

GUYANA'S SECOND MONEY
LAUNDERING/TERRORIST
FINANCING NATIONAL RISK
ASSESSMENT
REPORT

July 13, 2021

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DISCLAIMER

The National ML/TF Risk Assessment Tool developed and provided by the World Bank was used by Guyana as the main instrument in this self-assessment exercise. The World Bank team's role was limited to the delivery of the tool; providing guidance on the technical aspects of the tool; reviewing draft National Risk Assessment documents; and providing feedback to the working group to assist in the proper use of the tool. The data, statistics, and information populated into the National ML/FT Risk Assessment Tool templates, as well as the findings, interpretations, and judgments under the scope of National Risk Assessment process are those of the Guyanese authorities and do not reflect the views of the World Bank.

SECTION ONE: RISK ASSESSMENT OVERVIEW

1.1 FORWARD

The Cooperative Republic of Guyana continues to be committed to the fight against money laundering and terrorist financing (ML/TF), as well as the financing of proliferation, and other related threats to the integrity of its financial system. In this regard, Guyana has established a comprehensive and consistent framework of measures to protect its financial system from misuse.

We are pleased that these efforts have been recognized internationally, thereby resulting in improved rankings in international reports such as the United States' Department of State International Narcotics Control Strategy Report and the Transparency International Corruption Perception Index.

Also critical in highlighting the fruits of our labour, has been the success of having Guyana being removed from the European Union's Money Laundering Blacklist in February 2019.

Guyana's second National Risk Assessment (NRA) comes at a critical time in our development, as we enter a period of renewed prosperity, instigated by the highly publicized discovery of offshore oil deposits within our jurisdiction.

We commit further to becoming a frontier of integrity, prudence and fortitude in the preservation of our resources and the protection of our citizens.

It is intended that this second NRA will not only assess how much progress Guyana has made since its first NRA, but to reinforce and introduce new areas of assessment, such as the emerging risks related to illegal wildlife trade in Guyana, and the financing of proliferation of weapons of mass destruction, as well as ML threats associated with the oil and gas sector.

We graciously thank all the stakeholders who were involved in the NRA exercise and anticipate that the results of this NRA will lead to pellucid targeted actions, which will build upon the assessed measures to continually improve the resilience of our financial systems, so that it remains well-guarded from the intent of criminals.

Honourable Mohabir Anil Nandlall, SC, MP
Attorney General and Minister of Legal Affairs
Cooperative Republic of Guyana

1.2 INTRODUCTION

The crimes of money laundering, terrorism financing and the financing of proliferation of weapons of mass destruction have a coercive effective on society. These reprehensible crimes contribute to the erosion of the rule of law, political instability and weakening of the economy. The more prevalent these crimes become the less citizens will have confidence in the financial system and the institutions that are necessary for good governance. Moreover, criminals are always finding unconventional methods of committing crimes and exploiting a country's weaknesses as new technology and sectors emerge. This inevitably presents law enforcement agencies, supervisory bodies and other relevant actors with new challenges to confront and risks to mitigate. For these reasons, it is crucial for Guyana to implement targeted measures consistent with international best practices and standards to combat money laundering, terrorism financing and proliferation financing (ML/TF/PF). However, any risk assessment must take into consideration the unique context of the jurisdiction.

Guyana is located on the north eastern coast of South America with a landmass of 214,969 square kilometres. It is the only English-speaking country on the continent. The country's economy is a small open economy that is actively involved in international trade in goods and services and various financial transactions. The country is a net importer, depending heavily on the importation of consumption, intermediate and capital goods and financial services. Guyana's economy is largely based on agriculture and mining and the country's three main export commodities are sugar, rice and minerals such as gold, diamond and bauxite. Other main sectors include fishing and forestry.

In 2015, Guyana became one of the top 20 largest oil and gas reserve holders in the world following the discovery of oil. The commencement of oil production in early 2020 has significantly improved Guyana's medium-and long-term outlook and this sector is projected to grow rapidly. It is estimated to account for around 40 percent of GDP by 2024. The change in Guyana's financial landscape due to its new emerging oil sector, coupled with the vulnerabilities of the existing ones, may make Guyana a target for money launderers and terrorist financiers.

Moreover, Guyana is a transit country for cocaine destined to North America, Europe, West Africa and the Caribbean because of its unique geographical location. Guyana shares borders with Venezuela, Brazil and Suriname and most of these borders are situated in the hinterland region which is heavily forested. Particularly, Venezuela is known to be politically unstable and a transshipment point for illicit drugs. Cocaine originating in Colombia is smuggled to Venezuela and then to Guyana by sea or air. Guyana is attractive to drug traffickers due to its porous borders and remote airstrips and ports which are poorly monitored due to the lack of resources and inaccessibility to those remote areas. Additionally, the country's unpopulated forest and savannahs provide a safe haven for drug traffickers and smugglers. Also, Guyana's

close proximity to Trinidad and Tobago increases its vulnerability to be misused as Trinidad and Tobago has nationals that are suspected of being involved in terrorism and the financing of terrorism.

Further, Guyana is one of the largest exporters of illegally caught and traded wildlife in South America. Animals illegally traded include various species of birds, reptiles and wild cats including the national animal-the jaguar. The main export markets are Mexico, Singapore and the USA. However, as Guyana has porous borders there is also illegal trade across Brazil, Suriname and Venezuela. Intermediaries are known to reside in Lethem in South West Guyana or on the coast and often even community members are involved unknowingly in illegal hunting and trapping of these animals.

Accordingly, this second NRA will enable members of the public and private sectors to further their knowledge and understanding of Guyana's ML, TF and PF risks. It will ensure that they are equipped with the relevant information to allow them to competently play their part to further strengthen our AML/CFT regime including our targeted financial sanctions regime related to terrorism, terrorism financing and proliferation financing. It will also ensure that appropriate risk-based measures are effectively implemented. The Report will also form the basis for the preparation and implementation of a Risk Based Action Plan and the development of a National Strategy to combat ML/TF/PF as well as terrorism.

1.3 OBJECTIVES

The objective of this NRA is to enable Guyana to identify, assess, and understand its ML, TF and PF risks. It provides the impetus for Guyana to implement a risk-based approach to combat ML, TF and PF by ensuring that the risks are mitigated effectively and, where possible, eliminated. This second NRA exercise strives to strengthen and improve Guyana's AML/CFT regulatory framework and to design policies and strategies to effectively mitigate the identified risks. The report will provide a broad assessment of Guyana's ML, TF and PF risks to enhance the understanding of them and to develop effective strategies to address them.

Through this process Guyana will be able to identify the level of understanding of risks and implementation of mitigating measures among agencies, gaps in the existing regulatory framework and co-ordination at a national level. To this end, this assessment is aimed at assisting the competent authorities, reporting entities and other relevant stakeholders in identifying those areas that are most vulnerable to ML, TF and PF risks, as well as allocation of resources to those areas and prioritising of activities in a proportionate and risk-based manner.

1.4 METHODOLOGY

In establishing the methodology for this assessment, the working group considered the World Bank's Risk Assessment advisory package provided to Guyana as part of its technical assistance to the country. This is a methodological tool, developed by the World Bank to assist countries in carrying out their own national risk assessments. It is an Excel-based model that enables countries to identify the main drivers of ML/TF risks. It provides a methodological process, based on the understanding of the causal relations among money laundering risk factors and variables relating to the regulatory, institutional, and economic environment.

The tool comprises several interrelated modules. These are built on "input variables", which represent factors related to money laundering/terrorist financing threats and vulnerabilities.

The model is applied as follows:

- For each sector or area or assessment, a multidisciplinary team is set up consisting of experienced practitioners from government and, the private sector.
- Each team member assigns ratings to input variables related to their area of expertise and justifies those ratings with quantitative and qualitative data.
- Each input variable has an assigned weight and impact on the vulnerability level of the assessed sector, or area.
- The tool generates an overall rating, based on the inputs from the modules.

The exercise was conducted over an eighteen-month period commencing in December 2019.

Working Group for the risk assessment

To conduct the NRA, a working group (WG) was established, comprising approximately seventy (70) key experts/professionals representing over forty (40) public and private sector organisations in Guyana. *Refer to Annex I - list of organisations represented on NRA Working Group.*

The Three Phases of the Risk Assessment Process

The World Bank's recommended three-phase process was utilized to conduct the NRA as follows:

- The first phase (Preparation) involved establishing the WG and commencing the collection of data/information for the assessment;
- the second phase (Assessment) involved the WG receiving hands-on training on the Risk Assessment Tool, the collection of additional data/information, and analysis of the data received to establish the risks present, and understand their impact, and drafting the NRA Report;

- Under the final phase (Finalization), the WG discussed the risk assessment and its results, with the management of participating agencies, and policy makers, finalize the NRA Report and develop a detailed risk-based action plan for implementation.

Information for this report was received from questionnaires sent to key public and sector organizations in Guyana, focused group interviews and meetings (virtual and in person) with relevant authorities, reports by international organisations such as the World Bank Group, International Monetary Fund, UNODC, US Department of State Bureau of Counter Terrorism etc., Guidance and Best Practice Papers by the Financial Action Task Force, as well as the internet and credible media sources.

1.5 LIMITATIONS

In conducting the country's second NRA, the WG experienced many of the same challenges faced during the first NRA. Access to data/information continued to be a challenge during the exercise. Law Enforcement Agencies (LEAs) are still handling data manually and there still seem to be no centralized database from which information could easily be accessed by LEAs. This made it difficult for the WG to access relevant data/information for the NRA. Also, a number of DNFBPs such as Attorneys-at-law, Accountants, Real Estate Agents and other key agencies including the Guyana Bar Association, the Institute of Chartered Accountants of Guyana, the Judiciary, and the Guyana Elections Commission, did not respond to the questionnaires sent by the WG.

There was also a lack of clear understanding of issues the questionnaires sought to receive from some of the sampled respondents. In other instances, some institutions were not forthcoming with the information particularly in the DNFBPs sector, including attorneys, accountants, and real estate agents. The lack of AML/CFT knowledge within some key agencies and sectors also affected the responses provided.

Once again, the experts/professions identified to conduct the NRA exercise were required to contribute to the exercise alongside their regular jobs.

The COVID-19 pandemic and the emergency measures put in place by the Government required social distancing, and this posed some challenges. The WG had to reorganise their work plan and utilize online platforms to meet, discuss and prepare the report virtually. Further, the measure requiring both public and private sector employees to either work from home or on a rotation basis also posed some challenges due to poor internet connectivity to facilitate virtual meetings, and unavailability of relevant staff to complete and submit questionnaires for the exercise. As such, data/information was not received within stipulated timelines.

The findings of the WG must therefore be considered in the context of the limitations highlighted above.

1.6 EXECUTIVE SUMMARY

Guyana became a member of the Caribbean Financial Action Task Force (CFATF) in 2002. The CFATF is an organization of twenty-five (25) states and territories of the Caribbean basin which have agreed to implement common countermeasures against money laundering and terrorism financing. As a member of this organization, Guyana is required to and has been implementing the Financial Action Task Force (FATF) Recommendations, which set out a comprehensive and consistent framework of measures which countries should implement in order to combat money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction.

In keeping with FATF Recommendation 1, which requires countries to identify, assess, and understand their money laundering, terrorist financing and proliferation financing risks, and take appropriate action to ensure that the risks are effectively mitigated, the Government of Guyana (GoG) completed its first ML/TF National Risk Assessment (NRA) in 2017. The country recognizing the importance and need for NRAs to be up to date or current, embarked on a second NRA exercise in December 2019. This new NRA also considers, proliferation financing risk, the money laundering threats associated with the illegal wildlife trade in Guyana, as well as the ML threats associated with the new and emerging oil and gas sector.

Determination of overall Risks, Threats and Vulnerabilities

The country's national/overall ML Risk was determined based on its overall ML threats and overall ML vulnerability. The overall ML Threats was determined based on an assessment of cross-border threats, predicate offenses that generate proceeds of crime, the total size of the proceeds of crime, and the sectors in which the proceeds of crime are invested and laundered; while the national/overall ML Vulnerability was determined based on the country's national combating ability and overall sectoral vulnerability.

In terms of Guyana's overall TF Risk, this was determined based on the country's overall TF threat and TF vulnerability.

This NRA concludes the following:

National/Overall ML Risk

The overall money laundering risk in Guyana was rated as **MEDIUM HIGH** due to the country's *Medium High* overall money laundering threat, and *Medium High* national money laundering vulnerability.

The *Medium High* national ML Vulnerability of the country is based on the *Medium High* Overall Sectoral ML Vulnerability and *Medium Low* National ML Combating Ability. The problem area is the weak national ML combating ability which is as a result of poor *Quality of Criminal Investigations, Quality of Prosecutions, Quality of Adjudication, Quality of Asset forfeiture frameworks, Quality of AML Policy and*

Strategy and Quality of cross-border controls on cash and similar instruments. These factors underlie the deficiencies in the country's national ML combating ability. Refer to **Annex II – Vulnerability Map** and **Annex III – Priority Ranking - input variable for National Combating Ability**

Overall Sectoral Vulnerability

The higher the vulnerability of a sector, the more vulnerable that sector is to money laundering.

Based on the assessment of twenty (20) sectors, the overall sectoral vulnerability was assessed as **Medium High** with the individual sectoral vulnerability ranging from low to high. The sector with a high vulnerability is the Dealers in Precious Minerals/Licensed Traders. This high vulnerability is due to the large number of unregulated licensed traders who are not in compliance with the AML/CFT provisions.

The sectors with Medium High vulnerability rating are:

- Attorneys-at-law
- Accountants/ Auditors
- Non-Financial Trust and Company Service Providers
- Real Estate Agents/Brokers/Housing Developers
- Used Car Dealers/Car Parts Dealers
- Dealers in Precious Metals
- Banking and Building Societies
- Money Transfer Agencies,
- Cambios

The sectors with Medium vulnerability rating are:

- Dealers in Precious and Semi-Precious Stones
- Lotteries
- Notary Public/Commissioner of Oaths to Affidavits

The sectors with Medium Low vulnerability rating are:

- Pawnbrokers/Money Lenders
- Cooperatives
- Insurance
- Securities
- Betting Shops
- Casinos

The sector with Low vulnerability rating is:

- Credit Unions

Overall sectoral risk

The overall sectoral risk rating is based on the level of ML threat and ML Vulnerability. The sector with Medium High ML risk is the Accountants/Auditors.

The sectors with Medium ML risk are:

1. Attorneys-at-law
2. Banking and Building Societies
3. Cambios
4. Dealers in Precious Metals
5. Dealers in Precious Minerals/Licensed Traders
6. Lotteries
7. Non-Financial Trust and Company Service Providers
8. Real Estate Agents/Brokers/Housing Developers
9. Used Car Dealers/Car Parts Dealers
10. Money Transfer Agencies

The sectors with Medium Low ML risk are:

1. Betting Shops
2. Cooperatives
3. Casinos
4. Pawnbrokers/Money Lenders
5. Insurance
6. Dealers in Precious and Semi-Precious Stones
7. Notary Public/Commissioner of Oaths to Affidavits
8. Securities

The sector with Low ML Risk rating is:

1. Credit Unions

Refer to *Annex IV – Sectoral ML Vulnerability/ML Threats/ML Risk ratings and Annex V - Priority Ranking for sectors.*

The National/Overall Terrorism Financing Risk

The country's TF Risk was rated as **MEDIUM** as its TF Threats, TF vulnerability as well as its terrorism risk were also rated Medium. Factors that contributed to the country's medium high TF risk include, the absence of a national strategic framework for countering TF, minimum cooperation among the key agencies responsible for analyzing, investigating and prosecuting TF and terrorism matters, and the lack of adequately resourced units to combat TF and terrorism.

Proliferation financing risk

Although the WG did not provide a rating for the PF risk in Guyana, it was determined that much needs to be done at a country level to effectively combat PF. The legal framework in place to counter PF is inadequate and the relevant agencies lack the knowledge and skills to effectively combat PF.

ML Risk associated with Illegal Wildlife Trade in Guyana

The ML risk associated with the illegal wildlife trade in Guyana was assessed as *MEDIUM* due to the ineffective monitoring systems for domestic trading of wildlife, and the lack of knowledge of law enforcement in conducting parallel financial investigations and confiscating assets of criminals involved in illegal wildlife trade.

ML Threat associated with the Oil and Gas sector

The ML threat associated with the oil and gas sector was considered as *MEDIUM* due to ineffective and outdated legislation for the sector; the discretionary powers of the Minister responsible for petroleum, in granting prospecting/production licence; no requirement for disclosure of beneficial owner information when applying for a prospective/production licence; and the limited institutional expertise and experience to regulate, monitor and supervise international oil and gas companies operating in Guyana.

Financial Inclusion products vulnerability

Most of the financial inclusion services/products available in Guyana are offered by reporting entities which are regulated for AML/CFT compliance. However, some entities do not have clear transaction limits which could render them vulnerable for ML. There is no definition for financial inclusion in local legislation. There is no regulation with clear guidelines for the application of simplified CDD for financial inclusion products/services and there is limited public awareness related to financial inclusion products and services.

Emerging Threats

As the world shifts towards measures of financial inclusion, new and emerging technologies have played a distinct role in the financial services industry.

As a result, some companies have started to shift the focus away from traditional fiat to virtual assets, which in some cases are backed by complex algorithms to provide their value.

The virtual assets sector remains unregulated in Guyana, and given the increased attention the country will gain from investors all over the world, it is likely that the use of virtual assets for payments of goods and services will emerge in Guyana, if it has not already.

This may unfortunately provide further avenues for unsuspecting persons to invest in Ponzi schemes relating to such assets, as well as being used by Romance schemes and Forex investments schemes as part of scams to relieve persons of the traditional fiat.

Guyana therefore must be vigilant and guard against the misuse or abuse of its financial services.

SECTION TWO: RISK ASSESSMENT FINDINGS

2.1 MONEY LAUNDERING RISK

The overall money laundering Risk in Guyana was assessed as **MEDIUM HIGH**. This is because of the country's *Medium High* overall threat and *Medium High* overall vulnerability.

2.2 MONEY LAUNDERING THREAT

The overall level of ML threat in Guyana is **Medium High**, due to the significant estimated value of proceeds of crime generated from predicate offences committed in Guyana, coupled with lack of convictions for ML over the years.

An examination of the predicate offences for ML indicates that over the assessed period there were numerous investigations and charges however, none resulted in “parallel ML investigations”¹ much less ML prosecutions. The true magnitude of the amount of illegal proceeds these crimes generated was mostly estimated since adequate information was unavailable.

Further, the WG was unable to establish the trends for the category of predicate offences investigated, prosecuted and convicted by the Guyana Police Force (GPF) over the assessed period as such data/information are not maintained in a disaggregated manner.

The Special Organised Crime Unit (SOCU) is mainly responsible for conducting investigations into money laundering, proceeds of crime and terrorist financing.

Predicate Offences that Generate Proceeds of Crime

There are twenty (20) serious offences listed as predicate in the Anti-Money Laundering and Countering the Financing of Terrorism Act. Other offences that carries more than six months imprisonment are also predicates to ML in Guyana. *Refer to Annex VI: ML Serious/Predicate Offenses.*

¹ A ‘parallel financial investigation’ refers to conducting a financial investigation alongside, or in the context of, a (traditional) criminal investigation into money laundering, terrorist financing and/or predicate offence(s).

Based on analysis, the WG concluded that of the twenty predicate offences listed in the AML/CFT Act, the ones that pose the highest ML threat in the country are *smuggling including gold smuggling, tax evasion, illicit trafficking in narcotic drugs and psychotropic substance* and *fraud*. The estimated value of the proceeds generated from these offences are approximately USD 2.2 billion, USD 19.5 million, USD 13.4 million and USD 8.4 million respectively for the period 2016 to 2020. The threat of money laundering from predicate offences that could not be identified (unspecified predicate offences) was also determined to be high, given the value of the suspected money laundering cases which fit this profile. The estimated value of the proceeds generated from the unknown predicates is over USD 29 million.

Aside from the predicate offences rated as high, the other predicate offences observed and rated by the WG, based on the number of investigations, prosecution and convictions as well as the estimated value of the proceeds of crime generated from these offences were as follows:

Table 1 – Other predicate offences

Other predicate offences	ML Threat level
Corruption and bribery	Medium High
Trafficking in human beings and migrant smuggling; illicit arms and ammunition trafficking; murder grievous bodily harm	Medium Low
Terrorism, including terrorism financing.	Medium
Sexual exploitation, robbery or theft, forgery and piracy	Low

The WG noted that while there were no ML convictions related to the predicate offences, there were approximately 100 intelligence reports including follow-up reports disseminated by the Financial Intelligence Unit (FIU) to SOCU indicating a suspicion of ML related to these predicate offences.

a) Predicate offences with *High ML Threat*

These findings are based on statistical evidence of investigated and prosecuted cases, and on the value of proceeds confiscated, as well as estimated to have been generated from the crimes. The estimates are based mainly on media reports, and suspicious transaction reports filed with the FIU.

I. Smuggling including gold smuggling

The smuggling offences assessed and rated include currency and gold smuggling. Although there were only two (2) convictions over the assessed period which resulted in the confiscation of USD 37,554, the estimated value of the proceeds related to this offence stands at USD 2.2 billion. The estimated value of proceeds for smuggling including gold smuggling was calculated by the WG based on media reports.

In 2016 it was reported that 15,000 ounces of gold is smuggled out of Guyana weekly,² while in 2017, a major gold smuggling racket was unearthed. The US Federal Bureau of Investigation (FBI) provided Guyana's authorities with a list of persons who had taken gold to the JFK airport, New York, and declaring it there. The smuggling was made possible because Customs and other Gold Board documents were recycled along with seals. Hundreds of millions of dollars of profits were being made but little for Guyana.³

Threat Level: Considering these factors, smuggling including gold smuggling represents a High Threat of money laundering in Guyana.

II. Tax evasion

Even though the term "tax evasion" is not defined in legislation, the elements of the offence are contained under sections 67 and 109-114 of the Income Tax Act Cap 80:01 as amended. Over the assessed period, the Guyana Revenue Authority (GRA) confiscated approximately USD 56,074 for failure to declare and dealing with goods to defraud revenue and duties. In addition, based on the value of suspicious transaction reports received by the FIU in relation to tax evasion, the WG estimated the value of the proceeds from this offence as over USD 19 million.

Threat Level: Considering these factors, tax evasion represents a High Threat of money laundering in Guyana.

III. Illicit trafficking in narcotic drugs and psychotropic substance

The Narcotic Drugs and Psychotropic Substance (Control Act) Cap. 35:11 as amended covers a wide range of offences including possession, trafficking, cultivation of certain plants, narcotics in transit and forfeiture of assets. There are several agencies involved in combatting this offence and AML efforts. These include the GPF, GRA, Customs Anti-Narcotics Unit (CANU), SOCU, the FIU, and National Anti-Narcotic Agency (NANA).

The estimated value of the proceeds generated from narcotic offences for the period 2016 to 2020 is approximately USD 13.4 million. Although, the authorities investigated and prosecuted over 2,000 cases, there were only 586 convictions over the period and the authorities were only able to confiscate USD 282,138 which includes currency and other movable property (motor vehicles).

The International Narcotics Control Strategy Report (INCSR) published by the United States' Bureau of International Narcotics and Law Enforcement Affairs in March 2020 noted that-

² <https://guyanachronicle.com/2016/01/07/smuggled-60-of-guyanas-gold-is-smuggled/>

³ <https://www.kaieteurnewsonline.com/2017/09/13/several-to-be-charged-in-major-gold-smuggling-racket/>

“Guyana is a transit country for cocaine destined for the United States, Canada, the Caribbean, Europe, and West Africa. Cocaine originating in Colombia is smuggled to Venezuela and onward to Guyana by sea or air. Smugglers also transit land borders and the shared river network with Brazil, Venezuela, and Suriname. Cocaine is concealed in legitimate commodities and smuggled through commercial and private air transport, maritime vessels, human couriers, “go-fast” boats, and various postal systems. Drug traffickers exploit the country’s poorly monitored ports, remote airstrips, intricate river networks, porous land borders, as well as the permissive environment created as a result of corruption and the under-resourced security sector.”⁴

Threat Level: Considering these factors, Illicit trafficking in narcotic drugs and psychotropic substance represent a High Threat of money laundering in Guyana.

IV. Fraud

During the review period the LEA detected or investigated 1,139 instances of fraud, resulting in 1,152 prosecutions and 302 convictions. In addition, the FIU made 7 disseminations to SOCU relating to suspected fraud occurring in Guyana. However, there were no reported seizures or restraint of property in relation to this offence. The authorities however, estimated the value of this crime to be USD 8.4 million.

Threat Level: Considering these factors, fraud represents a High Threat of money laundering in Guyana.

b.) Predicate Offences with *Medium High Money Laundering Threat*

I. Corruption and bribery

Corruption is one of the predicate offences that had very few investigations and prosecutions (five and three respectively) and no convictions over the assessed period. However, the estimated value of the proceeds generated from this offence is USD 2.6 million.

Bribery is believed to be widespread among public officials in the country, particularly those responsible for the issuance of licenses. The WG believes that this may be due to the low remuneration packages offered to public officials whose duty it is to ensure that the law is upheld. Guyana has acceded to the United Nations Convention Against Corruption, and the country’s perception rating based on the Transparency International Corruption Perception Index has been steadily improving since 2016. In 2020 Guyana scored 41⁵ out of 100 and ranked 83 out of 180 countries. This is the highest since 2016, when the country scored 34 out of 100 and ranked 108 out of 176 countries.

⁴ International Narcotics Control Strategy Report (INCSR) Volume 1, 2020.

⁵ The higher the score out of 100, the lower the perceived level of corruption in the country.

Guyana Corruption Perception index ranking by Transparency International.

Table 2 – Guyana Corruption Perception index ranking (2016-2020)

Years	Score out of 100	Ranking among countries
2020	41/100	83/180
2019	40/100	85/180
2018	37/100	98/180
2017	38/100	91/180
2016	34/100	108/176

Notwithstanding the improvement in its score, Guyana is still listed among the countries perceived as being more corrupt.

The INSCR stated that “... *insufficient resources, weak law enforcement institutions, an ineffective judicial system, and inadequate compensation for civil service employees and public safety officials facilitate corruption throughout all sectors*”.⁶

Threat Level: Considering these factors, corruption and bribery represent a Medium High Threat of money laundering in Guyana.

c.) Predicate Offence with *Medium Money Laundering Threat*

Predicate offence	No. of investigations	No. of Prosecutions	No. of Convictions	Legislation
Terrorism including terrorism financing	22	1	1	AML/CFT Act Cap. 10:11 Anti-Terrorism and Terrorist Related Activities Act No. 15 of 2015 Criminal Law (Offences) Act Cap. 8:01

Terrorism including terrorism financing

According to the U.S. Department of State, there are no known indigenous terrorist organizations in Guyana and the country is not a known base of support/sympathy for terrorists. Further, there is no specific threat information concerning the presence of local, regional, and/or international terrorist groups in the country.

Over the assessed period the FIU forwarded fifteen (15) TF intelligence reports including follow-up reports to the Special Organised Crime Unit (SOCU) for investigation, while all were investigated none resulted in prosecutions or convictions. For the same period the GPF conducted 7 investigations for terrorism which resulted in only one conviction.

Threat Level: Considering these factors, terrorism including terrorism financing represents a Medium Threat of money laundering in Guyana.

⁶ *ibid.*

d.) Predicate Offences with *Medium Low* Money Laundering Threat

Predicate offence	No. of investigations	No. of Prosecutions	No. of Convictions	Legislation
Trafficking in human beings and migrant smuggling	115	83	11	Combatting of Trafficking in Persons Act Cap. 10:06
Illicit arms and ammunition trafficking	486	176	0	Criminal Law (Offences) Act Cap. 8:01/Summary (Offences) Act Cap. 8:02
Murder, grievous bodily harm	811	685	452	Criminal Law (Offences) Act Cap. 8:01/Summary (Offences) Act Cap. 8:02

Although there were a significant number of investigations, prosecutions and convictions for the offence of *trafficking in human beings and migrant smuggling*; and *murder, grievous bodily harm*, no proceeds were frozen or confiscated for these crimes. Also, notwithstanding 176 prosecutions for *illicit arms and ammunition trafficking*, there were no resulting convictions for these offences.

According to the U.S. Department of State Overseas Security Advisory Council in its Guyana 2020 Crime and Safety Report, Guyana has the fourth-highest murder rate in South America, behind only Colombia, Venezuela and Brazil. However, most murders involved spousal domestic disputes (more often female victims) and substance abuse.

The authorities did not provide an estimate of the size of the proceeds generated from these crimes. However, the WG discussed the nature of these offences and concluded that any proceeds generated from these offences may not be substantial and therefore does not warrant laundering.

Threat Level: Considering these factors, the above offences represent a Medium Low Threat of money laundering in Guyana.

d.) Predicate Offences with *Low* ML Threat

Predicate offence	No. of investigations	No. of Prosecutions	No. of Convictions	Legislation
Sexual exploitation, including sexual exploitation of children	2	0	0	Sexual Offences Act Cap. 8:03
Robbery or theft	50,330	56,510 ⁷	12,118	Criminal Law (Offences) Act Cap. 8:01/Summary (Offences) Act Cap. 8:02
Forgery	70	47	43	Criminal Law (Offences) Act Cap. 8:01/Summary (Offences) Act Cap. 8:02
Piracy	15	6	1	Hijacking and Piracy Act Cap. 10:08

⁷ The GPF prosecuted more cases related to robbery or theft than were investigated over the assessed period

Sexual exploitation, including sexual exploitation of children

According to the World Health Organisation, sexual exploitation is actual or attempted abuse of a position of vulnerability, power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Although there are numerous reported cases of this behavior especially against children, the GPF did not conduct a single investigation for this offence over the assessed period. However, the SOCU is investigating two such reports received from the FIU with suspected link to ML. The authorities did not estimate the size of the proceeds generated from this crime.

Robbery or theft

Robbery is the illegal taking of property from the person of another, in the person's presence, by violence or intimidation. In 2018, robbery rate for Guyana was 140.4 cases per 100,000 population. Robbery rate of Guyana fell gradually from 158.4 cases per 100,000 population in 2011 to 140.4 cases per 100,000 population in 2018.⁸

The criminals usually use weapons such as handguns, knives, or cutlasses to commit robberies. Armed robberies including carjacking occur regularly, throughout the country. Armed robberies of business/patron establishments occur frequently in Georgetown (victims being followed from the bank). It was reported that criminals may act brazenly, and police officers have been both victims and perpetrators of assaults and shootings. Criminals are increasingly willing to resort to violence while committing all types of crimes.⁹ Although street robberies and home invasions are rampant, these robberies are crimes of opportunity and occur often due to inadequate police presence and poor police response.¹⁰

Although there was a significantly large number of investigations (50,330), prosecutions (56,510) and convictions (12,118) for the offence of robbery or theft the WG rated the ML threat for this predicate offence as low given that the estimated value of the proceeds generated from this offence are very low when compared with the proceeds generated from the predicate offences with high ML threat.

Forgery

Over the assessed period the GPF reported 70 investigations, 47 prosecutions and 43 convictions for the offence of forgery.

Piracy

Piracy attacks in Guyana mostly involve the thief of fishermen's catch and sometimes their vessels. Some of these attacks, however, turns deadly especially if the pirates are recognised by their victims. One such

⁸ [WORLD DATA ATLAS GUYANA CRIME STATISTICS](#)

⁹ *ibid*

¹⁰ UN Office on Drugs and Crime for 2018

deadly attack was reported and described as a turf war over fishing grounds. Over the assessed period the GPF reported 15 investigations, 6 prosecutions and only 1 conviction.

The authorities did not provide an estimated value of the proceeds generated from sexual exploitation, including sexual exploitation of children; forgery and piracy. Also, the WG did not receive enough information on these offences to make a determination as to whether any of these offences generated significant proceeds that can be laundered.

Threat Level: Considering these factors, the above offences represent a Low Threat of money laundering in Guyana.

ML cases

One of the sources of information for SOCU's investigations are intelligence reports from the FIU arising out of Suspicious Transaction Reports (STRs) submitted to the unit. For the assessed period, the FIU forwarded one hundred (100) intelligence reports for investigation including follow-up reports. Despite this large number of intelligence reports received, less than half were investigated, none resulted in prosecution or convictions and approximately 36 were not assigned for investigation as of the end of 2020. Among the reasons listed for the lack of ML cases moving forward for prosecution are, the lack of adequate human resources, insufficient evidence, and the fact that ML offences in Guyana were summary offences only (e.g. investigators had to bring a charge with the offence of ML within six (6) months of the commission of the offence). On the 22nd August 2017 there was an amendment to the AML/CFT Act which made the offence indictable as well. This allows for charges to be brought at any time after the commission of the offence.

Despite the unit's challenges, the unit managed to forward one (1) case to the DPP for ML charges in 2020. That matter related to a man and a woman (scheme administrators) who would recruit persons to join in what was essentially a Ponzi scheme. The victims were convinced that after placing their investments with the scheme administrators, their investments could triple their initial within a week, of which a fee would be payable to the scheme administrators for their services. For this they were paid a fee. However, within the span of a few months the scheme administrators purchased several multi-million dollar properties. The initial investigation has revealed that the legitimate income of the two suspects were insufficient to purchase the properties. The Office of the DPP advised that further investigations be conducted to determine whether the two suspects can be charged for ML as a standalone offence.

Based on an analysis of the data and statistics provided by the authorities, the WG concluded that the predicate offences investigated were all committed in Guyana, and the proceeds are likely laundered in Guyana as well.

Sector breakdown

The SOCU reported that out of the 112 matters investigated over the period 2016-2020 only six (6) categories of reporting entities out of 20 sectors were involved as follows:

Table 3 – Sectors investigated

Sectors	No. investigations	Prosecutions	ML Threat to sector
Auditors and Accountants	57	0	Medium
Dealers in Precious Metals	12	0	Medium Low
Banks	4	4	Medium Low
Real Estate Agents	4	0	Medium Low
Attorneys-at-Law	3	0	Medium Low
Lottery Agent	1	0	Medium Low

While no information was available on how proceeds are being invested and laundered and in what sectors, the WG assessed the ML threat to the majority of the sectors as low. The above sectors were assessed as medium and medium low.

CROSS BORDER MONEY LAUNDERING THREAT

Financial flows

For the purpose of examining the cross-border impact of ML Threat in Guyana, the WG analysed information and statistics maintained by GRA on incoming and outgoing foreign currency declarations and by the Bank of Guyana (BoG) on financial inflows and outflows related to:

- Trade in goods
- Services
- Foreign Direct Investments
- Portfolio Investments
- Remittances

The total financial inflows and outflows from these goods and services for all the countries for 2016 to 2019 is USD 14,191.29 million and USD 13,890.12 million respectively. The inflows are higher, although not significantly.

Disaggregated statistics were only available for the inflows and outflows related to remittances for specific countries. The inbound and outbound remittances for these countries for 2016-2019:

Table 4 – Inbound and outbound remittances

Countries	Inbound Transfers USD million	Outbound Transfers USD million
United States of America	715.92	180.16
Canada	129.74	41.2
United Kingdom	88.98	31.71
The Caribbean	150.61	39.43
Other (including countries such as Argentina, Brazil, Belgium, Israel, Korea, Mexico, Netherlands Antilles, Norway)	139.23	120.88
TOTAL	1,224.48	413.38

The highest inflows and outflows of remittance between 2016 and 2019 were from and to the United States of America (USD 715.92 million and USD 180.16 respectively). While the lowest inflows and outflows for the same period were from and to the United Kingdom (USD 88.98 million and USD 31.71). Notwithstanding the significant amount of inbound and outbound transfers to and from the USA, the WG believes that the USA does not pose any ML threat to Guyana. Given that LEAs are able to exchange information in relation to ML and other financial crimes under the Mutual Assistance in Criminal Matters Act with the USA and other countries. Over the assessed period, LEAs made seven (7) requests for assistance for ML investigations and five (5) for financial crimes investigations to the USA and Canada. Guyana also received two (2) ML, and two financial crime requests from these countries. In terms of the Caribbean, in addition to international exchanges under the MACMA the FIU has MOUs for the exchange of information related to ML and TF with ten (10) Caricom jurisdictions¹¹ as well as with Aruba and Sint Maarten.

According to the BoG, the main sources of inflows were workers' remittances, while the main sources of outflows were remittances to bank accounts abroad as well as workers' remittances.

¹¹ Trinidad and Tobago, Belize, Suriname, Curacao, Grenada, Antigua and Barbuda, Dominica, Jamaica, Barbados, and St. Kitts and Nevis.

The aggregated inflows and outflows for 2016-2019 for the other services are as follows:

Table 5 – Aggregated inflows and outflows

Inflows	USD(Million)	Outflows	USD (Million)
Trade in goods	5,815.84	Trade in goods	8,538.44
Services	935.35	Services	3,432.4
Foreign direct investment	3,197.36	Foreign direct investment	26
Portfolio investments	112.33	Portfolio investments	289.18
Remittances (All countries)	2,905.92	Remittances (All countries)	1,190.72
TOTAL	12,966.81	TOTAL	13,476.74

Inflows and outflows related to trade in goods are high compared to the other services. The authorities need to be vigilant to ensure these services are not used to transfer illicit funds across our borders.

Cross border foreign currency declarations

Travelers entering and departing Guyana are required to report any currency they are carrying of USD 10,000 or more, or any other foreign currency equivalent. Foreign currency declaration forms are available from Customs officers at the international airports and seaports.

Data/statistics received in relation to cross border foreign currency declarations suggests that a significant amount of foreign currency declarations are USDs and there are more outgoing declarations than incoming.

Table 6 – Inbound and outbound currency declarations

<u>INBOUND DECLARATIONS</u>	<u>TOTAL \$</u>	<u>OUTBOUND DECLARATIONS</u>	<u>TOTAL \$</u>
BAHAMIAN DOLLAR - BSD	17,500	ARGENTINE PESO-ARS	100
BARBADIAN DOLLAR-BBD	2,183	BARBADIAN DOLLAR-BBD	11,108,440
BERMUDIAN DOLLAR-BMD	95,000	BERMUDIAN DOLLAR-BMD	9,500
BOLIVAR - VEF	17,600,000	BOLIVAR - VEF	17,618,000
BRAZILIAN REAL-BRL	100,000	BRAZILIAN REAL-BRL	246,430
CANADIAN DOLLAR - CAD	299,215	CANADIAN DOLLAR - CAD	13,751,231
EAST CARIBBEAN DOLLAR - XCD	3,590	CHINESE YEN	2,440
EURO - EUR	34,180	EAST CARIBBEAN DOLLAR - XCD	156,410
GUYANA DOLLAR - GYD	7,103,810	EURO - EUR	6,391,075
POUND STERLING - GBP	60,805	GUYANA DOLLAR - GYD	41,473,915

TRINIDAD AND TOBAGO DOLLAR - TTD	4,295,696	RUPEE	52,190
UNITED STATES DOLLAR-USD	13,070,086	JAMAICAN DOLLARS - JMD	12,150
		OTHER	254,500
		POUND STERLING - GBP	3,947,565
		SURINAMESE DOLLAR - SRD	55,515
		TRINIDAD AND TOBAGO DOLLAR - TTD	52,888,607
		UNITED STATES DOLLAR-USD	96,822,202
		YUAN RENMINBI - CNY	45,521

The WG was however unable to determine the ML threat posed to Guyana by the different countries in region due to the lack of relevant data/statistics.

It was observed that in the majority of cases, travelers stated the source of funds for incoming declarations as “funds from relatives, or from salary” while for outgoing declarations, travelers would name the cambio from which foreign currency was purchased as the source of funds. It is therefore impossible for the authorities to determine the real source of funds from outgoing declarations.

A traveler who fails to make a declaration or who knowingly makes a false declaration commits an offence and shall be liable on summary conviction to a fine of two hundred and fifty thousand dollars and six months imprisonment and the currency found on the person, or in the baggage, of the traveler in respect of which a declaration was not made as required shall be forfeited by the court.

Between 2017 and 2019, the GRA seized/confiscated a total of USD 442,565 which was not declared to the port authorities.

Threat Level: Considering these factors, the WG assessed the cross-border money laundering threat in Guyana as Low.

Conclusion

Although Guyana has over the years improved its outlook in relation to ML and had put adequate legislation frameworks in place to combat ML, the country continues to be plagued by various restraints including the lack of ML investigations leading to prosecution.

While the current risk assessment concluded that the ML threats in Guyana is Medium High, during the country’s first national risk assessment, the ML threat was rated as High. This is an improvement in the country’s level of ML threat. Although, this assessment is more comprehensive and benefitted from more detailed analysis of available data/statistics by the WG members, the issue of limited data/statistics by

significant agencies, however, still exist. The country continues to be plagued by various constraints including the lack of adequate resources which leads to the lack of ML investigations leading to prosecutions. Further, many of the crimes committed by criminals in Guyana were opportunistic crimes which did not garner funds that could be laundered. Nevertheless, the authorities involved in the investigation of ML should be aware of these offences and know when to conduct parallel financial investigations.

In assessing the factors that contributed to Guyana's Medium High ML threat, the WG was able to draw conclusions about the general nature of money laundering risks in Guyana. Guyana's ML threat is primarily derived from the estimated value of proceeds of a relatively small number of predicate crimes. The origin of the money laundering threat to Guyana is primarily internally, as seen from the nature of predicate crimes that support it.

2.3 NATIONAL VULNERABILITY TO MONEY LAUNDERING

Introduction

In assessing the overall national vulnerability, the features of Guyana’s economic, legal and geographic environment were reviewed to identify elements that make the country attractive to ML/TF activities. Accordingly, two factors impacted on the overall national vulnerability outcome, namely, the national combating ability and the overall sectoral vulnerability ratings. The former identifies weaknesses and gaps in the country’s ability to prevent and respond to ML/TF vulnerabilities, and the latter identify features of specific sectors, financial products and services that made it possible for the proceeds of predicate crimes to enter the formal financial system without being detected.

The overall national vulnerability for Guyana was rated “**0.78 -Medium High**”. The national combating ability was rated “**0.24 -Medium Low**”, which is considered weak and stemmed from, a lack of capacity to investigate and prosecute financial crimes and the cash- based nature and large informal economy in Guyana. The absence of an AML/CFT national policy strategy is also a major contributing factor.

The overall sectoral vulnerability was rated as “**0.80 –Medium High**”. High priority sectors needing urgent attention are the sectors with high and medium high money laundering vulnerabilities.

The sector with the highest money laundering vulnerability is Dealers in Precious Metals/Licensed Traders.

While the sectors with medium high money laundering vulnerability are:

- 1) Accountants/Auditors
- 2) Attorneys-at-Law
- 3) Banks and Building Society
- 4) Cambio Dealers
- 5) Dealers in Precious Metals
- 6) Non-Financial Trust and Company Service Providers
- 7) Real Estate Agents/Brokers/Housing Developers
- 8) Remittances (Money Transfer Agencies)
- 9) Used Car Dealership/Car Dealership

National Combating Ability

Many factors contributed to the overall national combating ability of Guyana to money laundering and terrorist financing. Some factors have a direct impact, while others were indirect. In this context, two categories of variables were assessed by the National Vulnerability Group to determine the country’s national combating ability, namely, intermediate and input variables.

Intermediate variables are broad and high-level factors that cannot be accessed directly. These variables were disaggregated into their constituent parts in order to be assessed. Thirteen (13) intermediate variables were assessed, and their ratings were determined automatically from the information inputted in the World Bank's vulnerability assessment tool. These variables are important for the overall national vulnerability rating. On the other hand, input variables reflect factors that affect the quality of the general AML/CFT controls at a national level and determine the ability of the country to combat money laundering and terrorist financing. These variables are referred to as general AML/CFT control variables. The following is the assessment and ratings of the twenty- two (22) input variables:

1. Quality of AML Policy and Strategy

This variable was rated “**0.3 - Low**” as Guyana has mechanisms in place to coordinate its AML/CFT regime, but lacks a Cabinet approved strategic plan.

The AML/CFT/PF National Coordination Committee (NCC) was established in 2018 pursuant to amendments to the AML/CFT Act in the same year and has the mandate to carry out the policy directives of the Government. Guyana's national AML/CFT actions are guided by the results of the 2017 NRA and its Risk Based Action Plan. The coordination of these actions is administered by the NCC as provided for in the AML/CFT Act. The NRA was shared with the relevant stakeholders, but more timely dissemination after its completion would have been desirable.

The Working Group assessed the quality of the AML/CFT controls by following up on the recommendations made in the RBAP of the first NRA, the information collected directly from Reporting and Competent Authorities and analysed in the conduct of the current NRA, as well as reviewing information obtained from international reports published by institutions such as the United States Department of the Treasury, UNDP, the World Bank, etc.

An AML/CFT National Policy and Strategy document is yet to be prepared. This was recommended by the Risk Based Action Plan produced from the 2017 NRA. To achieve this, the NCC needs additional technical and financial assistance to enhance its capabilities to provide the National Policy and Strategy.

Guyana has a comprehensive AML/CFT legislative framework in place, which is compliant with the FATF standards. However, there are some problems with related legislation, such as the SARA Act. There is an FIU and a SOCU to investigate ML/TF matters, however, in practical terms, there are no ML convictions.

2. Effectiveness of ML Crime Definition

This variable was rated “**0.6. -Medium High**” after considering pertinent sections of the AML/CFT legislation relating to ML crime definition and penalties for committing ML offences, and the improvements made via amendments to the legislation during the period 2016-2019.

The definition of ML crime in the AML/CFT Act is very comprehensive, with a wide range of predicate offences, proportionate and dissuasive penalties. The Act also includes the freezing and forfeiture of assets. ML was made a hybrid offence in 2017, and the time limit for summary offences no longer applies for indictable offences. There is no limitation with regards to indictable offences related to ML in the AML/CFT Act. This gives the prosecution more time to adequately prepare their cases, particularly if the matter is a complex one.

Whilst proliferation financing is defined in section 2 of the AML/CFT Act and migrant smuggling is included in the AML/CFT Act as predicate offence, these are not classified in any other legislation in Guyana as offences; however, Recommendation 7 of the FATF Standards is adequately captured in Sections 68A – 68H of the AML/CFT Act of 2009 and the AML/CFT Regulation No. 4 of 2015. However, it has not been tested to determine if it would disrupt the use of financial products and services directly related to trade in proliferation-sensitive goods or illicit revenue-raising activities.

The Anti-Terrorism and Terrorist Related Activities Act No. 15 of 2015 deals with biological and chemical weapons, as well as mentions the relevant international conventions related to the prevention of terrorism, the use of devices and the use of property in such related activities, but no specific reference is made to financing of the proliferation of weapons of mass destruction (WMD) although the Anti-Terrorism Act would cover the use of weapons in terrorist acts including biological weapons.

Tax evasion was also added as a predicate offence in the AML/CFT Act in 2015 but needs to be described in relation to ML. However, no empirical data was obtained on the impact of the addition of tax evasion as a predicate offence.

Sentencing tools for ML offences at the disposal of Judges are of a limited range but can be considered appropriate. However, sentencing guidelines are needed. The laws are assessed as enabling the possibility of successful ML prosecutions. However, there has only been one (1) ML prosecution since the enactment of the AML/CFT Act over a decade ago and no convictions. There has been several seizure and detention applications undertaken by SOCU, for failure to declare currency pending ML investigations, and some have resulted in successful forfeiture.

3. Comprehensiveness of Asset Forfeiture Laws

This variable was rated “**0.5 –Medium**” because although the AML/CFT legislation is compliant with international standards, there is a need for further amendments to ensure that the AF regime is less cumbersome.

AF laws are present, giving law enforcement agencies wide ranging authority to detain, seize, freeze and forfeit proceeds of crimes, but the laws need updating. The laws give wide ranging powers to SOCU, DPP, GRA and the CANU to act as necessary, for securing evidence and prosecuting. Forfeiture tools available under the legislation include criminal forfeiture, non-conviction-based (NCB) forfeiture, enforcement of foreign non-conviction-based (NCB) forfeiture, civil recovery and administrative forfeiture. The legislation also protects the rights of bona fide third parties to assets. With respect to AF, forfeiture is sanctioned under the Narcotic Act to the extent that assets can be seized which was used in the commission of the trafficking in narcotics. However, CANU lacks the capacity and resources to enforce the legislation and therefore forwards the AF component of drug cases as forwarded to SOCU to be dealt with under the AML/CFT Act. The lack of success by SOCU in gaining convictions is of concern with regard to these cases.

The now disbanded SARA was subject to a number of legal challenges and as a result, their applications to recover state assets were dismissed. Some agencies are unclear as to whether they have the ability to rapidly and effectively carry out the seizing, freezing, confiscation and forfeiting of the proceeds and instrumentalities of crime.

For the assessed period, no cash was condemned although there were cash seizures by CANU during between 2016 and 2019. In 2016 there were 3 cases where USD 5,669, GYD 80,040 and TTD 349 were seized; in 2017 there were also 3 cases where USD 56,404, GYD 14,629,260, GBP 50, SRD 5 and TTD 1 were seized; while in 2018 there were 10 cases where USD 82,707, GYD 2,179,690, TTD 1, VEF 1,081,605, SRD 275, EUR 150 and BBD 7 were seized; and in 2019 there were 3 cases where USD 3,300, GYD 141,510, and EUR 8,300 was seized. Condemned Assets were a total estimated value of GYD 2,582,000.

4. Quality of FIU Intelligence Gathering and Processing

This variable was rated “**0.4 –Medium Low**” because the legislative framework is in place for the autonomous functioning of the FIU and work has been done despite resource and capacity issues.

The FIU which is an administrative type FIU, was established in 2004. The key functions of the FIU include requesting and receiving information, analysing and assessing reports, compiling and disseminating of reports on STRs, etc. The FIU is located within the Ministry of Finance’s compound and is listed as a

“subvention agency” under the Ministry of Finance, which allows for it to obtain its financial recourses. The FIU has not utilised significant sums of funds allocated, with the largest unused sum of over GYD 51.4M (30.4%) recorded in 2017. This is due to the lack of adequate office space to employ 7 urgently needed staff. The FIU’s website only published annual reports, inclusive of audited financial statements for 2011-2014.

The quality of STRs received by the FIU was rated just above average. However, whilst reporting entities are receiving relatively excellent guidance and training from the FIU on STRs reporting; feedback is limited to non-existent in some cases. STRs received by the FIU were 240 in 2016, 344 in 2017, 331 in 2018 and 473 in 2019, which indicates a constant increase over the last 4 years, with the number increasing by over 97% in 2019, when compared with 2016. It appears that the FIU is currently only capable of analysing less than 1% of STRs it receives annually, given the number of Analysts in its employ and reports disseminated by the FIU were 23 in 2017, 35 in 2018 and 34 in 2019, while responses to requests from local and foreign counterparts were 1 in 2016, 1 in 2017, 24 in 2018 and 63 in 2019. The quality of these reports and responses were rated as good. There has been no STR from any reporting entity operating within the Cambio, Lottery, Casino, Used Car Dealer, Pawnbroker, Credit Union or Registered Charities sectors over the last 4 years. There were 14 sectors that were brought under the reporting regime of the FIU over the last 4 years, while the Accountants and Auditors, Attorney-At-Laws/Notaries/Commission of Oaths to Affidavits, Housing Developers and Car Part Dealers remain outside of the FIU’s regime.

In November 2011, the FIU applied for membership in the Egmont Group of FIUs as required under FATF Recommendation 29.8. Membership is still to be granted as such the FIU has signed 12 MOUs with regional counterparts to facilitate sharing of information.

5. Capacity and Resources for Financial Crime Investigations (including AF)

This variable was rated “**0.2 – Very Low**” because it appears that the agency responsible for investigating ML, TF and AF cases in Guyana is significantly understaffed and lacking the technical capacity and resources to successfully process cases.

The Guyana Police Force’s Special Organised Crime Unit (GPF/SOCU) has the mandate of investigating ML, TF and AF cases in Guyana. The Head of SOCU holds the rank of Senior Superintendent of Police. SOCU has an administration and management problem given that since the formation of the unit in 2014 it is now with its third Head. This has the potential to hampers growth and development. Using the value of narcotic seizure by CANU as a metric for financial crimes in Guyana, the level of financial crimes in Guyana can be classified as high. Currently, SOCU has 2 CFATF Accredited Financial Investigators. Both

of these Investigators are tasked with investigating ML, TF and AF cases, as well as tax evasion, gold smuggling and currency smuggling, etc.

Anecdotal evidence suggests that SOCU has approximately twenty (20) staff within its employ and its current annual expenditure of approximately GYD 300M indicates that the staff are well paid. Information gathered indicates that the civilian staffs are better paid than the officers transferred from the Guyana Police Force. Further, information suggests that there is a high turnover rate of staff at SOCU, accordingly the unit is not benefitting from the huge investments into training of staff. During 2016-2019 SOCU investigated 16 ML and 9 AF cases, but only prosecuted 2 cases and had 1 conviction. The overall perception of SOCU by the reporting entities and competent authorities is that more can be done at SOCU to improve its operations and outputs. They highlighted in particular the lack of convictions by SOCU. SARA, which was formed in 2015 to investigate and recover stolen state assets, never developed and has since been disbanded.

The GRA has a fairly good structured investigative arm to investigate financial crimes associated with tax evasion and other revenue offences. This is reflected in the valued of assets seized, recovered or forfeited for the assessed period (2016 -GYD 268.5M, 2017 -GYD 349.2M, 2018 -GYD 646.2M and 2019 -GYD 2.1B). This suggests that financial crimes in Guyana have increased significantly, over the last 4 years.

6. Integrity and Independence of Financial Crime Investigators (including AF)

This variable was rated '**0.3 -Low**' as it appears that there is a lack of independence and this impairs the integrity of financial crime investigators.

For the period 2016-2019 SOCU reported one (1) case of inappropriate conduct by an investigator in 2019 and one (1) conviction for obstruction of financial crimes investigation. The GPF continues to experience low public confidence rating. The prevailing perception is that the GPF is an inefficient and ineffective organisation. While there is no data or evidence indicating that any local LEA suffers from political interferences or social pressure, intimidation or abuse of office; anecdotal evidence strongly suggests that there are such cases.

A change in the Government in 2015 and 2020 resulted in significant shake up in the hierarchy of all law enforcement organisations. This indicates that there is a symbiotic relationship between political leaders and the hierarchy of law enforcement organisations in Guyana. In 2019, several allegations were made against the first Head of SOCU, about inappropriate conduct and mismanagement of the finances of SOCU. This led to the removal of that person from the Unit. In the said year, a foreign consultant/expert, who was contracted through the British High Commission to advise SOCU on financial investigations, had his

services terminated due to an allegation of ‘conflict of interest. Those incidences have contributed to the reputational damage, public mistrust, and lack of confidence in the unit.

The GPF’s Standing Order No. 62 establishes a structure for the operation of SOCU, which states that SOCU must receive intelligence from the FIU and then proceed to investigations. However, information indicates that SOCU has deviated from this path with its focus being forensic audits and corruption related matters which were not referrals from the FIU.

According to the Transparency International’s (TI) 2019 Corruption Perceptions Index (CPI), Guyana ranked among the most corrupt countries, with a rank of 85 out of 198 countries and scored 40 [on a scale of 0 (highly corrupt) to 100 (very clean)]. Guyana has improved moderately on this index since the previous NRA.

7. Capacity and Resources of Financial Crime Prosecutions (including AF)

This variable was rated “**0.3 –Low**” though there have not been many opportunities for the Office of the DPP to conduct ML, TF, AF and other financial crimes prosecutions, if such cases were to arise their current human resource constraints could prove severely problematic.

The Office of the DPP is the principal public prosecution authority for Guyana, which currently has eighteen (18) state prosecutors on staff. All staff are public servants and are consequently paid a monthly salary together with various allowances depending on their salary scale. There are no financial resources specifically dedicated to the prosecutors or prosecution of any specific type of crimes including ML, TF, AF and other financial crimes.

There are no official or specialized units within the organization designated to the prosecution of ML, TF, AF and other financial crimes. To date, no member of staff has prosecuted any ML, TF or AF cases. However, they have appeared in matters in which government officials and other high-ranking public servants were accused of misconduct in their offices. In 2017, the Government retained six (6) Attorneys-at-Law from private practices to serve as “special prosecutors” in these types of matters.

Nevertheless, the office of the DPP continues to maximize all training opportunities in these areas. However, the majority of these training exercises were mostly theory based. With a high percentage of a prosecutor’s work being conducted in a courtroom, there is a great need for practical experience. Due to the massive workload faced by current members of staff there is a grave need for increased human resources. Unfortunately, due to severe constraints in physical office space, it is not currently practical for more persons to be hired.

Each member of staff is equipped with their own workspace, computer, internet access, library access as well as access to LexisNexis research software. Additionally, there is access to experts in these fields both from the region and further afield as a result of relations built through the various training activities over the years. Despite this, it would be invaluable to the agency if someone with prosecutorial expertise in ML, TF, AF and other financial crimes was to be hired to work within the office.

8. Integrity and Independence of Financial Crime Prosecutors (including AF)

There is a lack of independence with respect to the Special Prosecutors; accordingly, this variable was rated “**0.2 –Very Low**”.

The functions of instituting and undertaking criminal proceedings against any person before any court are vested in the DPP. This power is exercised pursuant to article 187 of the Constitution, which also insulates the DPP from interference. The officers of the DPP are the personnel empowered to prosecute ML/TF and AF matters in the court however the DPP can authorise any other person to prosecute matters.

In 2017, six Special Prosecutors were hired by the Government, to prosecute cases involving high profile officials with respect to criminal offences including the fraudulent appropriation of state property. These Special Prosecutors prosecuted matters on behalf of SOCU. In 2020, the DPP hired another six Special Prosecutors to prosecute cases involving electoral fraud.

The independence and integrity of the specially hired Prosecutors have been criticised especially the selection process for special prosecutors. There is no public information on the selection process, or the criteria used for the selection of the prosecutors. Overall, the selection process seems to be shrouded in secrecy. The Prosecutors hired in 2017 were selected and paid by the State, whereas the ones hired in 2020 were thought to be affiliated with the Government.

Other issues associated with the Special Prosecutors from 2017 included complaints about the quality of their work although they were paid a competitive package and failure to appear in court which caused the State to lose a case. There are no inherent independence and integrity issues with the State Prosecutors except with their remuneration which is inadequate, and this exposes State Prosecutors to being lured by bribes and other corrupt practices. Overall, respondents were of the view that prosecutors are not free from political interference and social pressures and recommended that annual lifestyle audits be carried out on prosecutors.

9. Capacity and Resources for Judicial Processes (including AF)

This variable was rated “**0.6 -Medium High**”, as the Judiciary generally has the skills, experience and powers, required to preside over prosecutions for these offences effectively.

The Judiciary has seventeen (17) Judges, two (2) Commissioners of Title and twenty-four (24) Magistrates. There are only 14 of the expected 20 High Court Judges and 3 of the expected 5 Appeal Court Judges. Additionally, there are only 2 judicial research assistants on staff.¹² As of 2015 the Judiciary was made a constitutional agency and has control over its own budget. There is no specialized Court for financial crimes and no Magistrate and Judge that specializes in this area. All members of the Judiciary are expected to have the requisite knowledge and experience.

In 2016, the “Commonwealth Magistrates and Judges Conference” was held in Guyana and dealt with the importance of upholding the rule of law. This conference was open to all members of the Judiciary. In December 2016, a Judicial Education Institute was launched to provide ongoing training of Judges and officers of the Judiciary. In 2018, there was a two-day workshop, held under the theme, “Anti- Money Laundering and Countering of Financing of Terrorism, Countering Violent Extremism” and the Chancellor and the Chief Justice attended.

The Judiciary functioning without the full complement of staff is because the Parliamentary Committee on Appointments has not appointed the members of the JSC. As of 2018, the backlog of cases was significantly reduced and no longer stands at 10,000 as in 2016. Civil cases were reduced from 6000 to 250. Currently, there are 21 High Court matters pending and 8 matters (tax cases) pending before the Court of Appeal. It was reported¹³ that the backlog of cases was due to having only two criminal courts and a shortage of Judges and prosecutors.

Overall, the members of the Judiciary are remunerated fairly and there is security of tenure under the Constitution. The lack of staff has had a minimal impact on cases. However, as more cases are brought before the court this may impact on the timeliness of dealing with these matters.

10. Integrity and Independence of Judges (including AF)

This variable was rated “**0.6 -Medium High**” as the system for appointment of Judges and Magistrates is free from political interference.

In Guyana, independence of the Judiciary is enshrined in the Constitution. The appointment of the Judges of the Court of Appeal and the High Court, the tenure of those Judges and the appointment of Judges are set out in the Constitution (Chapter XI-The Judicature). Additionally, the Constitution establishes the JSC

¹² The United Nations Development Programme (UNDP) published its report “**Caribbean Justice: a needs assessment of the judicial system in nine countries**”

¹³ **Ibid**

which is responsible for the appointment and discipline of Magistrates and Judges. There is also a Supreme Court's Code of Conduct for Judicial Officers.

There are no reported cases where Magistrates and Judges have directly affected the outcome of a case due to corrupt practices. However, in 2016, there were private criminal charges pending against a Judge for the use of threatening language. Based on available data it seems this issue has not been resolved, as in 2018, the Police was still seeking legal advice. Also, in 2016, a chauffeur had initiated civil proceedings against the same Judge for unlawful arrest and false imprisonment on the Judge's orders.

Overall, the general perception is that cases are conducted without interference, political or social pressure and corruption. The pace or outcome of proceedings and trials are not influenced by political or social pressure and the sanctions for inappropriate behavior by Magistrates and Judges are relatively dissuasive, given that they can be removed from the bench. Additionally, the adequate compensation package of members of the Judiciary is seen as a safeguard to preserve the integrity of members of the Judiciary.

Nevertheless, it is believed that there is unwillingness by persons to report members of the Judiciary for corruption for fear of retaliation. It must be noted that over the assessment period several high-profile cases involving former Ministers and Government officials were brought before the courts. However, as there is currently no JSC, there is no mechanism in place to discipline a member of the Judiciary. The lack of a disciplinary body is likely to contribute to the lack of integrity in the Judiciary.

11. Quality of Border Controls

This variable was rated at “**0.3 -Low**” given that there have not been significant changes since the previous assessment with respect to controlling cross-border smuggling and illegal crossing of persons.

Guyana's borders comprise a total of approximately 214,969 km², which is a composition of land (mostly dense forest) and water. The vastness of Guyana's borders poses a huge challenge for the authorities, who find it extremely difficult to monitor the borders linked to Suriname, Venezuela and Brazil. It is also bordered by the Atlantic Ocean to the North. It is estimated that approximately 25% - 35% of the borders are effectively controlled and regulated by local authorities. However, Guyana's border controls continue to be weak, thus facilitating illegal border crossings.

There are currently 20 (twenty) legislated Ports of entry and exits within Guyana that are monitored by the Law Enforcement and Customs Officers of the GRA in collaboration with other Security Agencies such as Guyana Immigration Officers, GPF, GDF and CANU with the aim of combating any attempts of smuggling (persons, goods, cash, drugs, etc.) and other illegal activities. These agencies are equipped with drones,

motor vehicles, motor vessels and body cameras, low-level optics, binoculars, GPS tracking devices and other navigational equipment which are used to monitor border activities.

It is not at the legal ports of entry and exits that are most often plagued by the illegal cross-border movement of cash, goods, people, drugs, arms, etc., but rather the frequency of smuggling occurs along the coastline, including Parika, East Coasts Villages, Corriverton, Corentyne, Lethem and Eteringbang on the Cuyuni River.

While collaborative operations can be successful for border control, this is not being vigorously pursued. In 2018, operation Armadillo was conducted as a multi-agency operation in response to monitoring the increase of migration into Guyana, however, the results are unknown, while the total cash seized in 2019 was in excess of USD 280,000 and more than 1,600 cases of smuggling was recorded during 2016-2019.

The lack of communication infrastructure/system between local and foreign customs and other law enforcement agencies also pose many challenges for effective border controls. However, there is some cooperation and information sharing between Guyana/Brazil, Suriname/Guyana. On the other hand, cooperation with Venezuela proves to be inadequate, which may be as a result of the ongoing border dispute that Guyana has with Venezuela coupled with the language barrier.

Table 7 - The number of persons entering and leaving Guyana at a national point of entry and exit over the period 2016 to 2019

Year	Arrivals	Departures
2016	392,860	784,078
2017	401,601	795,643
2018	422,123	812,772
2019	423,015	819,114

The average annual arrival is over 50% of the country’s population, whilst the average annual departure is greater than the country’s population. With this large movement of persons entering and leaving Guyana there should be adequate law enforcement officers to monitor these persons, however, this is not the case.

12. Comprehensiveness of Customs Regime on Cash and Similar Instruments

In consideration of existing legal measures in place and additional amendments to the legislation to make penalties dissuasive and encourage the declaration of cash this variable was rated “**0.4 - Medium Low**”.

Law Enforcement Officers are empowered to stop and search any traveler and cargo crossing the border or at any port on the suspicion of a ML or predicate offence. However, in spite of these powers to investigate ML cash crimes, some designated agencies do not fully carry out this mandate. Legislative procedures for safe keeping of cash where a seizure takes place have not been followed by all personnel in ensuring that funds are placed in an escrow account in some instances. However, where forfeiture is affected, the money is transferred to the Consolidated Funds.

The main legislative provisions that encapsulate restrictions on the transportation of cash and other similar instruments across Guyana's borders are sections 36 and 37 of the AML/CFT Act Cap 10:11, section 6 of the Foreign Exchange (Miscellaneous Provisions) Act (FEMPA) Cap 86:01, the Customs Act 82:01 and the Immigration Act Cap 14:02.

In 2017, section 3(6) of the AML/CFT Act was amended by Act No. 21 of 2017, to increase the fine on conviction when a person is found guilty of ML. The fine ranges from GYD 5M -GYD 100M and imprisonment of seven (7) years; and on indictment GYD 10M - GYD 120M and ten (10) years' imprisonment.

Section 23 of the Gold Board Act Cap 66:01 only considers a second time offence as serious as the first offence is not considered for punishment. The penalty for false declaration is a fine of GYD 25,000 together with imprisonment for three (3) years. This waiver of a first-time offender is an anomaly which can be taken advantage of by persons wishing to smuggle gold.

The third schedule of the AML/CFT Act provides for foreign currency in excess of USD10, 000 to be declared on "The Declaration of International Transport of Currency Form", however the form does not include all pertinent information to aid investigation agencies to analyse and detect anomalies. Some difficulties in completion of the form arises due to travelers' inability to do so due to language barriers and other issues, whilst inbound travelers are often fearful of being robbed on their way home after declaring cash whilst entering Guyana. There are currently five (5) signage in the forms of posters and or digital signage at three (3) main ports of entry/exits, namely Moleson Creek, Lethem and CJIA, however none exist at the EFC International Airport. In spite of the improvement, more signage needs to be erected.

13. Effectiveness of Customs Controls on Cash and Similar Instruments

This variable was rated "**0.3 -Low**" given that a fair level of work is being done at the country's main ports of entry and exit (especially the CJIA), which is highly focused on detecting cash and other illicit substances. However, relevant authorities are not adequately equipped with human and other resources and

are not adequately trained to deal with the detection of cash and similar instruments being smuggled by individuals and concealed in packages and other cargo traversing our borders.

For the years 2016 to 2019 staff constraints continued to be an issue for the GRA as they are unable to adequately dedicate Customs Officers for the sole purpose of screening travelers to ensure accurate declarations of foreign currency and to detect concealed cash and similar instruments. The Customs Officers do not generally screen in transit passengers as they are held in a sterile area, overseen by Immigration Officials, and are not 'stamped in' for entry. In most instances, such passengers are held aboard the aircraft. Nevertheless, in the event that passengers are required to de-plane and enter, the full complement of available officers will attend to the travelers. However, travelers entering, and departing are subject to physical checks of their person and baggage to determine whether they have not declared cash and other such similar instruments.

There is a total of seven (7) scanners installed at the various ports of entry that are utilized by CANU and GRA for the purpose of scanning baggage and for illicit substances.

There were insignificant discoveries of illegal transported cash, negotiable instruments, and precious metals and stones, with cases ranging from 1 to 4 over the assessment period, while annual declaration of cash was between USD 1.4M to USD 6M (equiv.) for inbound passengers and outbound passengers ranged from USD 29M to USD 55M (equiv.).

The GRA is ably supported by the various LEAs in the detection of cash through collaborative exercises, in that, in cases where cash is discovered by CANU the GRA Officers are notified and the matter handed over to be pursued.

The compliance rate for declarations of cash is high. This may be due to the recently instituted harsh penalties for non-declaration which involves, astronomical fine, seizure of cash, and imprisonment, which can definitely be considered an effective deterrent for non-declaration. However, a flaw exists in the legislation or procedures, since the cash can be detained for a departing traveler, however, the traveler can be allowed to depart Guyana without charge.

14. Effectiveness of Domestic Cooperation

This variable was rated “**0.3 -Low**” due to the local authorities not being able to cooperate as effectively as they should.

As is customary, the FIU is tasked with the responsibility of ensuring that information is shared with agencies to conduct financial investigations that would aid in the fight to combat ML. This is facilitated

through meetings and discussions or by informal communication. In addition to that, the FIU provides intelligence reports, many of which are undertaken by SOCU. However, it is reported that there is little or no collaboration/feedback between these agencies.

With the existence of a MOU between GRA, FIU, SOCU and (previously) SARA, money laundering and other related investigations are to be treated with the importance it requires. There was also the NANA and the Special Intelligence Committee coordinated by SARA where relevant AML/CFT stakeholders and LEAs participate.

The NCC has also assisted in facilitating the signing of MOUs between the FIU and SA's, as well as other Competent Authorities such as the Commercial and Deeds Registries in 2019, to enhance domestic information sharing. Though meetings are held monthly, it is not considered as an official forum for investigative and prosecutorial information sharing, specifically for LEAs.

Consequently, it is believed that there is a general reluctance among agencies to share the necessary information and hence this disrupts effective cooperation. For instance, GRA is prohibited from sharing taxpayer's information in accordance with section 23 of the GRA Act Cap 79:04 and section 4 of the Income Tax Act Cap 81:01. GRA has opted to make recommendations for the law to be amended so that information sharing is legally disseminated; meanwhile, they have been able to share information with the FIU and SOCU in an informal manner. It must be noted that Section 111 of the AML/CFT Act and Section 23 (1) of the SARA Act both make provisions for information sharing.

Nevertheless, the agencies do not believe in penalizing any agency for lack of information sharing, since there exist laws that govern the secrecy and confidentiality of information based on international obligations.

In 2019 SOCU was able to file three (3) civil forfeiture applications that are still in judicial process, while there were two (2) convictions based on inter-agency information sharing and cooperation and coordination.

15. Effectiveness of International Cooperation

This variable was rated "**0.5 -Medium**" because there has been effective information sharing internationally via various agencies.

The GRA, indicated that there are "legal impositions to general taxpayer's information not released until a court order is presented." While GRA may not be able to share information with many countries, it shares information with the UK, Canada and the USA because provisions are made for such in the Income Tax Act at section 89 and in three orders attached to the Act (Specifically 92 (a)).

SOCU's requests for information under MLA treaties has experienced delayed because of the lack of translators in the Central Authority's office that can translate at least Spanish, French and Dutch. It is a legal requirement for documents to be translated into the native language of the country that will receive the request. Another reason for delays is that SOCU requests information in parts based on the stages of the case (evidence gathering/in court, etc.), consequently for some matters that were already in court it took longer to get the information because the foreign counterparts kept requesting additional information regarding the request.

GSC receive a respond to one (1) of two (2) ML requests from a foreign counterpart in 2018, which had a value of over GYD 1 billion.

FIU has expressed satisfaction with the quality and completeness of information from foreign counterparts that have assisted with the conclusion of their analysis. However, with Guyana not being a member of Egmont the FIU is prevented from requesting information from Egmont members. Thus, the FIU signed 12 MOUs with regional countries in order to facilitate information sharing. FIU responded to 10 of 22 requests received from 15 jurisdictions over the last 4 years.

The Gaming Authority responded to all 5 requests for basic and beneficial ownership information received from 3 jurisdictions during 2017-2018.

GRA has alluded to the fact that they are not yet a formal member of the OECD global forum. Hence, automatic exchange of information is not yet being processed. However, the GRA has identified a few International and Regional Networks with which they liaise based on customs and tax enforcement. The Caribbean Customs Law Enforcement Council (CCLEC), World Customs Organization (WCO), Caribbean Regional Technical Assistance Centre (CARTAC) and CARICOM Implementation Agency for Crime and Security (IMPACS) are just to name a few.

16. Availability of Independent Audit

Given the limited number of Audit Firms, lack of rotation of Auditors and regulations for the role and function of internal auditors, the pending issue with the conservatory order relating to Tax Practice Certificates and the deficiency of many companies in filing annual returns at the Commercial/Companies Registry, this variable was rated "**0.4 –Medium Low**".

The ICAG is the body responsible for regulating the accounting profession in Guyana under the ICAG Act Cap 39:13. It is a member of the ICAC and IFAC and has adopted standards and codes for application by its members, who hold individual membership to at least one of the following six (6) professional bodies: ICAEW, ICAI, ICAS, CICA, ACCA and AICPA.

There were fifteen (13) audit firms with twenty-three (23) LPs and one hundred and four (104) ICAG members in 2016, thirteen (13) audit firms with twenty-five (25) LPs, and one hundred and eight (108) ICAG members in 2017, thirteen (13) audit firms with twenty-six (26) LPs and one hundred and thirty-three (133) ICAG members in 2018 and fifteen (15) audit firms with twenty-nine (29) LPs and one hundred and forty-nine (149) ICAG members in 2019. However, the GRA has only issued forty-six (46) Tax Practice Certificates for Accountants/Auditors in 2016, fifty-one (51) in 2017, forty-nine (49) in 2018 and fifty-eight (58) in 2019, which is a result of pending litigation due to the accountants/auditors and other professionals claiming that an annual fee of approximately GYD 250,000 is too exorbitant.

Over the last four (4) years the ICAG's Investigative, Disciplinary and Appeals Committee reported that there were two (2) matters relating to the non-issuance of practice certificates, which were resolved by the courts and one (1) new complaint was received relating to the perceived threat of a conflict of interest, which was also resolved by the cessation of the circumstances surrounding the complaint. Results of continuous monitoring by the ICAC indicated that Guyana achieved a satisfactory rating of more than 70% under the quality review programme in 2016 and 2017. However, there was a need for improvements in CPD programme for practicing auditors.

The eight (8) banks have in place a transparent system of appointing an audit firm. However, while two (2) banks indicated that it is required to mandatory rotate auditors every 3 or 4 years, the other six (6) banks indicated that they are not required to rotate audit firms. While nine (9) of the other sixty-eight (68) reporting entities polled, do not engage the services of independent auditors.

There is an important nexus between internal and independent auditors hired by businesses to conduct annual financial and other audits. The IIA-GC a non-profit body was established in April 2000 to serve the IIA membership as well as commercial, industrial and governmental organizations. However, despite being in existence for over 2 decades the IIA-GC still face challenges including the lack of legislation to guide the role and conduct of internal auditors, etc.

17. Level of Financial Integrity

This variable was rated “**0.4 –Medium Low**” given the current low rate of tax compliance, public perception of the Tax Authority and other regulatory authorities within the country and the existence of legislation preventing the easy sharing of information between the Tax Authority and LEAs.

Approximately 31% of registered taxpayers filed IIT and IPT returns during 2016-2018. While approximately 36.3% of registered taxpayers filed CIT returns during 2016-2018 and approximately 56% of registered taxpayers filed CPT returns during 2016-2018. The GRA estimates that the level of tax

enforcement was at 30% for VAT and approximately 40% or more for some of the other tax types. Taxes contributed to 21% of GDP in 2016, 23.3% in 2017 and 25.1% in 2018. Self-Employed and Small and Medium Size entities contributed the lowest over 2016-2018. False declarations are detected at different control points by different functional areas, however, to date there has been no conviction for tax evasion. Improprieties are usually settled by defaulters with the tax authority after a fine and any outstanding assessed taxes are paid.

GRA has a special investigation unit tasked with investigation tax frauds, many staff members are certified Accountants and have forensic and financial fraud training. Internationally, the GRA shares tax information with any country that it has a valid TEIA with.

In 2016 there were two (2) breaches of the code of conduct in a Real Estate entity, in 2017 there was one (1) breach within a financial institution, in 2018 another three (3) breaches occurred within the same Real Estate entity and in 2019 there was one (1) breach within a Supervisory Authority. There were two (2) cases of market abuse within the securities sectors for GYD 2B each in both 2018 and 2019. Fraud and theft cases at four LFIs and one Real Estate entity were three (3) valued GYD 13M in 2016, eight (8) valued GYD 13.9M in 2017, six (6) valued GYD 26.7M in 2018 and four (4) valued GYD 9.6M in 2019.

Most Supervisory Authorities and Reporting Entities indicated that resistance from clientele was the main cause for their inability to effectively address money laundering issues, whilst other issues such as a lack of understanding of the law and the general AML/CFT framework, insufficient financial, technical and other resources, high cost of technology required for monitoring, networking issues, deficiencies in mining regulations, etc. also contributed.

18. Effectiveness of Tax Enforcement

This variable was rated “**0.5 –Medium**”, on the premise that pertinent reforms and amendments to the legal framework were established to emulate international good practice.

The GRA currently has in excess of thirty-three (33) business locations across nine (9) Regions of Guyana. As a structured approach to tax collection two (2) additional departments were formed to monitor and increase the revenue collection of the large taxpayers and taxpayers in the Oil and Gas sector, namely, the Large Taxpayers Division and The Petroleum Revenue Department respectively, for which training of the officers were facilitated by IMF officials, staff were also trained by GRA facilitators, while a dedicated Post Clearance Unit was implemented to monitor Customs Duties and other related taxes.

During the assessment period ASYCUDA was implemented as the primary customs software. The electronic filing and electronic payments legislation and tools became functional and are being utilized by

taxpayers, and audits are now conducted using some amount of risk-based approach through segmentation process using certain parameters to categorize taxpayers in segments, for a more focused approach. The processing time for several transactions was also reduced significantly from more than one week to one to three days, namely, Taxpayer Identification Number application process.

Actual revenue collections were GYD 151.7B in 2016, GYD 171.1B in 2017, GYD 198.5B in 2018 and GYD226.2B in 2019, which indicates a constant annual increase over the four (4) years period with more taxes being collected in all four years when compared to forecasted collections.

The Legal Services Division of the GRA spearheads the engagements and commitments involving the monitoring and exchange of information with the various government ministries, under strict conditions of sworn secrecy and confidentiality regarding the protection of taxpayers' information; and internationally with regard to the Global Forum for Transparency and Exchange of Information for tax purposes, and FATCA.

The GRA has several investigative arms such as the Audit Division, Tax Compliance and Examinations Division, Large Taxpayers Audit Division, where investigations are conducted relative to taxpayers declaration of domestic taxes, such as Income and Corporation Taxes. Investigations are focused on tax compliance and not AML/CFT. These investigations have found that most taxpayers have been grossly understating their income in order to avoid the correct payment of taxes. In spite of the evidence, the GRA focuses on settling all matters civilly with the taxpayers, either through a payment arrangement or immediate payment if possible. Where the taxpayers refuses/contends with the findings of the investigation, the process can be arbitrated through the objections process and then if necessary unto the Court where no agreement has been met to pay the taxes due.

Although, the process of charging persons for evasion of taxes is not actively pursued by the GRA, the Legal Services Division also litigated matters in the courts to recoup taxes especially where there was non-compliance to civil proceedings internally. At the end of 2019 there were twenty-one (21) matters pending in the High court and eight (8) in the Court of Appeal. In 2018, fifty-two (52) matters were completed of eighty (80) matters prosecuted and in 2019 forty (40) matters were completed of fifty-eight (58). This resulted in twenty-nine (29) cases won in 2018 and thirty-two (32) cases won in 2019. For the period 2017-2019, GYD 3.2 Billion in taxes was recouped via legal proceeding, still no one was charged for tax evasion.

Notwithstanding seizure of uncustoms goods by the Law Enforcement Division, the GRA over the years have also seen an increase in tax revenues, still most matters are settled civilly. The GRA also has the ability to seize properties of persons in the case of non-payment of taxes where judgement has been granted.

The FIU has shared intelligence on 20 suspected tax evasion cases with the GRA over the period 2016-2019, however, no feedback has been received from the GRA as to the status of these reports. Additionally, the GRA does not share information with the FIU based on suspected tax evasion cases which may be as a result of legislative restrictions.

19. Level of Formalization of the Economy

This variable was rated “**0.3 –Low**” because estimates indicate that the informal economy is between 35-44 percent of the economy. However, efforts are currently being made to remedy hurdles to formalization. Foremost on the list is the ongoing Payment System Reform Project that focuses on an electronic mechanism. This project is scheduled for completion in 2021 and will eliminate the cash-based nature of the economy making it difficult for informal transactions to go undetected. In like manner, some of the recently introduced fiscal measures, such as electronic transactions at the GRA, will have a similar effect.

Guyana continues to grapple with the challenges of an informal economy, or economic activities that are not taxed and not recorded in the country’s official statistics base. There is no consensus on the estimated level and taxonomy of the informal economy. Thomas (1989) postulated that the underground economy can be as large as the formal economy. Faal (2003) estimated the underground economy to be 35 percent of the country’s Gross Domestic Product (GDP), while Thomas, Jourdain and Pasha (2009), estimated Guyana’s underground economy at 31.7 percent of GDP. More recently, Amos Peters (2017) in an IDB-funded study of the informal economy in regional economies estimated Guyana’s informal economy to be between 35 and 44 percent.

The most common categories of informal economic activities continue to emanate from the wholesale and retail trade of merchandise, agricultural production, transportation, art & craft and the construction sectors. Additionally, and perhaps to a lesser extent barber shops, liquor stores and restaurants and real estate businesses remain in this category. The mining and quarrying sectors, particularly gold mining, and foreign-currency trading has been the newest additions.

The informal economy continues to be influenced mainly by the country’s cash- based nature and a large portion of the population being excluded from the formal financial system, due to, among other things, remoteness of location, literacy level, and cultural beliefs. Other contributory factors are high unemployment, heavy tax burden, the financial cost and time involved in transacting official business, inadequate enforcement of the law and bureaucracy of the system. Businesses operating informally continue to receive less attention from authorities because many of them are operating at the micro level or split their businesses into several smaller units to fall under the radar of regulators. Some of these businesses are involved in illegal activities, such as fuel smuggling and illegal drugs, while others are legal but informal

and have a formal counterpart. It is also a common practice for registered businesses, which can be classified as operating in the formal mode, to be involved in some level of informal activity.

Section 28A of the Income Tax Act, Cap 81:01 provides for presumptive methods of determining income of certain self-employed individuals, however, this method cannot be implemented, since the regulations have not yet been crafted to allow for its implementation

20. Availability of Reliable Identification Infrastructure

This variable was rated “**0.6 – Medium High**”. Despite enhancements to security features and a relatively low number of reported cases of forgeries, there remains a need for the identification of both nationals and non-nationals to be easily verified and for the national identification card to be brought in line with international standards.

The available forms of accepted identification are the national identification card, the national passport and the national driver’s license. All citizens desirous of obtaining these documents can do so easily due to the decentralization of these services. The current identification regime does not cater for the issuance of local identification to foreigners working/living in Guyana.

Most reporting entities require customers/clients to provide them with the original documents. Once an entity is satisfied with the authenticity of documents provided, a copy is made and retained. Documents are authenticated via manual checks for known security features, comparison of photographs with the person appearing as well as by comparison of signatures. Additionally, the GECOM website/national register of registrants is utilized as a means of confirming identification.

Whilst the national driver’s license and national passport have expiry dates, the national identification card does not have an expiry date nor includes the card holder’s address.

In 2018 the GRA uncovered a racket in which several members of its staff were forging driver’s licenses as well as other documents. In the following year, the GRA enhanced the security features of the national driver’s licence. Despite these enhancements, entities remain conflicted as to whether the current local infrastructure is sufficient or whether further improvements are needed.

During 2016-2019 only seven (7) forgeries were recorded by two (2) entities.

Following the recently concluded National and Regional Elections in March 2020, there was widespread speculation that the Official List of Electors may be contaminated with the names of deceased and overseas based citizens among other issues, thus bringing into question the credibility of the list as an accurate source

for verifying identification. Therefore, there is a need for this list to be constantly monitored and sanitized to ensure that it contains accurate and reliable information.

21. Availability of Independent Information Sources

This variable was rated “**0.5 –Medium**” because although there is greater understanding of and compliance with the need for customers/clients to provide personal information, it is still very difficult to verify the information due to legislative and other barriers.

Almost all reporting entities have policies in place regarding CDD and KYC which are updated periodically. The collection and storage of CDD and KYC information is considered helpful to the various entities as it improves their level of efficiency as well as heightens their awareness of who their customers/clients really are, which in turn helps them to better assess any potential risks. Of those entities which have reported the implementation of CDD and KYC policies, the vast majority indicate customer compliance at above 50%, whilst a small number put it between 25-50%.

The initial reluctance of customers/clients to produce CDD/KYC documentation has faded as they now have a better understanding of what is required of them and why it is necessary. Documents used to verify the financial transactions and commercial history of customers include standard identification documents e.g., National Identification Cards, Driver’s License and TIN Certificates as well as other classes of documents such as bank statements, pay slips, income & expenditure statements, receipts, audited financials, etc.

Comprehensive records are kept of customers’/clients’ information both electronically and in hard copy. Most entities require permission to be granted from senior members of staff before access is given to customers’/clients’ records. Twenty -four (24) suspicious documents were issued to reporting entities during the review period which is quite low when one considers the large number of sectors polled.

22. Availability and Access to Beneficial Ownership Information

BO is clearly defined within the legislation and Competent Authorities have the power to request this information. However, this variable was rated “**0.3 –Low**” because the Commercial Registry is still in the process of establishing an up-to-date electronic BO database/register that can be accessed by Competent Authorities, Reporting and Other Entities.

Guyana’s business sector encompasses unincorporated family-owned businesses, incorporated medium and large corporations owned and operated by mainly locals and to a lesser extent regional and international investor groups. There has been an increase in annual registration of businesses with 3,474 entities registered in 2016, 3,876 in 2017, 7,688 in 2018 and 13,892 in 2019.

Section 2 of the AML/CFT Act defines BO as ownership of at least 25% of the total shares. Section 470(A) of the Companies Act was amended to empower the Registrar of Companies to request BO information for companies, but not trust or other legal arrangements.

Section 470(A) of the Companies Act Cap 89:01 was amended by the AMLCFT Amendment Act No. 1 in 2015, and further amended in 2016 and 2018, to empower the Registrar of Companies to request BO information for companies, but not trust or other legal arrangements. The Act also gives investigators the power to request information on corporate structures, shareholders and legal entities. An AML Unit was established within the Commercial Registry to capture and maintain BO information for legal entities. BO information collected by the Commercial Registry includes individual names, addresses, national and tax identification details and percentage of BO, which can be requested in writing by Competent Authorities, Reporting Entities or other entities operating within Guyana or from abroad and the information is provided once available. There is currently no system in place to verify BO information prior to incorporation. The BO information only becomes available after filing/incorporation or registration of a business. Moreover, while the legislation provides for a fine of GYD 10M-GYD 40M and imprisonment of up to 3 years for non-submission of BO information; there is no strict enforcement for non-submission since BO information is currently being collected on a voluntary basis by the Commercial Registry. A survey of reporting entities revealed that it is “moderately difficult” to obtain BO information.

Under the AML/CFT Act, lawyers and other legal professionals, accountants and real estate agents, as reporting entities, are required to adequately identify and obtain BO information from their clients. However, there is no indication that this is being done. As it relates to acting as a nominee; lawyers and other legal professionals, accountants and real estate agents, are not required under the law to disclose to the company’s registry that they are nominees, and the identity of the person who nominated them.

There is no evidence received to suggest that a criminal was identified as a beneficial owner of a legal entity, however, there is currently inadequate electronic databases of criminal records and BO information; thus, sufficient checks may not have been carried out or could not be carried out on BO prior to the registration of their interest in new or existing legal entities. Therefore, the possibility exists that an individual with a criminal background can be a BO of a legal entity without the knowledge of the Competent Authorities and Reporting Entities.

2.4 BANKING SECTOR VULNERABILITY

Introduction

The Banking Sector represents the major area of the financial system where money laundering and terrorist financing activities can be perpetuated and consisted for the six commercial banks, the building society and the deposit taking trust company. Given the nature of its products and services, the banking sector can be utilized by money launderers and terrorist financiers to transport, disguise and effect financing of their criminal activities.

The banking sector accounted for 65 percent of financial sector assets and was equivalent to 55 percent of non-oil GDP at the end of December 2019. By the end of December 2020, banking sector assets has risen to GYD 630 billion, from GYD 559 billion the previous year and was estimated at 66 percent of non-oil GDP. The relative size of the banking sector, the high volume of transactions and wide international linkages inevitably make the sector's vulnerability to ML/TF/PF risks high. The banking sector is regulated by the Bank of Guyana which has established a robust preventative regime that combines stringent licensing requirements, strict AML/CFT regulations and rigorous on-site and off-site examinations to mitigate ML/TF risks. However, despite all these measures, the NRA has shown areas where enhancements are needed.

The sector face higher inherent risks, owing to their larger customer volumes and the international nature of their transactions. These institutions offer a wide range of products & services and serve a broad spectrum of corporate and individual customers, including higher-risk customers such as Politically Exposed Persons (PEPs).

Overall, AML/CFT controls which currently employed within the banking sector can be considered relatively developed in light of the inherently higher AML/CFT risks. The quality of internal AML policies and procedures was assessed as above average (medium high) resulting for the comprehensiveness of the AML legal framework and the effectiveness of compliance systems being rated high. The third aspect, the commitment and leadership of commercial banks' management was rated medium high.

The quality of commercial banks operations was average (medium) as clear weaknesses were observed in the effectiveness of suspicious activity monitoring & reporting and the quality of CDD framework, both were rated medium low. Particularly, all banks employed a semi-automated monitoring and reporting system while one large commercial bank employed a manual monitoring system at the time of this assessment. This institution was in the process of integrating a fully automated system which could change the dynamics of the general level of monitoring and reporting at the said entity. Notwithstanding this

imminent upgrade, the WG rated this variable below average based on the current level of operation while accounting for the smoothening period usually associated with new technology roll-out. Consequently, the overall level of AML controls was assessed as being relatively developed.

This NRA was conducted through extensive consultations with two supervisors from the Bank of Guyana and the Compliance Officers of all the six commercial banks, the New Building Society (NBS) and Hand-in-Hand Trust (non-bank financial institutions). These two institutions were included under the banking industry since they share several characteristics to the banking industry, as follows:

1. Both are licensed and regulated by the Bank of Guyana
2. Both are subject to the same regulatory requirements as commercial banks
3. The restriction on demand deposits to only commercial banks is the only variation of deposit products between these two institutions and the banking industry.
4. The NBS is a mortgage bank and accounted for 31 percent of all residential mortgages (or equivalent to 46.7 percent of residential mortgages offered by commercial banks).
5. The HIHT is permitted to offers all the products offered by commercial banks save for demand deposits.
6. The BoG has a convention when analysis the banking sector to include the NBS & HIHT which was maintained for this exercise.

Banking sector vulnerability

The Banking Sector Vulnerability was determined from the assessment of the Quality of General AML Controls relative to the vulnerability levels in the sixteen (16) significant products/services (Product Vulnerability) offered in the Banking Sector. The banking sector received an overall vulnerability rating of 0.75 (*Medium High*).

Summary of findings

The assessment revealed the Banking sector's vulnerability to ML as medium high with a rating of 0.74. The quality of general AML controls was rated medium while the assessment of the sixteen (16) significant products/services revealed the various degrees of vulnerability ranging from 0.75 (medium) to 0.78 (medium high). The variable which scored the lowest rating was the Availability and Access to beneficial ownership information (0.30 - low) which contributed to the below average rating for the quality of CDD framework. Among the sixteen (16) significant products/services, eight (8) had a final vulnerability score within the range of 0.61 to 0.80 (medium high) while the other eight (8) were rated in the 0.41 to 0.60 (medium) range.

➤ *Quality of AML controls*

The Quality of General AML controls was assessed as 0.50 *medium* resulting from a 0.50 *medium* rating for the quality of banks' operations and a 0.67 *medium high* rating for the quality of banks internal AML policies & procedures. This variable assesses the quality of general AML controls in the banking sector which are the standard AML controls applied to all products. As an intermediate variable it derived its rating from two other intermediate variable. The following two (2) areas of significant weaknesses were observed with adversely affected this variable:

1. Clear weaknesses in the effectiveness of suspicious activity monitoring stemmed from highly manual monitoring system employed by one of the largest institutions. At the time of this assessment, the monitoring system employed did not allow for timely and effective identification of suspicious transactions. Moreover, the entire sector employed a monitoring system of a mix of automated and manual activities. However, it was represented by the large institution with a manual system that an upgrade to a highly computerised system is scheduled before the end of 2020. This is expected to significantly improve the suspicious activity monitoring process.
2. The quality of the CDD framework directly hampers the quality of AML controls. In this regard, the quality of the CDD framework was rated below average due to significant deficiencies in the availability and access to beneficial ownership information. There is a major absence in critical aspects of the transparency relating to beneficial interests of corporate, trust or similar entities. Comprehensive information on the structure, management, control, and beneficial ownership in corporations, trusts, and similar vehicles are also not readily available and accessible by AML-regulated institutions, businesses and professionals to facilitate their Customer Due Diligence requirements. It was concluded that access to the UBO registry could significantly improve this process.

➤ *Quality of operations*

The quality of Banks' operations received a rating of 0.50 *medium* on account of a mix of weak and average performances in key input variables. The quality of banks operations was stymied by below average suspicious activity monitoring and reporting and CDD framework. Banks used a mixed of manual and computerised framework for monitoring, with one large institution employing a fully manual system. This presents significant difficulty in tracing of transactions, actively monitoring suspicious and even identifying complex transactions. Moreover, this issue is augmented by the unavailability of beneficial ownership information making the CDD framework somewhat handicapped. These two issues are elaborated on under their specific assessment below.

The assessment of the following four (4) input variables resulted in the overall rating of the quality of Banks' operations:

- (a) Quality of CDD Framework;
- (b) Compliance of Banks' Staff;
- (c) Effectiveness of Suspicious Activity Monitoring and Reporting; and
- (d) Commitment and Leadership of Banks' Managements.

(a) Quality of CDD Framework

The Quality of CDD Framework received an average rating at 0.46 medium resulting from the assessment of the following three input variables:

Availability of Independent Information Sources was rated 0.50 medium. The WG believes that independent information sources are available, primarily from the Credit Bureau. This information would allow for the tracking of financial activities. However, the WG is also of the opinion that the information can be of a higher quality as, in some instances, the information did not reflect the most recent financial information and some fields of the credit report are not completed. Further, there was unanimity that Credit Information Providers (CIPs) should be encouraged to provide timely and accurate information to the Credit Bureau which would positively correlate to higher quality credit reports.

The WG also opined that there should be a requirement for businesses to have audited financial statements which serves as another independent information source. Currently only regulated and large companies would make public their audited reports.

Additionally, the creations of and maintenance of an eKYC registry would significantly improve this process. The ability to access requisite information virtually would allow for faster and more

comprehensive screening of customers, identification of suspicious activities and improve the general framework overall.

Availability of Reliable Identification Infrastructure which was rated 0.6 medium high. The WG noted that the identification documents produced by GECOM, the GRA and the Passport Office are largely reliable, as known cases of fraudulent documents are low. However, the identification infrastructure can be further improved with a means to perform photo ID verification. The WG opined that the services of a third-party validation mechanism could be employed to aid in this process. Additionally, limited access to GRA's driver's licenses/TIN database could be granted to the commercial banks for ID verification processes only.

Availability and Access to Beneficial Ownership Information which was rated 0.3 low. The WG is of the opinion that the availability and access to beneficial ownership information is close to non-existent. There is a major absence in critical aspects of the transparency relating to beneficial interests of corporate, trust or similar entities. Comprehensive information on the structure, management, control, and beneficial ownership in corporations, trusts, and similar vehicles are also not readily available and accessible by AML-regulated institutions, businesses and professionals to facilitate their Customer Due Diligence requirements.

Further, while lawyers remain unregulated, the amendments to the AML/CFT legislation that bring it in alignment with the amendments made to the Companies Act, now requiring the capturing of ultimate beneficial ownership (UBO) information, is a step in a positive direction. Moreover, public information suggests that the Commercial Registry is currently building a database of requisite UBO information. However, access is not yet publicly available, neither is it known if commercial banks would be allowed access to said database for AML/CFT compliance purposes.

The WG is therefore of the opinion that access to the UBO registry be made public with restriction on depth of data accessible to various levels of stakeholders.

(b) Compliance Level of Staff

The compliance of banks' staff was rated **0.50 medium** resulting from the collective ratings of the following five (5) input variables:

Availability and Enforcement of Criminal Sanctions was rated 0.6 medium high. Guyana's AML legislation adequately provides for criminal sanctions. However, since its enactment in 2009, there have been no convictions in relation to ML/TF crimes despite several investigations and the reports

in the media of suspected criminal activities linked to money laundering. The WG is of the opinion that this is as a result of the above average level of compliance in the system. The banks have developed a somewhat robust system for identifying and reporting suspicious activities, which serves as a dis-incentive to money launderers. Notwithstanding the level of suspicious activity monitoring and compliance in the banking system, the WG believes that more can still be done in terms of enforcement. The WG also believes that there is need for specialised training of law enforcement officers and of the Judiciary; a need for financial crimes analysts; special investigators for AML/CFT/PF related crimes and a greater collaboration of prosecutors and investigators on the elements of the crime. Additionally, the review of the quality of data required for prosecuting financial crimes may serve to identify data gaps and remedial actions can be taken. Data is the fuel in financial crime analytics; hence the comprehensiveness of the data is paramount. Analytic tools to identify, measure and monitor financial activities (regular and irregular) could improve the likelihood for a successful prosecution of financial criminals.

Quality of AML Supervision received a rating of 0.50 medium based on the ratings for the assessment of the effectiveness of supervision procedures & practices (0.5–medium) and the availability and enforcement of administrative sanctions (0.6-medium high).

Effectiveness of Supervision Procedures and Practices was rated 0.50 medium. Guyana has a comprehensive legal and regulatory framework, with the Bank of Guyana as the designated Supervisory Authority responsible for conducting examinations of Licensed Financial Institutions (LFIs) including commercial banks. The BoG conducts AML/CFT on-site examinations of all LFIs including commercial banks and prepares and submit to commercial bank’s senior management and respective board of directors a Report of Examination (ROE) which clearly identify the risk relating to their significant activities. All staff of the BoG received local and overseas training in AML/CFT compliance (commensurate to their roles and responsibilities). The BoG has an appointed AML/CFT Compliance Officer responsible for, *inter alia*, AML/CFT compliance and training. In keeping with International Standards, the BoG utilises a risk-based approach to the supervision of commercial banks which compliments on-site examinations with ongoing off-site monitoring. However, the BoG employs a highly manual system for executing its supervisory function. No analytical nor big data software is used as most computing is done using Microsoft Excel. Further, reports are received manually (hard copy), save for a handful of digital reports. This highly manual system results in significant time lost in analysing the data and could result in risk/vulnerabilities not being identified and addressed in a timely manner.

To this end, the WG is of the opinion that:

- a) AML examinations are still somewhat highly transactional and could adopt a more risk focus.
- b) There is a need for a higher level of certification of staff responsible for AML/CFT/PF supervision. It may be prudent for the Bank to invest in having all its examiners obtain international AML certification and attend more regional and international AML conferences.
- c) There appears to be some rigidity in the application of the documented risk-based approach for examination.
- d) The BoG could invest in the procurement or development of an analytics software and pursue a digital reporting and database management system. Consideration should be given to a reputable solution that comprehensively covers all supervised entities.

The Availability and Enforcement of Administrative Sanctions was rated 0.60 medium high. The WG concluded that the available administrative sanctions were appropriate and sufficient to positively influence the commercial bank's management and staff behaviour. While there has not been any administrative enforcement action taken by law enforcement authorities regarding non-compliance with AML requirements within the sector, the general perception of workers in the sector is that administrative actions would be initiated against them in case of non-compliance with AML. However, the Bank has taken other types of sanctions including ordering regular reporting from the reporting entity on measures it is taking to remedy deficiencies as stipulated by Section 23 of the AML/CFT Act 2009. The WG is of the opinion that the recommendation to remedy AML/CFT deficiencies emanating out of reports of examinations serve 'orders to comply' by the BoG. The BoG employs moral suasion as its primary means of correcting deficiencies and commercial banks have always been compliant. The WG believes this to be a critical factor supporting the high degree of compliance.

It was however represented that the BoG does not have a documented internal procedure for application of sections. Therefore, it is necessary to develop an internal procedure to guide the application of sanctions. This would ensure consistency in the supervisory process and mitigate the risk of prolong forbearance.

AML Knowledge of Banks' Staff was rated 0.70 medium high. Appropriate AML training programmes and materials were readily available to all members of staff; training programmes are conducted at least annually, and manuals updated as required. Notwithstanding the adequacy of the training programmes, there were some misalignments with the application of the knowledge obtained during training which consequently requires continuous oversight and frequent branch assessment to support staff compliance. As part of its off-site monitoring, the BoG requires commercial banks to provide details on AML training as part of its RBS documentary requirement. Banks are required to submit the register of attendees to each training; the facilitator, the scope of the training and the content of the materials covered. In turn, the BoG comments on the adequacy of the training and can recommend additional training where necessary. During onsite examinations, the BoG verifies the accuracy of the information provided and provide commercial banks' management with their assessment and recommendations regarding AML training.

Integrity of Banks' Staff was rated 0.70 medium high. Commercial banks maintain policies on staff integrity, anti-corruption, confidentiality & business conduct and protection of staff when reporting suspicious activities which support staff integrity. The WG regarded these policies as supportive to staff integrity as the incidents of fraud and breach of policies are low. However, while policies are in place to encourage staff integrity, it is impossible to fully prevent corruption and other criminal practices, e.g. defalcation and frauds. The WG believes that at a national level, incidents of corruption and other illegal activity must be dealt with condignly which will signal an intolerance for such conduct.

Effectiveness of Compliance System was rated 0.70 medium high. Commercial banks internal compliance programmes were commensurate to their respective risk levels. All Compliance Officers are appointed at a senior management level in accordance with national legislation and internal AML audits are largely done routinely while external AML audits are conducted annually. Additionally, most institutions represented that they are relatively well resourced with sufficient staff and IT infrastructure, and actively seek to adhere to the four (4) pillars¹⁴ of compliance programme.

(c) Effectiveness of Suspicious Activity Monitoring and Reporting.

The Effectiveness of Suspicious Activity Monitoring and Reporting was assessed as weak with a rating of 0.40 (medium low), with the likelihood of being upgrading to a 0.6 (medium). At the time of this assessment, not all institutions were currently utilising a computerise information system to monitor client's

¹⁴ The AML programme (Policies & Procedures), Training, Independent Review & Audits and Compliance Officers

transactions against their profile. One institution was in the process of upgrading its system which was scheduled to become fully operational within two (2) months from the date of this assessment. Monitoring systems were largely a mix of electronic and manual mediums. This presented some amount of difficulty when providing non-routine data to the supervisory authority (such as an ad hoc report from supervisor). However, the monitoring system employed by the sector largely supported the banks in effective PEPs' screening; assist banks and their staff to effectively identify and record complex, & unusual large transactions; and assist with the identification & reporting of suspicious transactions. The WG is of the opinion that it may be necessary for some guidance on the minimum quality of data that regulated institutions should maintain at any point in time as this could greatly improve the effectiveness of not only suspicious activity monitoring and reporting but also general reporting.

(d) Commitment and Leadership of Banks' Managements

The Commitment and Leadership of Financial Institutions' managements received a rating of 0.57 medium as a result of ratings received by the following four variables:

Level of market pressure to meet AML standards was considered intense and resulted in an assessment rating of 0.80 very high as greater requirements are necessary to maintain satisfactory correspondent banking relationships. Several commercial banks' suffered the loss of corresponding banking relationships due to de-risking between 2015-2017, and as a consequence, banks' management seems intent to do what is necessary to retain its relationship with correspondent banks. Further, in preparation for the 4th Round Mutual Evaluation, commercial banks are committed to meet national and international AML/CFT/PF requirements.

Availability and Effectiveness of Entry Controls was rated 0.60 medium high. The licensing authority was clearly defined as the Bank of Guyana in the requisite legislation (Financial Institutions Act 1995). The BOG has a clear and comprehensive framework for the licensing and registration requirements including fit and proper checks, designed to prevent criminals or their associates from acquiring ownership within the banking sector. Notwithstanding the aforementioned, there remains some room for improvements. Notably, the regulations relating to Licensing (Supervision Guideline No. 2 – Licensing of Financial Institutions) requires updating. The current regulation was brought into force in May 1996 and has not since been amended, despite numerous amendments to the AML/CFT legislation. Given the number of years since its enactment, the WG believes that areas of amendments are needed. One such area is the qualification requirement for the officials and key directors of commercial banks. The WG is of the opinion that specifying the minimum qualification requirement by means of regulations will

lend to the strengthening of commercial bank's management and promote a safer and more stable banking industry.

Availability and Enforcement of Criminal Sanctions was rated 0.30 low. This variable was assessed above under "compliance of commercial banks' staff.

2.5 SECURITY SECTOR VULNERABILITY

Introduction

The Securities Industry in Guyana is an emerging market with much room for growth and diversification. To date, only equity securities are traded on the Guyana Stock Exchange. There are 6 companies that offer securities services within the sector and provide one or more of the following services: brokerage; investment advisory services; underwriting and securities dealing.

The securities market is regulated by the Guyana Securities Council (“GSC”), which was established by the Securities Industry Act, Cap. 73:04 (the SIA’) to ensure the orderly growth and development of the market.

Securities sector vulnerability

The overall vulnerability of the Securities Sector was rated as **Medium Low** based on the assessment of ten variables. This is a consequence of the small market size and low trading volumes.

Overview of the Capital Market (Guyana)

The volume of trades on the Stock Exchange is relatively small as it represents 0.11% of the GDP of Guyana as at 2019 (Total GDP: GYD 904,008,000,000). There is no central depository in Guyana. Share certificates are issued to shareholders in their names. Financial investments are paper-based, and certificates are made out to a person or entity. Each company is responsible for keeping records of its shareholders and to submit to the Commercial Registry on an annual basis. All securities firms keep a digital and hardcopy database. Further, a hardcopy is submitted to the GSC on a yearly basis. There are no bearer certificates. The AML/CFT Act expressly prohibits financial institutions from establishing or keeping anonymous accounts or accounts in fictitious names.ⁱ This mitigates the concealment of ownership, often used in money laundering schemes.

Table 8 - Market Capitalization for the period 2015-2019ⁱⁱ

YEAR	CAPITALIZATION (GYD 000)	INCREASE/DECREASE (%)
2015	144,908,850	-
2016	138,014,438	-4.757
2017	166,195,970	20.419
2018	287,651,074	73.079
2019	345,534,898	20.122

Table 9 - Guyana Stock Exchange Tradesⁱⁱⁱ

	2015	2016	2017	2018	2019
No. of Trades	658	667	553	552	914
Quantity of Shares	7,219,683	12,403,114	17,349,302	5,209,931	7,020,866
Total Consideration (Value) of Shares (GYD 000)	376,709,467	472,643,378	916,535,191	704,259,886	1,000,589,906

There are eighteen (18) reporting issuers^{iv} regulated by the GSC. Fifteen (15)^v of those reporting issuers are listed on the Guyana Stock Exchange. There has been no new issuance of shares during the period of 2015-2019. However, the value of those shares has increased during the period of assessment. With the emergence of the oil and gas sector, it is expected that further growth and investment will occur which may increase the risk of money laundering and terrorist financing.

Off Platform Trades

Off-platform private trades for the period January 2016 to December 2019^{vi} was 47,396,195 shares, while the quantity of shares traded on the Exchange for that period was 41,983,213.

➤ *Quality of AML controls*

The overall quality of AML controls was rated ***medium high***, and the assessment of (1) significant product (equity securities in companies/shares) was rated ***medium low***.

➤ *Quality of AML policies and procedures*

The provisions of the AML/CFT Act and amendments thereto are in harmony with the FATF Recommendations to mitigate money laundering risks within the securities sector. This is further supported by the Securities Industry Act 1998 and Regulations thereto. Experienced officers from the supervisory authority and assessed securities institutions determined that Guyana has a comprehensive anti-money laundering (AML) legal framework, which conforms to international standards.

For all six (6) securities firms, an independent AML compliance officer is appointed at a senior management level with responsibilities for implementing relevant controls and systems to meet AMLCFT requirements. All six (6) securities firms are subjected to audit reviews by their respective appointed external auditors at least annually, however this does not include the verification of AML/CFT aspects. Only two (2) of six securities firms have an external audit function to review their AML/CFT compliances.

➤ *Quality of operations*

Securities Firms have systems in place for record keeping, and monitoring and reporting of suspicious activities to support their AML policies and procedures. Between 2016 and 2020, the FIU received eighteen (18) STRs from the securities sector with varying suspicions including, money laundering, structuring transactions, tax evasion and, insider trading. According to the FIU, the quality of those STRs can be classified as medium to low based on the usefulness of the STRs.

In the absence of special software for monitoring and reporting suspicious transactions, firms rely on manual surveillance, using spreadsheet programs. The customer list for securities firms in Guyana are small and as such, firms are able to identify complex and large transactions with the manual systems in place. Securities firms, in addition to CDD measures, put in place appropriate risk management systems to continuously check and determine whether a potential client or existing client or the beneficial owner is a politically exposed person or on the sanctions lists. Further, securities firms are required to submit to the GSC, both on-platform and off-platform trades. There is no central depository.

Further, compliance officers understand the scope of their reporting obligations on suspicious transactions and activities and all customer due diligence protocols are implemented. All securities firms require the completion of a Source of Funds Declaration Form for transactions conducted by account holders, where a single transaction; or multiple transactions appear to be linked, total or exceed GYD 2M or its equivalent for cheque and cash deposits as well as incoming wire transfers. Additionally, individual files on high-risk clients are now being kept by some entities to monitor suspicious activity. **The overall quality of Operations was rated as *medium high*.**

➤ *Commitment and leadership of management*

GSC is a supervisory authority under the AML/CFT Act. The licensing body is clearly identified under the SIA as the GSC. There are adequate resources available to ensure quality implementation of entry controls. It was recommended that statistics on all applications for licenses/registration and licenses granted/suspended/revoked for failure to meet AML Controls, be compiled and readily available. Every applicant is required to complete GSC'S Fit and Proper Assessment.

There are no appropriate local educational and professional certification requirements for key directors and senior management within Guyana, however, the SIA-section 47 provides for the basic qualifications required by persons required to register under the SIA and includes in section 47(h) (i), academic qualifications required for Directors or full-time employees of a company applying for registration. All registrants are required to submit their educational background for the GSC to assess and determine whether they are sufficiently qualified.

The GSC has in place a ‘Fit and Proper Criteria’^{vii} to prevent criminals or their associates from being granted a license. The SIA was amended (section 47A)^{viii} allowing GSC to investigate and make inquiries as it deems necessary to determine whether the applicant is fit and proper to be granted registration under the Act.

Appropriate criminal sanctions are in place because of the amendments to the AMLCFT Act in 2015, 2016 and 2017^{ix} which increased penalties for non-compliance. Further, securities firms share the view that existing criminal sanctions regime is sufficiently dissuasive to positively influence behaviour patterns. **The overall quality of Commitment and Leadership of Management was rated as *medium high*.**

➤ ***Compliance level of staff***

In terms of enforcement, no prosecutions or convictions were recorded for money laundering offences in the securities sector for the period of assessment. Based on the data collected, all interviewees believe that criminal enforcement action would be initiated in the event of non-compliance with AML Requirements in the course of their duties.

Compliance officers understand the scope of their reporting obligations on suspicious transactions and activities and all customer due diligence protocols are implemented. Additionally, all securities firms have a policy for individual files on high-risk clients to monitor suspicious activity.

All appropriate staff members are trained and are aware of AML compliance, reporting procedures, obligations within the securities sector, and the legal consequences of AML compliance breaches. Staff are trained semi-annually or annually. However, relevant staff do not receive ongoing training to refresh their knowledge on updated domestic and transnational money laundering schemes and typologies.

Further, GSC holds training sessions for all market participants. Each training period ends with an evaluation and successful participants are given a certificate.

Based on the professional experience of the regulatory body and information gathered from questionnaires, staff are generally secure from corruption. The incidences of disciplinary action taken against staff members within the institutions assessed, for integrity failure such as negligence or willful blindness to suspicious transactions are very low. In such cases, the institution would determine the suitable actions to be taken against such staff members.

The procedure for reporting STRs is confidential with professional compliance officers.

Another mechanism to protect staff against any negative consequences resulting from reporting STRs, is the Protected Disclosure (Whistleblower) Act^x, which was passed in the National Assembly in 2018. This

Act establishes a Protected Disclosures Commission to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sectors and to protect persons making those disclosures from detrimental action. However, until the Act is brought into full operation, persons are not protected under this legislation.^{xi} **The Overall quality of Staff Compliance in securities firms was rated *medium high*.**

➤ ***Quality of CDD framework***

Reporting entities have access to independent beneficial ownership information on legal entities, particularly, for companies registered under the Companies Act from the Commercial Registry. Pursuant to section 15 of AMLCFT Act, reporting entities must take reasonable measures to adequately identify and verify the beneficial owner when establishing a business relationship. From all information gathered, and from the experiences of GSC and experienced officers, beneficial ownership information^{xiii} is not always available because the Registry does not have an updated database. An undated notice compelling companies to declare BO information within a stipulated period was published by the Registry in the newspaper from December 2019 and published in the Official Gazette on the 25th January 2020. The registry did not enforce this requirement by informing specific companies directly (in writing) of their failure to submit BO information, as all companies were not in default. In February 2020, the GSC had requested all reporting entities regulated by GSC, to state whether they have complied with the Registry's Notice.

Where beneficial ownership information is available, the Registry takes approximately 7 days to 4 months to provide such information. This information is not available online. Requests for beneficial ownership information ought to take approximately one hour – 2 days maximum. All market participants expressed that due to the poor structure and management of the Registry, beneficial ownership information is difficult to obtain in a timely manner.

Based on the information gathered by questionnaires, there have been no cases of false documents being utilized. Further, securities firms share the view that the identity of customers can be verified using reliable source documents.

During the period of assessment there has been an improvement in electronic databases with issuing bodies. Market participants can request verification of identification from requisite issuing bodies. This infrastructure can be improved however, by adding clear and updated photographs of individuals to the electronic database.

There still exists bank secrecy laws^{xiii} relating to client confidentiality; however, real estate transactions are open to the public. Historical financial information and other information about clients is usually accessed by way of a Court Order.

The Credit Bureau in Guyana is also another Independent Information Source which can verify financial information. All entities can access the Credit Bureau for financial information. **The overall quality of CDD Framework was rated as *medium*.**

➤ ***Quality of AML supervision***

Effectiveness of Supervision/ oversight Activities

The Supervisory Authority for the Securities Industry is the GSC under the AMLCFT Act and has the appropriate authority and mandate to conduct AML Compliance supervision. This is further supported by the SIA.

The number of trained staff within the Council is three (3) for the period of assessment. The GSC requested additional budgetary resources to facilitate the employment of new staff members and to secure a space to facilitate additional employment. In 2017, this allocation was granted. However, a new building was only secured in the latter part of 2019 to facilitate additional staffing.

Annual on-site examinations are conducted by GSC. The GSC conducts annual compliance checks; and follow up on steps taken by the entity to address AML breaches highlighted during the on-site examinations. Data collected from questionnaires indicate that market participants share the view that the Supervisory Authority has sufficient power to carry out examinations and that those examinations are conducted impartially. The GSC continues to use the Examination Manual which was compiled following the risk-based approach and used in conjunction with the AMLCFT Act to supervise reporting entities.

Off-site supervision is continuous however there is room for enhancing off-site supervision. The GSC currently monitors trades on a monthly basis and request the following information to ensure data quality. The GSC requires the particulars of all trades conducted on the exchange, including: Client/s Name and Address; Type of Transaction (Buying/Selling); Transferor/Transferee's Name and Address; Type of Share/s traded; Consideration; Commission; Stock Exchange Fee; Stamp Duty, if any; any other associated charges/fees; All Off-platform trades; and Listing of all discretionary accounts and balances. Further, GSC requests particulars of all new accounts opened within the specified period are also to be reported to the GSC monthly, including: Client's Name and Address; Purpose of Establishing Account; Account Opening Balance; Source of Funds; and any other relevant details pertaining to new accounts.

The GSC is working to establish an online internal database for reporting entities for the purpose of enhancing its supervision capability of the securities sector. This database will allow the Council to enter and analyse data continuously with reference to the on-site and off-site examinations conducted. This database will allow for the efficient review and analysis of data collected from the Council's supervision efforts.

Notwithstanding the constraints, the GSC strives assiduously to perform its mandate under both the SIA and the AML/CFT Act.

The AMLCFT Act was amended in 2015, 2016 and 2017^{xiv} to increase the penalties for non-compliance. There are specific legal and regulatory provisions on administrative sanctions within the Act. The data collected revealed that reporting entities share the view that the sanctions are sufficient to positively influence management and staff behaviour in securities firms. **The overall quality of AML Supervision was rated as *medium high*.**

2.6 INSURANCE SECTOR VULNERABILITY

Introduction

The Anti-Money Laundering and Countering the Financing of Terrorism Act (AML/CFT) Cap. 10:11 and regulations made under the Act supported by supervisory guidelines, set out the framework for insurance entities' AML/CFT compliance. The commencement of the Insurance Act 2016, No. 17 of 2016 has developed a new horizon for the insurance sector in Guyana and has changed the landscape as it relates to supervision of insurance business. Companies have to implement policies to protect the interest of policyholders and their business through prudent management of their risks. One such role of the supervised entities is to mitigate the risk of ML through compliance with legislation, regulations and guidelines.

In Guyana, the insurance sector is still clouded with providing traditional insurance in traditional ways but with artificial intelligence and digitization, companies would need to up their game. This would lead to greater risks exposure and thus more scrutiny would have to be carried out to identify, assess and mitigate risks. Cognizance should be taken of the new-found-wealth in Guyana i.e. the emergence of the oil industry in the economy and its market share in the insurance sector.

A survey conducted on the insurance companies and brokers was completed and with the latest financial data being 2019¹⁵. The insurance assets for this period accounted for 8.9 percent of total financial assets and 10.9 percent of the national GDP. At the end of 2019, there were sixteen (16) companies licensed to conduct insurance business in Guyana with six (6) licensed brokers. Five (5) of the companies were licensed to conduct life / long-term insurance business, while the other eleven (11) were licensed for general insurance business. The insurance companies are locally incorporated, except for the operation of two foreign branches. In addition, there are nearly 200 registered insurance intermediaries, which include six (6) brokerage firms, and numerous registered agents actively participating in the insurance market.

Long-term insurance business represented approximately 69 percent with assets totaling GYD 53.8 billion at end 2018. Long-term insurers sell a number of insurance products with cash values and investment / saving components. These types of insurance plans should be guarded against ML vulnerabilities. While, general insurance business accounted for the remaining 31 percent of the sector's assets. Non-life and short-term products, including accident and liability, auto, marine, and fire are sold under this class of business. These products are regarded as less vulnerable to ML risk as compared to the long-term insurance products.

¹⁵2019 data was not available at the time.

The commencement of on-site inspection in 2019 for both insurance companies and brokers would strengthen the fight in combating ML within the insurance sector. This framework would ensure that reporting entities implement the AML requirements and effectively supervise procedures and practices to reduce ML vulnerabilities.

Insurance sector vulnerability

The overall vulnerability of the insurance sector was rated as ***medium low***. The WG found that industry is less vulnerable to money laundering than other financial institutions but not totally impenetrable from persons bent on finding avenues to wash money obtained from criminal activities and more especially from the drugs trade. Life insurance products are seen to be more vulnerable within the sector since they carry high cash values and investment/savings components that can attract money launderers. However, this does not mean that general insurance products are not vulnerable. Money launderers are finding new ways of laundering their dirty money, so that when one door closes, they look for avenues to continue to wash the money they obtain from crime which makes it more difficult to detect its nature and source.

The working group's investigation found that the industry in general has implemented all the relevant controls and in addition, training has become a norm as it relates to the AML laws and regulations thus leading to the very low vulnerability score of 0.23.

Product Vulnerabilities

The inherent vulnerabilities of the products revealed minimal money laundering risk within the insurance sector. Other Insurance Plans with Cash Values and Investment / Savings exhibited a higher vulnerability of one basis point above Life Insurance Plans with Cash Values / Investments which held a ratio of 0.22. The vulnerability of Non-Life Product with No Cash Value was even lower at a ratio of 0.19, these being products rated with the highest ML vulnerabilities within the insurance sector. Except for Pension Products which are mostly conducted by direct business with highly cheques and salaries payments, intermediation in the sector was significant with client base profiles of mainly low-risk customers. According to feedback on questionnaires sent to insurance companies and brokers, cash payment of premiums was lower for all products in comparison to the other forms of payments (life products 10%, non-life 40% to 60% and pension 0% to 100%) to 90%. Minimal cash intensive activities are involved with the use of most products, which helps to minimize the ML risk in the insurance sector.

The overall inherent product vulnerability was estimated to be low with an average risk score of 0.23. The inherent product vulnerabilities estimates of both the long term and short term sectors indicated that there is generally minimal money laundering risks with respect to the use. Although the ML risks differed by products, no specific AML controls were in place for insurance products that are more vulnerable to ML

risks. However, the key vulnerable areas that adversely impacted the assigned rating were the *Availability and Enforcement of Administrative Sanctions* and *Effectiveness of suspicious monitoring and reporting*.

➤ *Quality of AML controls*

Summary Findings

The quality of the general AML controls in the sector was rated 0.66. Based on the responses of the survey and assessment carried out, it was observed that the risk of laundering money through insurance products and service was minimal. Insurance is a risk transfer mechanism and the use of its products would have to relate to a specific purpose. For instance, insurers would have to analyze each risk they are taking on.

In the fight against money laundering and terrorism financing (ML and TF), the supervisory authority of the insurance sector ensures that the mandate to combat ML is actively engaged by the industry. Operatives in the insurance industry are exposed to continuous ML training, so as to increase their awareness of ML threats and vulnerabilities.

➤ *Quality of AML policies and procedures*

Comprehensiveness of AML Legal Framework

This variable was rated *close to excellent*. The working group found that there are adequate legislative provisions set out in the Anti-Money Laundering and Countering the Financing of Terrorism Act Cap 10:11 and the subsequent amendments to alleviate the threat of ML/FT risk in the insurance industry. It was found that these provisions were consistent with the minimum recommendations of the Financial Action Task Force (FAFT) as set out in Recommendation 1. In addition, supervisory bodies and agencies have been established to support the laws enacted to combat the incidence of money laundering and terrorist financing. The law provides a framework of regulations and supervisory guidelines specific to insurance business in Guyana and the conduct of all stakeholders, including insurance intermediaries. In accordance with section 9 of the AML/CFT Act, the Financial Intelligence Unit (FIU) was established specifically ‘as an agency responsible for requesting, receiving, analyzing and dissemination of suspicious transaction reports and other information relating to money laundering, terrorist financing or proceeds of crime.’ The Act provides the FIU with the authority to identify, trace, freeze, seize and forfeit unlawful proceeds of all serious offences relating to money laundering and terrorist financing. This provision is consistent with FAFT Recommendation 35.

The comprehensive framework of the supervisory authority consists policies, guidelines and manual. The supervisory authority applies these tools and investigate compliance and risks through off-site examinations and on-site inspections.

Effectiveness of Compliance Function

This variable was rated **high**. It was observed that both insurance companies and brokers have put in place appropriate internal policies for an effective AML compliance function in addition to their compliance officers functioning mainly at senior management level. Further, entities are increasing their awareness and understanding of their role and functions in complying with the new regulatory requirements. The companies are also required to have internal and / or external audits performed and frequent reviews which could be quarterly and annually. Pre on-site inspections reviews are conducted to review the program of the internal audits. Further, the AML/CFT legislation requires that reporting entities including insurance companies and brokers establish and maintain independent audit function with adequate resources to test its AML/CFT procedures and systems. In an effort to maintain the effectiveness of compliance function, there should be specific industry-wide AML/CFT training done annually and review of policies. This would enhance the knowledge base and skills within the sector in combating ML/TF in Guyana.

➤ ***Quality of operations***

Effectiveness of Suspicious Activity Monitoring and Reporting

This variable was rated **medium high**. It is pertinent that the systems used to identify suspicious activities be reviewed since a reportedly 90 percent of the insurance companies and brokers have never completed or filed a suspicious transaction report with the F.I.U. It was indicated that there were adequate procedures in place for staff to effectively identify and record complex, unusual and large transactions. A review of the system would determine whether there are limitations, and this can be done during the on-site inspection of the entities. As it relates to fire, motor and general insurance, while properties (movable and immovable) might have a high value, the recommendation is that the investigation should be carried out at the stage of acquisition since the premiums paid towards these policies in the majority of cases do not warrant a raised eyebrow. The Guyana Revenue Authority could play a pivotal role in this regard when compliance for the transfer or purchase of properties are being pursued.

The survey also found that most companies maintain lists for PEPs and other high-risk customers and have trained staff to check the lists when a new customer comes to do business and whenever necessary, CDD and EDD measures are carried out.

➤ ***Commitment and leadership of management***

Availability and effectiveness of entry controls

This variable was rated **close to excellent**. The Bank of Guyana which is the supervisory body for insurance business in Guyana, was established by legislation with clearly defined functions.

The Bank is one of the main stakeholders in the fight against money laundering / terrorist financing (ML/TF) and therefore ensures that there is good understanding and appreciation of ML risks in the insurance sector. Licensees are required to meet specific requirements before entry and one of the requirements, is to have adequate AML/CFT internal controls in compliance with the law. The supervisory authority for the insurance sector is identified in sections 5 to 7 of the Insurance Act.

The role of the Bank of Guyana in supervising compliance of reporting entities within the insurance sector is defined in section 22 of the AML/CFT Act. The Bank is required by law to ensure that insurance companies, brokers and agents are fully compliant and meet all requirements as set out in the Insurance Act and the Insurance Regulations. This process is carried out under strict scrutiny and examination of documents by the Bank. All requirements must be met before approval is granted to insurance companies and intermediaries to legally operate in Guyana. The legal provisions within the licensing and registration framework in the insurance sector include clear fit and proper requirements for significant office holders, including the applicant, partner, shareholder, directors, beneficial owner of a significant controlling interest or office holder of the applicant; and qualification requirements for intermediaries and staff to conduct their business. The fit and proper criteria must be evaluated by the licensing agency as often as necessary or whenever there is a change in ownership, management or control of the entity. There is no threshold for the change in ownership, but approval must be sought from the Bank if a person is to acquire a significant interest in or to control an insurer.

Availability and Enforcement of Criminal Sanctions

This variable was rated **medium high**. The AML/CFT Act empowers supervisory authorities to impose sanctions against non-compliant entities. Sanctions may be imposed such as freezing of assets, prohibiting payment of funds, and fines and incarceration. However, there were no reported or recorded cases of sanctions being imposed by the supervisory authority against insurance companies or intermediaries for non-compliance with respect to their obligations under the AML/CFT Act. The insurance companies that were surveyed by the working group noted that they are aware of the criminal sanctions that can be imposed against them (the insurers) for not complying with their AML/CFT obligations under the law or for facilitating the process of money laundering. There should be increased monitoring of reporting entities to ensure that they comply with their AML obligations, while there should be additional training to further develop their skills and expertise and those of the supervisory authority.

➤ ***Compliance level of staff***

AML Knowledge of Staff in Insurance Companies and Brokers

This variable was rated **high**. Investigations found that the companies are adhering to the requirements set out in the provisions of the AML/CFT Act in respect to training provided to all levels of staff. There are also systems in place in some of the companies, such as screen reminders, written materials and memos on compliance matters. Legislation are available to all staff members and online too. Companies organize training annually for their staff in this regard.

The Insurance Companies, while supervised by the Insurance Supervision Department, Bank of Guyana, also have a representative association named Insurance Association of Guyana (IAG) which comprises the companies in the industry. This Association has established a Compliance Sector Committee and members comprise all of the Compliance Officers. This sector committee has helped in the establishment of a mutual understanding of the obligations of the industry as it relates to training in compliance. Thus, companies have individually set up AML/CFT training programs as required by the AML/CFT Act. There was at least one interactive training of Compliance Officers for the industry including Brokers earlier this year and a plan is in place for continued interaction and formal training for the brokers. There is still room in regard to training and adherence of the Brokers on compliance with the AM/CFT Act, but there are visible improvements between the last NRA report and current. However, it is still felt that with training this potential ML vulnerability can be erased.

Integrity of Staff in the Insurance Companies and Brokers

The variable is rated **high**. Insurance companies as well as brokers regard customer information as being confidential and thus are committed to hiring employees who are trustworthy individuals. It is of utmost importance that a high level of staff integrity is maintained within the insurance industry. Survey reports showed that insurance companies and brokers have documented recruiting manuals in place. These recruiting standards and practices help to ensure a high standard of integrity and also enforce proper vetting of new staff before appointment.

There was no reported breach of confidentiality, any incidence of criminal accusations or evidence of collusion by staff or agents with respect to money laundering.

➤ ***Quality of CDD framework***

Availability and Access to Beneficial Ownership Information

This variable was rated **low** since no system is in place to actively collect and track beneficial ownership information. Except at registration, licensees are required to provide ownership information, while similar information is provided in the annual reports. However, the quality as to the data that is available is seemingly deficient as particulars to subsequent ownership in other companies should be available. Seemingly, there was limited access to beneficial ownership information since there is no general database

on shareholders. So, there needs to be an established database with structured data that could facilitate all sectors

Availability of a Reliable Identification Infrastructure

This variable was rated **medium high** as reporting entities must request identification when establishing business relationship, conducting threshold transaction or if there is suspicion of ML/TF. It was determined that reliable identification infrastructure was available, particularly with the use of the national identification card, which the majority of the population possess or passport. To improve this infrastructure, systems should be in place to have machine readable identification for easy verification.

Availability of Independent Information Sources

This variable was rated **medium** as companies would communicate with each other particularly through the Association to obtain information. This rating was determined by the working groups based on the information sources available to the various sectors. For insurers, based on the type of product being offered, there could be need for information to be requested from the Credit Bureau. In obtaining information, the entity has to ensure that such response is timely whether obtained from the Credit Bureau or through the Association.

➤ ***Quality of AML supervision***

Effectiveness of Supervision

This variable was rated **high**. The implementation of the Insurance Act and Insurance Regulations have changed the regulatory landscape of the insurance sector in Guyana. Although the AML/CFT Act allows for on-site inspection, this methodology was supported by the Insurance Act with its commencement of onsite inspection to determine and investigate the level of risks posed by the sector. The Act allows the Bank to request an auditor to extend the scope of the audit or conduct a special examination on an insurer. However, this was never applied in practice. Compliance requirements have increased due to new legislation. This has necessitated reporting entities to implement stringent measures in adhering to regulations since penalties can now be imposed on errant entities.

The supervisory authority has four technical staff with responsibility for regulating and examining AML/CFT compliance in the insurance sector. These staff have received AML/CFT training and the staff composition is expected to increase according to the demands of the tasks.

The regulator has adapted risk-based supervision for off-site examinations and onsite inspections. For off-site examination, the entity is required to complete and submit a questionnaire on its AML compliance for review by the supervisor. In this way, the risks and their vulnerabilities are identified, assessed and

monitored, so that the necessary actions can be taken. The regulator has placed AML on-site inspection on high priority due to its mandate under the Insurance Act, to perform on-site inspection. The regulator can coincide these inspections or perform an individual inspection.

Availability and Enforcement of Administrative Sanctions

This variable was rated **medium high**. The AML/CFT Act empowers supervisory authorities to impose administrative sanctions against the entities when there is a breach of an obligation. Sanctions such as written warnings, orders to comply with instructions, suspension, restriction and withdrawal of license, removal of directors or senior managers from Board and employees may be imposed.

There were no reported or recorded cases of sanctions being imposed by the supervisory authority against insurance companies or intermediaries for non-compliance with respect to their obligations under the AML/CFT Act. There were no other breaches as reported by the FIU, since all the entities have fulfilled their obligations as it relates to reporting threshold transactions and terrorist property reporting to the FIU.

Appropriate administrative sanctions are in place for noncompliance with AML obligations. Section 23 of the AML/CFT Act provides for a range of sanctions such as written warnings, orders to comply with instructions, suspension, restriction and withdrawal of license, removal of directors or senior managers from Board. Section 23 of the AML/CFT (Amendment 15 of 2016) empowers the supervisory authorities to impose a fine of not less than GYD 5M or more than GYD 15M. The relevant provisions in the current framework empower the supervisory authority to impose administrative sanctions at varying degrees against non-compliant reporting entities.

2.7 OTHER FINANCIAL INSTITUTIONS ML VULNERABILITY

Introduction

Apart from banks, there are other institutions that carry out financial services and activities in Guyana. These other financial institutions include money transfer agencies (MTAs), cambios, credit unions (CUs), and pawnbrokers. Although, hire-purchase companies also appear to offer financial services this sector was not assessed using the World Bank's tool as they are not listed as a category of reporting entity under the AML/CFT legislation and are therefore not supervised for AML/CFT compliance.

The WG however, examined the hire purchase companies in Guyana, along with the Guyana Post Office Corporation (GPOC), which provides local money transfer services and acts as a sub-agent for two licensed MTAs to determine the level of ML risk withing these companies and the GPOC.

Hire purchase service companies - Money Laundering risk

A hire purchase business is an arrangement whereby a customer agrees to contract to acquire an asset by paying an initial installment and repays the balance, plus interest over a period of time. The WG examined the operations of hire purchase companies to determine whether they can be used to facilitate ML/TF. It is important to note that hire purchase services, are not included under the AML/CFT regime. The WG found that there are only two (2) hire purchase companies in Guyana and they are licensed under the Money-Lenders Act, Cap. 91:05. There is currently a Hire-Purchase Bill 2020 in Select Committee of the National Assembly, which makes provision for the regulation of hire purchase, credit sale and conditional sale agreement, and other related purposes.

The GRA is responsible for issuing money lending licence. The requirement for the issuance of a money lending licence are the liencee's personal information such as, name, address, sex, ID, TIN; and business information such as, the name and address of the business, the business registration number, and the date the business was registered.

In addition to hire-purchase service, one of the companies also provide "ready finance service" or small loans to its customers. The requirements for a small loan or hire purchase are as follows: the customer is required to provide *personal information* such as, name, address, gender, nationality, marital status, email or phone and state whether a dependent or have dependents; *employer details* such as, name, address, and contact details of employer; two references, (name and contact information of two persons that know the customer), and copy of the customer's ID, pay slip and utility bill.

The WG found that customers of these companies are not required to provide source of funds for down payments (if needed) or instalments. There are no reports of STRs, or ML investigations involving the hire purchase companies or related to the ready finance service they provide. Given the nature of the transactions facilitated, the CDD measures in place (although not for AML/CFT purpose), and the absence of STRs related to these companies, the WG agreed that the ML risk in this sector is minimal. However, AML/CFT training is necessary to enhance the level of AML/CFT awareness of these companies.

The Guyana Post Office Corporation – Money Laundering risk

The GPOC which has a spread of over sixty (60) main Post Offices and several Postal Agencies throughout the length and breadth of Guyana carries out business services, non-postal services and personalized and postal oriented services. Among the non-postal services, GPOC is authorized under the Post and Telegraph Act Cap. 47:01 to transfer small sums of money domestically by means of money orders. The maximum amount of money that can be transferred at one time is GYD 499,999. This service mostly targets persons in the unbanked areas. To transfer monies, the customer is only required to present a National Identification Card or Passport, and proof of address (recent utility bill or letter passing through the Post within the last three months). No source of funds is required. Persons sending on behalf of Organizations are required to present their National Identification Card or Passport and an authorization with letter head. While persons holidaying or doing business in Guyana, are required to present their Passport and a letter from the hotel they are staying at. The person receiving is required to present their National Identification Card or Passport.

The GPOC is also registered by the Bank of Guyana as a *money transfer agent* for two of the country's four licensed money transfer agencies. The registration is in accordance with the Money Transfer Agency (Licensing) Act Cap. 87:10. The requirement to become a *money transfer agent* comprise, completing an application form which includes the name of the agent and the address from which the agent will operate; and providing a copy of the written agreement between the licensed money transfer agency and the proposed agent. Every money transfer agent is subject to a fit and proper test which include, the Bank of Guyana assessing whether the proposed money transfer agent has entered into a suitable written agreement to provide money transfer services on behalf of the licensed agency; the professional reputation and experience of the proposed money transfer agent; the best interests of the financial system in the scheduled territory; and the public interest. The registered money transfer agent is also required to comply with the MTA (Licensing) Act as well as the AML/CFT Act.

Although, the GPOC is not listed as a reporting entity under the AML/CFT Act for the domestic money transfer service provided, the corporation is subject to the AML/CFT legislation when carrying out money

transfer service on behalf of the licensed money transfer agencies. The money transfer agencies for which the GPOC is the agent are responsible for ensuring that the GPOC receive the necessary AML/CFT training and awareness to enable compliance with the CDD, reporting and other obligations under the AML/CFT legislation.

According to the Money Transfer Agency (Licensing) Act, the Bank of Guyana may suspend or revoke certificate of registration where the money transfer agent – (a) has ceased to carry on the business of money transfer for a period of six months; (b) has been convicted of a felony or of any offence involving fraud, dishonesty or breach of trust; (c) is a discharged or an undischarged bankrupt; (d) has presented misleading information to obtain the certificate of registration; (e) has contravened or failed to comply with the provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009; or (f) has contravened or failed to comply with any provision of Money Transfer Agency (Licensing) Act or any of the conditions subject to which the certificate of registration was granted or where the Bank of Guyana considers it to be in the public interest. The WG believes that since BoG continues to renew the GPOC’s certificate of registration annually, then the BoG is satisfied with the GPOC’s compliance with the provisions of the Money Transfer Agency (Licensing) Act and the AML/CFT Act. Further, the WG found that there are no STRs submitted or ML investigations involving the GPO. Given this information, the WG determined that the ML risk associated with money transfer service provided by the GPOC is the same as the ML risk associated with the four MTAs assessed later in this report.

In relation to the domestic money transfer service that the GPOC provides, there is no authority responsible for prudential supervision of this corporation. The GPOC which was formerly part of the traditional Public Service became a public corporation under the Public Corporation Act Cap. 19:05 on January 1, 1977. Its role and functions are outlined in the Post and Telegraph Act, and the Public Corporation Act. It is a member of the Universal Postal Union¹⁶ since March 22, 1967. As the domestic money transfer service offered by the GPOC targets persons or companies in the unbanked areas of Guyana, more details on ML risk related to this service are addressed under the Financial Inclusion section of this report.

OFIs sector ML vulnerability, Threat and Risk

The WG came up with the respective ratings after thorough assessment of the inherent vulnerability factors for each sector along with the output charts generated by the modules. It was decided that the WG examine each sector individually since there were varying differences in each OFI’s operations, laws/regulations,

¹⁶ A specialized agency of the United Nations that aims to organize and improve **postal** service throughout the world and to ensure international collaboration in this area.

supervisory authority, etc. Hence, the money laundering overall vulnerability, threat and risk for MTAs, cambios, CUs and pawnbrokers which were assessed separately are set out below:

Table 10 – Final ML Vulnerability, Threat and Risk ratings for OFI’s

Sector	Final vulnerability rating	ML Threats	ML Risk
Money Transfer Agency (Remittance Services)	Medium High	Low	Medium
Cambios	Medium High	Low	Medium
Credit Unions	Low	Low	Low
Pawnbrokers/Money Lenders	Medium Low	Low	Medium Low

Noteworthy, the OFIs vulnerability was based on the WG’s assessment of the AML control variables and the inherent vulnerability variables for the respective sectors.

Money Transfer Agencies (MTAs)

A MTA is a financial institution licensed under the Money Transfer Agencies (Licensing) Act, Cap. 87:10 to carry on the business of money transfers (making of any payment by a person in Guyana to or for the credit of a person outside Guyana, or to a person in Guyana by order or on behalf of a person outside Guyana)¹⁷. There were four (4) MTAs licensed to operate in Guyana with two hundred and eight (208) sub-agents as at December 31, 2019 with 42% of those sub-agencies being registered within region 4. The client base of MTAs includes local as well as foreign natural and legal persons as well as PEPs. All MTAs are registered with and are reporting to the FIU in accordance with the AML/CFT Act. The BoG is responsible for licensing MTAs and is also the designated AML/CFT supervisory authority for MTAs.

In terms of the level of cash activity by MTAs, the aggregated value of transfers by MTAs at the end of 2019 amounted to USD 282.1 million, 38.7 % higher than the previous year. Outward and inward remittances processed by MTAs for 2019 amounted to USD 37.3 million and USD 244.8 million, respectively which showed an increase of 17% for outward remittances and 24% for inward remittance from the previous year with the highest volumes of transfers being conducted during the months of March, May and December of 2019. MTAs contribution to the country’s GDP is 4.2%.

Cambios

Cambios are businesses authorized to buy and sell foreign currencies pursuant to Regulation 13 of the Dealers in Foreign Currency [Licensing] Act (DFCA), Cap. 87:01. As at December 2019, there were nineteen (19) licensed cambios of which six (6) are bank cambios. Cambios do not use agents and their

¹⁷ Money Transfer Agencies (Licensing) Act No. 20 of 2009.

customer base also includes local as well as foreign natural and legal persons including PEPs. All cambios are registered with and reporting to the FIU. The BoG which is the licensing body for cambios is also the designated supervisory authority. Cambios contribution to the country's GDP is also 4.2%.

As at December 31, 2019, the majority of foreign currency transactions involved the United States dollar, which accounted for 95% of total trades. The total volume of business for bank (authorized buying and selling foreign currency by banks) and non-bank cambios amounted to USD 4,248,769,740 and USD 86,115,607, respectively.

A precautionary measure instituted by the BoG is to ensure that no one person can be licensed as an MTA and a Cambio Dealer at the same time.

Credit Unions (CUs)

A CU is a member-owned financial cooperative, controlled by its members which operates on the principle of 'people helping people', providing its members with credit at competitive rates as well as other financial services. CUs are licensed under the Co-operative Societies Act, Cap. 88:01. As at December 2019 there were twenty-nine (29) CUs registered with the Department of Co-operatives (the Regulator) with a total membership of twenty-nine thousand, six hundred and ninety-one (29,691) holding approximately USD 42 million. The customer base of CUs is mainly natural persons employed in the public service of Guyana. CUs do not utilize agents and are not engaged in international transactions. Although twenty-nine (29) are registered with the Regulator, only twenty-two (22) of those registered are reporting to the FIU; three (3) of which their registration status is incomplete and four (4) are deemed inactive presently. Registering with the FIU is one of the many obligations of a reporting entity under the AML/CFT legislation. The lack of registration therefore could result in sanctions by the supervisory authority. The Chief Cooperative Development Officer (CCDO) under the Ministry of Labour, Human Services and Social Security was appointed the SA for CUs while the Credit Union League/Co-operatives Officer is the regulator for all CUs in Guyana. CUs contribution to the country's GDP is also 4.2%.

Pawnbrokers

A Pawnbroker is an individual or business that offers secured loans to people, with items of personal property used as collateral. Pawnbrokers are licensed by the Guyana Revenue Authority (GRA) under section 30 of the Tax Act, Cap. 81:01. Pawnbrokers customer base include local natural persons. Pawnbrokers are mostly one-man operations, (there are no use of agents). As at December 31, 2019, there were thirty-three (33) pawnbrokers. Twenty-three (23) completed registration with and are reporting to the FIU, six (6) has registration pending (incomplete registration) and four (4) are not registered with the FIU.

As indicated above, lack of registration could result in administrative sanctions by the supervisory authority. GRA is the designated supervisory authority for pawnbrokers whose contribution to the country's GDP is 4.2%

The table below set out a summary of the general input variables ratings for OFIs and following the table are details the WG considered for the rating.

Table 11 – General input variables ratings for OFIs

General Input Variables	MTAs	Cambios	CUs	Pawnbrokers
Comprehensiveness of AML Legal Framework	H	H	H	H
Effectiveness of supervision/oversight activities	H	H	H	H
Availability and Enforcement of Administrative Sanction	M	M	M	M
Availability and enforcement of criminal sanctions	M	M	M	M
Availability and effectiveness of entry controls	H	H	H	H
Integrity of Staff in OFIs	H	H	H	ML
AML Knowledge of Business/Institution staff	H	H	MH	MH
Effectiveness of compliance functions (organisation)	MH	MH	M	M
Effectiveness of suspicious activity monitoring and reporting	H	M	ML	ML
Availability and access to beneficial ownership information	L	L	L	L
Availability of a Reliable identification infrastructure	MH	MH	MH	MH
Availability of independent information sources	M	M	M	M

Comprehensiveness of AML Legal Framework

The AMLCFT Act provides for MTAs, CUs, cambios and pawnbrokers to comply with obligations under sections 15, 16, 18, 19 and 20, to identify and verify the identity of customers, keep and maintain records of transactions, file suspicious transactions and appoint a compliance officer to implement the AML/CFT requirements with the OFIs. The AML/CFT Act, by virtue of sections 22 and 23, also makes provision for these institutions to be supervised and regulated for AML/CFT compliance. Accordingly, MTAs and cambios are supervised by the BoG while pawnbrokers are supervised by GRA and CUs supervised by CCDO.

The AML/CFT Act also makes provision for tipping-off and confidentiality as well as the obligations relating to the institution's internal controls, foreign branches, and subsidiaries. Effective, proportionate

and dissuasive sanctions are available and can be imposed on all reporting entities including OFIs for non-compliance with AMLCFT obligations.

The OFIs are all licensed and regulated under separate legislations. For example, MTAs are regulated by the Money Transfer Agency (Licensing) Act, Cap 87:10; cambios by the Dealers in Foreign Currency (Licensing) Act, Cap. 87:01, CUs by the Co-operative Societies Act, Cap. 88:01, and pawnbrokers by the Tax Act, Cap. 81:01 and Pawnbroking Act, Cap. 91:09. MTAs and cambios are also required to comply with the Supervision Guideline Nos. 12¹⁸ and 13 issued by the BoG, and all reporting entities are required to comply with guidelines to REs issued by the FIU and published on its website. Below is the list of such Guidelines issued to REs including OFIs:

Table 12 – Guidelines issued to OFIs

NAME OF GUIDELINE	NO.
Submitting Reports to the FIU via Case Konnect	No. 1 of 2020
Detecting or Preventing Terrorist Financing	No. 1 of 2018
Recognizing and Dealing with PEPs	No. 3 of 2017
RE Policy Manual	No. 1 of 2017
Beneficial Ownership – Legal Persons and Arrangements	No. 5 of 2016
Terrorist Property Reporting	No. 2 of 2016
Targeted Financial Sanctions related to Terrorism and TF	No. 2 of 2015
STR Guideline	No. 1 of 2013

Effectiveness of Suspicious activity monitoring and reporting

Section 18 of the AML/CFT Act sets out a comprehensive legal framework for the filing of STRs by all reporting entities including OFIs. In addition to the obligation to file STRs, these institutions are required to submit terrorist property reports and monthly threshold transaction reports of varying amounts to the FIU. The WG found instances of STRs being reported by MTAs and cambios, however, no such reports were generated by CUs and Pawnbrokers. Notwithstanding the aforementioned, the WG also found that the current system employed by CUs and pawnbrokers for monitoring and reporting of suspicious activities was adequate. Threshold limits for OFIs are as follows:

Table 13 – Threshold limits for OFIs

OFIs	Threshold
MTAs	GYD 200,000
Cambios	GYD 400,000 (buying), and GYD 1,000,000 (selling)
CUs	GYD 500,000
Pawnbrokers	GYD 300,000

¹⁸ Supervision Guideline No. 12 was gazette in 2019. This guideline was issued to MTAs and Cambios and tailored to suit those businesses since SG No. 13 would have had more insight/focus on the Banks and insurance companies.

All the MTAs, licensed by the BoG, are registered with the FIU. These institutions received special training by the FIU on filing STRs as well as on their general AML/CFT obligations by the BoG. Guidelines were issued in this regard and all MTAs were encouraged to utilize the guidelines.

The WG found that MTAs and cambios have systems in place to enable and facilitate the monitoring of customer transactions, and transactional records are available in a format that facilitates AML screening and monitoring. These OFIs also utilize systems that perform effective PEP screening and sanction screening, and the staff can identify and record all complex, unusual transactions and report suspicious transactions.

These systems enabled the MTAs to file in excess of five hundred (500) STRs, and cambios in excess of ninety (90) STRs between 2016 and 2019. STRs during the period of review showed an increasing trend with the highest jump over the last year.

CUs and pawnbrokers were found to have manual systems in place to perform PEP and sanction screenings. These systems were considered effective relative to their size and customer base. Although CUs and pawnbrokers did not report any suspicious activities during the review period, their respective supervisory authorities found that they have been performing the necessary screenings to identify suspicious activities and they have been consistent with the submission of other mandatory reports to the FIU.

It was found, that two (2) of the four (4) MTAs continued to have online platforms that provide adequate information on the sorting of transactions that are suspicious in nature. These systems are capable of determining whether smurfing and other ML activities exists. This was found to be a useful tool utilized by these institutions.

The WG was informed that cambios, CUs and pawnbrokers all benefited from AML/CFT training by the FIU over the assessed period which included training on how to recognize and report suspicious transactions. However, there was no report of training for MTAs either by the FIU or the designated SA for the assessed period.

Availability and Effectiveness of Entry Controls.

In relation to effective entry controls, the WG found that various laws set the criteria for these OFIs to be eligible to obtain a licence to carry out the respective financial activities. An overview of the nature of activities and the entry control requirements for these institutions are provided below:

Money Transfer Agencies (MTAs)

Obtaining an MTA licence requires that before the issuance of the licence, the applicant must pay an evaluation fee and be evaluated by the BoG. The licensing process is conducted in accordance with section 8 of the MTAs (Licensing) Act. Further, sub-agents are also required to submit their applications to the BoG through their respective MTA for assessment before approval is granted to operate under section 7 of the Act. All applicants are screened, and their documents submitted are assessed to determine validity, authenticity and to ensure that the prerequisite requirements are met. The BoG in determining whether to register any money transfer agent, take into account - (a) whether the proposed money transfer agent is a fit and proper person to provide money transfer services; (b) whether the proposed money transfer agent has entered into a suitable written agreement to provide money transfer services on behalf of the licensed agency; (c) the professional reputation and experience of the proposed money transfer agent; (d) the best interests of the financial system in the scheduled territory; and (e) the public interest.

Licenses are renewed annually, at a cost, provided that the relevant requirements are met. The staff responsible for conducting the licensing process totals four (4), further, there were no instances of licenses not being granted or suspended/revoked for the failure to meet AML requirements. Further, this WG is not aware of the operation of unlicensed MTAs.

The WG believes that the use of sub-agents increases the inherent ML vulnerability due to high turnover, collusion between staff at the sub-agency and clients, and the general inexperience of staff at the sub-agencies with AMLCFT procedures. This is mitigated through the use of a standard AML policy by each MTA and their respective sub-agents, the provision of annual AML/CFT training to all persons involved in the processing of transactions and regular visits and testing of the location to ensure adherence to all policies and procedures. Nonadherence results in sanctions being applied up to and including termination of the sub-agency agreement. A list of all active subagents is maintained by MTAs as well as the SA.

The industry does not permit anonymous use of the service. In the case of a natural person, the individual is required to present themselves with their identification to the sub agent to process their transactions. In the case of a legal person, the submission of company registration documents and identification of beneficial owners is required. The person conducting the transaction on behalf of the entity is also required to provide their identification document, along with an authorization letter on the company's letterhead.

During the completion of routine transactions MTAs may conduct business with a wide cross section of customers e.g. customers from high risk jurisdictions, non-residents, etc., which increases the MTAs' inherent ML vulnerability Whilst these types of customers are known to have a higher risk for ML/TF, the appropriate risk rating of customers and their related transactions and the application of EDD measures

based on the assessed risk level mitigates this risk. The local regulatory framework requires MTAs to adapt a risk-based approach to monitoring customers and their related transactions. The challenge here is that in some instances, an accurate risk rating of the client is only possible after the customer would have completed the transaction, and the MTA is able to do more comprehensive and appropriate due diligence checks. To mitigate this risk, some MTAs have implemented Real Time Monitoring Software which aids in detecting some high-risk transactions in real time and allows for appropriate action to be taken prior to the processing/completion of the transaction. MTAs are not known to conduct business through intermediaries and or as a result of introduced businesses.

The significant level of cash used in this industry results in a risk rating of 'High' as it is the primary means of completing a transaction. MTAs may from time to time issue cheques to customers receiving transfers, however payments for all 'send/outbound' transfers are via cash. This increases the inherent money laundering vulnerability as the true source of the funds cannot be easily verified.

In keeping with Supervisory Guidance and local legislation, MTAs maintain a customer acceptance policy as it relates to PEPs (automatically considered 'High Risk') which requires that they be subjected to EDD at onboarding and at the processing of each transaction. PEP screening is also conducted for every transaction. PEP lists maintained by MTAs are however believed to be non-exhaustive and the development of a comprehensive PEP list remains a work in progress as a number of office holders in some regional and public office remains unidentified. Additionally, close relatives/associates of these persons remain unconfirmed. As such, the effectiveness of identifying and taking appropriate action on some transactions can only be completed after the transaction has been completed as, in some instances, the PEP status of the person conducting the transaction may not be known to the sub-agent/ representative.

As part of the monitoring process MTAs also maintain a list of High-Risk countries, this list is triggered by the AMLCFT record and risk rating of these countries based on reviews conducted by internationally recognized AMLCFT risk rating bodies. Certain transactions to/ from High Risk jurisdictions are subjected to EDD. Transaction monitoring is on a risk-based approach.

Transactions are easily traceable as each transaction is assigned a unique reference number which includes all details on the sender and receiver of any given transaction. It also includes where the transaction originated. In keeping with local legislation MTAs are also required to maintain transaction records for at least seven (7) years.

Over the period of review, all licenses were renewed for all MTAs one of which was done in July 2019 due to a change in ownership. The BoG conducted a thorough analysis of the prospective owners before granting the licence for the subsequent year.

Cambios

There is a strong and comprehensive framework for the annual licensing and registration requirements of cambios. They are required to submit fourteen (14) documents to facilitate the processing of an application before a licence is issued. These documents include registration of company/business certificate, taxpayer identification number (TIN) certificate, security clearance, personal information and business plan. Also, for the yearly renewal of licence, cambios are required to provide current information. Guyana's entry controls for cambios have been effective, however, there is still the existence of unlicensed dealers who undertake transactions that go unrecorded. This is because the legislation remains insufficient to support the robust monitoring and regulation of this aspect of the sector.

The licensing process for the cambios are also handled by the four (4) individuals responsible for the issuance of licenses to the MTAs. The BoG in considering the application for a cambio licence, considers the experience of the applicant, the applicant's financial resources and the character and antecedents of the applicant. This process is similar to that conducted for the MTAs for which the AML/CFT compliance function requirements mirror each other.

Client base profile in this category was deemed as high risk due to the high level of cash activity by cambios and customers who are domestic PEPs. However, the frequency of international transactions in cambios are low, since the sanctioned list of foreign countries is used as a check and balance method and all other international transactions are limited.

Cambios have been noted for having easy to trace records, both in the form of hard or soft copy. The WG found that there was no closure of cambios during the review period.

There is however the issue of unlicensed cambios operating around the country. In 2017 the Governor of BoG signaled intentions of clamping on these illegal cambios. There were reported cases of police raids and even the closing down of some operations. Persons have also been prosecuted for operating without a license.¹⁹ In 2018 the Governor again warned that any person contravening the Dealers and Foreign Currency (Licensing) Act will be prosecuted.²⁰

¹⁹ Kaieteur News August 17, 2017

²⁰ Guyana Chronicle July 22, 2018

Credit Unions (CUs)

CUs are non-profit in nature and facilitate small loans to its account holders once the necessary requirements, such as identification and guarantors, are met. However, a guarantor is not needed if the borrower's account balance is greater than the loan amount being requested. Further, CUs facilitate the opportunity for its members to also save with the institution which makes them eligible for annual dividends. Additionally, CUs are aligned to specific organizations or structures such as the public service or specific categories of persons employed within specific industries such as clerical and commercial, technical and industrial. Membership routes are as a result of closed-bond and open-bond processes. Accordingly, source of income and funds and records to generally satisfy AML criteria, are easily and legitimately acquired, and are readily verifiable. Moreover, continuous due diligence and the updating of records are consistently being done prior to the granting of loans to members. All members of the CUs, even those that would have left the employ of the public services/or other grouping are still required to undergo the prerequisite requirements of due diligence.

To establish a relationship with a CU, a person must either be employed in an organization that has an association with that respective CU, be a member of an association, or be a self-employed/student joining a community type CU. The CU allows and requires, direct transfer of funds from a person's salary to their account (savings) at the CU or payment over the counter. The Co-operative Societies Act, Cap. 88:01 sets out the criteria that must be met prior to entry into this sector. Through the Credit Union League, and information garnered from research on the operations and internal controls/administrative systems of CUs, the entry control process is a rigorous and a thorough one. To be considered for registration, the entity must have at least seven members who are at least 16 years and resident within or in occupation of land within the society's area of operation. All applications must be accompanied by the entity's proposed rules and a five-year business plan for the entity. The applicant and all proposed members must provide their proof of address and identification card. Further, all potential members of the entity's committee of management or steering committee members must attend at least one AML/CFT Awareness session before registration is completed. Registration is one off (there is no need to re-register). Over the assessed period there were no reported refusal/denial of CU registration and no registration was suspended, restricted or withdrawn. From the AML/CFT Act perspective there is no need for police clearance for persons to join the CU, however, the Act makes provisions for Customer Due Diligence.

To be registered as a credit union the applicant must satisfy a fit and proper test which involves the CCDO investigating and making inquiries to determine whether the applicant is fit and proper to be granted registration. In conducting such investigations and inquiries the CCDO shall have regard to the integrity of the applicant, partner, shareholder, director, or beneficial owner of the applicant; the competence,

financial capability and background of the applicant; and such other matters as the CCDO may deem appropriate.

Pawnbrokers

There are strict requirements that are followed in the setting up of pawnshops. To operate a pawnshop, the applicant is required to submit his TIN certificate, valid identification, business registration, money lender's certificate and recent police clearance. To obtain the money lender's certificate, an application is required to be made through the magistrate's court by way of a sworn affidavit. The license is renewed annually. In terms of Pawnbrokers customer base, these include mainly low-income individual pledging items such as gold jewellery or sometimes motor vehicles. There are no agents, and Pawnbrokers are not involved in international transactions. These factors contribute to the low ML inherent vulnerability for Pawnbrokers. Research found that there are unlicensed Pawnbrokers operating within the country but there is/are no known instance(s) where such persons were sanctioned. However, the WG was unable to gather relevant statistics on the number of unlicensed Pawnbrokers during the review period.

Availability and Enforcement of Criminal Sanctions

The WG agrees that the AML/CFT Act adequately provide for criminal sanctions to be imposed against all reporting entities including OFIs for non-compliance with AMLCFT obligations. Section 3 of the AMLCFT Act criminalized the offence of ML. Also, the WG did not find any record of investigations, prosecutions, convictions, or criminal enforcement actions against any business listed under this category.

The WG was of the view, however, that enforcement action could be improved with respect to addressing the issue of illegal operations in the 'cambio sector' – the wide scale 'street cambios'. The same view was expressed with respect to pawnshops operating without licences from the GRA. While buying or selling foreign currency without proper license is a criminal offence under the Dealers in Foreign Currency (Licensing) Act. (The Act states that any person not being a licensee or authorized dealer who buys or sell any foreign currency shall be liable on summary conviction to a fine of not less than GYD 15,000 and to imprisonment for three years). There is no penalty (administrative or otherwise) for carrying out pawnbroking activities without a licence.

Effectiveness of Compliance Functions (Organisation)

Based on information obtained by the WG from the reports of examinations, most of the OFIs have been making efforts to comply with the AML/CFT requirements and the duties and responsibilities specified therein. These institutions all have compliance officers at a management level. With respect to Pawnbrokers and the non-bank cambios, because most of these institutions are small (one to three persons) the owner or accountant carries out the compliance function. MTAs, cambios and pawnbrokers have AML/CFT

compliance manuals that are updated in accordance with amendment to the AML/CFT legislation, while CUs are still to develop and implement compliance manuals. While there were no reports of employee breaches of the institutions compliance policy, all the OFIs with the exception of CUs have indicated that should there be any breach of their policy such employee will be disciplined accordingly.

The OFIs effectiveness of their respective compliance function is tested when examinations are conducted and where deficiencies are noted the OFIs are usually granted a period in which to make the necessary improvements.

AML Knowledge of Business/Institution Staff

The knowledge base of the OFIs has increased since the last NRA. All OFIs are registered with the FIU and have benefitted from training provided by the FIU and BoG. Several guidelines were also issued during the review period to guide institutions on their AML/CFT obligations. Public awareness and national sensitization programs have also impacted these agencies' general knowledge in a positive way. However, the WG recognized that while the AML requirements relating to training indicates that the institutions must determine and fulfil their own training needs, many of these institutions were heavily reliant on the SA or the FIU to conduct all the necessary training.²¹ Over the assessed period, CUs benefitted from four (4) training conducted by the FIU in collaboration with CCDO while the Pawnbrokers benefitted from three (3) AML/CFT training sessions conducted by the FIU and six (6) consultations/Workshop/seminars by the GRA. The training engagements covered REs AML/CFT obligations, including how to recognize and report suspicious transactions and the consequences of non-compliance with AML/CFT obligations.

OFIs also benefited from two (2) typologies published by the FIU in 2018 and 2019. One of reports was on wire transfer fraud that highlighted some of the means by which individuals infiltrate organisations email network systems by impersonating key officials in the payment process to fraudulently obtain financial benefits. The other report detailed how MTAs are used to create layering of transactions to facilitate the distancing of illicit funds from its source through a series of complex transfers.

Overall, the WG believes that training provided by the FIU and SAs to OFIs over the assessed period have contributed to increased AML knowledge of the OFIs staff, which was also evident from the reduction shown in errors/inaccuracies detected during examinations conducted. Reports of examinations for MTAs and Cambios showed significant decreases in deficiencies noted which was due to there being refresher training, newsletters, memos, etc. on the changes to the requirements. More so, CUs and Pawnbrokers are

²¹ Section 22 (2) (b) of the AML/CFT Act (Amendment) 2016, mandates that supervisory authorities provide training for reporting entities.

considered OFIs that conduct simpler financial businesses and as such the need for a more comprehensive training is lower.

Integrity of Staff in OFIs

Most of the institutions are registered businesses and companies that have satisfied the entry control requirement. No evidence was received by the WG to suggest that any of the institutions have been involved in criminal activities. Based on feedback received from some of the institutions, there are systems in place for the recruitment of employees, which include, that the employee provides character references and police clearance prior to employment and that regular checks with regards to AML are conducted by the compliance officers or designated compliance officers.

The WG was informed that MTAs are required to recruit persons of good reputation as employees and maintain a list of personal information that must be submitted by the prospective employee. The employer is required to conduct background checks and request police clearance for each employee to determine if a criminal record exists. The SA for MTAs are required to ensure that adequate systems are in place to address the recruitment of staff at the initial stage as well as at intervals during the employment period.

At cambios, there are appropriate mechanisms in place to protect staff against negative consequences that result from reporting suspicious transactions, or other actions that comply with the AML obligations. Over the review period, it was found that the number of instances where cambios did not provide receipts to customers for transactions processed had reduced significantly the level of turnover for staff is low.

The WG found that no internal controls are applied by CUs and pawnbrokers to ensure that staff are protected from criminals. Also, there are no mechanisms to protect staff against negative consequences that may result from reporting suspicious transactions or other actions that comply with AML obligations. However, staff are still required to fulfil their obligations to these OFIs by following and maintaining the stipulated requirements as it relates to the functioning of the businesses.

The rating given to Pawnbrokers by the WG was based on the onus that the businesses are usually operated by one person who is the owner and that person in most cases makes all the decisions for the business.

Availability and Access to Beneficial Ownership Information

This variable was rated as **low** for all the sectors being assessed under the OFIs group since beneficial ownership information is not easily accessible from the government office which has responsibility for maintaining records of all registered entities. In addition, this information is not available from other open sources, however, it can be obtained based on request from the customer. In 2020, the Registrar of

Companies commenced an exercise of having registered companies provide updated information relating to their beneficial owners and this is expected to correct this anomaly.

Availability of a Reliable Identification Infrastructure

All sectors were rated **medium high**. Based on the information gathered by questionnaires, there are no known instances of false identification documents being utilized. Further, all financial institutions share the view that the identity of customers can be verified using reliable source documents. During the review period, there has been an improvement in the electronic databases maintained by the issuing bodies and market participants are able to request verification of identification from requisite issuing bodies. The inclusion of clear and updated photographs, the customer's address and an expiration date on the document can serve to improve the quality of the data.

Availability of Independent Information Sources

The rating given for this variable for all sectors is **medium**. The existence of bank secrecy laws²² relating to client confidentiality prohibits access to customer's transactional history, however, real estate transactions are open to the public. Historical financial information and other information about clients are usually accessed by way of a court order or can be requested by the customer. Whilst the Credit Bureau in Guyana represents an 'Independent Information Source' which can verify financial information, this information is often times limited to the data provided by the service providers. The data is oftentimes outdated or is not accurate as consumers did not update their records in cases where property ownership was changed. Also, the Credit Bureau is subject to customer confidentiality.

Effectiveness of Supervision/Oversight Activities

The supervision process for both MTAs and cambios was enhanced during 2017 and annual reviews became effective in January 2018 for which supervisors are adequately trained and equipped with the required knowledge to effectively conduct on-site examinations. During the two years period, thirty-one (31) examinations were conducted and deficiencies relative to CDD, EDD, record keeping, reporting requirements, internal audit and risk assessment were noted. Recommendations for deficiencies noted are usually provided to the MTAs and cambios for which follow-up is conducted to ensure that those deficiencies are addressed in a timely manner. BoG also reported all findings from examinations to the FIU, as required under the AML/CFT Act. The WG believes that there are adequate qualified staff to carry

²² Section 61 of the Financial Institutions Act Chapter 85:01 of 1995 provides: 'Any director, officer, employee, representative or agent of a licensed financial institution, or other person conducting business for such institution, who discloses any information concerning the accounts, loans, deposits, or personal or business affairs of any customer acquired in the course of such person's affiliation or relationship with the financial institution, shall be liable upon summary conviction to a fine of one hundred thousand dollars and imprisonment for not more than one year: Provided, that this section shall not apply to disclosure of any information: (i) to the Bank; (ii) in response to a lawful subpoena or other compulsory demand issued by or with the consent of a Court of competent jurisdiction; (iii) in response to a lawful Government request or demand; or (iv) with the prior written consent of the customer.'

out AML/CFT inspections of the OFIs. For the AML/CFT supervision of the OFIs, there are four (4) staff responsible for the MTAs and cambios, three (3) for the CUs and four (4) for the pawnbrokers.

In relation to pawnbrokers, the GRA conducted a number of compliance control visits to determine pawnbrokers' level of compliance with their obligations under the AML/CFT legislation. For the years 2018 and 2019 a total of twenty-three (23) and nineteen (19) AML/CFT inspections were conducted, respectively. GRA also submits reports on the findings to the FIU. While there were no reports on sanctions, the SA advised pawnbrokers to take remedial actions where shortcomings were identified.

Based on interviews conducted with the officers from the Credit Union League and CCDO, the quality of supervision needs improvement as there is sometimes a 'time lapse between inspections. The WG is uncertain as to the nature of the inspections being conducted as no reports of findings are submitted to the FIU by the CCDO.

Availability and Enforcement of Administrative Sanctions

Administrative sanctions which can be imposed by a SA on their respective reporting entities for breach of their AML/CFT obligations are contained in section 23 of the AML/CFT Act. The penalties include written warnings; order to comply with specific instructions; order of regular reports on measures being taken to comply; prohibiting convicted persons from employment within sector; suspension, restriction or withdrawal of licence or registration; removal of defaulting director or senior manager from entity; a fine of five to fifteen million dollars. These penalties are considered proportionate and dissuasive and can be imposed once a breach by any institution is discovered. However, no penalty was instituted against anyone in the OFI sectors over the review period.

The periodic reviews of sub-agents by MTAs are assessed by the SA during on-site examinations to determine the significance of defaults and whether the proposed corrective action(s) were tangible and achieved.

Over the 2018/2019 period, twenty-six (26) examinations were conducted on cambios for which the deficiencies noted were consistent. Administrative sanctions (order to comply with specific instructions) were imposed by the SA during the review period in accordance with section 23 of the AML/CFT Act and follow-up is being conducted to determine whether or not the BoG will grant the renewal of those licenses for the next year. Administrative sanctions (order to comply with specific instructions) were also taken against three (3) MTAs over the 2017/2019 period and the BoG continues to monitor compliance by these entities.

In 2018, there were thirteen (13) written warning to CUs who failed to register and submit the required reports to the FIU. Over the assessed period the GRA also issued written warnings and orders to comply with specific instructions to 47 pawnbrokers for failure to register with and report to the FIU, failure to establish AML/CFT Compliance Programme. Guidance to comply with instructions was provided to these entities and the GRA continues to monitor compliance with instructions.

Conclusion

In conclusion, the WG believes that this exercise was necessary to bring the policy makers of the country up-to-date on the prevalent issues that need to be addressed in order for the country to be in a firm position for the fourth round of mutual evaluation.

It is critical that priority be given to addressing the effectiveness of the compliance function, the effectiveness of suspicious activity monitoring and reporting, and the availability and access to beneficial ownership information. The WG is confident that should these key elements be addressed then the level of compliance with other variables will improve, resulting in the country being able to successfully identify and mitigate ML/TF risks in the OFIs sectors.

2.8 DNFBPs VULNERABILITY

Introduction

Dealers in Precious Metals, Dealers in Precious and Stones/Licensed Traders, Casinos, Betting Shops, Lotteries, Real Estate Agents/Real Estate Developers, Attorneys-at-law, Accountants /Auditors, Notaries/Commissioners of Oaths to Affidavits, Non-financial Trust and Company Service Providers, and Used Car Dealers/Car Parts Dealers are the DNFBPs assessed by the WG. The overall vulnerability for the assessed sectors were generated by the NRA Tool as a result of the ratings given for the input variables and were decided on based on the WG’s discussions and the research findings. Below is a summary of the sectors overall vulnerability.

Table 14 – Final Vulnerability rating for DNFBPs

DNFBP SECTORS	FINAL VULNERABILITY RATING
EXTRACTIVE SECTOR	
Dealers in Precious Metals	Medium High
Dealers in Precious Minerals/Licensed Traders	High
Dealers in Precious & Semi Precious Stones	Medium
GAMING SECTOR	
Casinos	Low
Betting Shops	Low
Lotteries	Medium
DEALERS IN REAL ESTATE	
Real Estate Agents/Brokers	Medium High
Housing Developers	Medium High
PROFESSIONALS	
Non-Financial Trust & Company Service Providers	Medium High
Attorneys-at-law	Medium High
Notary Public	Medium
Commissioners of Oath to Affidavit	Medium
Accountants/Auditors	Medium High
OTHER NON-FINANCIAL SECTORS	
Used Car Dealership/Car Dealership	Medium High
Car Parts Dealers	Medium

Table 15 - Summary of ratings for the input variables assessed for DNFBPs

Input Variables	Dealers in Precious Metals	Dealers in Precious and semi-precious stones	Licensed Traders	Casinos	Lotteries	Betting Shops	Used Car Dealers	Car Parts Dealers	Real Estate Agents	Real Estate Developers	Trusts and Company Services Providers	Attorneys	Accountants /Accountants	Notaries	Commissioners of Oaths to Affidavits
Comprehensiveness of Legal Framework	VH	VH	VH	VH	H	VH	VH	VH	VH	VH	H	H	H	H	H
Effectiveness of Supervision and Oversight	MH	MH	M	MH	L	MH	M	VL	M	CTN	CTN	CTN	CTN	CTN	CTN
Availability and Enforcement of Administrative Sanctions	M	MH	MH	H	ML	H	ML	L	M	CTN	VL	VL	VL	L	L
Availability and Enforcement of Criminal Sanctions	MH	H	H	MH	MH	MH	M	ML	MH	ML	M	M	M	M	M
Availability and Effectiveness of entry controls	MH	ML	ML	VH	ML	L	M	L	MH	M	MH	MH	MH	MH	L
Integrity of Business/Professional staff	H	H	H	H	M	H	MH	MH	MH	MH	MH	MH	MH	MH	MH
AML Knowledge of Business/Professional Staff	H	MH	ML	H	M	MH	M	L	M	CTN	L	L	L	VL	VL
Effectiveness of compliance Function	MH	MH	ML	H	M	H	M	VL	ML	CTN	L	L	L	VL	VL
Effectiveness of STR Reporting and Monitoring	M	M	L	MH	L	MH	ML	VL	ML	L	VL	VL	VL	VL	VL
*Availability and access to Beneficial Ownership Information	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
*Availability of Reliability Identification Infrastructure	MH	MH	MH	MH	MH	MH	MH	MH	MH	MH	MH	MH	MH	MH	MH
*Availability of Independent Information Sources	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M

Ratings Key			
Very High (VH)–0.8	Medium High (MH) – 0.6	Medium Low (ML) – 0.4	Very Low (VL) – 2
High (H) –0.7	Medium (M) – 0.5	Low (L)– 0.3	Close to nothing (CTN) 0.1

Details of findings that contributed to the level of the DNFBP sectors vulnerability are outlined below:

Comprehensiveness of AMLCFT Framework

The AML/CFT laws and regulations conform to international standards and best practices, including the Financial Action Task Force (FATF) 40 Recommendations. Guyana has successfully exited the Caribbean Financial Action Task Force (CFATF) and FATF follow-up processes relating to its technical compliance in October and November of 2016²³. There were several amendments to the AML/CFT Act, prior to and during 2016, 2017 and 2018 which further strengthened the AMLCFT preventative measures for reporting entities, including provision for supervision. See diagram below:

Table 16 – AML/CFT Amendments

AMLCFT Act No. 13 of 2009 (and Amendments)		
No	Acts/Regulations	Purpose of Amendment
1	Parent Act – AMLCFT Act 2009	
2	AMLCFT (Amendment) Act No. 15 of 2010	
3	AMLCFT (Amendment) Act No. 1 of 2015	
4	AMLCFT (Amendment) Act No. 10 of 2015	
5	AMLCFT Regulations No. 4 of 2010	
6	AMLCFT Regulations No. 4 of 2015	
7	AMLCFT Regulations No. 7 of 2015	
8	AMLCFT (Amendment) Act No. 15 of 2016	Strengthened provision relating to reporting entities’ compliance (sections 15 to 23) and widened supervisory powers to enter REs premises and request information, etc;
9	AMLCFT (Amendment) Act No. 21 of 2017	Strengthened the offence of money laundering
10	AMLCFT (Amendment) Act No. 17 of 2018	Strengthened Sections 18 and 19 relating to suspicious reporting and reporting entities’ FIU’s registration requirement; Amendment to GGB Act to include Fit & Proper Criteria.

Sections 15, 16, 18 and 19 of the AML/CFT Act provide for all DNFBPs to conduct customer due diligence, which include, the identification and verification of customers who are natural person; obtaining information on the beneficial ownership and control structure of legal entities and legal arrangements; conducting ‘enhanced due diligence’ for high risk customers (such as politically exposed persons (PEPs)) and foreign customers; and the filing of suspicious transactions, large cash transaction and terrorist property reports periodically, with the FIU. Further, sections 22 and 23 provide for entities to be supervised for AML/CFT compliance. The working group considered that sanctions are proportionate, effective, and dissuasive and can be imposed for non-compliance by any RE. Other related sanctions include, but are not limited to, penalties for tipping off and breach of confidentiality. There are also various laws, regulations and established procedures which govern and/or guide the licensing processes for all the DNFBPs sectors. During the period under review, the AML/CFT Act has been strengthened based on recommendations which stemmed from Guyana’s third round Mutual Evaluation and other deficiencies identified locally.

²³ <https://www.cfatf-gafic.org/member-countries/guyana/469-guyana-jurisdiction-exiting-the-third-round-of-mutual-evaluations>

The working group also noted the efforts made by the FIU to develop a consolidated list of suggestions to remedy deficiencies previously identified in the overall AMLCFT legislative framework. In this regard, the WG was informed that a consolidated list of proposed amendments was forwarded to the Attorney General's Chambers and is reported to be under review.

Effectiveness of Compliance Function

The quality of AML policies and procedures also impacted AMLCFT compliance by DNFBBs. The level of compliance among the DNFBBs varies across the sectors.

Dealers in Precious Metals and Stones (gold and diamond exporters) and the gaming sector, have maintained high levels of compliance with the AMLCFT preventative measures. However, for some sectors their AML/CFT compliance programmes require further improvements. Sectors with low to medium ratings include, the **Licensed Traders, Used Car or Car Parts Dealers, Real Estate Agents and Developers, and all the Professions listed under the AMLCFT Act**. The low level of compliance by these sectors was due to the lack of full implementation of AML/CFT regime.

Most of the DNFBBs which were onboarded by the FIU have appointed compliance officers or have designated someone to carry out the AML/CFT compliance functions within the entities. Based on feedback from the questionnaire distributed to reporting and supervisory bodies, most of the entities, such as the dealers in precious metals, casinos, betting shops have developed, their own independent AMLCFT compliance manuals, while others such as the car dealers and dealers in precious stones indicate they utilise the guidelines provided by FIU to implement appropriate AMLCFT measures.

A summary of the AML/CFT status of reporting entity is depicted in table 16 below:

Table 17 - Summary of AMLCFT Status for Categories of Reporting Entities

No	Categories of Reporting Entity/sectors	No of Entities Licensed (by SAs)	No of Entities (Registered with FIU)	Supervisory Authority (SA)	Comments
1	GAMING SECTOR				
	Casinos	1	1	Gaming Authority (GA)	SA pursuant to the Gambling Prevention Act Cap. 9:02
	Betting shops	8	8		SA appointed 8 th September 2014
	Lotteries	1	1		SA appointed 7 th December 2016
2	MINING/EXTRACTIVE				
	Dealers in Precious Metals	8	8	Guyana Gold Board (GGB)	SA Appointed 20/12/2012
	Dealers in Prec. & Semi Prec. Stones	14	14	Guyana Geology & Mines Commission (GGMC)	SA Appointed 20/12/2012 Diamond Exporters/Licensed Traders
	Dealers in Prec. Minerals (licensed Traders)	125	11		SA Appointed 20/12/2012. An average of 114 to be onboarded
3	DEALERS IN REAL ESTATE				
	Real Estate Agents/Brokers	9	20	Guyana Revenue Authority (GRA)	8 th September 2014 20 registered with FIU. Registration with FIU is a one-off registration. Some may not have renewed their licences following registration with FIU.
	Real Estate Developers	20	NIL	To be determined (TBD)	Private Developers (CH&PA's list contain 20 persons/businesses). This category was only included in law in September 2018
4	PROFESSIONS				
	Non-financial Trust and Company Service Providers	Unknown		TBD	Trust Companies registered & licensed under FIA (2) not covered as DNFBPs
	Attorneys	*300	NIL	TBD	*Estimated number in private practice. A total of 157 registered with Commercial Registry
	Accountants/Auditors	*156/31	NIL	TBD	* Estimated total members ICAG. * 31 in public practice.
	Notaries	*30	NIL	TBD	*Estimated total
	Commissioners of Oaths to Affidavits	*unknown	NIL	TBD	Based on Research 16 were identified. Included in law in September of 2018
5	OTHER NON-FINANCIAL BUSINESSES OR ACTIVITIES				
	Used Car Dealers	161	52	GRA	8 th September 2014 254 on GRA's running list/52 registered with FIU
	Car Parts Dealers	Unknown	Unknown	TBD	10 extracted from list of Car Dealers

A concern which is noteworthy relates to the 'Dealers in Precious Stones/Metals' and the nature of these operations in the mining districts. Many business transactions take place in interior locations, under conditions where miners and/or licensed traders may not always have (in their physical possess), their identification documents. This makes it difficult for some dealers to establish business relationships, as

customer due diligence (identifying and verifying the identity of customers) cannot be carried out, in the absence of identification documents.

This unavailability of identification documents was also reported as an issue for the Guyana Gold Board (GGB), particularly for one-off transactions. The reason given for this situation was that the GGB is mandated by law to purchase all gold presented to it irrespective of the customer's identity, and whether that customer produced identification documents. It was revealed, however, that systems are in place to educate customers regarding the GGB's customer identification policy and where applicable, an STRs could/would be filed with the FIU, where grounds for suspicious of illegal activity exist. The GGB indicated, it has a compliance desk which issues a customer exception letter, identifying clearly, the customer's source of gold, and the customer identification documents required when conducting business with the GGB.

Another concern is that there appears to be a lack of understanding (by some DNFBPs) of: (1) how to obtain and/or verify, from an independent source, beneficial ownership information; (2) the need for an independent audit function which is required to test the AMLCFT system; and (3) understanding the ML/TF risks associated with their sectors. This may be attributable to limited training, even in light of several guidelines, FIU publications and outreach activities held jointly with the FIU for all reporting entities, including the DNFBP. Guidelines are publication available on the FIU website²⁴. It is unclear whether the DNFBP guidelines and other materials are being utilised to assist those sectors with weak systems.

Based on feedback from some supervisory authorities (SAs), the WG recognised that many of the DNFBPs are very small businesses. One example is the Licensed Traders, which operate 'small shops' in the interior locations, basically one person or two persons. The education level for most of these traders is 'primary school' or secondary. This makes it is difficult for them to understand and/or implement the AML/CFT requirements. It is also difficult for some of them to implement some of the AML/CFT legislative requirements, such as, 'an independent audit function'. The WG was informed that many small entities have expressed the view that it would be difficult to implement an AMLCFT programme, as they are just trying to earn a livelihood, and hiring an independent auditor, for example, would be too onerous and burdensome. It was noted that the AML/CFT Act provides a definition for "dealers in precious metals and stones when they engage in transactions equal to or above two million dollars. It is unclear whether this requirement was made know to these small businesses.

Also, the law does not make it mandatory for miners (who are sometimes customers of licensed traders) to keep identification documents in their possession when trading in gold or diamonds, it is very difficult for

²⁴ FIU website at <https://fiu.gov.gy/>

the traders to conduct CDD or EDD or to verify the identity of the persons with whom they are trading in gold and diamonds. In such circumstances, the WG recognised the importance of applying a risk sensitive approach to those small businesses.

- **Professions**

As regards, the **Professions**²⁵, while the AMLCFT legal framework exists, it was not sufficiently implemented within firms/offices. It was found however, based on feedback from one professional, that an AML manual was developed for that firm²⁶. During the review period, another professional reached out to the FIU, requesting the FIU to conduct training for its staff.

The extent to which records are kept and maintained in relation to the specified services (listed for professions) could not have been determined due to the following: the AMLCFT programme was not formally implemented with any of the professions, no inspections were conducted on law firms; and no response to questionnaires was received by the WG.

In the absence of an SA or regulatory mechanism for the various professions, the WG felt it was less likely that there would have been within these firms: any appointed compliance officer/or established compliance function within the firms or sole practice; or the existence of comprehensive AML/CFT manuals; systems for training, record keeping; or other AML/CFT compliance measures.

The WG, recognised that some elements of the AMLCFT requirements, particularly in relation to identification and verification of certain documents, are inherently part of certain processes. For example, in the case of conveyance for real estate. This process could only be successfully completed by providing identification documents to the relevant authorities. However, determining whether or to what extent the identification requirement applicable to those transactions was difficult in the absence of onsite or offsite examinations of the professional firms.

Also, given that the WG was unable to obtain statistics or information directly from the professional, it was difficult to determine or even estimate the volume or level of transactions that may be passing through these professions, in light of the number of DNFBPs still to be onboarded with the FIU for AMLCFT purposes.

Suspicious Activity Reporting and Monitoring Framework for the Sectors

The legal and regulatory framework for suspicious reporting is clearly provided in law. The law adequately provides for AML monitoring, record keeping and filing of suspicious transactions reports. Section 18 of the AML/CFT Act requires all REs including DNFBPs to submit STRs to the FIU once they have

²⁵ Identified in the AMLCFT Act as reporting entities.

²⁶ Interview with one professional.

reasonable grounds to suspect a transaction or series of transactions, or attempted transactions are linked to money laundering terrorist financing or terrorist organisation.

Special training (included 'red flag indicators and other materials) was provided by the FIU to most of the DNFBPs for the filing of suspicious and other reports. A STR guideline was published by the FIU and shared with all DNFBPs. Only the DNFBPs that have not yet been onboarded/registered with FIU, were not direct beneficiaries of FIU training on STRs. Those entities include, all the Professions, Car Parts Dealers, Real Estate Developers, and those agencies that are assumingly operating without licensing (unknown).

Findings from onsite inspections by the Supervisory Authority (SA), have indicated that most supervised DNFBPs have a fair understanding of how to detect suspicious activities, have been monitoring transactions, and have established appropriate systems to enable them to detect and file suspicious transactions. It was found that the quality of STRs reported to date (mainly by the supervisor for the gold and diamond sector) were fairly completed, with most having been classified as "defensive". It was reported that a very low number resulted in referrals to law enforcement. The WG was of the view that the number of STRs filed for the period under review does not commensurate with the level of risk associated with this sector, particularly given that many licensed traders are yet to be onboarded with the FIU. Improvement in the AML/CFT supervision and oversight should assist with remedying this situation.

The WG concluded that there was room for improvement regarding training on STR filing, for all DNFBPs, but particularly for the sectors assessed as inherently high-risk for ML and TF. These sectors include, but not limited to, Dealers in Precious Metals and Stones, the listed professions, in particular the attorneys and accountants and real estate sector.

In addition to the responsibility of submitting STRs, the DNFBPs are also required to submit monthly cash transaction reports (threshold reports) and terrorist property reports. The legal and regulatory framework provide adequately for AML monitoring, record keeping and filing of suspicious transactions reports. Special training (included 'red flag indicators and other materials) were provided by the FIU to dealers in precious stones relating to the filing of suspicious and other reports. A STR guideline was published by the FIU and shared with dealers in precious Stones and minerals.

It was noted that for the "Betting shops", the law does not expressly require 'threshold (cash transactions)' reports to be submitted to the FIU. What the law provides, in the Fifth Schedule to the AML/CFT Act, with respect to the gaming sector, is to classify them as reporting entities only if/when they engage in a cash transaction amounting to GYD 500,000 or more. It was found, however, that a threshold sum of GYD 60,000 was implemented, as a preventative measure and based on consultations with small betting shops.

It is therefore recommended that this sum be expressed in law by amending the Fifth schedule of the AML/CFT Act.

➤ *Commitment and Leadership of Management*

The quality of operations within the DNFBP sectors, is also linked to the level of commitment and leadership of management. The working group examined the various entry control mechanisms for the sectors, and the also the level of enforcement of criminal sanctions for non-compliance by the relevant authorities. Licensing processes are covered in various pieces of legislation or administrative procedures governing the sectors. For example, under the Gold Board Act, Cap 66:01, the GGB is the agency responsible for issuing licences to dealers to sell, buy and export gold. This legislation was further strengthened by virtue of an amendment to section 9 to allow for ‘a fit and proper criteria’ test to be carry out prior to the issuance of licence. The fit and proper test requires, to the effect: an investigation and inquiries to be conducted to establish, the honesty, integrity, reputation of applicant, partner, shareholder, director or beneficial owner of a significant or controlling interest or office holder of the applicant; the financial soundness and capability of the applicant, background and any matters deems appropriate, including whether the applicant was declared bankrupt, subject to criminal or disciplinary proceedings, conviction for fraud, misrepresentation, civil liability or similar conduct that would cast doubt on the soundness or competence of the applicant.

The Guyana Geology and Mines Commission (GGMC) is identified in the Tax Act Cap 80:01 and the Mining Regulations No. 8 of 2006 as licensing body for holders of licences to trade in valuable minerals and precious stones. This licensing process was considered as not being consistent with the high standard utilized by GGB for applicants to enter the gold sector.

The GGMC, however, has recognised the weaknesses in the system, and having understood the ML/TF risks associated with the sector, has implemented measures to remedy the situation. In this regard, the GGMC, in May 2017, submitted to the Ministry of Natural Resources for review, draft Mining Regulations which are aimed at addressing the legislative deficiencies.

The main deficiencies identified were that miners often do not often keep identification documents in their possession when they are in the mining districts as well as for the most part, they either do not produce a Production Sheet or they produce an incomplete Production Sheet when selling their gold and precious minerals to the traders. These are major challenges which hinder the traders from performing their Customer Due Diligence, transaction monitoring and record-keeping obligations effectively. Based on the information obtained by the WG, of the 139 traders issued with the licence from GGMC, only 25 have been registered and have been making efforts to ensure all AMLCFT requirements are in place. It is uncertain

how many of that number were/are not in compliance with the CDD requirements, as this information was not available to the WG. In the absence that such information, it was presumed that an average of 114 may not be complying with CDD obligations.

Additionally, gold and diamond trading businesses tend to follow mining operations as they move from one area to another in the mining districts. There are many instances of gold and diamond trading occurring at places not gazetted as Landings by GGMC. This results in GGMC at times being unable to locate and regulate persons who were issued with licences to trade in valuable minerals and precious stones.

It was recognised by the WG that there needs to be increased collaboration and cooperation SAs on matters relating to supervision, and between sister SAs, such as the GGMC and the GGB regarding the issuance and/or renewal of licences. This would help to prevent a situation, whereby a licence, once denied or suspended by one SA, would not be granted (unwittingly) by another SA²⁷.

The Guyana Revenue Authority (GRA) issues real estate licences pursuant to section 29 of the Tax Act, Cap 81:01 following submission of documents required for the issuance of such licences. The estimated number of real estate market participants is roughly sixty (60). This is based on a running list of persons and businesses issued with licences by the GRA, including persons and businesses who have not renewed their licences. It is uncertain whether those persons or businesses who have not renewed their licences continue to operate. However, it was discovered, during telephone calls to some unlicensed real estate agents that they were carrying on their business as normal. Many responded to questions asked about properties they advertised in the new papers and internet platforms (Facebook).

With respect to **Real Estate Developers**, the entry control process for real estate developers, include a selection procedure administered by the Central Housing and Planning Authority (CH&PA). A total of twenty (20) persons are listed with the CH&PA as private Developers. The list comprises persons trading under a business name or company. One of the entities is Trinidadian. The WG observed that the entry control measure (“fit and proper”) for housing developers is not at the standard as those utilised for the other sectors within the AMLCFT framework.

Other efforts to onboard, real estate agents, include measures by the FIU such as, the publication of a Notice in the print media which requested all reporting entities, including ‘real estate agents to register with the FIU. That Notice resulted in a few agents completing the registration process and commencing their AMLCFT compliance programmes.

²⁷ <https://www.kaieteurnews.com/2017/05/14/rasuls-gold-dealing-licence-suspended/>

The GRA issues licences pursuant to section 21(1) and (3) of the Motor Vehicle and Traffic Act, Cap. 51:02 to a dealer in motor vehicle, called a Dealer's General Licence. The licence allows the approved dealer to use not more than four (4) trade Plates (referred to as Trade Plates). Trade plates are issued to dealers who are in temporary possession of a vehicle (or vehicles), following importation. The dealer is permitted to drive and/or move vehicles without having to pay the requisite taxes or register the vehicles before removal from wharves. The estimated number of Used Car Dealers suspected to be operating in the car dealership market is one hundred and sixty-one (161). This estimate is based on a running list of licensees issued by the GRA, which included persons and businesses who have not renewed their licences. The WG noted that only sixty-five (65) out of the GRA's running list, have registered with the FIU and fifty-two (52) have been regularly submitting Threshold (TR) and Terrorist Property (TP) reports to the FIU.

As it relates to **Car Parts Dealers**, the estimated number of car parts dealers in Guyana is seventy-five (75)²⁸. To enter this business, all that appears to be required is a business name registration (sole trader or a company). There is no requirement to obtain a licence to sell car parts or register with any other agency. Some 'Used Car Dealers' also buy, sell and import car parts and indicated they have been applying similar preventative measures used for the Car Dealership business.

The **Gaming sector** is considered small. There is one (1) Casino, one Lottery company (1) and eight (8) Betting shops. For the period under review, all of these entities have registered with the FIU and have been submitting reports to the FIU as required under the AML/CFT Act. During December 2020 another Casino (Sleep-In hotel & Casino) was granted a licence to operate and it is anticipated that onboarding of that entity will commence shortly, as the FIU has already made arrangement to reach out to that entity.

Professions

To date, no supervisory body was appointed (with respect to AML/CFT regime) for any of the professions listed in the AML/CFT Act, nor was the AML/CFT regime formally implemented with the various professions.

No representation was made on behalf of this group nor any response to questionnaires received, save and except for a few Commissioners of Oaths to Affidavit who responded and one Attorney/Accountant (answered 'targeted questions' sent to that expert). The sector was assessed using, among others, information obtained from: research of the laws regulating the professions (e.g. the AML/CFT Act, Legal Practitioners Act Cap. 4:01); news articles, relevant reports, various AML/CFT guidelines issued by other jurisdiction relating to the professions, general knowledge of the operation of the sector as it relates to the

²⁸ Estimate given in a response to questionnaire completed by a Car Parts Dealer.

specified activities required to be regulated for AMLCFT purposes. Feedback was also received from experts who related with or would have engaged in discussions/consultations with some members of the professions. The WG also utilised information from the previous NRA report.

Given that the WG was unable to obtain sufficient statistics or information directly from the professions, it was difficult to determine or even estimate the volume or level of transactions that may be passing through these professions, in light of the number of DNFBPs still to be onboarded with the FIU for AMLCFT purposes. To what extent this sector impacts the underground economy would also not be determined. Available statistics and/or recent study on the underground economy and its nexus to the DNFBP were not available to the WG. The sector was therefore assessed using as a guide the assessment rating from the first NRA. This was to maintain the status quo of the last assessment. This was however done taken in account the AMLCFT efforts made with respect to measures to mitigate ML/TF risks associated with these professions.

The following table shows the average number of professionals in the sector that may be providing the specified activities to be monitored for AMCFT purposes. There is currently no established or systematic way of determining who provides such services, other than conducting searches for documents in the various registers or agencies to which a document may be required to be filed that connects to the service.

Table 18 – Average number of professionals in sector

Professions	% contribution to GDP	Ave. No of entities/private /public practice	Comments
Attorneys /T&CSPs	0.5%	157 -Commercial Registry	No certainty as to how many of these professionals are provided the specified services under AMLCFT Act. AMLCFT measures do not apply to attorneys not providing specified services.
Accountants/Auditors	0.5%	156	
Notaries	0.5%	31	
Commissioners of Oaths	0.5%	16 (identified but there maybe more)	

However, while there has been no supervision for AMLCFT regime, it must be noted that, for Attorneys this category of profession is regulated by the Legal Practitioners Act Cap. 4:01. The Act provides comprehensive provisions relating to the conduct and discipline of attorneys. The Legal Practitioners Act²⁹, specifically provides that an Attorney, when advising a client, shall not knowingly assist or encourage any dishonesty, fraud, crime or illegal conduct or instruct a client to violate the law or how to avoid punishment.

²⁹ Legal Practitioners Amendment Act of 2010, Code of Conduct -Rule VIII

The Act also provides for the establishment of a discipline Committee with detailed procedure to address issues or complaints brought to it by an aggrieved person.

The following entry control measures are in place for the professions:

Attorneys

The Legal Practitioners' Act, Cap 4:01 provides for the acceptance of an eligible person to the Bar. The process, includes that the person must: (a) be a national of Guyana; (b) attained the age of twenty one years; (c) be of good character; and (d) obtain a special authorisation or hold a Legal Education Certificate (equivalent to a 'Juris Doctor'). An application, by way of a petition, must then be made (on behalf of the petitioner/person desiring to practise) to the High Court for that person to be admitted to the Guyana bar. The name of the legal practitioner is then entered on the Court's Roll as being eligible to practise.³⁰ For a foreign (non-national) Attorney-at-Law to practise, the Minister of Legal Affairs must make an order to that effect. These attorneys must hold a Legal Education Certificate, possess suitable qualifications and competence. In 2016, Guyana was reported to have the fourth highest population of lawyers in the Caribbean Community (CARICOM)³¹.

The average number of lawyers registered on the court's roll is one thousand, one hundred and twenty (1,120) with about 25 to 30 possible admissions per year.³² This is a running unfiltered list which comprises all the attorneys (deceased, members of the judiciary, migrated, in public and private practice³³). For the purpose of this NRA, the WG considered the average number of attorneys listed as members of the GBA, who were most likely to be providing the specified services. That list comprises, in excess of 200 members and includes attorneys, many of whom are associate members of the GBA (e.g. those working in government or other agencies) and do not carry out private practice/or any of the specified services and are therefore not subject to the AMLCFT obligations.

Information from the Commercial Registry revealed, a total one hundred and fifty-seven (157) law firms registered with the Commercial Registry in Guyana, however, that list did not include all the practising attorneys in Guyana, nor did it indicate the nature and type of services provided by the registered firms. Similar research was conducted with respect to the Accountants as illustrated immediately below.

³⁰ Legal Practitioners Act Cap 4:01

³¹ <https://www.kaieteurnewsonline.com/2018/04/09/guyana-has-fourth-highest-lawyer-population-in-caricom/#:~:text=Guyana%20has%20an%20estimated%201%2C120,and%2030%20lawyers%20qualifying%20annually.>

³² Consolidated, unfiltered list as registered on the court's roll.

³³ Based on information from 1st NRA exercise.

Accountants/Auditors

In order to provide Accounting/Auditing services as a public practitioner, the practitioner must be a qualified holder of **Association of Chartered Certified Accountants (ACCA)**, the global body for professional accountants. The Certificate requires completing all levels of the course of study, including being a member of the Institute of Chartered Accountant of Guyana (ICAG). The ICAG grants a practice certificate to members who are eligible to provide public accounting or auditing services. The 2018 Annual reports for the ICAG stated its membership as one hundred and thirty-three (133), with 26 professionals issued with practice certificate; and in 2019 the total membership was one hundred and forty-nine (49), with 29 issued with practice certificates for the corresponding periods.

The Companies Act, Cap 89:01 complements this position by virtue of **Section 170**, which provides that for a person to be eligible for appointment as an auditor of a company he/she must be a member of the ICAG and holds a practice certificate from that Institute. These are referred to as statutory auditors (external auditor) appointed at the annual general meeting of shareholders. These auditors must ensure that accounts audited by them are kept in compliance with the Institute of Chartered Accountants of Guyana Act, Cap. 97:03, established accounting standards and in accordance with relevant laws, regulations and policies³⁴. The other members are not authorised to sign statement/opinions on audits. Many of them work in public or private agencies as finance controller, internal auditors or as accountants. The accounting profession/ACCA members are regulated and operate based on international standards, specific by-laws, the Code of Ethics and Conduct.

Notaries

The Public Notaries Act, Cap 4:02 regulates the duties of public notaries. These professionals are appointed by warrant under seal by the President of Guyana. The person appointed as a notary must be a legal practitioner/lawyer for ten years. Additionally, certain office bearers may also be appointed as Notaries Public, Assistant Sworn Clerks pursuant to the Deeds Registry Act, Cap 5:01. These offices are (ex-officio offices (meaning it lasts for the duration of the person's function in that office). For example, certain officers of the Deeds Registry (the Registrar and Deputy Registrar) are Ex-officio Notaries Public. Other appointed officers of the Deeds Registry are subject to an examination by the examining board and must obtain a certificate of competence. The examining board includes, the Attorney General, the Registrar of Deeds and the Solicitor General.

³⁴<http://www.stabroeknews.com/2016/features/02/22/accounting-profession-issue-practice-certificates>

There are approximately twenty-nine (29) public notaries, based on information from the previous NRA. Of note is the fact that notarial services are different from those provided by attorneys. Some of the services provided by Notaries include: to authenticate by their signature and official seal or stamp and certify the due execution in their presence of some deed or document or verify something done in their presence. Some of these documents include, but are not limited to, Powers of Attorney and Deed Polls for name change. These services are provided for a nominal fee. Of note, however, is that notaries, apart from authenticating documents, etc., also prepare certain instruments and agreements for clients (legal and natural persons), related to the specified services and may be privy to critical information, which may include suspicious transactions. Documents such as agreement of sale for real estate and powers of attorney, to name a few, may contain critical information on beneficial ownership of trusts, or property linked to criminal activities. It is therefore important that notaries identify and verify the identity of their customers, and keep records of transactions, in the event of an investigation to support law enforcement agencies.

Commissioners of Oaths to Affidavits

The appointment of a Commissioner of Oaths to Affidavits is made pursuant to section 96 of the Evidence Act, Cap 5:03, by the President of Guyana. The services, of a Commissioner of Oath, include, administering ‘oaths to affidavits and to receive declarations and affirmations in lieu of oaths and statutory declarations under the Statutory Declarations Act, Cap. 5:09, and to certify those affidavits, declarations, affirmations, or statutory declarations. The Evidence Act specifies that applicants should be Justices of the Peace or other fit persons. Based on information received during this NRA exercise, the office of the Attorney General’s Chambers plays an administrative role in these appointments. This is because, the Attorney General, is the principal legal advisor to the Government pursuant to Article 112 (1) of the Constitution of Guyana Cap. 1:01. The procedure for the appointment³⁵, includes that the applicant be of good character; and there must be a need for a Commissioner in the applicant’s district.

An application form is completed and submitted to the AG’s Office, supported by two references; the application is forwarded to the police station in the applicant’s district with a request for a police report on the applicant. When the report is completed by the police; it is returned to the Attorney General’s Chambers. The documents are compiled in a file (which includes the completed application form, the police report and the two references) and is sent to the Office of the President. The President then makes an appointment based on the AG’s recommendation. It is recommended that this procedure be properly document (for e.g. as a policy document which outlines the procedure). It is also recommended that a register of applicants be maintained (both at the level of AG Chambers and at the Office of the President). The working group was

³⁵ As outlined in an email by the AG Chambers.

unable to obtain a list of all the Commissioners of oaths from either Office. The WG relied on general information provided in the telephone directory and from internet searched to names of Commissioner of Oaths. The WG sent questionnaires to the sixteen (16) names found by the above means, but only four (4) responded to the questionnaire sent.

Information from the few responses indicated that some Commissioners of Oaths, engage in preparing agreements of sale and purchase for real property, and affidavits in relation to those agreement. Information received also indicated that some Commissioners prepare legal documents (which may include the specified activities) and in cases where an Attorney's Signature is necessary, they have attorneys to whom they are associated to sign the documents.

Trusts and Company Services Providers

"Trusts or Company Service Providers" includes any firm or sole practitioner who by way of business provided any of the following services to third parties:

- i. Formation of companies or other legal persons;
- ii. Acting, or arranging for another person to act – as a director or secretary of a company; as a partner of a partnership; in a similar position in relation to other legal persons;
- iii. Providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- iv. Acting, or arranging for another person to act, as a trustee of an express trust or similar legal arrangement; or a nominee shareholder for another person other than a company listed on a regulated market, when providing such services.

Trust or Company Service Providers may be classified under two categories: Financial and Non-financial.

Information received by the WG revealed that, there are two (2) companies registered under the Financial Institutions Act, Cap 85:03 that appear to be carrying out one or more of the trust services specified above. Those companies are: Hand in Hand Trust Corporation ; and Trust Company Guyana.

Based on feedback from the questionnaire sent to these companies, it was clear that there needs to be more training in the area of trusts services in relation to the specified services and their application to the AMLCFT Act.

With respect to the Non-Financial Trusts and Company Service Providers, the working group considered the fact that some 'lawyers and/or accountants' may undertake one or more of the services specified (*i.e. services that are not covered under the specified services listed under the professions (addressed above) but fall under those for T&CSPs*).

The WG did not receive any response to the questionnaires sent to attorneys and accountants (as they relate to the specified services). As such, relevant information related to each service was not available. The assessment was therefore not based on ML/TF risk associated with each of the specified services but rather looking as the lack of preventative measures and the inherent ML/TF risk associated with the sector.

There is no requirement to register or obtain a license to provide these services. As a result, there is no clear way to determine who were or are the persons or entities providing these services. This may be achieved by an annual licensing or registration requirement or process. This should make it easy to determine the persons that will be providing such services.

The WG concluded that, since, there is no systematic or formal way by which one can determine, following acceptance to the practice as to whether any member of the profession would be providing the specified services (under the AMLCFT Act). This may only be remedied by an Attorney or Accountant or any of the other professions declaring his/her intention to provide one or more of the services. The AMLCFT Act³⁶ was amended in 2018 to require all reporting entities, including attorneys, accountants/etc. to register with the FIU. Following that Amendment, a notice and subsequent publications were placed in the daily newspapers informing the reporting entities of this requirement, however, to date no attorney registered with the FIU, for AMLCFT purposes.

Availability and Enforcement of Criminal Sanctions

The AML/CFT Act, including all subsidiary legislation, appears to adequately provide for criminal sanctions to be imposed for non-compliance with AMLCFT provisions and for ML/TF and other related offences. The offences of money laundering and terrorist financing, including ancillary offences, satisfy international requirements and standards (e.g. the Palermo, Vienna, Terrorist Financing and other relevant Conventions³⁷). Other offences and associated penalties covered under the AMLCFT Act include, but are not limited to, tipping off and breach of confidentiality.

Under section 23, which relates to supervision, there is provision for criminal liability to be imputed to Directors, and Managers of reporting entities for non-compliance with their obligations. Criminal sanctions are also applicable to the predicate offences as listed in the Second Schedule of the AML/CFT Act.

The WG was of the view that, while there is room for minor improvement in the overall quality of control and operations, there appears to be a marked improvement in the quality of operations compared to the

³⁶ AMLCFT Amendment Act 2018

³⁷ Guyana – CFATF 1st, 3rd, 9th, 10th and 11th Follow-up Reports under FATF -Recommendation 1; (now FATF Recommendation 3)

previous NRA. There is also increased commitment by leadership and management. Moreover, there has been an increase in criminal sanctions taken at the level of law enforcement.

Consideration was also given to the fact that, because there were quite a large number of persons or entities issued with trade licenses operating in the remote locations, ensuring KYC measures is difficult and operators may be carrying on businesses in breach of the AMLCFT Act, which are not being brought to the attention of GGMC. Also, for the Real Estate Developers, no information was received by the working group to suggest that criminal activities were being committed by any of the persons listed as private developers and legal action was not taken against them. It was the view of the working group that the legal framework with respect to enforcing criminal sanctions is adequate to address any situation or complaints of criminal activities against this group. However, in the absence of a supervisor, there was no framework to monitor the business transactions passing through the services provided by this group. No information was received by the working group for criminal convictions for any member of any of the professions.

During the period under review, three (3) criminal investigations related to ML were ongoing in relation to members of the legal profession and fifty-seven (57) in relation to accounting professions.

No information was received by the WG with respect to any criminal convictions for any member of any of the professions. Given that no supervisory body was appointed for this sector, no sanctions were imposed under sections 23 of the AMLCFT Act. While the AMLCFT legislative framework is in place and available, no statistics available under AMLCFT for administrative sanctions imposed.

However, as was explained above, while there has been no supervisory authority appointed with respect to the AMLCFT regime, Attorneys are regulated by a Legal Practitioners Act Cap. 4:01. The Act provides comprehensive provisions relating to the conduct and discipline of attorneys. The Legal Practitioners Act³⁸, specifically provides that an Attorney, when advising a client, shall not knowingly assist or encourage any dishonesty, fraud, crime or illegal conduct or instruct a client to violate the law or how to avoid punishment. The Act also provides for the establishment of a discipline Committee with detailed procedure to address issues or complaints brought to it by an aggrieved person. Money laundering is considered a crime like any other crime and this any offence committed in this regard is subject to the same law enforcement action as applicable to all crime.

➤ *Compliance level of staff*

There has been a notable increase in the knowledge base of the DNFBP sector (the supervised entities) since the first NRA. This was attributed to several factors, including awareness, sensitization and training

³⁸ Legal Practitioners Amendment Act of 2010, Code of Conduct -Rule VIII

programmes conducted by the FIU, the SAs, and at the national level, the AMLCFT/PF Coordination Committee³⁹.

Guidelines, typologies, circulars and other publications⁴⁰ were issued by the FIU continuously during the period under review, which targeted all reporting entities, including during the review period. Additionally, the FIU provided ongoing consultations with REs including the DNFBPs which were aimed at clarifying AMLCFT queries peculiar to the respective DNFBP.

The SAs have all had exposure as part of Guyana's delegation to the CFATF Plenary and working group meetings during the Review period. The WG believes that this exposure impacted the level of commitment by management of the various sectors actively involved in the AMLCFT framework and they have all intensified their AMLCFT training efforts⁴¹.

Based on response received from the SAs, they have been disseminating to their reporting entities all publications issued by the FIU, and a few have issued their independent guidelines and provided training to reporting entities under their supervision. Many DNFBPs have indicated that they have been relying on the training sessions and guidelines provided by their SAs and the FIU.

The content and topics covered during the training sessions, included but were not limited to, customer due diligence, enhance due diligence for high risk customers, record keeping functions and the role of the SA in the AMLCFT regime.

However, the working group believes that training should be intensified for all sectors on 'how to conduct "customer risk profiling of customers' and the importance of the independent audit function. Specific emphasis must be placed on training efforts for entities not yet onboarded included for **professions**.

As regards, the Professions, from a national perspective, all the professions would have been exposed to some level of awareness concerning their AMLCFT obligations. There were several public sensitization programmes organised by the AMLCFT/PF Coordination Committee⁴² during the period under review. Training sessions were held for the Accounting Profession and for Attorneys. The session held for Accountants was well attended and members of the body expressed support for the implementation of the AMLCFT regime to their profession. However, with respect to the attorneys, the session held for them was not well attended (only a few attorneys attended the session) notwithstanding the large number of attorneys practising in Guyana. See diagram below for training conducted for the professions.

³⁹ <https://dpi.gov.gy/countrywide-sensitisation-on-fatf-cfatf-for-2018/>;

⁴⁰ <https://fiu.gov.gy/>

⁴¹ <https://dpi.gov.gy/legal-affairs-ministry-hosts-seminar-for-guyana-delegation-to-the-cfatf-46th-plenary>;<https://dpi.gov.gy/>;

<https://mola.gov.gy/information/15-news-?start=50>; <https://guyanatimesgy.com/ag-leads-delegation-to-gfatf-meetings-in-barbados/>

⁴² <https://dpi.gov.gy/countrywide-sensitisation-on-fatf-cfatf-for-2018/>;

Table 19 – Training conducted for professionals

Professions	Years				Comments
	2016	2017	2018	2019	
Bar and Accounting Associations	-	-	-	2	Training held for Bar/Accounting Associations May 17 & 18, 2019 on their obligations under the AML/CFT legislation and the FATF Standards (presentations by Dawn Spicer of CFATF Secretariat)
Bar Association	-	1	-	-	Bar Annual Dinner – Presentation by Toussant Boyce. Nov 11, 2017
Accounting Association	-	-	1	-	ICAG Annual Conference: AMLCFT & the Accountant

Table 20 – Guidelines, Outreach Activities and Publications for professionals

Year	Guidelines issued by FIU ¹ for all Reporting Entities (including DNFBPs)	
2018	Guideline No. 1 of 2018 Detecting or Preventing Terrorist Financing	
2017	Politically Exposed Person - Guidance Notes No. 3 of 2017	
2017	Effective Supervision - Guidance Notes No. 2 of 2017	
2017	Policy Manual - Guidance Notes No. 1 of 2017	
2016	Beneficial Ownership - Legal Persons and Legal Arrangements - Guideline No. 5 of 2016	
2016	Guidance notes for Securities Companies - Guideline No. 4 of 2016	
2016	Guidance notes for Insurance Companies & Brokers - Guideline No. 3 of 2016	
2016	Terrorist Property Reporting - Guideline No. 2 of 2016	
2016	Compliance Regime for DNFBPs - Guideline No. 1 of 2016	
	Outreach Activities and Publications by FIU/AMLCFT/PF NCC¹	
	AMLCFT Environment in Guyana – implications for Accountants	ICAG /FIU’s delivered presentation
	Publications by FIU¹ (9)	
2018	Background to the AMLCFT Programme and the FIU. What is FATF? What is CFATF?	
	Role of the FIU? What is a Reporting Entity? What is the structure of the FIU? How is the FIU funded? How does the FIU operate?	
	What is Money Laundering? What is a serious offence? What are some of the consequences of money laundering? What is Terrorist Financing? What is the consequence of terrorist financing? What are proceeds of crime?	
	Measures to prevent Money Laundering and Terrorist Financing. What is a Supervisory Authority? Some functions of a Supervisory Authority. Range of sanctions that can be instituted by Supervisory Authority	
	List of Supervisory Authorities and their respective Reporting Entities. The Special Organized Unit and the Office of the Director of Public Prosecutions and how these agencies function under Guyana’s AML/CFT regime.	
	Guyana Revenue Authority. What is a foreign currency declaration report? When and where should you make a foreign currency declaration? Penalties for failure to declare or false declaration.	
	Types of reports the FIU receives. What are Threshold Transaction Reports? What is a Suspicious Transaction Report? What is a Terrorist Property Report?	
	Protection of information with the FIU. Protection for Reporting Entities for disclosing information to the FIU. What is Tipping Off and the penalty for Tipping Off?	
	Other obligations of a Reporting Entity.	

The WG was of the view that these professions may be aware of the AML/CFT requirements, but may be resistance to their implementation, given the customary and traditional status of the professions’ independence and self-regulations. This view is based on research and finding from court cases of

arguments used by these professions⁴³. Also, feedback from interviews with competent authorities who indicated that emanating from consultations, meeting and discussions with the various professional bodies, the view of the professions is quite often that the association has always been independent and considered as self-regulatory bodies.

Integrity of Business Professional Staff

Based on the findings, many DNFbps that responded to questionnaires indicated that their staff complement is relatively small (a few have just over five staff). These entities indicated that they have systems in place to ensure staff conduct themselves with integrity, such as ‘a code of conduct’, anti-corruption policy or other internal disciplinary measures to prevent breaches of the AMLCFT measures or corruption against the company’s policies. Penalties can be imposed for breaches ranging from written warnings, suspension or termination (depending on the nature of breach). Most entities indicated that they have compliance officer who has implemented their AMLCFT programmes and ensures that systems are maintained for employee screening prior to employment.

Based on the response to questionnaires by a small sample of the licensed dealers, for example, the staff complement for many entities is small and the risk for corruption was indicated as being low. Most of the responses indicated that, while, there was no anti-corruption policy in place, in the event of a breach, the practice and/or procedure would be termination of the staff.

The WG was unable to determine, on a general scale, to what extent (if any) some DNFbps would have implemented measures or policies to address integrity issues with their business. There were a few isolated cases reported in the media of alleged criminal activities associated with few sectors however, the working group was unable to confirm convictions for those alleged cases.

As it relates to the Professions, and in particular the legal profession, their image and reputation have always been and continue to be one of good repute. While there may have been a few isolated cases where attorneys used indecent expressions to Police Officers⁴⁴, the legal profession is generally recognised as a noble profession.

It must be noted that no inspections/or desk reviews were done with any of the firms/persons from any of the professions to assess the measures in place to ensure a high level of integrity systems exist within the

⁴³ Canada (Attorney General) v. Federation of Law Societies of Canada, 2015 SCC 7, [2015] 1 S.C.R. 401; The Jamaica Bar Association v The Attorney General and The General Legal Council, Case Number, 2014 HCV 04772.

⁴⁴ <https://newsroom.gy/2019/09/12/one-year-later-ryan-crawford-doesnt-regret-confrontation-with-traffic-officer/>;

firms. No evidence was obtained regarding breaches of internally integrity policies or code of conduct by any firm.

➤ *Quality of CDD framework*

The quality of CDD framework for all the DNFBP sectors is assessed as low to medium low

While the Beneficial Ownership (BO) information can be obtained through various means and at different levels of the AMLCFT legal framework. In keeping with its International Obligation to implement and incorporate, as appropriate, FATF's Recommendations 24 and 25, Guyana has included in its AMLCFT Act a comprehensive definition of the term 'beneficial ownership'⁴⁵ which was in line with international standards.

The group considered that since 'overall entry control regime has been enhanced (legislatively) by virtue of several other legislation⁴⁶, which relate to the licensing and registration of legal persons - the 'fit and proper' criteria', this allowed for BO information to be accessible at the commencement of a business or at the stage of renewal of a licence.

The Companies Act which was amended to ensure the collection of beneficial ownership information by the Registrar and to allow for BO information to be provided upon demand by the Registrar of Companies.

The Registrars of the Commercial and Deeds Registries, have been involved in the AMLCFT sensitisation programmes which were organised by the AML/CFT/PF Coordination Committee. Both agencies have signed MOUs with the FIU, with the aim to provide information relating to BO in a timely manner. The FIU was given access to information from the Commercial Registry (soft copy on flash drive).

Additionally, reporting entities, as part of their CDD obligations, are required, by the AMLCFT Act⁴⁷ to obtain accurate and updated BO information from their customers. This information, the FIU can access by a simple request letter, and law enforcement can also access by production order.

Following discussions with other team leaders, it was revealed that while the legislative structure has improved, and many agencies, such as Deeds Registry, Land Registry and the various supervisory bodies in the AMLCFT regime (e.g. Gaming Authority, Guyana Gold Board among others, have been implementing the relevant changes, there are still limitations with respect to speed access to beneficial

⁴⁵ The AML/CFT (Amendment) Act No. 10 of 2015 defines Beneficial Ownership as "ownership by a natural person or persons who ultimately exercise individually or jointly voting rights representing at least 25% of the total shares, or otherwise have ownership rights of a legal entity; or ownership by a natural person or persons who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted and includes those persons who exercise ultimate effective control over a legal person or arrangement"

⁴⁶ Amendment to Gambling Prevention Act; Securities Industry Act; Cooperative Societies Act; the Companies Act; Insurance Act; and the Gold Board Act.

⁴⁷ Sections 15 – 20 AMLCFT Act.

information in many sectors. Among the reasons for this shortcoming, are the frequent delays in obtaining the information from the various registries. It was also noted that the Notice published by the Commercial Registry to have companies provide BO information was removed as there were complaints regarding the legality of such notice by some interest groups. This was considered a major set-back with respect to access to BO information in a timely manner. Given the importance of access to beneficial ownership information this variable was assessed as low.

Availability and reliability on ID infrastructure

There are a few isolated cases related to forged ID documents. Generally, incidences of forged documents can be detected due to the stringent customer due diligence framework within the Sectors. Cases of identity theft etc., have been dealt with where detected. The two primary forms of identification that are accepted and widely used to conduct business in Guyana are the National Identification Card, issued by the Guyana Elections Commission (GECOM) and the Republic of Guyana Passport issued by the Central Immigration and Passport Office. Basic information on person's ID is accessible on the GECOM's website and can be requested when necessary by LEA. Driver licenses, issued by the GRA, are also accepted as a form of identification in some cases, but more often as a verification of an individual's address. This variable was therefore rated as Medium high.

Availability of Independent Information Sources

Historical financial information is accessible from commercial banks, and other reporting entities, by their respective SAs during onsite examinations, and by the FIU/ or Police from the Guyana Revenue Authority upon request.

The Credit Bureau is also a good information source for institutions that have agreements with Credit Info to access its database. This agency is registered with the BoG in accordance with the Credit Reporting Act 2010.

The role and functions of the SAs are expressed in the AML/CFT Act by virtue of Sections 22 and 23. The Act mandates that the SAs conduct examinations of their respective REs, issues instructions, provide training and have general oversight of their REs. A supervisory manual was issued by the FIU and the DNFBPs were encouraged to utilize same. Most SAs have formulated AMLCFT policies and procedures or developed a manual for internal use. Many also indicated that they have been utilizing the FIU's supervision guidelines as their guide. Appointed SAs have, generally, demonstrated their commitment to strengthening the AMLCFT regime for entities under their supervision and have been provided with resources to train staff in the area of AMLCFT supervision.

It was noted that most of the SAs have not conducted a sectoral ML/TF risk assessment of the entities under their supervision. A few have highlighted that a sectoral risk assessment is being considered, as it is a necessary element in its AMLCFT framework.

It was noted by the WG that the primary role of some SAs is not AMLCFT focused. For example, the GRA's primary role is 'tax/ revenue collection'. Also, for some sectors, it has operated independently without supervision by an external agency. For example, the Legal and Accounting Professions are historically independent professions and therefore classified as self-regulatory bodies.

In most instances, the AMLCFT role was just added AMLCFT appointed bodies to supervise DNFBPs, without due consideration for increase in financial and human resources. This, the WG believes, has negatively impacted implementation of the AMLCFT requirements with to the DNFBP professions. There appears to be some amount of push back by some professions to undergo the changes to their operations as required by the AMLCFT framework.

Section 22 of the AMLCFT Act makes provision for the appointment by the Minister responsible for Finance, of a Supervisory Authority for reporting entities, where the Act does not expressly identify the Supervisory Authority (SA) for a sector. However, while the AMLCFT Act makes provision for the role of the SA under sections 22 and 23 of the AMLCFT Act, relating to inspections, issuance of guidelines, training, imposition of sanctions etc., none of the functions were undertaken for the professions.

The legal profession and the accounting profession have traditionally operated as independent and Self-Regulatory professions under self-regulatory bodies/associations (however, not for AML/CFT purposes). With respect to the 'Self-Regulatory' mechanisms, there are in existence, laws and standards regulating the practice and/or operations of the professions.

With respect to the legal profession, the Legal Practitioner's Act governs this profession. The Act includes the establishment of a discipline committee, and includes a code of conduct, which provides for disciplinary measures to be taken against an attorney for any professional misconduct, including the professional being struck off the Court's roll.

The Accounting Profession is also guided and regulated by a professional code of ethics and international standards for practice and is subject to monitoring under this professional body.

According to the ICAG's Annual Report for 2018, it has appointed a Regulatory Committee (as a mechanism for reports from audit visits to be considered for identification of actions to be taken in respect of deficiencies found at individual firms and the general trends emerging from such visits as a basis for pro-

active technical programmes to be developed. The Regulatory Committee is composed of non-practicing members supported by a legal counsel.

It is not known if this Committee is intended to include the AMLCFT requirement in its mandate. However, based on a media report⁴⁸, following a training session organised by the AML/CFT/PF National Coordination Committee for the Accountants, the Accountant association indicated it was opened to AMLCFT supervision.

The WG could not determine, with certainty, the extent to which the AMLCFT preventative measures were implemented within firms or by sole practitioners for the period under review, as, no information was received directly from the firms in this regard.

Regarding the Notaries and Commissioners of Oaths to Affidavits, there is currently no governing body or association for these categories. Information provided indicated that there was such a body for the Commissioners of Oaths, but that association became defunct a few years ago.

The working group was informed that a comprehensive research was conducted, to review the supervisory models used by CFATF members to assist with determining an appropriate supervisory mechanism for the professions in Guyana. In this regard, recommendations were made to the AML/CFT/PF Committee. Those recommendations include the identification of various models for supervising the DNFBPs, which included: (i) an independent compliance commission which would be dedicated to specially deal with the supervision and oversight; and (ii) a self-regulatory mechanism, which is adequately strengthened and empowered⁴⁹ to undertake the supervisory role. This may be appropriate in the case of Attorneys and Accountants (who may wish to maintain their independence).

Availability & Enforcement of Administrative Sanctions

The section 23 of the AML/CFT Act provides a wide range of sanctions that may be imposed for non-compliance by DNFBPs. The sanctions available are effective, proportionate and dissuasive. They include but are not limited to, written warnings, withdrawal of licences, directing the reporting entity to remove from its board of directors any person found to be in default and, in addition, may imposed a fine of not more than five million or more than fifteen million dollars. The various laws also have provisions for sanctions.

⁴⁸ <https://guyanachronicle.com/2019/05/19/accountants-auditors-open-to-supervision-for-aml-cft-compliance/>

⁴⁹ In some CFATF countries -compulsory membership, annual practice licensed or certificate, fit and proper criteria for issuance of license/practice certificate, continuing education which include AMLCFT training and a system to determine the attorneys who will be providing the specified services.

The AMLCFT Act provides adequately for a wide range of sanctions for the professionals. However, in the absence of an AMLCFT Supervisory framework for these entities, there were no sanctions imposed for non-compliance in relation to the AMLCFT obligations for any of the Professions.

The WG did not receive any response to questionnaires, or letters sent to the Disciplinary Committee/Professional Associations concerning statistics for breach of disciplinary codes outside the AMLCFT. As such, the working group could not determine whether there were reasons to impose sanctions, but such wasn't imposed.

A notable weakness observed with the supervisory framework of at least one SA, was that a few reports of sanctions imposed by the SA were not submitted to the FIU, as required under AMLCFT Act. There were also a few instances, where there was no clear distinction between a 'warning imposed as a sanction' and a 'request by the SA for the entity to make corrections' to deficiencies identified during and onsite visit. The WG consider that a system should be put in place to ensure the lines between these two situations are not blurred.

Conclusion

It is hoped that the research findings and the recommendations provided herein will be taken into account and form part of the action plans to be undertaken by the AMLCFT/PF National Coordination committee. While the AMLCFT framework is generally good, the entire legislation should be reviewed to ensure outstanding deficiencies are remedied and where necessary suggested legislative amendments should be favourably considered.

Priority should also be given to those sectors which are most vulnerable, due to the lack of supervision. And for those that already have SAs appointed, more onsite visits are recommended to ensure the AMLCFT regimes are maintained.

National efforts should be intensified with respect to public awareness programmes by AMLCFT/PF committee, and other agencies, such as FIU. There should be increase promotion of for training for all SAs, reporting entities, and competent authorities and greater effort on the part of SAs to collaborate and cooperate on AMLCFT supervisory issues, including establishment of MoUs (e.g. between GGB and GGMC). These and the other efforts, detailed in the DNFBP Report should be considered and implemented in a manner that would positively impact the overall quality of control for the DNFBP Sectors.

2.9 FINANCIAL INCLUSION PRODUCTS VULNERABILITY ASSESSMENT

Introduction

At the UN General Assembly in September 2015 world leaders gave high level commitment to the achievement of the UN Sustainable Development Goals (SDG) which included as one of its key objectives, the ending of extreme poverty by 2030. The achievement **Financial Inclusion** (FIN) goals are congruous to the goals of eliminating extreme poverty. Financial inclusion focuses on the ability of vulnerable and marginalized groups within a country (e.g., small and micro enterprises, those in the informal sector, poor or rural communities or minorities) to *participate* in the financial system or to make use of related services such as deposit accounts, borrowing, insurance, pension etc.⁵⁰ A key measure of participation and access to financial systems is the proportion of persons having bank accounts relative to population size in a country. The World Bank Global FINDEX⁵¹ estimated in 2018 that approximately **1.7 billion** people worldwide still do not have a bank account⁵². Exclusion from the formal financial system is more pervasive in poor and developing countries with low bank density and large rural/remote communities. Guyana has low bank density and many remote communities without access to modern telecommunication and banking systems. Therefore, FIN is critical to Guyana achieving its SDG goals and consequentially reducing the influence of the underground and informal delivery channels for financial services.

This FIN risk assessment seeks to evaluate the Money Laundering and Terrorist Financing (ML/TF) risks of both existing and new FIN products offered in Guyana. The risk assessment is intended to assist regulators and market players to understand the ML/TF risks posed by FIN products and to design risk-based approaches to CDD and regulation and to implement appropriate risk mitigation measures to reduce or eliminate product risks. Regulators can permit the use of **Simplified Customer Due Diligence** (SDD)⁵³ measures when risks are assessed as lower. Simplified CDD is very important in removing some of the impediments to FIN. This assessment entails the examination of the characteristics of FIN products, the associated risks, and national priorities in the application of AML/CFT measures for risk reduction and FIN.

⁵⁰ IDB - Review of Financial Development and Inclusion for Guyana: Assessment and Options for Reform (Victor Gauto & Henry Mooney – 2020)

⁵¹ https://globalfindex.worldbank.org/sites/globalfindex/files/chapters/2017%20Findex%20full%20report_chapter2.pdf

⁵² <http://www.worldbank.org/en/programs/globalfindex>

⁵³ SDD is the lowest level of due diligence that can be completed on a customer.

Summary of findings

The FIN products survey 2019-2020 covered key organizations in the FI and the DNFBP sectors. A total of 102 responses were received from ninety (90) agencies. Most of the responses (70) came from cooperatives, credit unions and commercial banks. This survey post reconnoitre revealed many of the products classified as FIN Products by the entities do not meet the criteria. Agencies were requested to respond affirmatively if they provided any of following categories of services: (a) Mobile Financial Services, (b) Micro-Loans, (c) Micro-Account Deposit services, (d) Low value money and value transfer services, (e) Low value payment services or (f) Insurance Services specially designed for the financially excluded.

The questionnaire followed the guidance of the World Bank's Financial Inclusion Product Risk Assessment Tool (FIRAT) which is designed to identify the features of current or potential financial inclusion product, assesses the overall risk environment, identify the initial product risks and suggest appropriate risk mitigating measures. The product assessment focused on three broad risk categories: ***Product/Service Specific Risks, Geographical (Country) Risks and Customer Risk.***

(e) Product/Service Specific Risks

The analysis revealed 55% of the institutions indicated they offered FIN products, the remainder did not. Of the institutions that didn't offer FIN products 41 indicated that the products are not in line with their business model, 8 indicated that the FIN products are high risk and 7 indicated that carrying out due diligence and geographic constraints were impediments to issuing FIN products. Many of the Institutions did not offer clear objectives for the FIN products they put forward, such as the financial uplifting of low-income groups and involving them in banking and other institutions' delivery channels. Additionally, approximately 9% of the respondents that claimed they offer FIN products did not make a clear connection between the objectives they articulated for their products and FIN and therefore proposed products that could not be classified as FIN products.

The evaluation identified 8 products categories as follows: micro-loans, mobile payments, low-income mortgage, money remittance services, kid's savings accounts, passbook savings, senior citizens account and statement savings account.

Most of the products classified as FIN have transaction limits and the majority is issued by LFIs and entities in the DNFBP sector. The entities in the DNFBP sector do not have a clear transaction limit but have individual limits that are determined by their members through resolutions or by the governing board, in keeping with the rules (constitution) of the organization. These agencies comprised mostly of credit unions and coops.

By not imposing a clear transaction limit on **all** FIN products, it appears supervisors/regulators are unaware of the potential ML/TF risk of these products. Unlimited frequency of transactions can allow structuring and consequently increase ML/TF risk. Nevertheless, these risks are potentially mitigated by the requirement for institutions to be supervised, to register with the FIU, report threshold transactions and to file suspicious transaction/activity reports. Strong supervision will decrease the ML/TF risks posed by structuring as well as by anonymous accounts.

The risks associated with FIN loans and savings are mainly from the use of tainted funds to either repay a loan, make a deposit to a member's savings account or to use the funds to finance terrorism. These risks must be differentiated from the risks of the actual predicate offences that resulted in the tainted funds. There were a few reports of petty crimes being perpetrated using the money transfer services even though the overall value remains low.

(f) Geographical-Country Risk

Institutions conducting cross-border transactions must ensure they adhere to the provisions of the AML/CFT Act, the BoG's Supervisory Guidelines No.13, and with (FATF/CFATF) guidelines issued by the FIU, through the sectoral supervisors. All the products examined, except money transfer services by MSBs and commercial banks, do not allow customers to send and receive money across borders and therefore, have low risks from cross border transfers. All official cross border money transfers are conducted through the licensed banking channels or worldwide money transferring reputed systems. That denotes, effective controls are in place and the required monitoring mechanism has also been activated. Guyana has been named as a transit point for illegal narcotics being transported to Europe and North America. The risk of illicit funds associated with illegal drug trade being transferred through the Guyana financial system is high.

(g) Customer Risk

Persons establishing a business relationship with any of the institutions must follow the KYC requirements prescribed by the AML/CFT Act. Use of products by non-resident and/or non-citizen customers is generally limited. The number of immigrant workers employed in the country relative to population size is low but is steadily increasing due to expected economic growth predicated on the growth of the oil and gas industry in Guyana. Many undocumented immigrants work in the mining sector and do not have the required KYC documents to open accounts or transfer funds and therefore use a third-party or informal channel to transfer funds. The minimum wage in Guyana is low and therefore unattractive to other categories of migrant workers except migrants from countries experiencing political and economic turmoil such as Venezuela or Haiti.

Legal persons are allowed access to Mobile Money products as “merchants” to receive payments for goods and services they provide. Legal persons also access small Loans at commercial banks and micro loans issued by pawnbrokers. Coops and credit unions only allow membership to individuals; legal persons are therefore excluded from access.

Financial Inclusion Product Analysis

Pawnbroker Loan Schemes (micro-loans)

Pawnbrokers provide small businesses and low-income households access to short term loans. Its popularity stems from its ease of access and low KYC requirements. Pawnbroker loans usually range between GYD 200,000 to GYD 300,000. The absence of a legal threshold on the value and number of loans a pawnbroker can give a customer increases the ML risk. Non-face-to-face or anonymous transactions are not allowed. Access is possible by non-residents, though their use is negligible but cross-border transactions are not allowed. Pawnbroker loan scheme ML/TF risk is **low** as they are required to be registered with the FIU, apply KYC/CDD measures consistent with the AMLCFT Act (National ID and Proof of Address) and are subject to AMLCFT supervision. Pawnbrokers also use simplified CDD process for transactions. Industry loan-to-value (LTV) ratio is not established nor is there any regulated industry-wide rate setting system. Pawnbroker loans are susceptible to petty crimes, as perpetrators who commit petty larceny may attempt to use stolen items to obtain cash. Larceny is a predicate offence for ML. This risk can be overcome by the requirement to prove ownership of item being tendered as collateral for loan.

Micro Finance Credit Schemes from LCBs (Banks)

Micro-loans by banks usually target low-income groups. The threshold value for these loans varies from institutions to institution. Loans are given on normal commercial terms and each customer is allowed only one. Non-face-to-face account opening and anonymous use of product is not allowed even though repayment can be done remotely, except from high-risk jurisdictions. Non-residents do not have access to this product. Simplified CCD is not used because borrowers are usually existing FI customers and have already been subject to the banks KYC process, in accordance with Section 15 of the AMLCFT Act, at the on-boarding stage. Third-party deposits are allowed, and systems are in place to monitor and report suspicious third-party activity.

Cooperatives Micro Loan Scheme

Cooperative Societies are community-based organizations established for, among other things, the economic interest of its members. The Coop Societies Act Ch.88:01 authorises coops to grant micro loans to its members and allow members to hold savings accounts with the society; each member is restricted to one account. Individual are prohibited from being members of more than one society if its primary objective

is to provide loans to its members (Section 23). The Act also prohibits the issue of loans to persons other than a member (Section 30). A threshold value for loans, deposits or savings is not prescribed in the law; societies determine their thresholds based on resolution by their membership. Third party, anonymous, non-face-to-face, and cross-border transactions are prohibited except where the society is authorized by the supervisor to invest its profits in another institution within the commonwealth. Legal persons and non-residents are not allowed access to this product. Their AMLCFT supervisor is the **Chief Cooperative Development Officer (CCDO) Ministry of Social Protection**. For AMLCFT purposes they are required to be registered with the FIU, file regulatory reports and establish a compliance function. The FIN products offered by societies are **low risk** to which SDD can be applied.

Micro Loans from CUs

CUs are usually connected to a specific industry or employer and usually provide safe and easy ways for employees to save and access small loans. They are governed by the Coop Societies Act Ch. 88:01. Threshold value for loans is determined by the membership of the credit unions in accordance with its rules or constitution. Each member is allowed only one savings account with the union. Anonymous accounts, anonymous use, non-face-to-face transactions, and third-party use are not permitted. KYC is established at the time of registration or through the employer. This product helps persons obtain credit without the rigor of the commercial bank qualifying process. Cross border transactions are not allowed nor do legal persons and non-residents have access. CUs are required to (i) have a compliance function, (ii) have an AML policy and procedures document, (iii) be registered with the FIU and (iv) be supervised for AML/CFT purposes by the CCDO. This product is **low risk** due to the level of KYC required, the closed nature of these organisations and their AMLCFT reporting obligations.

Money Lenders (department stores) Micro-loans

Some retail stores apply, to a magistrate, and are issued Money Lenders Licence by the GRA. This licence enables them to leverage their customer relationships from their hire purchase business to grant micro-loans to those same customers. Their KYC procedures for hire purchase are usually robust and include provision of ID, proof of address, proof of income and guarantor information etc. Transaction limits are not established for money lenders. Non-face-to-face, anonymous accounts or cross border transactions are not allowed. The KYC procedures employed for hire purchase accounts create barriers for non-residents. Money Lenders do not have an AML/CFT supervisor and are not registered with the FIU. Loan accounts offered by money lenders are **medium risk** because of the lack of AMLCFT supervision and reporting obligations.

Mobile Money Wallet

Mobile Money Guyana Inc. (MMG) digital wallet can be used to make payments or transfer money to other MMG accounts. The MMG wallet is connected to a mobile phone number/account. MMG customers pay in advance to obtain wallet credit but do not earn interest on their balance and can only redeem funds at a MMG agent. The MMG thresholds vary according to transaction type; wallet balance threshold is GYD 400,000; withdrawal threshold is GYD 100,000 and person-to-person transfer threshold is GYD 61,000 per transaction. The thresholds for number of transactions allowed are 20 withdrawals and 10 transfers daily. Cross border or anonymous transactions are not allowed. Non-face-to-face account set-up is not possible, but actual transactions are completed remotely over a mobile telephone network. Non-residents are allowed access to MMG products once they can produce a valid ID and proof of address; use by non-residents is negligible. There are no laws, regulations, or licensing processes for mobile money businesses in Guyana. The only entity operating in this market was given a “no objection” by the BoG who continued to supervise its operations. MMG is required to have an AMLCFT compliance function and report suspicious transactions to the FIU. The fact that subscribers are allowed 20 withdrawals and 10 transfers at the threshold limits and that there is an absence of a threshold on the number of deposits renders MMG transactions *medium level* ML risk. MMG must implement a system to detect and report multiple deposit and withdrawals/transfers that can cumulatively exceed the thresholds or implement hard numerical limits that prevents the use of this weakness to circumvent controls.

Low Income Mortgage from LCBs

Commercial banks collaborate with the Guyana’s Housing Ministry to grant low-income mortgages of up to **GYD 8m** to first-time homeowners. Persons can only have access to one such loan and must be a Guyanese resident to qualify. Non-face-to-face account opening, anonymous use and cross-border transactions are not allowed. Non-face-to-face deposits/repayments can be completed online or at ATMs. Proof of income and national ID are required to access this product. This product has **low ML risk** but falls short of being a truly FIN product because a relationship with a commercial bank is required.

Money Remittance Services by MSBs

The Money Transfer Agencies (Licensing) Act Ch. 85:10 empowers licenced Money Transfer Agencies (MTA) to carry on money transfer business. MTA customers can send or receive local or international transactions of up to GYD 2m each. There is no legal threshold on the number of transactions that can be completed per day/period. However, MTAs are required to be registered with the FIU, have systems in place to monitor and report suspicious transactions, have a compliance function and are subject to supervision by the BoG. Anonymous accounts and anonymous transactions are not allowed. Non-face-to-face transactions can be completed using MTAs online platforms. Cross border transactions are permitted to most jurisdictions, including high risk jurisdictions. Non-residents have access to the MTA’s worldwide

platform and correspondent banks are used. It is suspected that criminals use the MTAs to move illicit funds. MTAs are subject to the AML/CFT Act and regulatory licensing processes but are generally regarded as **high risk** for ML and TF due to high volume of activity, its international reach, and the fact that Guyana is regarded as an illicit drugs transshipment country.

Post office remittance products

The Guyana Post Office Corporation (GPOC) is a government owned business with a significant local geographic spread. The GPOC provides local money transfer services across the regions of Guyana to all residents, who must produce a valid government ID to effect a transaction. Non-face-2-face transactions are not allowed. The threshold value per transaction is GYD 500,000 but the number of transactions is not restricted. The GPOC does not have an AML/CFT policy and procedures document, a compliance function nor is not subject to AML/CFT supervision. The absence of sufficient AMLCFT mitigating measures renders transfers by GPOC a **medium risk** product that is susceptible to use by criminals to move money locally.

Savings from LFC Companies/Banks

The commercial banks “early savers” accounts encourage parents to open accounts for school age children to save money for their future. The child can access the funds only after they reach 18yrs old. The parent’s KYC information is used to create the child’s account. Periodically funds are transferred from the parent’s account to the child. Anonymity is not allowed and the threshold value (maximum account balance) for the account is GYD 5m. Non-face-to-face transactions can be performed using the institutions electronic banking platform. Non-residents can access this product once they have established a relationship with the institution through normal channels. Cross border transactions are allowed using established international banking channels. The normal AML/CFT protocols and controls to which commercial banks are subject are applied to these accounts. This product is a **low-risk** AML/CFT product but does not specifically address financial inclusion.

Other Savings Accounts

Other FIN savings products offered by commercial banks are as follows: *Passbook Savings, Senior Citizens Account, Statement Savings Account and Savings and Loans.*

KYC information collected for these accounts are national ID, proof of address, taxpayer identification number (TIN) and proof of income. Customers are allowed one such account and no transaction limits exist except for a withdrawal limit of GYD 120,000 for Statement Savings Account. Neither anonymous transactions nor non-face-to-face account opening is allowed. The entities are all supervised by the BoG, they all have AMLCFT compliance functions in place including systems to detect and report suspicious

transactions. Cross-border transactions are allowed to high-risk jurisdictions and the use by non-residents is allowed. These accounts are essentially extensions of normal checking and savings accounts and therefore are subject to the same KYC and CDD protocols as regular bank accounts. These products are **low risk** and are designed with specific market segments in mind and not necessarily to address the needs of the financially excluded.

Risk Implications of Product features

Technology has facilitated the efficient delivery of financial product and services to large groups of people simultaneously. Remote banking, cash transfer and account registration are all commonplace and have presented significant risks to the financial system. The absence of threshold limits on certain products is also a loophole which can be exploited by launderers. Laws and regulations need to be adapted to the changing environment to help counter the ML and TF risks associated with new technologies and to address deficiencies uncovered due to new ML/TF typologies.

Current Laws and Practices

Guyana does not have a regulatory framework for FIN Products, nor has it issued guidelines for FIN product risk assessment, reporting and monitoring systems. However, all the intuitions in the survey are subject to the provisions of the AML/CFT Act and are all registered with the FIU, except the GPOC. In addition to the AMLCFT Act the other key legislations/regulations/guidelines that apply to these entities are as follows:

- (i) Financial Institutions Act Cap. 85:03
- (ii) The Companies Act Cap. 89:01
- (iii) BoG Supervisory Guideline No.13
- (iv) New Building Society Act Cap. 66:21
- (v) Cooperative Societies Act Cap. 88:01
- (vi) Money Lenders Act Cap. 91:05
- (vii) National Payment Systems Act No. 13 of 2018
- (viii) Money Transfer Agencies Act Cap. 85:10
- (ix) Pawn Broking Act Cap. 91:09, and
- (x) Postal Telegraph Act Cap. 47:01.

Section 15 of the AML/CFT Act sets out the requirements for “reporting entities to identify and verify the identity of a customer” and clearly prohibits anonymous accounts. Section 17 of the Act empowers the minister responsible for finance to make regulations for the reduction or simplification of the identification and verification process of Section 15, after assessing the risks represented by the customer, the business relationship or the transactions. In Guyana, no such prescription has been made for customers at lower risk levels. This has hindered the ability of certain segments of the society from accessing mainstream financial services and therefore affects FIN. Currently, at least one photo identification (passport, national identification card, driving license etc.), Taxpayer Identification Number (TIN) and address verification must be obtained from a potential customer to enable banks and other institutions to fulfil their KYC

requirements whether for FIN products or not. Irrespective of whether the customer is low, medium, or high risk, concerning potential ML/TF or fraud, the KYC requirements are the same. Low-income groups such as farmers and those involved in cottage industries etc., who are generally low risk, are sometimes unable to furnish some above required KYC information and therefore get excluded from participating in the FI products. The current legislation and the absence of regulations that addresses low risk segments hinder some low-income group's participation in available financial products.

Conclusion

Innovative modes of financial services delivery can have a transformative effect on low income earning households and help Guyana achieve its UN SDGs. Greater access to credit and access to a wider set of financial services provides low-income people with the capacity to increase or stabilize their income, build assets, and have much greater resilience to economic shocks. FIN is an important policy goal to help the realisation of growth opportunities as well as improved risk management for low income earning households. FIN indicates the ability of every individual to access basic financial services which include savings, loans, and insurance. FIN products must be convenient and flexible in terms of access and design and reliable in the sense that the savings are safe and that insurance claims will be paid with certainty.

Financial literacy is also important for promoting access to finance. Awareness and capacity building programs can cover topics such as saving habits, budgeting, financial management of households, availability of financial products/services at financial institutions, using credit wisely and risk of dealing with unauthorized financial institutions.

In support of greater FIN commercial banks have increased branches from 28 in 2010 to 40 in 2018, ATMs increased from 74 in 2010 to 116 in 2018 and mobile money outlets increased from 112 in 2015 to 172 in 2018⁵⁴. Despite these actions, the state of access to finance is still not at a desirable level and therefore, an environment that promotes the emergence of sustainable financial service providers to work in under-served markets is needed. FIs in Guyana can collaborate with the Government to introduce suitable FIN products to the unbanked population to cater to their growing demand for these services. A special category of accounts can be introduced where the withdrawal fees are waived, interest remains low, and no minimum balance is required. The operational cost of these accounts could be met by government grants or tax rebates to the extent that interest earned on deposits is insufficient to cover the costs of operating. KYC documentation could be simplified and kept to a minimum for these accounts. Relaxation or reduction in statutory requirements on KYC/CDD can be a means by which the number of depositors is increased which

⁵⁴ Review of Financial Development and Inclusion for Guyana: Assessment and Options for Reform.P.15

can contribute to reduced lending rates. Deposit and withdrawal thresholds should apply to these accounts as well as differential pricing on categorized sectors such as income earners below a poverty line.

An efficient and well-developed payment system is a key financial infrastructure of any country. The Guyana ecosystem system consists of banks, mobile money, bill collection companies, insurance companies, the postal services etc. Though the number of service providers is adequate their geographic spread needs expansion to capture far-flung communities. FIs can pool their resources or build alliances to fill the gaps in the access to FIN services. The same networks can be mobilized to deliver deposits and loans and collect funds. Mobile banking is a good method to facilitate the increasing accessibility of financial services. The mobile banking potential of Guyana has not been fully utilized to capture all bankable persons. Mobile banking can be introduced to far-flung villages coupled with promotions such as mobile communication, and other complementary consumer services to make a total proposition and enable FIN. There is an urgent need to ramp up technology-based delivery channels, particularly in the rural areas. A delivery channel that is cost effective and user friendly, given the literacy levels of potential users in the rural areas, is essential. The introduction of low-cost biometric ATMs shared by all commercial banks would go a long way to bridge this gap. The introduction of a Biometric National Identity Card, which can be utilized for all the needs of the individual and not just the financial needs can be a good solution. If the technology revolution is to fully impact the rural areas, concentration on providing soft infrastructure is essential. The mind-sets of both the officers and the institution must be changed. Affordable financial services must include, not only need-based credit, but also insurance services, payment, and remittance facilities and, in due course, financial advice.

When considering Guyana's bank density, accessibility is an issue in the delivery of FIN products. Therefore, accessibility and convenience can be achieved through horizontal integration in organisations that have presence where banks and mainstream FIs do not, or they find it unprofitable to operate. Deposits, loans, and payments can be delivered throughout the country by an integrated network which includes the postal network, telecommunication network, banks, other small lending institutions and private businesses. Mobile phone and internet penetration can be leveraged to extend the reach of agencies to deliver financial products. Mobile banking, mobile money services and postal services can be utilized to capture all bankable persons.

2.10 TERRORISM FINANCING RISK ASSESSMENT

Overall terrorism financing risk

The overall TF risk in Guyana was rated as **MEDIUM**. This was determined by assessing the *TF threat*⁵⁵ (**Medium**), the *TF vulnerability*⁵⁶ (**Medium**), and the *terrorism*⁵⁷ *threat* (**Medium**).

TF Threat

The TF threat in Guyana was rated as **Medium** given the minimal number of Suspicious Transaction Reports (STRs) related to TF between 2016 and 2020. The FIU received no STRs related to TF in 2016 and 2017, three (3) in 2018, seven (7) in 2019 and zero in 2020. Over the same period the FIU forwarded fifteen (15) TF intelligence reports including follow-up reports to the Special Organised Crime Unit (SOCU) for investigation. SOCU reportedly conducted fifteen (15) TF investigations, while the Special Branch Unit of the Guyana Police Force received nine (9) reports of terrorism and investigated seven (7) between 2016 and 2020. However, these matters/reports were investigated separately as there was no cooperation or collaboration between the agencies that investigate TF and those that investigate terrorism. International requests for information were sought and received for TF investigations. While for the assessed period there were not TF prosecutions, there was one terrorism prosecution which resulted in a conviction. In terms of the financial flows related to TF, funds appeared to have passed through Guyana using money transfer agencies, however, investigators were unable to identify the sources of the funds.

Table 21 - Terrorism and TF cases reported, investigated, prosecuted and number of convictions over the period 2016 – 2020

No. of cases reported		No. of cases investigated		No. of cases prosecuted		No. of convictions	
TF	Terrorism	TF	Terrorism	TF	Terrorism	TF	Terrorism
15	9	15	7	0	1	0	1

TF Vulnerability

The TF vulnerability was rated as **Medium**. This was due to the following:

Legal framework

⁵⁵ A **TF threat** is a person or group of people with the potential to cause harm by raising, moving, storing or using funds and other assets (whether from legitimate or illegitimate sources) for terrorist purposes.

⁵⁶ The concept of **TF vulnerability** comprises those things that can be exploited by the threat or that may support or facilitate its activities.

⁵⁷ **Terrorism** is the unlawful use of force or violence against persons or property to intimidate or coerce a government or its citizens to further certain political or social objectives.

Guyana is party to the Terrorism Financing **Convention**. In keeping with the requirements of this Convention, Guyana has effectively and comprehensively criminalized TF as well as the financing of terrorist organisations and individual terrorists even in the absence of a link to a specific terrorist act or acts.

TF is an indictable offence and sanctions are applicable to both natural and legal persons. TF offences are also designated as ML predicate offences. Guyana also has the legal capacity to prosecute and apply criminal sanctions to persons who finance or attempt to finance terrorism since a terrorism financing offence is committed whether or not the funds were actually used to carry out or attempt a terrorist act, or linked to a specific terrorist act.

Guyana has adequate legal provisions for targeted financial sanctions related to terrorism and terrorism financing which includes the requirement to identify and initiate designations in accordance with UNSCR 1373. This provision was tested in August 2017 when the Minister of Finance specified/designated two persons in accordance with UNSCR 1373 based on the request of another country⁵⁸ and the funds and other assets of the specified/designated persons were frozen.

In relation to the freeze “without delay” requirement, all persons or entities which includes reporting entities are prohibited from dealing with funds or other assets of a person or entity designated in accordance with UNSCRs 1267 and 1373. Further, legislative provisions require persons or entities to determine on a continual basis, whether they have in their possession or control, property owned or controlled by, or on behalf of, a person or entity designated in accordance with UNSCRs 1267 or 1373, and if so report this immediately to the FIU.

Effectiveness of TF-related STR, monitoring and analysis

To assist REs in complying with their targeted financial sanctions (TFS) obligations, the FIU published guidelines on the implementation of policies and procedures to reduce the risk of TFS breaches, and on how TFS works in Guyana particularly as it relates to the **freezing, unfreezing, and access to frozen funds** of a person or entity designated in accordance with UNSCRs 1267 or 1373 and their successor resolutions.

The financial institutions appear to have a high level of capacity and commitment to comply with UNSCR screening requirements in keeping with TFS provisions. The banks and money transfer agencies utilize various software such as OFAC⁵⁹ Database Analyzer, Compliance Link, and other similar automated systems to screen customers, while cambios, insurance companies and brokers, securities companies and brokers, carry out manual screening when onboarding new customers, and also periodically with existing

⁵⁸ Trinidad and Tobago

⁵⁹ Office of Foreign Asset Control

customers. As it relates to DNFBPs, they appear to have general knowledge on the TFS requirements. Additionally, they receive updates to the UN Consolidated List or local listings, but they manually screen their customers. However, not all DNFBPs are able to receive the updates in a timely fashion to comply with the “freeze without delay” component of the requirement, and to ensure that no assets are made available to, or for the benefit of, designated persons or entities. This is particularly true for DNFBPs operating in remote areas with no or poor internet access.

TF analysis and investigation

Guyana does not have a national strategy to counter TF however, identification and designation of individual terrorists, terrorist groups or terrorist organisations can be made in accordance with provisions under the AML/CFT Act.

Guyana made two *designations*⁶⁰ in 2017 based on the designation criteria set out in UNSCR 1373(2001).

Over the assessed period, ten (10) STRs related to TF were received and analysed and the necessary intelligence reports were prepared and forwarded accordingly. Follow-up reports are usually prepared and forwarded to the TF investigators when new information on STRs related to TF is received. It was reported that all the TF reports were investigated, but none led to prosecution.

Adequacy of resources

The FIU is responsible for requesting, receiving, analyzing and disseminating STRs and other information relating to ML, TF or proceeds or crime; the SOCU is responsible for investigating ML, TF and other financial crimes; and the office of the DPP has responsibility for prosecuting all offences including ML and TF. The WG found that these agencies/units all have inadequate human and technical resources to effectively and efficiently analyze, investigate and prosecute terrorism and TF related matters. None of these agencies have dedicated or specialized sections for dealing with TF. Usually any available staff within the agency/unit is assigned the role of TF analyst, TF investigator or TF prosecutor. The staff of these agencies/unit have not benefitted from any specialized TF training but rather general ML/TF related training. Further, these agencies/units receive no separate or special budgetary allocation for countering-terrorism financing.

Effectiveness of international cooperation

Guyana can receive and transmit letters of request for legal assistance on matters pertaining to terrorism and organised crime based on the Mutual Assistance in Criminal Matters Act, Cap. 15:05. In this regard, Guyana relies on the Harare Scheme Relating to Mutual Assistance in Criminal Matters within the Commonwealth and the Inter-American Convention on Mutual Assistance in Criminal Matters 1992. These

⁶⁰ Declaring persons as specified persons subject to targeted financial sanctions in accordance with UNSCR 1373(2001).

requests can be facilitated pursuant to: Part A- United Nations Convention Against Illicit Traffic in Narcotics Drugs & Psychotropic Substances 1988; the Terrorism Financing Convention 1999; and the United Nations Convention Against Transnational Organised Crime and The Protocols Thereto (The Palermo Convention) 2004. Guyana can also share information internationally under established MOUs between the Guyana FIU and other FIUs in the region as well as spontaneously. During 2016 to 2019 there were no incoming or outgoing requests under the MLA, the FIU received three (3) international assistance requests from another FIU in the region and made one (1) spontaneous disclosure related to TF. However, no feedback was received as to whether the information provided led to any investigation, prosecution or conviction in requesting jurisdiction.

Further, Guyana is a signatory to the Inter-American Convention against Terrorism 2002 and the Anti-Terrorism and the Terrorist Related Activities Act, 2015 provides for international cooperation.

Awareness of, and commitment to fighting, TF

There is political commitment and awareness among policy makers and key AML/CFT agencies authorized to fight terrorism and TF in Guyana.

Geographic and demographic factors that may facilitate TF in Guyana

Demography and geography present additional challenges in terms of Guyana's overall TF vulnerability. Guyana's large unattended and porous border (airspace and subsea included) may increase the TF threat and vulnerability particularly given Guyana's proximity to Colombia⁶¹, Cuba and Venezuela⁶² which have all been identified as terrorist Safe Havens in the Western hemisphere⁶³. Furthermore, Guyana's proximity to Trinidad and Tobago⁶⁴, a country in the region with known terrorist sympathizers, and Brazil⁶⁵ which recorded ten (10) terrorist attacks between 2013 and 2017 also advances the country's level of vulnerability.

Contrary to popular conjecture, the anticipation of oil wealth does not entirely mitigate this factor. There is still the very real question of personnel capacity to secure Guyana's borders even if oil wealth would be able to fund the construction of appropriate facilities. Moreover, it is prudent to note that border porosity is more than just a question of physical presence as it speaks to socio-economic influences as well.

⁶¹ Between 2013 and 2017 Colombia recorded 604 terrorist attacks, in which 305 persons were killed, 679 injured and 221 hostages – WorldData.info

⁶² Between 2013 and 2017 Venezuela recorded 26 terrorist attacks, in which 14 persons were killed, 102 injured and 323 hostages – WorldData.info

⁶³ US Country Reports on Terrorism 2019

⁶⁴ Between 2013 and 2017 Trinidad and Tobago recorded 4 terrorist attacks, even though no one was killed and there were no hostages in these attacks, 1 person was injured - WorldData.info

⁶⁵ Between 2013 and 2017 Brazil recorded 10 terrorist attacks, in which 5 persons were killed, with 1 hostage – WorldData.info

Further, Guyana's position as an emerging economic powerhouse could make it a magnet for negative elements and in so doing increase TF vulnerability. For example, it is expected that immigration to Guyana would increase in the coming years, and persons looking for opportunities may try to exploit the already precarious situation at its borders.

Other factors

Guyana being a heavy cash-based economy can also increase TF vulnerability.

Terrorism Threat

The terrorism threat in Guyana was rated as *medium* due to the following facts:

There are no known terrorist organisations or individuals operating in Guyana. In 2019, Guyana's global terrorism index was at a level of 0.04 where it ranked 131 from 163 countries. This is down from 0.08 in 2018 and 0.15 in 2017. The Global terrorism ranking ranges from 0 – 10 with 0 meaning there is no impact of terrorism, and 10 being the highest impact of terrorism in a jurisdiction.

There is inadequate human, financial, and other resources available to counter terrorism in Guyana. Although there is a unit within the GPF (Special Branch) dedicated to investigating terrorism cases, this unit is not properly established and formalized in law or otherwise. Further, there is no specialized department/unit for prosecuting terrorism cases. All terrorism cases investigated by the Special Branch are forwarded to the Central Intelligence Department for prosecution by the department's general prosecutors.

With its limited resources, the Special Branch investigated seven (7) out of the nine (9) reported cases of terrorism over the assessed period which resulted in one (1) individual being prosecuted and remanded to prison for issuing threats to burn a building on social media.

The unit cooperated and coordinated only with other departments within the GPF on terrorism investigations. The cases were based on intelligence reports and information received from other departments within the GPF as well as from regional fusion centers. Otherwise, the unit would obtain information on terrorist cases from media monitoring, internet searches, and human sources such as walk-in reports.

Although the Government continuously expresses its commitment to continuing and intensifying the fight against terrorism in any form, Guyana does not currently have a national strategy or plan to counter terrorism. Further, there are no designated contact points for managing the collection of data and statics on terrorism and TF related matters at the SOCU and the Special Branch (units of the Guyana Police Force with responsibility for investigating and prosecuting terrorism and terrorism financing matters). As such

the relevant data and statics is not readily available to facilitate quick and timely analysis of risks related to terrorism and TF.

2.11 PROLIFERATION FINANCING RISK ASSESSMENT

Introduction

The Financial Action Task Force (FATF) defines proliferation of weapons of mass destruction (WMD) as the transfer and export of nuclear, chemical, or biological weapons, their means of delivery and related materials.

In 2004, the United Nations (UN) Security Council issued Resolution 1540, which requires states to implement measures to prevent the proliferation of nuclear, chemical, or biological weapons. Subsequently, in 2007, the FATF started to consider the threats related to proliferation financing and its interconnection with terrorism and terrorism financing. It is on this basis that consideration was given to this area as an independent threat and consequently mechanisms are needed to prevent these threats in a distinct manner.

This area is new to Guyana and consequently mechanisms for combating proliferation financing is still being systematically regularised.

Proliferation financing risk

While the WG did not provide a rating for the proliferation financing risk in Guyana, the WG determined that much needs to be done at a country level to effectively combat PF.

Findings

The entities (FIU, GRA, NISA, AG's Chambers, REs) assessed for this report varied widely in their awareness of, and procedures for, implementing proliferation-related 'targeted financial sanctions' (TFS). Based on the responses received only one of the agencies had measures or policies to prevent financing of the proliferation of weapons of mass destruction and only two agencies conducted training with respect to the applicability of the United Nations Security Council resolution (UNSCR). In addition, two of the key agencies lacked established procedures or a general understanding of their risks in this regard and only one agency conducted public sensitization to guide the relevant stakeholders. It was also recorded that none of the agencies had conducted any training in dual-use technology or had a database of these items.

It was also noted that one of the agencies had a decentralized operation so that most of the questions related to border control related to export were not answered by that agency. This would cause a delay in the receipt of information. This is an aspect of concern that an interagency committee or a memorandum of

understanding may address. The efficient relay of information is important to make sure that the risks identified are efficiently eliminated.

The WG found that there is no specific standalone legislation addressing proliferation financing. The fight against PF is regulated by the AML/CFT Act. Legislative provisions of the AML/CFT Act, specifically, sections 68A – 68H guide this process. However, despite these existing legislative mechanisms, entities have not holistically made efforts to implement internal policies to make sure compliance with the legislation. For example, most of the entities have noted that they do not review the updated UN sanctions list. Moreover, most of the entities have noted that they are not aware of any ongoing proliferation financing cases in our jurisdiction. Further, there was no mention of preventive measures or targeted financial sanctions being applied by financial institutions in the fight against proliferation as required by FATF Recommendation 7, which deals with targeted financial sanctions related to proliferation. Finally, most of the agencies contacted noted that they have not conducted any public sensitisation or educational awareness programs with regard to preventing proliferation financing. This would result in disconnect between those expected to comply with the regulations and those expected to monitor and implement same. In addition, this raises the issue of prosecution and enforcement mechanisms.

Notwithstanding these areas that need work, one of the agencies reported that there are currently steps being taken to provide for the criminalisation of proliferation financing. In addition, there is an established mechanism, that is, the AML/CFT/PF National Coordinating Committee, that addresses issues related to money laundering, terrorist financing and proliferation financing. This is important for the facilitation of interagency discussion and may prevent overlap in responsibilities. Further, it has been reported that entities review and collect background data concerning financial institutions. This is done by the Commercial and Deeds Registries. It has also been reported by one of the respondent's that they have systems to track suspected individuals, businesses, and suspicious transactions.

Legal systems

Proliferation financing, although defined by section 2 of the AML/CFT Act by an amendment in 2018, is not listed as a predicate offence within the AMLCFT Act nor is it criminalised in Guyana. An established legal approach to the criminal conduct of proliferation financing may have some advantages. There is a likelihood that with these systems in place there will be enhanced investigation, enforcement and prosecution of matters related to the financing of proliferation. Secondly, the development of relevant regulations for the Customs and Trade Administration Department and other agencies such as the Guyana Defence Force, with border controls to regulate or prohibit the movement of items that would contribute to WMD proliferation. This would provide for a consistent and regularised approach to export control by the relevant and connected agencies.

Awareness

The first aspect of awareness requires the establishment of a public-private partnership for information-sharing⁶⁶. In addition, this should be complemented by regular outreach and the efficient issuance of guidelines and circulars by supervising authorities to their respective reporting entities in accordance with FATF Recommendation 4, which deals with confiscation and provisional measures, and Immediate Outcome (IO) 1.5 which seeks to determine to what extent competent authorities and Self Regulating Bodies (SRBs) cooperate and coordinate the development and implementation of policies and activities to combat ML/TF and, where appropriate, PF. Raising awareness helps to clarify the obligations on individuals, firms, and financial institutions so that they can be vigilant to proliferation financing. Raising awareness will also directly impact on the effectiveness of the implementation of risk-based mechanisms. Outreach activities to the private sector can include: highlighting the legal basis, international sanctions, and UN-resolutions; identifying dual-use goods, procurement methodology, and persons of concern; and distinguishing proliferation activity, red flags and the end-user or purchaser check.

Raising awareness may also facilitate interagency cooperation, coordination, and monitoring of risks and effective information sharing. This can be facilitated by a designated sub-group within the National Coordinating Committee.

Financial institutions should train staff and their stakeholders to recognise potential proliferation risks during know-your-customer and due diligence procedures, keeping in mind that proliferators use deception techniques. In this area, it would be useful to review the strategies used in other jurisdictions.

The obligation to raise awareness of these new obligations is now specifically imposed on countries and they are required to comply. The FATF, in a recent public statement⁶⁷ noted that countries and the private sector are now required to identify, and assess the risks of potential breaches, non-implementation or evasion of the targeted financial sanctions related to proliferation financing and to take action to mitigate these risks, as well as to enhance domestic co-ordination.

Preventative measures

Financial institutions would benefit from investing in two key areas; risk-management practices and technical solutions. Risk-management practices should incorporate proliferation risk indicators, similar to AML/CFT components. For example, proliferation financing controls should be seen as connected to export controls. Export controls are a key feature of effective implementation of countering proliferation.

⁶⁶ FATF Guidance on “Counter Proliferation Financing: The Implementation of Financial Provisions of United Nations Security Council Resolutions to Counter the Proliferation of Weapons of Mass Destruction,” FATF, February 2018

⁶⁷ Public Statement on Counter Proliferation Financing (October 23 2020)

This will ultimately require the agency responsible to internally establish mechanisms to coordinate preventative export control. In addition, technical solutions require entities to consider establishing electronic platforms that go beyond mechanical list-based screening for designated entities and individuals. These platforms should include advanced software that utilizes network analysis and artificial intelligence that screens transactions against the lists of UN-designated entities and individuals. Incorporating data from sources beyond the financial sector (e.g., export control authorities, law enforcement, and intelligence) would allow financial crimes to be spotted more efficiently. Technical solutions in the form of specific software can also be used to assist in efficient identification of persons of interest as well as maintaining a database of dual-use technology.

2.12 MONEY LAUNDERING RISKS ASSOCIATED WITH ILLEGAL WILDLIFE TRADE IN GUYANA

Introduction

According to the FATF, illegal wildlife trade (IWT) is a major transnational organised crime, which generates billions of criminal proceeds each year. The FATF is therefore concerned about jurisdictions lack of focus on the financial aspects of this crime. Having regards to the FATF's concerns, Guyana decided to carry out a brief study to determine the ML risk associated with IWT in Guyana by examining the weaknesses that exist in Guyana's IWT regime, and how combatting IWT can be strengthened using a risk-based approach.

Findings

The WG found that the ML risk associated with IWT in Guyana is Medium. Factors that contribute to this rating are outlined in the following paragraphs.

Guyana has the necessary legal framework (the Wildlife Conservation and Management Act 2016 (WCM Act) governing the protection, conservation, management, sustainable use, internal and external trade of Guyana's wildlife. The Commissioner, under the Act, is responsible for among other things, granting, amending and cancelling licences, permits and certificates in respect of activities related to species of wildlife. The WG found that while the licensing process includes interviewing applicants, no due diligence is carried out before a licence is issued.

Since the country is perceived to be corrupt and other public sector agencies have proven cases of corruption, corruption was looked at within the sector. With respect to corruption, which plays a major role in the perpetuation of IWT worldwide, the Commission indicated that once there are allegations of corruption/collusion, an investigation will be conducted. If the allegations are against a senior officer, the Board will be involved from the inception. Depending on the nature of the offence, appropriate disciplinary action will be taken in keeping with the practices of the Commission. Additionally, if a criminal offence has been committed, the matter will be referred to the police for investigation.

There has been no prosecution or conviction for wildlife crimes in Guyana, so it is unclear what the most common predicate offences to ML are in this sector. However, unlawful trade and unlawful possession are emerging in the press as the most common predicate offences to ML. In relation to wildlife crimes there are no information to support the extent to which other threats may be relevant. The lack of information and or statistics show that the monitoring system may be ineffective since it has not managed to catch any perpetrators of IWT. There are no reported investigations and or prosecution for wildlife predicate offences.

Further, there are no reported ML investigations stemming from wildlife predicate offences. Further, there are no reported ML investigations stemming from wildlife predicate offences. In relation to other predicate offences such as tax evasion, fraud and environmental crimes that may be linked to wildlife there is no data to form the view on how these impact ML investigations.

The Act provides for several offences including unlawful trade, unlawful possession and making false or misleading statements. Illegal trade in the extraction of wildlife from the wild for trading both within Guyana and internationally has been listed as the wildlife crime of the greatest concern. This is because wildlife is being extracted at an unsustainable level. The offence of unlawful trade is a summary conviction offence that carries the penalty of a fine and imprisonment for three years which makes it a predicate offence for ML/TF in Guyana. The offence of unlawful trade addresses the importation, exportation, re-exportation or the introduction from the sea of any specimen that is not allowed under the WCM Act. It further covers offenders who are dealing with any specimen by way of a transaction of any description contrary to the WCM Act. It also provides for offenders who are harvesting wildlife in any area including protected areas without the authorisation of the Commission or other competent authority.⁶⁸

The WCM Act criminalises the unauthorised possession, where any person has in his possession, or control, or offers or exposes for sale or displays to the public any specimen to which the WCM Act applies without the authorisation of the Commission or other component authority. For this offence it is for the defendant to prove when the specimen came into his possession and that reasonable enquires were made to ascertain if the specimen falls under WCM Act. The defendant must also prove that he had no reason to believe that the specimen was a specimen to which the WCM Act applies.⁶⁹ Under the WCM Act, once a person is convicted of an IWT crime, ML or Drugs offence, or breaches a condition of the licence the Commission may revoke any licence issued⁷⁰ and the specimen shall be forfeited by the court to the State.⁷¹ The Commission can also revoke a licence if improper records are kept, false information is provided and if the Commission is of the view that the licence is not in the best interest of Guyana.⁷²

The international wildlife trade in Guyana has garnered significant revenues for the Commission. In 2016 the Commission collected GYD54,346,001, in 2017 GYD43,530,416, in 2018 GYD73,800,065 and in 2019 GYD49,725, 869. No figures were provided for local trade since there was no monitoring system for domestic trade. However, it must be noted that the domestic monitoring system is in place and is scheduled to be implemented in 2020.⁷³ Looking at the figures for legal wildlife trade and knowing the profitability

⁶⁸ Section 68 of the Wildlife Conservation and Management Act 2016.

⁶⁹ *ibid* section 69.

⁷⁰ *ibid* section 72.

⁷¹ *ibid* section 79.

⁷² *ibid* section 64.

⁷³ Questionnaire submitted by the Guyana Wildlife and Conservation Commission.

of IWT worldwide coupled with the concern raised by the Commission in relation to the offence of trading of wildlife it leaves to the imagination the amount of money that is being earned by criminals who are partaking in IWT. Thus, it is incumbent on Guyana to strengthen its IWT regime.

The WG believes that the Commission has an immense understanding of IWT in Guyana and the jurisdiction has ensured that certain activities related to IWT are criminalised. The Commission has expressed that it has concerns about IWT in Guyana and as such has commenced putting systems in place to combat this criminal activity. Such systems include the designing of a monitoring system that covers all activities and all links in the chain of custody for the wildlife trade, both domestic and international. Wildlife licences, wildlife transport permit, checkpoints to inspect the specimen being transported, registers at final destinations (last location for the specimen) are all systems also in place. While final destinations are subject to unannounced visits by Wildlife Monitoring Officers at least once per month, the domestic monitoring system has not yet been implemented.

Live animals to be commercially exported must be housed in licensed holding premises prior to export. The animals must be in the holding premises for specified period prior to export and the exporters are required to submit monthly registers detailing purchases, sales and mortalities. At the time of shipment, the export permit is taken to the designated port of exit (Cheddi Jagan International Airport or Eugene Correia International Airport) by a Wildlife Monitoring Officer. The shipment is inspected, and the permit endorsed. The original document accompanies the shipment to the destination, the duplicate is retained by Customs and the triplicate is returned to the Commission.⁷⁴ This system will assist in tracking all legal wildlife and ensure that no IWT is exported through the legal port. However, because of Guyana's large and unsecured borders IWT could be smuggled to neighbouring countries with no consequences to the criminals involved. Thereby, devastating Guyana's biodiversity and making Guyana a source, transit or destination country for IWT.

The legal system of exporting wildlife is effective in that, there are no reports of persons attempting to traffic through the legal system. However, as mentioned above the large unsecured borders that provides the biggest risk to Guyana's fight against IWT. With so much of the border, being unsecured it is difficult for the Commission and law enforcement to police criminals and break up IWT rings.

Even though the Commission appears to understand the risks of IWT in Guyana, there is need for awareness of the IWT risks in relation to ML. In addition, there needs to be more prevention or detection systems

⁷⁴ *ibid.*

other than the system described above. The reliance on one particular system ought to be examined to ensure that IWT is being effectively disrupted.

Based on an assessment all the information garnered from the questionnaire and open sources, the WG rated Guyana's ML risk in relation to IWT as medium. This medium rating was assigned on the basis of ineffective monitoring systems for domestic trading of wildlife and the open borders. This rating took into consideration that there was no system in place for domestic monitoring. Further, the lack of knowledge of law enforcement in conducting parallel financial investigations and confiscating assets of criminals involved in IWT.

Guyana is a member of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and has a good international framework for the monitoring and exporting of wildlife. However, the domestic control must be strengthened. There is controlled wild sourcing by the persons who are licenced and monitored by the Commission. However, the weaknesses in this area are the lack of a monitoring system for domestic trading. If there is no monitoring of the domestic system, it is easier for criminals in IWT to take advantage of this and profit from IWT.

Farm laundering, captive breeding or wildlife farming operations can be used to launder illegally caught wild animals if no stringent system to combat this is not in place. The use of fraudulent paperwork to show that wildlife is legitimate when it is in fact IWT could enable illegal wildlife to be openly traded as legal wildlife. Further, since the establishment of the WCM Act in 2016 there have been no charges or convictions. The WG views this lack of convictions as a sign of ineffectiveness.

Guyana is also a state party to the United Nations Convention against Corruption which can be used to aid in IWT-related investigations. There is no requirement under the AML/CFT Act for reporting entities (RE) to identify and assess their exposure to ML risks relating to IWT and take appropriate mitigating measures, as part of the broader risk-based approach. REs are not made aware of the risks of new technologies being exploited by IWT syndicates to launder the proceeds of crime and any relevant regional trends or typologies. There are no outreaches by government authorities to the private sector to emphasise the need to report to the FIU if there is suspicion or activity relating to IWT.

Conclusion

Guyana has systems in place along with dissuasive sanctions to combat IWT. However, the system must be fully implemented for it to be effective in fighting IWT. The system focuses on international exportation of wildlife, in relation to domestic wildlife a system was to be implemented in 2020. How effective is the domestic system, is still left to be seen since Guyana has large unsecured borders. Whatever system is implemented the Commission must ensure that it provides for early detection of IWT and that there is an

effective way in which they can disrupt IWT. To effectively combat IWT in Guyana, in addition to the Commission being made aware of its risk in relation to ML, the GPF and SOCU must be trained so they can conduct parallel financial flows investigations and reporting entities must be sensitized on ML risks related to IWT and the need to report suspicious activity related to IWT to the FIU. With these measures in place the WG is of the view that the country can improve in their fight against IWT in general and IWT in relation to ML.

2.13 MONEY LAUNDERING THREATS ASSOCIATED WITH GUYANA'S OIL AND GAS SECTOR

Introduction

Guyana's oil odyssey began several centuries ago. In the 1700s, several inconsequential oil seeps were discovered and in the 1900s several water wells drilled along the coast of then British Guiana recorded several minor methane occurrences. In 1926, a well drilled at Plantation Bath was able to provide enough gas to be used at the local sugar factory. In that same year, the first true oil exploration borehole was drilled near the Waini Estuary to investigate oil seeps occurring nearby.

Guyana is divided into two petroleum basins. The first is called the Guyana Basin which comprises both onshore and offshore blocks. The second is the Tabutu Basin, which can be presented as follows⁷⁵:

- (h) Onshore Basin⁷⁶: Since 1916, thirteen (13) wells have been drilled in this part of the Basin. The Eastern part of the basin has the thicker sediments reaching at a depth of nearly 2,500m. The gas found on the coast is almost all biogenic, with a very small area generating thermogenic gas. NABI Oil and Gas Inc. and ON ENERGY Inc. have concessions within this part of the Basin;
- (i) Offshore Basin⁷⁷: Repsol, Anadarko, Esso/Hess/Nexen, Mid-Atlantic Oil and Gas Inc. Ratio Energy/Guyana Ltd and CGX TResources Inc. have petroleum concessions in this part of the basin;
- (j) Takutu Basin⁷⁸: situated in the south west of Guyana where a well was drilled in 1982 by "Home Oil Company". A small amount of light crude oil has been accumulated in the South Western part of Guyana. Tests conducted on samples from Karanambo-1 found that the oil is of good quality (420API), that is, it contains less than 0.5% hydrogen sulphide. However, its geological characteristics are mainly naturally fractured reservoirs, making it more difficult to find commercially recoverable quantities of petroleum as opposed to regular reservoirs. The other wells drilled in the Takutu are Lethem-1 (1980), Turantsink-1 (1992) and Apoteri K2 well (2011)

The main exploration activities in the Oil and Gas sector in Guyana are being carried out by the following operators:

- (k) Repsol, who holds an offshore block, has recently concluded seismic surveys and commenced drilling in 2019;
- (l) Tullow has concluded seismic studies recently; and

⁷⁵ source: Guyana Geology and Mines Commission

⁷⁶ <http://www.ggmc.gov.gyservices/all/petroleum>

⁷⁷ <http://www.ggmc.gov.gyservices/all/petroleum>

⁷⁸ <https://www.ggmc.gov.gy/services/all/petroleum>

(m) Exxon Mobil, who holds the largest block – the Stabroek Block - which is located in the offshore Basin of Guyana.

In 2015 ExxonMobil announced a significant oil discovery offshore Guyana from its Liza-1 well which encountered more than 295ft of high-quality oil-bearing sandstone reservoirs. This well was drilled with two other partners, Hess Guyana Exploration Limited and CNOOC Nexen Petroleum Guyana Limited. As a result, the significant find “de-risked” the Stabroek Block and by extension, the basin. Subsequent finds - Paraya, Liza deep, Snoek, Turbot, Ranger and Pacora (by early 2018)⁷⁹ - once again reignited interest in Guyana’s potential petroleum industry and further lend to the “de-risking” of the basin.⁸⁰

With the discovery of significant quantities of petroleum, Guyana was poised and later became an oil producing country. Naturally, this prompted the government to recognize the need for greater transparency and accountability in governance of the extractive sector. As such, a commitment was made by the government to implement the Extractive Industries Transparency Initiative (EITI) which is a Global Standard for transparency and Accountability in the Extractive Sector.

The journey for the implementation of EITI began on 4 May 2010 where the Government of Guyana expressed Guyana’s commitment to implement EITI. On the 15 May 2012, the government signed a Memorandum of Understanding (MOU) with the extractive Industries Transparency Initiative (EITI). The commitment to implement EITI was reinforced on 22 December 2015 when the Government publicly announced its intention to continue Guyana’s commitment to EITI implementation. In February 2017, the GYEITI MSG was officially launched which comprises twelve (12) members with four (4) representative each from civil society, government and industry. In August 2017 Guyana completed all the sign-up requirements and submitted its application to the EITI International Secretariat and on the 25 October 2017, Guyana attained recognition as an EITI Candidate Country. This paved the way for the commencement of EITI implementation. As per EITI Standard 2019, the country must submit its 1st EITI Reconciliation Report within eighteen (18) months of acceptance of its candidature application by the EITI International Board. In April 2019 Guyana submitted its 1st EITI Report in compliance to the EITI Standard and will be validated on 1 June 2021. The validation will assess Guyana’s progress in complying with each of the EITI requirements.

Given Guyana’s emerging oil wealth, the report will:

- (i) identify and prioritize the most prevalent threats;
- (ii) assess the effectiveness of system and measures in place to mitigate those threats;

⁷⁹ <https://corporate.exxonmobil.com/en/company/worldwide-operations/locations/guyana#about>

⁸⁰ Guyana’s Oil Odyssey 1750-2019 A Concise Illustrated History of Oil Exploration in Guyana

- (iii) identify and prioritize the vulnerabilities that can enable the threats; and
- (iv) provide recommendations for consideration.

This will be done through the gathering of information from the primary legislation that governs the oil and gas sector (the Petroleum (Exploration and Production) Act Cap 65:04 and Regulations made under the Act), the sector's regulatory agency, the EITI Standard 2019, The EITI 1ST Report for fiscal year 2017 and accredited publications and relevant reports.

Legal Framework of the Oil and Gas Sector

Adequacy of the Legal Framework

Guyana's existing legislative framework for the oil and gas sector includes:

- (n) The Petroleum Act, Cap 92:01 (1930), which works to regulate the importation, sale and storage of petroleum;
- (o) The Petroleum (Exploration and Production) Act, Cap 65:04 (1986), which deals with the regulation for prospecting and production of petroleum and licensing (PPL);
- (p) The Petroleum (Production) Act, Cap 65:05 (1939), which vests in the state the property in petroleum and natural gas within Guyana;
- (q) The Petroleum Regulations (1930), the Petroleum (Exploration and Production) Regulations (1986); and
- (r) The Petroleum (Prospecting and Winning) Regulations (1967).

Ancillary legislation for the sector comprises of legislation relating to revenue, tax and customs; environmental protection; maritime administration and occupational safety and health (OSH).⁸¹

The WG found that the most recent piece of legislation for the sector is the Natural Resource Fund Act, No. 12 of 2019 which establishes a fund to manage Guyana's natural resource wealth. There is also the Petroleum Commission Bill of 2017 that was tabled in the National Assembly but is currently being revised by the government. The Petroleum Commission Bill will make provision for the establishment of a Petroleum Commission to serve as a regulatory agency for Guyana's oil and gas industry and related matters. This new regulatory agency will see the responsibility moved from the Guyana Geology and Mines Commission (GGMC). The Government of Guyana, acknowledging that it is important for the sector to be insulated from political interference, has undertaken to table the Bill during 13th Parliament.⁸²

⁸¹ Guyana Chronicle – July 18, 2019 – 'Government working on sustainable legal framework for oil sector'

⁸² Stabroek News, August 6, 2020 – "Natural Resources minister says Petroleum Commission Bill a priority – adds sector must be insulated from political interference"

The primary legislation governing the oil and gas industry in Guyana is the antiquated Petroleum (Exploration and Production) Act, Cap 65:04. It applies to the exploration, exploitation, conservation and management of petroleum existing in its natural condition in land in Guyana, including the territorial sea, continental shelf and exclusive economic zone of Guyana.

A determination of the adequacy of the legal framework was based on newspaper articles and responses provided by GGMC to the WG. The following are the findings of the WG in relation to the method of awarding prospecting and production licences; disclosure of beneficial ownership information; licence prohibition; restriction on the grant of licence; granting of prospecting/production licence; approval of work programme and budget for oil companies; financial background check; verification of oil produced; and disciplinary measures against officers involved in the collusion/corruption.

Oil and Gas Sector Value Chain:

The petroleum value chain is characterised by three distinct categories (upstream, midstream and downstream sectors). Collectively, these categories capture the entire process of searching for and extracting the coveted “black gold” and transforming it into the different permutations for use by mankind (e.g. gasoline, kerosene, benzene etc). Each of the distinct categories will be explored in turn.

Upstream Sector

The upstream sector is principally concerned with locating the resource, estimating its commercial potentialities and, depending on the estimation, extracting or producing the resource. This typically entails:

1. Exploration

In the context of Guyana Petroleum (Exploration and Production) Act Cap 65:04 exploration refers to activities and operations carried out for the purpose of discovering petroleum and includes geological, geophysical, geochemical surveys, exploration drilling and appraisal drilling. It also includes the undertaking of research and analysis of potential surface locations.

2. Extraction or production

Production is not defined within Cap 65:04 though ‘production operations’ is defined as the operations carried out for, or in connection with, the production of petroleum. Be that as it may, it is the process through which hydrocarbons are drained from an oil or gas field after successful exploration and development.⁸³ In other words, it refers to the volume of petroleum produced or extracted, typically over a

⁸³ <https://www.glossary.oilfield.slb.com/en/terms/p/production>

specified time period (e.g. a daily basis. Reference is made to the Liza 1 well recently peaking production capacity of 120,000 barrels per day)⁸⁴

3. Decommissioning or abandonment

Decommissioning or abandonment refers to the approved process of cessation of operations of oil and gas wells, installations and structures, including shutting down operations and productions; the total or partial removal of installations and structures where applicable; handling, removing and disposing of debris and removed items; and environmental monitoring of the licence area after removal of installations and structures. Put differently, it is end of the upstream lifecycle usually where the productive life of the field has been exhausted.

Midstream sector

The midstream sector is the second phase of the oil and gas value chain. Assuming that commercial quantities of petroleum have been found, this phase is engaged from the moment the resources reaches the delivery point prescribed by the parties. This process involves:

Transport

Depending on the location of installation (whether onshore or offshore) and the form of the resource (oil or gas), it would inform the way in which the resource is transported from the installation. Needless to say, the resource more often needs to be transported to another facility for processing and this is either facilitated by pipelines, ships (ultra large crude carriers ‘ULCCs’ or very large crude carriers ‘VLCCs’) or tankers.

Storage

As the word storage connotes, this phase within the midstream sector usually refers to, e.g., marine terminals providing storage capacity, distribution, blending and inventory management services for the downstream sector.

Downstream Sector

Downstream is the last phase of the value chain and generally captures the refining, processing and marketing of petroleum and petroleum products. As mentioned above, petroleum can be converted into different permutations (gasoline, kerosene, benzene) depending on the wider sectoral needs of the global economy. Therefore, the downstream sector is integral in ensuring that the energy needs of the various sectors are satisfied through the processes that characterize this phase of the value chain

⁸⁴ <https://jpt.spe.org/exxonmobil-reaches-peak-production-target-from-first-fpso-in-guyana>

Refining

Refining consist of processing petroleum into its various components and then selectively reconfiguring it into its various by-products.

Marketing

As the name suggest, it is the process of promoting and selling the by-products of petroleum. Marketing firms are more attuned to the petroleum market conditions and endeavours to configure supply with demand. Depending on where the demand is, this process might necessarily entail transnational exportation. Altogether, the petroleum value chain is sophisticated with some firms being fully integrated (i.e., they operate in all phases of the value chain) or firms concentrating their efforts on one particular phase of the value chain. Be that as it may, Guyana's petroleum industry is in its nescient stage and, depending on the national and strategic objectives, the individual or collective development these phases will be activated. Currently, and notwithstanding there is need for revision, the regulatory framework is calibrated along the upstream sector. Given that the gas to shore project has assumed a central role on the national agenda, devising the appropriate regulatory disposition for the midstream and downstream sectors will actively have to be engaged in short order.

Money Laundering Vulnerabilities

While the sector may be vulnerable and susceptible to several threats, the implementation of the EITI standard serves to mitigate and cushion these effects. As an EITI implementing country, Guyana is mandated to adhere to all of the EITI Requirements in order to be EITI compliant. Thus, as per requirement 2, pertinent contextual information on the Legal and Institutional framework including the allocation of contracts and licences were required to be disclosed in Guyana 1ST EITI Report. This information consists of the legal framework and fiscal regime, contract and licence allocations, register of licenses, contracts, beneficial ownership and state participation.

In the EITI Report, disclosure of information on the legal and fiscal regime provides an understanding of the existing system and allow for corrective measures to be made to strengthen Guyana's existing legal and fiscal regime. Hence, the recommendation was made by the independent administrator for legislative reform in the Oil and Gas sector. Further, requirement 3 of the standard requires the disclosure of information related to exploration and production so as to enable stakeholders to understand the potential of the sector. Requirement 4 requires comprehensive disclosure of company payments and government revenues from the extractive industries.

The disclosure of these payments and revenues include a comprehensive disclosure of taxes and revenues, sale of the state's share of production or other revenues collected in kind, infrastructure provisions and

barter arrangements, transportation revenues, transactions related to state owned enterprises, subnational payments, level of disaggregation, data timeliness and data quality and assurance. Though the disclosure of these information are pertinent, the EITI Report found that in some instances the information requested from the government agencies were not readily available in the format request or available at all and in other instances, information could not be disclosed because of confidentiality restrictions. However, the EITI processes have exposed some of the weaknesses in the existing system and recommendations were made by the Independent Administrator for corrective actions to be made to strengthen the governance system of the extractive sector. On July 1, 2021 Guyana will be validated to determine progress made since EITI implementation and as such the government has been taking active steps to implement the recommendations made by the Independent administrator.

Method of award

In terms of the method of award of prospecting and production licences, the WG was informed that suitable applications⁸⁵ are the basis upon which negotiations can commence and that each application is looked at, to the exclusion of succeeding applications. The first company from which an application is received, and which is acceptable by the Minister, is then invited to negotiate a petroleum agreement. No other application is accepted from the time negotiations commence and is completed.

According to **section 20(2)** of the Petroleum Act, the Minister responsible for petroleum (the Minister) may by public notice in the *gazette* invite applications for the grant of petroleum prospecting licence. Additionally, according to **section 10** of the Act the Minister may enter into an agreement with any person with respect to the granting of a licence and the conditions to be included in the licence as granted or renewed.

The WG believes that this method of granting licences seems to give the Minister much discretionary powers and the process of competitive bidding does not appear to be mandatory. Notwithstanding, as an EITI implementing country Guyana is obligated under the EITI Standard to adhere to the EITI requirements. Requirement 2 of the EITI Standard mandates the disclosure of information on the legal and institutional framework, including allocation of contracts and licences. This EITI Requirement relates to a transparent legal framework and fiscal regime. Now that Guyana has subscribed to a global standard that deals with transparency and accountability within the extractive sector there will be an absolute need for legislative reform that caters for a transparent process and disclosure of information regarding the award of licences in compliance with the EITI Standard. The WG noted the recommendation made by the Independent Administrator in Guyana's 1st EITI Report for there to be legislative Reform in the Oil and

⁸⁵ Suitable applications are those with acceptable bonafides and proposals acceptable to the Government

Gas Sector. The WG is also aware of Guyana's obligations to disclose any contracts and licences that are granted, entered into or amended from 1 January 2021. It is against this backdrop that the WG recommends that consideration be given for urgent legislative reform that obligates officials to ensure that information is publicly disclosed per EITI Requirement.

Disclosure of beneficial owners

According to the GGMC, one of the primary criteria utilized for the award of prospecting and production licences is, “*Good Reputation (legal, etc.); good legal standings; follows the Anti-Money Laundering protocols.*”

In keeping with **regulations 13(2)(a)** and **15(1)(a)** made under the Act, an applicant for a prospecting and production licence must provide his full name, address and nationality. In the case of a body corporate, its name, address of its registered or principal office, and place of incorporation, the names, addresses and nationality of the directors or equivalent officers, and if the body corporate has a share capital, the name of any person who is the beneficial owner of more than 5% of the issued share capital of the body corporate. **Form E** of the Regulation also requires the same information to be provided in a situation where there may be an assignment or transfer wholly or in part of any interest in a licence which was granted.

Further to the provision under the regulation 13(2)(a) Guyana is under an obligation as an EITI implementing country to request and companies publicly disclose beneficial ownership information. It is therefore important to strengthen the legal framework in key areas and to ensure that information on beneficial owners are publicly accessible in registries of the corporate entities that apply for or hold a participating interest in an exploration or production oil, gas or mining license or contract, including the identities of their beneficial owners, the level of ownership and details about how ownership or control is exerted.

Thus, the Multi Stakeholder Group of GYEITI has implemented its beneficial ownership roadmap in July 2018 and has identified six (6) objectives with planned activities that will ensure that Guyana achieve the objectives to satisfy requirement 2.5 of the EITI Standard 2019. For all EITI implementing countries, validation on beneficial ownership will be two-phased: Initial criteria on January 1, 2020 to December 31, 2021 and the full criteria on January 1, 2022 onwards. It is against this backdrop that the WG recommends that the implementation of the beneficial ownership register is given the required attention it requires so that information on beneficial owners can be made public.

Prohibition against holding licence

GGMC indicated that background checks are carried out via the internet and intelligence gathering on persons and companies involved in the application process. While there is no express provision prohibiting a “politically exposed person” from holding a licence, **section 5** of the Act states that no *relevant person*⁸⁶ shall, in his personal capacity, and in his name, or in the name of any *family member*⁸⁷, acquire, hold or attempt to hold a licence or an interest in a licence, or a share in a body corporate which is entitled under the Act to carry on prospecting or production operations for petroleum in Guyana.

Section 5(3) indicated that any person who contravenes section 5(2) shall, on summary conviction, be liable to a fine of thirty thousand dollars, imprisonment for one year, and the forfeiture of the licence, interest in a licence or share in a body corporate where such was issued. Even though there is no provision prohibiting politically exposed persons (PEP) from holding a licence it is a requirement of EITI that a PEP be identified. Requirement 2 recommends that the PEP national identity number, date of birth, residential or service address and means of contact are disclosed. Through the implementation of its Beneficial Ownership Roadmap the Multi Stakeholder Group of the Guyana Extractive Industries Transparency Initiative is working to ensure that the Register on Beneficial Ownership is published in 2021. It is a recommendation by the IA that there be a public disclosure of Register of Licences. With the implementation of this recommendation and per the requirement 2 there would be greater transparency and accountability within the extractive sector.

Restriction on who may be granted a licence

In terms of restriction to the grant of licence, **section 9** of the Act prohibits the issuance of a licence to an individual, unless that person is a citizen of Guyana; and to a body or persons, unless it is a company or corporation.

There seems not to be any restriction by the Act against persons or corporate entities which may be convicted of criminal offences, especially those offences which are related to ML/TF. Also, there is no provision in the Act for the disclosure of such convictions if conviction occurs after a licence was issued. However, GGMC indicated that there is a compliance regulatory programme which is overseen by two of its officers.

⁸⁶ An officer of the Government or a member or employee of Guyana Geology and Mines Commission.

⁸⁷ The husband or wife, or reputed husband or wife, and the son or daughter (in either case being a minor) whether born in or outside of wedlock, of the relevant person.

Granting of a Prospecting Licence

Any person may, pursuant to the provisions of the Petroleum (Production and Exploration) Act (1986) and Petroleum (Exploration and Production Regulations), apply for a petroleum prospecting licence in respect of any block or blocks.

The Minister has discretionary power under the Act to grant or refuse the licence in respect of any block or blocks. The information required for the application is detailed in Article 13 of the Regulations made under Petroleum (Exploitation and Production) Act (1986). The following are the main procedures to be followed when an application for petroleum prospecting licence is made:

- (s) applications are made to the Minister of Natural Resources in a form set out in the Regulations;
- (t) the application form must be supported by a proposal on the economic terms governing the applicant's exploration, production activities, employment and training of citizens of Guyana; and
- (u) the applications should specify the prospecting area to be covered by the prospecting licence applied for, the minimum work programme and expenditure obligations in respect of the licence area shall be negotiable, and the applicant will be required to submit a technical proposal in respect thereof.

The first company that applies for a specific block and of which application is acceptable by the Minister is invited to negotiate a petroleum agreement. No other application can be accepted until negotiations of a Petroleum Agreement are completed. The Minister of Natural Resources then issues the licence and signs the petroleum agreement or may designate another government officer to do so on his behalf.

Production Licence

For the grant of a prospecting/production licence, this is at the discretion of the Minister in accordance with *sections 21(1) and 35* of the Act.

For the Petroleum Production Licence, in the event of a discovery, the holder may apply for a twenty-year PPL, renewable for a further ten years. In order to obtain a petroleum production licence, the applicant must:

- (v) be a holder of a valid Petroleum Prospecting Licence unless otherwise permitted by the Minister of Natural Resources;
- (w) submit an application for a Petroleum Production Licence to the Minister of Natural Resources within two years of the declaration of a discovery or within such other time frame as stipulated by the Minister; and;

(x) include detailed proposals for the construction, setting up and operation of all facilities and services for and incidental to the recovery, processing, storage and transportation of petroleum from a production area (and such other matters as are required by applicable regulations). The list of information required in the application is detailed in Article 15 of the Regulations made under Petroleum (Exploitation and Production) Act (1986).

Approval of Work Programmes and Budgets

In relation to approval of work programmes and budget, GGMC indicated that oil companies' annual work programmes and budgets are presented at the annual technical/business meeting between the companies and the GoG and approval is granted after the GoG is satisfied that the work programme meets the obligation as cited in the Production Sharing Agreement (PSA).

In keeping with **section 30 (1)(b)**, where the discovery is of potential commercial interest the Contractor shall submit for consideration by the Minister its proposal for an Appraisal Programme. Further, where an application has been made to the Minister for a production licence such application which is made to the Minister shall be accompanied by the proposal required under **section 34** (a Development Plan) and shall satisfy the provisions of **section 36** of the Act as well as the Regulations.

It does appear that numerous persons are involved in this process as matters such as technical, financial, industrial and managerial competencies of the companies are examined as well as the training for Guyanese and opportunities for Guyanese businesses.

In addition to fulfilling the provisions stipulated by the Act and Regulations, EITI requires public disclosure of these and other information about the governance and management of the sector allowing stakeholders to understand the potential of the sector. This additional layer of oversight by the tripartite body of the GYEITI Multi Stakeholder Group and disclosure and publication of the information in the EITI Reports allow for greater transparency and accountability within the sector. Further Requirement 5 requires disclosure of information related to revenue allocations, enabling stakeholders to understand how revenues are recorded in the national and where applicable subnational budgets as well as track social expenditures by companies. The aforesaid form of public disclosure and oversight by the multi stakeholder group which comprise civil society, industry and government allow for transparency and accountability in the governance and management of the sector and will serve to mitigate corruption or ineffective regulatory governance of the sector and improve and rectify weaknesses in the system.

Financial Background Check

GGMC indicated that in addition to requesting companies to submit their annual financial records, work programmes and budget, a complete check of the companies' financial portfolios is done via the internet and inquiry from reputable persons who may be familiar with the company.

In keeping with regulations **13(2)(d)** and **15(1)(b)** of the regulation made under the Act, an application for a prospecting or production licence shall be accompanied by information on the applicant's financial status. However, there is no mention in the Act as to what steps would be taken if the applicant's financial status is found to be insufficient or questionable.

Verification of Oil Produced

GGMC indicated that the lifting of crude is governed by the Crude Lifting Agreement which was signed between the Government of Guyana and Esso Exploration and Production Guyana Limited (EEPGL) in 2019. At the custody transfer point where the transfer of crude oil from the Floating Production Storage and Offloading (FPSO) to the tankers occurs, Guyana National Bureau of Statistics (GNBS) and the Guyana Revenue Authority (GRA) officials are there to ensure that the measurement of crude oil is accurate. The GRA officials document those results.

While **section 61** of the Act provides for an Inspector to enter any area and inspect samples of petroleum, water or other matter; the Act nor the Regulations thereunder does not provide for the verifying of the quantities of crude oil produced. However, as per the production licence, the Minister maintains the rights to attend or have a representative attend on his behalf the measurements of volume, quality and composition of all petroleum won and saved from the area subject to the licence.

Disciplinary Measures Against Officers involved in Collusion/Corruption

Other than **section 5(3)** of the Act, as indicated above, there appears to be no other provision in the Act for the disciplining of officers for collusion or corrupt behaviour. However, staff could be subjected to the provisions under the GGMC Act Cap. 66:02, GGMC's Employee Code of Conduct, and the Criminal Law Offences Act Cap. 8:01.

Effectiveness of the oil and gas regulatory regime in Guyana

As indicated above, the Act and the Regulations which are the main pieces of legislation governing the oil and gas sector need updating to effectively cater to this new and evolving sector.

Transparency and Objectivity in the awards of licences and contract

As also stated above, the primary legislation that governs the sector appears to allow the minister with responsibility for the sector to have wide powers and discretion. This fragile legal framework provides the opportunity for corruption and bribery (money laundering predicate offences) to occur in the oil and gas

sector. These opportunities, however, are not as wide ranging as in the other natural resources and extractive sectors. There is very little institutional expertise and experience available to regulate, monitor and supervise the International Oil and Gas Companies (“IOC”) that are operating in Guyana.

The WG examined the licensing operations of the regulatory agency in the oil and gas sector to determine if there are any gaps or loopholes that could lead to corruption or bribery of public officials, illicit financial arrangements and/or fraudulent acquisition of licences.

Findings in relation to gaps and loopholes

In relation to measures in place pertaining to the award of production licence, the GGMC currently has a defined procedure for issuing licences. This procedure requires an application, which includes several critical documents, as specified in the legislation, such as economic terms, technical details and financial details, to be made to the Minister. As previously stated, once the Minister accepts the application, no other application will be accepted until negotiations are completed.

Apart from the application process defined in the legislation, GGMC also follows specific requirements for awarding production licences which includes examining the applicant’s financial and technical capabilities, reputation, local content, and other areas relating to the applicant that would benefit the country. EITI is intended to strengthen the governance practice of the extractive sector. GGMC as a reporting government agency is required per EITI Standard to disclose on how the extractive sector is managed enabling stakeholders to understand the laws and procedures for the award of exploration and production rights, the legal, regulatory and contractual frameworks that apply to the extractive sector and the institutional responsibility of the State in managing the sector. This requirement acts as a safety net to curb possible corrupt practises by officials within the extractive sector. While Guyana is still to be validated by the EITI International Secretariat, the government has been working to ensure that the recommendations made by the Independent Administrator are implemented. Already several legislation are in draft form that will strengthen the governance of the extractive industries.

According to the GGMC, a *moratorium*⁸⁸ was placed on the awarding of prospecting licences in 2017 and it is difficult to state what can be implemented to improve the process. However, it was felt that a better objective method of analysing application should occur. It was also stated that the current Petroleum Act and Regulations contains some loopholes that companies can exploit, such as the laws relating to *ring-fencing*⁸⁹.

⁸⁸ A stopping of an activity for an agreed amount of time. – Cambridge Dictionary

⁸⁹ A virtual barrier that segregates a portion of an individual's or company's financial assets from the rest. This may be done to reserve money for a specific purpose, to reduce taxes on the individual or company, or to protect the assets from losses incurred by riskier operations. - Investopedia

In relation to oil quantities and revenue collection, the crude lift agreement between the GoG and Esso Exploration and Production Guyana Limited provides details on the crude oil amount for each partner. Officers from the Guyana National Bureau of Standards and the Guyana Revenue Authority are present when crude oil is transferred from the FPSO to the tankers. The amount is measured, and the officials document the information with an official report being provided to stakeholders by the Guyana Revenue Authority officials. Also, reports submitted are cross-checked with the figures present in the EEPGL/DoE/GRA reports as well as the individual reports from the field officers.

As it relates to other fees and revenues received by the GGMC, all funds are collected by a designated local bank and are sanitized for ML/TF anomalies. Once a transaction is complete the bank notifies GGMC and this is verified by the agency's petroleum division. Also, financial audits are conducted where all financial transactions are audited under the AMLCFT protocol.

In relation to disciplinary actions against officers, GGMC stated that there has been no instance of disciplinary action for corruption or collusion practices against any officer within the Petroleum Division. However, measures to deal with such actions are outlined in various legislation as well as the GGMC's code of conduct.

Findings in relation to licencing, regulation and enforcement, and measurement of oil and gas

In relation to licencing, the working group found that though the necessary systems are not yet in place for transparency in the licensing process EITI for which Guyana is an implementing country mandates that implementing countries disclose information related to all contract and license awards and transfers taking place during the accounting period covered by the most recent EITI disclosures. There has been some level of disclosure in the 1st EITI Report and with the 2nd Report on its way there is anticipation that a greater degree of disclosure regarding licencing will be made. There is already preparation for a Licence Register based on the recommendation made by the Independent Administrator in the 1st EITI Report. The EITI Report is a public document and it is intended to stimulate public debates regarding the management of the extractive sector.

In terms of regulation and enforcement, the WG noted the fragmented regulating bodies – GGMC, DoE, MNR, GRA, GNBS; the perception of corruption (corruption index/ranking); IOC strong arming and bullying regulators e.g. EPA fines, dumping of produced water, flaring and venting of Natural Gas.

As it relates to the measurement of oil and gas, the WG considered the competence and experience of GRA and GNBS officers, the ability to independently test quality of hydrocarbons, and the dependence on the IOC to provide information, transportation, accommodation etc.

The WG rated the risk in the oil and gas sector in the following table:

Table 22 – Risk in the oil and gas sector

Threat/Vulnerability	Likelihood	Impact	Overall Rating	Remarks
Collusion/Bias in the award of prospecting and production licences	Low	High	Medium-High	This method of granting licences seems to give the Minister much discretionary powers and the process of Competitive Bidding does not appear to be mandatory.
Individuals involved in ML/FT are beneficial owners of IOC's	Low	Low	Low	Legislation requires that this information be disclosed so that the necessary background checks can be made.
Corruption at the point of verification of oil quantities	Low	Medium	Medium	Multiple verification measures and provisions in place to adjust oil quantities should one partner receive more or less for a particular shipment
Conflict of interest by politically exposed persons	Low	High	Medium-High	Section 5 of the Act states that no relevant person shall, in his personal capacity or any member of his family acquire, hold or attempt to hold a licence or interest in a licence or a share in a body corporate which is entitled under the Act to carry on prospecting or production operations
Corruption at the point of fees/revenue collection	Low	Low	Low	No officer involved in the revenue collection process; payments done directly to bank account. Also, multiple verification steps are in place
Corruption at the point of reports submitted by officers	Low	Low	Low	Multiple verification channels for reports. Verification done prior to information being used in decision making prevents critical errors
Fragmented regulating bodies – GGMC, MNR, GRA, GNBS	Medium	Medium	Medium	Some of the regulating bodies operate in isolation which can lead to delays in sharing critical information that could impact decision making.
IOC strong arming and bullying regulators	Medium	High	High	The issues relating to the payment of EPA fines, dumping of produced water, flaring and venting of Natural Gas are current examples of this vulnerability in the sector.

Competence and experience of GRA and GNBS officers	Medium	Medium	Medium	Given the inexperience in the sector, it is possible that mistakes can be made by the GRA and GNBS officials while recording/verifying oil quantities. However, quantities are verified against the reports from multiple stakeholders
Dependence on the IOC to provide information, transportation, accommodation etc.	High	High	High	Lack of resources/skills to perform critical functions in the sector can lead to high dependency on the IOC.
Overall Rating			Medium	

Conclusion

Although Guyana’s oil and gas industry is relatively new, as seen from the above, the legislative and regulatory frameworks currently in place are outdated. There are obvious regulatory gaps in the legislative system as some of the legislation for the sector dates back up to thirty (30) years. Efforts towards putting the requisite laws in place to cater for its emerging oil and gas industry, must be accelerated. This will ensure compliance with international standards, the protection of the country’s natural resources, and deterrence of corruption or bribery by public official in the sector.

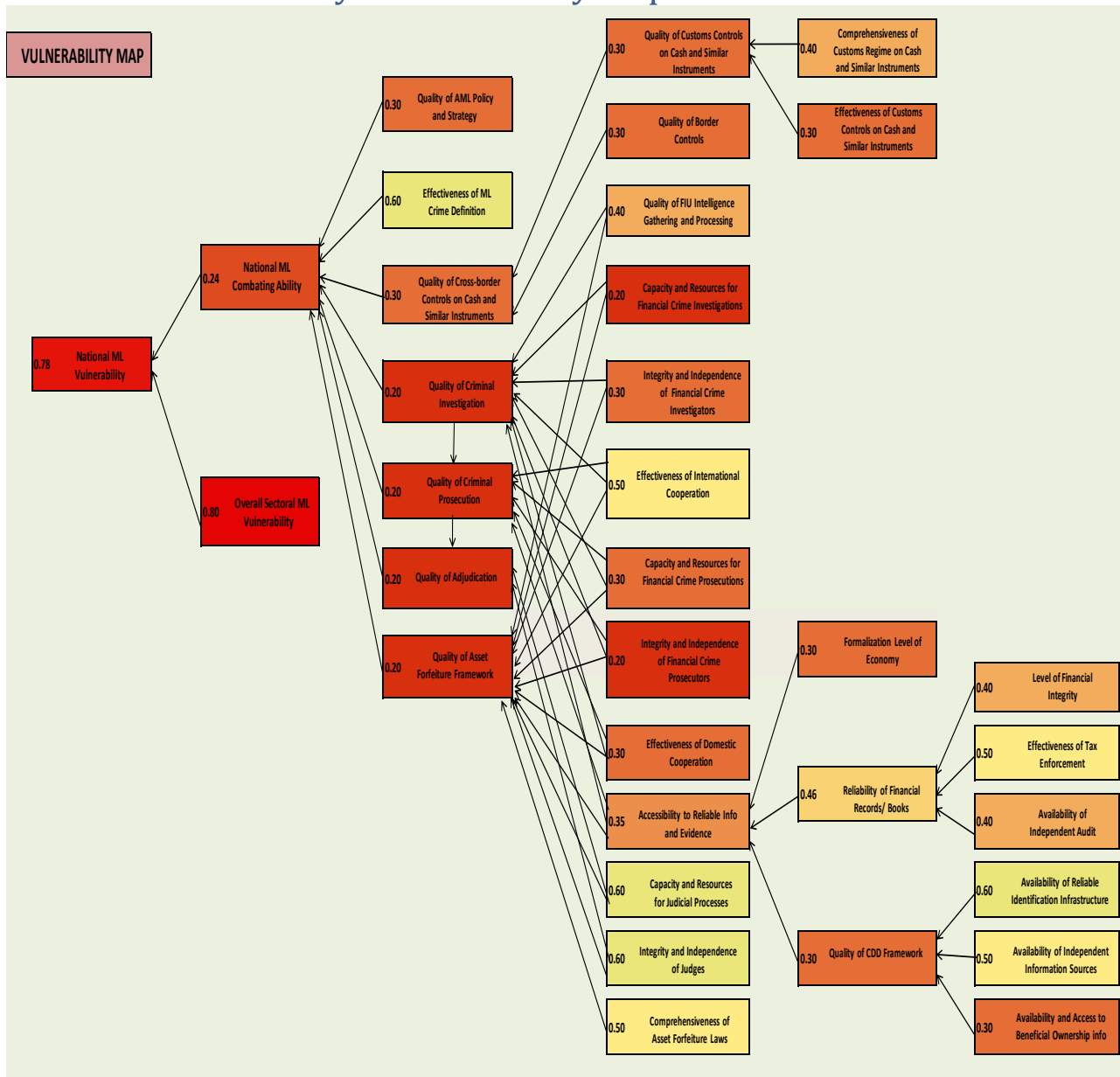
ANNEXES

Annex I- Agency Representation on NRA Working Group (Teams)

No.	Agencies to be represented	No. of Reprs	Representation on Teams	
1.	Bank of Guyana	8	2	Banking Sector Team
			2	Insurance Sector Team
			2	Other FIs (MTAs/Cambios/Credit Unions) Team
			2	Financial Inclusion Team
2	Director of Public Prosecution	2	1	Threat Assessment Team
			1	National Vulnerability Team
3.	Financial Intelligence Unit	8	1	On all 8 teams
4.	Guyana Police Force	2	1	Threat Assessment Team
			1	National Vulnerability Team
5.	State Assets Recovery Agency	3	1	Threat Assessment Team
			2	National Vulnerability Team
6.	Customs Anti-Narcotics Unit	2	1	Threat Assessment Team
			1	National Vulnerability Team
			1	National Vulnerability Team
7.	Guyana Revenue Authority	3	1	Threat Assessment Team
			1	National Vulnerability Team
			1	DNFBP Team
8.	Attorney General's Chambers	3	1	Threat Assessment Team
			2	National Vulnerability Team
9.	Ministry of Finance	1	1	National Vulnerability Team
10.	Ministry of Public Security	1	1	Threat Assessment Team
11.	Ministry of Natural Resources	2	2	Threat Assessment Team
12.	Department of Energy	2	2	National Vulnerability Team
13.	Republic Bank Ltd.	1	1	Banking Sector Team
14.	Scotiabank	1	1	Banking Sector Team
15.	Guyana Bank for Trade & Industry	1	1	Banking Sector Team
16.	Demerara Bank	1	1	Banking Sector Team
17.	Citizens Bank Inc.	1	1	Banking Sector Team
18.	Bank of Baroda	1	1	Banking Sector Team
19.	New Building Society	1	1	Banking Sector Team
20.	Hand-en-Hand Trust Corporation	1	1	Banking Sector Team
21.	Guyana Securities Council	2	2	Securities Sector Team
22.	Guyana Association of Securities Cos. & Intermediaries Inc.	1	1	Securities Sector Team
23.	Trust Company Guyana	1	1	Securities Sector Team
24.	Hand-in-Hand Mutual Life Assurance Co. Ltd.	1	1	Insurance Sector Team
25.	Guyana and Trinidad Mutual Life Insurance Co. Ltd.	1	1	Insurance Sector Team
26.	P&P. Insurance Brokers & Consultants Ltd.	1	1	Insurance Sector Team
27.	Abdool & Abdool Inc. Insurance Brokers and Financial Consultants	1	1	Insurance Sector Team
28.	Chief Cooperative Development Office	2	1	Other FIs (MTAs/Cambios/Credit Unions) Team
			1	DNFBP Team

29.	Credit Union League	1	1	Other FIs (MTAs/Cambios/Credit Unions) Team
30.	GraceKennedy Remittance Services (Guyana) Ltd.	1	1	Other FIs (MTAs/Cambios/Credit Unions) Team
31.	Massy Services (Guyana) Ltd.	1	1	Other FIs (MTAs/Cambios/Credit Unions) Team
32.	R. Sarjoo Cambio	1	1	Other FIs (MTAs/Cambios/Credit Unions) Team
33.	Guyana Public Service Credit Union	1	1	Other FIs (MTAs/Cambios/Credit Unions) Team
34.	Guyana Geology and Mines Commission	1	1	DNFBP Team
35.	Guyana Gold Board	1	1	DNFBP Team
36.	Gaming Authority	1	1	DNFBP Team
37.	Commercial Registry	1	1	Threat Assessment Team
38.	Deeds Registry	1		DNFBP Team
38.	Mobile Money Guyana	1	1	Financial Inclusion Team
40.	Guyana Police Force Credit Union	1	1	Other FIs (MTAs/Cambios/Credit Unions) Team

Annex II -The country’s vulnerability map



The assessment results in Vulnerability Map above show that the *National ML Vulnerability* of the country is “Medium High”. This is due to the Medium High *Overall Sectoral ML Vulnerability* and Medium Low *National ML Combating Ability*.

The problem area is a weak national ML combating ability which is as a result of poor *Quality of Criminal Investigations, Prosecutions, Adjudication, Asset forfeiture frameworks, AML Policy and Strategy and Quality of cross-border controls on cash and similar instruments*.

Annex III -Priority Ranking - input variables for National ML Combating Ability

The table below illustrates the “input variables” in order of their priority ranking. The variable with the highest priority is “*Quality of AML Policy and Strategy*”, followed by “*Capacity and Resources for Financial Crime Investigations*” etc.

PRIORITY RANKING FOR INPUT VARIABLES/NATIONAL ML COMBATING ABILITY FACTORS	PRIORITY RANKING**
Quality of AML Policy and Strategy	1
Effectiveness of ML Crime Definition	6
Comprehensiveness of Asset Forfeiture Laws	11
Quality of FIU Intelligence Gathering and Processing	10
Capacity and Resources for Financial Crime Investigations (incl. AF)	2
Integrity and Independence of Financial Crime Investigators (incl. AF)	3
Capacity and Resources for Financial Crime Prosecutions (incl. AF)	5
Integrity and Independence of Financial Crime Prosecutors (incl. AF)	4
Capacity and Resources for Judicial Processes (incl. AF)	14
Integrity and Independence of Judges (incl. AF)	14
Quality of Border Controls	18
Comprehensiveness of Customs Regime on Cash and Similar Instruments	21
Effectiveness of Customs Controls on Cash and Similar Instruments	11
Effectiveness of Domestic Cooperation	9
Effectiveness of International Cooperation	13
Formalization Level of Economy	7
Level of Financial Integrity	19
Effectiveness of Tax Enforcement	16
Availability of Independent Audit	19
Availability of Reliable Identification Infrastructure	17
Availability of Independent Information Sources	22
Availability and Access to Beneficial Ownership Information	7

Annex IV -Sectoral ML Threat, Vulnerability and Risk levels

The following chart illustrates the ML threats, ML vulnerability and ML risk levels of the twenty (20) sectors that were assessed.

No.	Sectors	ML Threat Level	ML Vul. Level	ML Risk Level
1	Accountants/Auditors	Medium	Medium High	Medium High
2	Attorneys-at-law	Medium Low	Medium High	Medium
3	Banks and Building Societies	Medium Low	Medium High	Medium
4	Betting Shops	Low	Medium Low	Medium Low
5	Cambio Dealers	Low	Medium High	Medium
6	Casinos	Low	Medium Low	Medium Low
7	Cooperatives	Low	Medium Low	Medium Low
8	Credit Unions	Low	Low	Low
9	Dealers in Precious & Semi Precious Stones	Low	Medium	Medium Low
10	Dealers in Precious Metals	Medium Low	Medium High	Medium
11	Dealers in Precious Minerals/Licensed Traders	Low	High	Medium
12	Insurance	Low	Medium Low	Medium Low
13	Lotteries	Medium Low	Medium	Medium
14	Non-Financial Trust & Company Service Providers	Low	Medium High	Medium
15	Notary Public/Commissioners of Oaths to Affidavit	Low	Medium	Medium Low
16	Pawnbrokers & Money Lenders	Low	Medium Low	Medium Low
17	Real Estate Agents/Brokers/Housing Developers	Medium Low	Medium High	Medium
18	Remittances (Money Transfer Agencies)	Low	Medium High	Medium
19	Securities	Low	Medium Low	Medium Low
20	Used Car Dealers/Car Parts Dealers	Low	Medium High	Medium

Annex V -Priority Ranking -Sectors

The table below illustrates the “Sectors” in order of their priority ranking. The sector with the highest priority is “Banks and Building Society”, followed by “Dealers in Precious Minerals/Licensed Traders, Dealers in Precious Metals”, and so on. Cooperatives, Credit Unions, Insurance and Securities had no priority given the low assessed vulnerability rating.

PRIORITY RANKING AMONG SECTORS	PRIORITY RANKING**
Accountants/Auditors	4
Attorneys	4
Banks and Building Society	1
Betting Shops	15
Cambio Dealers	9
Casino	14
Cooperatives	
Credit Unions	
Dealers in Precious & Semi Precious Stones	11
Dealers in Precious Metals	3
Dealers in Precious Minerals/Licensed Traders	2
Insurance	
Lotteries	13
Non-financial Trust and Company Service Providers	4
Notary Public/Commissioners of Oaths to Affidavit	12
Pawnbrokers & Money Lenders	
Real Estate Agents/Brokers/Housing Developers	4
Remittances (Money Transfer Agencies)	8
Securities	
Used Car Dealership/Car Dealership	10

The lower the ranking and darker the colour the more priority the item has.

Annex VI- Serious/Predicate Offences

No.	Serious/Predicate Offences
1.	Participation in an organised criminal group and racketeering
2.	Terrorism, including terrorist financing
3.	Trafficking in human beings and migrant smuggling
4.	Sexual exploitation, including sexual exploitation of children
5.	Illicit trafficking in narcotic drugs and psychotropic substances
6.	Illicit arms and ammunition trafficking
7.	Corruption and bribery
8.	Fraud
9.	Counterfeiting currency
10.	Counterfeiting and piracy of products
11.	Environmental crime
12.	Murder, grievous bodily harm
13.	Kidnapping, illegal restraint and hostage-taking
14.	Robbery or theft
15.	Smuggling (including gold smuggling)
16.	Extortion
17.	Forgery
18.	Piracy
19.	Insider trading and market manipulation
20.	Tax evasion.

Annex VII – List of Abbreviations

ACCA	Association of Chartered Certified Accountants
AF	Asset Forfeiture
AG	Attorney General
AGM	Annual General Meeting
AML	Anti Money Laundering
AML/CFT	Anti-money Laundering & Countering the Financing of Terrorism
AML/CFT/PF/NCC	Anti-money Laundering, Countering the Financing of Terrorism, Proliferation Financing, National Coordination Committee
ARIN-CARIB	Asset Recovery Inter-Agency Network for the Caribbean
ATM	Automated Teller Machine
BCP	Basel Core Principles
BO	Beneficial Ownership
BoG	Bank of Guyana
CANU	Customs Anti-Narcotics Unit
Cap.	Chapter
CARICOM	Caribbean Community
CCARP	Caribbean Criminal Assets Recovery Program (UK Funded Project within the Caribbean)
CCLEC	Caribbean Customs Law Enforcement Council
CD	Central Depository
CDD	Customer Due Diligence
CDDO	Chief Cooperative Development Officer
CEO	Chief Executive Officer
CFATF	Caribbean Financial Action Task Force
CID	Criminal Investigation Department
CIPs	Credit Information Providers
CIT	Corporate Income Tax
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CJIA	Cheddi Jagan International Airport
CNOOC	China National Offshore Oil Company
CO	Compliance Officer
Commission	Guyana Wildlife Conservation and Management Commission
CPI	Corruption Perceptions Index
CPT	Corporate Property Tax
CU	Credit Union
DFCA	Dealers in Foreign Currencies (Licensing) Act
DITC	Declaration of International Transportation of Currency
DNFBPs	Designated Non-Financial Business or Professions
DoE	Department of Energy
DPP	Director of Public Prosecutions
DPP	Director of Public Prosecution
EDD	Enhance Due Diligence
EEPG	Esso Exploration and Production Guyana Limited
EITI	Extractive Industries Transparency Initiative
EPA	Environmental Protection Agency
E-SAD	Electronic -Single Administrative Document
EUR	Euro
FATCA	Foreign Accounts Tax Compliance Act
FATF	Financial Action Task Force

FEMPA	Foreign Exchange (Miscellaneous Provisions) Act 1996
FI	Financial Institution
FIU	Financial Intelligence Unit
FPSO	Floating Production Storage and Offloading (Vessel)
GA	Gaming Authority
GAAS	Generally Accepted Auditing Standards
GBP	Pound Sterling
GDF	Guyana Defence Force
GECOM	Guyana Elections Commission
GEL	Guyana Exploration Limited
GGB	Guyana Gold Board
GGDMA	Guyana Gold and Diamond Miners Association
GGMC	Guyana Geology and Mines Commission
GNBS	Guyana National Bureau of Standards
GoG	Government of Guyana
GPF	Guyana Police Force
GPO	Guyana Post Office
GRA	Guyana Revenue Authority
GRDB	Guyana Rice Development Board
GSC	Guyana Securities Council
GSC	Guyana Securities Council
GWMA	Guyana Women Miners Organisation
GYP	Guyana Dollars
HP	Hire Purchaser
IBM	International Business Machines Corporation
ICAC	Institute of Chartered Accountants of the Caribbean
ICAG	Institute of Chartered Accountants of Guyana
ICRG	International Cooperation Review Group
ICT	Information Communication Technology
ID	Identification
IDB	Inter-American Development Bank
IFAC	International Federation of Accountants
IFRS	International Financial Reporting Standards
IIT	Individual Income Tax
INTERPOL	The International Criminal Police Organisation
INTOSAI	International Organization of Supreme Audit Institution
IOC	International Oil and Gas Companies
IPT	Individual Property Tax
IR	Intelligence Report
IRS	Internal Revenue Service
ISA	International Standards on Auditing
IT	Information Technology
IWT	Illegal Wildlife Trade
JSC	Judicial Service Commission
KYC	Know Your Customer
LCTR	Large Cash Threshold Report
LEA	Law Enforcement Agency
LEID	Law Enforcement and Investigation Division
LFIs	Licensed Financial Institutions
ML	Money Laundering
ML/TF	Money Laundering and Terrorist Financing

ML/TF/PF	Money Laundering, Terrorist Financing and Proliferation Financing
MNR	Ministry of Natural Resources
MOU	Memorandum of Understanding
MTA	Money Transfer Agency
NANA	National Anti-Narcotics Agency
NCB	Non-Conviction Based
NCC	National Coordination Committee
NPO	Non-profit organization
NRA	National Risk Assessment
NVAT	National Vulnerability Assessment Team
OECD	Organization Economic Co-operation and Development
OFAC	Office of Foreign Asset Control
PEP	Politically Exposed Person
PF	Proliferation Financing
PSA	Production Sharing Agreement
RE	Reporting Entity
ROE	Report of Examination
SA	Supervisory Authority
SARA	State Asset Recovery Agency
SG	Supervision Guideline
SME	Small and Medium Size Enterprise
SOCU	Special Organised Crime Unit
SOPs	Standard Operating Procedures
SP	Service Provider
SRD	Suriname dollar
STR	Suspicious Transaction Report
T&CSPs	Trust and Company Service Providers
TBML	Trade Based Money Laundering
TF	Terrorist Financing
TFS	Targeted financial sanction
TI	Transparency Institute
TIN	Taxpayers Identification Number
TPR	Terrorist Property Report
TR	Threshold Report
TRIPS	Total Revenue Integrated Processing System
TTD	Trinidad and Tobago dollar
TTRS	Threshold Transaction Reports
UBO	Ultimate Beneficial Ownership
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
UNSCR	United Nation Security Council Resolution
USD	United States Dollars
VAT	Value Added Tax
VEF	Venezuelan dollar
WCM ACT	Wildlife Conservation and Management Act 2016
WG	Working Group
WMD	Weapons of Mass Destruction
WSC	Wildlife Scientific Committee
YA	Year of Assessment

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ⁱ Section 15(1) of the AML/CFT Act.

ⁱⁱ Information provided by GASCI.

ⁱⁱⁱ Information provided by GASCI.

^{iv} Section 2 of the SIA provides that *'reporting issuer' means an issuer that has filed a registration statement under section 56 and has not been the subject of an order of the Council altering its status as a reporting issuer'*

^v See appendix 2- List of Reporting Issuers. Note, that Guyana Stores Ltd, National Engineering Company and ON Energy Inc. are not listed on the Guyana Stock Exchange.

^{vi} Off platform trades reported to the Guyana Securities Council for the period 2016-2019 by reporting issuers.

^{vii} See appendix 3- Fit and Proper Assessment -Guyana Securities Council Best Practice

^{viii} Section 8 of Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No. 10 of 2015 provides an amendment to the Securities Industry Act of 1998 Chapter 73:04 - "47A. (1) Upon acceptance of an application for registration under section 47, the Council shall conduct an investigation and make inquiries as it deems necessary to determine whether the applicant is fit and proper to be granted registration under this Act, and in conducting such investigation and inquiries, the Council shall have regard to - (a) the honesty, integrity and reputation of the applicant, partner, shareholder, director or beneficial owner of a significant or controlling interest or office holder of the applicant; (b) the competence and capability of the applicant; (c) the financial soundness and financial capability of the applicant; (d) the background of the applicant; and (e) such other matters as the Council deems appropriate. (2) In assessing the fit and proper criteria in subsection (1) (a) to (e) above, the Council may take into account all appropriate factors including but not limited to, whether the applicant – (a) has been declared bankrupt or has compounded with his creditors; (b) has been the subject of any proceedings of a disciplinary or criminal nature or has been notified of any potential proceedings or of any investigation which might lead to those proceedings, under any law in any jurisdiction; (c) has been convicted of any offence including money laundering or terrorist financing, or is being subject to any pending proceedings which may lead to such conviction, under any law in any jurisdiction; (d) has had any judgment (in particular, that associated with a finding of fraud, misrepresentation or dishonesty) entered against the relevant person in any civil proceedings or is a party to any pending proceedings which may lead to such a judgment, under any law in any jurisdiction; (e) has accepted civil liability for fraud or misrepresentation under any law in any jurisdiction; or THE OFFICIAL GAZETTE [LEGAL SUPPLEMENT] — A 6TH JANUARY, 2016 101 7 A.D. 2015] ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF [No. 10 TERRORISM (AMENDMENT) The Co-operative Societies Act, Cap. 88:01 (f) has engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence or soundness of judgment. (3) The criteria in subsection (1) (a) to (e) shall be evaluated by the Council as often as necessary or whenever there is a change in ownership, management or control of the companies that fall under this Act."

^{ix} Ibid 5

^x Act No. 5 of 2018. The Protected Disclosure Commission has not been established.

^{xi} However, the Guyana Revenue Authority has a “Whistleblower Policy” provided for under Section 230 of the Customs Act, Chapter 82:01 which encourages members of the general public to report any such unlawful or smuggling activities which includes, inter alia, under invoicing, false declaration, submission of false tax returns etc.

^{xii} Section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No. 10 of 2015 defines “beneficial ownership” to mean ownership by a natural person or persons who ultimately exercise individually or jointly voting rights representing at least twenty-five per cent of the total shares, or otherwise have ownership rights of a legal entity; or ownership by a natural person or persons who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted and includes those persons who exercise ultimate effective control over a legal person or arrangement.

^{xiii} Section 61 of the Financial Institutions Act Chapter 85:01 of 1995 provides: ‘Any director, officer, employee, representative or agent of a licensed financial institution, or other person conducting business for such institution, who discloses any information concerning the accounts, loans, deposits, or personal or business affairs of any customer acquired in the course of such person’s affiliation or relationship with the financial institution, shall be liable upon summary conviction to a fine of one hundred thousand dollars and imprisonment for not more than one year: Provided, that this section shall not apply to disclosure of any information: (i) to the Bank; (ii) in response to a lawful subpoena or other compulsory demand issued by or with the consent of a Court of competent jurisdiction; (iii) in response to a lawful Government request or demand; or (iv) with the prior written consent of the customer.

^{xiv} Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No. 1 of 2015. Section 4 of Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No. 10 of 2015 makes an insertion to - “(6A) Where the Court is satisfied on a balance of probabilities that the property is held by or on behalf of a terrorist or terrorist organisation, the Court shall immediately, pursuant to the application of the Director of Public Prosecutions under subsection (6), grant the freezing order. (6B) After obtaining the freezing order the Director of Public Prosecutions shall immediately serve on the reporting entity holding the property of a listed person or entity a copy of the freezing order.”.

Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No. 15 of 2016

Section 2 of the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No. 21 of 2017 makes a further amendment as follows “...(6)(a) A natural person who contravenes this section commits an offence and shall be liable- (i) on summary conviction, to a fine of not less than five million dollars nor more than one hundred million dollars and to imprisonment for seven years, or (ii) on conviction on indictment, to a fine of not less than ten million dollars nor more than one hundred and twenty million dollars and to imprisonment for ten years, (b) A body corporate which contravenes this section commits an offence shall be liable- (i) on summary conviction, to a fine of not less than two hundred million dollars nor more than five hundred million dollars, or (ii) on conviction on indictment to a fine of not less than two hundred and twenty million dollars nor more than five hundred and twenty million dollars.”