or on behalf of, foreign LEAs and, where there is a BO ownership sharing agreement, foreign governments (although no such agreements are demonstrated to exist) (s.8 CRBORS Act). The FIU Act provides, upon written notice from the AFIU, for disclosure of any non-privileged information from any person pursuant to a request by a foreign FIU (s.20(1)(a)). The requirements for such a request include that an MOU between the AFIU and the foreign FIU or association of FIUs ground the request (s.21(2)(A)). However, it is not clear that any qualifying MOUs exist, or whether Egmont Group membership is sufficient for this purpose (Egmont Group is defined at s.1 but not included in the applicable provision). The CJICA provides for more expansive access to evidence for broader foreign competent authorities, but subject to limiting and time-consuming requirements: the Governor must be satisfied that an offence has been committed, criminal procedures must have been instituted, fiscal-related requests must have a treaty cooperation basis or alternatively double criminality must be satisfied, and a parallel domestic judicial order must be sought (s.5). Evidential access for BO information may be facilitated to the USA via the MLA (USA) Act. Upon written request, the AFSC is empowered to facilitate access to foreign regulatory authorities to basic and BO information and use their investigative powers to obtain BO information (s.26 FSC Act). There are no mechanisms to ensure the timely execution of foreign requests for BO information.

Criterion 24.15 – The AFSC generally monitors the quality of assistance received from foreign countries with respect to basic and BO information and the location of beneficial owners residing abroad, however, there is no mechanism that requires this and nothing specific in terms of BO information. No similar mechanisms are in place for other CAs. Anguilla is a non-reciprocal jurisdiction in terms of tax information sharing so they do not send tax-related BO information requests under the TEIA.

Weighting and Conclusion

Anguilla has mechanisms for the recording of basic and beneficial ownership information for legal persons. Basic information is available for most legal persons. While there are requirements for some legal persons to maintain BO information, there is no obligation for this information to be accurate and up to date for LLPs and foundations. Nominee shareholders are allowed, however, Anguilla has not demonstrated mechanisms to ensure they are not misused. Sanctions for non-compliance of legal persons are proportionate and dissuasive. There are significant investigative powers available for international requests for BO information, however, there are no mechanisms to ensure the timely execution of such requests. The deficiencies are considered minor.



Recommendation 24 is rated Largely Compliant.

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

This recommendation (previously R.34) was rated ‘LC’ in the 3rd round MER. The deficiencies noted concerned no evidence to demonstrate effectiveness. The sole recommendation for the mandatory registration of trusts was implemented by amendment to the AML/CFT Code in 2013 as noted in the 5th FUR dated May 2014.

Criterion 25.1 – Section 4(a) of the Trusts Act allows for the creation of a trust in Anguilla to be created *inter alia* by instrument in writing. Further, trusts in respect of land situated in Anguilla must be evidenced in writing (sec. 4(4) TA).

(a) Licensees under the Trust Company and Offshore Banking Act (TCOBA) are service providers/TCSPs for AML//CFT purposes (sec. 1(a), Schedule 2 AML/CFT Regulations). TCSPs for express trusts governed under Anguillan law must hold basic information on trustees, settlors, protectors, beneficiaries and others (sec. 18-19 of the AML/CFT Code as amended by secs 9-10 of the AML/CFT (Amendment Code, 2022). TCSPs are required to apply CDD measures and ongoing monitoring and risk assessment (sec. 10 AML/CFT Regulations) or Enhanced CDD measures and ongoing monitoring (sec. 12 AML/CFT Regulations) in higher risk contexts. Whether a trustee is a TCSP or a non-professional, they are required under the Trusts Act (s. 27(1) as amended by s. 3 Trusts (Amendment) Act 2023) to obtain adequate, accurate and up-to-date BO information on each beneficial owner of the trust (s. 2 Trusts (Amendment) Act 2023 incorporates by reference the BO definition found at s. 11 CRBORS Act). However, this requirement does not extend to settlor, protector, or anyone other natural person exercising ultimate effective control over the trust.

(b) Trustees, whether TCSPs or non-professionals, are not required to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors.

(c) Professional trustees are required to maintain basic and BO information for at least five years after their involvement with the trust ceases (ss.17-18 AML/CFT Regulations). TTCSPs are not required to retain basic information on associated service providers for at least five years.

Criterion 25.2 – Anguilla does not require that information held pursuant to this Recommendation be kept accurate and as up to date as possible and is updated on a timely basis.

Criterion 25.3 – Anguilla does not have measures in place to ensure that trustees disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold.

Criterion 25.4 – There are no legal barriers to the access of BO information of legal arrangements by the AFSC and relevant FIs and DNFBPs. The AFSC is empowered, both on their own initiative and on behalf of a foreign competent authority pursuant to an international cooperation request, to obtain from trustees, including trust companies licensed under the Trust Companies and Offshore Banking Act, any relevant documents and information (s.21 FSC Act), including BO and asset information. The AML/CFT Regulations establish CDD Measures which empower FIs and DNFBPs to take reasonable measures, on a risk-sensitive basis, to verify the identity of each BO of the customer and third party so that it is satisfied that it knows who each BO is including, in the case of a trust, taking reasonable measures to understand the ownership and control structure of it (s. 4(1(e)).



Criterion 25.5 – The AFSC is the supervisory authority for external and non-regulated service providers, including trustees and TCSPs (s.1(a) Schedule 4 POCA). For this purpose, Schedule 4 endows the AFSC with sufficiently broad production powers, including in relation to BO information, trustee residence, and assets managed by FIs and DNFBPs (s.3 Schedule 4 POCA). Judicially authorized search warrants (s.4 Schedule 4 POCA) and supervisory compliance visits (sec. 5 Schedule 4 POCA) are also available. However, Schedule 4 POCA powers are not applicable to FIs and DNFBPs (s.1(b) Schedule 4 POCA). S.20 of the FIU Act provides sufficiently broad powers to AFIU investigators to compel information, including in relation to BO information, trustee residence, and assets managed by FIs and DNFBPs. Furthermore, s.25 of the FIU Act incorporates by reference the full suite of investigative powers at Part 5 of the POCA. Powers under the FIU Act apply to a broad range of natural and legal persons, including FIs and DNFBPs. However, the FIU Act does not bear upon predicate offences.

Criterion 25.6 – The AFSC is empowered to cooperate with foreign regulatory authorities as well as domestic LEAs, including the AFIU (s.25(1) of the FSC Act). The assistance available to foreign regulatory authorities is set out at s.26 of the FSC Act and the provisions incorporated therein by statutory reference. The AFIU has direct and immediate access to the BO Register and the Commercial Register (s.8(1) CRBORS Act), limited to discharging its intelligence-related duties (s.8(2)) under the FIU Act, POCA, CRBORS, and related enactments (s.8(3)). This can be in satisfaction of requests by domestic authorities and foreign LEAs as well as foreign states under a BO sharing agreement (s.8(4)), however, no such agreements have been concluded. Where BO information is needed for evidential purposes, whether pursuant to a domestic or foreign investigation, the AFIU must avail itself of the investigative powers under Part 5 of the POCA and search warrants under s.38 of the Magistrate’s Code of Procedure and other Criminal Code-based authorizing schemes.

The FIU Act provides, upon written notice from the AFIU, for disclosure of any non-privileged information from any person pursuant to a request by a foreign FIU (s.20(1)(a)). The requirements for such a request include that an MOU or other agreement or arrangement between the AFIU and the foreign FIU or association of FIUs ground the request (s.21(2)(A)). Anguilla reports a dozen FIU-to-FIU MOUs concluded, including five completed during the assessment period, including with regional and strategic partners. The CJICA provides for more expansive access to evidence for broader foreign competent authorities, but subject to limiting and time-consuming requirements: the Governor must be satisfied that an offence has been committed, criminal procedures must have been instituted, fiscal-related requests must have a treaty basis or alternatively double criminality must be satisfied, and a parallel domestic judicial order must be sought (s.5). Anguilla has not demonstrated the applicable domestic investigative powers are available for international requests for BO information. Evidential access may be facilitated to the USA via the MLA (USA) Act, however, the rapidity of such cooperation is unclear.

Anguilla has not demonstrated a basis for rapid responses to foreign requests for BO information on trusts and other legal arrangements.

Criterion 25.7 – Anguilla has proportionate and dissuasive sanctions for TCSPs who fail to comply with their obligations. The sanctions set out in the analysis of c.24.13 apply. Furthermore, dissuasive criminal sanctions are imposed on TCSPs under the TCOBA for licensing infractions (s.10), capital maintenance obligation breaches (s.14), restriction on terms (s.20), record and book-keeping violations (s.26), failing to insure as required and where directed (s.31), and other violations of the Act (s.34). However, non-professional trustees are not subject to sanctions, as they are not subject to the obligations binding on TCSPs.

Criterion 25.8 – Trustees that fail to provide BO information in a timely manner pursuant to the broad powers conferred on the AFSC under s.21 of the FSC Act are punishable (s.64) by a fine and/or imprisonment and a



daily default fine is also available (Schedule 4). The POCA establishes judicial authority for issuance of a customer information order, directing disclosure of information (s.144), including BO information, non-compliance of which is punishable by a fine of up to XCD 100,000 (USD37 002) on summary conviction, or XCD 250,000 (USD92 505) where convicted by way of an indictment. The AFIU may demand, pursuant to written notice, non-privileged information (s.20 FIU Act), including for BO information, non-compliance of which attracts criminal liability up to a fine of XCD 25,000 (USD 9 250) on summary procedure and up to two years imprisonment and/or a fine of up to XCD 50,000 (USD18 501) where proceeded by indictment (sec. 20(4)). However, the gaps identified at c. 25.1 cascade here.

Weighting and Conclusion

Professional trustees are required to maintain basic information on trusts. Information on trusts is not required to be kept accurate and up to date and there are no measures to ensure that trustees disclose their status to FIs and DNFBPs. The AFSC and the AFIU can access BO information on legal arrangements. There are proportionate and dissuasive sanctions for noncompliance by TCSPs, not non-professional trustees. There are no applicable domestic investigative powers available for international requests for BO information for legal arrangements. Anguilla has moderate shortcomings.

Recommendation 25 is rated Partially Compliant.

Recommendation 26 – Regulation and supervision of financial institutions

Recommendation 26 formerly R23 was rated PC in the 3rd MER. Deficiencies included no fit and proper requirements for money service providers and credit unions, no AML supervision for credit unions and ineffective AML/CFT supervision of domestic banks and their offshore subsidiary banks. In addition, the ECSRC had no power to inspect and sanction its licensees within the AML/CFT remit. There were also challenges with information sharing between supervisory authorities (ECCB and FSC). The deficiencies were addressed by the 5th FUR dated May 2014.

Criterion 26.1 – S.154(1) of the POCA designates the AFSC as the supervisory authority for regulated service providers and externally regulated service providers. “Service provider” and “externally regulated service provider” are defined in sec. 1 of the AML/TF Regulations and include all FIs and DNFBPs in Anguilla. (Listed in Schedule 2 and Schedule 3 of the AML/TF Regulations.)

Ss.155(1) of the POCA states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.

Ss.3(1)(a) and 3(1)(c) of the FSC Act state the principal functions of the AFSC are (inter alia) to supervise licensees in accordance with, and enforce, the FSC Act, the financial services enactments and the Regulatory Codes and to monitor and enforce compliance by licensees and externally regulated service providers with their AML/CFT obligations.

Criterion 26.2 – *Core Principles financial institutions:*

Core Principles FIs are required to be licensed in Anguilla. Domestic banks are required to be licensed by the ECCB under s.,2(1) of the Banking Act, 2015, Act No. 6/2015 (“the Banking Act”). Offshore banks, insurance companies and intermediaries, securities exchanges, clearing agencies and market participants are required to be licensed by the AFSC (ss 4(1) of the Trust Companies and Offshore Banking Act, R.S.A. c. T60, ss.(1) of the Insurance Act, R.S.A. c. I16, ss. 6(1), 22(1) and 45 of the Securities Act R.S.A. c. S13). While there is no legislative prohibition of shell banks in Anguilla, the licensing requirements for domestic



and offshore banks including management, records and physical presence set out in s.6 of the Banking Act and Part 4 of the Trust Companies and Offshore Banking Act effectively excludes the establishment of shell banks.

Other financial institutions should be licensed or registered: Ss. (1) of the MSB Act, R.S.A. c. M104 requires a money services business to be licensed in Anguilla. Ss.3(1) of the ENRSP Regs, R.R.A. P98-6 (“the ENRSP Regs”) requires an application for registration to carry on relevant business in Anguilla. Relevant business as defined in the ENRSP Regs and the AML/CFT Regs includes all FI activities as defined by the FATF and also covers micro-lending. S.158 of the POCA requires a person except for a regulated FI, to register with the appropriate supervisory authority to carry on relevant business.

S.5 of the Mutual Funds Act, R.S.A. c. M107 (“the MF Act”) requires public funds to be registered with the AFSC. S.14 of the MF Act mandates that private and professional funds must be recognised by the AFSC under the MF Act. Furthermore, s.14(3) of the MF Act exempts private or professional funds maintained by a group of family trusts for the sole purpose of facilitating investment and without any solicitation for the sale of a right to participate in such fund from recognition by the AFSC under the MF Act. The above measures only provide for the registration of public funds, while private and professional funds need only be recognised by the AFSC and family trusts can be exempted from the requirement to be recognised. However, mutual funds defined under Part 1 of the MF Act, in particular private and professional funds, should be licensed or registered with the AFSC without exemptions.

S.18 of the MF Act requires managers and administrators of mutual funds to be licensed. However, there are a series of exemptions outlined in s.18 of the MF Act which could enable a person to be a manager or administrator of a mutual fund without a license.

Ss.3(1) of the Co-operative Societies Act, 2023 (“the Co-op Act”) requires a person to be registered to carry on the business of a co-operative society.

Criterion 26.3 – The AFSC has issued (under s.49 of the FSC Act as amended) guidelines on fit and proper persons dated January 2010 that is publicly posted on its website.

Ss.6, 8, and 9 of the guidelines explain how the AFSC performs the “fit and proper test” on individuals who are beneficial owners and controllers, directors, senior officers, key employees (including compliance officers), auditors and actuaries of an applicant and a licence holder as required by the legislation under which the applicant seeks to be, or licence holder is, licensed. Sec. 6 of the guidelines explains that an assessment of compliance with the “fit and proper” standard is both an **initial test** undertaken upon an application for a licence and a **continuing test** that is applied by the AFSC in relation to the ongoing conduct of a licence holder’s business.

Ss.35(1)(a)(vii) of the FSC Act gives the AFSC power to take enforcement action against a licensee, if, in the opinion of the AFSC, the licensee is not a fit and proper person to hold a licence. A “licensee” is defined in the FSC Act covers all FIs.

S.7(2)(e) of the Banking Act stipulates that the criteria for approval of an application for a banking licence includes a fit and proper assessment of directors and officers in accordance with s. 96 of the Banking Act and the suitability of significant shareholders. Significant shareholders are defined as holding more than 10% of the shares or owning or controlling more than 10% per cent of the voting rights of the licensed FI or its subsidiary. S.96 is extensive and includes personal and professional expertise, competency, integrity, criminal history, personal business history including associations and any involvement with regulatory actions regarding any FI.



S.19 of the Banking Act requires the written approval of the ECCB for any person acting directly or indirectly, alone or together with one or more persons to hold or acquire shares that exceed supervisory thresholds of 10, 20 or 50 per cent of the share capital or voting rights of FIs without share capital. Ss. 21(f), (g) and (h) of the Banking Act require the ECCB to investigate whether a shareholder or proposed shareholder, the board of directors of a shareholder or proposed shareholder, or the ultimate beneficial owner of shares is fit and proper in accordance with ss. 96 and 97 of the Banking Act. S.23 of the Banking Act requires persons approved by the ECCB as fit and proper, to continue to be fit and proper. S.24 gives the ECCB power to disapprove a proposed transfer of shares to a person who is not fit and proper. S.27 of the Banking Act requires banks to submit quarterly reports to the ECCB with the names and addresses of persons who own five per cent or more of voting rights, the names and addresses of the ultimate beneficial owner of nominees, the names and addresses of persons that control, acting directly or indirectly, individually, or jointly the bank. The fit and proper criteria detailed in s.96 and 97 of the Banking Act are comprehensive and provide for a satisfactory fit and proper assessment.

Ss.6(b) of the TCOBA, R.S.A. c.T60 requires the AFSC to be satisfied that the persons having any share or other interest, whether legal or equitable, in the applicant and its directors and officers are fit and proper persons as the case may be to issue an Offshore Banking Licence.

Schedule 1, Item 19 of the Trust Companies and Offshore Banking Regulations requires each shareholder, beneficial shareholder, director and comptroller, if not a director, and such other person(s) as the AFSC may require of a licence applicant to complete an addendum. The addendum contains questions to help clarify an individual's professional and criminal background, significant or controlling interest, and management function in the FI. However, the completion of the addendum by an individual appears to be at the discretion of the AFSC.

Ss. 5(3)(b) of the Insurance Act, R.S.A. c. I16 allows the AFSC to refuse an insurance licence if persons having a significant interest, whether legal or equitable, directly or indirectly, in the applicant and its directors and officers are not fit and proper persons. Significant interest is defined as a person holding 10% or more of the capital and voting rights of a company or 25% or more of a publicly traded company.

Schedule 1, Item 19 of the Insurance Regulations outlines that for a Class 'A' Insurer's Licence all beneficial owners, directors, and controllers of the applicant may be required by the AFSC to complete and submit personal due diligence information with the application outlined in Schedule 5. Schedule 5 contains questions to clarify an individual's professional and criminal background, significant or controlling interest, and management function in the FI. However, the completion of Schedule 5 by an individual is at the discretion of the AFSC and insurance intermediaries are not covered by these specific provisions.

Ss.5(5) of MSB Act, R.S.A. c. M104 outlines the criteria that the AFSC shall have regard to, in respect of each of the applicant's executive management, directors, officers and significant shareholders when considering whether an applicant is a fit and proper person to be licensed as a money services business. A significant shareholder" is defined as a person who either alone or with an affiliate or connected person, is entitled to exercise or control 10% or more of the voting power at any general meeting of the licensee or another company of which the licensee is a subsidiary.

Ss. 13(b) of the Money Services Business Act, R.S.A. c.M104 requires an applicant to submit completed copies of a personal questionnaire ("Form 2") for each executive officer, director and significant shareholder.



Form 2 contains questions to clarify an individual's professional, civil and criminal background and their interest in the licence.

Schedule 1, Item 21 of the Mutual Funds Regulations, R.S.A. c.M107 requires all directors, promoters and beneficial owners of 10% or more of the net equity of public funds to complete Schedule 4. Schedule 4 contains questions to clarify an individual's professional and criminal background, significant or controlling interest, and management function in the FI. However, Schedule 4 does not apply to private and professional funds and the cited provisions do not specifically cover mutual funds intermediaries.

Applicants for the registration of a co-operative society must complete Form 1 in Schedule 1 of the Co-operative Societies Regulations, 2023. Section IV of Form 1 must be completed by the provisional directors of the applicant and requires: their legal names and aliases; an up-to-date police record; 1-page resume including Social Security/NIS #; occupation (past 5 years), date of birth, citizenship, with two forms of ID with recent photos per individual. Notwithstanding, Form 1 does not apply to individuals who are beneficial owners, holders of significant or controlling interest, or holders of a management function (other than provisional director) in the FI.

No applicable legislative citations were provided under the relevant statutes requiring the assessment of individuals who are beneficial owners and controllers, directors, senior officers of securities entities, and micro-lenders.

Criterion 26.4 - (a) – FIs in Anguilla are regulated and supervised in line with the BCBS Principles and the IAIS Principles. Except for BCBS Principles 2 and 11, the requirements of the BCBS and the IAIS Principles are incorporated in the FSC Act, relevant FI enactment, AML/CFT legislation and AFSC policies and procedures. Anguilla has not demonstrated regulation and supervision in line with the International Organization of Securities Commission (IOSCO) Principles 24, 28, 29 and 31; and Responsibilities A, B, C and D. S.16A of the AML/TF Regulations as inserted by s.15 of the AML/TF (Amendment) Regulations, 2022 include the requirement for group level money laundering policies, procedures, systems and controls.

(b) – Schedule 1(1)(i) of the AML/TF Regulations lists a licence issued under the Money Services Business Act as a regulatory licence which is included under ss.1(a) of Schedule 2 of the AML/TF Regs as a service provider. Therefore, as a service provider, a person with a money service business licence must comply with the AML/CFT Regulations and AML/TF Code. Ss.155(2)(b) and 155(2)(c) of the POCA outline the supervisory powers of the AFSC to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations. As such, MSBs are under systems for monitoring and ensuring compliance with national AML/CFT requirements.

Criterion 26.5 – The AFSC has an AML/CFT Procedures Manual (Board approved 12 June 2023) (the "Manual") which details in Item 7 the AFSC's process for conducting on-site and off-site inspections and compliance visits of FIs or groups. The Manual is supported by the AFSC's risk-based supervisory framework (Board approved 12 June 2023) which jointly addresses the AFSC's frequency and intensity of on-site and off-site inspections and compliance visits of FIs or groups. When determining the frequency and intensity of on-site and off-site inspections and compliance visits of FIs or groups, the AFSC considers:

(a) – the ML/TF risks and the policies, internal controls and procedures associated with the FI or group, as identified by the AFSC's assessment of the FI's or group's risk profile.

(b) – the ML/TF risks present in Anguilla.



(c) – the characteristics of the FIs or groups, in particular the diversity and number of FIs and the degree of discretion allowed to them under the risk-based approach.

Criterion 26.6 – The AFSC’s risk based supervisory framework (Board approved 12 June 2023) states that the AFSC reviews the ML/TF risk rating of its service providers annually prior to the drafting of its annual work plan. There may be trigger events that can lead to a change in risk rating of a service provider. Such trigger events include but are not limited to updates in the NRA, findings from on-site inspections and off-site surveillance, material changes or events, identified typologies and trends, intelligence and publications by the FATF or other international bodies.

Weighting and Conclusion

There are no provisions for private and professional mutual funds and mutual funds intermediaries to be licensed or registered by the AFSC without exemptions. Both offshore and domestic banks are AML/CFT supervised in accordance with the applicable BCBS Principles except for BCBS Principles 2 and 11. Additionally, Anguilla has not demonstrated regulation and supervision in line with the International Organization of Securities Commission (IOSCO) Principles 24, 28, 29 and 31; and Responsibilities A, B, C and D. Furthermore, there are deficiencies in the legal provisions or regulatory measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, in mutual funds, and no measures for securities entities and micro-lenders.

Recommendation 26 is rated Largely Compliant.

Recommendation 27 – Powers of supervisors

Recommendation 27 formerly R.29 was rated PC in Anguilla’s 3rd MER. The deficiencies related to the lack of monitoring of the domestic banking sector, lack of information sharing between the ECCB and the FSC and there being no legal provisions or authority for Supervisory Authorities such as ECCB and ESCRS to conduct onsite AML/Inspections. The deficiencies were addressed by the enactment of the ENRSP Regs and implementation of the MSB Act as indicated in the 4th FUR dated November 2013.

Criterion 27.1– The AFSC is the AML/CFT supervisor and ss. 3(1)(c) of the FSC Act gives it the authority to monitor and enforce compliance by licensees and externally regulated service providers with their AML/CFT obligations. Additionally, ss.155(2)(b) and 155(2)(c) of the POCA further outline the supervisory powers of the AFSC to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations. The above provisions of the FSC Act and the POCA cover all FIs. The ECCB is the prudential supervisor for Anguilla’s domestic banks. There is an MOU in place between the AFSC (signed 26 June 2018) and the ECCB (signed 8 August 2018) which outlines that the AFSC is the local supervisory authority that has responsibility for supervision, regulation or enforcement in relation to AML/CFT matters. In accordance with s.12 of the MOU, the AFSC updates the ECCB on any AML/CFT matters that may have an effect on the domestic banks’ prudential supervision.

Criterion 27.2 – Ss. 34(3)(b) of the FSC Act allows for the AFSC to undertake compliance visits/inspections in relation to monitoring, assessing and enforcing compliance by licensees and externally regulated service providers with their AML/CFT obligations. Additionally, as per s.155(3)(b) of the POCA, sec. 5 of Schedule 4 of the POCA further outlines the supervisory powers of the AFSC to conduct compliance visits on relevant service providers. The above provisions of the FSC Act and the POCA cover all FIs.



Criterion 27.3 – Ss.21(1) to 21(10) of the FSC Act outline the AFSC’s powers to gather information and request documentation from its licensees and externally regulated service providers. Additionally, as per s. 155(3)(b) of the POCA, s.3 of Schedule 4 of the POCA further outlines the supervisory powers of the AFSC to compel the production of any information relevant to monitoring compliance with the AML/CFT requirements. The above provisions of the FSC Act and the POCA cover all FIs.

Criterion 27.4 – Ss. 35(1)(a)(ii) of the FSC Act allows for the AFSC to take enforcement action against its licensees. The enforcement action that can be taken are outlined in ss. 35(2)(a) to (f) of the FSC Act which include the powers as it considers appropriate–

- (a) revoke or suspend the licensee’s licence under sec. 36;
- (b) appoint an investigator to conduct an investigation under sec. 39;
- (c) issue a directive under sec. 38;
- (d) apply for a protection order under sec. 37;
- (e) take disciplinary action against the licensee under Part 7;
- (f) where the licensee is a company incorporated or continued under the Companies Act, apply to the Court for the liquidation and dissolution of the company under ss. 217(1)(b) of that Act.

The AFSC enacted the Administrative Penalties Regulations (the “AP Regulations”) under sec. 57 of the FSC Act on 15 December 2014. The AP Regulations outline the factors that the AFSC must consider in order to impose an administrative penalty. In addition, it outlines the categories of disciplinary violations, their description and the penalty ranges. The current administrative penalty for licensees contravening any AML/CFT obligation is XCD 15,000 (USD 5,556) to XCD 100,000 (USD 37,037). The lower end of the range of penalties cannot be considered dissuasive for large FIs.

As per ss.155(3)(b) of the POCA, s.10 of Schedule 4 of the POCA allows for the AFSC to take enforcement action against FIs for contravention of AML/CFT obligations. S.11 of Schedule 4 of the POCA allows for the AFSC to issue directives as part of an enforcement action to FIs requiring actions or measures, prohibiting, restricting, or limiting business or activities, and removing and replacing any director, key employee or person of an FI. S.12 of Schedule 4 of the POCA allows for the AFSC to appoint investigators to investigate whether there is a need for enforcement action in a relevant FI or to carry out an ML/TF risk assessment:

S.6 of the ENRSP Regulations allow for de-registration and disciplinary action for ERSPs for contravention of any AML/CFT obligation. Penalties can be imposed against a director or senior manager as outlined in s.17A of the ENRSP Regulations (as amended by the ENRSP (Amendment) Regulations, 2022). Additionally, s.2 of the FSC (Amendment) Act, 2022 inserts subsection 49A(1)(a) which gives the AFSC the power to impose an administrative penalty on a director or senior manager of a FI if–

- (a) it takes disciplinary action against the licensee under this Part in respect of a disciplinary violation that involves the failure of the licensee to comply with an AML/CFT obligation; and
- (b) it is satisfied that the disciplinary violation was committed with the consent or connivance of the director or senior manager.

Weighting and Conclusion

The FSC has measures in place to meet all the requirements of the recommendation except for the adequacy of the administrative fines for large FIs. The current administrative penalty for licensees contravening any



AML/CFT obligation is XCD 15,000 (USD 5,556) to XCD 100,000 (USD 37,037). The lower end of the range of penalties cannot be considered dissuasive for large FIs.

Recommendation 27 is rated Largely Compliant

Recommendation 28 – Regulation and supervision of DNFBPs

Recommendation 28 (formerly R.24 in the 3rd MER was rated PC due to the inadequacy of resources to allow proper supervision of the DNFBP sector. DNFBPs that were not licensed by the FSC were not monitored for compliance with AML/CFT statutes. Also, there was the inability to assess the effective implementation of the code due to its recent enactment. These deficiencies were addressed by the engagement of a regulator for the AML/CFT Unit specifically to assist with the supervision of the ENRSPs including DNFBPs.

Criterion 28.1 – S.346(1) of the Criminal Code prohibits casinos in Anguilla.

Criterion 28.2– The AFSC is the AML/CFT supervisor and s.3(1)(c) of the FSC Act gives it the authority to monitor and enforce compliance by licensees and externally regulated service providers with their AML/CFT obligations. Additionally, secs. 155(2)(b) and 155(2)(c) of the POCA further outline the supervisory powers of the AFSC to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations. Relevant service providers as defined under the AML/TF Regs include DNFBPs under Schedule 2 of the AML/TF Regs. Certain specific DNFBP activities are not included in the AML/CFT regime (See analysis of R22.1).

A stay has been placed on the provisions of the POCA and the AML/TF Regulations and Code by the Court in relation to the obligations placed on lawyers, independent legal professionals and notaries. As a result, independent legal professionals and notaries are not supervised and monitored for AML/CFT compliance. Persons providing accountancy or audit services are service providers under s. 1(e)(i) of Schedule 2 of the AML/TF Regs and are therefore subject to AML/TF obligations for these services, as well as to AML/TF obligations for providing services as stipulated in the FATF requirements pursuant to s.2 (e) of the AML/CFT (Amendment) Regulations 2023. This is mitigated since accountants in Anguilla do not conduct the FATF described activities.

Criterion 28.3 – The FSC is responsible for monitoring compliance with AML/CFT requirements of DNFBPs, except lawyers, independent legal professionals, and notaries (s.3(1)(c) of the FSC Act). Accountants are subject to AML/TF obligations for providing services as stipulated in the FATF requirements. Schedule 4 of the POCA outlines the systems in place for monitoring compliance of non regulated service providers and externally regulated service providers. Systems of monitoring compliance for TCSPs are captured in the AML/CFT Regulations 2022. Similar systems of monitoring compliance with AML/CFT by the DNFBPs are also applied to FIs.

Criterion 28.4 –

- (a) – The AFSC has adequate powers to perform its functions including powers to monitor compliance as set out in the analysis of criteria 27.2 and 27.3;
- (b) – Senior officers of DNFBPs are required to complete a personal questionnaire listing their qualifications and controlling interest in the entity. It is at this point that the AFSC can make a determination about the particular senior officer and the entity. However, no legislative measures have been referenced to support that the AFSC can make a determination about the particular senior officer and the entity to prevent



criminals or their associates from being professionally accredited, or holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function in a DNFBP;

(c) – The AFSC has sanctions available in line with Recommendation 35 to deal with failure to comply with AML/CFT requirements as per analysis in c.27.4. S.10 of Schedule 4 of the POCA allows for the AFSC to take enforcement action against service providers which includes DNFBPs. Actions include issuing directives to the relevant service provider as it considers appropriate, requiring the DNFBP to take, or not to take, such action or measures as the supervisory authority considers appropriate; imposition of a prohibition, restriction or limitation on the business or activities of the service provider; requiring that any director, key employee or person having functions concerning the service provider be removed and replaced by another person acceptable to the supervisory authority. S.11 of Schedule 4 of the POCA allows also for directives to be issued; require that any individual not perform a specified function or functions, not engage in specified employment, and not hold a specified position in the business of the service provider. S.6 of the ENRSP Regulations allows for de-registration and disciplinary action for NRSPs and the imposition of a penalty against a director or senior manager up to XCD50,000 (USD18 501) as outlined in s.17C of the ENRSP Regulations as amended by the ENRSP (Amendment) Regulations, 2022. These sanctions are considered sufficiently dissuasive and proportionate in the context of the DNFBPs in Anguilla.

Criterion 28.5 –(a) The AFSC is guided by an AML/CFT Compliance Inspection Manual which surrounds a risk basis framework. The supervision of service providers is on a risk-sensitive basis in practice. In determining the frequency of its inspections, the AFSC considers the risk rating of the licensee, nature of products and services provided, nature of the clientele, geographic reach of activities, nature of delivery channels; any activities or issues surrounding particular licensees and whether globally there are any themes which makes a particular licensee vulnerable which may warrant an inspection. The onsite examination of a service provider may comprise a full-scope examination, themed or limited examination, or follow-up examination. The AFSC makes an early decision as to which type of examination should be undertaken in each case.

(b) – The risk-based supervisory framework (AML/CFT) approved by the Financial Services Commission Board on 12 June 2023 takes into account the ML/TF profile of service providers to include DNFBPs when assessing the adequacy of the AML/CFT internal controls, policies and procedures of DNFBPs. Item 5 of the AML/CFT Manual approved by the FSC's Board on 12 June 2023 outlines the risk- based approach to supervision.

Weighting and Conclusion

Except for lawyers, notaries and independent legal professionals, all DNFBPs are subject to AML/CFT supervision. No enforceable measures have been referenced for ensuring that criminals or their associates are prevented from being professionally accredited or being the BO of a significant or controlling interest or holding a management function in a DNFBP. These deficiencies were considered moderate.

Recommendation 28 is rated Partially Compliant

Recommendation 29 - Financial intelligence units

Anguilla was rated PC for R.29 (formerly R.26) in its 3rd MER. The deficiencies cited include lack of autonomy of the FIU.

Criterion 29.1 – Anguilla established the AFIU, created by an Act of Parliament (s.3 of the FIU Act). The FIU Act, inter alia, sets out the role and functions of the AFIU. Under section 6(2)(b) of the FIU Act, the



AFIU is the central agency with the responsibility to collect, receive, request, analyse and interpret suspicious activity reports and any other reports relevant to ML, associated predicate offences and terrorist financing. In accordance with s.6(2)(e) of the FIUA, the AFIU is authorized to disseminate the result of its analysis.

Criterion 29.2 – The AFIU in accordance with s.6(b) of the FIUA is responsible for the receipt of disclosures filed by reporting entities including **(a)** Suspicious transaction reports filed by reporting entities as required by R.20 and R.23 **(b)** Any other information required by natural legislation. The FIU Act also authorises the AFIU to receive any other reports made in accordance with the Act, POCA or any other related enactment.

Criterion 29.3 – **(a)** The AFIU can obtain and use additional information from reporting entities as needed to perform its analysis properly as provided by s.20 of the FIU Act. **(b)** The AFIU has access to the widest possible range of financial, administrative and law enforcement information that it requires to properly undertake its functions. The databases to which the AFIU has access include law enforcement, financial and administrative databases to properly conduct its functions. The databases to which the AFIU has access to analyse SARs are outlined in paragraph 7 of the Procedural Policy for handling SARs and were considered to be wide-ranging. The databases include: property data, company-related information (ACORN) and tax-related data (SIGTAS), open source, law enforcement database, KYC due diligence applications IRD-related databases, data received from various Governmental Departments, Intelligence or information received from foreign FIUs and other intelligence or information.

Criterion 29.4 – **(a)** Operational Analysis is conducted by the AFIU using available and obtainable information (s.7 of Procedural Policies for the Handling of SARs). The analysis process for the AFIU is outlined in the Procedural Policies for the Handling of SARs and External Enquiries. Analysing information received is a core function of the AFIU as provided by s.6(2) of the FIU Act. **(b)** - Further to the foregoing, the AFIU is required to conduct analysis to identify trends and typologies which are considered by the assessment team to be products of analysis. Strategic analyses conducted by the AFIU are available on the AFIU website and include trends and typologies. The AFIU has also completed a strategic analysis report which was aimed at identifying ML-related trends and patterns surrounding fraud, particularly Nigerian 419 type scams and also a TF strategic report.

Criterion 29.5 – The authority to disseminate or disclose information, where the Director believes it is necessary to investigate financial crime is one of the core functions of the AFIU (s.6 (2)(e) of the FIU Act). There is no limitation as to the type of information that can be disseminated by the AFIU. Although the legislation does not restrict how the information should be disseminated or disclosed, the Procedural Policy for the handling of SARs outline the dissemination of reports both spontaneously and upon request. Moreover, Ss.21 and 22 of the FIU Act, 2020 authorise the AFIU to disclose information to foreign FIU (upon request) and to a law enforcement agency in Anguilla.

While s.6(2)(e) enables the AFIU to disclose information to domestic competent authorities or foreign counterparts in circumstances where the Director considers it relevant to investigate financial crimes, the AFIU internal Policy for the Handling SARs authorises disclosure by the AFIU for ML, TF, PF and associated criminal investigation and asset recovery investigations.

Authorities have advised that secured channels such as password-encrypted documents//codes generated by the AFIU are used to disseminate documents via the government's intranet portal to authorise personnel. Further, paragraph 8 of the procedural policy for the handling of SARs provides that all documents disseminated electronically to competent authorities in Anguilla should be password protected. Also, all documents included in an e-mail communication between the AFIU and a reporting entity shall be password



protected with the assigned unique password. Dissemination to foreign FIUs are done via the Egmont Group Secured Website (ESW).

Criterion 29.6 – (a) The AFIU has rules in place governing the security and confidentiality of information, including procedures for handling, storage, dissemination, and protection of, and access to, information. Information disseminated to foreign FIUs can only be used for a stated purpose and as such should be treated as confidential with no further dissemination to third parties without the prior written authorization of the disseminating agency (s.23 of the FIU Act, 2020). Additionally, the FIUs Procedural Policy for the handling of SARs and EE (paras 9-17 and paras 8-13 respectively) provides rules for governing the security and confidentiality of information, including procedures for handling, storage, dissemination, and protection of, and access to, information. AFIU staff members are subjected to confidentiality provisions under s.11 of the FIU Act. The authorities also provided information regarding accessing the office of the AFIU which was determined to be appropriate. Due to this report being a public document, such measures are not referenced in the same. **(b)** There are measures to ensure that AFIU staff members understand their responsibilities in handling and disseminating sensitive and confidential information. All Staff members are required to take the oath according to Schedule (S. 11) of the FIU Act, 2020 and sign a non-disclosure agreement. Staff are also vetted before being employed with the AFIU. **(c)** Physical access to the AFIU is limited to staff with appropriate security measures in place. The Information Technology system at the AFIU is subjected to different levels of control and restricted to the AFIU staff.

Criterion 29.7 – The FIU is created by statute. **(a)** The FIU has the authority and capacity to carry out its functions freely, including the autonomous decision to analyse and request information. The Director is the Chief Executive Officer and Accounting Officer and is responsible for receiving, and where permitted by the FIU Act or any other Act, requesting and analysing disclosures made to FIU. In relation to the dissemination and/or forwarding of information, the FIU has demonstrated that they have autonomous and independent decision-making power. S.6(2)(e) of the FIU Act gives the Director of the FIU “sole” consideration to make disseminations and disclosures to LEAs. Additionally, s.22 as amended provides that the FIU may disclose any information received under the Act to any law enforcement agency in Anguilla. **(b)** The Director of the FIU may, in consultation with the Attorney-General enter into an agreement and arrangement with foreign counterparts (s.19 of the FIU Act). **(c)** The Financial Intelligence Unit is an independent organisation created by Statute and is not located within an existing structure of another authority. **(d)** Pursuant to s.17 the Director shall be the chief executive officer and accounting officer of the AFIU and can obtain and deploy the resources needed to carry out its functions on an individual or routine basis. The Director is selected by the Governor following consultation with the Attorney General. The requirements for qualification and disqualification of the Director are contained in the legislation (s.17 of the FIU Act).

Criterion 29.8 – The Financial Intelligence Unit has been a member of the Egmont Group since December 31, 2006.

Weighting and Conclusion

Recommendation 29 is rated Compliant.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

Anguilla was rated “C” for R. 30 (formerly R.27) with all the requirements fully observed.



Criterion 30.1 – The RAPF is primarily employed for the prevention and detection of crime and the repression of internal disturbance (s.3(2) of the Police Act). This will include the investigation of all predicate offences. Anguilla FIU is a hybrid type FIU consisting of an intelligence and investigation division (s.3 of the FIU Act). One of the functions of the AFIU is to conduct financial investigations including ML and TF investigations pursuant to the POCA and any other related enactments (s.6(2)(a) of the FIU Act). AFIU investigators are serving RAPF officers who get their authority to investigate ML associated predicate offences and TF not only from s.6(2)(a) of the AFIU Act but also from s.3(2) of the Police Act. In relation to any assigned matter, Customs officers have the same powers as police officers (s.7(2) Customs Act).

Criterion 30.2 – S.6(2)(a) and (f) of the AFIU Act adequately address the requirement of the criterion. These sections empower the AFIU to conduct separate or parallel investigations relating to ML and TF and cause to be investigated any person reasonably suspected of being involved in the commission of financial crimes at the request of the AG, Commissioner of Police or other public body. The RAPF is authorised to investigate all crimes but in practice refers ML/TF investigations to the AFIU. Similarly, Customs officers have the same powers as RAPF officers but refer these matters to the AFIU for investigation.

Criterion 30.3 – The AFIU is the competent authority charged with the responsibility for expeditiously identifying and tracing properties that can be subject to freezing or seizure including properties that are or may become subject to confiscation including via civil recovery proceedings or is the suspected proceeds of crime (s.6(2)(a) of the FIU Act). The AGC and RAPF are also empowered by legislation to identify, trace, and initiate the freezing and seizing of property that is, or may become, subject to confiscation, or is suspected of being proceeds of crime. The AGC, being the Civil Recovery Authority, has the power to initiate recovery orders and freezing orders upon application to the Court. The RAPF is authorized under part 5 POCA to identify, trace, and initiate freezing and seizing of property suspected of being proceeds of crime. Freezing, restraint and seizing mechanisms are subject to judicial processes (see analysis in R.4 for a detailed analysis of the confiscation and provisional measures).

Criterion 30.4 – There are no non-LEAs in Anguilla that are designated to pursue financial investigations into predicate offences or financial crimes.

Criterion 30.5 – Anguilla does not have a separate anti-corruption enforcement agency. The RAPF is responsible for the investigation of the predicate offence of corruption whilst the AFIU has the responsibility for conducting parallel financial investigations. However, as police officers the AFIU may also investigate corruption.

Weighting and Conclusion

Recommendation 30 is rated Compliant.

Recommendation 31 - Powers of law enforcement and investigative authorities

Anguilla was rated “C” for R. 31 (formerly R.28) with all the requirements fully observed.

Criterion 31.1 – The AFIU, RAPF, and Customs Department, have the power under s.136-151 of the POCA to obtain necessary documents and information for investigations, prosecutions, and related actions. :

(a) Production Orders allow for the production of records held by FIs, DNFBPs and other natural or legal persons (S.136-137 of POCA), following an application from a police officer (including a customs officer). A judge may make a production order, if he is satisfied, that there is reasonable ground for suspecting that in the case of an ML investigation, the person specified in the order commits an ML offence, or in the case of a



criminal recovery investigation, the person specified in the order benefitted from his criminal conduct. A criminal recovery investigation includes an investigation into all criminal conduct. Criminal conduct is conduct which constitutes an offence and therefore includes TF (s.1 POCA).

(b) As it relates to the ability to search persons and premises, Search and Seizure Warrants under secs.140-141 of POCA enables a police officer to search the premises of a person subject to a criminal recovery or an ML investigation or property that is subject to a civil recovery investigation. A criminal recovery investigation includes an investigation into all criminal conduct which includes TF. Additionally, powers under s.107 of POCA enable a police officer to search premises as reasonably required for finding cash. Further provisions are made in the Police Act (s.20(d)) which applies to specified conveyances such as aircraft in circumstances where stolen, unlawfully obtained and/or smuggled goods may be found. Regarding the IRD, a police officer has all the powers of a compliance officer (s.20 of the IRD Act) while retaining all their vested powers. Provisions for searches in the IRD and Customs Act (s.98-100 Customs Act, s.22 of the IRD Act) apply to offences under the respective legislation.

(c) Pertaining to the power to take witness statements, s.75 of the Magistrate Code of Procedure Act 2022 (amendment) Act 2022 and s.32 of the Criminal Procedure (Amendment) Act 2022 allow for the recording of statements by AFIU, RAPF, Customs Department, IRD and Immigration Department.

(d) Search warrants are used to obtain and seize evidence (see detailed analysis in sub-criterion (b) above). Seizing and obtaining evidence is permitted as Search Warrants under s.140-141 of the POCA and provides for the seizure of evidence in ML, associated predicate offences and TF investigations. Additionally, the AFIU has powers under s.8 of the FIU Act 2020 to arrest, seize and search pursuant to their function under said Act which also includes investigation into ML, predicate offences and TF. S.133 of the Customs Act empowers a customs officer to detain and seize anything liable to forfeiture which in some instances will not include evidence. However, pursuant to s.7(2) of the Customs Act, customs officers have the same powers as police officers.

Criterion 31.2 (Met) –

(a) *Undercover operations:* Under the general police powers, the AFIU can conduct undercover operations as part of its written policy authorised by the Executive Council.

(b) *Intercepting communication:* Under s.54 of the Telecommunications Act, the Governor may issue orders to operators of telecommunications networks and providers of telecommunications services to intercept communications and provide competent authorities with information or assistance.

(c) *Accessing computer systems:* Production Orders under s.137 of the POCA can be used to access information held in a computer system (s.139).

(d) *Controlled delivery:* Under the general police powers, the AFIU can carry out controlled deliveries as part of its written policy authorised by the Executive Council.

Criterion 31.3 (Met) –

(a) S.20 of the FIU Act provides that the AFIU may, by written notice require any person to provide the AFIU with information for an investigation under the FIU Act. A time limit of five days is given to respond to requests under this section. A customer information order can be obtained pursuant to s.143 and 144 of POCA to identify, in a timely manner, whether natural or legal persons hold or control accounts.



(b) Customer information orders and production orders can also identify assets. These orders are obtained *ex parte* under the POCA, thus, no prior notification is given to the owner. These orders can be obtained by the RAPF, FIU and Customs Authority.

Criterion 31.4 – The AFIU, which is a hybrid FIU, is responsible for conducting financial investigations including ML, associated predicate offences and TF investigations (see R.30). Pursuant to s.22 of the FIU Act, the AFIU may disclose any information it received to any law enforcement agency in Anguilla. Guidelines for the disclosure and requesting of intelligence are provided in the AFIU’s Procedural Policy for the Handling of an External Enquiry. The AFIU also established MOUs with Customs, Immigration and IRD to facilitate the exchange of information upon request.

Weighting and Conclusion

Recommendation 31 is rated Compliant.

Recommendation 32 – Cash Couriers

In the third round MER, this was rated partially compliant under SR. IX Cross Border Declaration & Disclosure on account that cross-border transactions were not yet computerised and therefore, not readily available to law enforcement authorities in Anguilla and there was no training in anti-terrorism issues.

Criterion 32.1 – Anguilla has a declaration system in place. Individuals entering or leaving Anguilla with currency, cheques or monetary instruments exceeding XCD27,000 (USD10 000) or the equivalent in any currency or combination of currencies must declare them (s.89(2) Customs Act). As far as physical cross-border transportation through post is concerned, persons receiving letters or postal packages or posting letters and postal packages for transmission abroad which contain currency, cheques monetary instruments, or a combination of currencies, are mandated to declare and make a report of same (Customs Act s.32 (3)).

Criterion 32.2 – Persons entering and leaving Anguilla with currency, cheques or monetary instruments exceeding XCD27,000 (USD10 000) are required to declare same via a written declaration form as prescribed by s.1 of Customs (Currency Report) Regulations Revised Regulations of Anguilla C169-10. An oral declaration system is also in place under s.89(2)(b) of the Customs Act, whereby persons entering or leaving Anguilla are required to answer such questions as the relevant officer may put to him with respect to his baggage and anything contained therein or carried with him. Failure to declare anything as required under s.89 of the Customs Act is an offence.

Criterion 32.3– Anguilla employs a written declaration system on the prescribed form pursuant to s.1 of Customs (Currency Report) Regulations, this includes a certification that the statements made in the form are true. However, s.89(2)(b) of the Customs Act requires a person entering or leaving the jurisdiction to provide the authorities with appropriate information upon request.

Criterion 32.4– s.106 of the Customs Act provides general provisions whereby any customs officer may require the importer, exporter or other person concerned in the importation or exportation of goods to furnish him with any information relating to such goods. Whilst this provision is sufficiently wide to include circumstances involving false declarations there is no specificity that the definition of goods under the Customs Act includes currency, cheques or monetary instruments. However, pursuant to s.89(2)(b) of the Customs Act persons, may be required to answer such questions as the proper officer may put to him with respect to his baggage and anything contained therein or carried with him. This provision is also broad enough to give authority to customs officers to request and obtain further information upon discovery of a false declaration or a failure to declare currency or BNIs.



Criterion 32.5 – Pursuant to s.89(3) of the Customs Act, any person failing to declare any currency or BNI as required under this section is guilty of an offence and is liable to a fine of XCD10,000 (USD7,400) or three times the value of the thing not declared. A person who makes an untrue declaration is guilty of an offence and will be liable to a fine of XCD10,000 (USD7 400), and any goods in relation to which the document or statement was made are liable to forfeiture. Additionally, a person who knowingly or recklessly makes an untrue statement may be guilty of an offence and will be liable to a fine of XCD20,000 (USD14 800), or to imprisonment for a term of two years or both (s.116 of the Customs Act). These sanctions are assessed as proportionate and dissuasive.

Criterion 32.6 – Information obtained through the declaration/disclosure process is available to the AFIU as the MOU between the AFIU and Customs Department requires Customs to deliver copies of the completed 'Reports of International Transportation of Currency or Monetary Instruments' to the AFIU for review and analysis and provide unfettered access to the electronic database which contains the related data. Additionally, Customs submits suspicious activity reports concerning suspected illegal or criminal activities or breaches of the Customs Act to the AFIU. The MOU also provides for all Customs cash seizures to be reported to the AFIU.

Criterion 32.7 – MOUs and MMOUs have been established to achieve adequate co-ordination between the Customs Department, the Immigration Department, and other related authorities, including the FIU and the RAPF, related to the implementation of Recommendation 32. The three most relevant such mechanisms are: the MOU between the Customs Department and the AFIU; the MMOU between the Customs Department, the Immigration Department and the RAPF; and the MMOU establishing the Joint Intelligence Working Group between the Customs Department, the RAPF, and the AFIU. Generally, these mechanisms facilitate information sharing, mutual support and co-operation between the applicable departments in law enforcement matters, including by: ensuring parties communicate physically, electronically or virtually where necessary to facilitate the exchange and development of trends, typologies and targets; collaborate on initiatives in relation to the investigation of financial crimes; the sharing of expertise; enhancing the role of the Customs Department in the control of the import and export of goods; preventing ML/TF; and cooperating with national and international LEAs in customs-related matters.

Criterion 32.8- (a) & (b) - The POCA enables police and customs officers to seize currency where there are reasonable grounds to suspect that they were obtained through, or intended for use in, criminal conduct, including ML, TF and predicate offences (s.106-109) for an initial reasonable period of 72 hours. However, this is limited to cases where the value of cash is at least XCD 500.00 (USD 185.00) (s. 106(b) of the POCA and s. 29 of the AML Regulations made pursuant to s.168 of the POCA). There is no provision to stop and restrain BNI where there is suspicion of ML/TF. There is no specific provision for seizure in cases of making a false declaration or disclosure, but Anguillan authorities noted and assessors accepted that in practice the provision of false information would normally be grounds for suspicion of ML activity triggering the power to seize the assets. The NRA identified a high ML risk associated with cross-border currency transportation.

32.9 – Anguilla's declaration and disclosure system allows for international co-operation and assistance, in accordance with Recommendations 36 to 40. To facilitate such co-operation, the Customs Department collects and makes available to the AFIU (see c.32.6) which retains, pursuant to s.30 of the FIU Act: (a) all declarations, which include the names, amount of currency or BNIs declared and identification data of the bearer, including (b) where there is a false declaration; and (c) where there is a suspicion of ML/TF. The FIU Act requires the AFIU to retain this information for a minimum of five years. This allows for international cooperation and assistance through applicable provisions of the Egmont Group, INTERPOL, and other formal and informal transnational co-operation regimes (see R. 40).



Criterion 32.10 – Anguilla provides adequate safeguards to ensure proper use of the information collected through its disclosure and declaration system. Pursuant to s.11 of the FIU Act, persons employed in the administration of the FIU Act, and persons to whom information is communicated pursuant to the provisions of the FIU Act, are bound to regard such information as being secret and confidential. Also, pursuant to s.23(2) of the FIU Act, information cannot be transmitted or used for any purpose other than those within the scope of the agreement which permitted the information to be shared. The MOU and MMOUs referenced above at c.32.7 provide for strict safeguards to ensure proper use of information shared, including information gathered by the Customs Department’s declaration/disclosure systems, with the RAPF, the Immigration Department, and the AFIU. Information held exclusively by the Customs Department is subject to an obligation of secrecy, breach of which is a criminal offence (s.5 Customs Act). The safeguards do not appear to restrict trade payments or limit the movement of capital.

Criterion 32.11 (*Mostly met*) -

(a) - Persons carrying out physical cross-border transportation of currency or BNIs that are related to ML/TF or predicate offences may be prosecuted directly for ML, TF, or predicate crimes, should the facts give rise to it. The sanctions for ML are effective, proportionate and dissuasive (see analysis 3.10 and 3.11). However, deficiencies exist in the TF sanctions (see analysis c.5.6 and 5.7). The deficiency has a cascading impact on this criterion. This deficiency was nevertheless considered minor given the TF risk profile of Anguilla.

(b)- The Magistrate’s Court may order the forfeiture of the cash, or any part of it if satisfied that the cash or part thereof is recoverable. Furthermore, recoverable property is subject to confiscation consistent with Recommendation 4 (see R.4 analysis).

Weighting and Conclusion

Anguilla has a robust technical regime to address the cross-border movement of cash and BNIs. Cash that is suspected to be related to ML/TF or found in cases where there is a false declaration can be stopped and detained for a reasonable time. This was heavily weighted since the risk of ML via cross-border cash transportation was assigned a high-risk rating in the NRA. Sanctions relative to cash that is suspected to be related to TF nevertheless represent a deficiency, considered minor in light of Anguilla’s risk profile. There is no legal basis to stop and restrain BNIs on suspicion of ML/TF or cash and BNIs where there is a false declaration. The latter was considered a minor deficiency because in practice those cases are typically associated with suspicion of ML/TF activity. There is also a minor deficiency relative to the cash seizure threshold when the currency is suspected to be related to ML/TF.

Recommendation 32 is rated Largely Compliant

Recommendation 33 – Statistics

Recommendation 33, formerly 32, received a partially compliant rating in the 3rd MER due to Customs not maintaining statistics on cross-border transportation of currency and bearer negotiable instruments and a lack of statistics being maintained on cross-border incidents prior to 2008, which facilitates continued and timely access to information by Police, the FIU and other competent authorities.

Criterion 33.1 – Anguilla maintains comprehensive statistics on matters relevant to the effectiveness and efficiency of their AML/CFT systems. (a) (*Met*) The AFIU, pursuant to s.6(2)(b) of the FIU Act is responsible for collecting and maintaining intelligence databases relative to disclosures of information received including statistics on SARs received and intelligence disseminated. The AFIU is required to retain information and agreements for five years pursuant to s.30 of the FIU Act, 2020. (b) (*Met*) The authorities have demonstrated



that statistics on ML/TF investigations and prosecutions are maintained. The Magistrates' Court maintains statistics on ML/TF convictions. S.276 of the Magistrate's Code of Procedures Act provides that the Magistrate or his clerk shall keep a register of the minutes or memoranda of all the convictions and orders of the Magistrate, and of such other proceedings as are directed by a rule under this Act. This includes ML/TF convictions. (c) *(Met)* The AFIU's Policy for the Management of Assets Recovered through Criminal and Civil Recovery provides for the maintenance of accurate and comprehensive records of all assets seized, held, confiscated, forfeited or returned. (d) *(Met)* S.6(2)(b)(ii) of the FIU Act, 2020 requires the AFIU to maintain intelligence databases on reports made or received. This includes statistics on mutual legal assistance or other international requests for co-operation made and received.

Weighting and Conclusion

Recommendation 33 is rated Compliant.

Recommendation 34 – Guidance and feedback

This Recommendation, formerly R.25, was rated PC in the 3rd Round MER as the Guidance Notes did not contain sector-specific information. The effectiveness of the newly issued Guidance provided in the AML/TF Code could not be assessed due to the recency of the passage of the Code.

Criterion 34.1– The AFSC has published guidelines on its website concerning topics such as financial sanctions, record retention, corporate governance, licensing and approval of compliance officers.

These guidelines assist FIs and DNFBPs in applying national AML/CFT measures.

The AFIU can provide guidance and feedback to FIs and DNFBPs in applying national AML/CFT measures and in particular, in detecting and reporting suspicious transactions under s.6(2)(d) of the FIU Act, 2020. The AFIU provides interim and/or final feedback to each reporting entity during or after the complete analysis of any report submitted. Feedback may also include guidance on the quality of SARs, content, indicators and outcome of matters.

Additionally, the AFIU provides general feedback to reporting entities in the form of annual reports which provide an analysis of SARs, trends and typologies and by conducting training and awareness seminars. The AFIU issued Guidance Notes on the filing of a suspicious activity report in February 2020 and issued notices with regard to financial sanctions issued by the OFSI and FCDO, United Kingdom Government. The notices provide guidance on the actions to be taken in the event of an addition, removal or amendment to the Consolidated List with respect to financial sanctions. Additionally, guidance relative to understanding and complying with financial sanctions was published in December 2022 by all agencies (through the Governor's Office).

Weighting and Conclusion

Recommendation 34 is rated as Compliant.

Recommendation 35 – Sanctions

This Recommendation, formerly R.17, received a PC rating in the 3rd Round MER due to the ECCB not having the power to sanction for AML/CFT breaches and applicable sanctions being applied where breaches were discovered during an examination. The sanction powers available to the ECCB were not congruent to



those available under the POCA framework for AML/CFT breaches. Applicable sanctions under the POCA and the Code were new; therefore, effectiveness could not be properly tested.

Criterion 35.1 – Anguilla has a range of proportionate and dissuasive sanctions, whether criminal, civil or administrative, available to deal with natural or legal persons that fail to comply with the AML/CFT requirements of Recommendations 6, 8, and 9 to 23.

Schedule 1 of the CTA sets out the sanctions for breaches of the AML/CFT requirements of Recommendation 6. Sanctions apply to legal and natural persons (s.1 Schedule 1 CTA). Breach of the obligation to freeze funds and economic resources of designated entities (but not designated persons) is punishable by up to five years imprisonment and/or a fine not exceeding XCD 100,000 (USD37 000) by summary procedure and up to seven years imprisonment and/or a fine not exceeding XCD 250,000 (USD95 505) by indictment (s.2 Schedule 1 CTA). The same criminal sanctions are available under Schedule 1 of the CTA for: making funds or economic resources or financial or similar services available to a designated entity (but not designated persons) (s.3 - 6 Schedule 1 CTA). These AML/CFT breaches do not apply outside of Anguilla or when done under license (s.7(a) and (b) Schedule 1 CTA). Fraudulently obtaining a license (s.9(7) Schedule 1 CTA) and circumventing prohibitions and freezing orders (s.10 Schedule 1 CTA) are subject to the same penalties while breaches of licensing conditions are subject to a lower penalty regime: a maximum of three years imprisonment on summary conviction and five years' imprisonment on indictment, in addition to the same fine regimes (s. 9(8) Schedule 1 CTA). A breach of the reporting requirements of relevant institutions, including FIs and DNFBPs, is punishable on summary conviction to a fine of up to XCD 100,000 (USD37 000) (s.13 Schedule 1 CTA). Failure to comply with a gubernatorial request for information is punishable on summary conviction of up to three years imprisonment and/or a fine of up to XCD 100,000 (USD37 000) (s.16 Schedule 1 CTA).

The NPO Regulations (made pursuant to s.161 of the POCA) set out five criminal offences applicable to NPOs for non-compliance with the relevant AML/CFT requirements. Breach of the requirement to register is punishable on summary conviction to a fine not exceeding XCD 50,000 (USD18 501) (s.5 NPO Regulations). Record-keeping obligations are punishable on summary conviction to a fine not exceeding XCD 20,000 (USD7 400) (s.11 NPO Regulations). Failure to comply with a lawful records request from the NPO Supervisor, that is, the AFSC, as well as failing to provide a lawful explanation for such failure to request, is punishable on summary conviction of a fine up to XCD 50,000 (USD18 501) (s.12 NPO Regulations). False and misleading information submitted for the purpose of the NPO Regulations is punishable on summary conviction of a fine of up to XCD 50,000 (USD 18 501) (s.13 NPO Regulations).

The failure to apply CDD where required (s.10 (7) AML/TF Regulations) and when required (s.11(7) AML/TF Regulations), and breach of enhanced CDD requirements are liable for a criminal fine on summary conviction up to XCD 100,000 (USD37 002). Record-keeping violations on the part of service providers are punishable on summary conviction of a fine not exceeding XCD 50,000 (USD18 501) (s.17(8) AML/TF Regulations). This criminal sanction is also applicable to the regulatory requirements to implement risk-based policies, procedures, systems, and controls to detect ML/TF (s.16(7) AML/TF Regulations); provide/undertake necessary and relevant training (s.19(4) AML/TF Regulations); and appoint a Money Laundering Compliance Officer (s.20(10) AML/TF Regulations). The AFSC may give directions to financial businesses (s.23 AML/TF Regulations) to apply enhanced CDD, to undertake ongoing monitoring, to provide information, and to terminate customer relationships (s.24(1) AML/TF Regulations), the non-compliance of which is a criminal offence (s.26 (1) AML/TF Regulations). For legal persons, this is punishable by either a fine not to exceed XCD 10,000 (USD3 700) on summary conviction or XCD 50,000 (USD18 501) on indictment (s.26(3)(a) AML/TF Regulations) and for natural persons the same pecuniary sanctions apply with



the addition/alternative of six months (summary) or one-year (indictment) imprisonment (s.26(3)(b) AML/TF Regulations).

The AML/TF Regulations impose regulations on introducers and intermediaries (s.13), however, there are no associated sanctions for breaches. There are also no sanctions available for breaches of the Regulations and Code applicable to foreign branches and subsidiaries, where permissible with the relevant foreign legal regime (s.9 AML/TF Regulations).

FIs, and DNFBPs, are subject to the restrictions imposed by the AML/TF Code on correspondent banking (s.41) and payable-through accounts (s.42), including associated CDD requirements. There are no specific penalties for breaches of the AML/TF Code, however, breaches of the Code, as well as the AML/TF Regulations, may be considered violations subject to disciplinary and administrative enforcement action by the AFSC (pages 58-60 AML/TF Code; see also Part 1, s.5 FSC Act). Additionally, the Administrative Penalty Regulations, enabled by s.57 of the FSC Act, allow for the imposition of fines for the contravention of any AML/CFT obligations (s.2(1) within the range of XCD 15,000 (USD15 550) to XCD 100,000 (USD37 002) (as specified in Column 2 of Schedule 1). This is also applicable to any breaches of the AML/TF Code. In addition, Schedule 1 to the Regulations outlines the category of disciplinary violations as well as their descriptions and the pecuniary penalty ranges, including: licensing contraventions (XCD \$5,000-\$50,000) (USD1 850 - 18 501); late filing or notification (XCD \$250-\$25,000) (USD93 - 9 250), failure to obtain approval (XCD \$2,500-\$12,500) (USD925 - 4 625), record keeping contraventions (XCD \$1,250-\$12,500) (USD462 - 4 625), contraventions of system and control policies (XCD \$5,000-\$25,000) (USD1 850 – 9 250) and contraventions of AML/CFT obligations (XCD \$15,000-\$100,000) (USD5 550 – 37 002). S.11 of Schedule 4 of the Regulations allows for the issuance of directives.

Further relevant requirements in the Code include: the obligation to undertake, review and update its ML/TF risks (s.3); the requirements for applicable policies, procedures, systems and controls (s.5); reporting procedures associated with the Money Laundering Reporting Officer (MLRO; s.28); and R. 16-related requirements applicable to wire transfers (s.46-48). See c.27.4 regarding further enforcement powers.

The MSB Act and its associated Regulations set out a comprehensive criminal sanctions regime applicable to MVTS applicable to breaches of obligations under R. 14. Breaches of most of the requirements in the Act, and breaches of all associated regulatory requirements, are punishable on summary conviction to a term of imprisonment for up to two years and/or a fine not exceeding XCD50,000 (USD18 501). In terms of R. 15, s.23(2) of the AUTO Act sets out a pecuniary criminal sanctions regime for breaches of the requirements of the AUTO Act and its associated Regulations: legal persons are liable for a fine not exceeding XCD50,000 (USD18 501) (s.23(2)(a)) and natural persons are liable for a fine not exceeding XCD 5,000 (USD1 850) (s.23(2)(b)).

Breach of the duty to disclose ML obligations binding on all persons (s.128 POCA) and MLROs in particular (s.129 POCA) is a criminal offence attracting, on summary conviction, to imprisonment not exceeding two years and/or a fine not exceeding XCD 75,000 (USD27 751), and on conviction on indictment, to imprisonment not exceeding ten years and/or a fine not exceeding XCD 250,000 (USD92 505) (s.128(9) and s.129(5) POCA). Prejudicing an investigation (s.131 POCA) and tipping off (s. 132 POCA) are criminal offences punishable, via summary procedure, to imprisonment not exceeding five years and/or a fine up to XCD 200,000 (USD92 505), and on indictment, to imprisonment up to 14 years and/or a limitless fine (s. 31(2) and s.132(4) POCA). Schedule 4 of the POCA sets out the powers and duties of supervisory authorities in relation to Externally Regulated Services Providers (ERSPs) and Non-Regulated Service Providers (NRSPs). S.10 of the POCA empowers the AFSC to enforce administrative actions if an ERSP or NRSP is, in the opinion of the AFSC, in one of the following breach situations: has contravened or is in contravention

of any of its AML/CFT obligations; has failed to comply with a directive given to it by the supervisory authority; is in breach of any term or condition of its registration; has provided the supervisory authority with any false, inaccurate or misleading information; has refused or failed to co-operate with the supervisory authority on a compliance visit; or has refused or failed to co-operate with an investigator. S.11 of Schedule 4 to the POCA allows for appropriate remedial or corrective directives from the AFSC where it is entitled to take enforcement action against an ERSP or NRSP. S.35(1)(a)(ii) of the FSC Act further empowers the AFSC to take administrative enforcement action against licensees. The available administrative enforcement actions include: revoking or suspending a licence (s.36); applying for a protection order (s.37); issuing a directive (s.38); appointing an investigator to conduct an investigation (s.39); applying to the Court for the liquidation and dissolution of a company (s.217(1)(b) of the Companies Act); and imposing a penalty on a director or a senior manager (s.49A of the FSCA as amended by section 2 of the FSC (Amendment) Act, 2022. S.6 of the ENRSP Regulations, made pursuant to s. 159 of the POCA, allows for the FSCA to de-register ERSPs and NRSPs. Part 3 sets out the administrative penalty regime for breaches of AML/CFT obligations (s.10(a)). AML/CFT breaches thereunder are subject to a maximum penalty of XCD \$100,000 (USD37 002) (s.16(1)). While the above ranges of penalties are proportionate some of the lower fines cannot be considered dissuasive for many REs.

35.2 – S.167A of the POCA as amended by s.14 of the POCA Amendment Act, 2022, gives powers to affix liability to directors and senior managers for offences by a company. S.43 of the FSC Act allows for the AFSC to remove a director or senior officer if they do not follow the fit and proper criteria. Additionally, s.6 of the ENRSP Regs allows the AFSC to de-register an ENRSP or NRSP if it is of the opinion that any of the FIs' or DNFBPs' directors, senior officers or owners, or their associates, have carried on criminal conduct and the de-registration would not hinder the AFSC in the exercise of its functions. Also, s.17A(1) of the ENRSP Regs as amended by s.2 of the ENRSP (Amendment) Regulations 2022, allows the AFSC to impose an administrative penalty on a director or senior manager of a service provider if– (a) it takes disciplinary action against a FI or DNFBP under Part 3 of the ENRSP Regs in respect of a disciplinary violation; and (b) it is satisfied that the disciplinary violation was committed with the consent or connivance of the director or senior manager. For R.6, enforcement action is provided for utilizing the UK's TFS framework, which applies to Anguilla. However, the majority of the penalties and sanctions listed are primarily enforcement actions applicable by the AFSC and do not include specific sanctions for breaches of individual requirements of R. 8 to 23 that are set out in relevant statutes i.e., POCA, AML/TF Regulations and AML/TF Code.

Weighting and Conclusion

Anguilla has imposed a range of sanctions for failure to comply with the majority of AML/CFT obligations. While sanctions are proportionate the lower fines cannot be considered to be dissuasive for larger entities. Additionally, in relation to sanctions being applicable to the directors and senior management of FIs, and DNFBPs the penalties and sanctions listed are primarily enforcement actions applicable by the AFSC and do not include specific sanctions for breaches of individual requirements of R.6, and 8 to 23 that are set out in relevant statutes i.e., POCA, AML/TF Regulations and AML/TF Code.

Recommendation 35 is rated Partially Compliant.



Recommendation 36 – International instruments

Anguilla received a rating of ‘LC’ under both the former Rec. 35 and SR. I in the 3rd ME due to not having the Palermo and Terrorist Financing Conventions extended to it by the UK.

Criterion 36.1– As a BOT, Anguilla cannot sign or ratify any transnational convention on its behalf. Instead, it must request or accept, through the Governor, that such agreements be extended to it by the UK. However, Anguilla can enact legislation domestically to implement the provisions of relevant transnational conventions before their extension, or in their absence, in so far as such necessary domestic reforms fall under domestic competence. As confirmed in its 3rd Round CFATF MER, the 1988 United Nations Convention on the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) was ratified by the UK Government and extended to Anguilla in 1995. More recently, on April 20, 2015, Anguilla was extended the 1999 International Convention for the Suppression of the Financing of Terrorism (TF Convention) and on July 31, 2015, the United Nations Convention against Transnational Organized Crime (UNTOC or Palermo Convention). Shortly before the on-site assessment, Anguilla requested that the United Nations Convention against Corruption (UNCAC or Merida Convention) be extended to it from the UK, however, this had not occurred at the time of the on-site assessment.

Criterion 36.2 – The relevant articles of the Vienna Convention (Articles 3-11, 15, 17 and 19), the Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31, and 34) and the TF Convention (Articles 2-18) are implemented with the same or similar/amended provisions as examined in the 3rd Round MER. Anguilla has demonstrated that it has implemented some of the relevant articles of the Merida Convention (Articles 14-17, 23-24, 27-28, 31, 38, 40, 43, 48, 50-53, 58) but has not demonstrated full compliance with other relevant articles of the instrument (26, 29, 30, 44, 46, 54, 55, 57).

Weighting and Conclusion

Anguilla is effectively a party to the Vienna Convention, Palermo Convention and the TF Convention and has substantively implemented their associated key provisions. Anguilla has not become a party to the Merida Convention and has demonstrated partial implementation of relevant provisions. These are weighted as minor shortcomings.

Recommendation 36 is rated Largely Complaint.

Recommendation 37 - Mutual legal assistance

Anguilla was rated ‘C’ under the former Rec. 36 and “LC” under the former SR.V. The latter noted that there had been no MLA requests upon which to assess effectiveness. The revised R. 36, now 37, requires that countries should have an adequate legal basis to provide cooperation and have in place all the needed mechanisms to enhance cooperation. Countries are now required to provide non-coercive assistance regardless of dual criminality provisions. The FATF Standard clarifies that the requesting country should make best efforts to provide complete factual and legal information, including any request for urgency.

Criterion 37.1- Anguilla has demonstrated a modest range of MLA in relation to ML, associated predicate offences and TF investigations, prosecutions and related proceedings. There are three distinct MLA frameworks enabled by three statutory regimes: The Criminal Justice (International Co-Operation) Act (CJICA); the Mutual Legal Assistance (United States of America) Act (MLA (USA) Act); and the Tax Information Exchange (International Co-Operation) Act (TIEA). Anguilla has no provisions for providing MLA in a rapid manner.



The CJICA is the primary MLA instrument. It allows Anguilla to conduct a range of activities to provide MLA, including service of overseas process (s.2), seizing evidence (s.5), transfer of offenders to give evidence (s.6), search and seizure (s.8), securing witness attendance (s.1, Schedule 1), and taking evidence on oath (s.2, Schedule 1). However, search and seizure MLA is limited to cases where foreign criminal charges have already been filed and/or the accused person has been arrested, that is, not at the investigative stage (s.8(1)(a)). Previous to the CJICA (Amendment) Act 2022 (s.2), CJICA-based MLA assistance was prohibited for fiscal offences, but with the Amendment's removal of that barrier, Anguilla can subsequently provide such assistance for tax evasion and related offences.

The MLA (USA) Act provides for comprehensive search and seizure assistance between Anguilla and the USA (Article 14).

Tax information can be shared with requesting states, spontaneously, automatically and upon request, pursuant to the TIEA.

Criterion 37.2 – Anguilla does not have a central MLA authority, rather, each of the three MLA regimes has its own designated competent authority/authorities. Incoming MLA requests implicating more than one regime do not require multiple requests as there are no barriers to sharing and coordinating information regarding such requests between the respective authorities. S.3 of the MLA (USA) Act designates the AG of Anguilla, or a person designated by them, as the Anguilla Mutual Legal Assistance Authority for the purposes of the Act. S.3(1) of the TIEA empowers the competent authority, defined as either the Comptroller of Inland Revenue or the Permanent Secretary, Ministry of Finance (s.1), to administer all things necessary or convenient connected to the performance of the Act. This includes the transmission and execution of requests (although as a non-reciprocal tax jurisdiction, Anguilla does not transmit requests under the TIEA). Under the primary CJICA regime, there are distinct incoming and outgoing competent authorities: the Governor is the competent authority to receive MLA requests (s.2; s.5) while the AG is empowered to send outgoing requests for MLA.

Anguilla has not demonstrated that it has clear processes for the timely prioritisation and execution of MLA requests, nor has it demonstrated the implementation of a case management system to monitor progress on requests.

Criterion 37.3 – S.5 of the TIEA set out the discretionary grounds allowing the MoF to decline a request including: the inability to obtain the same information domestically or provide reciprocal MLA; the request is contrary to public policy or national interests; the information is subject to legal privilege; irrelevance; the refusal to pay costs; and the protection of trade and commercial interests. None of these restrictions appear unreasonable or unduly restrictive. Article 3 of the MLA (USA) Treaty (incorporated as a Schedule to the MLA (USA) Act) specifies limitations on assistance, none of which are unreasonable or unduly restrictive. The CJICA does not subject incoming MLA requests to unreasonable or unduly restrictive conditions.

37.4 – (a) Pursuant to s.2 of the CJICA (Amendment) Act, 2022, the CJICA was amended to remove s.5(3), thereby removing the requirement that the Governor refuse, in some circumstances, requests that relate to fiscal offences. The very nature of the TIEA is contrary to refusing a request on the basis that it involves fiscal matters. There do not appear to be any barriers to providing MLA assistance pursuant to the MLA (USA) Act on the sole basis that a request involves fiscal matters.

(b) There are no barriers to executing MLA requests made pursuant to the CJICA, the TIEA and the MLA (USA) Act on the grounds of secrecy or confidentiality requirements on FIs, or DNFBPs, except where the relevant information sought is held in circumstances where legal professional privilege applies.



Criterion 37.5 – S.12 of the MLA (USA) Act provides for the confidentiality of MLA requests and the information contained therein, upon request. However, this is time-limited, expiring after 90 days from the date of receipt. The TIEA provides for confidentiality in relation to requests made to Anguilla (s.21) and that information provided to or received by the competent authority in relation to such tax information exchange requests shall be kept confidential (s.22). The CJICA does not require confidentiality of requests.

Criterion 37.6 – The MLA (USA) Act does not impose any double criminality requirement for assistance under the Act, regardless of whether or not the request concerns coercive or consensual assistance (Art. 3 of the associated Treaty articulates limitations on assistance; double criminality is not listed). The CJICA (s.2-8) similarly enables MLA to be rendered in the absence of establishing double criminality. The procedures and grounds for declining a request under the TIEA do not include a double criminality requirement (s.4-5).

Criterion 37.7 – As per c.37.6, double criminality is not required for MLA assistance offered under the MLA (USA) Act, the TIEA and the CJICA.

Criterion 37.8 – (a) Anguilla provides MLA to foreign partners for the following investigative techniques available domestically as required under Recommendation 31: S.8 of the CJICA provides for search and seizure in relation to foreign investigations; S.2 of Schedule 1 of the CJICA gives the Magistrate’s Court the power to take evidence on oath; S.136-139, Part 5, Division 2 of the POCA establishes a production order regime available pursuant to MLA and s.26 of the FSC Act provides for a similar range of assistance to foreign regulatory authorities upon written request. Production regimes apply to natural and legal persons and include financial records. For MLA to the USA specifically, Arts. 8-16 of the Treaty implemented by the MLA (USA) Act, the assistance provided includes production, search and seizure, document disclosure, evidence-gathering, and taking witness testimony. Anguilla has not demonstrated whether any of the R.31 investigative techniques are available pursuant to the TIEA. Anguilla can also provide some further MLA assistance beyond R. 31 requirements, including service and securing attendance (s.2 and s.3, Schedule 1 of the CJICA). For MLA to the USA, the MLA (USA) Act and associated Treaty also provide for compelling appearances, prisoner transfer, location of persons, service of documents, and asset recovery assistance (s 10-16). S.21 of the FSC Act provides for production from legal persons and arrangements, however, it is unclear if this power is available in relation to foreign requests.

Weighting and Conclusion

Anguilla has the requisite legal basis to provide a range of MLA in relation to ML, associated predicate offences and TF investigations, prosecutions and related proceedings. Anguilla’s MLA regime is fragmented across three statutory regimes, with minor gaps identified in all of the primary regimes enabled by the MLA (USA) Act, the CJICA and the TIEA.

Recommendation 37 is rated Largely Complaint.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

Anguilla was rated C with the requirements of former Rec 38 in its 3rd Round MER.

Criterion 38.1 – While Anguilla has the authority to take action in response to requests by foreign countries to identify, freeze, seize, or confiscate laundered property from or proceeds from money laundering, predicate offences, or terrorist financing; or property of corresponding value, there is no indication that this authority is to be taken expeditiously. By virtue of s.20 of the FIU Act, the AFIU is required to provide assistance that may lead to the identification of laundered property from or proceeds from money laundering, predicate offences, terrorist financing, or property of equivalent value.



(a) & (b) - Pursuant to schedule 3 of the POCA, the Court may, on the application of the AG on behalf of an overseas territory, make a restraint order (s.3) and confiscation order (s.10) by giving effect to an external order in Anguilla. External orders may apply to laundered property from and proceeds from money laundering, predicate offences or terrorist financing. Forfeiture enforcement is also available under the CJICA and applies to drug cases exclusively (s.9(5)).

(c) & (d) - Under s.152 and 153 of the POCA, an external order/ request enables the Attorney-General, on behalf of an overseas authority to make an application to the Court to identify, freeze, seize or confiscate instrumentalities used or intended for use in money laundering, predicate offences or terrorist financing.

(e) External Orders may also apply to property of corresponding value.

Criterion 38.2– The information provided by Anguilla does not suggest that Anguilla has the authority to assist with requests for cooperation made on the basis of non-conviction-based confiscation proceedings and related provisional measures.

Criterion 38.3 –

(a) Anguilla has established both agreement-based and statute-based mechanisms for the coordination of seizing and confiscation actions with other countries. Art. 16 of the Treaty implemented by the MLA (USA) Act requires that both parties assist each other to the extent permitted by their respective laws in relation to: the forfeiture of proceeds of crime; restitution to the victims of criminal offences; and the collection of criminal conviction-based fines (sub (2)). The availability of MLA asset confiscation in relation to instrumentalities is not demonstrated, however, such assistance would be available to the USA as per the POCA regime. Part 6 of the POCA applies Schedule 3 to external requests and the enforcement of external orders. S.2-9 of Schedule 3 set out a statutory basis for MLA restraint of “relevant property”. S.152 (D) of the POCA provides that property is “‘relevant property’ if there are reasonable grounds to believe that it may be needed to satisfy an external order which has been, or which may be made.’ S.10-18 of Schedule 3 of the POCA provides for asset confiscation pursuant to foreign criminal convictions.

The ATO also provides for freezing, seizure and confiscation of assets related to terrorist financing, including compliance with requests for MLA. With regard to the enforcement of an external freezing order, Part 2 of Schedule 2 of the ATO, provides that the Governor may make an order for the enforcement within Anguilla of the foreign order. The external order may provide for the forfeiture of terrorist property or it may prohibit dealing with the subject property.

(b) Anguilla also has a mechanism for managing and disposing of property that is frozen, seized or confiscated on behalf of a requesting state (s.8 of Schedule 3 of the POCA addresses restraint/seizure; Regarding confiscation, s.16-28 of Schedule 3 of the POCA). S.17 of Schedule 3 of the POCA sets out the relevant powers for Receivers in relation to money laundering; and s.18 in relation to specified property.

Criterion 38.4 – Foreign requests for asset confiscation (s.152(a) POCA) are executable in Anguilla and are considered satisfied when all the subject funds are paid to the requesting state or the subject asset is liquidated and proceeds provided to the requesting state (s.22 of Schedule 3 POCA). However, there are no formal procedures or requirements to effect sharing, that is, there are no procedures in domestic law nor treaty instruments setting out arrangements to share confiscated property with other countries.

Weighting and Conclusion

Anguilla has the authority to take expeditious action in response to requests by foreign countries to identify, seize, or confiscate laundered property, proceeds of crime, instrumentalities of crime and property of



corresponding value. However, Anguilla is unable to provide NCB asset recovery assistance. Anguilla is able to coordinate asset recovery efforts with other countries and has mechanisms for asset management. However, critically, Anguilla does not have a regime to share assets with requesting jurisdictions.

Recommendation 38 is rated Partially Compliant.

Recommendation 39 – Extradition

Anguilla was rated “LC” under the former Rec. 39 and SR.V and “C” for former Rec. 37. The lone deficiencies concerned effectiveness. Anguilla cannot enact or amend its own extradition regime or extradition treaty network. They must be extended by the UK. Since the 3rd Round ME, a new extradition regime has been implemented by the Extradition Act 2003 (Overseas Territories) Order 2016 (Extradition Act). It governs extradition between British Overseas Territories, including Anguilla, and a vast swath of extradition partner countries around the world (Schedule 2).

Criterion 39.1–

(a) ML and TF offences are extraditable provided they carry a maximum sentence of at least 12 months imprisonment in both Anguilla and the foreign state (Arts. 137-138 of the Extradition Act). TF offences under the ATO, where proceeded by way of summary procedure would not qualify as extraditable offences, given the sentence maximum of six months imprisonment for these offences, namely, TF-related: fundraising, use and possession, funding arrangements, and money laundering (s.6-9). All other TF and ML offences enacted in Anguilla constitute extraditable offences. The assessment team has not identified any barriers to the execution of ML/TF-related extradition requests without undue delay.

(b) Anguilla has not demonstrated that they have a case management system and clear processes for the timely execution of extradition requests including prioritisation where appropriate.

(c) S.70(2) of the Extradition Act sets out grounds for executive refusal of extradition requests, none of which are unreasonable or unduly restrictive. These grounds include where the person whose extradition is requested has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, or the person whose extradition is requested has been granted leave to enter or remain in the Territory on the ground that to remove him to the territory to which extradition is requested would be in breach of his right to life or his right not to be subjected to torture or inhuman or degrading treatment or punishment.

Criterion 39.2 – Anguilla extradites its nationals.

Criterion 39.3– Dual criminality is required for extradition. Anguilla takes a conduct-based approach to assessing dual criminality; neither terminology nor categorization of the offence is relevant to the dual criminality requirement, provided both the requesting and requested jurisdiction criminalizes the conduct underlying the offence (s.137 of the Extradition Act in relation to persons sought for trial; s.138 in relation to persons sought for post-conviction sentence enforcement).

Criterion 39.4– The Extradition Act provides for simplified extradition procedures for persons who consent to their own extradition (s 70(7)(b), 70(8), 74(7)(b), 74(8), 92(3), 93(7), 95(2), 100(2), 100(3) and 108(2)).

Weighting and Conclusion

Anguilla has a comprehensive extradition regime in place. There are two shortcomings. Firstly, ATO-based TF offences, where proceeded summarily, do not qualify as extraditable offences. This is considered a minor



deficiency given that these offences would normally proceed by way of indictment, thereby rendering them subject to sufficiently high minimum sentences thereby rendering them extraditable. Furthermore, ATO-based TF offences have largely been supplanted by other, stronger TF offences under subsequent regimes such that these offences are not likely to be pursued any longer. Secondly, there is no case management system or clear procedures in place to ensure prioritization and timely execution of requests. This administrative deficiency is also considered minor since the jurisdiction has never received nor made an extradition request.

Recommendation 39 is rated Largely Compliant.

Recommendation 40 – Other forms of international cooperation

In its previous MER, Anguilla was rated largely compliant. The deficiency identified related to effectiveness only.

Criterion 40.1 – Anguilla’s competent authorities can provide a wide range of international co-operation in relation to ML, TF and predicate offences. S.6(4) and 21(2) of the FIU Act enable the AFIU to disclose information and provide other cooperation with foreign FIUs and Associations of FIUs. The AFIU is also a member of the EGMONT Group and utilizes the ESW for the exchange of information spontaneously, and upon request with foreign FIUs. One of the primary responsibilities of the AFSC is to maintain contact and develop relations with foreign regulatory authorities, international associations of regulatory authorities and other international associations or groups relevant to its functions and to provide regulatory and supervisory assistance to foreign regulatory authorities (s.3(1)(l) of the FSCA). The AFSC must cooperate with foreign regulatory authorities (s.25(1)(a)) both spontaneously (s.26(8)) and upon request (s.26.1). S.26 of the FSCA provides for a comprehensive informal information-sharing regime with foreign regulatory authorities. The RAPF, as a member of Interpol, is also able to exchange information, including in relation to ML/TF, with foreign counterparts. The RAPF is also a member of the ARIN-CARIB network and is also able to utilize this asset recovery co-operation platform. By virtue of its membership in the CCLEC, the Customs Department can exchange available information relating to ML, associated predicate offences and TF with regional counterparts. Additionally, Customs can exchange information internationally via participation in Sea Port Cooperation Project (SEACOP) V. Anguilla has provided technical compliance information with respect to these four CAs, to the exclusion of others (the MoF, etc.).

Criterion 40.2 –

(a) - As discussed above, the lawful basis for the AFIU to cooperate with foreign FIUs and the Egmont group is found at s.6(4) and 21(2) of the FIU Act. For the lawful basis for AFSC cooperation with foreign regulatory authorities, the relevant provisions are in the FSCA at s.3(1)(l) and 25(1)(a). Anguilla has not demonstrated a lawful basis for international cooperation relating to the Customs Department nor the RAPF, but there do not appear to be any barriers to the cooperation **described** at R40.1. in relation to these CAs.

(b) - Neither the FIU Act nor the FSCA presents any barriers to using the most efficient means to co-operate. The AFIU uses FIU-to-FIU co-operation and can co-operate directly with its counterparts through the ESW Egmont regime pursuant to the Egmont Group of FIUs Principles for Information Exchange Between Financial Intelligence Units. The AFSC uses email and password-protected documents. The AFSC has concluded nine MOUs with foreign regulatory bodies to facilitate the efficient exchange of information, each of which include provisions facilitating efficient communications. Anguilla has not demonstrated that the Customs Department, and the RAPF are authorized to use the most efficient means to co-operate with foreign counterparts.



(c) There are clear and secure gateways available to the FIU via the ESW regime, as well as for the Government email address for non-Egmont Group members. While the AFSC advises that password-protected emails, zip drives and documents are used to transfer information and that information is always sent by the work emails via the afsc.ai domain, no such mechanism or policy is in place. The security of channels for international co-operation by the Customs Department and the RAPF has not been demonstrated.

(d) The AFIU's Procedural Policy for the Handling of an External Enquiry (PPHEE) contains clear procedures for the prioritisation and timely execution of requests. Art. 3 requires that all foreign requests be reviewed by the Director. The Director is to provide tasking, prioritisation, assignment, and assign diary data at their discretion, which may be extended. Art. 5 directs that non-responsive enquiries be executed within seven days and that responsive intelligence requests be disseminated within at least 14 days. Anguilla has not demonstrated clear procedures for the prioritisation and timely execution of foreign requests in relation to the RAPF, the AFSC, and the Customs Department.

(e) Art. 2(c) and (d) of the AFIU's PPHEE describe adequate processes to safeguard the information received. All incoming requests are recorded into the covert files of the Memex Patriarch system. The system provides for the subject of the request to remain confidential. The physical files are stored in a fireproof cabinet which is locked, and keys are secured daily (Art. 8). Upon completion, the physical file is scanned and stored on a dedicated file server. Files are password-protected. The PPHEE notes that all the information collected, including that contained in the request, is protected under the Confidentiality Agreement signed by employees (page 3). The AFSC internal Policies and Procedures Manual contains a similarly comprehensive information safeguarding and handling framework. No information was demonstrated for other CAs.

Criterion 40.3– S.19 of the FIU Act authorizes the AFIU to enter into agreements with foreign counterparts. The AFIU's engagement with EGMONT permits substantial co-operation absent bilateral or other agreements between the AFIUs and foreign counterparts. The AFSC is enabled, by s.9(e) of the FSCA, to enter into MOUs with foreign regulatory bodies in addition to domestic ones, however it does not impose such a requirement as a condition for co-operation. Nevertheless, the AFSC entered into a co-operation focused MMOU with regional ECCU counterparts and the ECCB in 2018. Anguilla has not demonstrated compliance with this criterion in relation to the RAPF and the Customs Department.

Criterion 40.4 – The AFIU's PPHEE directs that a request for feedback from requesting FIUs should be submitted along with all responses (Art. 6). Anguilla has not demonstrated that the feedback form seeks feedback on the use and usefulness of the information obtained, nor has Anguilla demonstrated that the RAPF, the Customs Department, and the AFSC seek the prescribed feedback.

Criterion 40.5– Anguilla does not prohibit, or place unreasonable or unduly restrictive conditions on, the provision of exchange of information or assistance.

(a) There is no requirement at s.21(2) of the FIU Act or s.26(2) and (7) of the FSC Act to refuse a request on the grounds that it involves fiscal matters, although all AFSC international cooperation is discretionary. Further, the factors that the AFSC should consider, pursuant to s.24(4) of the FSCA, in deciding whether to exchange information does not include whether the request involves fiscal matters. The absence of any legislative provision for co-operation with foreign counterparts to the Customs Department means that there is no basis to refuse on fiscal grounds. Similarly, there are no such barriers to police-to-police cooperation.

(b) There are no restrictions in relation to assistance on the grounds of legislation that requires FI or DNFBPs to maintain secrecy or confidentiality.



(c) There are no restrictions bearing upon the AFIU, the RAPF, and the Customs Department requiring refusal to exchange information or the provision of assistance on the ground that there is an inquiry, investigation or proceeding underway. There is no requirement at s.26(2) and (7) of the FSC Act to refuse a request on this ground.

(d) There are no provisions bearing upon the AFIU, the RAPF, the Customs Department and the AFSC, which impose a requirement that the requesting counterpart authority be the same in nature or status.

Criterion 40.6 –

AFIU – The AFIU ensures controls and safeguards for information exchanged through the ESW via the Egmont Group’s principle of information exchange. An added control at s.21(2)(b) requires that the AFIU is satisfied that the assistance requested is required for the purposes of the functions of the requesting unit. Additionally, s.23(1) of the FIU Act prohibits requesting AFIUs, or an association of them, from using the information or other cooperation provided for purposes other than in relation to the investigation or prosecution of financial crimes, absent the written consent of Anguilla’s FIU.

AFSC – A control to ensure the information exchanged is used only for the purpose and by the authorities for which the information was sought is found in s.26(2) of the FSC Act. s.26(2) requires that information is exchanged only when it is reasonably required by the foreign regulatory authority for the purposes of its regulatory functions. Additionally, the relevance of the information to the enquiry (s.26(4)(d)) to which the request relates is also considered. Furthermore, s.26(7)(c) of the FSCA requires that the AFSC be satisfied that the applicable foreign regulatory authority is subject to adequate legal restrictions on further disclosure of the information and documents and that it will not, without written consent, disclose information or documents provided to it to any person other than an officer or employee of the authority engaged in the exercise of any of its supervisory functions. The AFSC’s cooperation with regional ECCU counterparts and the ECCB via the MMOU discussed at c. 40.3 provides similar protections.

RAPF – The OTRCIS system, operated on a secure VPN, offers protection from unauthorized intrusion thus allowing the confidentiality of the information, including possibly information related to foreign requests. RAPF international exchanges are most often facilitated through INTERPOL via a secure VPN network that restricts unauthorized access.

Customs Department –The Customs Department is able to exchange information on CENCOM with regional partners. The safeguard and control of information is said to be governed by the CCLEC Exchange of Information Protocol, however, this instrument has not been confirmed.

Criterion 40.7 – AFIU - Officers of the AFIU are required to adhere to the obligation of confidentiality and an oath to that effect is required (s.11 of the FIU Act; the oath is in the schedule to the Act). All members of the AFIU are subject to a Non-Disclosure Agreement which is renewed every two years. The agreement covers the disclosure of any information that the recipient receives during the course of his/her duties as an employee of the AFIU. The AFIU’s Procedural Policy for the handling of an External Enquiry describes how exchanged information is protected. See analysis at c. 40.2(e). While s.21(2)(e) enables the AFIU to refuse to provide information unless an undertaking has been given to the AFIU that the information provided will not be disclosed without receiving prior consent, there is no authority for the AFIU to refuse information if the requesting CA cannot protect the information effectively.

AFSC -The AFSC imposes a comprehensive oath of confidentiality on its staff (s.10 of the AFSC Staff Policies) which would appear to implicitly include information related to foreign requests. Since all foreign



requests are discretionary on the AFSC, any appropriate conditions on cooperation may be imposed (s. 25 FSCA), including those related to information security.

Customs Department - Customs officials are bound by the obligation of secrecy (s.5 of the Customs Act). Anguilla has not demonstrated that it is able to refuse to provide information if the requesting competent authority cannot protect the information effectively.

RAPF - Anguilla has not demonstrated compliance with this criterion in relation to the RAPF.

Criterion 40.8 – Anguilla’s competent authorities are able to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically.

AFIU– The AFIU, pursuant to s.19 of the FIU Act, can conduct inquiries on behalf of foreign counterparts. S.19 authorizes the AFIU to enter into agreements or arrangements with foreign FIUs regarding the exchange of information or other cooperation relevant to the investigation or prosecution of a financial crime. There are no restrictions on the nature of information which can be exchanged with foreign counterparts. S.20 makes provision for the AFIU to require any person to provide information, other than privileged information, for the purpose of complying with a request from a foreign FIU or conducting an investigation under the FIU Act.

AFSC– All of the powers conferred on the AFSC under s.21 of the FSC Act to obtain information and documentation can be utilized on behalf of a foreign regulatory authority pursuant to a request (s.26(1)). S. 26(d) authorizes the disclosure of obtainable information to a foreign counterpart.

RAPF – The RAPF can conduct inquiries on behalf of foreign counterparts via INTERPOL mechanisms. There is no restriction on the nature of information which can be exchanged with foreign counterparts, including via Interpol.

Customs Department– Similarly, the Customs Department can do the same on a regional basis pursuant to its membership in the Caribbean Customs Law Enforcement Council (CCLEC). All information obtainable by the Customs Department can be exchanged with foreign counterparts.

Criterion 40.9– The AFIU has a legal basis for providing cooperation under s.6(2)(e)(vii) and (4) of the Financial Intelligence Unit Act, 2020.

Criterion 40.10 – Pursuant to s.6(2)(d) of the Financial Intelligence Unit Act, 2020, the AFIU can provide feedback to both persons and bodies. Feedback to foreign FIUs is governed by the Egmont Groups exchange of information principles. Based on paragraph 19 ‘Principles for information exchange of the Egmont Group, feedback requests received from foreign FIUs are registered with AFIU and a response is provided. Feedback includes information regarding the usefulness of the information provided and the outcome of the analysis conducted. See analysis of c.40.4 for further information regarding feedback, including to non- Egmont Group Members.

Criterion 40.11– Pursuant to s.6(2)(b) of the Financial Intelligence Unit Act, 2020, the AFIU can collect, request, receive, process, analyse and interpret information that it receives and maintains from SARs, trends and typologies any other report received during the course of the functions of the AFIU. This also includes information received from any foreign financial intelligence authority. The principle of reciprocity (R.40.11b) is addressed in s.6(1)(e)(vii) of the FIU Act.

Criterion 40.12 – The FSC Act and POCA outline legal bases for the AFSC to provide co-operation with their foreign counterparts (regardless of their respective nature or status), consistent with the applicable



international standards for supervision, in particular with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes. S.25(1)(a) and 25(2) of the FSC Act outline the AFSC's duty to cooperate with foreign regulatory authorities which may include the sharing of documents and information for the purposes of its supervisory functions. S.26(1) to 26(8) of the FSC Act sets out the parameters around the provision of assistance to foreign regulatory authorities. S.156(1)(c) and 156(2) of the POCA also outline the AFSC's duty to cooperate with any other supervisory authorities which may include the sharing of documents and information.

Criterion 40.13– The AFSC has the legal power to exchange with foreign counterparts' information domestically available to them, including information held by financial institutions, in a manner proportionate to their respective needs.

S.25(1)(a) and 25(2) of the FSC Act outlines the AFSC's duty to cooperate with foreign regulatory authorities. S.26(1) to 26(8) of the FSC Act sets out the parameters around the provision of assistance to foreign regulatory authorities. S.156(1)(c) and 156(2) of the POCA also outline the AFSC's duty to cooperate with any other supervisory authorities which may include the sharing of documents and information. The AFSC can request information and documentation by its powers under s.21(1) to 21(10) of the FSC Act from its licensees and by s.3(1) to 3(4) of Schedule 4 of the POCA from its registrants and provide the information and documentation received to foreign counterparts.

Criterion 40.14 – S.154(1) and 154(2) of the POCA outline that the AFSC is the only supervisory authority in Anguilla for regulated service providers and for externally regulated service providers, which includes financial institutions and DNFBPs. Notwithstanding, the FSC Act and POCA allow the AFSC to share regulatory, prudential and AML/CFT information with other supervisors (including foreign) that have a shared responsibility for financial institutions operating in the same group.

(a) – Regulatory, prudential and AML/CFT information are considered to be protected information by the definition in s.27(1)(b) of the FSC Act in relation to the AFSC's licensees and s.14(1) of Schedule 4 of the POCA in relation to the AFSC's registrants. Protected information is restricted from being disclosed under s.27 of the FSC Act and s.14(4) of Schedule 4 of the POCA. However, under s.28(c)(i) of the FSC Act and s.15(a)(ix)(B) of Schedule 4 of the POCA, the AFSC is not prohibited from disclosing information, including protected information, to a foreign supervisory authority.

(b) – Refer to sub-criterion (a).

(c) – Refer to sub-criterion (a).

Criterion 40.15 – The FSC Act includes a provision to allow the AFSC to conduct inquiries on behalf of foreign counterparts. S.25(1)(a) and 25(2) of the FSC Act outlines the AFSC's duty to cooperate with foreign regulatory authorities. S.26(1) to 26(8) of the FSC Act sets out the parameters around the provision of assistance to foreign regulatory authorities. S.34(6) and 34(7) enable the AFSC to permit a foreign regulatory authority to take part in a compliance visit undertaken by the AFSC upon request by the foreign regulatory authority.

Criterion 40.16 – S.154(1) and 154(2) of the POCA outline that the AFSC is the only supervisory authority in Anguilla for regulated service providers and for externally regulated service providers, which includes financial institutions and DNFBPs. Notwithstanding, the FSC Act mandates the AFSC to ensure it has the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for its purposes. S.26(7)(c) of the FSC Act outlines the requirement for permission to be provided by the AFSC for sharing information and only using the information for their regulatory



functions. Pursuant to s.27(4) of the FSC Act and s.14(4) of Schedule 4 of the POCA, protected information shall not be disclosed by a recipient of that information, without the consent of the person from whom he obtained the information, and if different, the person to whom it relates.

Criterion 40.17 – The AFIU can share information with foreign counterparts or foreign non-counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF, including the identification and tracing of the proceeds and instrumentalities of crime pursuant to s.6(2)(e) (vii) and (4) of the FIU Act. S.19 of the FIU Act, 2020 also provides that the AFIU may enter into agreements with foreign counterparts for the exchange of information. Additionally, s.20 of the FIU Act, enables the AFIU to obtain information from any person for the purpose of complying with a foreign FIU. The RAPF, as a member of Interpol, is also able to exchange information with foreign counterparts. The RAPF is also a member of ARIN-CARIB and is also able to utilize this sharing platform. By virtue of their membership with CCLEC, the Customs Department can exchange domestically available information relating to ML, associated predicate offences and TF with regional counterparts. Additionally, Customs can exchange information internationally via participation in Sea Port Cooperation Project (SEACOP) V.

Criterion 40.18 – The AFIU is empowered by s.20 of the FIU Act to conduct inquiries and obtain information on behalf of foreign counterparts. The investigative tools available to law enforcement authorities under s.136-151 of POCA can be used to obtain information on behalf of foreign counterparts. As a member of Egmont, the AFIU may exchange information with foreign FIUs. Likewise, the RAPF is a member of INTERPOL whereby the regulated exchange of information is facilitated between counterparts overseas. Restrictions on the use of information by foreign FIUs, association of units or law enforcement agency are in place by virtue of s.23 of the FIU Act. As a member of CCLEC the Customs Department is part of a regime that governs information sharing with regional counterparts. Customs can exchange information internationally via participation in Sea Port Cooperation Project (SEACOP) V.

Criterion 40.19– S.19 of the FIU Act allows the AFIU to establish written agreements, arrangements or memoranda of understanding for the exchange of information and other cooperation in relation to relevant investigations and prosecution of financial crime. This wide array of co-operation can include the forming of joint investigative teams. No information was provided relative to the other LEAs.

Criterion 40.20– Anguilla has a comprehensive regime of provisions permitting their competent authorities to exchange information indirectly with non-counterparts. The AFIU as a member of the EGMONT group adheres to the Egmont Principles of Information Exchange between FIUs with respect to indirect cooperation with foreign non-counterparts. In practice, AFIU/RAPF requests are routed through the non-counterpart's FIU. Egmont Principles of Information Exchange between FIUs makes it clear for what purpose and on whose behalf the request is made. The AFIU's procedural policy for handling external enquiries provides that other agencies may request information from the FIU. Under s.6(2)(e) of the FIU Act, 2020, the AFIU can make disclosures of information to LEAs and foreign FIUs. Under s.21 of the FIU Act, the FIU sets out the requirements for complying with a request for intelligence from foreign FIUs. Restrictions on the use of information provided by the FIU are provided under s.21 of the FIU Act. As members of ARIN-CARIB, the AGC and AFIU participate in an information sharing network that consists of different FIUs, law enforcement, and prosecutorial and asset recovery agencies within the Caribbean. Such exchanges are also guided by exchange principles requiring the requesting authority to make it clear for what purpose and on whose behalf the request is made. Pursuant to s.25(1)(b) of the FSC Act and s.156 of POCA, AFSC is mandated to cooperate with law enforcement agencies. This includes the sharing of information. The Customs Department is also permitted to exchange information indirectly via requests to or from the AFIU and via the ARIN-CARIB network.



Weighting and Conclusion

Legislation allows for a wide range of international cooperation in relation to ML, associated predicate offences and TF. Anguilla has a legal basis to provide cooperation through POCA, ATA, FIUA and the FSCA. The AFIU and AFSC have a legal basis to cooperate with their foreign counterparts. LEAs can jointly investigate and prosecute persons suspected of ML, criminal activity related to ML, associated predicate offences and TF activities. LEAs can exchange domestically available information with foreign counterparts. The AFIU can provide feedback in a timely manner for which they have received assistance. There is no prohibition against a CA denying the request for assistance because there is a domestic inquiry, investigation or proceeding underway unless the assistance would impede the inquiry. There is no provision for some competent authorities for measures outlined in 40.2 (a-e). The main authorities, being the AFSC and the AFIU are compliant with most requirements. The identified deficiencies in other CAs were considered minor.

Recommendation 40 is rated Largely 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	PC	<ul style="list-style-type: none"> The Policy and Strategic Plan inadequately addresses a risk-based allocation of resources and measures to prevent or mitigate ML/TF. The deficiencies relevant to Recs. 26 and 28 have a cascading effect on implementation of criterion 1.9. The AML/TF Regs requires FIs and DNFBPs to maintain adequate procedures for monitoring and testing the effectiveness of the policies and procedures maintained under this section. However, there is no requirement to enhance them if necessary. The deficiencies noted at c1.9 and c1.11 above have a cascading effect on criterion 1.12.
2. National cooperation and coordination	C	<ul style="list-style-type: none"> The Recommendation is fully met.
3. Money laundering offences	C	<ul style="list-style-type: none"> The Recommendation is fully met.
4. Confiscation and provisional measures	C	<ul style="list-style-type: none"> The Recommendation is fully met.
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> The financing of travel for the purpose of terrorism is not fully criminalised. TF offences tried summarily under the AT(FOM)(OT)O are subject to lower penalties which are not proportionate or dissuasive in all instances. The statutory maximum fine for AT(FOM)(OT)O offence tried summarily is unclear.
6. Targeted financial sanctions related to terrorism & TF	LC	<ul style="list-style-type: none"> The obligation to publish designations pursuant to UNSCR 1373 is not immediate. There are no procedures to unfreeze the funds or other assets of persons and entities with the same or similar name as designated entities, who are inadvertently affected by a freezing mechanism, upon verification that the person or entity involved is not a designated person or entity. There are insufficient provisions to ensure that the requirements under UNSCR 1452 are met in relation to UNSCR 1373.
7. Targeted financial sanctions related to proliferation	LC	<ul style="list-style-type: none"> Neither the domestic law nor the orders require reporting on any compliance actions taken. The Governor is not expressly required to consider all the requirements of sub-criterion 7.5 (b).
8. Non-profit organisations	LC	<ul style="list-style-type: none"> Anguilla has not periodically assessed the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures. There are no risk-based measures to monitor compliance in NPOs and the analysis of deficiencies in criterion 8.3 applies. Risk-based supervision measures are not being applied.
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> The Recommendation is fully met.



Recommendations	Rating	Factor(s) underlying the rating
10. Customer due diligence	LC	<ul style="list-style-type: none"> No provisions in situations where no natural person exerts control through ownership interests, to identify the natural person(s) who exercise(s) control of the legal person or arrangement through means other than ownership. The provision does not provide for the class of beneficiaries and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership). There is no requirement to identify the class of beneficiaries and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership). The definition of BO in the CRBORS Act is not applicable to the AML/TF Code. The deficiencies identified for trusts would also be applicable to other types of legal arrangements. No requirement upon FIs to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification There are no measures for a situation when performing CDD will tip off the customer.
11. Record keeping	C	<ul style="list-style-type: none"> This Recommendation is fully met
12. Politically exposed persons	LC	<ul style="list-style-type: none"> Measures applicable to family members or close associates of foreign PEPs are risk sensitive which are not in accordance with FATF requirements.
13. Correspondent banking	C	<ul style="list-style-type: none"> This Recommendation is fully met
14. Money or value transfer services	C	<ul style="list-style-type: none"> The Recommendation is fully met
15. New technologies	LC	<ul style="list-style-type: none"> While FIs are required to identify and assess ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products there is no similar obligation for Anguilla, There are no mechanisms or provisions that require risk assessments to be conducted on emerging ML/TF risks for VASP operations or from virtual asset activities. The law does not provide a legal basis for VASP supervisors for exchanging information with their foreign counterparts, regardless of the supervisors' nature or status and differences in the nomenclature or status of VASPs. Deficiencies identified in the relevant criteria of R.6 and 7 and that would be applicable to VASPs have a cascading impact.
16. Wire transfers	LC	<ul style="list-style-type: none"> No requirement for financial institutions to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities, as per obligations set out in the relevant UNSCRs relating to the prevention and suppression of terrorism.
17. Reliance on third parties	C	<ul style="list-style-type: none"> This Recommendation is fully met
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> Provisions do not provide for branches and subsidiaries to receive similar information from the group-level functions when relevant and appropriate to risk management.
19. Higher-risk countries	C	<ul style="list-style-type: none"> The Recommendation is fully met
20. Reporting of suspicious transaction	C	<ul style="list-style-type: none"> This Recommendation is fully met
21. Tipping-off and confidentiality	C	<ul style="list-style-type: none"> This Recommendation is fully met
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> The deficiencies of R.10 are applicable to DNFBPs. Independent legal professionals and notaries are not supervised and monitored for AML/CFT purposes. Deficiencies at criterion 22.1(d) have a cascading effect upon compliance with criterion 22.4.



Recommendations	Rating	Factor(s) underlying the rating
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> Independent legal professionals and notarised are not supervised and monitored for AML/CFT purposes. Deficiencies at criterion 23.1(a) have a cascading effect upon compliance with criterion 23.2, 23.2 Deficiencies in R.18 also cascade into criterion 23.2.
24. Transparency and beneficial ownership of legal persons	LC	<ul style="list-style-type: none"> The CRES BO Register requirements apply only to BCs and LLCs and not other LPs. Commercial Register requirements not public known, but do not include lists of directors and basic regulating powers. BCs and SPCs not required to maintain information regarding the nature of associated voting rights. LLPs, LLCs and Foundations not clearly required to maintain c.24.3. No offence corresponding to breach of obligation to maintain up-to-date BO information. No mechanisms in place to ensure c.23.3 and 24.3 requirements are accurate and up-to-date on a timely basis for LLCs and Foundations. Foundations not required to have a registered office in Anguilla. SPCs not required to have a Registered Agent or registered office in Anguilla. No requirement of up to date and accurate BO information for LLPs and SPCs. Other than TCSPs, authorities, entities, other persons and companies themselves are not required to maintain information and records for at least 5 years after the dissolution of a company. Written notices from the AFIU do not compel timely responses from subject, and they are not available in cases of predicate offence investigation. Anguilla does not prevent the misuse of nominee shareholders and nominee directors, where permitted. The AFIU does not have MOUs with foreign FIUs for information sharing as required by s. 21(2)(a) of the FIU Act. There is also no mechanism to ensure timeliness of such information-sharing. It is not demonstrated that all applicable domestic investigative powers are available for international requests for BO information. MLA USA cooperation does not have a mechanism for timeline cooperation. No information has been provided in relation to law enforcement authorities nor in relation to whether CAs can use their investigative powers to obtain the beneficial ownership information on behalf of the foreign counterpart. There are no mechanisms requiring CA monitor the quality of assistance received from foreign countries with respect to basis and BO information and the location of BO owners residing abroad. The AFSC is the only CA that generally does this.
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> TCSPs are not subject to a requirement to keep BO information accurate and up-to-date [pending confirmation of enactment of Amendment modifying s. 27 of the TA]. Unpaid/non-professionalized trustees are not subject to BO requirements. Trustees, whether TCSPs or non-professionals, are not required to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors. TCSPs are not required to retain basic information on associated service providers for at least five years. Anguilla does not require that information held pursuant to this Recommendation be kept accurate and as up to date as possible and is updated on a timely basis. Anguilla does not have measures in place to ensure that trustees disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. Schedule 4 POCA powers are not applicable to FIs and DNFBPs (sec. 1(b) Schedule 4 POCA) the FIU Act does not bear upon predicate offences.



Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> The AFSC has not concluded BO information sharing agreements with foreign partners as per s. 8(4) of the FSC Act. Anguilla has not demonstrated that all applicable domestic investigative powers are available for international requests for BO information. Evidential access may be facilitated to the USA via the MLA (USA) Act, however, the rapidity of such cooperation is unclear. Anguilla has not demonstrated a basis for rapid responses to foreign requests for BO information on trusts and other legal arrangements. non-licensee trustees are not subject to sanctions, as they are not subject to the obligations binding on TCSPs.
26. Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> Anguilla did not provide legal provisions which outline that private and professional mutual funds and mutual funds intermediaries must be licensed or registered by the AFSC without exemptions. Both offshore and domestic banks are AML/CFT supervised in accordance with the applicable BCBS Principles except for BCBS Principles 2 and 11. Anguilla has not demonstrated regulation and supervision in line with the International Organization of Securities Commission (IOSCO) Principles 24, 28, 29 and 31; and Responsibilities A, B, C and D. Anguilla did not provide legal provisions or regulatory measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, in domestic banks, securities entities and micro-lenders and the AFSC appears to have the legal ability to exempt some individuals from relevant due diligence requirements.
27. Powers of supervisors	LC	<ul style="list-style-type: none"> The fines for larger FIs are not sufficiently dissuasive.
28. Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> There is no provision to prevent criminals from holding or having a management function in these sectors.
29. Financial intelligence units	C	<ul style="list-style-type: none"> The Recommendation is fully met.
30. Responsibilities of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> The Recommendation is fully met.
31. Powers of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> The Recommendation is fully met
32. Cash couriers	LC	<ul style="list-style-type: none"> There is no provision to stop and restrain BNI for a reasonable time in order to ascertain whether evidence of ML/TF may be found in cases where there is suspicion of ML/TF or predicate offences or where there is a false declaration or false disclosure. Deficiencies TF sanctions (see analysis c.5.6 and 5.7) have a cascading impact on criterion 32.11.
33. Statistics	C	<ul style="list-style-type: none"> The Recommendation is fully met.
34. Guidance and feedback	C	<ul style="list-style-type: none"> The Recommendation is fully met.
35. Sanctions	PC	<ul style="list-style-type: none"> CTA sanctions not applicable to designated persons. No sanctions available for: breaches of regulations on introducers and intermediaries; breaches of the AML/CFT Code and Regulations applicable to foreign branches and subsidiaries Some pecuniary sanctions for breaches of AML/CFT requirements have maximums that are too low to be dissuasive for many REs. While sanctions are proportionate the lower fines cannot be considered to be dissuasive for larger entities. In relation to sanctions being applicable to the directors and senior management of FIs and DNFBPs, the penalties and sanctions listed are primarily enforcement



Recommendations	Rating	Factor(s) underlying the rating
		actions applicable by the AFSC and do not include specific sanctions for breaches of individual requirements of R.6, and 8 to 23 that are set out in relevant statutes i.e., POCA, AML/TF Regulations and AML/TF Code.
36. International instruments	LC	<ul style="list-style-type: none"> • . • Anguilla has not become a party to the Merida Convention and has demonstrated partial implementation of the relevant provisions.
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> • Anguilla has demonstrated a limited range of MLA in relation to ML, associated predicate offences and TF. • Anguilla has no provisions for providing MLA in a rapid manner. • Anguilla has not demonstrated that it has clear processes for the timely prioritisation and execution of MLA requests, nor have they demonstrated the implementation of a case management system to monitor progress on requests. • In relation to assistance under the CJICA and the ATO, Anguilla has not demonstrated that MLA is not made subject to unreasonable or unduly restrictive conditions. • No provisions to ensure that MLA requests made pursuant to the CJICA, the POCA, the ATO and the MLA (USA) Act will not be refused on the grounds of secrecy or confidentiality requirements on FIs or DNFBPs, except where the relevant information sought is held in circumstances where legal professional privilege or legal professional secrecy applies. • Confidentiality of requests made pursuant to the MLA(USA) Act expires after 90 days from the date of receipt. • No requirements for the confidentiality of requests made pursuant to the CJICA and the ATO. • Anguilla has not demonstrated that the ATO does not require double criminality in order to execute a request. • The uncertainty of the role of double criminality, if any, under the ATO means that compliance in relation to criterion 37.7 has not been demonstrated.
38. Mutual legal assistance: freezing and confiscation	PC	<ul style="list-style-type: none"> • No authority to provide assistance to requests for cooperation made on the basis of non-conviction-based confiscation proceedings and related provisional measures. • There are no formal procedures or requirements to effect sharing, that is, there are no procedures in domestic law nor treaty instruments setting out arrangements to share confiscated property with other countries.
39. Extradition	LC	<ul style="list-style-type: none"> • TF offences under the ATO, where proceeded by way of summary procedure would not qualify as extraditable offences. • No case management system and clear processes for the timely execution of extradition requests including prioritisation where appropriate.
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> • No lawful basis for providing international cooperation relating to the Customs Department and the RAPF. • While the AFSC noted that the MOUs with foreign regulatory bodies facilitate the efficient exchange of information, no evidence of these MOUs was provided. • Anguilla has not demonstrated that the Customs Department, and RAPF are authorized to use the most efficient means to co-operate with foreign counterparts. • The Customs Department and the RAPF do not have secure channels for international cooperation. • The RAPF, the AFSC, and the Customs Department do not have clear procedures for the prioritisation and timely execution of foreign requests. • The AFSC, RAPF and Customs Department do not have clear processes for safeguarding the information received. • The RAPF and the Customs Department cannot negotiate and sign bilateral or multilateral agreements or arrangements to co-operate in a timely way.



Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • Anguilla has not demonstrated that the feedback form seeks feedback on the use and usefulness of the information obtained, nor has Anguilla demonstrated that the RAPF, the Customs Department, and the AFSC seek the prescribed feedback. • While the safeguarding and control of information is said to be governed by the CCLEC Exchange of Information Protocol, this instrument has not been confirmed. • There is no authority for the AFIU and Customs Department to refuse information if the requesting CA cannot protect the information effectively. • No provisions requiring the RAPF to maintain appropriate confidentiality for any request for co-operation. • The RAPF is not able to refuse to provide information if the requesting competent authority cannot protect the information effectively. • No provisions allowing the RAPF and Customs Department to be able to form joint investigative teams to conduct cooperative investigations, and, when necessary, establish bilateral or multilateral arrangements to enable such joint investigations.

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Glossary of Acronyms³⁰

	DEFINITION
ACAMS	Association of Certified Anti-Money Laundering Specialists
ACCP	Association of Caribbean Commissioners of Police
AFIU	Anguilla Financial Intelligence Unit
AFSC	Anguilla Financial Services Commission
AGC	Attorney General's Chambers
AML/CFT	Anti-money laundering/ Countering of Financing of Terrorism
ANAMLC	Anguilla National Anti-money laundering/Countering of Financing of Terrorism Committee
ARIN-CARIB	Asset Recovery Interagency Network of the Caribbean
AT	Assessment Team
ATO	Anti-Terrorism (Financial and other Measures) (Overseas Territories) Order
BO	Beneficial Ownership
BOT	British Overseas Territory
CAs	Competent Authorities
CCLEC	Caribbean Customs Law Enforcement Council
CJICA	Criminal Justice (International Co-operation) (Anguilla) Act
CTA	Counter-Terrorism Act, 2023
CRES	Commercial Registry System
CPF	Countering Proliferation Financing
DNFBPs	Designated Non-Financial Business & Professions
DPMS	Dealers in precious metal and stones
ECCB	Eastern Caribbean Central Bank
ECCU	Eastern Caribbean Currency Union
ECSRC	Eastern Caribbean Securities Regulatory Commission
EDD	Enhanced Due Diligence
FATF	Financial Action Task Force
FCDO	Foreign, Commonwealth & Development Office
FIs	Financial Institutions
IBC	International Business Companies
IRD	Inland Revenue Department
LEA	Law Enforcement Agency
ML	Money Laundering
MSB	Money Services Business



MOU	Memorandum of Understanding
MMOU	Multi-lateral Memorandum of Understanding
NPOs	Non-profit organisations
NRA	National Risk Assessment
POCA	Proceeds of Crime Act
PF	Proliferation Financing
PFA	Proliferation Financing (Prohibition) Act, 2023
OECD	Organisation for Economic Co-operation and Development
OFSI	Office of Financial Sanctions Implementation
RAPF	Royal Anguilla Police Force
RBI	Residency by Investment
SCC	Senior Crown Counsel
SOP	Standard Operating Procedure
TCSP	Trust Company and Service Providers
TF	Terrorist Financing
TFS	Target Financial Sanctions
TIEA	Tax information exchange Act
UN	United Nations
UNSCR	United Nation Security Council Resolution
VAs	Virtual Assets
VASPs	Virtual Asset Service Providers



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Anti-money laundering and counter-terrorist financing measures – Anguilla *Mutual Evaluation Report*

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in Anguilla as at the date of the on-site visit June 26 – July 7, 2023. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Anguilla 's AML/CTF system and provides recommendations on how the system could be strengthened.