



VIRGIN ISLANDS PROLIFERATION FINANCING

RISK ASSESSMENT 2022

Table of Contents

Foreword	2
ACRONYMS	3
1. Executive Summary	5
2. Introduction	8
<i>Jurisdictional Profile</i>	8
3. Methodology	9
4. The Legislative Framework	12
5. CPF Operational Framework	15
<i>Domestic Cooperation</i>	16
<i>International Cooperation</i>	17
<i>Targeted Financial Sanctions</i>	19
<i>Investigation and Prosecution of PF</i>	19
6. Proliferation Financing – Risk Overview	21
<i>PF Threats</i>	21
A. Use of Legal Persons and Legal Arrangements.....	22
B. International Trade and Collection and Movement of Funds	25
C. Ship Registration and Shipping Related Activities	27
7. Vulnerabilities	30
A. Use of Legal Persons and Legal Arrangements.....	30
B. International Trade and Collection and Movement of Funds	33
C. Ship Registration and Shipping Related Activities	33
D. Law Enforcement's Understanding of PF Risk	35
8. Virtual Assets and Virtual Asset Service Providers	37
Threats	37
Vulnerabilities	37
9. Recommendations	39
National CPF Recommendations.....	39
CPF Recommendations for LEAs	39
CPF Recommendations for CAs.....	40
CPF Recommendations for Private Sector	41
10. Conclusion	42

Foreword

The Financial Services Commission and the Financial Investigation Agency are proud of the strong and robust AML/CFT/CPF regime in place to combat the risks of money laundering (ML), terrorist financing (TF) and the financing of proliferation (PF). We continue to take proactive and positive steps to ensure compliance with international standards and to maintain our reputation as a leading international financial centre. Conducting the Virgin Islands first national proliferation financing risk assessment is yet another step in so doing.

This report outlines the findings of the proliferation financing risk assessment, which takes a critical look at the PF threats to which the Virgin Islands are exposed. It also looks at the resulting PF risks posed by vulnerabilities identified within the Virgin Islands' CPF framework that allow these threats to persist. Conducting this assessment has ensured that the Territory is able to properly identify these threats and the existing vulnerabilities. It also now allows us to be able to take appropriate action to effectively mitigate and manage the resulting risks.

The importance of identifying, understanding and mitigating the risk of PF as a result of the activities carried out in and from within the Virgin Islands cannot be underscored. The need to comprehensively examine the threats and vulnerabilities that may impact the Virgin Islands is clearly understood by all Competent Authorities and Law Enforcement Agencies within the Virgin Islands. Such examination not only ensures compliance with international standards, but aids in maintaining the safety of the citizens of the Virgin Islands and our reputation as a leading international financial centre.

All relevant public and private sectors should pay particular attention to the findings of this report as this will help you to better identify the particular PF risks you face and allow you to take the necessary actions to mitigate the vulnerabilities that allow such risks to exist. Each vulnerability is unique as are the risks identified. Public and private sector entities should therefore examine the findings of the report and integrate these findings into their own institutional risk assessments and those of their clients where applicable.

The Virgin Islands is committed to playing its part in the global fight to combat not just proliferation financing, but also money laundering and terrorist financing, and to tackling the resulting illicit flows. This is vitally important to us maintaining safety and enhancing our global reputation as a place to conduct legitimate business. We are confident that by appropriately identifying and responding to all relevant risks, and with continued cooperation and collaboration between the public and private sectors, we will be able to safeguard the Virgin Islands' reputation as a cooperative jurisdiction that takes its responsibilities to the global community seriously.



Kenneth Baker
Managing Director/CEO
BVI Financial Services Commission



Errol George
Director
Financial Investigation Agency

ACRONYMS

AGC	Attorney General's Chambers
AML	Anti-money Laundering
AMLR	Anti-money Laundering Regulations
AMLTFCOP	Anti-money Laundering and Terrorist Financing Code of Practice
ASBA	Association of Supervisors of Banks of the Americas
ATF	Bureau of Alcohol Tobacco, Firearms and Explosives
BO	Beneficial Owner/Ownership
BVIBC	British Virgin Islands Business Company
BVIBCA	British Virgin Islands Business Companies Act
BVI	British Virgin Islands
CA	Competent Authority
CARICOM	Caribbean Community
CBP	Customs and Border Patrol
CCLEC	Caribbean Customs Law Enforcement Council
CDD	Customer Due Diligence
CFT	Countering the Financing of Terrorism
CGBS	Caribbean Group of Banking Supervisors
CGSR	Caribbean Group of Securities Regulators
CPF	Counter Proliferation Financing
CRF	Compliance Reporting Form
DEA	Drug Enforcement Agency
DNFBP	Designated Non-financial Businesses and Professions
DPRK	Democratic People's Republic of Korea
EC	European Community
ECDD	Enhanced Customer Due Diligence
EEA	European Economic Area
EU	European Union
FATF	Financial Action Task Force
FBI	Federal Bureau of Investigations
FCDO	Foreign and Commonwealth Development Office
FCU	Financial Crimes Unit
FIA	Financial Investigation Agency
FI	Financial Institutions
FSC	Financial Services Commission
GDP	Gross Domestic Product
GIFCS	Group of International Finance Centre Supervisors
GO	Governor's Office
HMC	Her Majesty's Customs
IAIS	International Association of Insurance Supervisors
ICE	Immigration and Customs Enforcement
IMO	International Maritime Organisation
INTERPOL	International Crime Police Organisation

IOSCO	International Organisation of Securities Commissions
ITA	International Tax Authority
LEA	Law Enforcement Agencies
LPA	Limited Partnership Act
MLA	Mutual Legal Assistance
ML	Money Laundering
MMoU	Multilateral Memorandum of Understanding
MoU	Memorandum of Understanding
MSA	Merchant Shipping Act
MSB	Money Services Business
NCA	National Crime Agency
ODPP	Office of the Director of Public Prosecutions
OECS	Organisation of Eastern Caribbean States
OFSI	Office of Financial Sanctions Implementation
OT	Overseas Territory
PCCA	Proceeds of Criminal Conduct Act
PEP	Politically Exposed Persons
PF	Proliferation Financing
PFPA	Proliferation Financing Prohibition Act
RA	Registered Agent
RP	Representative Person
RVIPF	Royal Virgin Islands Police Force
SAMLA	Sanctions and Money Laundering Act
SAR	Suspicious Activity Report
SIT	Serious Investigation Team
TCSP	Trust and Corporate Services Provider
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UK	United Kingdom
UN	United Nations
UNSCR	United Nations Security Council
USCG	United States Coast Guard
US	United States
USVI	United States Virgin Islands
VA	Virtual Assets
VASP	Virtual Assets Service Providers
VI	Virgin Islands
VISG	Virgin Islands Sanctions Guidelines
VISR	Virgin Islands Shipping Registry
WMD	Weapons of Mass Destruction

1. Executive Summary

- 1.1 In the VI, while the threat of PF in the domestic context may be minimal, given the Territory's standing as an International Finance Centre, understanding the inherent risks stemming from vulnerabilities within the Territory that promote the threat of PF in the jurisdiction is critical to ensuring the VI is able to develop the proper mechanisms to effectively mitigate against these risks. Such understanding is also important in ensuring the jurisdiction is able to meet its international counter-proliferation financing obligations.
- 1.2 While the subject of PF was touched on briefly during the initial NRA which concluded in 2016, it was reviewed solely in the context of the mitigating measures put in place to address PF through the now repealed Proliferation Financing (Prohibition) Act, 2009. This assessment, which was jointly commissioned by the Financial Services Commission and the Financial Investigation Agency, takes a deeper look into the level of exposure to PF related activities at a national level focusing on the following key areas:
- Use of legal persons and legal arrangements;
 - International trade and collection and movement of funds;
 - Ship registration and shipping related activities; and
 - Virtual Assets (VAs) and Virtual Assets Service Providers (VASPs).
- 1.3 The report also considers the vulnerabilities within each of those key areas that if left unchecked could result in a greater level of PF risk within the Territory. Attention has also been paid to vulnerabilities of Registered Agents acting as "gatekeepers" who facilitate the registration of legal persons and legal arrangements and the execution of cross-border business activities relative to shipping and international trade that may be exploited.
- 1.4 The domestic and international cooperation frameworks within the Territory and the practical implementation of such, the existing Targeted Financial Sanctions regime, the ability to investigate and prosecute PF related matters, and the overall level of understanding of PF across law enforcement agencies were also considered.
- 1.5 Data used in the exercise came from the following sources which are responsible for, or connect to some aspect of the CPF regime in the Virgin Islands:

Agency	Area of Responsibility
British Virgin Islands Financial Investigation Agency	CA for PF related matters, Financial Intelligence Unit and Supervisor of DNFBPs and NPOs
British Virgin Islands Financial Services Commission	Regulator/Supervisor of FIs
Office of the Director of Public Prosecutions	Criminal Prosecutions
Office of the Governor	Competent Authority for Sanctions Implementation
Registry of Corporate Affairs	Registration of BVI Business Companies and other legal persons
Royal Virgin Islands Police Force	Criminal Investigations
Virgin Islands Shipping Registry	Ship Registration

Use of Legal Persons and Legal Arrangements

- 1.6 The threat of PF is of particular importance given the VI's standing as an International Finance Centre and the use of BVIBCs and other legal arrangements to facilitate business globally. In reviewing the data and other qualitative material gathered during the assessment, including international typologies, it was determined that trusts were not typical vehicles used to facilitate PF. The overall risk, therefore, was considered **Low**. As such, primary focus was placed on the use of legal persons.
- 1.7 The global nature of business in which legal persons are involved makes these structures susceptible to misuse for illicit purposes. One of the identified threats of PF to the VI is the use of BVIBCs to facilitate business transactions, particularly in relation to movement of, and payment for goods and other services where the ultimate destination of such goods is a sanctioned jurisdiction. This threat is further enhanced through the use of BVIBCs to establish ownership of vessels that may engage in transporting illicit cargo to sanctions countries. The ability for structures established in the VI to be misused elevates the level of risk as this misuse lends itself to these entities being exploited to facilitate the financing of WMDs. The risk of this threat is therefore considered to be **High** as any linkages to a BVI company, entity or person may create significant reputational damage.

International Trade and Collection and Movement of Funds

- 1.8 Most BVIBCs are created for the purposes of cross-border business, primarily as entities to hold assets or as vehicles for joint ventures which may be linked to the investment sector. However, as a number of BVIBCs do engage in import/export and other trading related activities the possibility of these entities being involved in the export and trade of dual use and other proliferation sensitive materials was also considered. As there are no manufacturing sites or research centres physically located in the VI that produce dual use and proliferation sensitive goods, exposure to the export and trade in such goods from a domestic perspective is not considered to be a threat. The concern, therefore, is from an international perspective given the ability of BVIBCs to engage in import/export and other trading related activities. Given the global nature of such trading activities and the identification of the involvement of BVIBCs in illegal trade related activities with the DPRK, although minimal, the threat of PF from such activities is considered to be **High**.
- 1.9 The banking sector within the VI predominantly provides banking facilities to residents and local businesses. Exposure to high-risk customers and PEPs is therefore highly localised to those types of customers resident in the Territory. Given the predominantly domestic nature of the banking services provided and the limited services provided to non-resident individuals the threat of PF within this sector was found to be **Low**.
- 1.10 Similarly, the core markets for MSBs within the VI are non-resident workers repatriating funds to their home countries and residents sending money abroad primarily for business and educational support purposes. The top jurisdictions receiving outward transfers aligned to the size of the immigrant populations of these jurisdictions from which the labour force in the VI is sourced. The threat of misuse of the money services sector for PF purposes, therefore, was found to be **Low** as there is no evidence of any financial flows involving Iran or DPRK or any high-risk conflict areas.

- 1.11 Reported instances of PF associated with BVI structures have been minimal during the reporting period. Nonetheless, due to the large number of BVIBCs and other legal arrangements operating in and from within the VI, the threat of misuse of these entities is considered to be material, given the potentially extensive impact of such activity to the reputation of the jurisdiction. The threat of PF associated with the collection and movement of funds on an international level by BVIBCs was, therefore, rated as **Medium**.

Ship Registration and Shipping Related Activities

- 1.12 With regard to ship registration and shipping related activities, the threat in the VI context, is twofold. Firstly, through the possible use of BVI flagged vessels registered by VISR, including those owned through a BVIBC, that may be used to transport goods to sanctioned countries or that may be involved in other illegal activities. Secondly, through the use of non-domestic vessels where ownership is through a BVIBC. Vulnerabilities identified in relation to CDD failings by the RAs and the absence of maintenance of BO information by VISR contributed to the risk of both threats materialising being rated as **Medium**.

Virtual Assets (VAs) and Virtual Assets Service Providers (VASPs)

- 1.13 In relation of VAs and VASPs, international typologies indicate that digital assets, and more specifically, cryptocurrencies are being used by non-state actors tied to the DPRK. In the VI, VAs and VASPs are currently un-regulated, with the exception of certain activities regulated under SIBA. A review of transactions and economic activities, including company formation and other business, indicates that there is an evolving risk from un-regulated BVIBCs operating in or from within the VI that serve as VASPs or facilitate the provision of VAs. Additional risks inherent to VAs and the provision of VA services are the level of anonymity they provide to the user while conducting multiple high value payments, the ease in which transactions may be structured and the ability to execute cross-jurisdictional transactions without being traced. Such risks are heightened by the lack of regulation of the entities that facilitate these activities. Based on these identified factors, the risk of this threat was found to be **High**.
- 1.14 Given the identified threat areas and the existing vulnerabilities, the Territory's overall PF risk was determined to be **Medium**. The report makes a number of recommendations that, if properly implemented, should aid in enhancing the level of effectiveness of the Territory's CPF regime. The recommendations have been grouped into national, law enforcement agency specific, competent authority specific, and private sector specific recommendations. As this was the first PF risk assessment conducted by the VI, the findings provide a useful foundation upon which law enforcement and other regulatory authorities, as well as relevant gatekeepers can conduct meaningful risk analyses and adopt policies, procedures and strategies to effectively address PF related matters.

2. Introduction

Jurisdictional Profile

Geographical

- 2.1 The Virgin Islands is an archipelago of some sixty (60) islands which sit to the north of the Leeward Islands and lie approximately 110 miles west of St. Maarten, a few miles east of the USVI and some 60 miles east of Puerto Rico. Of the approximately sixty islands, islets and cays, twenty are inhabited. The islands are primarily volcanic in nature, with the exception of Anegada, which is the most northerly of the islands and is constituted of coral and limestone. The islands' geographical location in itself is not such that it would be considered at risk for proliferation related activities.

Political

- 2.2 The Territory is classified by the United Nations as a non-self-governing Territory of the United Kingdom. However, the Territory is internally self-governing, and operates under the Westminster system with a Cabinet style government. The UK, however, maintains responsibility for external affairs and security and retains associated reserve powers in these areas.
- 2.3 Ministers of Cabinet are appointed from amongst the members of the Legislature and are not independently elected to executive office. Ultimately, they are accountable to the Parliament. The Virgin Islands' Parliament consists of thirteen elected members, the Attorney General and a non-elected Speaker selected by the elected members of the House.

Socio-economic

- 2.4 The population of the Virgin Islands is approximately 32,000 and the Territory is home to residents from over 110 different countries and territories who make up approximately 70% of the local labour force. The official currency of the Territory is the US dollar.¹ The Virgin Islands' current economic performance is reflected by slightly negative growth in the Territory's GDP from \$1.38 billion in 2018. The negative impact on performance and growth can be attributed largely to the effects of the global coronavirus pandemic during that period, particularly given the total closure of the tourism sector for most of the fiscal year 2020, at which point GDP stood at \$1.31 billion, before rising to \$1.34 billion in 2021.

¹ This is by virtue of the Legal Tender (Adoption of United States Currency) Act (Cap. 102) of the Laws of the Virgin Islands.

3. Methodology

- 3.1 The methodology used to conduct this risk assessment was based on international best practices and implemented through the use of the Proliferation Financing Rapid Risk Assessment Tool developed by the Royal United Services Institute for Defence and Security Studies (RUSI).
- 3.2 Data and other information was gathered from a number of sources including the Ministry of Finance, Companies Registry, the VISR, the FIA, the FSC, the GO, the ODPP and the RVIPF. Questionnaires were also circulated to each LEA to gauge their understanding of their involvement in the Territory's CPF framework and their exposure and experience in dealing with CPF related issues. Compliance inspection data was also reviewed to determine the level of understanding of, and compliance with CPF requirements within the private sector.
- 3.3 The methodology provides for the identification of threats in the context of various socio-economic, political, geographic, legal and sectoral factors within the jurisdiction. These threats were then analysed and rated based on an assessment of their prevalence in the Territory. Similarly, the vulnerabilities of those jurisdictional factors that allow for the promulgation of the identified threats were also identified, analysed and rated taking into account any mitigating factors. The Assessment Tool then provided the likelihood of a risk emanating from each threat and associated vulnerabilities. In essence this is the risk associated with each threat.
- 3.4 Threats and vulnerabilities were identified as low, medium or high and rated accordingly. The following point value scales were then applied to determine the overall vulnerability and risk ratings for each identified threat:

	<u>Scale</u>	<u>Rating</u>
a)	2.1 – 3	High
b)	1.1 – 2.09	Medium
c)	0 – 1.09	Low

- 3.5 The overall threat, vulnerability and risk ratings are identified in Table 3.1.

<u>Threat</u>	<u>Threat Score</u>	<u>Vulnerability Score</u>	<u>Risk Score</u>	<u>Risk Rating</u>
Use of BVIBCs to facilitate business transactions	3	1.83	2.42	H
Use of Registered Agents	2	1.29	1.64	M
Use of cryptocurrencies	3	2.33	2.67	H
Use of Trusts	1	1.00	1.00	L
Exposure in banking sector to high-risk customers	1	1.00	1.00	L

<u>Threat</u>	<u>Threat Score</u>	<u>Vulnerability Score</u>	<u>Risk Score</u>	<u>Risk Rating</u>
Use of MSBs for cash transfers to support PF	1	1.00	1.00	L
Use of BVI flagged vessels owned via BVIBCs	1	1.33	1.17	M
Use of non-domestic vessels owned via BVIBCs	2	1.43	1.71	M
Use of BVIBCs to facilitate international trade	3	1.63	2.31	H
Use of BVIBCs to facilitate collection and movement of funds	2	1.50	1.75	M

Table 3.1 – PF Threats, Vulnerability and Risk Scores and Ratings

- 3.6 The threats and corresponding vulnerabilities are depicted in **Chart 3.1**, while the overall risk rating for each identified threat can be found at **Chart 3.2**.

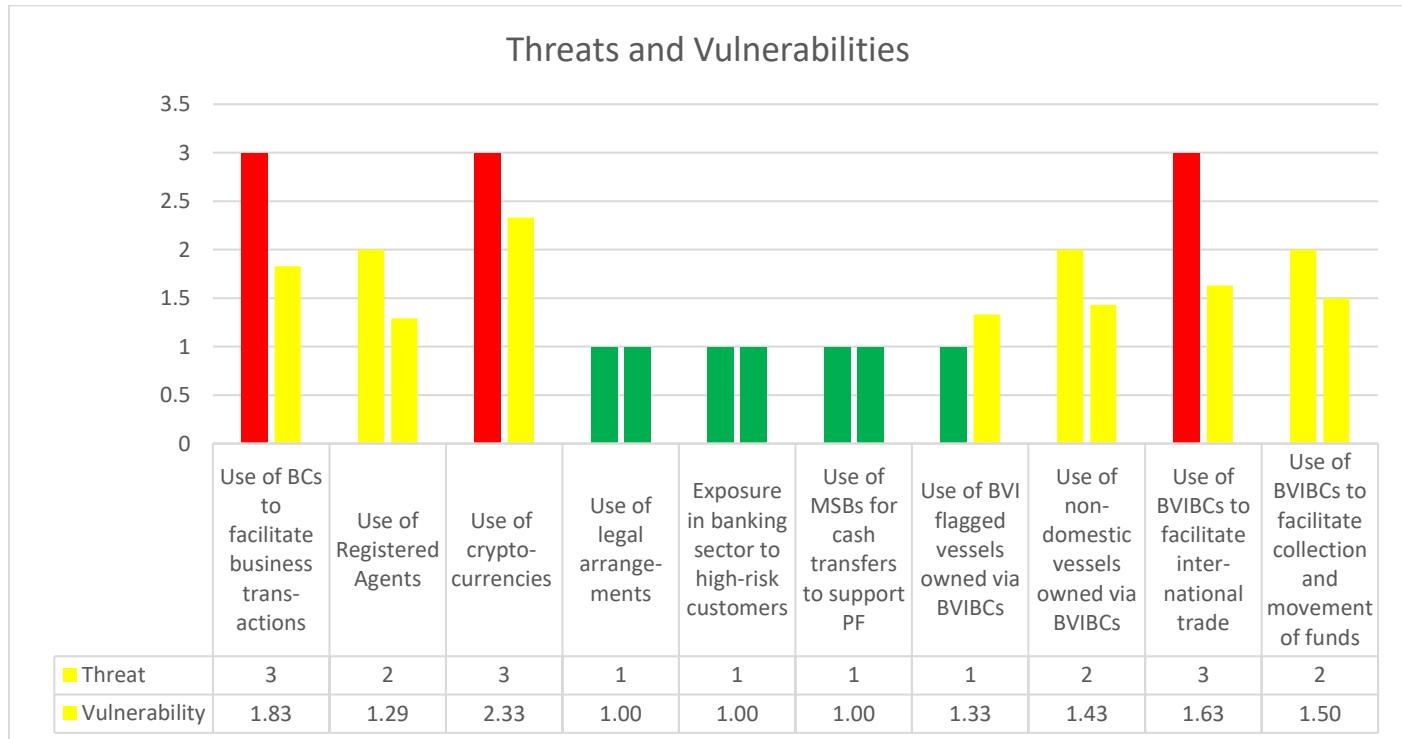


Chart 3.1 – PF Threats and Vulnerability Ratings

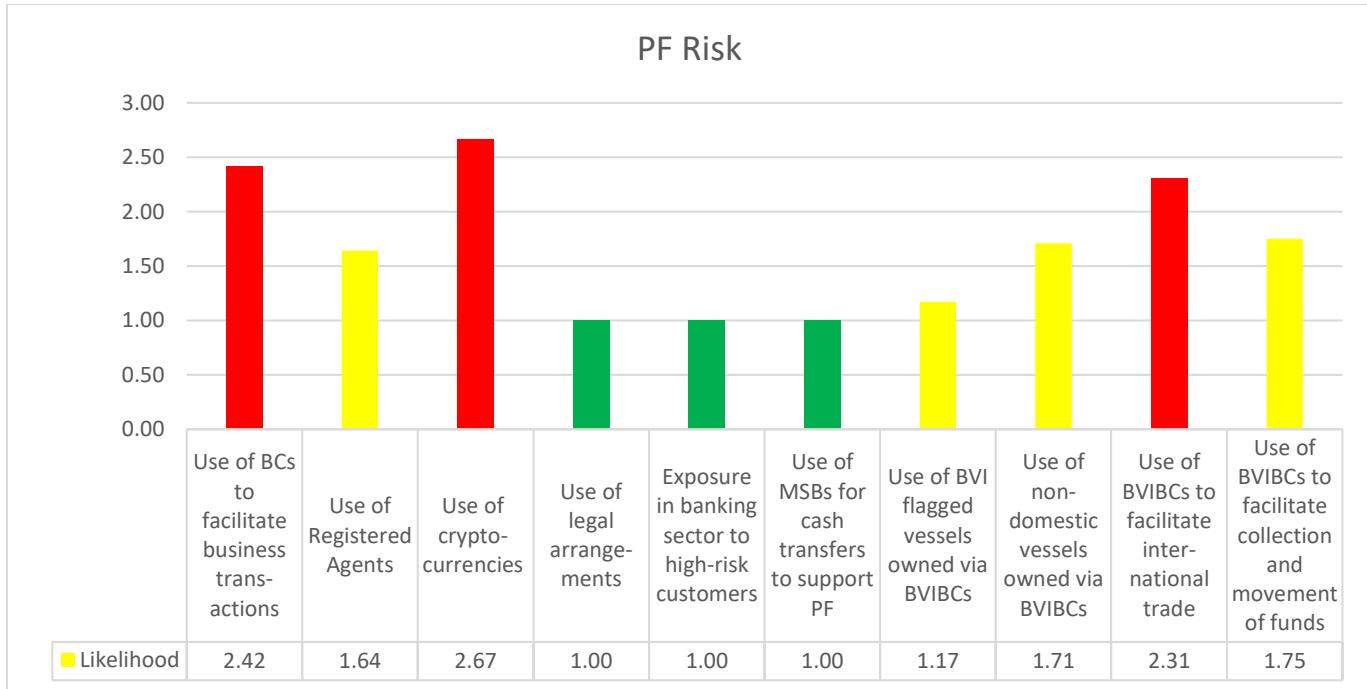


Chart 3.2 – PF Risk Ratings

4. The Legislative Framework

- 4.1 The Virgin Islands' domestic PF framework is in alignment with the various UN Council Resolutions (UNSCRs) on biological, chemical and nuclear weapons and in particular UNSCR 1540 which calls on all member states to refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes. The resolution requires all States to adopt and enforce appropriate laws to this effect as well as other effective measures to prevent the proliferation of these weapons and their means of delivery to non-State actors, in particular for terrorist purposes.²
- 4.2 The Proliferation Financing (Prohibition) Act, 2021 (PFPA) is the primary piece of legislation governing the criminalisation of proliferation of weapons of mass destruction and the provision of financing for such activities in the Virgin Islands. The implementation of the new PFPA comes as a result of the recommendation made in the 2016 NRA for the legislation to be reviewed to ensure it covered all of the elements listed in Recommendation 7. As such, the provisions within the PFPA seek to prevent the proliferation of WMD and their financing and is fashioned off of FATF Recommendation 7 on targeted financial sanctions (TFS) related to proliferation. This Act supersedes the Proliferation Financing (Prohibition) Act, 2009 which governed the prohibition of PF related activities in the Territory prior to the revision of the FATF's then 40 +9 Recommendations to incorporate provisions on PF.
- 4.3 The PFPA defines PF as the act of making available an asset, providing a financial service or conducting a financial transaction that facilitates:
- the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer, export, trans-shipment or use of:
 - nuclear, chemical or biological weapons; or
 - materials related to nuclear, chemical, biological or radiological weapons that are restricted or prohibited
- 4.4 Within the PFPA, PF also includes the provision of technical training, advice, service, brokering or assistance related to any of the above activities. This definition aligns with the FATF definition of PF³, and the provisions of the PFPA support the implementation of prohibitions outlined in the relevant UNSCRs relating to CPF.

² <https://www.un.org/disarmament/wmd/sc1540/>

³ Pg 5 Combating Proliferation Financing: A Status Report on Policy Development and Consultation

4.5 The PFPA confers power on the BVI Financial Investigation Agency (FIA) to:

- monitor and assess the level of PF risk in the Territory and take appropriate steps to address that risk;
- provide guidance and feedback to persons and entities to assist them in complying with the provisions of the PFPA;
- cooperate with domestic and international counterparts to ensure consistent, efficient and effective implementation of the PFPA; and
- perform any other duties that are not inconsistent with the PFPA to ensure compliance with the requirements of the PFPA.⁴

4.6 The PFPA also empowers the FIA to take action against any person or entity for non-compliance with the provisions of the PFPA. Such action would come primarily in the form of directions that may be issued by the FIA. The ability to do so was also identified and recommended in the 2016 NRA. Information gathered by the FIA in the exercise of its duties in carrying out the provisions of the PFPA may be the subject of information exchange, provided that such requests for information are made in accordance with relevant legislative provisions. The PFPA also calls for mandatory reporting by persons, natural or legal, of assets frozen and other actions taken against designated persons. Such assets should be frozen without delay thereby preventing funds from being made available directly or indirectly for the benefit of any designated person or entity. The PFPA prohibits persons from dealing with assets of a designated person unless authorised to do so via licence issued by the Governor.

4.7 In addition, the PFPA provides the Governor with the authority to make designations of persons who meet the criteria for designation by the UN Security Council and its Committees.

4.8 With regard to TFS, the United Kingdom Sanctions and Anti-Money Laundering Act, 2018 (“SAMLA”) provides the legal framework for the implementation of sanctions in the United Kingdom. Pursuant to SAMLA, UN designations and UN Security Council Resolutions automatically apply in the UK and are implemented through the relevant UK Sanctions Regulations and under the Immigration Act 1971 in relation to travel bans. These Regulations include the Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019, which establishes a sanctions regime in relation to the DPRK for the purposes of implementing many of the obligations that the United Kingdom has under UN Security Council Resolution 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017) and 2397 (2017). It also includes the Iran Sanctions (Nuclear) (EU Exit) Regulations 2019 which give effect to UNSCR 2231 endorsing the 2015 Joint Comprehensive Plan of Action.

⁴ s.38 Proliferation Financing (Prohibition) Act, 2021

- 4.9 The FCDO has broad oversight for UK Sanctions policy and is responsible for administering and maintaining a list of sanctions in the UK OTs. As an OT, the VI is required to implement the international sanctions obligations of the UK. The sanction measures for various sanctions regimes established under the relevant UK Sanctions Regulations are extended to the VI via Overseas Territories Orders-in-Council. This includes The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2020 which extends the provisions of the Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 and The Iran (Sanctions) (Nuclear) (Overseas Territories) Order 2020 which extends the provisions of the Iran Sanctions (Nuclear) (EU Exit) Regulations 2019.
- 4.10 In the VI, the Governor is the Competent Authority for the administration and enforcement of these Orders-in-Council. The Governor, therefore, has certain powers and duties in relation to the implementation of sanction measures. This includes the power to issue, amend and revoke licences (subject to the consent of the Secretary of State) issued to sanctioned individuals or their representatives in justified cases, which would permit the conduct of otherwise prohibited acts. The Orders-in-Council typically also require the Governor to publish a notice of each OT Order in addition to a consolidated list of designated persons or restricted goods and to keep such lists updated.
- 4.11 In addition to the various Orders-in-Council that cover financial sanctions, the following Orders-in-Council, are also applicable and form part of the Territory's Counter Proliferation Financing (CPF) framework.
- **Chemical Weapons (Overseas Territories) Order, 2005** - 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.
 - **Chemical Weapons (Sanctions) (Overseas Territories) Order, 2020** - gives effect to the sanctions regime created under the Chemical Weapons (Sanctions) (EU Exit) Regulations, 2019 for the purpose of deterring the proliferation and use of chemical weapons, including encouraging the effective implementation of the Chemical Weapons Convention.

5. CPF Operational Framework

5.1 In the Virgin Islands the responsibility for identifying, monitoring, investigating, prosecuting and providing mutual legal assistance and other forms of international cooperation on PF related matters spans across the following CAs and LEAs.

- a) **AGC** – primary authority responsible for receipt and actioning of MLA requests and other forms of international cooperation relative to civil and criminal matters.
- b) **FIA** – primarily responsible for PF matters including taking action against persons/entities for non-compliance with the PFPA. Serves as the national financial intelligence unit for the receipt and analysis of SARs and dissemination of intelligence to local and foreign counterparts. Assists the AGC in the provision of information in response to MLA requests and is responsible for investigating and reporting on any potential sanctions breaches identified by the GO. Supervisory authority for NPOs and DNFBPs.
- c) **FSC** – regulatory authority responsible for the supervision of FIs including monitoring and enforcement of regulatory obligations relative to Targeted Financial Sanctions (TFS). Responsible for the administration of the BVI Business Companies Act and the registration of BVIBCs doing business in and from within the VI, and maintenance of the Register of Companies. Provides international cooperation assistance to foreign counterparts in concurrence with established MoUs and other international obligations.
- d) **GO** – responsible for the implementation of UK sanctions measures including the issuing, varying and revocation of licences that permit the conduct of activities otherwise not permitted under the relevant Orders-in-Council.
- e) **RVIPF** – responsible for the investigation of all criminal matters including PF related activities.
- f) **ODPP** – prosecutorial authority responsible for ensuring swift and proper prosecution of all criminal matters including PF related matters.
- g) **HMC** – primarily responsible for the safeguarding of the Territory's borders (in conjunction with the RVIPF and the Immigration Department) against illegal entry, people smuggling and human trafficking, and the prevention of importation and/or transhipment of illegal weapons and related contraband.
- h) **VISR** – responsible for the registration of ships, and for implementing and enforcing the regulations applicable to all Virgin Islands vessels on both domestic and international routes, and for all vessels navigating in the territorial waters of the Virgin Islands.

Domestic Cooperation

- 5.2 The framework used for fostering inter-agency cooperation in the VI includes information exchange based on the use of bi-lateral inter-agency MOUs as well as a multi-lateral inter-agency MOU established amongst the 18 members of the IGC⁵. This MMoU defines the relationship between the members and compels them to work together to, *inter alia*, enhance the Territory's compliance with its international obligations with respect to information exchange, and coordinate activities to effectively combat criminality relative to all AML/CFT related matters, including PF.
- 5.3 Cooperation and the use of the MMoU could be further strengthened with a review of the MMoU, which is currently eight years old, to include timescales for the processing of requests as in some instances responses to requests were not received or received timely.
- 5.4 Additionally, the LEAs within the Territory as a matter of practice, co-operate and share information with each other on a regular basis. **Case Example 1** below, although not PF related demonstrates the level of cooperation engaged in across domestic LEAs.

Case Example 1

In 2021, as a result of an RVIPF intelligence led operation, subject was stopped and arrested. A quantity of cocaine was seized and a value of over \$50 million was identified.

A parallel ML investigation was formally instigated following information obtained from the FIA in August 2021, although informal enquiries had been conducted prior.

The ML Investigation utilised search warrants, the IGC MMoU and Production Orders requested under the PCCA. The subject's gross earnings during a 10-year period averaged under \$5,000 per year. No social contributions had been made by the subject since 2007, and no revenue was declared for a business that the subject claimed to operate, although information gathered identified multiple vehicles imported from December 2019 to March 2021 on behalf of the declared business. These vehicles were mainly pre-owned with a total value of over \$130,000.

The RVIPF FCU instigated formal requests through HMC with US authorities to identify the relevant information to support a formal MLA request in relation to the purchase of the said vehicles and any other ancillary information.

Concerning the ML charge, restraint and eventual confiscation of the identified vehicles recorded as belonging to the subject has been requested through the ODPP as required by the RVIPF/ODPP protocols.

⁵ Members of the IGC are the AGC, FSC, FIA, HMC, Post Office, Inland Revenue Department, High Court, Magistrate's Court, Immigration Department, ODPP, RVIPF, VISR, Department of Trade and Consumer Affairs, BVI Ports Authority, BVI Airports Authority, Land Registry, International Tax Authority and the NPO Board.

- 5.5 In addition, information that relates to maritime activities of vessels registered in the BVI, including beneficial ownership of such vessels where available, is shared between VISR, the RVIPF, HMC, the FIA and the ITA on a case-by-case basis.
- 5.6 The relationship between the FIA and the GO is of particular importance in relation to the investigation of potential breaches of targeted financial sanctions. Where the GO receives a report of a suspected breach, it will request the FIA investigate. The GO keeps a log and track of these investigations, and the FIA provides regular updates to the GO on the investigations. The FIA also provides valuable support to the AGC in gathering information relating to legal persons and legal arrangements established in the VI to allow for the AGC to respond to MLA requests.

International Cooperation

- 5.7 The Virgin Islands has for over twenty-five years, since the enactment of the Criminal Justice (International Cooperation) Act, 1993, been involved in international cooperation matters by providing mutual legal assistance upon request. The VI embraces international standards and best-practice standards which promote international cooperation and international security in accordance with international agreements. This includes the implementation of measures to ensure that it meets its obligations to combat ML, TF and PF as embodied under the FATF Recommendations.
- 5.8 International cooperation is of utmost importance in relation to PF given the deleterious consequences that may occur should proliferation actors be allowed to carry out their illicit activities. The ability to provide mutual legal assistance and other forms of international cooperation is, therefore, paramount to the VI's ability to assist in mitigating such risk.
- 5.9 LEAs and CAs within the VI have the capacity to cooperate and exchange information with their regional and international counterparts. The RVIPF has several bi-lateral agreements in place with policing authorities in St. Vincent and the Grenadines, Antigua and Barbuda, the Turks and Caicos Islands, the Cayman Islands, Canada, St. Martin, Trinidad and Tobago, and the UK, as well as US and USVI law enforcement authorities. The RVIPF has a good working relationship with the US DEA, ATF, FBI and the USVI Police Department. The RVIPF regularly supports US LEA operations which plays a pivotal role in disrupting drugs, people and firearms smuggling between the VI and the surrounding US Territories of the USVI, Puerto Rico and the US mainland. The RVIPF also has a good working relationship with the UK NCA, the Law Enforcement Adviser – British Overseas Territories within the FCDO who provides access to UK Police Services, and INTERPOL.

- 5.10 **Case Examples 2 and 3** below, while not specifically PF related, demonstrate the RVIPF's ability to cooperate with foreign law enforcement.

Case Example 2

In 2021 the RVIPF arrested a subject suspected of being involved in organised crime. The arrest phase of the operation was supported by US law enforcement. The suspect was found to be in possession of a fully loaded modified handgun. Further search of his property uncovered a number of other firearms and accessories as well as thousands of rounds of ammunition and a large quantity of cash and illegal drugs.

Following the recovery of these firearms the RVIPF MIT initiated contact with the US ATF in order to trace the source of the firearms. This has led to an ATF firearms trafficking investigation in the US which is ongoing and has already led to one arrest and the recovery of a firearm in the USVI.

Case Example 3

In 2022, information was received that a murder suspect had illegally travelled to the USVI. The RVIPF made contact with the USVI Police Department and US Department of Homeland Security to brief them and circulated a Wanted Persons Bulletin. Within 48hrs the suspect was sighted and detained. The suspect was then deported by the US Department of Homeland Security and on arrival in the BVI was charged and is currently awaiting trial.

- 5.11 HMC is a member CCLEC and has participated in joint operations with the US ICE and CBP units amongst others. As a member of Egmont, the FIA is able to provide and request assistance from other members when necessary to aid in domestic and foreign investigations. Additionally, VISR has a good working relationship with the USCG.
- 5.12 With respect to the CAs, they too are able to provide international cooperation to their foreign counterparts when called upon. The FSC is a member of IOSCO, IAIS, GIFCS, ASBA, CGSR and CGBS. Membership in these organisations allow the FSC to assist member countries with information requests when called upon. Under the Territory's international cooperation framework, the AGC has the ability to provide information through the formal MLA process as well as spontaneously when necessary. The GO, which is the CA responsible for sanctions matters, is supported by its colleagues in the Sanctions Unit in the FCDO to ensure the necessary sanctions orders are implemented domestically, and to provide responses to queries received from the various UN Panel of Experts. The GO also works closely with OFSI for advice on best practice, including training opportunities, with respect to sanction implementation. The VI thereby mitigates PF risk by ensuring timely communication with respect to international cooperation requests, including those received from the various UN Panel of Experts, and by implementing specific strategies to mitigate PF risk. **Case Example 4** highlights the VI's ability to effectively respond to international cooperation requests and assist with extra-territorial investigations.

Case Example 4

In May 2020 the FIA received a request for assistance from the UN Panel of Experts on DPRK via the Office of the Governor. The request was in reference to a BVIBC suspected of non-compliance with measures imposed on DPRK. The request sought confirmation of company registration, director, shareholder, and BO information along with any bank account details for any accounts that may have existed in the BVI. The FIA conducted enquiries and provided a response to the UN Panel through the Governor's Office in May 2020. No supplemental requests were received in reference in this matter; therefore, the matter was closed.

Targeted Financial Sanctions

- 5.13 As a British Overseas Territory, the VI is committed to ensuring its role in the maintenance of international peace and security, and therefore implements the international sanctions obligations extended through the UK in the form of Orders-in-Council. The Governor is the CA with responsibility for enforcing Orders-in-Council relative to international sanctions. Through internal processes between the GO and the FIA suspected breaches are investigated and responded to in a timely manner. In accordance with the TFS regime, the Governor is conferred with powers under the individual Sanctions Orders, with the consent of the Secretary of State, to issue licences to conduct business with or on behalf of a designated person or entity. In considering such licences the GO works closely with the AGC to ensure all applications meet the criteria and are properly evaluated. The GO and AGC are also supported by the FCDO's Sanction Unit and OFSI in considering the applications.
- 5.14 Between 2018 and 2021 the Governor granted one (1) such license. The licence was granted under the Ukraine (Sanctions) (Overseas Territories) (No. 2) Order 2014 and was not specifically in relation to persons or entities designated for matters concerning PF. The low number of requests for licenses correlate with the low number of instances in which BVIBCs or persons related to BVIBCs have been designated, regardless of the reason for designation.

Investigation and Prosecution of PF

- 5.15 The RVIPF is the LEA responsible for the investigation of all suspected criminal matters. The RVIPF's FCU is the single point of contact for RVIPF enquiries into financial matters and is the lead unit for financial crime investigations. The FCU works closely with other Units within the RVIPF including the Major Crimes, Serious Investigation Team (SIT) Intelligence Unit and the Criminal Investigations Division. In addition, there are regular formal and informal working arrangements with other domestic and foreign agencies during such investigations. Where the RVIPF may become involved in a complex case for which they lack internal expertise, they have the ability to bring in the necessary external expertise to assist with any investigations that may need to be conducted.

- 5.16 During the reporting period no PF cases were referred to the FCU for investigation, nor did the FCU instigate any investigations on its own. Additionally, there were no PF-related MLA or other international cooperation requests received. The FCU however, as noted previously, does have good working relationships with its regional and international counterparts that would allow it to provide assistance should the need arise and stands ready to undertake any future investigations that may arise. The RVIPF also has the ability to run parallel investigations domestically and concurrently with its international counterparts where the alleged activities of a BVI person, including a legal person or arrangement are such that charges could be brought in domestic courts for breach of any domestic legislation. The RVIPF's experience in running parallel investigations in relation to ML demonstrates that there is no impediment to them being able to do so in relation to any potential PF investigation that may arise.
- 5.17 The ODPP is the sole prosecutorial authority in the Virgin Islands. All investigative files submitted by the RVIPF regardless of the offense, are reviewed by the ODPP prior to any charges or complaints being preferred. Files are subjected to a two-step test which looks at a) whether there is sufficient evidence that would more than likely lead to a conviction, and b) whether it is in the public interest to commence a prosecution. Only when both tests are met will a prosecution commence. The ODPP also has the ability to engage outside counsel to assist in prosecuting matters of a complex nature where they may not have the specific expertise.
- 5.18 No PF related prosecutions were carried out in the Territory within the reporting period. However, where an investigation is being conducted in another jurisdiction the Virgin Islands has the ability, through its international cooperation framework, to offer international legal assistance to that jurisdiction if so requested. The experience of LEAs, including the ODPP in relation to investigations and prosecutions of ML cases with an extra-territorial element demonstrates the Territory's ability to cooperate internationally, which would also include on issues relative to PF. The ODPP has indicated that providing assistance via international cooperation is the preferred way of dealing with alleged crimes committed by a BVI entity outside the Territory rather than attempting to prosecute locally, particularly in relation to a BVIBC that may have no physical presence in the Territory. Given this policy, any prosecutions relative to PF would likely, therefore, occur extra-territorially with the Virgin Islands providing assistance when called upon to do so. While this policy allows the Territory to demonstrate its ability to provide international cooperation it signifies a shortcoming in the domestic framework that may allow BVIBCs to evade local prosecution for their involvement in any potential illegal activities.

6. Proliferation Financing – Risk Overview

- 6.1 The risk of PF to a jurisdiction is considered to be a function of its PF threats and vulnerabilities and resulting consequences. PF risk is based primarily on the threat caused by illicit use of products and services and exploitation of key sectors by persons designated by the United Nations, and those who act on their behalf, to facilitate the financing of proliferation of weapons of mass destruction, and the vulnerabilities inherent in a jurisdiction's systems that allow these threats to persist. Vulnerabilities are effectively those factors that represent weaknesses in the Territory's CPF system, including features of a particular sector, financial product or type of service that may provide opportunities for designated persons and entities to raise or move funds or other assets.
- 6.2 The FATF refers to a threat in the PF context, as designated persons and entities that have previously caused, or with the potential to evade, breach or exploit a failure to implement PF-TFS in the past, present or future. Such threat may also be caused by those persons or entities acting for or on behalf of designated persons or entities and can be an actual or a potential threat⁶. 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 breach, non-implementation, or evasion of PF-TFS⁷.

PF Threats

- 6.3 In the Virgin Islands, while the threat of PF in the domestic context may be minimal, given the Territory's standing as an International Finance Centre, understanding the threat of PF in this context is of particular importance. The use of BVIBCs and other legal persons and arrangements to facilitate business globally enhances the susceptibility of these structures to misuse for illicit purposes.
- 6.4 In this context particular attention has been paid to the threats facing the Territory in relation to
- a) use of legal persons and legal arrangements;
 - b) international trade and collection and movement of funds; and
 - c) the use of ships registered in the Territory and their related activities, which include international trade and shipping of goods by or on behalf of designated persons through the use of legal persons and legal arrangements registered and operating from within the VI.
- 6.5 Attention has also been paid to the vulnerabilities of Registered Agents acting as "gatekeepers" given the risk and context of the VI, who facilitate the registration of legal persons and arrangements and the execution of cross-border business activities relative to shipping and international trade that may be exploited to facilitate such illegal activities.

⁶ Pg 9 FATF Guidance on Proliferation Financing Risk Assessment and Mitigation

⁷ Ibid

A. Use of Legal Persons and Legal Arrangements

Trusts

- 6.6 In the Virgin Islands trusts are not required to be registered. The requirement to undertake due diligence on trusts including the beneficiaries is the obligation of the trustee. However, in the Virgin Islands persons undertaking professional trustee business are required to be licensed to do so. TCSPs are regulated under the BTCA and are subject to AML/CFT legislative provisions. Of the 283 licensed TCSPs in the Territory at the end of 2021, 134 have the ability to provide trust business. Trust business provided by TCSPs includes professional trustee, protector and administrator services.
- 6.7 At the end of 2020 there were 6,628 express trusts under administration. Further, there were 1,326 trusts held under the Virgin Islands Special Trusts Act, 2003. At the end of 2020 the express trusts under administration were valued at approximately \$3.187 trillion.
- 6.8 During the reporting period there were no SARs filed with the FIA relative to PF or PF related activities that involved a legal arrangement. Additionally, no MLA requests were received by the AGC, and no directions were issued by the FIA in relation to any legal arrangement due to an association with PF. There was also no reporting by FIs and DNFBPs of assets frozen or other actions taken against designated persons linked to any legal arrangements as required under the PFPA.
- 6.9 In reviewing the data and other qualitative material gathered during the assessment, including international typologies, it was determined that trusts were not typical vehicles used to facilitate PF, therefore primary focus was placed on the use of legal persons. However, it is recognised that there is some residual risk in relation to legal arrangements where the ownership structure of a legal person includes a trust. The overall risk, however, was considered **Low**.

Limited Partnerships

- 6.10 In the Virgin Islands limited partnerships may be formed under the Limited Partnership Act, 2017 (LPA), which replaced the provisions for limited partnerships under the Partnership Act, 1996. A limited partnership must maintain a registered office and RA within the VI at all times⁸. Further, the general partners of a limited partnership are required to maintain at the registered office a register of general partners and a register of limited partners, or a record of the address of where such registers are maintained⁹. Each register is required to include the name and address of each general and limited partner, the date on which a person became a general or limited partner, the date a person ceased to be a general or limited partner, and the particulars of the general or limited partnership interest, if any. The limited partnership is also required to keep financial records and any other underlying documentation of the limited partnership¹⁰. At the end of 2021 there were 2,066 limited partnerships registered in the Territory.

⁸ Sections 18 and 19 LPA

⁹ Section 53 LPA

¹⁰ Section 54 Limited Partnership Act, 2017

- 6.11 There were no SARs filed with the FIA relative to PF or PF related activities that involved a limited partnership during the reporting period. No MLA requests were received by the AGC, nor were any directions issued by the FIA in relation to any limited partnership due to an association with PF. There was also no reporting of assets frozen or other actions taken against designated persons linked to any limited partnerships as called for under the PFPA. These factors, along with the lack of international typologies identifying this type of legal person being misused for PF provided sufficient evidence to consider the risk of misuse of limited partnerships to be **Low**. The risk involving the use of legal persons and legal arrangements for the purposes of PF was therefore concentrated on BVIBCs.

BVI Business Companies

- 6.12 In relation to companies, there is no distinction between a company established to operate in or from within the Territory. At the end of 2021, there were 368,893 active BVIBCs on the Companies Register (i.e. in good standing and in compliance with the BVIBCA). On average, however, less than 1% of BVIBCs incorporated annually operate physically in the Virgin Islands. Most BVIBCs incorporated in the jurisdiction are created for the purposes of cross-border business, primarily as entities to hold assets or as vehicles for joint ventures which may be linked to the investment sector.
- 6.13 One of the identified threats of PF to the Virgin Islands is the use of BVIBCs to facilitate business transactions, particularly in relation to movement of, and payment for goods and other services where the ultimate destination of such goods is a sanctioned jurisdiction. This threat is further enhanced through the use of BVIBCs to establish ownership of vessels that may engage in transporting illicit cargo to sanctions countries. **Case Examples 5 and 6** below highlight PF related activities linked to the DPRK involving BVIBCs that were documented during the period 2018 to 2021 and the Territory's ability to investigate and respond to requests for cooperation from foreign counterparts.

Case Example 5

In August 2020, a BVIBC pleaded guilty in a U.S. Court to charges of conspiring to launder money in order to evade US sanctions against DPRK. The BVIBC did not contest the allegations and was fined \$673,714 by the US authorities.¹¹

This matter was referred to the FIA by the Office of the Governor for investigation. At a very early stage in the process, the decision was taken to submit an MLA request to the foreign authorities in an effort to obtain whatever evidence they may have had on the BVIBC to determine whether local charges should be pursued. However, the local investigation was discontinued as the FIA was unable to receive the necessary information and documentation from the relevant foreign authorities although several follow-up requests were made.

¹¹ <https://www.justice.gov/opa/pr/company-pleads-guilty-money-laundering-violation-part-scheme-circumvent-north-korean>

Case Example 6

In 2019 fourteen countries were cited for failing to uphold DPRK sanctions in relation to vessel and shipping related activities. This included failure to prohibit nationals or entities incorporated in these territories or subject to their jurisdiction, or vessels flying their flags, from facilitating or engaging in ship-to-ship transfers to or from DPRK flagged vessels. This came as a result of an operation that identified a number of illegal shipments to the DPRK, including the transfer of \$5,700,000 worth of petroleum to a UN designated ship destined for DPRK. BVI corporate structures were named in the complex ownership of a number of the vessels involved in the illegal ship to ship transfers.

In March of 2021, the FIA received a request for assistance from the UN Panel of Experts on the DPRK via the Office of the Governor. The request sought information on several BVIBCs pertaining to their suspected involvement in several illicit ship-to-ship transfers, which resulted in refined petroleum deliveries to the DPRK in violation of relevant UN sanctions including Resolutions 2321 and 2270 of 2016, which prohibit the supply of financial services, directly or indirectly to the DPRK. Subsidiaries of the parent group, including several of the BVIBCs, were alleged to be directly involved in facilitating sanctions evading activities. As a result of inquiries conducted by the FIA, some 46 BVIBCs were found to be connected to the parent group. The FIA assisted the UN Panel of Experts with information, including UBO, director, and shareholder information on all of the mentioned BVIBCs, which included nationals of Singapore, Taiwan and China.

- 6.14 Due to the nature of PF activities, jurisdictions could suffer significant reputational damage and negative impacts to their economies for not taking sufficient steps to protect themselves and the international community from the impact of these activities. Therefore, the ability for structures established in the BVI to be misused as described in the cases above highlights the level of PF threat to which the jurisdiction is exposed, and ultimately elevates the level of risk as any linkages to a BVI company, entity or person may create significant reputational damage.
- 6.15 However, while the cases highlight that BVIBCs have been identified internationally in connection with possible PF activities, there have been no SARs filed with the FIA within the reporting period relative to PF or PF related activities. Additionally, no MLA requests were received by the AGC where PF or any PF related activity was the subject of the request. There have also been no directions issued by the FIA in relation to any person or entity associated with PF or any reporting by FIs and DNFBPs of assets frozen and other actions taken against designated persons as called for under the PFPA. This may either be interpreted as a true absence of any significant PF related activities, or it may be indicative of a lack of understanding by BVIBCs and their service providers of their obligations in relation to PF. Where such vulnerabilities exist, this lends itself to these entities being exploited by the threats facing the Territory caused by the illicit use of these products and services to facilitate the financing of WMDs. The risk of this threat is therefore considered to be **High**.

- 6.16 During the reporting period five requests for information from the UN Panel of Experts on DPRK were received by the GO by way of the FCDO in relation to potential sanctions breaches involving the DPRK's nuclear weapons programme. Requests received by the GO from any of the UN's Panels of Experts are forwarded to the FIA for investigation, and results are returned to the GO without exception. The requests that were sent to the FIA for investigation were in relation to potential breaches of UN sanctions and generally sought information on beneficial ownership, directorships and other shareholder information of BVI registered entities. In all instances the FIA was able to provide the information requested, and all requests were responded to by the FIA within the desired timeframe. The resulting findings were communicated to the UN Panel of Experts in accordance with the Territory's commitment to its international cooperation obligations. The jurisdiction has received positive feedback from the UN Panel for its responsiveness to their requests.

B. International Trade and Collection and Movement of Funds

- 6.17 The primary sectors of the economy which generate the most economic activity and revenue are tourism and financial services, with financial services contributing approximately 33.8% of the Territory's GDP, with the larger portion of this revenue stemming from company formations. Most BVIBCs incorporated in the jurisdiction are created for the purposes of cross-border business, primarily as entities to hold assets or as vehicles for joint ventures which may be linked to the investment sector.
- 6.18 As a number of BVIBCs do engage in import/export and other trading related activities the possibility of these entities being involved in the export and trade of dual use and other proliferation sensitive materials was also considered. However, as there are no manufacturing sites or research centres physically located in the Virgin Islands that produce dual use and proliferation sensitive goods, exposure to the export and trade in such goods from a domestic perspective is not considered to be a threat. Additionally, the geographical location of the Virgin Islands does not make it attractive as a trans-shipment point for goods destined to the DPRK or Iran. The concern, therefore, in relation to such a threat would be from an international perspective given the ability of BVIBCs to engage in import/export and other trading related activities. This elevates the risk of these entities having direct or indirect engagement with some sanctioned jurisdictions, or being used, whether knowingly or unknowingly, to provide goods that may allow for the financing of proliferation related activities or development of proliferation capabilities for the benefit of these sanctioned jurisdictions.
- 6.19 While most BVIBCs operate mainly in major global economies including Asia, South America, Europe, North America, and to a lesser extent Africa, and provide legitimate services, data collected during the assessment exercise was insufficient to quantify the level and type of trade engaged in by these entities. Given the global nature of such trading activities, however, and the identification of the involvement of BVIBCs in illegal trade related activities with the DPRK, although minimal, the threat of PF from such activities is considered to be **High**.

- 6.20 The banking sector within the VI is small in comparison to other similar jurisdictions of size and type and consists of six commercial banks and one private wealth management institution. Five of the commercial banks are subsidiaries or branches of international banking groups established in a range of jurisdictions with equivalent AML/CFT/CPF regimes to the Virgin Islands. The sixth commercial bank is domestically owned with the majority shareholder being the Government of the Virgin Islands. No bank in the Territory provides foreign correspondent banking services. However, each bank has relationships with overseas banks that provide the local entities with correspondent banking services. While the sector plays an integral part within the financial services sector, with operations at both the domestic and international levels, the products and services offered are standard banking related products and services and are not of an overly complex nature.
- 6.21 Services are provided to non-resident persons either directly or through the provision of banking services to legal persons and legal arrangements. The BOs and other relevant persons of these legal persons and legal arrangements are clients of licensed TCSPs who are obligated to conduct CDD on their clients. However, all of the banks are subject to the AMLTFCOP and AMLR and have undergone AML/CFT compliance inspections to determine their level of adherence with their own AML/CFT obligations.
- 6.22 The banking sector within the VI predominantly provides banking facilities to residents and local businesses. To put this into perspective the total value of non-resident loans at the end of 2021 was reported at \$60.03 million or approximately 4.8% of all total loans currently issued. Similarly, non-resident deposits accounted for only 21.3% of all deposits. Exposure to high-risk customers and PEPs is therefore highly localised to those types of customers resident in the Territory. Given the predominantly domestic nature of the banking services provided and the limited services provided to non-resident individuals the threat of PF within this sector is considered to be **Low**.
- 6.23 With regard to money transfer services, only 2 money services licences have been issued. These two entities are part of large international money transfer organisations with operations throughout the wider Caribbean region and beyond. They currently provide money transmission services through two branches and three representative offices.
- 6.24 Outward money transfers constitute the greatest number of transactions recorded, accounting for 90.83% of all transactions. The average value of outgoing transactions is \$314.00. Incoming transfers average approximately 9.17% of all transactions. Given the demographic composition of the Territory this imbalance between incoming and outgoing transfers is not unexpected.

- 6.25 The core markets for MSBs within the VI are non-resident workers repatriating funds to their home countries and residents sending money abroad primarily for business and educational support purposes. Majority of MSB clients have been identified as construction workers, labourers and low-income earners. The top jurisdictions receiving outward transfers are the Dominican Republic, Jamaica and Guyana. This is aligned to the size of these immigrant populations which rank in the top 5 jurisdictions from which the labour force in the VI is sourced. The threat of misuse of the money services sector for PF purposes, therefore, is considered to be **Low** as there is no evidence of any financial flows involving Iran or DPRK or any high-risk conflict areas.
- 6.26 Given the volume of large-scale cross-border transactions conducted on a daily basis by BVIBCs, the potential for misuse is inherently greater. This is driven by the complexity of the international financial transactions they often engage in, which heighten the risk of these structures being used to facilitate the financing of proliferation. The rationale being that it is possible that these BVIBCs and other available financial products may be used to facilitate payments through the legitimate banking system to other entities involved in the provision, transportation and/or delivery of proliferation related goods and services to sanctioned countries.
- 6.27 Reported instances of PF associated with BVI structures have been minimal during the reporting period. Nonetheless, due to the large number of BVIBCs and other legal arrangements operating in and from within the VI, the threat of misuse of these entities is considered to be material, given the potentially extensive impact of such activity to the reputation of the jurisdiction. The threat of PF associated with the collection and movement of funds on an international level by BVIBCs is, therefore, considered to be **Medium**.

C. Ship Registration and Shipping Related Activities

- 6.28 The responsibility for registration of vessels wishing to fly the VI maritime flag lies with the VISR. VISR is a Category 1 ships registry which allows it to register all ship types of unlimited size. It is an active participant at the International Maritime Organization (IMO), and all major maritime conventions have been extended to the BVI and enacted through BVI law. VISR's primary role is to implement the maritime policies of the BVI Government, principally through the BVI Merchant Shipping Act, 2001 (MSA).¹²
- 6.29 All VI maritime laws are applicable to vessels registered by VISR and administration of these vessels is the responsibility of VISR through its certification process.

¹² <https://www.redesigngroup.org/member-registers/category-1/british-virgin-islands/>

- 6.30 Citizens of, and Bodies Corporate registered in the BVI or, any of the following countries, are qualified to own a Virgin Islands vessel:
- United Kingdom and its Crown Dependencies and Overseas Territories
 - Nationals of and bodies corporate incorporated in:
 - Member States of the European Community (EC) or European Economic Area (EEA)
 - Overseas Territories of the Members of EC or EEA. (Bodies corporate must have a place of business in such Member State or Overseas Territory)
 - Bodies corporate incorporated in a Member State of the Caribbean Community (CARICOM) or the Organization of Eastern Caribbean States (OECS) and registered in the BVI¹³.
- 6.31 A Body Corporate must submit a valid Certificate of Incorporation issued by the Registrar of Companies within the respective jurisdiction, while individuals must provide certified proof of nationality. A company incorporated for more than twelve months is also required to submit a ‘Certificate of Good Standing’.
- 6.32 When registering a vessel where ownership is through a BVIBC, VISR relies on the Registered Agent of the BVIBC to conduct CDD on the beneficial owners of a vessel. In cases where a registered vessel is owned by a qualifying non-BVIBC, VISR will require the vessel to appoint a ‘Representative Person’ (RP), defined in VISR’s certification instructions as an individual or company resident in the Virgin Islands. This person is held responsible for conducting and maintaining CDD on the beneficial owner of the vessel. Information on BO is not required to be provided to VISR, however, VISR can request this information should the need arise.
- 6.33 As of 1 June 2022, there were 3137 vessels on VISR’s register, 551 of which were registered between 2018 and 2021. Of this 551, 493 were owned through a corporate structure as outlined in **Table 6.1** below.

Year	Ownership	
	Individual	Company
2018	9	154
2019	7	124
2020	7	88
2021	35	127
Total	58	493

Table 6.1 – Ships Registered by VISR between 2018 and 2021 by Ownership

- 6.34 The types of vessels registered by the VISR vary (see **Table 6.2**); however, 79% of the vessels registered between 2018 and 2021 were privately owned pleasure craft, while 17% were classified as commercial or cargo. The other 4% consisted of passenger vessels and tugs. VISR currently does not distinguish between vessels owned through a BVIBC and those owned by or through a non-BVI corporate structure.

¹³ <https://bvi.gov.vg/services/application-register-shipvessel>

Year	Type				
	Pleasure	Tugs	Passenger	Commercial	Cargo
2018	142	4	3	14	0
2019	104	1	3	22	1
2020	76	0	5	14	0
2021	114	0	5	43	0
Total	436	5	16	93	1
	79.13%	0.91%	2.90%	16.88%	0.18%

Table 6.2 – Ships Registered by VISR between 2018 and 2021 by Type

- 6.35 Commercial vessels pose the highest risk of being involved in proliferation related activities as it is these types of vessels that are generally identified in transnational shipping where goods may be directed or redirected to proliferation acting states such as Iran and DPRK.
- 6.36 The threat in the Virgin Islands context, therefore, is twofold. Firstly, through the possible use of BVI flagged vessels registered by VISR, including those owned through a BVIBC, that may be used to transport goods to these sanctioned countries or that may be involved in “spoofing” or other illegal activities, including ship-to-ship transfers of fuel and other prohibited goods destined for sanctioned countries. The risk of this threat is considered to be **Medium**. Secondly, through the use of non-domestic vessels outside the realm of VISR registration, where ownership is through a BVIBC. This may occur where a non-domestic vessel engaging in the illicit transportation of goods to sanctioned countries is directly owned by a BVIBC, or where a BVIBC is listed in the ownership structure of the vessel in question. Vessels that fly another country’s maritime flag are considered non-domestic. Documentation and certification of non-domestic vessels rests with the country of registration, even while such vessels are in VI waters. The risk of this threat is also considered to be **Medium**.

7 Vulnerabilities

- 7.1 Vulnerabilities inherent in a jurisdiction's AML/CFT/CPF systems are closely linked to threats and represent weaknesses that allow such threats to persist. Vulnerabilities comprise those things that can be exploited by the threat, including those that may support or facilitate the breach, non-implementation, or evasion of sanctions. Such vulnerabilities include features of a particular sector, financial product or type of service that may provide opportunities for designated persons and entities to misuse them in an effort to facilitate the financing of proliferation. This section reviews the vulnerabilities that would allow the threats identified to increase the Territory's PF risk.

A. Use of Legal Persons and Legal Arrangements

- 7.2 As noted under Section 6 Part A, trusts are not typical vehicles used to facilitate PF, therefore in considering vulnerabilities focus was placed on the use of legal persons. In particular BVIBCs, as limited partnerships were also considered to be low risk for misuse.
- 7.3 The TCSP sector is the primary gateway to the Virgin Islands' international financial services sector and only TCSPs that are categorised as RAs are permitted to form legal persons in the Territory. At the end of 2021 there were 100 TCSPs that were licensed to provide RA services. As gatekeepers, RAs are obligated to know their clients and understand the businesses they engage in. As with all FIs, they are also obligated to report any unusual or suspicious activities of their clients to mitigate any threats that these activities may pose.
- 7.4 The provisions of the PCCA, AMLR and AMLFCOP apply to all RAs providing services to legal persons incorporated or registered in the VI. In this regard, CDD requirements must be carried out by the RA prior to incorporation and on an ongoing basis during the business relationship. The fundamental elements of CDD require the identification and verification of a customer's identity, the identification and verification of the beneficial owner, and understanding and obtaining information on the purpose and intended nature of the business relationship as appropriate. Furthermore, all CDD information acquired is required to be maintained for at least a period of 5 years from the date of completion of one-off transactions or linked series of transactions, or from the date of the termination of the business relationship with a customer.¹⁴ The business relationship terminates only when the company is dissolved or when the RA takes the active step of terminating the business relationship, which may be evidenced by resigning as agent of the company.¹⁵ Accordingly, so long as the business relationship continues, the RA has a legal obligation to periodically update the CDD information.

¹⁴ Regulation 10 (1) of the Anti-money Laundering Regulations, 2008.

¹⁵ A fee of \$25.00 is levied for resigning as RA of a company.

- 7.5 The impact of inadequate CDD measures was considered through the lens of the regulator by reviewing the results of compliance inspections conducted during the reporting period that focused on CDD measures carried out on TCSPs acting as RAs.
- 7.6 The results of these inspections highlighted failings by some RAs to adhere to their own policies and procedures, or in some instances to have proper procedures in place. This resulted in the offending RAs not conducting proper ECDD on high-risk clients, irrespective of whether the client came to them directly or through a third party. Some RAs also failed to obtain information on the place the proposed business would be taking place when taking on new clients. Inadequacies in some policies and procedures in relation to the verification of legal persons were also identified which led, in some instances, to the possibility that some RAs may not be able to identify and/or verify BOs of these entities. There was also some level of deficiency identified in obtaining CDD information as it relates to PEPs.
- 7.7 Corrective actions applied by the regulator for identified failures included requiring the licensees to provide written confirmation detailing measures taken to come into full compliance with the relevant sections of the AMLFCOP and to report regularly on progress for a specified period. The majority of RAs that were issued such corrective actions have completed the required actions and have been released from monitoring. The remaining RAs continue to be required to report to the regulator on a 30, 60 or 90-day basis. In two instances RAs were issued administrative penalties totalling \$30,000. One RA was also issued a fine of \$10,000 in addition to the administrative penalty. Both RAs completed their corrective actions and became fully compliant.
- 7.8 It is clear that weak or ineffective CDD measures may allow for the manipulation of BVI entities through the control of these entities by persons who may seek to engage in, or who may be affiliated with or connected to persons or entities that engage in PF related activities.
- 7.9 In addition to the requirement to maintain and update CDD information RAs are also required to adhere to the Virgin Islands Sanctions Guidelines (VISG) with respect to screening of their clients against UK and UN sanctions listings. While these Guidelines cover all forms of TFS the requirements are equally relevant to TFS relative to TF and PF. RAs are required to ensure that where it is determined that a client or BO of a client has been listed as a designated person that they take the necessary steps to freeze any assets for which they have custody and to file a Compliance Reporting Form with the GO and a SAR with the FIA, where deemed necessary. RAs are also required to apply to the GO for a licence if they wish to conduct business on behalf of the identified designated person.
- 7.10 Sanctions screening procedures, if not adhered to may increase the opportunity for this vulnerability within the RAs AML/CFT framework to be exploited to enable BVI entities to engage in PF related activities for the benefit of sanctioned countries and other proliferation actors without being detected. To mitigate this, both the FSC and FIA ensure that all sanctions lists, and relevant notices issued by OFSI are immediately published on their websites. Notifications are then sent to supervised entities to alert them of the postings and to remind them of their obligations to screen their client lists for possible matches.

7.11 In sampling RAs' sanctions handling procedures the regulator identified the following failures in relation to the controls in place:

- Failure to identify specific intervals for screening of clients
- Failure to adequately detail how to handle an existing client that becomes a designated person
- Failure to identify reporting obligations whether it be to the FIA, FSC or Governor

7.12 It was found, that while 42% of the sampled RAs performed ongoing screening on a daily basis, or upon receiving the updated designated persons listing from the FSC, the other 58% screened their client lists either quarterly, annual, at intervals associated with the client's risk rating, or at no specifically defined interval. It was determined, therefore, that this frequency did not facilitate adequate mitigation of the identified risk. As a mitigating measure the FSC imposed corrective actions on the deficient entities which requires an approved director of each entity to review their internal sanctions policy and ensure it is in line with the VISG and provide the FSC with a copy of the updated document for review to ensure it meets the standard. To date 74% of the licensees that were issued corrective actions have completed the required actions and are now fully compliant.

7.13 In relation to RAs who identified sanctioned persons within their client list most were found to have addressed the issue in accordance with their documented internal control procedures, including in one instance taking the requisite precautionary measures (seeking legal advice, filing with the FIA etc.) prior to exiting the relationship. With regard to determining whether RAs have a proper understanding of how TFS should be implemented the level of training provided in this area was considered. It was determined that 82% of the sampled RAs had provided training for staff. In addition, both the FSC and FIA have conducted outreach on TFS which has aided in developing FIs' and DNFBPs' understanding of their obligations and improved overall understanding of the Territory's financial sanctions regime, thereby further minimising this vulnerability.

7.14 As noted above, between 2018 and 2021 only one (1) license was granted by the GO to allow an RA to conduct business on behalf of a sanctioned individual and this was no in relation to PF sanctions. While the licensing requirements do not differentiate between sanctions regimes it can be determined that there is a general understanding that such requirements apply to all financial sanctions including those relative to PF.

7.15 The vulnerabilities identified in relation to these professional intermediaries elevates the risk of their use and/or misuse to facilitate transactions that may be for the benefit of sanctioned jurisdictions such as the DPRK and Iran. This risk has, therefore, been rated as **Medium**.

B. International Trade and Collection and Movement of Funds

- 7.16 Given the predominantly domestic nature of the services and limited products provided by the banking and money services sectors there appears to be little vulnerability in these sectors being abused for the purpose of PF. The supervisor considers both the banking and money services sectors to be largely knowledgeable of their general AML/CFT requirements.
- 7.17 The vulnerability of BVIBCs being used to facilitate PF lies with the complexity of the international financial transactions in which these entities engage. As noted previously, most BVIBCs incorporated in the jurisdiction are created for the purposes of cross-border business, and a significant number do engage in import/export and other trading related activities. Additionally, BVIBCs may be used to secure loans and credit facilities to facilitate export transactions, or project financing for entities in higher-risk jurisdictions. This elevates the risk of these BVIBCs having direct engagement with some sanctioned jurisdictions, or being used, whether knowingly or unknowingly, to finance or facilitate the financing of proliferation related activities for the benefit of these sanctioned jurisdictions.
- 7.18 Such vulnerabilities are exploited where there is improper or insufficient understanding of the geographic and product/service risk associated with these entities by the RAs that are charged with ensuring proper understanding of the business activities of their clients. This is further heightened by improper record keeping and due diligence procedures that would prevent RAs from being able to properly identify the type of activities engaged in by their clients, and any changes in ownership or circumstances relative to BO that would expose such BVIBCs to being exploited for the facilitation of PF.
- 7.19 The issues identified above in relation to CDD failings apply equally in relation to the vulnerabilities identified here.

C. Ship Registration and Shipping Related Activities

- 7.20 VISR's ship registration process outlined in Section 6 above meets international maritime standards. The ships register maintained by VISR is not currently available online. However, it is an open register in that persons who wish to search the register may do so by appearing at the office of VISR and making a request. The type of information available on the register includes type and size of vessel and ownership.
- 7.21 VISR has annual de-registration cycles where vessels are deregistered for various reasons, including, *inter alia*, ownership changes, personal desires for flag changes, and changes in global areas of operations. The reasons for de-registration are not officially tracked and owners are not mandated to provide the reason, and often choose not to do so. However, VISR does request the information at times primarily to understand market trends and for other marketing purposes. Additionally, information on de-registered vessels is maintained on the shipping register and is, therefore, publicly available.

7.22 Under the MSA, VISR has the power to terminate a ship's registration:

- a) if the annual tonnage fees of a registered ship has remained unpaid for more than two years;
- b) if a registered ship is no longer entitled to remain registered;
- c) on application by the registered owner stating that he wishes to terminate the registration of the ship;
- d) upon a registered ship becoming a total loss or being otherwise destroyed by, inter alia, shipwreck, demolition, fire or sinking; or
- e) if the ship fails to maintain an RP if one is required to be appointed.

7.23 Termination of registration may also occur where the Director of Shipping is satisfied that:

- a) having regard to the condition of the ship, the health and safety of the persons on board the ship and the possibility of the ship being used for criminal purposes, it would be detrimental to the interests of the Virgin Islands or of international shipping for a ship to continue to be registered;
- b) any penalty imposed on the owner of a registered ship in respect of a contravention of the MSA, has remained unpaid for more than three months and no appeal against the penalty is pending;
- c) any summons for any contravention has been duly served on the owner of a registered ship and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time.¹⁶

7.24 These broad powers of de-registration allow for VISR to take action against vessels that breach the MSA for maritime related offences. As this provision allows for de-registration to occur in instances where a ship may be used for criminal purposes, VISR is empowered to de-register a vessel that is found to be involved in sanctions related activities as this would qualify as a "criminal purpose". VISR, however, has not had to de-register a vessel due to any criminal action or activity.

7.25 With regard to maintenance of BO information, VISR relies on the RA or RP to conduct CDD on the beneficial owners of a vessel. In that regard, while VISR does not maintain BO information on the registered owners of vessels or companies who serve as registered owners of these vessels, where a BVI entity is involved in the ownership structure, that information is readily available from the RA. The exploitable weakness in the system arises in relation to the RP. While an RP is required to be an individual or company resident in the Virgin Islands there is no legal requirement for the RP to maintain BO information in the Territory or comply with AML/CFT obligations. VISR does, however, have the authority to request such information from the RA or the RP when necessary. The vulnerability therefore arises in whether the RP would be able to provide the information when requested and whether such information would be accurate and up to date.

¹⁶ s.8 Merchant Shipping Act, 2001

- 7.26 Provision of information linking a BVI registered ship to a listed person usual comes through information received by the GO from the relevant UN Panel of Experts or OFSI. BO information would, therefore, be necessary for VISR to positively identify any vessel found to be linked to a sanctioned individual or which is itself subject to sanctions. VISR also has access to the UK sanctions lists which should be monitored and cross-checked against their database to determine whether there is a link between the company registered as a vessel's owner and the beneficial owner that may be a listed person. This process may be hampered due to the lack of BO information directly maintained by VISR. This vulnerability is exacerbated by VISR's failure to recognise its responsibility in relation to understanding the full ownership structure of the vessels under its charge. This opens up the possibility of a sanctioned individual or other criminal being able to use a BVI registered vessel to transport goods to sanctioned countries or becoming involved in other proliferation related activities without the knowledge of the VISR. RAs, however, are also required to monitor their client lists for designated persons and take appropriate action if a match is found. Such action includes filing a SAR with the FIA and a CRF with the GO. These actions aid in mitigating this particular vulnerability. However, there is no similar obligation for an RP.
- 7.27 VISR considers its primary function to be the certification of a vessel and its crew in accordance with international maritime conventions and any appreciation of the risks posed by BVI registered vessels outside of that function appears to be limited. VISR does not consider itself to be responsible for vessel compliance with local ML/TF/PF laws or the monitoring of any activity carried out by a vessel in international waters that may have a nexus to sanctions activities related to proliferation and proliferation financing or other financial crimes and illegal activities.
- 7.28 The risk to the Territory relative to shipping related activities is primarily in relation to the use of domestic vessels owned by legal persons and non-domestic vessels where ownership is through a BVI legal person or legal arrangement. However, based on jurisdictional characteristics it is considered that the most significant risk lies with the use of BVIBCs. This may cause reputational damage where such vessels, directly owned by a BVIBC, or where a BVIBC is listed in the ownership structure of the vessel, engage in the illicit transportation of goods to sanctioned countries. Additional risk may occur where BVIBCs are a part of any ownership structure that facilitates the raising or transfer of funds to facilitate the provision of goods to sanctioned countries. The vulnerabilities identified above in relation to CDD failings by the RAs and the lack of maintenance of BO information by VISR apply equally in allowing the promotion of activities described here.

D. Law Enforcement's Understanding of PF Risk

- 7.29 While the probability of PF related activities occurring domestically appears to be low, LEAs' understanding of PF and the risk it poses to the Territory is still critically important. Particularly so, given the broader exposure to such risk as a result of the international business carried on by BVIBCs. It is important, therefore, to consider the level of understanding of PF across LEAs and the systems they may have in place to address PF and PF related activities, as this would have an impact on LEAs' ability to identify and respond to threats as well as provide useful international cooperation when requested to do so.

Training, Expertise and Resources

- 7.30 While there is general recognition across LEAs that they have a role to play in the Territory's CPF framework, there is only a fair understanding of PF generally and in relation to most LEAs specific roles within the national CPF framework. There is a need for additional training within LEAs, as most LEAs have received limited PF training. Most LEAs have persons assigned to deal with CPF issues, all indicated that the persons responsible for CPF issues did not have sufficient relevant expertise to fulfil their agency's CPF mandate, nor did the agency have sufficient resources to do so.
- 7.31 Additionally, with the exception of the RVIPF, which indicated that a CPF strategy was currently being drafted, there were no documented policies, procedures and strategies across any of the other LEAs to address PF related matters. The RVIPF does recognise the importance of training and continual professional development and have recently developed a more robust training programme while maintaining the ability to seek specialist support and advice from UK Policing in relation to complex or specialist cases.
- 7.32 With regard to the FIA, there is understanding of its responsibilities under the PPFA, which empowers the FIA to take action against any person or entity for non-compliance with the provisions of the Act. However, the new PPFA was only enacted in 2021 and the FIA has not issued any directions under this legislation. The FIA also understands the need for effective cooperation and coordination with the GO in relation to responding to enquiries from the various UN Panel of Experts. This is evidenced by the positive feedback received from the UN Panel for the Territory's responsiveness to their requests.

Investigations, Prosecutions and International Cooperation

- 7.33 These deficiencies across the Territory's LEAs have a direct impact on LEAs ability to properly investigate and prosecute PF related activities thereby increasing the jurisdiction's vulnerability in regard to potential PF related activities. While there have been no PF related investigations or prosecutions during the reporting period as outlined in Section 5 above, the weaknesses identified within the LEAs bring into question their ability to successfully investigate and prosecute should a case arise. These vulnerabilities also have a direct impact on the Territory's ability to respond to international cooperation requests received from overseas LEAs that may relate to PF. This raises a wider jurisdictional issue with regard to reputational risk if LEAs are unable to assist their foreign counterparts due to lack of knowledge and/or understanding of the issues relative to the request, as this may be interpreted as being uncooperative.
- 7.34 Regarding PF related investigations conducted by the FIA, these generally emanate from referrals from the GO. During the reporting period there was one documented matter which was referred to the FIA by the GO. This involved a suspected breach of DPRK sanctions by a BVI registered entity. The investigation was inconclusive as there was insufficient information provided by foreign counterparts to make a sound determination as to whether any local laws had been breached which would have allowed authorities to pursue prosecution. The case demonstrated, however, the FIA's ability to investigate and cooperate on PF related matters.

8 Virtual Assets and Virtual Asset Service Providers

Threats

- 8.1 A virtual asset (VA), according to the FATF is a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes.¹⁷ International typologies indicate that digital assets, and more specifically, cryptocurrencies are being used by non-state actors tied to the DPRK. These cryptocurrencies are being used to purchase goods, particularly HVGs, which can then be sold legally or on the black market for fiat currency, which is then used to finance the DPRK's nuclear weapons programme.
- 8.2 Virtual Asset Services Providers (VASPs) include a significant number of different activities that carry varying threats and vulnerabilities and pose different risks. Services provided include virtual asset exchanges which may be exposed to PF risk as criminals may attempt to use exchanges to place, layer and integrate the proceeds of criminal conduct into the financial system. Other services include virtual assets platforms, custodian services, wallets and transfer services which also pose an elevated level of risk as it is often challenging to verify that the assets are being deposited, transferred, or withdrawn from addresses owned or controlled by the customer of record. For the purpose of PF, the Virgin Islands has identified virtual asset exchanges including virtual asset platforms and those entities that provide custody and wallet related services to pose the most relevant risk.

Vulnerabilities

- 8.3 In the Virgin Islands VAs and VASPs are currently un-regulated, with the exception of virtual asset funds, and the provision of management, administration or investment advice to VAs where the assets are securities or a fund type product, which are regulated under SIBA. A review of transactions and economic activities, including company formation and other business, indicates that there is an evolving risk from un-regulated BVIBCs operating in or from within the Virgin Islands that serve as VASPs or facilitate the provision of VAs.
- 8.4 Additional risks inherent to VAs and the provision of VA services are the level of anonymity they provide to the user while conducting multiple high value payments, the ease in which transactions may be structured and the ability to execute cross-jurisdictional transactions without being traced. Such risks are heightened by the lack of regulation of the entities that facilitate these activities as there is no requirement to conduct any CDD or ECDD on clients of these services or to maintain any transactional records. Sanctions screening obligations also do not apply to un-regulated BVIBCs, but as a BVIBC such entities are required to file a SAR if there is any suspicion of unusual or illegal activity.

¹⁷ Pg 126 FATF International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation – The FATF Recommendations

- 8.5 Over the reporting period the FIA saw a large increase in the number of SARs filed relating to VA activities. Records indicated that a significant number of SARs were filed by one BVIBC acting as a VASP that alleged that clients were using the “dark web” and other fraudulent methods, which effectively made identifying the user/customer untraceable. The FIA, however, currently does not have the resources or the expertise to analyse or investigate crypto-based SARs. This is a vulnerability that may elevate the risk of such activities going undetected or not being properly investigated, which itself increases the risk of proliferation actors being able to use un-regulated BVI VASPs to provide PF.
- 8.6 The FIA, however, is in the process of providing targeted cryptocurrency training to its staff and procuring the necessary resources, including technological tools that would assist in analysing crypto-based SARs. Furthermore, and to ensure compliance with FATF Rec. 15, the Virgin Islands is currently taking steps to regulate VASPs. Once the legislative and regulatory frameworks are in place, this, along with the steps being taken by the FIA, should help to mitigate some of the current identified vulnerabilities. However, as the intended supervisor for VASPs, the FSC has already taken steps to identify and mitigate the risk of VAs and VASPs and have taken steps to prepare for the implementation of the VASP regime. Based on the factors identified, the risk of this threat is considered **High**.

9 Recommendations

- 9.1 Based on the findings of this assessment a number of recommendations have been identified. For ease of reference these recommendations have been grouped into recommendations that should be addressed at the national level, those that are specific to the relevant CA or LEA and those that apply to the various sectors assessed during this exercise. Where there is overlap in the recommendations those recommendations have been listed under each. If properly implemented, these recommendations should enhance the level of effectiveness of the Territory's CPF regime.

National CPF Recommendations

- 9.2 The Territory should:
- a) ensure that the findings of this Report are considered when making changes or assessing the effectiveness of the national AML/CFT regime;
 - b) ensure all relevant CAs and LEAs are adequately trained with regard to identification, investigation and prosecution of PF and PF related activities;
 - c) ensure all relevant CAs and LEAs are adequately resourced to allow for effective identification, investigation and prosecution of PF and PF related activities;
 - d) ensure that relevant AML/CFT data is maintained, collected and analysed to demonstrate that the Territory is effective in the investigation and prosecution of PF, provision of international cooperation, and analysis and dissemination of SARs;
 - e) finalise and implement the legislative and regulatory frameworks needed to regulate VASPs;
 - f) ensure the information contained this Report is used to better understand the types of PF risks posed and where these risks lie to ensure more effective use of surveillance and investigative mechanisms to mitigate PF risk;
 - g) ensure that LEAs and CAs consider the findings of this report when developing their own internal policies and procedures to combat PF; and
 - h) ensure that the Report is kept up to date, having regard to changes in the identified threats, vulnerabilities and mitigating controls.

CPF Recommendations for LEAs

- 9.3 All LEAs should:
- a) ensure they have documented policies, procedures and strategies to address PF related matters, and finalise any existing PF policies and strategic documents;
 - b) ensure persons responsible for CPF issues have relevant and sufficient expertise to fulfil their agency's CPF mandate;
 - c) ensure they have sufficient resources assigned to deal with CPF issues;
 - d) ensure the information contained this Report is used to better understand the types of PF risks posed and where these risks lie to ensure more effective use of surveillance and investigative mechanisms to mitigate such risk;
 - e) ensure that the findings of this Report are considered when making changes to, or assessing the effectiveness of their internal AML/CFT regimes which may impact their operations;
 - f) ensure proper collection, maintenance and analysis of AML/CFT related data to allow for development of trends and typologies;

- g) ensure ability to analyse data for PF purposes and compile relevant intelligence;
 - h) ensure timely dissemination of intelligence to appropriate domestic and foreign LEAs and CAs; and
 - i) demonstrate high degree of international cooperation and information exchange on PF related matters by responding to such requests in a timely manner, including providing spontaneous information where appropriate.
- 9.4 In addition, VISR and the Government of the VI should:
- a) Consider, document and implement a policy decision on VISR's role in ensuring maintenance/accessibility of BO information, and the monitoring of any activity carried out by a vessel in international waters that may have a nexus to sanctions activities, other financial crimes and illegal activities;
 - b) Consider, document and implement a policy decision on updating their records to distinguish between vessels owned through a BVIBC and those owned by or through a non-BVI corporate structure;
 - c) consider and document whether RPs should be required to undertake CDD in accordance with the AMLTFCOP and monitor their client lists for designated persons, including taking appropriate action such as filing a SAR with the FIA and a CRF with the GO where necessary; and
 - d) consider, document and implement a policy decision on whether RPs should be required to maintain BO information in the Territory to facilitate easier monitoring of and access to such information when required by VISR.

CPF Recommendations for Cas

- 9.5 The Governor's Office should:
- a) in conjunction with the CCA Sanctions sub-committee, complete the revision of the Virgin Islands Sanctions Guidelines; and
 - b) conduct outreach on sanctions to ensure proper understanding by relevant persons of their obligations in relation to PF, including filing a CRF and making applications for licensing where relevant.
 - c) demonstrate high degree of international cooperation and information exchange on PF related matters by responding to such requests in a timely manner, including providing spontaneous information where appropriate.
- 9.6 The FIA should:
- a) conduct outreach on PF to ensure proper understanding by relevant persons of their obligations in relation to PF;
 - b) ensure its staff receives targeted cryptocurrency training to allow for the proper analysis of crypto-based SARs;
 - c) ensure timely and effective outreach to supervised entities on the findings of this report, including how the report's findings should be utilised in the development of their own AML/CFT policies and procedures;

- d) ensure that it takes necessary steps, such as desk based and onsite monitoring, to demonstrate that supervised entities are carrying out and implementing the requirements of the AML/CFT regime with regard to PF;
 - e) carry out outreach to DNFBPs on red flag PF indicators to allow for better quality of SARs filings;
 - f) ensure that the findings of this Report are considered when making changes to, or assessing the effectiveness of the AML/CFT regime which may impact supervised entities;
 - g) ensure proper collection, maintenance and analysis of AML/CFT related data to allow for development of trends and typologies; and
 - h) ensure timely dissemination of intelligence to appropriate domestic and foreign LEAs and CAs.
- 9.7 The FSC should:
- a) ensure timely and effective outreach to FIs on the findings of this report, including how the report's findings should be utilised in the development of the FIs' AML/CFT policies and procedures;
 - b) ensure that it takes necessary steps, such as desk based and onsite monitoring, to evidence that FIs are carrying out and implementing the requirements of its AML/CFT regime with regard to PF;
 - c) conduct outreach on PF to ensure proper understanding by FIs of their obligations in relation to PF;
 - d) carry out outreach to FIs on red flag PF indicators to allow for better quality of SARs filings;
 - e) ensure that the findings of this Report are considered when making changes to, or assessing the effectiveness of the AML/CFT regime which may impact FIs;
 - f) ensure that relevant AML/CFT data is maintained, collected and analysed to be able to demonstrate that it is effective in its supervision, enforcement and international cooperation; and
 - g) ensure sufficient monitoring of the perimeter to detect BVIBCs involved in sanctions busting activities or owned by sanctioned individuals.

CPF Recommendations for Private Sector

- 9.8 Financial Institutions and DNFBPs should:
- a) ensure proper verification and maintenance of BO information of clients;
 - b) ensure proper identification of clients' source of funds and source of wealth;
 - c) develop and maintain proper AML/CFT policies and procedures that include PF, and ensure all staff are familiar with these policies and procedures;
 - d) ensure proper understanding of clients' business activities and continue to monitor clients' transactions to be able to identify any developing trends that may signal possible PF activities;
 - e) ensure staff are aware of any issued guidance on red flag indicators and SARs filings;
 - f) ensure staff are properly trained to identify PF red flag indicators and understand when SARs should be filed;
 - g) conduct timely interrogations of client databases against sanctions listings in accordance with Virgin Islands Financial Sanctions Guidelines, to ensure proper identification of listed persons and entities, and demonstrate appropriate action is taken if such persons are identified;
 - h) conduct and document institutional risk assessments which should also account for PF risk; and
 - i) ensure adherence to the requirements of the AMLR and the AMLTFCOP.

10 Conclusion

- 10.1 The current overall PF risk rating for the Virgin Islands has been identified as **Medium**. As this was the first PF risk assessment conducted by the Virgin Islands, the findings provide a useful foundation upon which law enforcement and other regulatory authorities, as well as relevant gatekeepers can conduct meaningful risk analyses and adopt policies, procedures and strategies to address PF related matters. The results of this exercise will enable authorities to identify, assess and understand any changes in the PF risks faced by the jurisdiction in order to apply appropriate and effective risk-based preventative or mitigating measures, and should be used to better understand the PF risks within the jurisdiction.
- 10.2 Such risk analysis is important as it will assist the jurisdiction in implementing suitable policies and procedures to combat PF. Further, the results of the exercise will help both public sector agencies and relevant private sector entities to identify the particular PF risks they face. This is particularly important for the private sector as these businesses are required to carry out their own assessments and have regard to their findings in determining what their risk appetite is, and what constitutes appropriate measures to manage and mitigate risks. The results of this assessment should also be used by supervisory authorities to aid in shaping their inspection programmes and identifying those entities that may require more specialised supervision.
- 10.3 The methods by which proliferation activities are being financed continue to evolve. This is particularly relevant with regard to the use of virtual assets and provision of services by virtual asset service providers to facilitate PF. It is imperative, therefore, that the Virgin Islands continues to review its CPF regime on an ongoing basis and seek to ensure that it remains robust and adaptable to any developing risks.