

## The FATF Methodology – Effectiveness Assessment Immediate Outcome 3

NOTE: Following on the treatise on Immediate Outcome (IO) 4 in the September 2014 newsletter, as an ongoing feature in this space, the Office of NAMMLC will examine all of the IOs with a view to facilitating greater understanding of the effectiveness component of the FATF Methodology.

Under the 2013 revised FATF Methodology on Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems, a brand new approach has been introduced for evaluating effectiveness. While the technical component (the 40 Recommendations) did undergo some changes in the 2012 revision of the FATF Recommendations themselves, at the core they have remained significantly the same, hence the methodology for assessing compliance with them has not varied greatly. In the view of the FATF, the assessment of the effectiveness of a country's AML/CFT systems is as important as the assessment of its technical compliance with the FATF standards, and as such during the Fourth Round of Mutual Evaluations, effectiveness has been raised to equal footing and is no longer submerged in the technical assessment as a lesser adjunct. To this end, the technical assessment will be largely done in the months leading up to the onsite visit and the onsite will be mostly dedicated to the effectiveness component. Therefore, during the onsite portion of mutual evaluations, Assessors will focus primarily on judging the extent to which countries achieve a defined set of outcomes/goals that are central to a robust AML/CFT system; and analysing the extent to which countries' legal and institutional frameworks are producing the required results. This determination will be achieved by measuring countries' AML/CFT systems against a

hierarchy of defined objectives, known as the eleven (11) Immediate Outcomes (IOs), to see how well those objectives/outcomes are achieved in each area of focus. Each Immediate Outcome (IO) spells out the key goals that an effective AML/CFT system should achieve through its various component parts, eg. in the areas of risk assessment and coordination between competent authorities, AML/CFT supervision of financial and other regulated sectors, financial intelligence, investigation and prosecution of ML and FT offences, confiscation of criminal proceeds, international cooperation, implementation of targeted financial sanctions.

In the effectiveness assessment, Assessors are required to answer two main questions in relation to each IO, namely: (1) To what extent is the outcome being achieved; and (2) What can be done to improve effectiveness.



### SPECIAL POINTS OF INTEREST:

- Understanding the Procedures for the 4th Round AML/CFT Mutual Evaluations 6
- FATF Initiates Fact Finding Mission on Financing of Terrorism 9

### INSIDE THIS ISSUE:

- The FATF Methodology – Effectiveness Assessment Immediate Outcome 3 1
- Agency Reports 12



### Guidance Provided to Assessors

The Methodology provides direction and assistance to Assessors on how to determine whether the outcomes are being achieved. In each IO, this takes the form of a list of core issues that Assessors are mandated to consider in determining whether and to what extent the outcome is being achieved. However, core issues are not a check list of criteria and as such are not to be equally weighted. Therefore, the core issues must be considered using a subjective evaluation of the jurisdiction and taking into account the information provided by the country. For each IO, Assessors are also provided with two lists of examples that they can be guided by; these are a list of information and a list of specific factors to look for and examine in order to support their conclusions on the core issues. The examples provided are an aid to Assessors and are neither exhaustive nor mandatory, and so Assessors have to be alert to other information/data and factors that are peculiar or relevant to the jurisdiction under review and take those into account in testing and supporting their conclusions on the various core issues.

### Country's Submission

The methodology does not provide a template for the country's submission on effectiveness, although each IO must be addressed. Countries should focus on the characteristics of an effective system detailed under each IO, and in preparing their submissions be mindful of the fact that evidence of their effectiveness that is not detailed in their submission will not be acknowledged or included in the rating of the relevant IO, if discovered by the Assessors at or after the on-site visit.

The core issues are for the Assessors to answer, not the countries; but in its written submission on effectiveness, it would be prudent for the country to, among other things, comprehensively detail how each of the core issues is being addressed relative to each Immediate Outcome. They should provide a full and accurate description supported by sufficient evidence, data and statistics to enable Assessors to critically analyse and provide concrete answers to each of the questions raised by the Core Issues. The lists of examples of information and specific factors must therefore also guide the country on the type of evidence to produce, but they should also be mindful that other evidence that might be available to support their case for effectiveness of their AML/CFT regime should also be presented, as none of the lists/factors provided are intended to be exhaustive.

### Overview of Immediate Outcome 3

In the case of each IO, the Methodology makes a statement of effectiveness and then describes the main features/ characteristics of what an effective system looks like. The description also indicates the FATF recommendations to which the outcome is related. IO.3's statement of effectiveness is **“Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs<sup>1</sup> for compliance with AML/CFT requirements commensurate with their risks.”** IO.3 relates to Recommendations 14, 26 – 28, 34 and 35, as well as elements of Recommendations 1 and 40. These Recommendations generally deal with the responsibilities of competent authorities in the regulation and supervision of financial institutions, DNFBPs and the providers of money/value transfer services; as well as the requirements and their role in relation to risk assessment and the application of the risk-based approach and in the provision of international cooperation to counterpart competent authorities in other jurisdictions. It is also critically important that it be borne in mind that the rating that a country will receive for the effectiveness of its supervisory authorities in IO.3, will be greatly influenced by the view taken by the Assessors of the effectiveness of the regulated entities under IO.4. This is because IO.4 focusses on the effectiveness of regulated entities in their implementation and execution of AML/ATF policies and procedures; and under IO.3 Assessors will have to consider whether and how much impact the regulators/ supervisors have on those entities in their understanding of their AML/ATF obligations, as well as their ML/TF risks.

The supervisory authorities in Bermuda to whom this IO is expected to directly relate are:

- i. The financial sector regulator;
- ii. The self-regulating professional body in respect of lawyers and accountants ;
- iii. The regulator for the real estate sector;
- iv. The regulator for trust and company service providers;
- v. The regulator for the gaming sector; and
- vi. The regulator for dealers in precious metals and stones and other dealers of high value goods such as motor vehicles and boats.

**1 Designated Non-Financial Businesses and Professions** – these are defined by FATF to include, casinos; real estate agents; dealers in precious metals and stones; lawyers (including notaries and other independent legal professionals) & accountants; and trust and company service providers.



However, other competent authorities, such as law enforcement agencies, will also impact the rating in this IO, given the use of criminal penalties in relation to sanctions.

**Characteristics of Effective supervision:** – In IO.3, effectiveness is characterised as follows:

*Supervision and monitoring address and mitigate the money laundering and terrorist financing risks in the financial and other relevant sectors by:*

- Preventing criminals and their associates from holding, or being the beneficial owner of, a significant or controlling interest or a management function in financial institutions or DNFBPs; and
- Promptly identifying, remedying, and sanctioning, where appropriate, violations of AML/CFT requirements or failings in money laundering and terrorist financing risk management.

*Supervisors provide financial institutions and DNFBPs with adequate feedback and guidance on compliance with AML/CFT requirements. Over time, supervision and monitoring improve the level of AML/CFT compliance, and discourage attempts by criminals to abuse the financial and DNFBP sectors, particularly in the sectors most exposed to money laundering and terrorist financing risks.*

**The Core Issues for IO.3:** – Based on the characteristics of an effective supervisory system, there are six Core Issues (3.1 – 3.6) which Assessors must consider in determining whether and how well the characteristics of effectiveness for IO.3 are portrayed by the country. The essence of what each of these six Core Issues requires Assessors to determine is as follows:

- i. How well does the country prevent criminals and their associates from owning or controlling Financial Institutions or DNFBPs?
- ii. How well do supervisors understand the ML/FT risks?
- iii. How well do supervisors supervise whether Financial Institutions and DNFBPs are complying, on a risk sensitive basis, with their AML/CFT requirements?
- iv. To what extent are remedial actions and/or appropriate sanctions applied?
- v. Can supervisors demonstrate that their actions affect compliance?
- vi. Do supervisors promote Financial Institutions' and DNFBPs' understanding of their AML/CFT obligations and the ML/FT risks?

In examining and analysing whether a country is effective in relation to IO.3, Assessors will look at information provided primarily by the country, but may also supplement this source





with information available from other credible, reliable sources such as international organisations and major authoritative publications. The Methodology provides four (4) examples of the categories of information that must be considered in achieving an understanding of the outcome required in IO.3. For instance, contextual information about the size, makeup and structure of the financial and various DNFBP sectors is key. This type of information would primarily come from the supervisors, who would give data on things such as the number of licensed/registered entities in the specified sector and the size and scope of the sector relative to the economy. Please see the other examples information for IO.3 that are provided in the Methodology.

The examples of specific factors that the Methodology recommends Assessors to consider are based on the elements that are normally involved in delivering the outcome, and this can include activities, processes, outputs and resources. The Methodology provides nine (9) examples of specific factors. It cannot be emphasised enough that the examples provided are simply that, examples, and Assessors are required to be open-minded about evidence provided that suggest other relevant factors that are peculiar or germane to the country, and those can be considered in addition to or instead of any of those included in the Methodology.

One specific factor suggested for IO.3 is for Assessors to examine the extent to which the frequency, intensity and scope of the Supervisor's on-site and off-site inspections relate to the risk profile of the financial institutions and DNFBPs. In relation to this factor the Assessors would need to carefully examine the Supervisor's protocols surrounding the selection of institutions for on-site and off-site inspections, as well as the Supervisor's risk assessment model, policy and procedures and how they interface with, and impact on, the inspection selection process. In regard to this factor, a country would do well to provide evidence to show that in determining which regulated entities to select for on-site and off-site inspection and to determine the frequency of such inspections, the supervisor's procedures require the Supervisor to analyse the risk posed by each entity based on the products offered, the market segment they occupy, their level of demonstrated compliance with the AML/CFT requirements etc; and also provide evidence that this procedure is in fact adhered to. Clearly, processes that require little reliance on risk profiling of regulated entities in decision-making regarding the allocation of resources for on-site inspections of those entities, are less likely to be deemed effective.







## Where does Bermuda Stand?

In preparation for the upcoming mutual evaluation, Bermuda's competent authorities are working assiduously to not only address outstanding gaps in the technical framework, but also to ensure that the implementation of the AML/CFT system is effective in achieving the outcomes expected by FATF and desired by Bermuda. To that end, work is being done to ensure that the remaining DNFBP sectors, which have been determined need to be subject to regulation, are brought into scope in a manner that is workable for Bermuda, having regard to the AML/ATF risks posed by and to those sectors in Bermuda. The National Risk Assessment that was done in 2013 is being used as the basis for work with the financial sectors to facilitate greater understanding of the risks to the sectors and to engineer appropriate measures both within the supervisory framework and by institutions themselves to ameliorate those risks. Work is ongoing to provide adequately resourced supervisory capacity that is in touch with the sectors they serve, fully understand the attendant risk, and which implement appropriate compliance and enforcement measures that both enhance compliance within the sectors and apply effective, proportionate and dissuasive sanctions when breaches occur.

Competent authorities with supervisory responsibilities are also seeking to improve their level of coordination through the mechanism of the recently formed Supervisory Forum, which operates under the rubric of the National Anti-Money Laundering Committee. Additionally, the Bermuda Monetary Authority is actively working on updating the guidance provided to the regulated sector, to be released in tandem with proposed legislative amendments expected to be enacted soon. The Registry General recently completed and published guidance for the charities sector and hosted several training sessions for the compliance officers in that sector. These and other initiatives will continue to be rolled out in order to enhance the understanding by relevant sectors of their AML/ATF responsibilities, and to increase the level of effective communication between supervisors and the regulated sector. Bermudian competent authorities are mindful of the fact that in this period every AML/ATF initiative and all related activities must have value towards helping Bermuda, through its submissions on effectiveness, clearly demonstrate a high level of effectiveness in relation to IO.3 and its partner IO.4.



The revision by the FATF in 2012 of its 40 Recommendations, followed by the revision in 2013 of its Methodology, also resulted in significant changes being made to the procedures to be followed during the Fourth Round of AML/CFT mutual evaluations based on the revised standards and methodology. To that end, the FATF has produced a procedures manual for the Fourth Round, which has also been adopted by the FATF Style Regional Bodies (FSRB), such as the Caribbean Financial Action Task Force (CFATF), of which Bermuda is a member. Accordingly, all AML/CFT mutual evaluations will adhere to these new procedures, regardless of whether they are conducted by the FATF, an FSRB, or an International Financial Institution (IFI) such as the IMF or the World Bank.

In order to understand what will be entailed in the preparation for and conduct of Bermuda's upcoming evaluation, this article provides bullet-pointed highlights of the procedure leading up to, during and after the onsite visit of the assessment team.

**TIMEFRAME OF THE ASSESSMENT** – It will be noted from the outline provided below that the procedures established by the FATF span a minimum period of approximately 12.5 months, from the formal commencement of the assessment to the discussion of the draft mutual evaluation report at the Plenary of the FATF or relevant FSRB.

- ▶ **Settlement of Dates and Selection of the Assessment Team** – The precise dates for the on-site visit of the assessment team will be fixed more than six months before the anticipated on-site, in consultation with the country being evaluated. Also, the body conducting the mutual evaluation will notify the country of the names and résumés of the persons who will comprise the assessment team, allowing the country at least one (1) week to review and approve the selection. The team will usually comprise a minimum of four (4) experts, with at least one each in the areas of legal, law enforcement and financial. The team will usually be led by, or include, a representative from the CFATF Secretariat, depending on whether the evaluation is being conducted by CFATF itself or by an IFI such as the IMF.
- ▶ **Technical Compliance submission** – The assessment commences, six months prior to the scheduled on-site visit, with a letter from the CFATF Secretariat to the country being evaluated. At this point, namely six (6) months before the date of the on-site visit, the country being evaluated must submit, to the assessment team, information on its technical compliance with the FATF 40 Recommendations. This is done electronically and the information must be based upon the Questionnaire for the Technical Compliance Update, which



requires countries to provide an update, with supporting documentation, on any significant changes to their AML/CFT system since they exited the follow up process in the previous round; as well as to provide information about the ML/TF risks in the country and a description of the size and structure of its financial sector and its Designated Non-Financial Businesses and Professions (DNFBP) sector.

▶ **Invitation for feedback from 3rd Countries on International Cooperation** – At least six months prior to the onsite visit, the CFATF Secretariat will invite CFATF members, as well as FATF and other FSRBs to provide information on their experience of international cooperation with the country being evaluated.

▶ **Effectiveness submission** – No less than four (4) months prior to the date of the onsite visit, the country being evaluated must electronically submit to the assessment team, information that describes the effectiveness of its AML/CFT system, supported by data and other factors that demonstrate that effectiveness. This submission must be based on the 11 Immediate Outcomes, as described in the effectiveness assessment portion of the FATF Methodology.

▶ **Desk-based review of Technical Compliance** – Following receipt of the country's technical compliance submission, the assessment team will conduct a desk-based review of the country's level of technical compliance. This review will be based on the information provided by the country, as well as on information drawn from the country's prior mutual evaluation report and follow-up reports; as well as any other credible/reliable sources of information about the country. A first draft of the annex on technical compliance will be prepared (without ratings or recommendations) and provided to the country about three (3) months before the on-site visit. This draft will include a description, analysis and list of potential deficiencies. The country will have one (1) month to make any clarifications and provide comments on their technical compliance.

▶ **Preparation for the On-site Visit** – Prior to the visit, the assessment team, based on its analysis of the technical compliance and effectiveness submissions, must identify specific areas on which to focus during the on-site visit, primarily in relation to effectiveness issues. They must also consult with the country by way of a draft Scoping Note, with a view to mutually agreeing the areas of increased focus. This consultation must take place at least two months before the visit. The draft Scoping Note must also be submitted to

the team of Reviewers (see below), for them to comment on the reasonableness of the focus of the assessment. Additionally, at least one month before the visit, the country being evaluated should, in consultation with the CFATF Secretariat, prepare and submit to the assessment team a draft programme for the onsite visit, setting out the logistical arrangements for the visit, such as details for and locations of meetings. The draft programme should factor in the areas where the team has indicated they wish to apply increased focus.

▶ **The On-site Visit** – The visit will normally last for about ten (10) days, with 7 – 8 of them being dedicated to meetings between the assessment team and representatives of the country, including representatives from the private sector and non-government organisations, as requested by the team. 1 – 2 days should be allocated for the team to work on a draft Mutual Evaluation report (MER). The visit will be concluded with a closed meeting between the assessment team and officials from the country being assessed, at which time the team should provide them with a written summary of the initial key findings of the evaluation.

▶ **Post On-site** – The following timeline is required to be adhered to by both the assessment team and the evaluated country following the on-site visit:

- Six (6) weeks after the end of the on-site, the assessment team should have finalised and submitted to the country the 1st draft of the MER & Executive Summary. The country will have four (4) weeks to review and return their comments to the team. Within this period the country may make queries and request clarifications on the draft, to which the assessment team is required to respond.
- Within four (4) weeks after receiving the country's comments on the 1st Draft of the MER & Executive Summary, the assessment team should review, make further amendments and provide the 2nd draft of the document to the country and to the Reviewers.
- The Quality and Consistency review, which is a new feature in the mutual evaluation procedures, is undertaken by a team of Reviewers who are selected from a pool of qualified experts drawn from CFATF, FATF and FSRB delegations, prior to the commencement of the evaluation process. Their main function is to ensure that MERs are of an acceptable level of quality and consistency. This is done through their assistance to the assessment team in

## Understanding the Procedures for the Fourth Round AML/CFT Mutual Evaluations continued

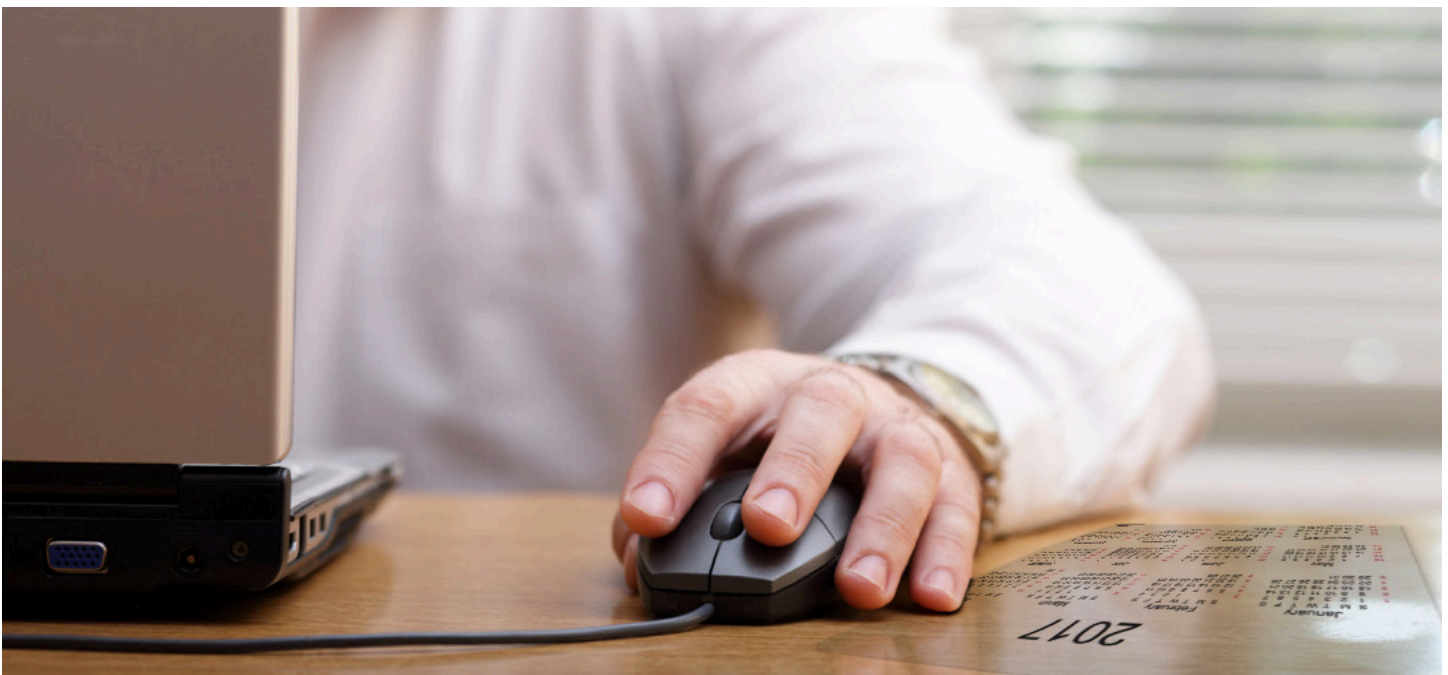
reviewing and providing timely input on the Scoping Note (as noted above), as well as the draft MER & Executive Summary. The Reviewers will have three (3) weeks to review the 2nd draft MER & Executive Summary and provide the team and the country with their comments on the draft. The assessment team will have one (1) week after receiving the comments from the Reviewers, to consider their comments, decide what (if any) changes to make to the report; and provide a brief response to the Reviewers, setting out the decisions made consequent on their comments.

- Once the comments from the Reviewers and the country are in hand, the assessment team will consider them and prepare an amended 2nd draft MER & Executive Summary. All comments together with the draft and the assessment team's response will also be circulated by the Secretariat to the CFATF Working Group on FATF Initiatives (WGFI) for them to identify emerging issues.
- ▶ **Resolution of Outstanding Issues between Assessment Team and Country** – Outstanding issues remaining after amendment of the 2nd draft are to be addressed through scheduled conference calls or video conferencing between the team and the country, organised by the Secretariat. If requested by the country, a face to face meeting can also be arranged at a location agreed between the parties, the cost being borne by the country. During these meetings the team and country should work towards resolving any

disagreements regarding issues of technical compliance or effectiveness; as well as identify priority issues for discussion at the CFATF Plenary at which the MER will be presented. Following these meetings the team will prepare the 3rd draft MER & Executive Summary.

- ▶ **Pre-Plenary** – It is to be noted that a minimum of twenty-five (25) weeks should span the period between the end of the on-site visit and the Plenary at which the country's MER is to be tabled and discussed. The 3rd draft MER & Executive Summary should be circulated to all CFATF member countries, associate members and observers at least five (5) weeks before that Plenary. Those countries, as well as the Reviewers will have two (2) weeks to provide comments and to identify specific issues they wish to discuss at Plenary. Having regard to those issues identified by member/observer countries and Reviewers, and taking account of the issues the country and assessment team are keen to discuss, the CFATF WGFI will prepare and circulate, at least two (2) weeks before Plenary, a list of key substantive issues for Plenary discussion.

The draft MER & Executive Summary will be presented at the Plenary of the CFATF, and discussed with a view towards adoption of the report. There are procedures that govern these discussions and the finalisation and adoption of MERs, but those are likely to be the subject of a future article.







The Financial Action Task Force (FATF), earlier this year, embarked upon a fact finding mission to gather information on jurisdictions' implementation of FATF Recommendations 5 and 6, which respectively require the criminalisation of terrorist financing and the implementation of targeted financial sanctions in accordance with specific United Nations Security Council Resolutions (UNSCRs). The fact finding mission required the participation of jurisdictions across the world, including members of the FATF and all FATF Style Regional Bodies (FSRBs), such as the Caribbean Financial Action Task Force (CFATF). The mission commenced with a survey comprised of an extensive questionnaire to be completed by jurisdictions. It is clear, from the nature of the information sought and the range of jurisdictions required to participate, that the FATF is seeking to understand how well countries are prepared to mitigate risks derived from terrorism and terrorist financing and to identify where the weaknesses lie in the various parts of the world. Although the questionnaire relates to both Recommendations 5 and 6, only the first few questions relate to Recommendation 5, with the majority of questions focussed on Recommendation 6.

The objective of FATF Recommendation 5 is to ensure that countries have the legal capacity, in accordance with the requirements of the Terrorist Financing Convention, to prosecute and apply criminal sanctions to persons engaged in providing financing for terrorism, terrorist organisations and for individual terrorists. The Recommendation also requires terrorist financing offences to be included as predicate offences for money laundering. Although few in number, the questions that were focussed on this Recommendation required detailed information, not only on jurisdictions' laws pertaining to the criminalisation of terrorist financing, but also on the numbers and types of convictions gained for the various terrorist financing offences, in the period since 2010. Copies of the text of the relevant laws were to be provided, as well as, where available, links to the laws and information on the dates when those laws came into force. Particular attention was required to be given in explaining how the jurisdiction criminalises the financing of individual terrorists or terrorist organisations where there is no link to specific terrorist acts.



## FATF Initiates Fact Finding Mission on Financing of Terrorism continued

The objective of FATF Recommendation 6 is to ensure that jurisdictions comply with UNSCR relating to the suppression and prevention of terrorism and terrorist financing, through the implementation of targeted financial sanctions. These measures entail the expeditious freezing of the funds or other assets of persons or entities designated by the UNSC, and include ensuring that no funds or other assets are made available to such persons or entities. Recommendation 6 therefore specifically mandates compliance with UNSCR 1267(1999) and 1373(2001) and their successor resolutions. For ease of reference, UNSCR 1267 sets out designations relating to Al-Qaida, the Taliban and related threats to Afghanistan; and UNSCR 1373 provides for designations to be made at the national or supranational level by countries of their own volition or at the request of another country.

The questionnaire, being focussed largely on Recommendation 6, separately dealt with the respective UNSCRs. Accordingly, detailed information was required to be provided pertaining to jurisdictions' compliance with the requirements in relation to UNSCR 1267. The information sought included particulars from jurisdictions on a number of matters including: their legal bases for requiring the freezing of the funds or assets of persons/entities designated under 1267/1989 and 1988; the date relevant statutory instruments came into force; a description of the process which enables the jurisdiction to freeze the funds/assets of designated persons and entities; how UN designations and supporting information are released to national authorities and ultimately to the financial sector. Of some significance is the fact that there were questions focussed on how long jurisdictions take to notify financial institutions and DNFBPs of designations made by the UN after such designations are made; as well as how long it takes for financial institutions and DNFBPs to take freezing action against targeted funds/assets after they receive notification of a designation. Jurisdictions were also required to provide information on the number of designated persons/entities that have a connection with them; and accordingly, to provide an indication of the value of the funds/assets that the jurisdiction has frozen since 2010, pursuant to UNSCR 1267 (indicating number frozen by banking sector and outside of banking sector). The questionnaire required jurisdictions to provide an explanation in any situation in which the information requested cannot be provided.

UNSCR 1373, which is in essence the second limb of Recommendation 6, was also a focal point of the questionnaire and jurisdictions were therefore required to provide information

evidencing their compliance with UNSCR 1373. Accordingly, jurisdictions were required to provide information similar to that required in respect of UNSCR 1267 in respect to the relevant laws and freezing process. In addition, jurisdictions were also required to describe the mechanism employed, and identify the authorities involved, when considering requests from foreign countries to freeze assets pursuant to 1373. An important feature in relation to this UNSCR was the requirement for information on how domestic designations are made, as well as on designations made in response to requests from foreign states, along with a description of the method of dissemination to financial institutions and DNFBPs. Further, the FATF also queried the timeliness of the actions taken to designate, to notify the private sector and for the private sector to take freezing action in consequence of those designations; as well as requiring data detailing the number of requests for freezing action received from foreign jurisdictions and made to foreign jurisdictions. It is not a surprise that FATF was also interested to know the level of coordination between competent authorities as a response to terrorist financing, and the amount of information sharing between the financial intelligence unit and the relevant competent authorities on such issues. The current global concern with regard to ISIL was also a feature in the survey and jurisdictions were required to indicate whether any domestic designations had been made in relation to a person or entity related to ISIL.







Additionally, it is relevant to note that the survey required information on whether and to what extent jurisdictions had implemented UNSCR 2178, which essentially criminalises the wilful provision or collection of funds by persons to finance the travel to foreign states of individuals in order to facilitate or participate in terrorist acts or terrorist training. In this regard, FATF appears to be seeking to learn how agile jurisdictions have been in responding to this emerging phenomenon where terrorist financing has been used for such purposes. For those jurisdictions that had not yet specifically legislated for such actions, this is a timely opportunity for examination of their existing terrorist financing laws to see whether the language used is wide enough to cover this type of financing.

The October 2015 FATF Plenary will consider a draft report arising from this fact-finding project. This initiative demonstrates that the level of worldwide compliance with Recommendations 5 and 6 is an important area of focus for the FATF, a fact which is further evidenced by the FATF's intention to share its findings with the G20. Additionally, the FATF Plenary, based on the survey results, will also consider what counteractive measures can be taken in respect of countries that failed to respond to the survey

and those that responded, but whose response showed serious weaknesses in their regime in combatting terrorist financing. The areas focussed on in this initiative are therefore matters to be borne in mind by jurisdictions preparing for assessment in the Fourth Round AML/CFT Mutual Evaluations, given the greater scrutiny that will be carried out in this exercise, over and above the self-reporting required from this survey.

The type and nature of detailed information sought by the FATF in this survey provides useful insight for jurisdictions, and this should encourage them to give thoughtful attention to their level of compliance with Recommendations 5 and 6. Inevitably there are a range of competent authorities and private sector firms involved in the implementation of the requirements of these Recommendations, and beyond the completion of this fact finding project, it is important for jurisdictions to appropriately address the areas of the questionnaire in which they experienced challenges in providing satisfactory responses. Undoubtedly the FATF will in due course publish a report on its findings and it behoves persons involved in this area of work to keep a watchful eye out for it.



### Bermuda Monetary Authority (the Authority)

During this period the Authority continued to assess Bermuda's AML/ATF regulated financial institutions for anti-money laundering/anti-terrorist financing (AML/ATF) by incorporating the findings of the 2013 National Risk Assessment into the supervisory process which included the onsite, offsite and outreach schedules.

During the third quarter of 2015 a total of five on-sites were undertaken, covering the Trust, Fund Administration, Investment Business and Insurance sectors. Additionally, remediation meetings with entities in the Banking, Trust and Insurance sectors were also held.

The Authority also conducted offsite examinations focused on the service providers for Non Licensed Persons applications along with reviews of AML/ATF Policy and Procedures Manuals as part of the process regarding licensing applications made to the Authority in relation to investment, fund administration, long term insurance and the insurance brokerage businesses. Based on non-compliance in a previous review, the AML team also reviewed the AML/ATF policies of eight long term direct insurance companies, the results of which have been incorporated in the Authority's AML/ATF on-site framework.

The Authority continued with its Outreach Program and another presentation was held for Corporate Service Providers, which focused on effective AML/ATF policies and procedures, development of a company's money-laundering and terrorist financing risk assessments and the prudential requirements for the new licensing regime. The Authority and the FIA continued with their quarterly meeting.

Also during the quarter the AML team provided on-site development training to five members of the authority's insurance team, who will assist the AML division with future on-site supervision of the long term insurance sector. Members of the AML unit also attended KPMG's Round table seminar on AML/ATF for the Insurance Industry to keep abreast of recent AML developments in that area.

### Bermuda Police Service (BPS)

In the third quarter of 2015, the BPS initiated 5 money laundering (ML) investigations. Additionally there are 2 ML cases before the Supreme Court and 1 matter before the Magistrates Court awaiting trial. Further the Financial Crime Unit has processed 7 section 50 cash seizures totalling \$533,736.00, pursuant to the Proceeds of Crime Act 1997.

During this period, the Financial Crime Unit (FCU) received 20 disclosures from the Financial Intelligence Agency, a large portion of which pertained to on-going investigations or highlighted current money laundering trends.

Additionally, during the quarter FCU assisted the U.S. Law enforcement authorities resulting in a civil asset recovery of over 2 million dollars.





## Registry General

The Guidance Notes for Charities regarding their AML/ATF requirements have been published by the Registry General and are available on both the Registry General and the Centre on Philanthropy websites. Additionally, Compliance Officer training sessions were conducted in September 2015 and a session is also scheduled to take place on 3 November 2015. During the third quarter of 2015, the Registry General received 15 applications to register new charities and 6 applications to renew/re-register existing charities. The Registrar General approved 4 new charity applications, and deferred the re-registration for 3 applicants. During the period, in accordance with the requirement for registered charities to file their financial statements, the Registry General received 26 financial statements from various registered charities.

## Office of NAMLC (the Office)

The Office of NAMLC continued with the on-going initiative to update the legislative framework during this quarter. The deadline for the consultation with industry expired and the Office received comments from industry with respect to the proposed amendments to the AML/ATF legislation. The Legislative Working Group considered the comments and drafting instructions were prepared by the Office in line with changes agreed to be made in light of those comments. The Bill has been revised and is now on target to be tabled during the November session of Parliament.



Further, during the quarter, the Office also provided support and comments from an AML/ATF perspective to relevant Government departments in respect of a number of legislative initiatives. The Office continues to progress the initiative to have the United Nations Convention Against Corruption and OECD Bribery Convention extended to Bermuda and will be meeting with key stakeholders in the coming month to further advance this matter. The Office also attended the Asset Recovery Meetings that were organised by the Attorney-General's Chambers in early August 2015.







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