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Financial Services Commission

AML/CFT POLICY

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Approval of the Board of Commissioners

The adoption of the BVI Financial Services Commission's AML/CFT Policy was approved by the BVI Financial Services Commission Board of Commissioners on 25th February, 2020.

1. Introduction

- 1.1 It is recognised globally that the fight against ML, TF and PF has to be a coordinated global effort if positive results are to be achieved, as ML, TF and PF permeate national borders. The Virgin Islands recognises the global concern regarding ML, TF and PF, and the ramifications of such activities on the integrity of the Territory's financial system, the stability of its economy, and the safety of its citizens.
- 1.2 As an International Finance Centre the Virgin Islands remains committed to the global fight against ML/TF/PF by ensuring that, as a territory, it is in compliance with the FATF's *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation (the FATF Recommendations)*.
- 1.3 The BVI Financial Services Commission (the Commission), as an autonomous regulatory authority responsible for the regulation, supervision, and inspection of all financial services in and from within the Virgin Islands, is responsible for upholding the integrity of the Virgin Islands as a well-regulated international finance centre and safeguarding the economic interests of the Territory by:
 - protecting the interests of the general public and market participants;
 - ensuring industry compliance with the highest international regulatory standards and best business practices; and
 - ensuring that the Virgin Islands plays its part in the fight against trans-national crime while safeguarding the privacy and confidentiality of legitimate business transactions.
- 1.4 The Commission, having been established through the Financial Services Commission Act, 2001 authorises and supervises entities and persons who conduct financial services business in compliance with relevant Virgin Islands legislation.
- 1.5 The following regulated activities are considered financial services business:
 - a) Insurance – includes the provision of insurance products and related services covering insurance brokers, insurance agents, insurance loss adjusters and insurance managers.
 - b) Banking - includes the provision of general banking services including loans, savings accounts, and fixed deposits.

- c) Fiduciary Services - includes the provision of trustee services, company management business, registered office and registered agent services, directorships and other services.
 - d) Investment Business - includes services related to the dealing or arranging of deals in investments, managing investments, providing investment advice, providing custodial or administration services with respect to investments, operating an investment exchange, or acting as an investment adviser or investment manager.
 - e) Financing and Money Services Business - includes the provision of credit under financing agreements, leasing of property under a financing lease, provision of money transmission services, cheque cashing services, currency exchange services, the issuance, sale or redemption of money orders or traveller's cheques, as well as the provision of lending in the peer-to-peer (P2P) FinTech market, including peer-to-business (P2B) and business-to-business (B2B) markets.
 - f) Insolvency Services - includes appointments as administrators, administrative receivers, interim supervisors, supervisors, provisional liquidators, liquidators or bankruptcy trustees.
- 1.6 The Commission's licensing regime is geared towards protecting market participants by preventing those individuals, who may be inclined on using the Virgin Islands for illicit or criminal purposes, from establishing corporate structures in the Territory and providing services to entities that may wish to operate in or from within the jurisdiction, or using the Territory's financial system to funnel illicit gains or fund illicit operations.

2. Background

- 2.1 The objective of this AML/CFT¹ policy framework is to strengthen the Commission's supervisory, enforcement and domestic and international co-operation regimes, thereby assisting in preventing money laundering and any activity that facilitates money laundering, the funding of terrorists or other criminal activities in or from within the Virgin Islands.
- 2.2 The policy has been developed systematically and strategically by first seeking to provide a thorough understanding of ML, TF and PF and how these matters are addressed through the Virgin Islands' legislative framework, and outlining the role the Commission plays in ensuring compliance with the Territory's AML/CFT systems through the enforcement of relevant AML/CFT legislation.
- 2.3 The policy takes an in depth look at the ML, TF and PF risks emanating from the threats identified in relation to the Territory's AML/CFT regime relative to the Commission, and the vulnerabilities identified that represent weaknesses in the Commission's AML/CFT system which may support or facilitate the threat activities.
- 2.4 The potential consequences of the identified risks include, inter alia, poor risk mitigation, inadequate and ineffective supervision and monitoring, and an inability to co-operate, all of which could lead to reputational damage to the Territory and a negative impact on the overall economy. In recognising the potential consequences of these risks, the Commission has developed an action plan to address the recommendations emanating from the NRA. In so doing, the Commission has taken a proactive approach to mitigating some of its risk.
- 2.5 These actions, along with the Commission's understanding of the Territory's AML/CFT framework, the role it plays in ensuring compliance with the Territory's AML/CFT regime, its recognition of the risks emanating from the identified threats and vulnerabilities and potential consequences, as well as its ongoing review of current developments in international standards has resulted in the development of this policy framework.

¹ For the purposes of this Policy references to AML/CFT also include PF

3. Money Laundering and Terrorist Financing

- 3.1 **Money laundering** is not a single act but is generally defined as "*the processing of criminal proceeds to disguise their illegal origin*".² Essentially, it is engaging in acts designed to conceal or disguise the true origins of criminally derived proceeds so that the proceeds appear to have originated from legitimate sources or constitute legitimate assets.
- 3.2 Generally, money laundering occurs in three stages:
- 1) **Placement** – funds generated from criminal activities enter the financial system and are converted into monetary instruments or deposited into accounts at financial institutions. The aim is to remove the funds from the location of acquisition to avoid detection by the authorities and to transform it into other assets e.g. purchase of high value goods, property or business assets.
 - 2) **Layering** – the funds are transferred or moved into other accounts or other financial institutions to further separate the money from its criminal origin. The aim is to disassociate the illegal monies from the source of the crime by creating a complex web of financial transactions designed to disguise the audit trail e.g. wire transfers using funds disguised as proceeds of legitimate business, cash deposited in overseas banking system and the resale of goods/assets.
 - 3) **Integration** – the funds are reintroduced into the legitimate economic and financial system and used to purchase legitimate assets or to fund other criminal activities or legitimate businesses thereby making it appear that the money has been legally earned e.g. false loan repayments or forged invoices, complex web of transfers both domestic and international.
- 3.3 **Terrorist financing** may be described as the use of funds, or the making available of funds, for the purposes of terrorism; or the acquisition, possession, concealment, conversion or transfer of funds that are, directly or indirectly, intended to be used or made available for the purposes of terrorism. TF may not involve the proceeds of criminal conduct, but rather an attempt to conceal either the origin of the funds or their intended use, which could be for criminal purposes. A key difference between terrorist financiers and traditional criminal organizations is the legitimate sources of

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

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

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

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

4. The Virgin Islands AML/CFT Framework

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

A. Drug Trafficking Offences Act, 1992

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

- 4.3 The Drug Trafficking Offences Act also gives effect to the provisions of the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. It establishes the legal framework for the recovery of the proceeds of drug

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

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

B. Criminal Justice (International Cooperation) Act, 1993

- 4.5 The objective of the Criminal Justice International Cooperation Act is to create a flexible and comprehensive regime that enables the Virgin Islands to co-operate with other countries in matters pertaining to criminal investigations and proceedings; in addition, the Act regulates substances that are considered useful for the manufacture of controlled drugs and also creates a regime of hot-pursuit in apprehending vessels and persons concerned with drug offences. This latter regime, however, operates only on a bilateral arrangement, as currently exists between the Virgin Islands and the USA.
- Section 9 provides measures for international cooperation in the enforcement of overseas forfeiture orders and applies to (among other things) any offence under the DPMA, or drug trafficking offences as defined in section 2 of the DTOA; and
 - Sections 12(6), 13(1) and (2), and 14(1) provide measures for international cooperation in the enforcement of confiscation orders in relation to the proceeds of drug trafficking.
- 4.6 The Act is complemented by the Criminal Justice (International Co-operation) (Enforcement of Overseas Forfeiture Orders) Order, 1996. This Order outlines the process for obtaining assistance in matters concerning the enforcement of confiscation orders as well as applications for restraint and charging orders. Its scope is also sufficiently broad to enable assistance to be rendered to any country or territory.

C. Proceeds of Criminal Conduct Act, 1997

- 4.7 The Proceeds of Criminal Conduct Act represents an all-crimes anti-money laundering legislation. It provides for the recovery of the proceeds of crime; in addition, it also establishes a regime for the registration and enforcement of external confiscation orders.
- Sections 6 grants the Court power to make confiscation orders in relation to criminal conduct and applies where an offender is convicted of an indictable offence;
 - Section 32 provides measures to facilitate external confiscation orders and proceedings for external forfeiture orders which may be instituted in a designated country; and
 - Section 34 provides for forfeiture, after conviction, of any real property or any ship, vessel, boat, aircraft, vehicle or means of conveyance where the conviction relates to the offence of assisting another to retain the benefit of criminal conduct, or acquisition, possession or use of proceeds of criminal conduct, or concealing or transferring proceeds of criminal conduct. It further gives the Court power to order the defendant to pay any sum under the Act or serve a term of imprisonment in respect of the offence.
- 4.8 The Proceeds of Criminal Conduct Act is complemented by the Proceeds of Criminal Conduct (Designated Countries and Territories) Order, 1999. This Order provides the process for enforcing a request to confiscate assets or applying for a restraint or charging order.

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

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

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

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

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

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

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

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

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

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

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

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

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

I. Anti-money Laundering Regulations, 2008

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

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

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

K. Proliferation Financing (Prohibition) Act, 2009

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

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

L. Chemical Weapons (Overseas Territories) Order, 2005

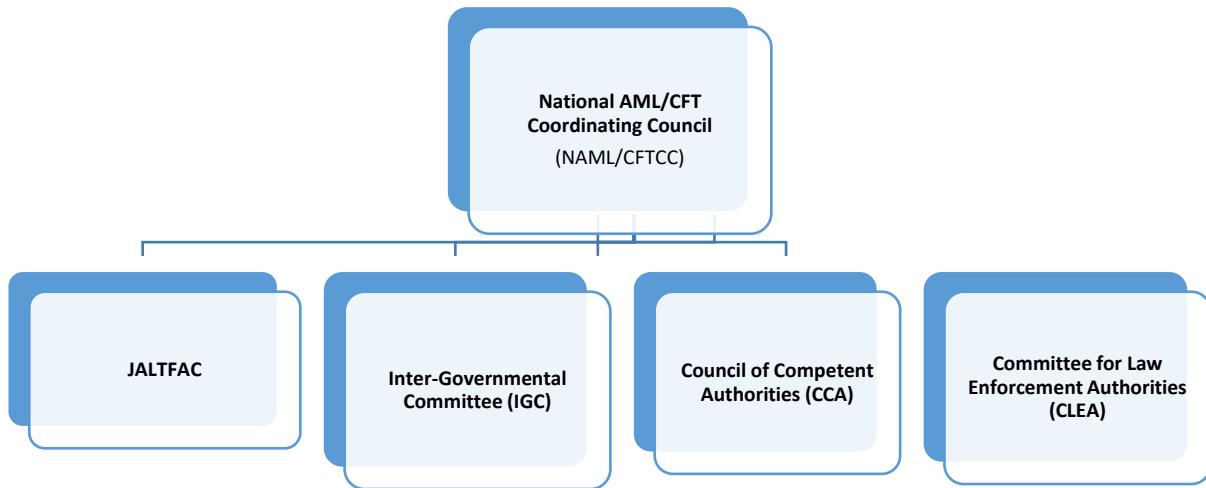
- 4.18 The Chemical Weapons (Overseas Territories) Order prohibits the use, development or production, possession or transfer of a chemical weapon or any military preparation relating to the intended use of a chemical weapon. Requests in relation to these matters are transmitted through the Governor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

M. Chemical Weapons (Sanctions) (Overseas Territories) Order, 2018

- 4.19 This Order gives effect to the sanctions regime created by the EU in Council Decision (CFSP) 2018/1544 concerning restrictive measures against the proliferation and use of chemical weapons, and in Council Regulation (EU) 2018/1542 concerning restrictive measures against the proliferation and use of chemical weapons.
- 4.20 The sanctions imposed include an asset-freeze on persons designated by the Council of the European Union as persons who are responsible for, involved in or promote the proliferation and use of chemical weapons, as well as persons associated with such persons. The Order makes provision for the Governor to license certain activities in line with exemptions and derogations under the sanctions regime.

Committees and Other Co-ordinating Bodies

- 4.21 The Territory's AML/CFT framework also includes several co-ordinating bodies whose mandates vary, but which all play an important role in the Territory's AML/CFT architecture.
- 4.22 The structure of these bodies is outlined below.



- 4.23 NAMLCC serves as the Territory's national coordinating body on AML/CFT issues in accordance with Recommendation 2 of the FATF recommendations, in addition to providing policy guidance on all AML/CFT issues relating to or affecting the Territory. It is responsible for driving the national AML/CFT architecture by developing and coordinating strategies to ensure that the Virgin Islands responds to money laundering and terrorist financing threats and other issues in an effective manner and ensuring compliance with all relevant standards.
- 4.24 CCA's role is to facilitate coordination between the Territory's CAs relative to the execution of domestic and international cooperation matters and other relevant AML/CFT issues relating to or affecting the Territory.
- 4.25 The CLEA was established to ensure greater coordination and collaboration in the fight against ML, TF and other organised crime through intelligence sharing, the joint pursuit and apprehension of criminals, and the disruption of criminal activity.
- 4.26 JALTFAC is a statutory body established under the PCCA and has responsibility for advising the Commission on "initiatives for the prevention and detection of money laundering and terrorist financing".⁴ The Commission is required to encourage dialogue with the private sector with a view to establishing a broad-based understanding and awareness of issues concerning ML, TF and PF as well as promoting the exchange of information on ML/TF/PF matters.⁵

⁴ See section 27A (1) of the PCCA.

⁵ Section 51 of the AMLFCOP

4.27 The IGC is established pursuant to the powers granted to the FSC and FIA under the AMLTFCOP⁶ and serves as a mechanism for “creating, enhancing and promoting public awareness of issues relating to money laundering and terrorist financing” and fostering cooperation between key public bodies involved in the fight against, or that have some nexus to, ML/TF activities, through a system of dialogue and the sharing of information amongst its members. This system of dialogue includes the promotion of cooperation and information exchange between agencies in order to detect and prevent ML/TF; the rendering of necessary assistance to each other in respect of each other’s law enforcement or regulatory functions; and the promotion of cooperation with foreign regulatory, administrative and law enforcement officials in relation to any ML or TF matter.⁷

5. The Commission’s Role in the National Framework

- 5.1 The Commission is responsible for ensuring compliance with the Territory's AML/CFT systems and controls through supervision and inspection of regulated financial institutions in accordance with the Anti-Money Laundering Regulations, 2008 and the Anti-Money Laundering and Terrorist Financing Code of Practice, 2008. This responsibility includes the monitoring of licensees for compliance with identification and verification procedures for new and continuing business relationships, record keeping requirements, third party relationships and the reliance thereon including testing of such relationships, reporting of suspicious activities, internal control system requirements, identification and handling of PEPs and other high risk individuals. The Commission also has a responsibility to provide guidance and perform outreach to its licensees to aid them in understanding their obligations and ensuring the highest level of compliance with AML/CFT requirements.
- 5.2 In addition, the Commission’s international co-operation obligations also requires it to engage in a wide array of exchange of information and cross-border international cooperation. This is achieved primarily through its association with various regional and international standards setting bodies such as IOSCO, IAIS, GIFCS, ASBA and CGBS. The Commission is also a signatory to various MoUs and MMoUs established between the Commission and other local and international partners for the exchange of information and provision of assistance on AML/CFT and other regulatory related issues.

⁶ See section 50 (1) of the AMLTFCOP.

⁷ Section 50 (2) of the AMLTFCOP

5.3 The Commission also serves as liaison to Government on AML/CFT matters and is a member of JALTFAC, IGC, CCA and NAMLCC.

6. Identified AML/CFT/PF Threats and Vulnerabilities

- 6.1 A threat is something harmful which, while it may not definitely happen, could happen if relevant action is not taken. ML/TF/PF threats can come directly from people (natural and legal), terrorists and their facilitators and criminals generally. Or they can be indirect where systems require improvement to detect, mitigate, combat and curtail harmful activity.
- 6.2 The NRA Report has identified primary threats as having a high impact on the stability of the AML/CFT regime and the reputation of the Territory if they were to occur. Secondary threats have been identified as having a lower probability of occurring but could impact the reputation of the Territory and the stability of the AML/CFT regime if they were to occur.

Threats

- 6.3 Based on analysis of the information collected during the NRA exercise the primary threats to the functioning of the Commission are:
 - a) Inadequate and inappropriate supervisory and enforcement frameworks for FIs (and DNFBPs) which leads to abuse of these systems by criminals;
 - b) Negligent and complicit TCSPs whose actions may result in the facilitation of ML/TF;
 - c) Misuse of financial services products such as legal persons, legal arrangements and money services by criminals to facilitate fraud, corruption and other financial crimes and to launder money and finance terrorism;
 - d) Failures by financial institutions (and DNFBPs) in the maintenance of BO information, record keeping and reliance on third parties that could allow for ML/TF to go undetected; and
 - e) Criminals' ability:
 - i. to launder money and finance terrorism where international cooperation is not effective;
 - ii. to retain the proceeds of crime through breaches of sanctions;

- iii. to exploit the vulnerabilities in the MSB sector, being a highly cash intensive business with cross-border reach, for the purpose of laundering money or financing terrorism.

Vulnerabilities

- 6.4 The concept of vulnerabilities is closely linked to that of a threat, and comprises those things that can be exploited by the threat, or that may support or facilitate the threat activities. The vulnerabilities are effectively those factors that represent weaknesses in the Commission's AML/CFT system.
- 6.5 The vulnerabilities identified in the NRA in relation to the Commission are:
- a) inadequate technological resources available to carry out activities associated with record keeping and generation of statistics;
 - b) no follow up mechanism in place to assist with gathering feedback from requesting CAs that will help determine the usefulness of information provided to them and enable appropriate reforms to be carried out where necessary;
 - c) excessive time to respond to requests for information from foreign CAs could mean that ML/TF involving a BVI business company may go undetected, or prosecutions/investigations being carried out by foreign authorities may be hindered;
 - d) inadequate resources dedicated to compliance inspection and the enforcement of FSC legislation;
 - e) failure of adequate supervision, including absence of appropriate and adequate supervisory framework;
 - f) lack of trained investigative staff in the Enforcement Unit; and
 - g) lack of understanding of the risk posed by licensees through a determination of their level of non-compliance due to limited inspections.

7. Identified ML, TF and PF Risks Levels

- 7.1 The risks identified are a function of the threats to the Territory's AML/CFT regime, and the vulnerabilities of the Commission listed above that were identified during the conduct of the NRA.
- 7.2 The primary risks to the Commission itself have been identified as the inability to effectively supervise its licensees and take appropriate enforcement action where necessary, along with difficulties in fulfilling its domestic and international co-operation obligations. These risks if left unaddressed would have a knock on effect on the Territory's financial services sector.
- 7.3 Based on the findings of the NRA the ML risk of the main financial services sectors was identified as follows:

Sector	Risk Rating
Banking	Low
Insolvency	Low
Insurance	Medium
Investment Business	Medium
Trust and Corporate Services	Medium
Money Services	High
Designated Non-financial Businesses and Professions	Medium

- 7.4 The Commission recognises the Territory's standing in the global community as an IFC and a leader in company formation business, and the high risks inherent in such business. As such, the Commission understands the need to ensure compliance with international standards relative to the regulation and supervision of legal persons⁸ such as BVIBCs and partnerships, and legal arrangements⁹ including express trusts,

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

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

particularly with respect to the maintenance and timely production of BO information and the misuse of legal arrangements for ML/TF and PF. This policy has, therefore, also taken these specific risks into account in an effort to minimise their impact.

- 7.5 The Commission also recognises that while the risk of TF in the Territory has been assessed as being relatively remote and low, the size and nature of the financial services industry in the Territory does provide some risk of it being used to finance terrorists or terrorist activities. The policy has, therefore taken this into account.
- 7.6 As with TF, the risk of PF is considered to be low and relatively remote. However, due to the nature of the financial services industry in the Territory, it is recognised that some risk, although remote, may exist in relation to the misuse of corporate entities in the financing of proliferation of WMDs.
- 7.7 The consequences of unchecked ML/TF/PF activity may be short or long term and may have limited or general effect on the Territory's reputation, national or international interests, business environment, attractiveness of its financial services industry, its ability to co-operate domestically and internationally, and on trade relations (including correspondent banking relationships).
- 7.8 As the Territory's gatekeeper to financial services, the Commission understands that if the identified risks to the Commission are left unchecked, they would have a deleterious effect on the work and effectiveness of the Commission, the consequence of which would be a weakening of the Territory's ability to comply with its AML/CTF obligations.
- 7.9 To minimise the potential of any such negative impact, the Commission developed an action plan to chart the way forward in addressing these threats and vulnerabilities based on the recommendations put forward in the NRA Report relative to its work and for the various FI sectors. Progress made has allowed for a more positive impact on the Commission's level of effectiveness and ability to mitigate its existing risks. These actions have, therefore, also been taken into account in the development of this policy.
- 7.10 Since the conclusion of the NRA there have been various developments in international AML/CFT standards, particularly in the form of revisions to the FATF's Recommendations and Methodology. Additionally there has been increased focus on

matters of taxation, corruption, transparency of legal entities and arrangements with respect to beneficial ownership, and sanctions busting to name a few. These issues, in so far as they affect the work of the Commission and the proper conduct of its licensees, have also been taken into account in the development of this policy.

8. The Commission's AML/CFT Objectives

- 8.1 The Commission's AML/CFT policy provides a framework for its AML/CFT strategy, which is designed to meet the Commission's objectives of mitigating its risks and complying with all applicable international standards and national requirements under the Proceeds of Criminal Conduct Act, 1997 and other ancillary legislation that form part of the Territory's AML/CFT framework. This Policy is geared towards preventing money laundering and any activity that facilitates money laundering or the funding of terrorist or criminal activities, and promoting domestic and international co-operation.
- 8.2 To achieve its objectives and demonstrate the effectiveness of its AML/CFT supervision the Commission will focus on the follow key areas:
- 1) Supervision
 - 2) Enforcement
 - 3) Promotion of Cooperation
 - 4) Stakeholder Awareness and Outreach
- 8.3 Supervision will be achieved by:
- enhancing the current risk-based approach to the assessment and management of the Territory's money laundering and terrorist financing risks within the Financial Services Sector;
 - enhancing risk-based systems and procedures used for the monitoring of on-going licensee activity to prevent criminals and their associates from abusing the financial services sector;
 - conducting regular risk assessments of licensees to determine appropriate intervals for supervisory contact;
 - periodically reviewing and updating AML legislation and guidelines to ensure compliance with international requirements;

- strengthening capacity to achieve a greater degree of effectiveness in the regulation and supervision of licensees by developing employees' analytical, investigative and supervisory skills; and
- reviewing and addressing all outstanding deficiencies identified in the Territory's National Risk Assessment relative to the Commission's regulatory functions and responsibilities and any other actions identified as a consequence thereof.

8.4 Enforcement will be achieved by:

- taking effective and appropriate enforcement actions on all AML/CFT breaches to ensure compliance with regulatory standards; and
- ensuring necessary steps are taken by licensees to prevent breaches of compliance with United Nations and other relevant sanctions regimes, and by identifying and penalising regulated entities found to be transacting with individuals, companies and countries that are on prescribed sanctions lists.
- strengthening capacity to achieve a greater degree of effectiveness in the identification and enforcement of ML/TF/PF breaches.

8.5 Promotion of Cooperation will be achieved by:

- promoting domestic and international co-operation through enhanced relationships with relevant domestic, regional and international authorities; and
- ensuring proper and timely cooperation on intelligence matters with local and foreign competent authorities, including establishing appropriate procedures for sharing intelligence where available and ensuring quality of information provided.

8.6 Stakeholder Awareness and Outreach will be achieved by:

- facilitating ongoing dialogue with industry stakeholders, professional associations and the general public to raise awareness of ML/TF/PF.

9. Implementation, Monitoring and Evaluation

Implementation

- 9.1 The Board of Commissioners is responsible for the approval of the Commission's AML/CFT Policy and the AML strategy emanating from the development of this policy. The Commission's senior management is responsible for implementation.

Monitoring and Evaluation

- 9.2 Monitoring is the act of observing processes and activities to ensure they are executed properly and fairly. In the context of this Policy, the Commission, through its dedicated Units and Divisions, will monitor its processes and activities to ensure that they align with, support and promote the relevant key initiatives. Progress on such activities will be reported to Management by the Deputy Director AML/CFT and the assigned Director as Head of the Anti-money Laundering Unit.
- 9.3 As it relates to evaluation, this Policy has been designed to ensure compliance with all applicable international standards and domestic AML/CFT legislation and will be reviewed and updated on a periodic basis to account for changes that may arise in either domestic or international requirements. The Head of the Anti-money Laundering Unit will be responsible for reviewing the Policy and recommending any modifications that may be deemed necessary to ensure ongoing compliance with all relevant standards.

List of Acronyms

AML	-	Anti-money Laundering
ASBA	-	Association of Supervisors of Banks of the Americas
BO	-	Beneficial Ownership
BVI	-	British Virgin Islands
CA	-	Competent Authority
CCA	-	Council of Competent Authorities
CDD	-	Customer Due Diligence
CFATF	-	Caribbean Financial Action Task Force
CFT	-	Countering the Financing of Terrorism
CGBS	-	Caribbean Group of Banking Supervisors
CLEA	-	Committee of Law Enforcement Agencies
DNFBP	-	Designated Non-financial Businesses and Professions
DTOA	-	Drug Trafficking Offences Act, 1992
EU	-	European Union
FI	-	Financial Institutions
FIA	-	Financial Investigation Agency
GIFCS	-	Group of International Finance Centre Supervisors
IAIS	-	International Association of Insurance Supervisors
IFC	-	International Finance Centre
IGC	-	Inter-governmental Committee on AML/CFT Matters
IOSCO	-	International Organisation of Securities Commissions
JALTFAC	-	Joint Anti-money Laundering and Terrorist Financing Advisory Committee
ML	-	Money Laundering
MLRO	-	Money Laundering Reporting Officer
MMoU	-	Multi-lateral Memorandum of Understanding

List of Acronyms

MoU	-	Memorandum of Understanding
MSB	-	Money Services Business
NAMLCC	-	National AML/CFT Co-ordinating Council
NRA	-	National Risk Assessment
PEP	-	Politically Exposed Person
PF	-	Proliferation Financing
RA	-	Registered Agent
RBA	-	Risk Based Approach
TCSP	-	Trust and Corporate Services Provider
TF	-	Terrorist Financing
UNSCR	-	United Nations Security Council Resolution
WMD	-	Weapons of Mass Destruction