

NATIONAL AML/CFT POLICY



TERRITORY OF THE VIRGIN ISLANDS

2021

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CONTENT

Approval of the Policy..... 3

1. Introduction 4

2. Purpose 5

3. Money Laundering, Terrorist Financing and Proliferation Financing 6

4. The Virgin Islands AML/CFT Regime 8

5. The Virgin Islands Current AML/CFT Position 16

6. The Virgin Islands National AML/CFT Policy 21

7. Policy Implementation, Monitoring and Evaluation 24

Acronyms 26

R E S T R I C T E D

Approval of the Policy

The National Anti-money Laundering and Terrorist Financing Coordinating Council considered and approved the National AML/CFT Policy at the NAMLCC meeting held on _____, 2021.

The Cabinet of the Virgin Islands considered and approved the adoption of the National AML/CFT Policy at the Cabinet meeting held on _____, 2021.

1. Introduction

- 1.1 The Virgin Islands recognises the global concern regarding the ongoing activities of ML, TF and PF, and the ramifications of such activities as they threaten the integrity of the Territory's financial system, the stability of its economy, and the safety of its citizens. Additionally, the VI recognizes that the fight against ML, TF and PF has to be a coordinated global effort if positive results are to be achieved, as ML, TF and PF permeate national borders. Therefore, the VI's AML/CFT¹ policy has been specifically developed around this issue and accounts for the unique position the VI plays in the global economy and trade as an International Financial Center (IFC).
- 1.2 As an IFC the Virgin Islands remains committed to the global fight against ML/TF/PF by ensuring that it is in line with the FATF's International Standards on Combatting Money Laundering and the Financing of Terrorism and Proliferation (the FATF Recommendations). As such, this policy has been developed to ensure compliance with Recommendation 2, which calls for countries to have national AML/CFT policies which, inter alia, should be "informed by the risks identified". In the Virgin Islands' context such risks have been identified primarily through the conduct of the Territory's National Risk Assessment (NRA) completed in 2016, and subsequent monitoring of the relevant agencies involved in the fight against ML/TF/PF.
- 1.3 The VI's Policy has been approved by the National AML/CFT Coordinating Council (NAMLCC) and the Cabinet of the Virgin Islands. NAMLCC was approved by the Cabinet of the Virgin Islands in 2016 and has the responsibility of charting the way forward on any significant policy issues that relate to or concern the implementation of AML/CFT recommendations stemming from the Territory's NRA Report, or that may be identified going forward, whether at the domestic or international level. It is a high-level institution chaired by the Hon. Premier which ensures the highest political commitment to the implementation process and the remediation of vulnerabilities and weaknesses found as a consequence.

¹ In the context of this Policy references to AML/CFT also include PF

R E S T R I C T E D

2. Purpose

- 2.1 As noted in the introduction, it is important for every jurisdiction to have a domestic mechanism in place to minimize the risk of ML/TF/PF and to ensure effective implementation of the FATF Recommendations. This Policy has been developed to provide a framework for minimizing such risks and strengthening the Virgin Islands' national AML/CFT regime through the identification of key areas which form the foundation of a cohesive National AML/CFT strategy.
- 2.2 This document should be used by every CA and LEA to develop their own AML/CFT policies which should align with the National Policy and Strategic Objectives. It should also be the basis on which established national committees and co-ordinating bodies make decisions, and implement guidance and other AML/CFT related policies.
- 2.3 This Policy should also be used as guidance for entities within the FI, DNFBP, HVG and NPO sectors to understand the ML/TF/PF risks identified within the jurisdiction and to ensure that their business practices and internal control mechanisms aid in minimizing such risks and promoting these policy objectives.
- 2.4 Further, this Policy aims to ensure compliance with international sanctions regimes for TF and PF as it has recognized, based on the size and nature of the financial services industry in the Territory, the potential for corporate and other structures to be used to finance terrorists, terrorist activities and the proliferation of WMDs on the global stage.

3. Money Laundering, Terrorist Financing and Proliferation Financing

Money Laundering

3.1 Money laundering is not a single act but is generally defined as “the processing of criminal proceeds to disguise their illegal origin”.² Essentially it is engaging in acts designed to conceal or disguise the true origins of criminally derived proceeds so that the proceeds appear to have originated from legitimate sources or constitute legitimate assets.

3.2 Generally, money laundering occurs in three stages:

1) **Placement** – funds generated from criminal activities enter the financial system and are converted into monetary instruments or deposited into accounts at financial institutions. The aim is to remove the funds from the location of acquisition to avoid detection by the authorities and to transform it into other assets e.g. purchase of high value goods, property or business assets.

2) **Layering** – the funds are transferred or moved into other accounts or other financial institutions to further separate the money from its criminal origin. The aim is to disassociate the illegal monies from the source of the crime by creating a complex web of financial transactions designed to disguise the audit trail e.g. wire transfers using funds disguised as proceeds of legitimate business, cash deposited in overseas banking system and the resale of goods/assets.

3) **Integration** – the funds are reintroduced into the legitimate economic and financial system and used to purchase legitimate assets or to fund other criminal activities or legitimate businesses thereby making it appear that the money has been legally earned e.g. false loan repayments or forged invoices, complex web of transfers both domestic and international.

Terrorist Financing

3.3 Terrorist Financing on the other hand, may be described as the use of funds, or the making available of funds, for the purposes of terrorism; or the acquisition, possession, concealment, conversion or transfer of funds that are, directly or indirectly, intended to be used or made available for the purposes of terrorism. TF may not involve the proceeds of criminal conduct, but rather an attempt to conceal either the origin of the funds or their intended use, which could be for criminal purposes. A key difference

² FATF definition of ML found at www.fatf-gafic.org/faq/moneylaundering

RESTRICTED

between terrorist financiers and traditional criminal organizations is the legitimate sources of funds used by terrorist financiers. In addition to charitable donations, legitimate sources include foreign government sponsors, business ownership and personal employment. Although the motivation differs between traditional money launderers and terrorist financiers, the actual methods used to fund terrorist operations can be the same as or similar to methods used by other criminals to launder funds. Funding for terrorist attacks does not always require large sums of money and the associated transactions may not be complex.

Proliferation Financing

- 3.4 Proliferation Financing “refers to the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations”.³ In essence, any act of providing funds or financial services to any person (legal or otherwise) for purposes of financing the production or use of weapons of mass destruction (WMD) constitutes an act of proliferation; this includes any form of technology or goods that have dual uses if used for purposes that are not legitimate.

³ See footnote 1 of FATF Best Practices Paper on “Sharing Among Domestic Competent Authorities Information Related to the Financing of Proliferation”, February 2012.

4. The Virgin Islands AML/CFT Regime

- 4.1 In an effort to ensure that the Virgin Islands' AML/CFT legislative regime adheres to all relevant international standards, an extensive suite of laws and regulations have been developed to give effect to those obligations as set out in the international standards.
- 4.2 The principal requirements and obligations that are currently in force and which are applicable to persons living or operating from or within the Virgin Islands are contained in the following legislation:

A. Drug Trafficking Offences Act, 1992

- Sections 5 and 10 empower the Court to issue confiscation orders to confiscate proceeds through the Police where such proceeds are suspected of being used in the commission of a drug trafficking offence or to benefit a defendant in the commission of a drug trafficking offence;
 - Section 48 provides measures which permit Customs or the Police to seize or detain any cash found in the Territory (whether imported or exported) not less than ten thousand dollars, where there are reasonable grounds for suspecting that it represents drug trafficking proceeds (directly or indirectly) or for use in drug trafficking or ML;
 - Section 33 (1) makes provision for the confiscation of any property which represents another person's proceeds of drug trafficking which he acquires, transfers or has possession of;
 - Section 49 provides measures which enable the Magistrate to order the forfeiture of any cash seized under section 34 where the Police or Customs suspect that it represents cash intended for use in drug trafficking; and
 - Section 50 provides for the forfeiture of any property that represents the proceeds of drug trafficking or drug money laundering, whether or not the defendant is convicted of the offence.
- 4.3 The Drug Trafficking Offences Act also gives effect to the provisions of the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. It establishes the legal framework for the recovery of the proceeds of drug

R E S T R I C T E D

trafficking and, towards that end, it creates a regime of international co-operation on drug trafficking, including applications for confiscation, restraint and charging orders.

- 4.4 The Drug Trafficking Offences Act is complemented by the Drug Trafficking (Designated Countries and Territories) Order, 1996. This Order deals with the details of the assistance to be provided to appropriate authorities of designated countries and territories in relation to drug trafficking and drug money laundering. Where no appropriate authority is specified in relation to a country or territory, the Governor is empowered to issue a certificate to the effect that the authority named therein is the appropriate authority.

B. Criminal Justice (International Cooperation) Act, 1993

- 4.5 The objective of the Criminal Justice International Cooperation Act, in essence, is to create a flexible and comprehensive regime that enables the BVI to co-operate with other countries in matters pertaining to criminal investigations and proceedings; in addition, the Act regulates substances that are considered useful for the manufacture of controlled drugs and also creates a regime of hot-pursuit in apprehending vessels and persons concerned with drug offences. This latter regime, however, operates only on a bilateral arrangement, as currently exists between the BVI and the USA;

- Section 9 provides measures for international cooperation in the enforcement of overseas forfeiture orders and applies to (among other things) any offence under the Drugs (Prevention of Misuse) Act, or drug trafficking offences as defined in section 2 of the Drug Trafficking Offences Act; and
- Sections 12(6), 13(1) and (2), and 14(1) provide measures for international cooperation in the enforcement of confiscation orders in relation to the proceeds of drug trafficking.

- 4.6 The Act is complemented by the Criminal Justice (International Co-operation) (Enforcement of Overseas Forfeiture Orders) Order, 2017. This Order outlines the process for obtaining assistance in matters concerning the enforcement of confiscation orders as well as applications for restraint and charging orders. Its scope is also sufficiently broad to enable assistance to be rendered to any country or territory.

C. Proceeds of Criminal Conduct Act, 1997;

4.7 The Proceeds of Criminal Conduct Act represents an all-crimes anti-money laundering legislation. It provides for the recovery of the proceeds of crime; in addition, it also establishes a regime for the registration and enforcement of external confiscation orders.

- Sections 6 grants the Court power to make confiscation orders in relation to criminal conduct and applies where an offender is convicted of an indictable offence;
- Section 32 provides measures to facilitate external confiscation orders and proceedings for external forfeiture orders which may be instituted in a designated country; and
- Section 34 provides for forfeiture, after conviction, of any real property or any ship, vessel, boat, aircraft, vehicle or means of conveyance where the conviction relates to the offence of assisting another to retain the benefit of criminal conduct, or acquisition, possession or use of proceeds of criminal conduct, or concealing or transferring proceeds of criminal conduct. It further gives the Court power to order the defendant to pay any sum under the Act or serve a term of imprisonment in respect of the offence.

4.8 The Proceeds of Criminal Conduct Act is complemented by the Proceeds of Criminal Conduct (Designated Countries and Territories) Order, 1999. This Order provides the process for enforcing a request to confiscate assets or applying for a restraint or charging order.

D. Terrorism (United Nations Measures)(Overseas Territories) Order, 2001;

4.9 The Terrorism (United Nations Measures) (Overseas Territories) Order prohibits the raising of funds for purposes of terrorism; it places restrictions on making funds available and providing financial services to terrorists. It creates a regime that allows for the disclosure of information, on the authority of the Governor, to the United Nations and any government of a country for the purpose of detecting evasion of measures relative to terrorism.

R E S T R I C T E D

E. Anti-terrorism (Financial and Other Measures)(Overseas Territories) Order, 2002;

4.10 The Anti-terrorism (Financial and Other Measures)(Overseas Territories) Order restricts transactions in terrorist property and creates extra-territorial jurisdiction in respect of offences relative to terrorism – that is to say, engaging in fundraising or money laundering, using or possessing property or arranging fundraising activities, for terrorist purposes. It also enables the registration and enforcement of foreign confiscation orders by an order of the Governor.

4.11 The Order provides measures for the enforcement of forfeiture orders in relation to:

- money or other property which is likely to be used for the purposes of terrorism;
- proceeds of the commission of acts of terrorism; and
- proceeds of acts carried out for the purposes of terrorism.

F. Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order, 2011

4.12 The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order extends Part 1 (including Part 1 of Schedule 2) of the United Kingdom’s Terrorist Asset-Freezing etc. Act 2010 to the Territory and replaces the existing power that the Territory has to freeze the assets of those suspected of being involved in terrorism under the Terrorism (United Nations Measures) (Overseas Territories) Order.

G. Afghanistan (United Nations Measures)(Overseas Territories) Order, 2012

4.13 The Afghanistan (United Nations Measures)(Overseas Territories) Order replaces the Al-Qaida and Taliban (United Nations Measures) (Overseas Territories) Order, 2002 and gives effect to UNSCR 1988 which maintains in force the sanctions first imposed by resolution 1267 (1999) against the Taliban. This instrument enables the relevant authorities to take the necessary action to freeze assets in respect of the Taliban and persons associated with them, and to prohibit funds being made available to such persons. It also prohibits the supply of military goods and technical assistance related to military activities to designated persons.

H. ISIL (Da’esh) and Al-Qaida (Sanctions) (Overseas Territories) Order, 2016

4.14 The ISIL (Da’esh) and Al-Qaida (Sanctions) (Overseas Territories) Order replaces the Al-Qaida (United Nations Measures) (Overseas Territories) Order, 2012 and provides for the implementation of targeted financial sanctions pursuant to UNSCR 2253

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which maintains in force the sanctions first imposed by resolution 1267 (1999) but expressly extends the sanctions regime to ISIL (Da'esh). This instrument, together with the Proceeds of Criminal Conduct Act and the Terrorism (United Nations Measures) (Overseas Territories) Order provides for, and enables the relevant authorities to take the necessary action to freeze funds of designated persons and entities in respect of targeted individuals, groups, undertakings and entities associated with ISIL (Da'esh) and Al-Qaida, and to prohibit funds being made available to such persons. It also prohibits the supply of military goods and technical assistance related to military activities to designated persons.

I. Anti-money Laundering Regulations, 2008;

- 4.15 The Anti-money Laundering Regulations foster the regulation/supervision of regulated and non-regulated entities by requiring the adoption of specified measures to guard against the activities of money laundering and terrorist financing and ensure the availability of information when requested.

J. Anti-money Laundering and Terrorist Financing Code of Practice, 2008;

- 4.16 The Anti-money Laundering and Terrorist Financing Code of Practice supplements the Anti-money Laundering Regulations and establishes a framework for compliance with AML/CFT matters including the verification and maintenance of relevant ownership information and other pertinent records, as well as exchange of information with relevant authorities.

K. Proliferation Financing (Prohibition) Act, 2009

- 4.17 The Proliferation Financing (Prohibition) Act confers power on the BVI Financial Investigation Agency (FIA) to take action against persons and activities that may be related to terrorist financing, money laundering or the development of weapons of mass destruction (proliferation financing). Such action comes primarily in the form of directions that may be issued by the FIA in relation to any and all persons or class of persons operating within the financial sector from a country where there is reasonable belief on the part of the FIA that activities carried out in the country, or by the government or any other person resident or incorporated in the country, pose a significant risk of terrorist financing, money laundering or the development or financing of weapons of mass destruction, and as such pose a risk to the interests of the Virgin Islands or the United Kingdom. Information gathered by the FIA in the

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exercise of its duties in carrying out the provisions of this Act may be the subject of information exchange providing such requests for information are made in accordance with relevant legislative provisions.

L. Chemical Weapons (Overseas Territories) Order, 2005

4.18 The Chemical Weapons (Overseas Territories) Order prohibits the use, development or production, possession or transfer of a chemical weapon or any military preparation relating to the intended use of a chemical weapon. Requests in relation to these matters are transmitted through the Governor as the relevant central authority.

M. Chemical Weapons (Sanctions) (Overseas Territories) Order, 2020

4.19 This Order gives effect to the sanctions regime created under the Chemical Weapons (Sanctions) (EU Exit) Regulations, 2019 for the purpose of deterring the proliferation and use of chemical weapons, including encouraging the effective implementation of the Chemical Weapons Convention.

4.20 The sanctions imposed include an asset-freeze on persons designated by the Secretary of State as persons who are responsible for, involved in or promote a prohibited activity related to chemical weapons, as well as persons associated with such persons. This includes providing financial services or making available funds or economic resources that could contribute to the prohibited activity related to chemical weapons. The Order makes provision for the Governor to license certain activities in line with exemptions and derogations under the sanctions regime.

Institutions Charged with Combatting ML/TF/PF

4.21 The legal framework in place is designed to encourage legitimate commerce and to put up sufficiently robust defences so that criminals are prevented from abusing the BVI's financial system. In addition to these legislative authorities the Virgin Islands has an established network of institutions that are responsible for implementing measures within their individual competencies to combat ML/TF/PF and related crimes, in line with the international standards set out by the FATF. These institutions include:

- The Attorney General's Chambers – on matters of mutual legal assistance
- The Financial Services Commission – on matters of regulatory supervision and international cooperation

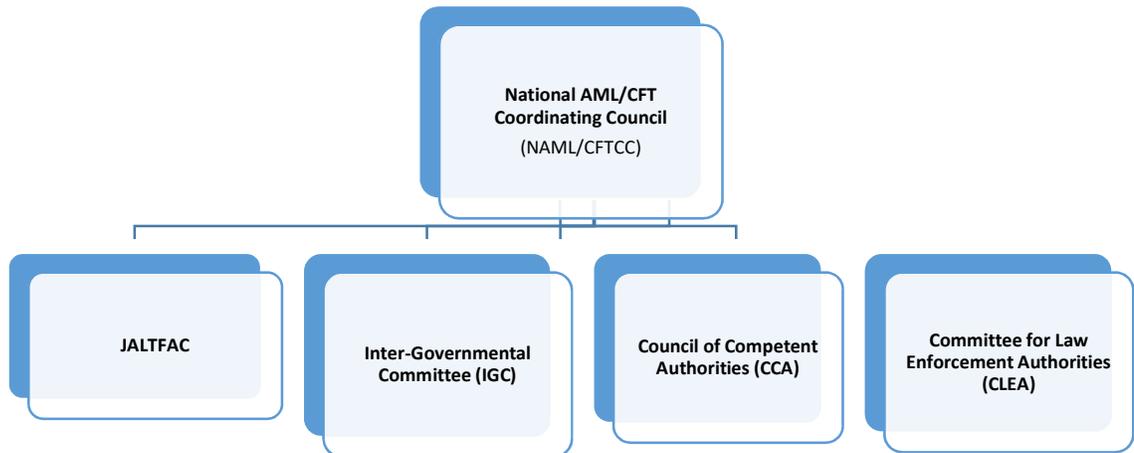
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- The Financial Investigation Agency – on matters of intelligence and financial crime and supervision of DNFBPs
- The International Tax Authority – on tax related matters and mutual legal assistance
- The Governor’s Office – on matters of extradition and international sanctions
- The Royal Virgin Islands Police Force – on security, crime solving, investigation and enforcement
- The Office of the Director of Public Prosecutions – on prosecutions, confiscations and seizures
- Her Majesty’s Customs – on border protection and enforcement

Committees and Other Co-ordinating Bodies

4.22 The Territory’s AML/CFT framework also includes several co-ordinating and domestic advisory bodies whose mandates vary, but which all play an important role in the Territory’s AML/CFT architecture. Collectively, these bodies are very important policy development institutions in the Territory’s efforts in reviewing and reforming its AML/CFT policies and activities in order to provide appropriate responses to ML/TF risks.

4.23 The structure of these bodies is outlined below.



4.24 NAMLCC serves as the Territory’s national coordinating body on AML/CFT issues in accordance with Recommendation 2 of the FATF recommendations, in addition to providing policy guidance on all AML/CFT issues relating to or affecting the Territory. It is responsible for driving the national AML/CFT architecture by developing and coordinating strategies to ensure that the Virgin Islands responds to

RESTRICTED

money laundering and terrorist financing threats and other issues in an effective manner and ensuring compliance with all relevant standards.

- 4.25 The role of the CCA is to facilitate coordination between the Territory's CAs relative to the execution of domestic and international cooperation matters and other relevant AML/CFT issues relating to or affecting the Territory.
- 4.26 The CLEA was established to ensure greater coordination and collaboration in the fight against ML, TF and other organised crime through intelligence sharing, the joint pursuit and apprehension of criminals, and the disruption of criminal activity. Its establishment is an important measure in avoiding loopholes in the fight against ML, TF and PF.
- 4.27 JALTFAC is a statutory body established under the PCCA and has responsibility for advising the Financial Services Commission on "initiatives for the prevention and detection of money laundering and terrorist financing".⁴ The Commission is required to encourage dialogue with the private sector with a view to establishing a broad-based understanding and awareness of issues concerning ML/TF as well as promoting the exchange of information on ML/TF matters.⁵ In order to discharge its functions, JALTFAC is required to meet to discuss pertinent AML/CFT issues, especially current and emerging international developments and, with its mixed composition of public and private sector representatives, it is a key institution in the Territory's overall AML/CFT strategy for effectively combating ML/TF.
- 4.28 The IGC is established pursuant to the powers granted to the FSC and FIA under the AMLTFCOP⁶ and serves as a mechanism for "creating, enhancing and promoting public awareness of issues relating to money laundering and terrorist financing" and fostering cooperation between key public bodies involved in the fight against, or that have some nexus to, ML/TF activities, through a system of dialogue and the sharing of information amongst its members. This system of dialogue includes the promotion of cooperation and information exchange between agencies in order to detect and prevent ML/TF; the rendering of necessary assistance to each other in respect of each other's law enforcement or regulatory functions; and the promotion of cooperation with foreign regulatory, administrative and law enforcement officials in relation to any ML or TF matter.⁷

⁴ See section 27A (1) of the PCCA.

⁵ Section 51 of the AMLTFCOP

⁶ See section 50 (1) of the AMLTFCOP.

⁷ Section 50 (2) of the AMLTFCOP

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5. The Virgin Islands Current AML/CFT Position

- 5.1 A jurisdiction's ML/TF risk is considered to be a function of its threats and vulnerabilities. A threat is something harmful which, while it may not definitely happen, could happen if relevant action is not taken. ML/TF threats can come directly from people (natural and legal), terrorists and their facilitators and criminals generally. Or they can be indirect where systems require improvement to detect, mitigate, combat and curtail harmful activity.
- 5.2 Based on analysis of the information collected during the NRA exercise, a number of primary and secondary threats have been identified in relation to the Territory's AML/CFT regime which have informed this policy.

Primary Threats

- 5.3 Primary threats have been identified as having a high impact on the stability of the AML/CFT regime and the reputation of the Territory if they were to occur. The following represent the primary threats identified during the NRA process:

a) Criminals' ability:

- i. to avoid extradition due to procedural failures in the extradition process;
- ii. to retain proceeds of crime where there is inability to provide information through MLATs;
- iii. to launder money and finance terrorism where international cooperation is not effective;
- iv. to retain the proceeds of crime through breaches of sanctions;
- v. to avoid prosecution due to lack of proper investigations and coordination amongst LEAs;
- vi. to unlawfully access and publish private and confidential information;
- vii. to exploit the vulnerabilities in the MSB sector, being a highly cash intensive business with cross-border reach, for the purpose of laundering money or financing terrorism;
- viii. to engage in illegal gambling and lottery activity for the purposes of "cleaning" ill-gotten proceeds;

b) LEAs' failure to:

- i. pursue migrant smugglers, human traffickers, money launderers and other criminals;
- ii. conduct ML investigations in a timely manner;
- iii. pursue prosecution for ML offences;

R E S T R I C T E D

- iv. pursue confiscation of assets;
 - v. properly detect security breaches;
-
- c) Corruption within LEAs that could cause illegal activities to be overlooked or investigations to be frustrated or circumvented;
 - d) Inadequate and inappropriate supervisory and enforcement frameworks for FIs and DNFBPs which leads to abuse of these systems by criminals;
 - e) Negligent and complicit TCSPs whose actions may result in the facilitation of ML/TF;
 - f) Inability to process SARs in a timely and efficient manner leading to delays in investigations, both locally and internationally, resulting in criminals avoiding prosecution, as well as fostering a breakdown in the VIs' relationships with its international cooperation partners;
 - g) Misuse of financial services products such as legal persons, legal arrangements and money services by criminals to facilitate fraud, corruption and other financial crimes and to launder money and finance terrorism;
 - h) Failures by financial institutions and DNFBPs in the maintenance of BO information, record keeping and reliance on third parties that could allow for ML/TF to go undetected;
 - i) The absence of or inadequate knowledge and training on AML/CFT matters by law enforcement officers and prosecutors could inadvertently cause important elements to be overlooked in the prosecution of ML/TF;
 - j) Misuse of the real estate sector to facilitate the laundering of proceeds of criminal activity; and
 - k) Exploitation of legal professionals to facilitate criminal behaviour and the laundering of criminal proceeds;

Secondary Threats

5.4 Secondary threats have been identified as having a lower probability of occurring but could impact the reputation of the Territory and the stability of the AML/CFT regime if they were to occur. The following represent the secondary threats identified:

- a) Misuse of the local NPO sector to facilitate ML/TF/PF where NPOs may be affiliated with international outreach;
- b) Potential exploitation of the jewellery subsector by visitors, particularly those travelling in groups, as a means to launder money and legitimize funds through the purchase and subsequent re-sale of expensive jewellery;
- c) The purchasing, selling and renting of yachts and other high value goods in the absence of proper CDD and record keeping measures can be used to facilitate ML; and
- d) The absence of adequate security for the courts to prevent criminals from potentially threatening or manipulating the judicial system;

Vulnerabilities

5.5 The concept of vulnerabilities is closely linked to that of a threat, and comprises those things that can be exploited by the threat or that may support or facilitate the threat activities. The vulnerabilities are effectively those factors that represent weaknesses in the Territory's AML/CFT system and covers the broadest areas of the economy.

5.6 In the context of the NRA, vulnerabilities of each CA and LEA were identified, as well as sectoral vulnerabilities for FIs, DNFBPs and NPOs, which were taken into consideration in identifying the Territory's overall risk. A summary of the main vulnerabilities are listed below:

- Lack of effective cooperation and coordination between CAs and LEAs;
- Lack of appropriate and/or reliable data to enable proper trend analysis;
- Inability to curtail corrupt practices within CAs and LEAs;
- Lack of capacity to effectively patrol all borders against trans-national crime;
- Inability to properly prosecute and secure convictions;

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- Lack of appropriate control measures within the FI and DNFBP sectors to guard against abuse;
- Inadequate training and resources amongst CAs and LEAs to effectively investigate, monitor and supervise; and
- Lack of understanding of ML, TF and PF risk and level of exposure within the NPO sector.

Risks

- 5.7 As noted above, the risks identified during the conduct of the Territory's NRA are a function of the threats to the Territory's AML/CFT regime, and the vulnerabilities of the agencies responsible for guarding the Territory against ML/TF/PF.
- 5.8 Further, the Virgin Islands recognises its global standing as an IFC and as a leader in company formation business, and the high risks inherent in such business. As such, the Territory understands the need to ensure compliance with international standards relative to legal persons⁸ such as BVIBCs and partnerships, and legal arrangements⁹ including express trusts, particularly with respect to the maintenance and timely production of BO information and the misuse of legal arrangements for ML/TF and PF. This policy has, therefore, also taken these specific risks into account in an effort to minimise their impact as much as possible.
- 5.9 Based on the findings of the NRA the ML/TF/PF risk of the main financial services sectors has been rated as follows:

Banking	Low
Insolvency	Low
Insurance	Medium
Investment Business	Medium
Trust and Corporate Services	Medium
Money Services	High

⁸ Legal persons are defined by the FATF as "any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property".

⁹ Legal arrangements are defined by the FATF as "express trusts or other similar legal arrangements".

R E S T R I C T E D

5.10 Additionally, the NRA assessed the overall DNFBP sector as having a medium level of risk, with the individual sectors being assessed as follows:

Real Estate Agents	High
Legal Practitioners	Low
Notaries	Low
Accountants	Low
Dealers in Precious Metals and Stones and other High Value Goods Dealers ¹⁰	Medium

5.11 With respect to NPOs, the majority of the NPOs were found to be small community-oriented organisations with very little donor or revenue bases. The sector, however, has been assessed as posing a **medium** risk, although in reality, it is felt that the sector represents a **low** risk. The medium risk elevation is as a result of the larger NPOs that were either found to have international exposures or represented religious organisations with large congregations and sources of funds. In terms of size these NPOs effectively dwarfed the smaller NPOs grouped together, but did not pose a substantial risk of ML or TF based on the nature of, and types of activity carried on by these entities.

5.12 Further, the assessment of the Territory's Competent Authorities and key Law Enforcement Agencies found the deficiencies identified in those agencies to pose a overall medium level of risk to the Territory's AML/CFT regime.

5.13 With respect to TF and PF risks specifically, the risk of TF within the Territory has been assessed as being relatively remote and low. However, it is recognized that the size and nature of the financial services industry in the Territory does provide greater risk of the corporate and other structures established within the Virgin Islands being used to finance terrorists or terrorist activities on the global stage.

5.14 As with TF, the risk of PF within the Territory is considered to be low and relatively remote. However, due to the nature of the financial services industry in the Territory,

¹⁰ High Value Goods dealers are persons who buy and sell certain high value goods for cash payment of \$15,000 or more in any currency. The Non-Financial Business (Designation) Notice, 2008 designates four categories of HVG dealer: boat (yacht) dealers; vehicle dealers; jewellers; and furniture, machinery and art dealers

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it is recognised that some risk, although remote, may exist in relation to the misuse of corporate entities in the funding of WMDs.

- 5.15 The overall risk of the Virgin Islands in respect of ML/TF/PF based on the identified threats and vulnerabilities has, therefore, been assessed as **medium**.

6. The Virgin Islands National AML/CFT Policy

- 6.1 ML/TF/PF and sanction breaches have been identified as major threats globally and indeed to the Virgin Islands and the international financial services industry. The Virgin Islands is, therefore, committed to the highest standards for the prevention of ML/TF/PF and sanctions enforcement.
- 6.2 The Virgin Islands' National AML/CFT policy has thus been developed on the basis of its statutory obligations outlined above, taking into consideration the identified threats and risk levels and potential consequences, along with the recommendations outlined in the NRA report. Other relevant issues have also been taken in consideration, including subsequent changes to international standards since the conclusion of the NRA exercise, such as the revision of the FATF Recommendations and the FATF's *Methodology for Assessing Technical Compliance with FATF Recommendations and the Effectiveness of AML/CFT Systems*.
- 6.3 The National AML/CFT policy focuses on six (6) key areas:
- 1) Prevention
 - 2) Detection
 - 3) Investigation and sanction
 - 4) Regulation
 - 5) Articulation
 - 6) Promotion of co-operation
- 6.4 This Policy outlines the general ways in which each of the key areas identified may be achieved. Each key area, while distinct, and the responsibility for which lies with varying agencies, intersects with other key areas to form the foundation of a cohesive National AML/CFT strategy geared towards the successful fight against ML/TF/PF and overall protection of the Virgin Islands.

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6.5 **Prevention** will be achieved through:

- the review and adoption of relevant legislation to comply with international standards;
- the strengthening of preventative measures including swift implementation of international sanctions for TF and PF;
- the identification and proper control of activities that make ML/TF/PF possible; and
- updating of sectoral risk assessments as necessary based on intelligence gathering of potential and/or developing risks.

6.6 **Detection** will be achieved through:

- the recognition and reporting of AML/CFT related matters in a timely manner;
- the improvement of the mechanisms in place to ensure timely review and analysis of STRs; and
- continual training of key law enforcement agents in ML/TF/PF detection techniques including measures for addressing related predicate offences.

6.7 **Investigation and sanctioning** will be achieved through:

- ensuring that the organizational and management structures of the FIA and RVIPF FCU are supported and developed to allow for proper and efficient investigation of persons involved in domestic and international AML/CFT related crimes;
- ongoing training in investigative techniques for relevant law enforcement agencies and competent authorities;
- strengthening of the ODPP to ensure proper and successful prosecution of persons involved in national and international AML/CFT related crimes; and
- timely and proportionate sanctioning of persons involved in national and international AML/CFT related crimes.

6.8 **Regulation** will be achieved through:

- enhanced monitoring and supervision of FIs and DNFBPs including the review and enhancement of CDD measures where necessary;

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- ensuring proper maintenance of BO information in line with international standards;
- publication of relevant guidance for FIs, DNFBPs and NPOs;
- proper monitoring and supervision of NPOs;
- prompt notification of changes to international standards to allow for proper adherence by industry practitioners; and
- taking of effective, proportionate and dissuasive enforcement action to ensure compliance with regulatory requirements.

6.9 **Articulation (Public Outreach, Capacity Building)** will be achieved through:

- ensuring proper understanding by both public and private sector actors of their roles and responsibilities;
- the fostering of dialogue between supervisory bodies and professional associations;
- the promotion of active participation in the fight against ML/TF/PF by way of public dissemination campaigns aimed at preventing ML/TF/PF; and
- ensuring cooperation and coordination between supervisors and private sector participants in order to drive the revision and amendment of national AML/CFT legislation, and ensure an effective framework to combat ML, TF and PF that complies with international standards.

6.10 **Promotion of national and international cooperation** will be achieved through:

- ensuring effective functioning of established multi-agency task forces;
- fostering the ongoing engagement of inter-agency and other national committees as a platform to share knowledge and highlight pertinent issues relative to AML/CFT; and
- the enhancement of relationships with international counterparts with respect to the sharing of information.

7. Policy Implementation, Monitoring and Evaluation *Implementation*

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- 7.1 As the body with responsibility for charting the way forward on AML/CFT policy issues, NAMLCC will be responsible for the implementation and monitoring of the jurisdiction's AML/CFT Policy and any strategy emanating from the development of this policy. In so doing, it will oversee coordination and cooperation between each statutory authority, department of Government or agency with a role in combatting ML/TF and PF within the jurisdiction, and will continue to assess the risks to the Virgin Islands relative to ML/TF and PF.

Monitoring and Evaluation

- 7.2 Monitoring is the act of observing processes and activities to ensure they are executed properly and fairly. In the context of this Policy, each relevant authority is expected to monitor its processes and activities to ensure that they align with, support and promote the relevant key areas, in addition to addressing those action items emanating from the NRA report and any other actions identified as a consequence thereof. These agencies will report to NAMLCC on such progress via the appropriate channels.
- 7.3 Relevant agencies will also be responsible for ensuring that entities within the FI, DNFBP and NPO sectors are aware of the Policy and its implications on their business activities. These entities in turn will have a responsibility to ensure that they adhere to any directives issued, and to bring to the attention of the relevant agency any matters which they may consider an impediment to the proper fulfilment of these policy objectives.
- 7.4 As it relates to evaluation, NAMLCC will be responsible for reviewing the Territory's compliance with the National Policy and making suggestions for any modifications to the Policy and any strategy emanating from the Policy where found necessary. To ensure compliance with all applicable international standards and domestic AML/CFT legislation, the Policy will be reviewed and updated on a periodic basis to account for changes that may arise in either domestic or international requirements. Such suggestions/changes will then be submitted to Cabinet for approval.
- 7.5 The AML/CFT Implementation Unit within the Ministry of Finance has the responsibility for the effective implementation of AML/CFT recommendations contained in the NRA Report and for ongoing monitoring to determine the level of effectiveness across all relevant stakeholders. The Unit will, therefore, be responsible for assessing each agency against their action plans emanating from the NRA Report to determine the level of progress made in alignment with the National Policy, and reporting on such to NAMLCC.

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ACRONYMS

AML	-	Anti-money Laundering
BO	-	Beneficial Ownership
CCA	-	Council of Competent Authorities
CDD	-	Customer Due Diligence
CFATF	-	Caribbean Financial Action Task Force
CFT	-	Countering the Financing of Terrorism
CLEA	-	Committee of Law Enforcement Agencies
DNFBP	-	Designated Non-financial Businesses and Professions
DTOA	-	Drug Trafficking Offences Act, 1992
EU	-	European Union
FATF	-	Financial Action Task Force
FI	-	Financial Institutions
FIA	-	Financial Investigation Agency
IFC	-	International Finance Centre
IGC	-	Inter-governmental Committee on AML/CFT Matters
JALTFAC	-	Joint Anti-money Laundering and Terrorist Financing Advisory Committee
LEA	-	Law Enforcement Agencies
ML	-	Money Laundering
MLAT	-	Mutual Legal Assistance Treaties
MSB	-	Money Services Business
NAMLCC	-	National Anti-money Laundering Coordinating Committee
NPO	-	Non-profit Organisations
NRA	-	National Risk Assessment
ODPP	-	Office of the Director of Public Prosecutions
PF	-	Proliferation Financing
RVIPF	-	Royal Virgin Islands Police Force
SAR	-	Suspicious Activity Report
STR	-	Suspicious Transaction Report
TCSP	-	Trust and Corporate Services Provider
TF	-	Terrorist Financing
UNSCR	-	United Nations Security Council Resolution