

FATF



Anti-money laundering and counter-terrorist financing measures

Iceland

Mutual Evaluation Report

April 2018





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Executive Summary

1. This report provides a summary of the AML/CFT measures in place in Iceland as at the date of the on-site visit from 28 June 2017 to 12 July 2017. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Iceland's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

- Iceland has taken initial steps to understand its ML/TF risks, with the completion of its first national risk assessment (NRA) in January 2017. Nevertheless, this assessment appears to be based on assumptions or a theoretical understanding of general ML/TF risks rather than information on factual ML/TF vulnerabilities and threats specific to Iceland. Similarly, there is limited evidence that this national assessment was coordinated with previous targeted risk assessments conducted by the National Police Commissioner.
- Co-ordination in the context of AML/CFT is relatively recent and largely limited to preparation of the NRA. Although co-ordination has been discussed and may occur informally and on an ad hoc basis, there is not yet an overarching strategy or functioning mechanism to ensure domestic co-ordination at the ministerial level or among competent authorities. This lack of co-ordination negatively affects Iceland's entire AML/CFT regime.
- Iceland has a good legal framework for investigation and prosecution of ML and investigative and prosecutorial authorities have developed expertise in investigating financial crimes following the 2008 bank crisis. Financial investigations are conducted in many cases and multidisciplinary teams are formed to investigate more complex cases. However, ML has not been a priority for Icelandic authorities. The lack of resources allocated to identifying, investigating and prosecuting ML results in a lower level of effectiveness in pursuing ML.
- There is evidence that financial intelligence is being used to some extent to successfully develop and prosecute major cases related to tax evasion, drug smuggling, and to a lesser extent ML/TF. Feedback from prosecutors and law enforcement authorities (LEAs) also suggests that the quality of financial intelligence has improved since 2015. Nevertheless, there are several impediments to the effective use of financial intelligence more generally, including (i) limited STR filing outside of the main commercial banks and payment institutions and (ii) lack of information sharing among competent authorities in relation to cross-border movement of currency and assets,

information on NPOs and beneficial ownership information.

- There have not been any criminal investigations or prosecutions of TF in Iceland. This may be due in part to the size, culture, geographical location and other circumstances of the country. Iceland has demonstrated effective co-operation with other countries' security services, particularly the other Nordic countries. Intelligence was shared with other countries in which active investigations were initiated. Nevertheless, there appears to be a lack of consideration of the TF vulnerabilities in Iceland by LEAs. Limited financial investigative expertise allocated to TF matters within the Icelandic police may hamper Iceland's ability to put appropriate emphasis on CFT measures.
- While the large commercial banks have some understanding of the ML risk to which they are exposed (and to a lesser extent TF), other financial institutions (FIs) and DNFBPs appear not to assess the ML/TF risk to which they are exposed and have not demonstrated an understanding of any such risks. Similarly, while the commercial banks demonstrated a reasonable understanding of their AML/CFT obligations, this understanding was much lower among other FIs and DNFBPs.
- Iceland generally has a comprehensive licencing and registration framework in place to prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest in FIs and to a lesser extent DNFBPs. While the FSA has begun to identify some areas of risk, inspections and other supervisory measures are not yet conducted using a comprehensive risk-based approach. DNFBP supervisors, including self-regulating bodies (SRBs), have limited understanding of the risks facing their sectors, are not fully aware of their responsibilities as AML/CFT supervisors. Generally, DNFBP supervisors have not begun AML/CFT supervision of their respective sectors.
- Iceland has not assessed or identified how legal persons or foreign legal arrangements can be misused. Iceland recognises that legal persons may be misused; however, it is generally assumed that the misuse is for tax evasion. Iceland has implemented some preventative measures designed to prevent the misuse of legal persons for ML and TF, including the collection of basic and legal ownership information. In practice, it is not clear that such information is accurate and kept up-to-date and the authorities face challenges in obtaining timely access to beneficial ownership information.
- Iceland has a good legal and procedural framework for international co-operation and assistance has been provided in a timely manner in both ML and TF cases. There is, in various areas and between different authorities, effective co-operation between Iceland and the other Nordic countries. LEAs actively seek informal and formal international co-operation and legal assistance in a wide range of cases when intelligence, information or evidence is needed from other countries or when assets can be seized or frozen. However, the instances when these mechanisms have been used in relation to ML/TF are limited by the low number of ML/TF investigations.

Risks and General Situation

2. Between 2008 and 2015, Iceland focused its investigative and prosecutorial resources almost exclusively on the financial crimes that contributed to the 2008 banking collapse. During that time, competent authorities demonstrated effective co-operation and co-ordination and were able to successfully prosecute many of those whose activities contributed to the crisis. Although these investigations and prosecutions were highly successful, the dedication of resources to this issue has led to a backlog of other cases. AML/CFT preventive measures were not prioritised as part of Iceland's focus on investigating and prosecuting financial crimes related to the banking crisis.

3. Iceland had strict capital controls in place between 2008 and March 2017, which largely limited the flow of money into and out of Iceland. Any permitted cross border transactions were scrutinised by the Central Bank. These controls were lifted in March 2017 and the authorities have not considered the impact which this may have on the ML/TF risk situation in the country.

4. Iceland acknowledges in the country's NRA that organised crime (including drug related offences and human trafficking offences) has been on the increase in recent years and estimates that hundreds of millions of ISK go through the hands of organised crime groups in Iceland annually. However, Iceland typically associates reports of suspicious transactions with tax fraud, including tax evasion, customs fraud and VAT fraud. Icelandic authorities believe tax offences are the largest proceeds generating crimes in Iceland. It is not clear that this is accurate, or that the current priority given to tax offences over other forms of financial crime is warranted.

5. Iceland considers the risks of TF from within Iceland to be low. Authorities base this assessment on the lack of confirmed cases, as well as information from foreign intelligence agencies and a variety of factors related to Icelandic society (e.g. low number of immigrants from conflict zones). Although there have been a small number of investigations related to terrorism, including cases of foreign terrorist fighters transiting through Iceland, there have been no TF investigations and the authorities are not aware of any Icelandic citizens travelling abroad for terrorism purposes.

Overall Level of Effectiveness and Technical Compliance

6. Iceland's AML/CFT regime has undergone important reforms since the last assessment in 2006. In particular, steps were taken to address identified technical deficiencies in Iceland's supervisory regime for money or value transfer service (MVTs) providers and amendments were made to the AML/CFT Act with respect to correspondent banking. The technical compliance framework is particularly strong regarding international co-operation and law enforcement powers, but less so regarding transparency of legal persons and arrangements, supervision of DNFBPs and outreach to non-profit organisations.

7. In terms of effectiveness, Iceland achieves substantial results in international co-operation and moderate results in terms of collection and use of financial intelligence, investigation and prosecution of ML and confiscation of assets and instrumentalities of crime. More significant improvements are needed in other areas listed below.

Assessment of Risks, co-ordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

8. Iceland completed its NRA in January 2017 and identified some areas of higher risk. Nevertheless, the ML risks identified are often generic or based on assumptions, rather than based on observation through STRs, law enforcement investigations and financial supervision, comprehensive inputs from the private sector, or developed through thorough analysis. In relation to TF risks, Iceland concluded that there is a low risk of TF based primarily on the perceived low terrorism risk and the lack of evidence of TF in Iceland to date. Nevertheless, there was no evidence that authorities considered the domestic TF vulnerabilities, including the potential for Iceland's financial sector to be misused by foreign terrorist groups.

9. The National Security Unit (NSU) also conducts its own regular terrorism threat assessments and the National Police Commissioner conducts its own periodic organised crime and terrorism threat assessment. However these threat assessments are not coordinated and were not coordinated with the NRA. As a result, there is no consistent understanding of ML/TF risks among competent authorities and the private sector.

10. Icelandic authorities admit that efforts at co-ordination in the context of AML/CFT are relatively recent and largely limited to preparation of the National Money Laundering and Terrorist Financing Risk Assessment (NRA). Although a national AML/CFT steering group exists, it has not begun functioning as a national policy and co-ordination unit. There is currently no overarching strategy or mechanism to ensure domestic co-ordination at the ministerial level or among competent authorities. This lack of co-ordination negatively affects Iceland's entire AML/CFT regime.

11. The results of the NRA were not widely disseminated to the private sector and feedback from the private sector during the on-site suggests that they receive very limited guidance from authorities on the ML/TF threats, vulnerabilities and risks in Iceland.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IO.6-8; R.3, R.4, R.29-32)

12. Iceland has a good legal and institutional framework for investigation and prosecution of ML and investigative and prosecutorial authorities have developed expertise in investigating financial crimes following the 2008 bank crisis. Financial investigations are conducted in many cases and multidisciplinary teams are formed to investigate more complex cases. However, ML has not been a priority for Icelandic authorities. The lack of co-ordination between relevant authorities and the lack of

resources allocated to identifying, investigating and prosecuting ML results in a lower level of effectiveness in pursuing ML.

13. LEAs and FIU-ICE have access to a wide range of information for the purposes of their investigations, including information from public databases and police records. Nevertheless, access to beneficial ownership (BO) information or information in relation to non-profit organisations (NPOs) is limited. There is evidence that financial intelligence is being used to successfully develop and prosecute major cases related to tax evasion, drug smuggling, and to a lesser extent ML. Although FIU-ICE performs operational analysis, assessors noted a lack of strategic analysis products, which would assist in understanding ML trends and methods in Iceland.

14. Law enforcement authorities (LEAs) show a high level commitment to trace and seize the proceeds of crimes, both in Iceland and abroad. Iceland has provided examples of cases where proceeds and instrumentalities (e.g., money, cars, real property) have been frozen or seized and confiscated. However, Iceland does not maintain complete statistics on assets recovered and confiscated; therefore, it is difficult to assess how effective Iceland has been in this area. There seems to be no co-ordination and little awareness among authorities of the increased risk of cross border transportation or movements of currency.

Terrorist Financing and Financing Proliferation (Chapter 4 – IO.9-11; R.5-8)

15. There have been no criminal investigations or prosecutions of TF in Iceland. This may be due in part to the size, culture, geographical location and other circumstances of the country. Iceland has demonstrated effective co-operation with other countries' security services, particularly the other Nordic countries. Intelligence was shared with other countries in which active investigations were initiated. Nevertheless, there appears to be a lack of consideration of the TF vulnerabilities in Iceland by LEAs. Limited financial investigative expertise allocated to TF matters within the Icelandic police particularly the NSU, may hamper Iceland's ability to put appropriate emphasis on CFT measures.

16. Iceland amended its legal framework in 2016 to implement targeted financial sanctions pursuant to UNSCR 1267 without delay. Nevertheless, in practice it is not clear that targeted financial sanctions (TFS) are implemented without delay, as there is a lack of clarity among competent authorities on the legal framework for implementation of TFS in Iceland. Similarly, there is a lack of clarity among the private sector on when the freezing obligation enters effect in Iceland.

17. Iceland has the legal basis to implement UNSCR targeted financial sanctions regarding financing proliferation of weapons of mass destruction. The mechanism for implementing UNSCRs relating to the Democratic People's Republic of Korea (DPRK) allows for sanctions to take immediate effect upon enactment by the UN Security Council. However, the Iran UNSCRs are implemented as transposed through into the EU legal framework and as such are not implemented without delay.

18. Supervisory authorities do not monitor or ensure compliance with TFS for TF and PF, other than issuing an alert following each update to the government's targeted financial sanctions list asking whether institutions have frozen any related assets. There is a very low level of awareness among DNFBPs and certain FIs of their responsibilities related to TFS for PF, and to a lesser extent for TF.

Preventive Measures (Chapter 5 – 10.4; R.9-23)

19. The large commercial banks have some understanding of the ML risk to which they are exposed. However, their understanding is not based on a structured risk assessment, but on assumptions and information they have collected from international sources like their correspondent banks and the FATF. Further, as regards TF, their understanding of risk is much lower. Most DNFBPs and FIs (other than those referred to above) appear not to assess the ML/TF risk to which they are exposed and have not demonstrated an understanding of any such risks.

20. The requirements for CDD and record-keeping are reasonably understood by the large commercial banks, while other FIs and DNFBPs implementation of CDD requirements is rather basic due in part to the limited supervisory outreach to date. Most of the STRs are filed by the three largest commercial banks. No STRs have been filed by DNFBPs, with the exception of the state lottery. Technical deficiencies in relation to preventative measures also have an impact on effectiveness, particularly in relation to PEP and STR requirements.

Supervision (Chapter 6 – 10.3; R.26-28, R. 34-35)

21. Iceland generally has a comprehensive licencing and registration framework in place to prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest in FIs and, to a lesser extent, in DNFBPs.

22. Although the FSA has begun to identify some areas of risk, inspections and other supervisory measures are not conducted using a comprehensive risk based approach. DNFBP supervisors, including SRBs, have limited understanding of the risks facing their sectors, are not fully aware of their responsibilities as AML/CFT supervisors and are not adequately resourced. Generally, DNFBP supervisors have not begun AML/CFT supervision of their respective sectors; and those who have initiated this work have not taken a risk based approach.

23. Supervisory actions are largely limited to requiring corrective actions and publishing notices that identify deficiencies found at specific institutions. This is partly attributed to the lack of a comprehensive range of sanctions available to supervisors for non-compliance with AML/CFT regulations.

Transparency of Legal Persons and Arrangements (Chapter 7 – 10.5; R. 24-25)

24. The authorities have not assessed or identified how legal persons or foreign legal arrangements can be misused in Iceland.

25. Basic and legal ownership information of legal persons is generally available to authorities through annual statements filed with the business registry or from the company share register. However, the information in the annual statement and company share registry may not be kept up to date and does not include beneficial ownership where the legal owner and beneficial owner are not the same. The Business Register does not actively monitor compliance with registration obligations and no sanctions have been imposed for failure to register basic information.

26. There is limited evidence that competent authorities have timely access to beneficial ownership information.

International Co-operation (Chapter 8 – 10.2; R. 36-40)

27. Iceland has a good legal and procedural framework for international co-operation and assistance has been provided in a timely manner in both ML and TF cases. There is, in various areas and between different authorities, effective co-operation between Iceland and the other Nordic countries.

28. Law enforcement authorities actively seek informal and formal international co-operation and legal assistance in a wide range of cases when intelligence, information or evidence is needed from other countries or when assets can be seized or frozen. However, the instances when these mechanisms have been used in relation to ML/TF are limited by the low number of ML/TF investigations.

29. FIU-ICE exchanges information with foreign counterparts, particularly via the Egmont Secure Web. However, information is mostly provided on request, not spontaneously. The lack of statistics on international co-operation more generally is an impediment for the country to evaluate its effectiveness in this area.

Priority Actions

- Begin as soon as possible to revise the 2017 ML/TF risk assessment in order to more accurately reflect the available quantitative and qualitative information reflecting actual and potential illicit financial activity in Iceland.
- Develop national AML/CFT operational policies and co-ordination mechanisms to ensure competent authorities share ML/TF information on an ongoing basis and work together as appropriate to pursue criminal investigations targeting illicit finance.
- Competent authorities should conduct outreach to reporting entities to ensure provision of guidance and feedback on trends, typologies and red flag indicators for ML/TF consistent with a revised NRA. Similarly, Icelandic authorities should further enhance the human and technical resources of

FIU-ICE to enable more effective operations and increase capacity for conducting strategic analysis.

- Iceland should establish clear priorities for the law enforcement agencies responsible for investigating ML and predicate offences.
- Customs, police assigned to the borders, the DTI and other law enforcement should increase co-operation and co-ordination, especially the DTI and DPO, to enable parallel financial investigations to occur.
- Based on a comprehensive risk assessment, Iceland should take steps to ensure appropriate capacity, including available resources and financial expertise, for developing TF intelligence and conducting TF investigations, in accordance with its TF risk profile.
- Iceland should establish a framework for effective implementation of targeted financial sanctions for TF and PF. The FSA and Ministry of Foreign Affairs should establish policies and procedures for monitoring FIs and DNFBPs for compliance with the TFS for TF and PF.
- Competent authorities should ensure that FIs and DNFBPs have a risk-based approach to their AML/CFT measures and should give the reporting entities more guidance on how to establish effective AML/CFT measures.
- Supervisors should take steps to deepen their understanding of the ML/TF risks within the institutions and sectors that they supervise and should implement a risk-based approach to AML/ CFT supervision on the basis of the ML/TF risks identified.
- Iceland should increase supervisory resources at the FSA and Consumer Agency to enable appropriate on-site and off-site actions commensurate with the risks within the financial and DNFBP sectors.
- Iceland should assess the ML/TF risks associated with the different legal persons and should establish appropriate mitigating measures that are commensurate with the identified risks.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings (High, Substantial, Moderate, Low)

IO.1 - Risk, policy and coordination	IO.2 - International cooperation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
Low	Substantial	Low	Low	Low	Moderate
IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
Moderate	Moderate	Moderate	Low	Low	

Technical Compliance Ratings (C - compliant, LC - largely compliant, PC - partially compliant, NC - non compliant)

R.1 - assessing risk & applying risk-based approach	R.2 - national cooperation and coordination	R.3 - money laundering offence	R.4 - confiscation & provisional measures	R.5 - terrorist financing offence	R.6 - targeted financial sanctions - terrorism & terrorist financing
PC	PC	C	LC	LC	PC
R.7 - targeted financial sanctions - proliferation	R.8 - non-profit organisations	R.9 - financial institution secrecy laws	R.10 - Customer due diligence	R.11 - Record keeping	R.12 - Politically exposed persons
PC	NC	LC	PC	C	PC
R.13 - Correspondent banking	R.14 - Money or value transfer services	R.15 - New technologies	R.16 - Wire transfers	R.17 - Reliance on third parties	R.18 - Internal controls and foreign branches and subsidiaries
PC	LC	PC	PC	PC	PC
R.19 - Higher-risk countries	R.20 - Reporting of suspicious transactions	R.21 - Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence	R.23 - DNFBPs: Other measures	R.24 - Transparency & BO of legal persons
PC	LC	C	PC	PC	PC
R.25 - Transparency & BO of legal arrangements	R.26 - Regulation and supervision of financial institutions	R.27 - Powers of supervision	R.28 - Regulation and supervision of DNFBPs	R.29 - Financial intelligence units	R.30 - Responsibilities of law enforcement and investigative authorities
PC	PC	LC	NC	LC	C
R.31 - Powers of law enforcement and investigative authorities	R.32 - Cash couriers	R.33 - Statistics	R.34 - Guidance and feedback	R.35 - Sanctions	R.36 - International instruments
C	PC	LC	PC	PC	LC
R.37 - Mutual legal assistance	R.38 - Mutual legal assistance: freezing and confiscation	R.39 - Extradition	R.40 - Other forms of international cooperation		
LC	LC	LC	LC		

Mutual Evaluation Report

Preface

This report summarises the AML/CFT measures in place in Iceland as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Iceland's AML/CFT system and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by Iceland and information obtained by the evaluation team during its on-site visit to Iceland from 28 June 2017 to 12 July 2017.

The evaluation was conducted by an assessment team consisting of:

- Ms. Henriette Stenbeck, Advisor, Financial Supervisory Authority, Norway (financial expert)
- Ms. Lai Kuen Yap, Advisor, Central Bank of Malaysia (financial expert)
- Mr. Emery Kobor, Deputy Director, Office of Strategic Policy, Terrorist Financing and Financial Crimes, Department of the Treasury, United States (risk and TFS expert)
- Ms. Eva Thunegard, Chief Public Prosecutor, Prosecution Authority, Sweden (legal expert)
- Mr Bandar Alhazmi, Assistant Division Chief, Financial Intelligence Unit, Kingdom of Saudi Arabia (TF expert)

The team was supported by the FATF Secretariat represented by Mr Vincent SCHMOLL, Deputy Executive Secretary; Ms Kellie Bailey, Policy Analyst and Ms Ailsa Hart, Policy Analyst. The report was reviewed by Ms Jinghua Hao, The People's Bank of China; Ms Virpi Koivu, Ministry of Interior, Finland; and Mr Vladimir Nechaev, Eurasian Group Secretariat.

Iceland previously underwent a FATF Mutual Evaluation in 2006, conducted according to the 2004 FATF Methodology. The 2006 evaluation has been published and is available at: www.fatf-gafi.org/countries/#Iceland

Iceland's 2006 Mutual Evaluation concluded that the country was compliant with 8 Recommendations; largely compliant with 14; partially compliant with 18; and non-compliant with 8. Iceland was rated compliant or largely compliant with 9 of the 16 core and key Recommendations. Iceland was placed under the enhanced follow-up process immediately after the adoption of its 3rd round Mutual Evaluation Report and made sufficient progress in addressing the deficiencies through 2011. At that point, Iceland's progress stalled. After being placed in enhanced follow-up and later undergoing a high level visit from the FATF President, Iceland sufficiently completed its action plan to reach a satisfactory level of compliance at least equivalent to LC with all core and key Recommendations and was therefore removed from the targeted follow-up process in February 2016, after almost 10 years in the 3rd round follow-up process and 17 follow-up reports.

CHAPTER 1. ML/TF RISKS AND CONTEXT

30. Iceland is a Nordic European island country situated at the confluence of the North Atlantic and Arctic Oceans, on the mid-Atlantic Ridge. Iceland covers a total area of 103 000 square kilometres and has a population of approximately 338 350¹. With only 3 inhabitants per square kilometre, Iceland is one of the least densely populated countries in Europe and approximately half of the country's population is located in and around the capital, Reykjavik. The foreign population has been rising steadily since 2010 and now stands at approximately 9% of the total population. The currency is the Icelandic Króna (ISK - on 21 July 2017, ISK 100 equals EUR 0.82 and USD 0.95).

31. Iceland is a constitutional republic with a multi-party system and a civil law country. Parliament is elected by general election every four years. Iceland gained sovereignty from the Kingdom of Denmark on 1 December 1918 and became an independent republic in 1944. The head of state is the President, who is elected by direct popular vote. Iceland is arguably the world's oldest parliamentary democracy, with the Parliament (the Althingi) established in 930. Legislative power is vested in both the Parliament and the President. Judicial power lies with the Supreme Court and the district courts. The judiciary is independent of the executive and the legislature.²

32. Iceland is a founding member of the United Nations, the Council of Europe, the Nordic Council, NATO and the OECD. Iceland is also a member of the International Monetary Fund and the World Bank. Iceland is a member of the European Economic Area (EEA)³, but not the European Union (EU) and legislation in Iceland is enacted to some extent in response to EU decisions. Iceland participates in the Schengen Area, a European zone of free movement of people. Iceland has been a member of the Financial Action Task Force since 1992.

33. In the autumn of 2008, Iceland underwent a financial crisis, precipitated by short-term debt refinancing difficulties faced by Icelandic commercial banks. This had a significant impact on Iceland's economy and resulted in a significant consolidation of Iceland's financial sector.

¹ As of 1 January 2017; Source: Statistics Iceland website www.statice.is/

² Source: Government Offices of Iceland website, www.government.is/topics/governance-and-national-symbols/how-is-iceland-governed/

³ The EEA brings together the EU Member States and the three EEA European Free Trade Association States — Iceland, Liechtenstein and Norway — in a single market.

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

34. Between 2008 and 2015, Iceland focused its investigative and prosecutorial resources almost exclusively on the financial crimes that contributed to the 2008 banking collapse. During that time, competent authorities demonstrated effective co-operation and co-ordination and were able to successfully prosecute many of those whose activities contributed to the crisis. Although these investigations and prosecutions were highly successful, the dedication of resources to this issue has led to a backlog of other cases. Icelandic authorities are now primarily focused on tax evasion and clearing the backlog of cases, leaving few resources available to address the issues of ML/TF. AML/CFT preventive measures were not prioritised as part of Iceland's focus on investigating and prosecuting financial crimes related to the banking crisis.

35. Iceland had strict capital controls in place between 2008 and March 2017, which largely limited the flow of money into and out of Iceland. Any permitted cross border transactions were scrutinised by the Central Bank. Iceland's authorities have conflicting views on whether these controls mitigated ML/TF risks. These controls were lifted in March 2017 and it is not clear that the authorities have considered the impact which this may have on the ML/TF risk situation in the country.

36. In recent years, Iceland has undergone several political transitions and shifting responsibilities among ministerial portfolios, including for AML/CFT issues. These transitions, as well as the events described above, have contributed to a lack of focus on AML/CFT as a priority issue in Iceland. Icelandic authorities do not appear to have a clear understanding of how AML/CFT safeguards might be utilised to mitigate the vulnerabilities they face.

Overview of ML Risks

37. Iceland estimates that tax fraud, including tax evasion, customs fraud and VAT fraud, generate the largest proceeds of crime in Iceland. Icelandic authorities acknowledge that organised crime (including drug related offences and human trafficking offences) have also been on the increase in recent years and estimate that hundreds of millions of ISK go through the hands of organised crime groups in Iceland annually.⁴

Overview of TF Risks

38. Iceland considers the risks of TF from within Iceland to be low. Authorities base this assessment on the lack of confirmed cases, as well as information from foreign intelligence agencies and a variety of factors related to Icelandic society (e.g. low number of immigrants from conflict

⁴ NRA, p.19; Ministry of the Interior (2017), "National Money Laundering and Terrorist Financing Risk Assessment for Iceland", hereafter "NRA", provided to the assessment on 26 Jan. 2017

zones). Although there have been a small number of investigations related to terrorism, including cases of foreign terrorist fighters transiting through Iceland, there have been no TF investigations and the authorities are not aware of any Icelandic citizens travelling to conflict zones for terrorism purposes. The authorities report that they have conducted pre-investigations into TF resulting from STRs but that none of these have necessitated launching a formal criminal investigation

Country's risk assessment & Scoping of Higher Risk Issues

39. In late 2016, Iceland's Ministry of the Interior established an intergovernmental ad hoc group to produce the 2017 National Money Laundering and Terrorist Financing Risk Assessment for Iceland (NRA). Representatives from the Ministry of the Interior, FIU-ICE, District Prosecutors office (DPO), Reykjavik Metropolitan Police, National Commissioner of the Icelandic Police – National Security Unit, Suðurnes Police District, Directorate of Tax Investigations (DTI) and Directorate of Customs made up the ad hoc group. Contributions were also made by the Financial Supervisory Authority (FSA), Central Bank of Iceland (CBI), Directorate of Internal Revenue, Ministry of Finance and Economic Affairs (MoFEA), the Director of Public Prosecutions (DPP). The private sector and professional associations gave some limited input. The NRA was completed in January 2017 but has not been made public. In advance of the on-site, the NRA was distributed on a limited basis to those participating in the on-site interviews.

40. The NRA rates the following areas as high risk in Iceland for ML: Misuse of banking services; cash transactions and cash-intensive businesses; use of offshore accounts and legal business structures; Medium risks include: illegal gambling; purchasing of real-estate and other high-value goods; electronic payment services and virtual currencies. Low risk areas include misuse of the life insurance sector, pension funds and casinos (which are prohibited in Iceland). Iceland identifies tax fraud/evasion, drug trafficking and other forms of organised crime (e.g. prostitution, extortion) as the most significant predicate offences in Iceland. TF is rated as low risk in the NRA, based on the fact that there have been no confirmed cases of this kind investigated in Iceland.

41. Iceland has not yet used the results of its NRA to shape how it combats ML or TF. While Iceland has a general understanding of ML risks, authorities do not understand Iceland's risks based on the specific vulnerabilities in the country and there has been a lack of co-ordination between relevant authorities to reach a common understanding of Iceland's ML/TF risks at the national level.

Scoping of higher risk issues

42. In deciding what issues to prioritise, the assessment team reviewed material provided by Iceland on technical compliance and effectiveness, as well as supporting documentation, including reports relating to ML/TF risk and open source information. The following issues present areas of higher

ML/TF risks (including threats and vulnerabilities) and were of concern or particular interest to the assessment team based on material provided before the on-site visit:

- **National co-ordination and allocation of resources:** A number of factors suggest deficiencies in Iceland's domestic co-ordination and the allocation of resources to competent authorities. The national AML/CFT Steering Group was created in part to serve as a coordinating authority but is not yet functioning as such, which made compiling information necessary for the assessment process particularly difficult. This and other evidence of a current lack of domestic co-ordination led the assessors to conclude that Iceland has significant challenges in developing a national strategy, improving national co-ordination and allocating resources in the AML/CFT area.
- **Supervision of DNFBPs and financial institutions (FIs):** In light of potential vulnerabilities and the weak supervision, particularly among DNFBPs, the assessment team focused on the extent to which authorities effectively understand the risks in the different DNFBP and FI sub-sectors outside of commercial banks and the steps that authorities are taking to mitigate these risks. Assessors sought to determine whether obligated entities are subject to a risk-based AML/CFT supervision and are aware of their AML/CFT obligations. Similarly, the assessment team focused on the extent to which the four largest commercial banks (which comprise 95% of the banking system) effectively understand their ML/TF risks and whether their policies, procedures and internal controls adequately address these risks. Lastly, the assessment team focused on the extent to which the FSA is coordinating with foreign counterparts to ensure supervision of agents or branches of foreign FIs operating in Iceland.
- **Vulnerabilities related to growth in tourism:** Iceland hosts an annual volume of tourists that is many multiples of the country's population and the number of foreign visitors more than doubled between 2010 and May 2016⁵. The movement of millions of non-residents into and out of Iceland each year creates a risk for a variety of crimes, potentially including ML, TF and terrorism. The Iceland NRA and effectiveness material acknowledged that the large number of foreign nationals living temporarily in the country or transiting through created an increased risk of tax fraud and potentially other crimes, but there was no indication of any further analysis or information. The assessment team focused on the extent to which Iceland has assessed and taken steps to mitigate the potential ML/TF risks posed to domestic FIs/DNFBPs from the large increase in non-residents within Iceland, as well as any resulting implications on the volume and nature of domestic predicate offences.
- **Cross border movement of currency and bearer negotiable instruments (BNI):** Icelandic authorities acknowledge that the increased tourism poses a challenge to border control, including both police and customs and may have

⁵ Icelandic Tourism Board (2016), *Tourism in Iceland in Figures* (May 2016) www.ferdamalastofa.is/static/files/ferdamalastofa/Frettamyndir/2016/juni/tourism-in-iceland-in-figures-may2016.pdf

increased the risk of domestic organised crime and ML.⁶ Evidence indicates that authorities may be having difficulties in detecting cross border movement of currency and BNI. During the on-site visit, the assessors sought additional information on the authorities' understanding of the nature and origin of cash flows into and out of Iceland and the extent to which Icelandic authorities are successfully detecting and analysing cross border movement of currency and BNI. Assessors also focused on steps taken by Icelandic authorities to address the increased challenges to border agencies.

- **TF risks:** Icelandic authorities acknowledge the potential vulnerability created by the lack of resources dedicated to CFT measures.⁷ Nevertheless, the authorities assess the TF risk to be low and there have been no TF investigations or prosecutions. Assessors sought to understand how authorities determined that TF poses only a low level of risk, how FIU-ICE and LEA detect and investigate matters relating to TF and the extent to which expertise and resources allocated to TF are consistent with national strategies.
- **Co-operation and co-ordination of domestic LEA and investigative agencies:** Tax crimes and drug related offences are identified by Icelandic authorities as some of the most common predicate offences for ML.⁸ Accordingly, assessors sought to understand how LEA detects, investigates and prosecutes ML cases related to tax crimes and drug offences, how domestic LEA coordinates and cooperates with the tax authorities and other agencies to ensure effectiveness of these measures and whether instrumentalities of and proceeds from these offences are frozen and confiscated. Similarly, the assessors focused on analysis and use of intelligence to support ML/TF investigations.
- **Law enforcement, confiscation and mutual legal assistance:** Assessors considered how effectively Icelandic competent authorities engage in mutual legal assistance (MLA) and international co-operation. Assessors were not provided with sufficient information to make this determination in preliminary stages of the evaluation. Accordingly, it was an area of focus during the on-site visit.
- **Misuse of corporate structures, including NPOs:** Authorities report that predicate offences frequently involve the misuse of domestic and foreign corporate structures, including NPOs. The Mossack Fonseca affair also disclosed possible abuse of corporate structures by Icelandic officials. Assessors sought additional information to demonstrate access to basic and beneficial ownership information by competent authorities, availability of identity information on foreign trusts managed by Icelandic trustees and measures in place to identify PEPs (in light of the technical deficiencies in both domestic and foreign PEP requirements for FIs/DNFBPs in Iceland). The assessment team also considered how Icelandic authorities trace funds and ownership information through corporate structures and coordinate,

⁶ NRA, p. 11.

⁷ NRA, p.39.

⁸ NRA, p.14.

both domestically and with foreign counterparts where necessary, to prevent the misuse of corporate structures (including offshore companies).

- **Capital controls:** Assessors sought further information on the capital controls put in place after the financial crisis and the implications that their removal may have on vulnerabilities for ML/TF. The Icelandic authorities acknowledge that, while AML/CFT was not the primary objective of the capital controls, these controls may have had an impact on the ML/TF risk.⁹ With the removal of the capital controls in March 2017 and the implementation of new Rules on Foreign Exchange,¹⁰ the assessment team sought to understand the extent to which the Icelandic authorities considered any potential ML/TF consequences from removing the controls, and the extent to which the authorities are prepared to address them.
- **Misuse of cash:** A number of factors suggest that misuse of currency may be higher risk than indicated in Iceland's NRA. Similar to other Nordic countries, Icelandic authorities note that the use of cash in Iceland is fairly limited, suggesting a low ML/TF risk. Nevertheless, Iceland's NRA also reports a general increase in the use of cash following the financial crisis and the tourism boom, as well as a spike in unusual cash deposits and withdrawals.¹¹ Therefore, assessors sought to understand why ML does not appear to be suspected, whether misuse of currency is being investigated and, if so, the outcome of investigations.

Materiality

43. Iceland's GDP in 2016 was ISK 2 110 trillion (EUR 17 22 billion), with a GDP per capita of ISK 6 300 000 (EUR 51 516), making it one of the smallest economies in the OECD.¹² Iceland is a reasonably open economy, with imports and exports of goods and services amounting to 46% and 53% of GDP, respectively, in 2015.¹³ The most significant trade ties are with EEA member states, with 78% of goods' exports going to EEA members in 2015 and the EEA accounting for 61% of imports. Iceland's top 5 trading partners receiving Iceland's exports are the Netherlands, United Kingdom, Spain, Germany and France. The top five countries from which Iceland imports goods are Norway, Germany, the United States, China and Denmark.

44. Historically, Iceland's economy depended heavily on export of marine products and energy resources. However in recent years, the economy has been diversifying into the services industry and manufacturing, particularly within the fields of aluminium smelting and pharmaceutical

⁹ NRA, p. 11.

¹⁰ New rules introduced early 2017 provide for more extensive authorisations for foreign exchange transactions and cross boarder movement of capital.
www.cb.is/publications/news/news/2017/03/12/New-Rules-on-Foreign-Exchange/

¹¹ NRA, p. 32.

¹² Central Bank of Iceland (2016), Economy of Iceland, www.cb.is/library/Skraarsafn---EN/Economy-of-Iceland/2016/Economy_of_Iceland_2016.pdf

¹³ Ibid.

45. products (which accounted for 53% of goods exports in 2015). Nevertheless, the marine sector remains a main pillar of export activities, with this sector contributing approximately 8-10% to GDP. Tourism has also been among the fastest-growing industries in Iceland in recent years, contributing over 50% of the growth during the post-crisis period.¹⁴

46. Although Iceland previously had an expansive financial sector, this sector diminished significantly following the banking and financial crisis in 2008. Prior to 2008, financial services (other than insurance services and pension funds) accounted for roughly 9% of GDP; however, between 2013-2015, this share shrunk to 6% of GDP.

47. For almost ten years, Iceland had strict capital controls in place following the collapse of Iceland's three largest commercial banks in 2008. Cross border movement of capital was restricted and transactions that were permitted were subject to rigorous scrutiny. Access to currency other than Icelandic króna was also tightly controlled. During this period, imports became more expensive, pushing inflation into double digits and Iceland's króna lost more than 40% of its value against the euro in the three years to the end of 2010. The weaker currency helped to create new markets for Icelandic exports and foreign visitors to Iceland.¹⁵

48. Iceland has made a remarkable turnaround from the crisis, helped by staggering growth of tourism, prudent economic policies and a favourable external environment. The number of foreign visitors quadrupled between 2010 and 2016, reaching 1.8 million in 2016.¹⁶ As a result, domestic demand is strong and wages and asset prices are rising. Fiscal policy has been easing despite strong growth. Inflationary pressures have built up. The favourable external environment has helped monetary policy achieve low inflation, while it faced constraints during the ongoing capital account liberalisation.¹⁷

49. GDP growth accelerated to 7.2% in 2016, supported by strong private demand, surging investment, booming tourism and expansionary fiscal policy. Household income continues to benefit from employment growth and steep wage increases. The unemployment rate has fallen (3.2% in 2017 Q1) to pre-crisis levels and in-migration is rising again to fill vacancies. Tourism is boosting investment. Inflation has stood below 2% for most of 2016.¹⁸

Structural Elements

50. The key structural elements for effective AML/CFT control are generally present in Iceland. Political and institutional stability,

¹⁴ Ibid.

¹⁵ See Romei, V. and Murphy, H. (2017), 'Boom, bust and boom again: Iceland's economy in charts', *Financial Times*, 17 March 2017, www.ft.com/content/26270ef4-0a35-11e7-97d1-5e720a26771b.

¹⁶ OECD (2017), *OECD Economic Surveys: Iceland 2017*, OECD Publishing, Paris. http://dx.doi.org/10.1787/eco_surveys-isl-2017-en

¹⁷ Ibid.

¹⁸ Ibid.

accountability, transparency and rule of law are all present. However, changes to ministerial portfolios have had an impact on responsibility for developing and implementing AML/CFT policy and co-ordination, which appears to remain a challenge. There also appears to be a lack of clarity among some competent authorities (including DNFBP supervisors) on what their role is in relation to AML/CFT, due in part to a lack of ministerial leadership on AML/CFT issues.

Background and other Contextual Factors

AML/CFT strategy

51. Iceland does not have a national AML/CFT strategy and did not demonstrate that it had national AML/CFT policies. Similarly, the objectives and activities of individual competent authorities are determined by their own priorities and are not coordinated. Nevertheless, there is some level of national co-operation and co-ordination, though it largely exists on an informal basis and primarily among intelligence, law enforcement and prosecutors.

Legal & institutional framework

52. The following are the main ministries and authorities responsible for matters related to AML/CFT and proliferation financing:

Interdepartmental Coordinating Bodies

- **AML/CFT Steering Group:** The steering group was established in 2015 by the Ministry of the Interior. The steering group includes representatives from the ministries of finance and foreign affairs, as well as the Central Bank, FIU-ICE, the FSA and the DTI. It has been tasked with establishing and coordinating national AML/CFT policies. However, at the time of the on-site, the Steering Group had not begun functioning as a coordinating body.

Criminal justice and operational agencies

- **The District Prosecutor's Office (DPO):** Under the authority of the DPP, the DPO is responsible for investigations of criminal offences (including in relation to economic crime) in conjunction with District and Metropolitan Police and for prosecution of crimes.
- **The Financial Intelligence Unit - Iceland (FIU-ICE):** FIU-ICE is Iceland's financial intelligence unit. FIU-ICE was moved from the National Commissioner's office to the DPO in July 2015 and is now an independent unit within the investigations department of the DPO.
- **Office of the National Commissioner of the Police:** The police force maintains law and order within Iceland. There are nine police districts including the Metropolitan Police that investigate criminal matters, including matters that arise through STRs that are referred to police districts by FIU-ICE.
- **ICE.** Police authorities also assist NSU in the investigation of TF. The Office of the National Commissioner of the Police is tasked by law with issuing periodic national threat assessments that address terrorism and organised

crime. The most recent was issued in January 2017. These assessments have occasionally addressed money laundering.

- **The National Security Unit (NSU):** NSU is a Police Investigation Department within the Office of the National Commissioner of Police which investigates treason and offences against the government of the Icelandic State and its supreme authority and assesses the risk of terrorist acts and organised crime. This applies to threats in Iceland as well as threats directed at Icelandic nationals and Icelandic interests abroad. NSU is responsible for the investigation of terrorism and TF and publishes regular organised crime and terrorism threat assessments. The operating area of the NSU is the whole of Iceland.
- **Customs:** Customs officers have law enforcement powers, but these are limited to matters relating to illegal imports and exports. Customs is responsible for obtaining cross-border currency reports and provide such information to police for investigation.
- **The Directorate of Tax Investigations (DTI):** The DTI is an independent criminal investigative body under the MoFEA, which investigates predicate crimes related to tax evasion and tax fraud.

Financial/DNFBP sector supervisors

- **The Financial Supervisory Authority (FSA):** The FSA is the integrated supervisor and regulator for all FIs in Iceland, covering both AML/CFT compliance, as well as prudential compliance. The FSA is an independent authority under the auspices of the MoFEA.
- **The Consumer Agency:** As part of their overall mandate for ensuring product safety and consumer rights, the Consumer Agency is also the designated AML/CFT supervisor for natural and legal persons, involved in trading in goods for payment in cash for the amount of EUR 15 000 or more (Art. 25 of AML/CFT Act).
- **The Icelandic Bar Association (IBA):** The IBA is the mandatory professional body for lawyers in Iceland. While the IBA has raised awareness to its members on AML/CFT issues, there is no formally designated authority responsible for monitoring and ensuring compliance among lawyers.
- **Supervisory Committee of Real Estate Agents:** the Real Estate Supervisory Board is the designated body responsible for ensuring AML/CFT compliance among real estate agents since 2013.
- **Supervisory Committee of Auditors:** the Auditors Supervisory Committee is the designated body responsible for ensuring AML/CFT compliance among state authorised auditors since 2013.
- **District Commissioners:** There are 8 district commissions in Iceland, which are responsible for administrative duties within their respective district, including family matters and property rights. Three district commissioners are also responsible for the general licencing and registration of NPOs (non-AML/CFT-related): (i) The District Commissioner of Suðerland registers all public fundraising activities; (ii) The District Commissioner of Norðurland vestra registers all independent funds and institutions with a confirmed regulation, (iii) The District Commissioner of Norðurland eystra registers all religious and life philosophy organisations.

Policy Ministries

- **Ministry of Justice (MoJ):** In June 2017 the MoJ took over primary responsibility from the Ministry of Interior for AML/CFT matters in Iceland. Specifically, it is responsible for general law enforcement and prosecution matters and its responsibility for the preparation of legislation regarding AML/CFT issues e.g. adoptions of EU regulations and directives. The MoJ is also responsible for issues relating to the district commissioners and non-AML/CFT supervision of the limited gambling activities permitted in Iceland. MoJ is also responsible for issues concerning and lawyers.
- **Ministry of Industries and Innovation (MoII):** MoII develops policy for, and addresses matters important to, the business environment within Iceland. Its responsibility for the preparation of legislation extends to such matters as accounting and book-keeping, auditors and companies. It is primarily responsible for supervision of DNFBPs.
- **The Ministry of Finance and Economic Affairs (MoFEA):** The MoFEA is responsible for preparation of all legislation in relation to the financial sector (with the exception of AML/CFT legislation which is under the mandate of the MoJ).
- **Ministry of Foreign Affairs (MoFA):** The MoFA is responsible for the foreign policy aspects of TF and PF, including the implementation of targeted financial sanctions.
- **Central Bank of Iceland (CBI):** The Central Bank is an independent institution owned by the State but under separate administration. The CBI was responsible for the implementation and monitoring of the capital controls in place between 2008 and March 2017.

Financial sector and DNFBPs

Financial Sector

53. Iceland's financial sector consolidated significantly following the banking crisis. Iceland's financial sector is now dominated by a small number of large commercial banks and several small rural savings banks which account for approximately 37.5% of the financial system. There are no foreign banks operating in Iceland. The three large commercial banks mostly have domestic operations and maintain foreign correspondent relationships. The banks offer a wide range of services, including currency exchange and trade finance and operate as respondent banks for the smaller rural savings banks. In 2015, the total commercial banking sector assets totalled EUR 22.5 billion, while savings bank assets totalled EUR 0.1 billion. The pensions sector is the second largest sector by percentage of GDP, accounting for 34.8% of the assets in the financial system. The Funds (Undertakings for the collective investment in transferable securities (UCITS) and non-UCITS) and Insurance industries are considerably smaller, accounting for just 6.5% and 1.8% of the assets in the financial system respectively. Other FIs account for 15.4% of the financial system and include credit undertakings, land funds, leasing companies and payment service companies

54. The MoFEA is in charge of drafting the majority of legislation relating to FIs (with the exception of AML/CFT legislation), which falls under the mandate of the MoJ.

Table 1: Number and Size of FIs Registered with FSA

Type of Entity	No. of registered institutions (as of Feb. 2017)	Est % of GDP ¹
Financial Undertakings (Total)	33	190,8%
Commercial banks	4	146%
Savings banks	4	0,9%
Credit undertakings	5 ²	8,4%
Investment firms	10	0,02%
Undertakings for the collective investment in transferable securities (UCITS) management companies	10	35,5% ³
Electronic money undertakings	0	-
Distributors of foreign electronic money undertakings	1	-
Payment institutions	1	0,04%
Agents of foreign payment institutions	3	- ⁴
Life Insurance companies	4	1%
Branches of foreign life insurance companies	1	- ⁵
Insurance brokers	6	0,03%
Pension funds	25	148%
MVTS	0 ⁶	-
Currency exchange providers	1	- ⁷

Notes:

1. This information refers to the % of total assets as a ratio of GDP at the end of 2015.
2. Notably, only 3 credit undertaking fall under the AML/CFT Act, the other two are government entities which have been exempted from the Act.
3. This counts for the assets of the management companies and well as the fund operated. The ratio with regard to the funds solely is 35%.
4. The FSA does not receive financial information on agents.
5. The FSA does not receive financial information on branches.
6. Icelandic authorities report that following the implementation of the payment services directive into Icelandic law in 2011, all MVTS providers in practice would be registered as payment institutions (see R.14 for further information).
7. The FSA does not receive financial information on currency exchange providers.

DNFBP Sector

55. Businesses and professions that comprise FATF's definition of DNFBPs generally exist in Iceland; however, there are a few minor exceptions. Casinos are prohibited. However some limited gambling activities are permitted, including slot machines, football pools and fixed odds gambling, which are included within the scope of the AML/CFT Act (see IO.1 for further information). The Icelandic authorities have identified potential cases of these activities being misused for ML purposes.

56. In addition, notaries have a limited function in Iceland and do not assist with the formation, creation or managing of legal persons/arrangements or their accounts. There are also no trust and company service

providers (TCSPs) operating in Iceland and the authorities report that companies are mostly formed through lawyers and state authorised auditors.

57. Notably, as precious metals and precious stone dealers do not have an obligation to register with the Consumer Agency, the authorities do not have an overview of the volume or risks within this sub-sector. Nevertheless the Consumer Agency conducts market surveillance for precious metals and has a non-exhaustive list of precious metal dealers.

58. The following table illustrates an overview of the DNFBPs in Iceland.

Table 2: DNFBP Sector

Type of Entity	No. of registered entities or persons (as of Feb. 2017)	Approx. Size of sector (in millions of ISK)
Legal or natural persons that have been granted an operating license on the basis of the special legislation or the Lotteries Act Slot machine operators	312	20 000*
Legal professionals	1080	Unknown
State authorised public auditors	321	Unknown
Real estate agents	406	460.000
Precious metals and stones dealers	79**	Unknown
Trust and Company Service Providers	0	Unknown

Notes:

* Unofficial figure

** Number may be higher, as there is no requirement to register or obtain a license

Preventive measures

59. The primary piece of AML/CFT legislation governing FIs in Iceland is the Act on measures against money laundering and terrorist financing, No. 64/2006 (AML/CFT Act). Supervisory powers of the FSA are contained primarily in the Act on Official Supervision of Financial Operations, No. 87/1998.

60. Since the last assessment in 2006, Iceland has made some improvements to its regulatory framework and also its supervisory regime. At the time of the last assessment there was no requirement for MVTs providers to be registered or licensed. After the assessment a requirement for MVTs providers to be registered was implemented in the AML/CFT Act. Further, the Payment Services Directive was implemented into Icelandic legislation in 2011 and required money remitters to be licensed as payment institutions. The AML/CFT Act has also been amended with regards to correspondent banking. Credit institutions are now required to assess and ascertain respondent institutions AML/CFT controls, among other things. However, as reflected under R.13, some deficiencies still remain regarding correspondent banking.

61. Following the 2006 MER, the FSA was provided more resources to enhance its AML/CFT supervision of financial institutions. However, the increase does not seem to be sufficient.

62. At the time of the last assessment, DNFBPs were unsupervised for AML/CFT compliance. Today, authorities responsible for supervising most DNFBPs (not including TCSPs, lotteries and slot machine operators) have been designated. However, there is limited supervision in practice.

63. Although Iceland has made some improvements to its measures to prevent ML/TF since the last MER, as reflected in the report, some important deficiencies in Iceland's preventative measures remain.

Risk-based exemptions or extensions of preventive measures

64. The AML/CFT Act contains exemptions from customer identification and verification requirements in certain situations (mostly EEA or threshold-based) including when products are life insurance and pension products. This exemption is part of Iceland's implementation of the 3rd EU Anti-money Laundering Directive, Directive 2005/60 (3AMLD). Article 15 of the Act explicitly states that situations where obliged entities may apply SDD, including for all customers that are credit or financial undertakings subject to similar provisions to the AML/CFT Act in Iceland (see Art. 15a of AML/CFT Act). Iceland did not provide evidence that the situations identified in Art. 15 for SDD were based on a domestic assessment of lower ML/TF risks. Chapter III of the AML/CFT Act codifies circumstances in which covered entities are obligated to apply enhanced due diligence (EDD); however as noted in IO.1, these exemptions are not based on a domestic risk assessment.

65. The authorities have extended AML/CFT obligations to all natural or legal persons engaged in trade in goods for payment in cash of EUR 15,000 or more, whether the transaction is executed in a single operation or in several operations which appear to be linked. In addition, while casinos are prohibited in Iceland, the authorities have decided to extend AML/CFT obligations to all legal or natural persons who have been granted an operating licence on the basis of the Lotteries Act and parties permitted under special legislation to conduct fund-raising activities or lotteries where prizes are paid out in cash. These extensions are based on Article 4 of the 3rd EU AML Directive (Directive 2005/60); not on a supranational or national risk assessment or other specifically identified risk of money laundering or terrorist financing.

Legal persons and arrangements

66. Iceland permits the creation of a range of legal persons including public and private limited companies, partnerships, co-operative societies and foundations. Iceland did not provide information on the basic features of all of these forms of legal persons. Businesses in Iceland are obliged to register basic information in the Business Register, which is then made publically available. The information required to be registered (to the extent available to assessors) is outlined below:

- *Companies:* Articles of association (which includes the company's name and address), the amount of share capital and the names, identity number and addresses of the founders, directors, managers and those authorised to sign for the company.

- *Partnerships*: Information about the undertaking's name, address of its registered office, objects and financial year. The person authorised to sign for the undertaking shall also be registered.
- *Foundations*: Members of the board of directors and board of management and the auditor shall be registered.
- *Non-commercial Foundations*: These entities are only required to register in the Business Register if they have obligations concerning tax or VAT. Icelandic authorities indicate that all non-commercial foundations and certain associations must submit their deed of foundation to the District Commissioner within three months of establishment. The deed must contain certain basic information, including the name of the foundation or association and the location of registered office.

67. Non-profit organisations and non-commercial foundations are required to register basic information with one of three District Commissioners. The Commissioner with whom an NPO or Foundation must register is determined by the nature of the entity's purpose and operations (see Table 3).

Table 3: Overview of Icelandic NPO Sector

Type of NPO	Relevant Legislation	Entities with supervisory responsibilities (non-AML/CFT)	Number (as of end of 2016)
Public fund raising	Act No. 5/1977 on Fund-Raising and Reg. No. 786/2008	The District Commissioner of Suðurland (southern part of Iceland) – supervises and grants permission	20 public fundraising licences granted (in 2016)
Independent Funds and institutions with a confirmed regulation	Act. No. 19/1988 on Funds and Institutions Operating under Ratified Charters and Reg. No. 140/2008	The District Commissioner of Norðurland vestra (North western part of Iceland) – keeps a list of all funds and institutions	512
Religious and life philosophy organisations	Act No. 108/1999 and Reg. No. 106/2014	The District Commissioner of Norðurland eystra (North eastern part of Iceland) – registration and supervision	44
Commercial Foundations (foundations engaged in business operations)	Act on Commercial Foundations No. 33/1999 and Act on the Business Register No. 17/2003	Directorate of Internal Revenue - operates the Icelandic Business Register (Ic. Fyrirtækjaskrá) which contains information on all forms of business operations. The Directorate also issues identification numbers to entities (not individuals).	107

68. Information regarding the requirements for and content of, annual reports or accounts for most types of legal persons was not made available to the assessment team. However, the following requirements apply to limited companies and NPOs:

- *Public and private limited companies*: required to file annual accounts, which must contain names and *kennitala* (Icelandic ID numbers) of shareholders who own 10% or more.
- *NPOs*: required to file annual reports with the Directorate of internal Revenue and the National Audit Office, providing details on their income, expenses and assets.

69. The data entered in the Business Register is available in Icelandic and English. Competent authorities, as well as the public can access registration information and annual reports through the Business Register.

70. Icelandic legislation does not provide for the concept of a trust and no trusts can be established in Iceland. A foreign trust can operate in Iceland and Icelandic property can form part of a foreign trust. However, recent tax legislation does take account of foreign trusts for tax purposes and lays down rules as to how these are to be treated vis-a-vis parties to the trust. There are no restrictions on an Icelandic resident acting as trustee, protector, administrator of a trust formed under foreign law, or being a settlor or beneficiary under such a trust.

71. FIs and DNFBPs are obliged to obtain information on customers, including trustees, in accordance with the rules on CDD procedures in the AML/CFT Act. However, there is no specific requirement for trustees to disclose their status to obliged entities when involved in a business relationship or carrying out occasional transactions. Also legal entities or persons acting as professional trustees are obliged to perform the obligations laid down by the AML/CFT Act and may be sanctioned for failure to comply (although the mechanism for applying such sanctions is unclear).

72. Information on the types of legal persons registered as of 2016 is reflected below:

Table 4: Legal Persons and Arrangements in Iceland

Type of Legal Persons/ Arrangements	No. Registered(where available)
Private limited companies	34 966
Public limited companies	654
Listed public limited companies	16
Co-operative companies	34
Foreign companies with temporary activity in Iceland	2
Branch of a foreign company	66
Pension fund	25
European Economic Interest Grouping (EEIG) and European Companies	28
Partnerships	2 275
Foundations	107
Foreign trusts	0

Supervisory arrangements

73. The FSA is the consolidated financial sector regulator (AML/CFT and prudential) for FIs in Iceland. Agents of foreign payment institutions within the EU and branches of EU life insurance companies operating in Iceland are supervised by their respective home supervisors. Table 5 below provides an overview of the different FI sub-sectors and their relevant supervisors.

Table 5: Responsibility for Supervision of FIs in Iceland

Type of Financial Institution	Legislation on Licencing/ Registration	AML/CFT Supervisor
Financial Undertakings (Total)	Financial Undertakings Act, No 161/2002, (FUA)	FSA
Commercial banks	FUA	FSA
Savings banks	FUA	FSA
Credit undertakings	FUA	FSA
Investment firms	FUA	FSA
Undertakings for the collective investment in transferable securities (UCITS) management companies	FUA	FSA
Electronic money undertakings	Act No. 17/2013 on the Issuance and Handling of Electronic Money	FSA
Distributors of foreign electronic money undertakings	Directive 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions	Financial Conduct Authority, UK
Payment institutions	Act No. 120/2011 on Payment Services	FSA
Agents of foreign payment institutions	Directive 2007/64/EC on payment services	Financial Conduct Authority, UK/FSA
Life Insurance companies	Act No. 100/2016 on Insurance Activities	FSA?
Branches of foreign life insurance companies	Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).	BaFin (Federal Financial Supervisory Authority, Germany)
Insurance brokers	Act No. 33/2005 on Insurance brokerage.	FSA
Pension funds	Act No. 129/1997 on Mandatory Pension Insurance and on the Activities of Pension Funds	FSA
MVTS providers	Article 25a of the 2006 AML/CFT Act	FSA
Currency exchange providers	Article 25a of the 2006 AML/CFT Act	FSA

74. Each DNFBP sector is regulated for AML/CFT by its licencing/registration authority or self-regulatory body, with the exception of lawyers and the limited betting activities permitted (see Table 6 below).

Table 6: Responsibility for Supervision of DNFBPs in Iceland

DNFBP sectors	Legislation on Licencing/ Registration	AML/CFT Supervisor
Limited Betting Activities permitted (e.g. sports betting, lotteries and slot machines)	Lotteries Act	None. The MoJ is the designated non-AML/CFT supervisor.
Dealers in Precious Metals or Stones	None	The Consumer Agency
State Authorised Auditors	Auditors Act	Supervisory Committee for State Authorised Auditors
Real Estate Agents	Act on Selling Of Real Estate Agents and Ships	Supervisory body for Real Estate Agents
Lawyers	Act on Lawyers	None. The IBA is the mandatory professional body which raises awareness for AML/CFT issues, but there is no designated AML/CFT supervisor
TCSPs	None identified	None

International Co-operation

75. Iceland has close co-operation with Nordic countries and Egmont members and to a lesser degree with other countries. Iceland is also member of the Nordic Council, the Nordic Council of Ministers and specialised institutions such as the Nordic Investment Bank. In general, Iceland's system for international co-operation allows it to request and exchange information in the absence of formal co-operation agreements

76. The central authority for MLA and extradition is the MoJ, which assumed this role from the Ministry of the Interior. The majority of Iceland's co-operation, however, occurs informally and is not channelled through the central authority.



CHAPTER 2. NATIONAL AML/CFT POLICIES AND CO-ORDINATION

Key Findings and Recommended Actions

Key Findings

National Risk Understanding and Mitigation

- Iceland completed its NRA in January 2017 and identified some areas of higher risk. However, the assessment appears to be based on assumptions or a theoretical understanding of general ML/TF risks rather than information on factual ML/TF vulnerabilities and threats specific to Iceland. As a result, Iceland has not effectively assessed, identified or understood its ML/TF risks thus preventing the country from putting in place actions to mitigate those risks.
- The National Security Unit (NSU) conducted its own terrorism threat assessment, an excerpt of which was shared with the assessment team. This assessment did not consider terrorist financing (as opposed to acts of terrorism) or potential vulnerabilities of NPOs.

Co-ordination and Co-operation

- Icelandic authorities admit that efforts at co-ordination in the context of AML/CFT are relatively recent and largely limited to preparation of the National Money Laundering and Terrorist Financing Risk Assessment (NRA). Although a national AML/CFT steering group exists, it has not begun functioning as a national policy and co-ordination unit. There is currently no overarching strategy or mechanism to ensure domestic co-ordination at the ministerial level or among competent authorities. This lack of co-ordination negatively affects Iceland's entire AML/CFT regime.
- It does not appear that AML/CFT strategies or policies drive the efforts of competent authorities. The objectives and activities of individual competent authorities are determined by their own priorities and are not coordinated on a national level. Further, AML/CFT risks do not appear to be a factor in the allocation of resources in Iceland.

Recommended Actions

Iceland should:

- Ensure that future risk assessments, including those published by the

National Police Commissioner, include ML and TF components as appropriate and are the product of robust co-ordination among competent authorities so that all relevant information is taken into consideration. Future risk assessments should also involve the private sector.

- Begin as soon as possible to revise the 2017 ML/TF risk assessment in order to more accurately reflect the available quantitative and qualitative information reflecting actual and potential illicit financial activity in Iceland.
- Conduct a thorough assessment of the ML/TF risks related to misuse of lotteries and slot machines in Iceland and ensure that this sub-sector is aware of the risks identified and is adequately monitored for AML/CFT compliance.
- Make the results of the revised ML/TF risk assessment(s) broadly available to the public and private sectors and develop guidance to be disseminated by FIU-ICE and/or FSA to help the private sector apply ML/TF risk information effectively to improve their AML practices.
- Develop national AML/CFT operational policies and co-ordination mechanisms to ensure competent authorities share ML/TF information on an on-going basis and work together as appropriate to pursue criminal investigations targeting illicit finance.
- Take measures to mitigate the ML/TF risks identified through the risk assessment process.
- Set up and maintain a permanent and effective mechanism for domestic co-ordination and implementation of AML/CFT policies and activities with participation of all AML/CFT competent authorities.
- Maintain comprehensive statistics on AML-related operations including STRs received and disseminated; ML/TF investigations, prosecutions and convictions; confiscations; and requests made and received for international co-operation.

77. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1-2.

Immediate Outcome 1 (Risk, Policy and Co-ordination)

Country's understanding of its ML/TF risks

78. Iceland's Ministry of the Interior convened a working group in late 2016 to develop an ML/TF risk assessment in preparation for the mutual evaluation of the country. The risk assessment, which was completed in early 2017, represents the first time the relevant competent authorities worked together to identify ML/TF risks. The exercise helped Iceland begin to think collectively about risks specifically related to illicit finance, including terrorist financing. But the tight time frame, limited data sources available and lack of robust co-ordination in developing the 2017 national ML/TF risk assessment reduced its usefulness to stakeholders.

79. The money laundering risks identified are often generic or based on assumptions, rather than based on observation through STRs, law enforcement investigations and financial supervision, comprehensive inputs from the private sector, or developed through thorough analysis. The priority concerns that are highlighted, including misuse of banking services, cash and legal entities are generic risks. Authorities have not been able to identify the specific vulnerabilities in the Icelandic context. Authorities assume virtual currency to be a risk but acknowledge a lack of information on potential misuse. Authorities do not believe unlicensed money remitters or cash smuggling are ML risks but also acknowledge a lack of information on potential misuse.

80. Icelandic authorities have a generic understanding of money laundering and are generally more confident about the money laundering threats, the predicate crimes, than money laundering vulnerabilities and risks. Iceland identifies organised crime, for example, as an increasing concern, citing evidence of organised criminal activity across a variety of crimes including drug trafficking and human smuggling. The lack of focus on AML supervision or the investigation and prosecution of money laundering have led to a relatively poor understanding of the actual ML risks that exist in the country.

81. Iceland has a poor understanding of terrorist financing generally and has not considered the actual TF risks in the country, concluding there is a low risk of TF based primarily on an absence of information indicating otherwise. Icelandic authorities participating in the 2017 ML/TF risk assessment cite the country's small population, geographic size and economy as mitigating the TF risks. They also indicate that the restrictions imposed on cross-border funds transfers in the wake of the 2008 financial crisis to stabilise the Icelandic currency limited the potential for illicit finance.

National Police Commissioner's Risk Assessments

82. Although Iceland completed its first interagency ML/TF risk assessment in early 2017, the country has required its National Police Commissioner to conduct periodic organised crime and terrorism risk assessments since 2007 (No. 404/2007), with reports issued annually from 2008 - 2011 and then every other year with the latest report published in 2017. These threat assessments¹⁹ are based in part on responses to questionnaires sent to the police districts throughout Iceland, as well as information received through Nordic partners. Although the National Police Commissioner's risk assessments do not directly address either money laundering or terrorist financing risks, the findings are relevant.

83. The 2017 ML/TF risk assessment cited the limits imposed on cross-border funds transfers following the country's 2008 financial crisis as potentially reducing illicit finance risks. However, the National Police Commissioner's 2009 organised crime/terrorism risk assessment forecast that limiting cross-border funds transfers could actually increase the risk of

¹⁹ The 2009, 2013, 2015, and 2017 reports were reviewed by the assessment team.

domestic money laundering because less money would be laundered abroad. The 2009 risk assessment cited the potential for illicit drug proceeds to be invested in domestic real estate and in acquiring legitimate companies and even speculated that because of the heightened demand for investment capital in the wake of the crisis there may be an increase in foreign illicit proceeds smuggled into Iceland for laundering. The 2017 risk assessment does not acknowledge the prior analysis, so it has not been confirmed or refuted. Following the financial crisis in 2008, law enforcement shifted resources to investigating the causes of the financial collapse, postponing or putting aside most other financial investigations. Without case examples to draw on, the agencies participating in the 2017 ML/TF risk assessment could only speculate on the impact of the country's post-crisis currency controls.

84. Separately, the NSU indicates that an internal report prepared in 2011 found that the TF risk was increasing at that time. This did not provide sufficient incentive to address the shortcomings in the TF law identified in the last mutual evaluation, generate guidance to the private sector, or lead to follow-up assessments. The 2017 NRA does not acknowledge that there was a prior TF risk assessment.

85. The multiagency group that produced the 2017 ML/TF national risk assessment believe the TF risk is low in large part because Iceland is a small, isolated and unique country. However, in 2015, when the National Police Commissioner's office raised the terrorism risk level to moderate, they cited the following risk factors that should have been taken into consideration (along with the 2011 NSU report) when the 2017 ML/TF national risk assessment was prepared:

- Evidence of Internet sites and social media accessible in Iceland used to promote extremism and terrorist acts;
- Acknowledgement of Iceland's use as a transit country by individuals from North America en route to the Middle East to be foreign terrorist fighters or otherwise support Islamic extremism;
- Presence of annual visitors to Iceland in dramatically increasing numbers, exceeding three times the population in 2015;²⁰
- Awareness of the rising terrorist threat level among neighbouring countries and in Europe;
- Reversal of the position police took in the previous terrorism risk assessment that the absence of information on potential domestic terrorist threats equated to a low level of risk. In 2015 the police determined that their lack of information was a weakness potentially impacting their defences.

86. In 2017, the National Police Commissioner issued an updated, stand-alone terrorism risk assessment that maintains the terrorism risk level as moderate and reiterates the points noted above that were in the 2015 report. The 2017 National Police Commissioner's risk assessment again fails to mention terrorist financing. Although the multi-agency 2017 ML/TF risk

²⁰

Currently the annual number of visitors to Iceland is more than five times the population of approximately 340 000.

assessment did attempt to assess the TF risk it failed to acknowledge that some of the risk factors the National Police Commissioner cited in support of raising the terrorism risk level in 2015 are relevant to assessing the TF risk. The TF risk assessment also does not consider the potential misuse of licensed and unlicensed non-profit organisations, lax supervision of certain FIs conducting cross-border funds transfers and the lack of supervision of targeted financial sanctions compliance.

87. While Iceland intends to build on its 2017 ML/TF risk assessment, the country currently has a limited understanding of its ML/TF risks.

National policies to address identified ML/TF risks

88. As noted above, there is a lack of agreement among relevant authorities as to what the ML/TF risks are in Iceland. Competent authorities typically pursue independent policies and activities rather than coordinating on the implementation of national AML/CFT policies and activities. Those initiatives that are currently in place do not address the ML/TF risks identified by the ML/TF national risk assessment or the risks identified by the National Police Commissioner's assessments.

89. In 2015, the Ministry of the Interior established an intergovernmental steering group primarily to complete Iceland's outstanding items from the FATF 3rd round mutual evaluation and begin implementation of the 4th EU Money Laundering Directive. The Steering Group is also tasked with establishing and coordinating national AML/CFT policies, although no such policies have been developed yet. The Steering Group includes representatives from the ministries of finance and foreign affairs, as well as the Central Bank, FIU-ICE, the FSA and the DTI. The MoFEA established a separate working group in January 2017, at the same time the national ML/TF risk assessment was completed, to investigate the scope and impact of tax evasion and tax fraud in the Icelandic economy. Both tax fraud and tax evasion are cited as dominant ML predicate crimes in the ML/TF risk assessment. The Finance Ministry-led working group is considering reducing the use of cash in Iceland as one way to reduce potential tax evasion. However, the ML/TF risk assessment notes that Icelanders make limited use of cash, preferring card-based payments and bank transfers. It is not clear that reducing the use of cash would have a significant impact on money laundering.

90. The Icelandic parliament, the Althingi, in 2016 passed the National Security Council Act²¹, creating a National Security Council (NSC), tasked with conducting a national security assessment and developing a national security policy. Icelandic authorities told assessors the national security assessment will include "threats to the nation's financial and economic security". The assessment is due the first half of 2018 with a national security policy to follow. There does not appear to be any determination yet as to the

²¹ Prime Minister's Office (2016), *National Security Council Act*, [www.government.is/library/01-Ministries/Prime-Ministrers-Office/National-Security-Council-Act-98-2016-tr-br-prot-SKIL-310817%20\(1\).pdf](http://www.government.is/library/01-Ministries/Prime-Ministrers-Office/National-Security-Council-Act-98-2016-tr-br-prot-SKIL-310817%20(1).pdf)

scope of the national security assessment or policy and how the National Security Council might coordinate with the AML/CFT Steering Group.

91. There are no current policies or initiatives in place specifically to address TF due largely to a poor understanding of TF risks.

Exemptions, enhanced and simplified measures

92. The 2017 ML/TF risk assessment is not being used as the basis to justify exemptions from the AML requirements or to support the application of EDD. There is a basis in law, independent of the country's risk assessments, that allows for simplified due diligence. Article 7 of the AML/CFT Act grants persons obligated to file STRs, which is all entities, the opportunity to apply CDD on a risk-sensitive basis and Article 15 of the Act explicitly states situations where obliged entities may apply SDD, including for all customers that are credit or financial undertakings subject to similar provisions to the AML/CFT Act in Iceland (see Art. 15a of AML/CFT Act). Iceland did not provide evidence that the situations identified in Art. 15 for SDD were based on a domestic assessment of lower ML/TF risks. In fact, this application of simplified due diligence would include cash-intensive businesses that Icelandic authorities now consider pose a high risk for tax evasion and potentially money laundering. Chapter III of the AML/CFT Act codifies circumstances in which covered entities are obligated to apply EDD. Iceland reported that these categories for EDD are based on the 3rd AML Directive of the EU (although Iceland is not an EU member). The country's risk assessment does not take a position on the related risks.

Objectives and activities of competent authorities

93. The recent reorganisation of the DPO, law enforcement and FIU-ICE has allowed for more resources to be applied to investigating and prosecuting money laundering. Previously, law enforcement and prosecutorial resources had focused primarily on cases resulting from the 2008 financial crisis. However, there still remains a backlog of cases, primarily relating to tax evasion, that were put aside to allow for the financial crisis cases to move forward. Although money laundering could have been investigated and charged previously in conjunction with the financial crimes that have been prosecuted, it has not been a priority. Although the reorganisation will allow for a greater focus on ML investigations, the 2017 AML/CFT national risk assessment does not adequately identify priority areas of concern. Supervisory authorities, however, did use the ML/TF risk assessment process to acknowledge areas for which they have a limited understanding of the ML/TF risks. To date, supervisory authorities have not used an assessment of ML/TF risks to apply a risk-based approach to examinations and supervision. Some FIs and DNFBPs are unaware of ML/TF risks. Many DNFBPs, and to a lesser extent FIs, are not supervised for AML/CFT compliance. TF risks continue not to be well understood, which is evidenced in part by the fact that targeted financial sanctions compliance is not supervised or enforced.

National co-ordination and co-operation

94. Icelandic authorities have tended to form an ad hoc steering group when necessary to accomplish a specific task. Steering groups have been formed to address Iceland's FATF 3rd round follow-up process, conduct a national ML/TF risk assessment for the country's 4th round mutual evaluation and implement the EU 4th AML Directive. The steering group established to create and manage national AML/CFT policies and procedures has not yet begun functioning as a national policy and co-ordination unit.

95. Typically, each agency determines its own priorities and activities independent of its counterparts' priorities and activities. An example is how STRs are referred for investigation. Other than the regulation stipulating how STRs are to be handled and disseminated (Reg. 175/2016), there are no formal mechanisms for AML/CFT policies and co-ordination.

96. When a FI files an STR identifying suspicious financial transactions tax evasion is often suspected and the STR is referred by FIU-ICE to the DTI for investigation. The presumption that suspicious activity indicates tax evasion is widespread among the public and private sectors. It is an assumption that is also stated in the national ML/TF risk assessment. If the tax authorities determine they cannot proceed with a criminal tax investigation, they indicated that they may then transfer the investigative file to the police to determine whether the matter may indicate some other criminal activity. This delayed referral has jeopardised potential financial crime investigations (see IO.7). The police indicate that going forward they will try to work more closely with the tax authorities so that the agencies' investigations are simultaneous rather than sequential.

97. There has been no information sharing or co-ordination among competent authorities regarding indicators of WMD PF activity.

Private sector's awareness of risks

98. The 2017 ML/TF national risk assessment is not publicly available. It has been distributed only to those government agencies that participated in its preparation and selected representatives of the private sector. The National Police Commissioner's risk assessments are all publicly available on the Internet. Although these risk assessments include information useful to assessing the country's ML/TF risk profile, they were not prepared as ML/TF risk assessments.

99. The National Police Commissioner's risk assessments and the 2017 ML/TF national risk assessment all largely neglect to identify TF risks. However, FIU-ICE has conducted informal outreach sending the FATFs report on potential indicators of terrorist financing to the three largest banks in Iceland, as well as the country's two payment service providers and LEAs. Iceland did issue formal guidance in the form of a regulation in 2014 that was intended to help explain to obliged entities their due diligence, recordkeeping and reporting obligations under the country's AML law. There has been no other formal guidance to raise awareness of ML/TF risks.

100. DNFBPs and some vulnerable FIs have little to no awareness of ML/TF risks or AML/CFT obligations. Only some FIs in Iceland have a general understanding of ML/TF risk and, those that do, indicated they rely primarily on their AML software vendors, correspondent financial institutions and the websites of foreign governmental authorities for information on ML/TF risks and compliance obligations. The Icelandic FIs that maintain an awareness of AML/CFT risks do so in order to comply directly or indirectly with foreign supervisory authorities. In some cases, offshore FIs share risk information with their Icelandic correspondents and conduct on-site examinations to ensure adequate compliance so that they, in turn, can demonstrate their compliance to their home supervisory authorities.

Conclusion

101. In the wake of the financial crisis Iceland's competent authorities demonstrated they can coordinate effectively to meet operational objectives and achieve strategic goals. But the country has not done that with respect to AML/CFT initiatives. Iceland has not demonstrated a good understanding of its money laundering and terrorist financing risks and does not co-ordinate effectively to combat illicit finance.

102. **Iceland has a low level of effectiveness for IO. 1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

Use of financial intelligence (Immediate Outcome 6)

- There is evidence that financial intelligence is being used to successfully develop and prosecute major cases related to tax evasion, drug smuggling, and to a lesser extent ML. Feedback from prosecutors and LEAs also suggests that the quality of financial intelligence has improved since 2015. Financial intelligence is largely not being used to develop evidence for TF investigations.
- The Financial Intelligence Unit – Iceland (FIU-ICE) and LEAs effectively use their information gathering powers to obtain relevant information from a wide range of sources, including the business registry, the tax authorities and additional information from the private sector. However, relevant information regarding cross border movement of currency is not collected, and information on DNFBP supervision, beneficial ownership information and information on NPOs is limited. Further, there are only limited STR filings from entities other than large commercial banks, credit undertakings and agents of foreign payment institutions.
- The number of staff in FIU-ICE has increased and the resources available for data processing and analysis have been enhanced since 2015. As a result, the effectiveness of FIU-ICE has improved. However, more resources are needed to strengthen its capacity. Although FIU-ICE performs operational analysis, assessors noted a lack of strategic analysis products, which would assist in understanding ML trends and methods in Iceland.
- Law enforcement and security authorities cooperate with, and request information from, FIU-ICE regarding a range of intelligence information. While information sharing and co-operation takes place on a case by case basis, there is a lack of formal co-ordination between FIU-ICE and AML/CFT supervisory authorities.

ML Offence (Immediate Outcome 7)

- Iceland has a good legal framework for investigation and prosecution of ML and investigative and prosecutorial authorities have developed expertise in investigating financial crimes following the 2008 bank crisis. Financial investigations are conducted in many cases and multidisciplinary teams are

formed to investigate more complex cases. However, ML has not been a priority for Icelandic authorities. The lack of resources allocated to identifying, investigating and prosecuting ML results in a lower level of effectiveness in pursuing ML.

- Icelandic authorities have investigated and prosecuted only a small number of ML cases. Nevertheless, based on anecdotal evidence, Iceland has demonstrated some effectiveness in investigations and prosecutions with various types of ML and a range of predicate offences. It was not possible to assess whether the types of ML activity being investigated and prosecuted are in line with Iceland's risk profile, as the authorities could not provide statistics on which types of ML activity and associated predicate offences were investigated and prosecuted.
- There is little co-ordination between competent authorities in the context of ML. This is particularly evident in the case of the DTI, customs, police assigned to the borders and other law enforcement authorities. Tax crimes have been identified as the most frequent predicate offence to ML. However, the DTI does not regularly coordinate their investigations with the police.
- It was difficult to assess whether sanctions imposed in relation to ML are effective and dissuasive because, in a conviction for multiple crimes, Icelandic courts do not apply specific penalties to individual crimes during sentencing. The penalty for a ML conviction is thus aggregated with that of the predicate offence. Nevertheless, considering the few cases of standalone ML convictions and looking more broadly to compare ML sanctions to those of other serious crimes (including convictions for financial crimes related to the banking crisis), sanctions do appear to be effective and dissuasive.

Confiscation (Immediate Outcome 8)

- Law enforcement authorities show a high level commitment to trace and seize the proceeds of crimes, both in Iceland and abroad. Iceland has provided examples of cases where proceeds and instrumentalities (e.g., money, cars, real property) have been frozen or seized and confiscated. However, Iceland does not maintain complete statistics on assets recovered and confiscated or repatriated to victims; therefore, it is difficult to assess how effective Iceland has been in this area.
- The recent suspension of capital controls and substantial increases in the number of foreign visitors to Iceland could increase the risk of larger quantities of cash being used in criminal activity. However, neither customs nor the police prioritise searching for money at the border, other than the screening of all postal consignments. There seems to be no co-ordination and little awareness among authorities of the increased risk of cross border transportation or movements of currency.

Recommended Actions

Use of financial intelligence (Immediate Outcome 6)

- Icelandic authorities should further enhance the human and technical resources of FIU-ICE to enable more effective operations and increase

capacity for conducting strategic analysis.

- Competent authorities should conduct outreach to reporting entities to ensure provision of guidance and feedback on trends, typologies and red flag indicators for ML/TF to achieve better commensurability to the country's risk profile.
- Iceland should conclude work to introduce an automated system for registering and/or filing STRs in FIU-ICE's AML/CFT database.
- Iceland should ensure that financial intelligence is used to a greater extent to develop TF evidence and investigations. Iceland should ensure that relevant authorities responsible for investigating TF receive adequately training in the use of TF-related financial intelligence to develop investigations (see IO.9).
- Iceland should develop a formal co-ordination between FIU-ICE and the supervisory authorities as well as initiate a formal co-ordination between FIU-ICE and the customs and police assigned to the borders.

ML Offence (Immediate Outcome 7)

- Iceland should establish clear priorities for the LEAs responsible for investigating ML and predicate offences.
- Iceland should enhance capacity of LEAs to combat ML, including by increasing available resources for conducting ML investigations and prosecutions.
- Iceland should ensure that it has a system, including maintaining and using statistics, to analyse whether the ML investigations and prosecutions are in line with its risk profile.
- Customs, the DTI and LEAs should increase co-operation and co-ordination, especially the DTI and DPO to enable parallel financial investigations to occur.
- Iceland should monitor and re-consider the dissuasiveness of their sanctions with increased post-conviction reduction of sentences.

Confiscation (Immediate Outcome 8)

- Iceland should develop a comprehensive mechanism to manage and, when necessary, dispose of property frozen, seized or confiscated.
- Iceland should maintain more detailed statistics on the amounts and nature of property seized, frozen and confiscated (including proceeds, instrumentalities and assets of corresponding value), and the amount of proceeds of crime returned to victims.
- Competent authorities should put measures in place (including information sharing and co-ordination between customs and FIU-ICE) to mitigate the increased risk of cross border transportation or movement of currency. The risk should be a focus area and priority for the relevant authorities.
- Iceland should remove impediments to sharing confiscated assets with foreign jurisdictions.

103. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.3, R.4 & R.29-32.

Immediate Outcome 6 (Financial intelligence ML/TF)

104. Iceland's financial intelligence unit (FIU-ICE) was moved from the National Commissioner's Office in July 2015 and is now an independent unit within the investigations department of the DPO. Under the authority of the DPP, the DPO is responsible for investigations of criminal offences (including ML and associated predicate offences). In minor cases, the police forces in the nine police administrative areas also investigate suspicions of money laundering in connection with the predicate offences. The NSU, a unit within the Office of the National commissioner of Police, is responsible for the investigation of terrorism and TF.

Use of financial intelligence and other information

105. Icelandic authorities provided evidence that financial intelligence is being used to some extent to successfully develop on-going investigations and prosecutions of predicate offences (for cyber fraud, drug smuggling, tax evasion in particular) and to a much lesser extent ML. Since July 2015, the main source of financial information for ML investigations in Iceland has been STRs sent to FIU-ICE from financial institutions (and commercial banks and agents of foreign MVTs providers in particular), as well as financial intelligence collected through tax investigations. Nevertheless, competent authorities, including the intelligence services, do not proactively access nor request and use FIU-ICE information to support TF investigations.

106. Competent authorities have access to a wide range of information sources to conduct investigations of ML and predicate offences, including the national registry, financial statements, the business registry, flight lists and the real estate registry. In addition, the DPO, the National Commissioner and FIU-ICE can all access and use the central police database (Löke-Police database), which includes information on the outcome of past convictions/ investigations, weapons registry, vehicle registry and other relevant data sets. The DTI do not have access to this central police database.

107. FIU-ICE and LEAs (including the DTI) may also request and obtain additional financial information held by the private sector, although the DPO, Metropolitan Police and NSU must obtain a court order to do so. The authorities report that this is frequently done in practice during investigations.

108. FIU-ICE's human and IT resources have largely increased since July 2015; however improvements are still needed. FIU-ICE has three main databases that it uses to store and analyse financial intelligence in relation to STRs: the Löke central police database; GoPro (the ML/TF database for registration of STRs); and i-base (FIU-ICE's analytical database). The current IT infrastructure requires the manual entry of all STRs (received via encrypted email) into the ML/TF database (GoPro); where each STR receives a unique file number. In light of the number of STRs received (655 in 2016) and the limited

human resources, this manual process appears overly time consuming. Notably, the authorities have reported that efforts to automate this process have commenced²², but have been delayed by technical issues. Only FIU-ICE has access to GoPro. At the same time, all STRs are also registered in FIU-ICE i-base. Other LEAs, including metropolitan police and NSU, have limited access to FIU-ICE i-base, which enables them to log information on their cases into the database. This then allows FIU-ICE to connect individuals to other crimes, assets, previous offences and prosecutions, and allows FIU-ICE to identify links between STRs and related individuals.

109. In spite of these positive aspects of the system, there are several impediments to the effective use of financial intelligence and other information to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF. For example, relevant information regarding cross-border movement of currency and assets is not shared among authorities in charge of investigating ML/TF or predicate offences (most notably FIU-ICE)²³ and beneficial ownership information, as well as DNFBP supervisory information and information on NPOs is largely not available to competent authorities (see R.8 and IO.3 and IO.5). Further, no STRs have been filed by DNFBPs and there have been very few STR filings from FIs other than the large commercial banks and agents of foreign payment institutions. Most of these filings have related to cash transactions. For further information, see analysis of IO.4.

110. Iceland provided several case studies illustrating the use of financial intelligence in on-going investigations of predicate offences (mostly relating to fraud and drug offences), and to a lesser extent ML (see case studies A and B below). The authorities were also able to demonstrate their extensive use of financial intelligence to achieve successful convictions for criminal activities during the banking crisis. While the case studies below show that investigators are beginning to access and use financial intelligence to develop predicate and to a lesser extent ML cases, in general LEAs do not yet draw extensively on financial intelligence to develop ML investigations and prosecutions.

111. Financial intelligence is largely not being used to develop evidence for TF investigations. FIU-ICE indicated having received a small number of STRs since July 2015 that were possibly related to TF (most of these dealt with funds being sent to conflict areas or neighbouring countries). Since July 2015, FIU-ICE has disseminated 12 such reports to the NSU for further analysis. Notably, the NSU indicated that it does not have in-house expertise for conducting complex financial analysis and thus should such a case arise, they would seek resources, as needed, from the DPO or Metropolitan Police. However, the lack of in-house expertise in both TF and financial investigation could negatively impact the initiation of potential TF cases in the first place. The lack of understanding

²² FIU-ICE is developing a new ML/TF database where registration of STRs and preliminary analysis would be automated and become more efficient (based on the LÖKE the Police National database); however, the new database not expected to be operational until the end of 2017.

²³ The authorities have reported that since the on-site visit, customs has begun to send CTRs to FIU-ICE.

among FIs and DNFBPs on what sort of suspicious activity to file in relation to TF also reduces the quality of financial intelligence that might indicate TF cases.

Table 7: Case Studies - Examples of Use of Financial Intelligence

Case A

Financial analysis

In October 2016, FIU-ICE received an STR from a commercial bank, suggesting that person X had received fraudulent funds. Upon further inspection FIU-ICE discovered that person X (an Icelandic citizen living in country Y) had engaged in business e-mail compromise (BEC), i.e., intercepted communications between two retailers in country Y and transferred the money to his bank account in Iceland. During the further mapping exercise, FIU-ICE also discovered another unusual transaction which was received the day before FIU-ICE received the STR, which they suspected was also linked to cyber-crime involving BEC. Following additional observation of the accounts, FIU-ICE discovered that person X, along with several perpetrators in Iceland, had taken over another foreign retailer email account and were receiving illicit transfers. The case was referred to the DPO, who was then able to arrest 5 people for ML by receiving and withdrawing money from the Icelandic account.

Investigation

The case is ongoing and will be pursued as a stand-alone ML case. ISK 1 million has been frozen and is expected to be returned to the victim. Meanwhile, the cyber-crime (BEC) case will be prosecuted in country Y.

Case B

In 2017, an FI filed an STR in relation to two suspicious transactions from a company in Country A to a local contractor. The suspicion was filed as the local Icelandic contractor had contacted the FI to report that they had shipped a container of products to the client in Country A and were expecting two payments that did not arrive on time. Nevertheless, when the contractor contacted the client in Country A they were told that the payment had already been made. A joint investigation was carried out by FIU-ICE and the DPO.

Financial analysis

FIU-ICE conducted a preliminary analysis and identified the file as a cyber-crime case involving BEC. Criminals had intercepted e-mail correspondence between the two commercial partners and controlled their e-mail communications in order to transfer the money into an Icelandic bank account and from there withdraw in cash, or transfer to a foreign bank account. FIU-ICE also identified Icelandic perpetrators that had assisted in receiving the illicit money and transferring them to accounts abroad, therefore facilitating ML.

Investigation

Following further investigations, the DPO arrested the four perpetrators in Iceland, froze ISK 22 300 000 and seized a car. The DPO is pursuing the case as a ML offence.

STRs and CTRs received and requested by competent authorities

112. FIU-ICE receives, analyses and disseminates STRs to relevant competent authorities, both pro-actively and on request. The large majority of STRs filed – 99% - are filed by commercial banks and payment institutions. The volume of STRs filed by other FIs is limited and there have been no STRs filed by DNFBPs. The statistics provided for recent years show a steady increase in the volume of STRs filed from the second half of 2015 to 2016, from 158 STRs filed to 655 (see Table 16: Number of STRs Filed 2015 – 2016 below at IO.4), caused in part by the increased resources and outreach efforts by FIU-ICE to some reporting entities since its reorganisation in 2015. Nevertheless, even given the small size of the country's economy, the relative volume of STRs filed by FIs and DNFBPs to FIU-ICE appears low and the volume of STRs filed by DNFBPs is largely not commensurate with the ML/TF risks identified within the different sub-sectors. For example, while the real estate and legal sector are identified as higher risk for ML by the authorities, they have not filed any STRs to date.

113. FIU-ICE reported that the STRs filed are generally of a high quality. While FIU-ICE was unable to provide information on the number of STRs with incomplete/missing information, they reported that when such a case occurs, FIU-ICE would be able to receive the needed information by calling the reporting entity or sending an email to request the necessary information.

114. FIU-ICE does not maintain statistics on the suspected underlying criminality of STRs submitted; however, feedback from the private sector suggests that the majority of STRs related to predicate offences or ML deal with cash transactions. STRs related to TF mostly deal with transactions to countries bordering conflict zones. Feedback from the private sector during the on-site visit suggests that one of the reasons for the low volume and limited focus, of STRs filed to date is that FIs and DNFBPs lack information on the types of suspicious activity to report. FIU-ICE provides some feedback on a case-by-case basis. There was also evidence that the timeliness of reporting may have an impact on the relevance of STRs filed with FIU-ICE. For example, FIU-ICE indicated that they have received some STRs related to transactions that occurred 1-2 years ago (particularly from agents of foreign MVTS providers).

115. Competent authorities also reported that they can go back to FIU-ICE to get additional information (either additional analysis or additional information from the reporting entity). This information sharing is largely informal and on a case-by-case basis. FIU-ICE maintains some limited statistics on the number of requests for reports and/or additional information from LEAs, which suggest proactive use of such information is relatively limited (e.g., 34 requests regarding 115 individuals/legal persons since July 2015).

116. FIU-ICE does not receive information from customs concerning cross border reports or cash/asset detections and this appears to present an important information gap for FIU-ICE's operational analysis. In general, there seems to be little awareness that the increasing use of cash could be a risk for ML. It should be noted however that no cash-controls are conducted at the border and there are limited co-ordination between customs and other LEAs.

Operational needs supported by FIU analysis and dissemination

117. FIU-ICE's analysis and dissemination support the operational needs of competent authorities to some extent, whether through spontaneous or upon request disseminations. This work has led to a number of investigations in relation to drug offences, cyber-crime and to a lesser extent ML. Nevertheless, there have been very few disseminations to the DPO (the authorities primarily responsible for investigating ML) and this appears to reflect the lack of priority given to ML to date. Due to limited resources, FIU-ICE has not carried out any strategic analysis to understand how it may better support competent authorities.

118. The number of staff in FIU-ICE has increased and the resources available for data processing and analysis have been enhanced since 2015. FIU-ICE now has 3 full-time employees – 2 staff with experience in investigating financial crimes and 1 information technology (IT) specialist. As a result of the increase in human and IT resources, LEAs recognise that there has been an improvement of the quality of the reports disseminated since 2015, but that further improvement is needed. In spite of this positive development, FIU-ICE still has insufficient resources to carry out some of the other tasks expected of it (including conducting outreach and feedback to reporting entities, as well as strategic analysis).

119. FIU-ICE rightly focuses most of its efforts on conducting operational analysis and on disseminating such analysis to competent authorities. FIU-ICE indicates that they prioritise any STR that may relate to TF or where action must be taken to freeze accounts or stop transactions. After registration in the ML/TF database, the STRs are analysed against the broad range of databases to which FIU-ICE has access, including the Löke police registry, the national registry, financial statements, business registry and others. If the preliminary analysis suggests that criminal activity may have occurred, FIU-ICE will transmit an analytical report to the relevant competent authority, as well as storing the report in the ML/TF database and the Löke police registry. Table 8 below provides an overview of all analytical reports disseminated to competent authorities since July 2015.

120. Table 8 shows that the majority of FIU-ICE disseminations, both in relation to the number of STRs and cases, are sent to the Metropolitan police (in relation to suspected drug offences) and the tax authorities (in relation to suspected tax fraud). This is in line with the perception of the authorities that tax fraud and drug offences are among the most significant predicate offences for ML. Of the few disseminations to the DPO (the authority in charge of investigating and prosecuting complex economic crimes, including ML cases) some have led to ongoing ML investigations. While this shows that Iceland is beginning to focus more on ML, overall, ML has not been a priority issue to date.

121. The DPO and Metropolitan Police have used FIU-ICE disseminations most often to initiate investigations of predicate offences and, to a lesser extent, ML cases, including parallel ML investigations initiated as predicate offences. These investigations have led to one conviction and nine on-going investigations for both ML and predicate offences. The low number of disseminations leading to ML investigations may in part be due to the limited

guidance provided to FIs/DNFBPs on red flags for ML. Disseminations to the DTI generally appear to be low in volume, which is not consistent with the high risk of ML related to tax crimes identified in the NRA. However, the disseminations that were made appear to have supported the operational needs of DTI to some extent. Based on FIU-ICE's transmissions to the DTI, the DTI has taken actions to commence tax investigations in three of six cases relating to the STRs. The actions involve gathering further information, such as bank information.

Table 8: Number of Disseminations from FIU-ICE to LEAs

Recipient	July – December 2015	January – December 2016	Outcome
District Prosecutor's Office (DPO)e	1 case (relating to 2 STRs)	2 cases (relating to 2 STRs)	3 on-going investigations & 1 case relating to a suspicious real estate deal
Police in Akureyri (Northeast District)	0 cases	1 case (relating to 1 STR)	0 investigations
NSU	0 cases	6 cases (relating to 8 STRs)	1 pre- investigation, case still under examination e by NSU
Customs	0 cases	2 cases (relating to 2 STRs)	0 investigations
Met police	7 cases (relating to 15 STRs)	13 cases (relating to 13 STRs)	1 conviction/ asset seizure for drug offence 4 on-going investigations/ asset seizure relating to drug offence (including Op Thai food and El gringo)
Tax Authorities	0 cases	6 cases (relating to 94 STRs)	3 investigations
Suðurnes Police (South District)	1 case (relating to 3 STRs)	0 cases	0 investigations
Sauðárkrókur (Northwest District)	0 cases	1 case (relating to 1 STR)	0 investigations
Total.	9 cases (relating to 20 STRs)	30 cases (relating to 121 STRs)	

122. LEAs provided mixed feedback about the usefulness of FIU-ICE's analytical reports. As noted above, in general, the authorities noticed and welcomed an improvement of the quality of financial intelligence provided by FIU-ICE since 2015. The DPO and Metropolitan Police also noted that in general FIU-ICE transmits its reports within 2-3 days of the original STR. Despite the reasonable number of transmissions from FIU-ICE to the NSU in relation to suspected TF (6 cases provided to NSU in 2016), feedback from the authorities suggests that these disseminations lack analysis and in practice have not been used to initiate or develop TF investigations.

123. While FIU-ICE performs *operational* analysis, assessors noted that it has not yet developed any products on the basis of *strategic* analysis. Such products would assist competent authorities and reporting entities in understanding ML trends and methods in Iceland.

Co-operation and exchange of information/financial intelligence

124. FIU-ICE mainly coordinates informally and on an ad hoc basis with other domestic LEAs by spontaneously disseminating analysis reports. The ad hoc steering committee set up to complete the 2017 NRA has recently facilitated communication between FIU-ICE and other competent authorities and FIU-ICE generally has good co-ordination with the DPO (located in the same building) and the Metropolitan Police. Nevertheless co-ordination and co-operation between FIU-ICE and the other operational authorities (tax authorities, NSU and customs) needs to be improved to ensure that what FIU-ICE disseminates to those authorities is in line with their operational needs. Due to lack of resources at FIU-ICE and the supervisors, especially those with responsibility for DNFBPs, there is little co-operation or exchange of information between them.

125. Competent authorities and FIU-ICE take the necessary steps to protect the confidentiality of information that they store, use and exchange. As mentioned above, access to FIU-ICE analytical database (i-base) is highly restricted. Internationally, FIU-ICE exchanges information with counterparts through the Egmont Secure Website, which is fully secured and safe (see further analysis in IO.2).

Conclusion

126. Financial intelligence is being used to some extent to successfully develop on-going investigations and prosecutions of predicate offences (for cyber fraud, drug smuggling and tax evasion in particular) and, to a much lesser extent, ML. During the aftermath of the financial crisis, Iceland demonstrated that they can effectively use financial intelligence to develop and launch cases of financial crimes, but to date; the use of financial intelligence to develop ML cases has not been prioritised. Similarly, competent authorities, including the intelligence services, are not proactively access or using financial information to support or launch TF investigations. In this regard, the lack of guidance to FIs/DNFBPs on both ML and TF red flag indicators undoubtedly inhibits the relevance and accuracy of reporting to FIU-ICE and hence its ability to disseminate useful intelligence. In addition, the lack of co-ordination between competent authorities (including FIU-ICE, DTI, customs and FI/DNFBP supervisors) also impacts the extent to which such authorities proactively access and use financial intelligence, and the extent to which FIU-ICE disseminations are in line with operational needs.

127. **Iceland has achieved a moderate level of effectiveness for IO.6.**

Immediate Outcome 7 (ML investigation and prosecution)

128. Following the banking crisis of 2008, Iceland developed a high competence and broad range of resources for investigating and prosecuting financial crimes. A Special Prosecutors Office (SPO) was established to handle all crimes connected with the crisis; at its peak, there were 110 investigators and prosecutors dedicated to this national priority. They developed a method to work in multidisciplinary investigation teams, which they still use with good

results. During that time, the focus was mostly on predicate offences, as many of the crimes were not acquisitive, but ML charges were pursued when there was a likelihood of recoverable assets. As the banking crisis cases drew to a conclusion and the SPO was decommissioned, many of the experienced financial investigators and prosecutors were absorbed into the Metropolitan Police and the DPO.

129. In 2010, Iceland strengthened its legal framework for investigation and prosecuting ML, widening the scope of ML to include self-laundering, stand-alone and third-party ML. The criminalisation of self-laundering was a turning point for Iceland and there were more ML investigations after this law came into effect.

130. The enhanced legislative framework combined with a potential pool of law enforcement personnel and prosecutors to investigate and prosecute financial crimes create the possibility of a more effective system for addressing ML in the future. However, Iceland policymakers have not yet established ML as a priority or allocated available competence and more resources to AML efforts.

ML identification and investigation

131. Iceland has a strong legal framework and effective mechanisms for investigating and prosecuting ML offences. However, ML has not been addressed as a priority issue and co-ordination among agencies other than the DPO and police is lacking.

132. To date, there are only few ML investigations and prosecutions in Iceland. As noted above, the focus during the last ten years has been on cases arising from the bank crisis and tax evasion. ML has not been a priority and there has been a lack of resources allocated to identifying, investigating and prosecuting ML. However, as reflected in **Table 9** below, there is an upward trend in ML investigations, although this has not yet translated into results in the prosecution or conviction stage.

Table 9: ML Investigations and Prosecutions

Year	Investigations	Prosecutions	Number of Persons Convicted
2010	Unknown	2	5
2012	6	3	4
2013	4	5	2
2014	2	2	3
2015	12	3	3
2016	18	2	2

133. ML investigations can be carried out by the nine Police districts in the country. There is a total of approximately 50 prosecutors in Iceland. If the ML offence is considered serious, or the predicate offence is an economic/financial crime, the case will be addressed by the DPO, which has 15 investigators and prosecutors assigned. One prosecutor at the DPO is a ML specialist, but no one focuses full time on ML investigations and prosecutions. Icelandic authorities indicated that these resources are insufficient to improve the quality of work or increase focus on ML.

134. Because ML has not been a priority in Iceland, there has been no regular training in ML and awareness of ML apart from drug related crimes was low. However, that is beginning to change, as reflected in **Table 10** below. Recently, there has been more training on ML and the mutual evaluation process has served to significantly increase awareness of ML issues. All prosecutors recently attended AML training and staff at DPO and Metropolitan Police met to raise awareness of AML/CFT. Training in AML has been integrated into training for police investigators and will soon be integrated into the training for all police. The DPP has stressed the importance of integrating a financial aspect into all investigations and prepared guidelines for investigators including ML indicators and investigative techniques.

Table 10: Training by Prosecutions II and Investigations II

Year	Subject	Trainer	Attendees
2010	Asset recovery	EU Agency for Law Enforcement Training (CEPOL)	1 investigator
2011	Serious financial crimes	Police Academy	Investigators and prosecutors
2012	IT Project Managing system	SANS Registration	1 investigator
	Interrogations	CEPOL	1 investigator
	Training	European Anti Fraud Office	1 investigator
	Analyst training		2 investigators
	Corruption investigations	CEPOL	2 investigators
2013	Analyst notebook	IBM (February and September)	2 investigators
	Study visit	Europol	2 investigators
	Global fraud conference	Association of Certified Fraud Examiners (ACFE)	1 investigator
	Financial studies	Reykjavik University	1 investigator
	Accounting	Reykjavik business school	1 investigator
	Computer investigations		2 investigators
2014	Analyst notebook	Arrow Enterprise Computing	2 investigators
	Interrogations	Norwegian Police Academy	1 investigator
	Interrogations	Boston Police	1 investigator
	European fraud conference	ACFE	4 investigators
	Asset recovery	CEPOL	1 investigator
	Analyst notebook	Arrow Enterprise Computing	1 investigator
	Computer investigations		3 investigators
	Training	CEIFAC, Strasbourg	1 investigator
Serious financial crimes	Police Academy	11 investigators and prosecutors	
2015	Computer investigations	Europol	1 investigator
	Money laundering	AMON	1 investigator
2016	Illegal dividends	IBA	2 prosecutors
	Global strategic analyst course	Egmont	1 investigator
	Financial investigations	CEPOL	2 investigators
	Money laundering	CEPOL	1 investigator
	Computer investigations		1 investigator
	Money laundering	DPP	All prosecutors
	Corruption	DPP	All prosecutors

Year	Subject	Trainer	Attendees
2017	Market manipulation and insider dealing	DPO	All prosecutors
	Asset recovery and Money Laundering	OECD international Academy for Tax Crime Investigation	1 investigator
	Managing Financial Investigation (incl. ML)	OECD international Academy for Tax Crime Investigation	1 investigator

135. A criminal investigation often includes either a parallel or integrated financial investigation. The larger investigations at the DPO involve multidisciplinary teams, combining analysts, financial experts, accountants and police-investigators. This has proved to be a successful approach.

136. The LEAs do not have a clear policy or plan for identifying or prioritising ML. Cases are therefore not identified in a structural way or prioritised. ML cases originate from and are identified ad hoc from reports from FIU-ICE, from other financial investigations (primarily tax related) or other criminal investigations, e.g. drug crimes or tax evasion. There are no cross border currency reports from customs. Although increasing use of cash was identified as a potential risk in the NRA, there seems to be little awareness among competent authorities that the increasing use of cash could be a risk for ML. No cash-controls are conducted at the border and there is limited co-ordination between customs and other LEAs.

137. There are a few formal co-operation agreements between and within authorities, but authorities report that a lot of co-operation and information sharing takes place informally, on a personal level. The police have identified a need to incorporate the work of officers assigned at the borders in other operations within the police on a more regular basis. Police authorities recognise that lack of co-operation is impeding investigations and closer co-operation and co-ordination is necessary between a wider range of authorities, including the DTI and customs.

138. The lack of consistent co-ordination between DTI and DPO hinders Iceland's ability to effectively investigate and prosecute ML associated with tax evasion which has been identified as a key area of risk. Cases transferred from the DTI to the DPO for ML investigation are often several years old. Only when the offence is serious does the DTI immediately hand the case over to the DPO. In other cases the DTI finishes its investigation first and before handing the case over to the DPO. An investigation of tax offences can take from two months to three years. During that period, it is common for no ML investigation to be carried out. This lack of co-ordination hinders the LEA's ability to start an ML investigation alongside the predicate offence investigation.

139. Iceland has effective tools and techniques for ML investigations. Financial intelligence from FIU-ICE has been useful to develop predicate offences (and to a lesser extent ML), particularly in the last few years since the new FIU-ICE was formed (see further discussion at IO.6). A wide range of coercive and special investigative measures can be and are used in ML investigations and all evidence thus obtained is admissible in court. Prosecutors can freeze and seize assets at the investigative stage. However, they need a court order to get information directly from banks (although this is

a common requirement and does not create undue delay). Prosecutors are now working more effectively with FIU-ICE in ML cases to get relevant information without the need to go to court. Although this does not unduly delay the process, prosecutors who worked for the SPO were accustomed to obtaining bank information on request. Now that the SPO is decommissioned, the law has returned to the status quo.

140. It is possible in Iceland to prosecute and fine legal persons and this has been successfully done on several occasions, although not specifically for ML violations. This has taken place primarily in the context of tax crimes. The following are some examples of these cases.

Box 1. Examples of Fines against Legal Persons

Case no. 090-2012-23: Company and its owner sentenced to pay a fine in solidum for accounts law. Total amount of fine was 750 000 ISK (6 101 EUR).

Case no. 090-2012-25: Company and two of its directors sentenced to pay a fine in solidum for accounts law. Total amount of fine was 800 000 ISK (6 508 EUR).

Case no. 090-2013-33 and 090-2013-34: Four companies sentenced to pay a fine in solidum with their owner for violations of tax laws and criminal penalties. Total amount of fine was 18 262 000 ISK (148 562 EUR).

Case no. 300-2016-8: Companies sentenced to pay a fine in solidum with its owner for violations of tax laws and criminal penalties. Total amount of the fine was 242.000.000 ISK (1 968 684 EUR) for the owner, of that was 158 000 000 ISK (1 285 339 EUR) in solidum with the company.

Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

141. As noted previously, there are no national AML policies. Tax crimes and drug offences are identified in the NRA as the most frequent predicate offences to ML. However, most ML investigations to date have arisen from drug offences and authorities admit that, until recently, there was little awareness that any other crimes could be a predicate offence to ML. This lack of awareness may explain why there is little consistency of actual investigations and prosecutions with threats and risks identified in the NRA.

142. Iceland has, to date, set up its investigative and prosecution resources according to political priorities rather than AML/CFT threats and risk profile. The risk analysis in the NRA is in large part based on common perceptions of crime and suffers from significant knowledge gaps in the ML methods (see IO.1).

143. There is no national overview in place to coordinate or prioritise ML investigations and prosecutions. Resources are not allocated to ML investigations according to the identified threats and risk profile. It seems that

cases are handled on a case by case basis, not according to strategy or overruling policies or priorities.

144. Icelandic authorities indicate that the most frequent predicate offences are tax evasion and drug trafficking; Iceland provided some good examples of ML cases connected with these predicates, among others. Many of the ML cases provided were related to drug offences. Until recently, however, most investigations carried out by the police related almost exclusively to drug crimes. Investigating the financial aspects of drug crime was not a priority for police. This has recently changed and, as the financial aspect of predicate offences gets a higher priority, the increase in ML cases relating to drug cases should continue in line with the NRA. The following are some examples of ML cases involving tax crime and drug related offences.

Box 2. Examples of Cases of ML Cases with Tax or Drug Predicates

Case no. S-795/2016: Defendant A convicted of major personal and corporate tax evasion and ML. Defendant B (spouse of Defendant A) convicted of negligent ML because spouse should have questioned the source of funds, but did not. Joint funds of 4 905 234 ISK (39 655 EUR) seized and fine of 300 000 000 ISK (2 425 260 EUR) imposed on Defendant A.

Case no. 090-2015-0121: Case referred by DTI involving VAT fraud, income tax fraud, false accounting, false invoices, bankruptcy fraud and ML. Defendants included nine employees and owners of two companies. Assets seized or frozen included real property, numerous vehicles, shares in various companies and the cash equivalent of 3 651 800 ISK (29 522 EUR) in various currencies.

Case no. Hrd. 52/2014 Supreme Court of Iceland, 5 February 2015: Defendant indicted for a major drug trafficking offence and ML. The defendant was convicted on both accounts and sentenced to 18 months in prison by the Supreme Court. The drugs in the man's possession were also confiscated.

Case no. S-445/2013 District Court of Reykjavík, 22 October 2013: Defendant was convicted for drug trafficking and ML and sentenced to six months in prison (suspended for three years, provided no violation of terms) and 1 561 000 ISK (12 619 EUR) in illegal proceeds, as well as drugs recovered, were confiscated.

Case no. 495/2010: Supreme Court of Iceland, 2 December 2010: Five defendants were convicted by a district court for a major drug trafficking offence and conspiracy to smuggle a large quantity of cocaine to Iceland. At the district court level, two defendants were convicted for ML. On appeal, the Supreme Court overturned the drug conviction for one defendant, but upheld the ML conviction and sentenced that defendant to 2 years in prison. The Supreme Court upheld both convictions of the other defendant, who was sentenced to 3½ years in prison. Jewellery worth 2 000 000 ISK (16 168 EUR), narcotics and 8 555 860 ISK (69 167 EUR) were confiscated.

145. Tax evasion has been a priority for authorities for many years. There seems however to have been limited awareness that tax offences could be a predicate offence to ML. LEAs however confirm that tax evasion is a major problem in Iceland and therefore probably also is a common predicate offence.

146. Authorities also acknowledge that ML is often committed using complicated legal structures, illegal labour or false invoices (VAT-fraud). The DTI can carry out independent criminal investigations related to tax crimes and impose fines up to ISK 6 000 000 (EUR 48 839).

Table 11: Number of Fines Imposed by DTI 2010 – 2016

Year	Fine offered by DTI	Fine paid
2016	19	14
2015	14	9
2014	25	15
2013	15	10
2012	28	22
2011	19	14
2010	26	14
Total	146	98

147. However, the DTI is not empowered to investigate ML. As noted previously, if the DTI cannot make a tax case, only then do they regularly hand the case over to the DPO for ML investigation (except in serious cases). This practice commonly results in lengthy delays before a ML investigation is initiated and demonstrates the lack of focus on ML. Since tax evasion is identified as the most common predicate offence to ML, these failings should be seen as serious.

Table 12: Cases Referred to DPO by DTI 2010 – 2016

2010	2011	2012	2013	2014	2015	2016
24	37	53	54	39	77	50

148. Icelandic authorities identified organised crime as an area of increasing risk. Although authorities believe that organised crime groups are involved primarily in drug offences, they believe there has been connection to tax evasion as well. NSU is the intelligence unit responsible for assessment of hazards and risks of organised crime, terrorism and, as applicable, other offences that fall under Sections X and XI of the General Penal Code, No. 19/1940 (GPC), with subsequent amendments and they have a liaison officer in each of the nine police districts. There is a co-operation agreement on co-ordination of actions/procedures to deal with organised criminal groups and terrorist threats, signed 2016, between relevant authorities. However, there is, in practice, only limited co-ordination among LEAs in relation to organised crimes and, among authorities working on organised crime, there is no focus on ML.

149. Cash is a risk area identified in the NRA. The increasing use of cash and the increasing number of people visiting Iceland every year are specifically noted, but not identified in the LEAs priorities. There are no investigations or prosecutions relating to cross-border movements of cash and the authorities seem to lack awareness of the threats, vulnerabilities or risk identified. Customs authorities do not look for cash; the NSU border-security threat assessment only concerns people and not cash; there are no statistics on cross-border movement of cash.

150. As said above, tax crime and drug offences are identified as the most common predicate offences to ML. The authorities' focus on these crimes

should also include a focus on ML – this has not been done in a strategic and coordinated way so far.

Types of ML cases pursued

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151. Although Icelandic authorities have investigated and prosecuted only a small number of ML cases, those cases have included various types of ML cases prosecuted and range of predicate offences. Despite the relatively small number of cases specific to ML, Iceland has demonstrated a certain level of effectiveness.

152. Icelandic authorities could not provide statistics on which type of ML activity were investigated and prosecuted in every case. However, Iceland has provided anecdotal evidence demonstrating effective investigation and prosecution of various types of ML cases. Icelandic authorities have obtained convictions in third party laundering, self-laundering, and stand-alone ML cases including some based on foreign predicate offences and cases where the domestic predicate offence could not be prosecuted. The following represent some sample cases.

Box 3. Types of ML Cases

Third party laundering (Negligence): Defendant found to have received and used the benefit from another's tax crimes was convicted of negligent ML. (See Case no. S-795/2016 in Box 2 for further details.)

Third party laundering (Facilitating): Defendants assisted perpetrators of a cyber-crime involving BEC by receiving the proceeds and transferring them to accounts abroad. (See Case B in Table 7 for further details.)

Self-laundering: Defendants convicted of fraudulent settlement of an asset valued at ISK 13 896 517 (EUR 113 049). Both also convicted of ML for illegally disposing of the gains of the predicate offence. Defendants sentenced to imprisonment of 12 – 15 months. (Case no. S-362/2014 6 February 2015.)

Stand-alone ML: Defendant found to be in possession of stolen merchandise valued at ISK 1 100 000 (EUR 8 954). Court concluded Defendant should have known the merchandise was stolen and sentenced Defendant to 6 months imprisonment. (Case no. S-174/2016 15 June 2016.)

Stand-alone ML based on foreign predicate: Case arising from foreign predicate offence, which will be tried in country Y. ML case, including disposition of ISK 1 000 000 (EUR 8 140), will be tried in Iceland. (See Case A in Table 7 for further details.)

Conviction upheld as stand-alone ML: Defendant charged with drug offence and ML. Although acquitted of drug related predicate offence, defendant was convicted for the ML offence. (See Case no. 495/2010 in Box 2 for further details.)

Effectiveness, proportionality and dissuasiveness of sanctions

153. It is difficult to determine whether the sanctions imposed in relation to ML are effective and dissuasive owing to the aggregation of penalties in conviction for multiple crimes. However, considering the few cases of standalone ML conviction and looking more broadly to other serious crimes, the sanctions seems to be effective and dissuasive. Going forward, recently enacted rules allowing for post-conviction reduction of sentences and conversion of imprisonment to monitored probation could however negatively impact the effectiveness and dissuasiveness of penalties.

154. There are few stand-alone ML cases. However, in those cases, the sanctions imposed for ML are at the same level as those imposed for other comparable offences.

155. In a conviction for multiple crimes, Icelandic courts do not apply specific penalties to individual crimes during sentencing. The penalty for a ML conviction is thus aggregated with that of the predicate offence or other offences making it difficult for assessors to determine whether the sanctions imposed in relation to these ML convictions are effective and dissuasive. There

is an example of one case in which the sentence of the defendant convicted of ML only was 18 months shorter than the defendant convicted of both ML and the predicate offence. However, despite this single example, it is not clear how much would be added to the sanction when a conviction includes both the predicate offence and a ML charge but there would always be a higher sentence if a conviction includes both the predicate offence and the ML offence.

156. Since sanctions are not much higher when you have a conviction for both the predicate offence and ML, assessors questioned what motivates the LEAs to pursue the ML offence in addition to the predicate. However, the Icelandic LEAs have extensive experience in financial investigations and an unofficial policy to follow the money and confiscate it whenever possible, which they believe provides both motivation for prosecutors and disincentive for people to participate in crime. Additionally, in the event that authorities cannot prosecute for any criminal charge, they cooperate with the DTI before returning seized assets.

157. Looking more broadly to compare ML sanctions to those of other serious crimes (including convictions for financial crimes related to the banking crisis), sanctions seem to be effective and dissuasive. Convictions related to the bank crisis resulted in prison sentences of as much as six years. Further supporting this conclusion is the fact that there have been no repeat ML offenders to date. However, Icelandic authorities admit, there have not yet been a large number of ML convictions.

158. Icelandic law regarding probation was amended in March 2016, empowering the Prison and Probation Authority to grant early release on probation. In some cases, alternatives such as home arrest or monitoring using ankle bracelets may be substituted for time in prison. Icelandic LEAs believe that this may have a negative impact on the effectiveness and dissuasiveness of penalties as early release and use of alternatives to prison become more common.

Conclusion

159. Iceland has a good legal framework for investigation and prosecution of ML but, in practice, major improvements are needed. More focus on ML with a clear policy and priorities, more co-ordination between authorities and more resources are needed. New rules allowing for post-conviction reduction of sentences and conversion of imprisonment to monitored probation have negative impact on the effectiveness of the sanctions regime.

160. **Iceland has achieved a moderate level of effectiveness for IO.7.**

Immediate Outcome 8 (Confiscation)

Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

161. Iceland has shown some good examples of cases where proceeds, instrumentalities and property of equivalent value have been frozen and

confiscated. However, Iceland has provided only limited statistics regarding confiscation, making it difficult to determine the effectiveness of their policies regarding confiscation.

162. Iceland has a long history of depriving criminals of their assets. Legal provisions on confiscation of property have been in Iceland's General Penal Code (GPC) since 1944. Depriving criminals of their assets is a priority among LEAs and is considered by Icelandic authorities to be a penalty equally or more dissuasive than other sanctions. LEAs routinely conduct financial investigations from the beginning of any major investigation for the purpose of securing assets.

163. Icelandic authorities have good abilities to search for, seize and confiscate assets. Searching for assets is a priority in all kinds of criminal cases. As noted in IO.7, Iceland strengthened its legislative framework, including provisions regarding confiscation. In addition to widening the range of predicate offences, the GPC Chapter VII specifies that authorities could also confiscate assets of equal value and assets that could be traced to third parties. The burden of proof has also been reversed, requiring the suspect to show that assets were obtained through legitimate means, which makes it easier to prosecute crimes and confiscate assets. The LEAs indicate that these changes have been valuable tools in pursuing the proceeds of crimes and that LEAs are more successful now than before the law was changed.

164. LEAs show a high commitment to trace and seize the proceeds of crimes, both in Iceland and abroad. It is part of the routine of LEAs to check all cases for proceeds and financial investigations are initiated for all bigger cases. The DPO has developed a practice of using interdisciplinary teams to more effectively trace money trails and target proceeds. This method has been adopted by the Metropolitan Police and is being used with increasing frequency.

Table 13: Assets Frozen or Seized Annually 2009 - June 2017

Year	No. of Cases	Liquid Assets*	Liquid Asset Totals*	Other property
2009	1	Bank accounts: 11 327 419 EUR	11 327 419 EUR	
2010	2	Cash: 8 555 860	8 555 860	Narcotics and jewellery
2012	3	Cash: 7 000 000	7 000 000	Narcotics, tobacco and prescription drugs
2013	5	-Bank accounts: 5 742 985 -Cash: 1 911 000	7 653 985	Computers and electronic devices Narcotics and weapon
2015	4	-Bank accounts: 223 457 615 -Cash (in various currencies) equivalent of 3 651 800	227 109 415	5 houses Unknown number of vehicles Stock in 3 companies
2016	7**	-Bank accounts: 34 300 243 -Cash (in various currencies) equivalent of 4 570 028 -Amount realized from sale of confiscated assets: 14 758 222 (does not include undisclosed sale prices of 1 house and 1 vehicle)	53 628 493	4 houses 1 rural property 28 vehicles 1 boat Stock in 4 companies
2017	2	- Bank account: 3 918 000 -Cash (in various currencies) equivalent of 2 239 092 - Cash: 545 524 EUR	74 252 197	2 houses 1 apartment

Notes:

* All values given in ISK unless otherwise indicated

** Includes 1 complex case with 6 major elements

165. Icelandic authorities indicate that the Asset Recovery Office (ARO) and asset management is a recently added function of each prosecutor, rather than a special unit. It is a function integrated into all investigations when needed.

166. The ARO function works on asset recovery and the management of assets. When an investigation is started, assets are identified (along with identifying who to arrest), and the LEAs cooperate between the investigative team and the prosecutor in charge of that case. Some of Iceland's assistant prosecutors are becoming more specialized working in ARO. When real property is seized, the District commissioners for the district in which the property is located is responsible for management of the asset. However, there is no detailed legal framework for managing seized assets other than that found in Art. 71 of the LCP which merely states: "Seized property shall be inventoried and preserved in a secure manner".

167. Awareness of the need for mechanisms to manage and otherwise deal with seized property is growing among Icelandic authorities. In a recent case, a shipment of iPhones was seized and held for the duration of the related legal proceedings. By the time the case was finally determined, the technology was out of date and the value of the asset diminished greatly. LEAs used this experience to demonstrate the need for more attentive management of seized

assets; however, they still lack legal authority to effectively deal with assets at risk of rapidly diminishing value.

Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad

168. Although Iceland does not keep comprehensive statistics, Icelandic authorities have provided evidence of effective use of their ability to confiscate proceeds from foreign and domestic predicates and proceeds located abroad. However, they have been impeded in their ability to share confiscated assets with foreign counterparts.

169. Iceland has a good legal framework for confiscation and the authorities can take a wide range of measures to recover proceeds of crime, both domestically and when other countries need assistance. Authorities do, for example seize and freeze assets for confiscation in criminal cases, use cooperative fines, confiscate assets in tax cases and secure money for the restitutions to victims. The table below reflects the total annual amounts Iceland has confiscated to the state since 2012.

Table 14: Amount Confiscated to the State Annually

Year	No. of Cases	Amount Confiscated for the Year	
		ISK	(EUR Equivalent)
2012	20	184 099 852	(1 496 471)
2013	20	115 996 248	(942 885)
2014	38	17 375 345	(141 237)
2015	25	9 195 494	(74 746)
2016	26	7 571 471	(61 545)
2017*	18	4 468 689	(36 324)

Note: * Jan through June

170. The figures reflected in Table 14 do not include any amounts paid as restitution to victims. Because there is no breakdown of the data supporting these figures (e.g., type of case, underlying offence, prosecuting authority, etc.), assessors are unable to draw any conclusions specific to the context of ML. However, the sharp decline in the amounts confiscated after 2013 appears to coincide with the conclusion of cases related to banking crisis and dissolution of the SPO.

171. Iceland has shown good examples of confiscation of proceeds both from foreign and domestic predicate offences and also from proceeds located abroad. See Case A in Table 7 for discussion of a case involving a foreign predicate offence. Proceeds of that offence are located in Iceland and are the subject of a stand-alone ML case. Icelandic authorities anticipate that most of the funds currently frozen in connection with this case will be paid as restitution to the victim. Additional cases related to domestic predicate offences involving confiscation are discussed in **Box 2** and **Box 3**. In a case related to the well-known “Silk Road” case, Icelandic authorities successfully seized and repatriated to the US proceeds that were traced to Iceland. In another case,

Iceland provided MLA to the Netherlands by successfully confiscating and repatriating EUR 2.8 million.

172. Iceland also confiscates and repatriates proceeds that have moved abroad. In a case from 2009, Icelandic authorities traced approximately 7 million EUR in illicit proceeds from a domestic predicate offence to accounts in a foreign jurisdiction. In co-operation with that jurisdiction, those funds were frozen and the majority of the proceeds repatriated to Iceland.

173. However, when offered the opportunity to share assets seized in Iceland but connected to foreign investigations, Iceland was impeded from receiving a share of the recovered assets. Icelandic legislation allows Iceland to share with other jurisdictions proceeds recovered as a result of Icelandic cases. But the reverse situation, receiving shared assets, is not addressed. There is nothing in Icelandic law allowing receipt of shared assets when Iceland has not opened its own investigation.

174. The DTI also prioritises recovery of proceeds from tax crimes. The DTI can not only freeze assets to secure unpaid taxes (i.e. proceeds of the tax crime) but can also freeze assets to secure payment of fines arising from those crimes and often does so. See Table 15 below.

Table 15: Estimate of Assets Frozen or Seized by DTI 2011 – 2016

Year	ISK	EUR
2016	325 574 962	2 734 000
2015	217 239 814	1 824 000
2014	0	0
2013	197 000 000	1 654 000
2012	17 000 000	142 000
2011	89 000 000	747 000

175. Icelandic authorities indicate that restitution to victims is important in Iceland and is the first deduction made from confiscated assets. See discussion at paragraph 172 and Case A in Table 7. LEAs are empowered to seize assets to secure them for payment of restitution. However, Iceland did not provide any examples of cases in which restitution was ordered, nor does Iceland keep statistics on assets restituted to victims. It is therefore difficult to get the full picture of the level of Iceland's effectiveness in this regard.

176. Icelandic law also allows imposition of fines on legal persons, which is another way of eliminating the benefit from illegal behaviour. For further information, please see Box 1.

Confiscation of falsely or undeclared cross-border transaction of currency/bearer negotiable instruments

177. Neither customs nor the police prioritise searching for money at the border, other than the screening of postal consignments. There seems to be no co-ordination and little awareness among authorities of the increased risk of cross border transportation of currency and cross-border currency movement appears to be seriously underreported.

178. For almost ten years, Iceland had strict capital controls in place. Cross border currency transactions were sharply limited and those that were permitted were subject to rigorous scrutiny. Access to currency other than Icelandic króna was also tightly controlled. As such, Iceland considered the risk of illicit cross-border transportation of currency or bearer negotiable instruments to be very low and detection of currency was not a priority for the Customs Department.

179. However, the capital controls were fully lifted in March 2017. This, combined with explosive growth in the tourism sector, could increase the risk of larger amount of cash being used in criminal activity according to Icelandic authorities. However, neither customs nor the police assigned to the borders have prioritised detection of currency or bearer negotiable instruments at border crossings or in cargo.

180. There seems to be no co-ordination and little awareness among authorities of the increased risk of cross border transportation or movements of currency/cash. The common opinion among LEAs is that there is limited use of cash in Iceland and there have been only a few investigations involving cash. However, they acknowledge the fact that the growing tourism can be a source for more use of cash, both among tourists but also at travel agencies, hotels and construction companies using casual labour who are often paid in cash. Central Bank has noted that the use of cash has increased.

181. Postal consignments are the only items regularly scanned for cash since transporting cash or BNI in via post is prohibited (see TC Annex discussion of R.32). Parcels over 2 kg are all x-rayed. Other than these, Icelandic border authorities admit that they do not take any measures to detect currency and that they do not have the resources to do so. Further, customs officials advise that they have no reason to believe that cash is going out of the country; therefore, they do not observe passengers leaving Iceland. Agents assigned to the airport watch only incoming flights; however, there is no manned customs control for incoming flights. Despite this circumstance, customs advised assessors of the following to examples of travellers being detained.

Box 4. Detentions Related to Cross-Border Movement of Cash or High Value Items

In 2017, a person entering the country was detained and found to have traces of narcotics on his person. Upon further inspection, customs officers detected that the person was also carrying a large sum of money that had not been declared. The person provided information regarding a legitimate source of funds and the matter was concluded without penalty.

In separate cases, two persons were detained and found to be carrying gold and jewellery, respectively. In the case involving gold, the person was able to prove a legitimate source of the assets. Upon investigation of the jewellery that was seized, customs officers learned that metal and stones were not, in fact, precious and the value of the jewellery was quite limited. Both cases were closed without further action. =

182. Customs does not keep statistics on cross border currency disclosures; they do not report disclosures to FIU-ICE and have made only one STR since 2015. Authorities advise that there are only about ten cross border currency disclosures made to customs annually. The opinions differ within customs whether such low reporting correctly reflects the level of cross border currency movement or if more people should be reporting. No further analysis has been done by Icelandic authorities; however, it should be noted that assessors did not observe any signs or other indications of any obligation to disclose currency over EUR 10 000 upon arrival in, or departure from, Iceland.

Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities.

183. Available statistics, examples of cases and anecdotal evidence shows that assets are confiscated in line with the predicate offences identified as higher risk, i.e. drug and tax offences. However, as stated in IO.1, AML/CFT strategies or policies do not drive the efforts of competent authorities. The objectives and activities of individual competent authorities are determined by their own priorities and perceptions of ML risk and appear to be guided by Iceland's old tradition to "follow the money" in all criminal cases.

Conclusion

184. Iceland effectively uses its framework for confiscation and demonstrates a high level of commitment to confiscating criminal proceeds. Although characteristics of an effective system are present, major improvements are needed. There are only limited statistics regarding provisional measures and what is confiscated to the state and there are no statistics to demonstrate the level of restitution made to victims. The policy goal of pursuing confiscation is not clear and there are minor impediments to sharing confiscated assets.

185. **Iceland has achieved a moderate level of effectiveness for IO.8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

TF offence (Immediate Outcome 9)

- There have been no criminal investigations or prosecutions of TF in Iceland. This may be due in part to the size, culture, geographical location and other circumstances of the country. Iceland has demonstrated effective co-operation with other countries' security services, particularly the other Nordic countries. Intelligence was shared with other countries in which active investigations were initiated. Nevertheless, there appears to be a lack of consideration of the TF vulnerabilities in Iceland by LEAs. This is particularly relevant since the lifting of Icelandic capital controls, the increasing amount of people now travelling to and through Iceland, and confirmation that foreign fighters have transited through Iceland on their way to conflict zones.
- Limited financial investigative expertise allocated to TF matters within the Icelandic police, particularly the NSU, may hamper Iceland's ability to put appropriate emphasis on CFT measures.

Preventing terrorists from raising, moving and using funds (Immediate Outcome 10)

- Iceland amended its legal framework in 2016 to implement targeted financial sanctions pursuant to UNSCR 1267 without delay. Nevertheless, in practice it is not clear that TFS are implemented without delay, as there is a lack of clarity among competent authorities on the legal framework for implementation of TFS in Iceland. Similarly, there is a lack of clarity among the private sector on when the freezing obligation enters effect in Iceland. Iceland is able to implement sanctions upon the request of another country but does not have a mechanism to identify targets for designation under UNSCR 1267 or 1373.
- Supervisory authorities do not monitor or ensure compliance with targeted financial sanctions. The only communication from Icelandic authorities to the private sector regarding TFS has been an alert issued following each update to the government's targeted financial sanctions list asking whether institutions have frozen any related assets. All DNFBPs and certain FIs are unaware of their responsibilities related to targeted financial sanctions.
- Iceland requires registration, annual reports, and tax filings by NPOs. However, the country has not attempted to analyse this or other information to assess TF risks related to NPOs or to identify NPOs that may be vulnerable

to TF abuse. Iceland has not done a comprehensive TF risk assessment, nor has it provided any guidance to NPOs on TF risks or good governance practices to protect themselves.

Proliferation Financing (Immediate Outcome 11)

- Iceland has the legal basis to implement UNSCR targeted financial sanctions regarding financing proliferation of weapons of mass destruction. The mechanism for implementing UNSCRs relating to DPRK allows for sanctions to take immediate effect upon enactment by the UN Security Council. However, the Iran UNSCRs are implemented as transposed through the EU legal framework and as such are not implemented without delay.
- As above, supervisory authorities do not monitor or ensure compliance with targeted financial sanctions, other than issuing an alert following each update to the government's targeted financial sanctions list asking whether institutions have frozen any related assets. All DNFBPs and certain FIs are unaware of their responsibilities related to targeted financial sanctions for proliferation financing.

Recommended Actions

TF offence (Immediate Outcome 9)

- Iceland should develop a CFT policy in accordance with its identified TF risks.
- LEAs should consider specifically the TF vulnerabilities in Iceland in conjunction with the lifting of capital controls and increasing volume of people now travelling to and through Iceland.
- Based on a comprehensive risk assessment, Iceland should take steps to ensure appropriate capacity, including available resources and financial expertise, for developing TF intelligence and conducting TF investigations, in accordance with its TF risk profile.

Preventing terrorists from raising, moving and using funds (Immediate Outcome 10)

- Iceland should establish a framework for effective implementation of targeted financial sanctions for TF by:
 - Establishing clear and consistent obligations on all natural and legal persons within the country with respect to which designation lists to monitor and when sanctions become effective.
 - Establishing a clear and consistent process with respect to implementation of targeted financial sanctions pursuant to UNSCR 1373.
 - Incorporating into the AML supervisory process effective supervision of FIs and DNFBPs for targeted financial sanctions compliance
 - Providing guidance to FIs and DNFBPs on due diligence practices that help to determine whether funds or other assets are owned or controlled by designated persons or entities
- Iceland should assess the risk of TF exploitation in the NPO sector, conduct targeted outreach to those NPOs determined to be at risk to advise them of

best practices to protect themselves, and conduct ongoing monitoring of at-risk NPOs.

Proliferation Financing (Immediate Outcome 11)

- The FSA and MoFA should establish policies and procedures for monitoring FIs and DNFBPs for compliance with the Iran and DPRK WMD PF sanctions programs.
- Iceland should update its existing legal framework to implement the Iran WMD PF-related UNSCRs so that designations can be transposed into domestic law without delay.
- The Foreign Ministry and FSA, as well as DNFBP supervisory authorities, should ensure through outreach and guidance to the private sector that there is broad awareness of sanctions compliance obligations, reliable access to the latest sanctions lists, and an understanding of how to comply most effectively with sanctions obligations.
- The Foreign Ministry, FSA, FIU-ICE, DPO, DNFBP supervisory authorities, and Customs authorities should establish a framework to share information on PF issues to identify areas of focus that can be shared with the private sector to enhance their sanctions compliance.

186. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R.5-8.

Immediate Outcome 9 (TF investigation and prosecution)

187. The risk of TF has been assessed low by Iceland. However, according to the NRA there are insufficient resources within the Icelandic police to put more emphasis on CFT measures, should the TF risk escalate. This is of particular relevance given the recent release of Iceland's capital controls, the increase in foreign visitors to Iceland and information indicating that at least one foreign terrorist fighter may have transited through Iceland on the way to a conflict zone.

188. Iceland's NRA states that the risk of TF originating in Iceland or linked to Icelandic individuals or companies is low. No terrorist organisations are known to operate in Iceland, no foreign fighters are known to live in Iceland, and Icelandic authorities advise that there are no communities in Iceland at risk for radicalisation. Restriction of financial flows arising from the recently lifted currency controls is also relevant in this context.

Prosecution/conviction of types of TF activity consistent with the country's risk-profile

189. Iceland has not had any TF investigations or prosecutions. However, this is not surprising when considering the size, location, population and other circumstances of the country. It is also consistent with the assessed low TF risk.

190. The NSU (which is a unit under the National Commissioner of Police) has responsibility for intelligence, strategic analysis and investigations regarding terrorism and a legal obligation to prepare terrorism threat reports and organised crime assessments on a regular basis (see Police Act Art. 5b). However, neither terrorist financing, nor assessing TF risks are explicitly included in the NSU mandate. The NSU also makes a regular border security assessment but has never focused on cross border movement of cash or cash couriers. It is unclear if the conclusions in the NRA regarding TF and cross-border movement of cash are based on appropriate information and knowledge regarding TF risks.

191. The NSU provided a recently completed analysis, which identified a number of factors (reflected in Box 5 below) and concluded that the risk of TF is low. The analysis seems however only to examine the risk of TF originating in Iceland and not the fact that money may be passing through the jurisdiction. Also, in examining different factors, the analysis reached a conclusion that differs from the 2017 NRA (see discussion of IO.1).

Box 5. Factors Contributing to NSU analysis

- Small population
- High trust towards the police
- Remote geographical location
- Few border entry/exit points
- No signs of radical Islamist groups
- No vulnerable communities
- No radicalised communities
- No known Icelandic terrorist financier identified in Icelandic history
- No information or identification regarding on-going terrorist financing in Iceland
- No information on known terrorist organisations to be active in Iceland
- No known Icelandic foreign fighter
- Capital controls 2008 – 2017
- No information or tip off from security services or LEAs cooperating with NSU on possible TF relating to Iceland

192. The NSU has good co-operation with other countries security services, including the other Nordic countries, NATO, Europol and Interpol. They have not received any information that TF is going on in Iceland or that any Icelanders have been identified in connection with terrorism or training to become FTFs.

TF identification and investigation

193. As noted above, Iceland has not investigated any possible cases of TF. Since 2015, NSU has received 12 analytical reports from FIU-ICE based on

STRs where there was a suspicion of possible TF. Of these 12 reports, 10 underwent further analysis by the NSU. (The remaining reports were made just prior to the on-site and were still under consideration.) NSU concluded that there were not sufficient grounds to open a criminal investigation in Iceland. However, two of these cases were referred to other jurisdictions. Although one ended in a negative reply, the other resulted in a successful TF prosecution and conviction. One case was also sent to the Metropolitan Police regarding suspected human smuggling. In another case, the NSU was able to provide mutual legal assistance to a foreign country regarding a foreign terrorist fighter transiting through Iceland.

194. NSU is an intelligence and investigative unit with the same powers as the police. They are not empowered to apply preventive measures (such as freezing or seizing assets, obtain banking information or use special investigative techniques) in the absence of a criminal investigation. NSU has liaison officers in each of the nine police districts in Iceland, who provide the NSU with information and intelligence. If a criminal investigation were to be initiated, the NSU has power to allocate resources from other police districts and the DPO. The NSU can also call upon these resources when analysing STRs or developing intelligence.

195. In-house, NSU has only limited human resources and limited background in financial analysis or financial investigation. The NSU do not do any proactive work regarding TF and, given the limited expertise in financial analysis or financial investigation, assessors question whether they have appropriate capacity in the area of identifying TF.

196. The limited competence in financial analysis or financial investigation at NSU makes the situation vulnerable. It is the NSU who analyse the reports from FIU-ICE, without financial experience it could be difficult to know what to look for or to know what to ask for. There are no mechanisms in place to enable the NSU to work proactively with financial intelligence to develop or launch investigations (see IO.6).

197. The DPO is responsible for prosecution of TF offences. There are no specialised prosecutors assigned to this area and there is no special competence or training among prosecutors on TF matters. TF has not been a policy priority for the DPO. At the time of the onsite, the DPP was working on guidelines on how to investigate and work with terrorist activities, including TF; however, the guidelines were not complete at the conclusion of the visit.

TF investigation integrated with -and supportive of- national strategies

198. Iceland has no national strategy to counter TF. Icelandic authorities do not identify CFT as a measure to combat terrorism. Furthermore, there is no co-ordination between authorities regarding TF.

199. Iceland has not undertaken any TF investigations, although they have disseminated useful information to other countries who initiated domestic investigations. This fact is largely in line with expectations, given Iceland's small size and low level of TF risk in comparison with other countries.

However, the general lack of consideration given to CFT by Icelandic authorities and policymakers represents a substantial risk factor.

Effectiveness, proportionality and dissuasiveness of sanctions

200. It is not clear in practice that the sanctions being applied to persons convicted of the TF offence are effective, proportionate, and dissuasive. It is not possible to assess sanctions actually applied in TF cases since no convictions have been obtained. As noted in the analysis of technical compliance, a natural person convicted of TF can be imprisoned for up to 10 years. A legal person can be imposed fines or deprived of business rights. There is no legal limit to the level of fines to which legal persons may be liable upon conviction of a TF offence. These fines are consistent with the sanctions applied for other comparable crimes in Iceland.

Alternative measures used where TF conviction is not possible (e.g. disruption)

201. There have not been any cases in Iceland where persons were suspected of TF. As such, no alternative measures have been necessary to disrupt TF activities. Nor have there been sufficient grounds to take any disruptive action during the pre-investigative stages following receipt of TF related STRs. Investigations and prosecutions for other criminal offences could provide alternative measures; however, Icelandic authorities advise that a situation has never arisen where an alternative measure was needed.

Conclusion

202. The fact that Iceland has not had any TF investigations is in line with the expectations regarding the size, location and other circumstances of the country. However, major improvements are needed. There is no national TF policy and no active work or focus on TF within the NSU. Vulnerabilities are not identified and factors that could increase the risk are not analysed. Within the Icelandic police, there is a lack of consideration of TF; resources and financial competence allocated to TF matters may be inadequate.

203. **Iceland has a moderate level of effectiveness for IO.9.**

Immediate Outcome 10 (TF preventive measures and financial sanctions)

Implementation of targeted financial sanctions for TF without delay

204. According to recent amendments to Icelandic legislation, designations at the UN level pursuant to UNSCR 1267 and its successor resolutions apply directly in Iceland without the need for EU transposition (see TC Annex, c.6.4). Nevertheless, in practice it is not clear that TFS are implemented without delay, as there is a lack of clarity among competent authorities on the legal framework for implementation of TFS in Iceland. Similarly, there is a lack of clarity among the private sector on when the freezing obligation enters into effect in Iceland. Iceland does not have a mechanism to identify domestic targets for designation under UNSCR 1267.

205. Supervisory authorities do not monitor or ensure compliance with targeted financial sanctions, other than issuing an alert following each update to the government's targeted financial sanctions list asking whether institutions have frozen any related assets. All DNFBPs and certain FIs are unaware of their responsibilities related to targeted financial sanctions. No funds or other economic resources related to persons or entities designated under the UN or EU TFS lists have been located in Iceland.

206. Regarding implementation of designations pursuant to UNSCR 1373, the Minister for Foreign Affairs is the competent authority responsible for considering foreign requests for designation. Per Regulation No. 67/2016 the Foreign Minister must consult with the DPO before making a decision on a designation pursuant to a foreign request and the action has been codified by regulation, all of which may cause a significant delay in adopting designations pursuant to a foreign request and when adopting sanctions implemented by the EU. Iceland does not have its own mechanism to identify domestic targets for designations under UNSCR 1373. Authorities report that they have not received or made any foreign requests, and have not made any designations on their own motion. However, Iceland does implement sanctions pursuant to UNSCR 1373 that are adopted by the EU.

Targeted approach, outreach and oversight of at-risk non-profit organisations

207. Iceland has not attempted to identify at-risk non-profit organisations (NPOs) for TF abuse. The 2017 NRA did not include an assessment of the TF risk within the NPO sector. The country does require NPOs to register with district commissioners, file annual reports with the national auditor, and report annually to the DTI, but these authorities have never used these filings or met with other competent authorities or with NPOs to identify which NPOs might be at-risk. Iceland does not conduct outreach to NPOs related to CFT or provide any oversight. The authorities responsible for registering NPOs and collecting annual reporting forms acknowledge that there is a broad range of NPO activity taking place in Iceland that includes various forms of fund-raising and the dispersal of funds inside and outside the country indicating there may be NPOs at risk for TF exploitation. The country's competent authorities have not addressed the issue of potential TF exploitation of NPOs via risk assessment, outreach, monitoring, or supervision.

Deprivation of TF assets and instrumentalities

208. No TF assets or instrumentalities have ever been frozen in Iceland. Each time Iceland issues a regulation calling attention to revisions in the EU's regulations and decisions implementing the 1267/1988, 1989, and 1373 sanctions programs, the FSA is required to send circulars highlighting the relevant regulation and to alert FIs under its supervision to report whether they have frozen any assets associated with parties named on the revised sanctions lists. All obliged entities have consistently reported they have not identified any assets subject to freezing. Notably, while this is partially consistent with the authorities' low risk rating for TF in Iceland, and the fact that Iceland has not had any cases of terrorism or terrorist financing, it is also

not clear in practice that obliged entities would be able to identify or deprive assets in practice.

209. The FSA reported that they last received a notification from the MoFA in August 2016, and that MoFA notifications are sent at the same time the MoFA issues updates via regulation its sanctions lists. The MoFA in recent years has issued an annual update via regulation to incorporate changes made over the previous year to the UNSCR 1267/1988 and 1989 lists and EU sanctions issued pursuant to UNSCR 1373. While such annual updating is not an effective method of providing timely information to obliged entities, obliged entities are directed in the regulation to monitor the relevant UN and EU websites for sanctions updates and that such updates take effect immediately. As there has been no examination, supervision, or enforcement of TFS compliance it is not clear, as a matter of law, what purpose Iceland's annual regulatory updates and FSA alerts have in relation to the regulatory requirement that obliged entities implement sanctions as of the date of publication by the U.N. Security Council or relevant U.N. committee, and the EU. Other than sending the circular, the FSA acknowledged that it has not reviewed FIs' systems and controls to monitor the regulations and ensure that they are implementing TFS effectively in practice. There has been no guidance issued to the private sector regarding how to comply with the sanctions obligations. Meetings with the private sector suggested that there is a lack of clarity among FIs on when the obligation to freeze comes into effect in Iceland (see IO.4 for further information). Obligated entities are generally expected only to screen customer names against the names on the sanctions lists. There is no effort to freeze funds or other assets that may be owned or controlled indirectly by a designated person or entity.

Consistency of measures with overall TF risk profile

210. Iceland ranks its TF risk as low and considers the lack of TF assets and instrumentalities frozen consistent with that risk profile. The country cites its small and homogenous population, limited economy, and geographic isolation as factors mitigating the terrorism risk and by extension the TF risk. However, other factors taken into consideration in 2015 when Iceland raised its terrorism risk level are also relevant to assessing TF risk but were not considered in that context (see IO.1). Currency controls from 2009 to early 2017 reduced cross border funds flows and may have reduced the potential for illicit finance. However, authorities never resolved their conflicting analysis in different risk assessments published over the course of the currency restrictions. Iceland has never conducted an effective TF risk assessment and the factors Iceland cites as mitigating the terrorism risk are rapidly changing. In light of the recent removal of currency controls, the rapid increase in tourism to five times the domestic population, evidence of extremist propaganda online and foreign terrorist fighters transiting through the country, the lack of oversight of NPOs, the lack of scrutiny of cash entering or leaving the country, and the lack of clear sanctions obligations and supervision, the country's implementation of targeted financial sanctions for TF appears to be inconsistent with the risk profile.

Conclusion

211. Although Iceland has sufficient legal authorities to implement targeted financial sanctions for TF without delay, it is not clear that TFS are applied without delay in practice as there is no enforcement of TFS obligations. In addition, there is a lack of clarity among competent authorities and the private sector on the legal framework for TFS, and when the obligation comes into effect in Iceland. There has been no attempt to assess potential TF risks in the NPO sector and no outreach, monitoring, or supervision of the sector. Although Iceland may have had reason to believe its TF risks were low in the recent past, the authorities have not taken the recent rapid change in relevant risk factors into consideration. There has been no outreach to FIs or DNFBPs regarding compliance with targeted financial sanctions related to TF, and no compliance supervision or enforcement.

212. **Iceland has a low level of effectiveness for IO.10.**

*Immediate Outcome 11 (PF financial sanctions)**Implementation of targeted financial sanctions related to proliferation financing without delay*

213. Icelandic legislation provides for implementation of UNSCRs relating to DPRK in Iceland without delay. However, UNSCRs related to Iran are implemented as transposed into the EU legal framework, which does not take place without delay (see TC Annex, R.7). However, as with TFS regarding terrorist financing, the MoFA issues an annual update via regulation to incorporate changes made over the previous year to the UNSCRs relating to WMD PF. As noted above in the context of IO.10, there has been no examination, supervision, or enforcement of TFS compliance in Iceland, so it is not clear, as a matter of law, what purpose Iceland's annual regulatory updates and FSA alerts have in relation to the regulatory requirement that obliged entities implement sanctions relating to DPRK as of the date of publication by the U.N. Security Council and the EU. Iceland implements WMD PF-related UNSCRs regarding sanctions related to Iran by citing in domestic regulations the EU's implementing actions. I

Identification of assets and funds held by designated persons/entities and prohibitions

214. No assets or funds associated with WMD PF sanctions targets have been frozen in Iceland. FSA requires obliged entities under its supervision to report whether they have frozen assets associated with one or more designated individuals/persons or entities. All obliged entities have consistently reported no relevant assets have been identified. This has been the extent of supervision by any competent authority in Iceland with respect to compliance with the Iran and DPRK WMD PF sanctions programs.

215. Notably, Iceland has no trade relationship with the Democratic People's Republic of Korea (DPRK), and there have been no exports or imports from DPRK since first quarter of 2010. Iceland's trade relationship with Iran is also limited and evolves principally around fish and fish products, totalling

ISK 18 400 000 (EUR 149 773) in April 2016, and ISK 500 000 (EUR 4 070) in May 2017²⁴. Iceland does produce goods that have a military application and Iceland produces dual use products. These goods require an export license. When export licenses have been granted for dual-use products, such information is simultaneously relayed to the customs and the police. Iceland does not communicate the lists of individuals or material directly to either the FIs or other stakeholders.

FIs and DNFBPs' understanding of and compliance with obligations

216. Awareness of sanctions obligations appears to be limited to those FIs with the greatest exposure to correspondent financial institutions outside of Iceland. Some FIs and all DNFBPs are unaware of their sanctions obligations. The commercial banks and certain credit undertakings do have a good understanding of their TFS obligations, while the majority of the DNFBPs and some FIs (including investment firms) are not aware of their sanctions compliance obligations. Representatives of the private sector who met with the assessment team and who acknowledged an awareness of obligations regarding targeted financial sanctions explained they rely on their AML software vendors, offshore correspondent FIs, and foreign government websites for information on sanctions lists and compliance requirements.

Competent authorities ensuring and monitoring compliance

217. Iceland's Foreign Ministry is responsible for implementation and enforcement of targeted financial sanctions, including sanctions related to WMD PF. The Ministry updates Iceland's implementing regulations typically on an annual basis, revising the law to cite the most recent EU actions implemented to maintain current sanctions lists and obligations associated with WMD PF-related UNSCRs associated with Iran and DPRK. The Foreign Ministry does not transmit the sanctions lists directly to public or private sector stakeholders and maintains no direct supervisory or enforcement role regarding compliance. The FSA and the MoFA signed a co-operation agreement in July 2013 to facilitate notification of parties under the supervision of the FSA of their TFS obligations. Following notification from the MoFA, the FSA sends a notice to all reporting parties under its supervision highlighting the issuance of the relevant regulation. However, the FSA does not supervise for sanctions compliance as part of its AML or prudential examinations. There has been no outreach provided or guidance posted online or otherwise by any government agency with the intention of helping FIs and DNFBPs understand and comply with their sanctions obligations. There have been no enforcement actions taken for inadequate sanctions compliance.

218. Icelandic authorities indicate that FIU-ICE and other relevant authorities have never discussed WMD PF or sought to develop indicators of WMD PF activity or potential misuse of dual-use goods.

²⁴

Hagstofa (Statistics) Iceland website, <https://hagstofa.is/>

Conclusion

219. Although Iceland has sufficient legal authorities to implement targeted financial sanctions for WMD PF without delay, the country has chosen not to in relation to UNSCR on Iran by referencing EU decisions in domestic regulations that follow EU actions by months. The lengthy delay in implementing sanctions has a negative impact on effectiveness. No government agency or ministry has direct supervisory or examination authority to ensure sanctions compliance. There has been no attempt to conduct outreach or issue guidance to explain sanctions obligations or to help the private sector comply effectively with WMD PF-related sanctions leading to very limited awareness of sanctions obligations among the private sector.

220. **Iceland has a low level of effectiveness for IO.11.**



CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

Preventive measures (Immediate Outcome 4)

- The large commercial banks have some understanding of the ML risk to which they are exposed. However, their understanding is not based on a structured risk assessment, but on assumptions and information they have collected from international sources like their correspondent banks and the FATF. Further, as regards TF, their understanding of risk is much lower. In general, the commercial banks and certain credit undertakings assess the risk associated with their customers on a case-by-case basis, but they do not yet have an established risk based approach to their AML/CFT measures.
- Most DNFBPs and FIs (other than those referred to above) appear not to assess the ML/TF risk to which they are exposed and have not demonstrated an understanding of any such risks. None of these entities apply a risk based approach in their AML/CFT measures.
- When on-boarding legal persons as customers, the commercial banks and some FIs assess the customers' ownership structures. If the ownership of the customer is strictly Icelandic, these institutions can verify the information provided by checking the annual statement on file with the business registry. However, the information in the annual statement is not up to date and does not contain information regarding beneficial ownership. If the legal owner or beneficial owner is foreign, the institution will not be able to verify the information provided by the customer. The majority of DNFBPs do not identify the beneficial owner of a customer.
- On-going due diligence in banks and most FIs is not risk based. Furthermore, their monitoring systems are not effectively attuned to risk when monitoring parameters are established. Some of the banks stated that they have very high levels of false positives. The majority of DNFBPs do not monitor their customers on an on-going basis.
- FIs and DNFBPs, to the extent they are aware of their sanctions compliance obligations, generally believe they are obligated only to screen customer names against the designation lists of UNSCR 1267 and 1373 for direct matches. The relevant competent authorities have not provided substantive guidance to the private sector on TFS compliance. The three largest commercial banks and certain credit undertakings have a good understanding of their TFS obligations as a result of training and pressure

from their international correspondent banks and other foreign sources.

- Most of the STRs are filed by the three largest commercial banks. No STRs have been filed by DNFBPs, with the exception of the state lottery. Further, the majority of STRs relate to cash transactions to the exclusion of other types of suspicious transactions, indicating a limited understanding of ML indicators.

Recommended Actions

- Competent authorities should ensure that FIs and DNFBPs assess the ML/TF risk they are exposed to on a regular basis. The risk assessments should take into account their business profile, including the size and nature of their activities, products, services and customers. When assessing the risk, they should take into account information that is provided by the authorities on ML/TF risks.
- Competent authorities should ensure that FIs and DNFBPs have a risk based approach to their AML/CFT measures, including ongoing due diligence (ODD). Further, the FIs' monitoring systems should be attuned to the identified risks.
- Competent authorities should give the reporting entities more guidance on how to establish effective AML/CFT measures.
- Competent authorities should provide the FIs and DNFBPs with training or hold events related to ML/TF to increase their knowledge on these issues, including how they can mitigate their risks in an effective manner and also increase their filing of STRs to FIU-ICE.
- Competent authorities should ensure that FIs and DNFBPs understand their TFS obligations and implement necessary measures.
- Co-operation between the reporting entities and relevant authorities should be established, especially regarding understanding of ML/TF risk, TFS and filing of STRs.
- Iceland should amend its legislation to address the deficiencies that are identified in the TC Annex. Competent authorities should ensure that the FIs and DNFBPs adjust their AML/CFT procedures accordingly.

221. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23.

Immediate Outcome 4 (Preventive Measures)

Understanding of ML/TF risks and AML/CFT obligations

Financial Institutions

222. The large commercial banks and certain credit undertakings demonstrated some understanding of the ML risks to which they are exposed. However, their understanding is not based on a structured risk assessment but

on assumptions and information they have collected from international sources such as their correspondent banks and FATF. Their understanding is thus more general and not related to the context of their own business, or the specific domestic context. For example, all the banks have cross border transactions. However, none of the banks emphasized this as high risk, even though it is highlighted as such in the NRA. As regards TF risks, their understanding is much lower.

223. Almost all of the commercial banks, and credit undertakings that the team met with cited tax evasion, drug smuggling as common predicate offences and cash transactions as posing a higher risk for ML, all of which is consistent with the conclusions of the NRA. However, they did not convey a deeper understanding of the relationship between predicate offences and ML and how proceeds of crime get into the banking system, other than via cash transactions. Further, some of the commercial banks mentioned foreign legal persons as being potentially higher risk for ML, but did not offer any rationale for this assumption. Notably, one of the large commercial banks had completed its first formal written ML/TF risk assessment several months prior to the on-site. The FSA informed the assessors that the bank has requested the review to be put on hold due to the implementation of a new IT system in the bank which is necessary for the assessment.

224. Other FIs, including certain credit undertakings, the savings banks, investment firms and currency exchange providers, had not assessed their ML/TF risk exposure and did not demonstrate a clear understanding of risk. However, when the assessors asked about their perception of risk in Iceland as such, they were generally aware of tax fraud as a common predicate offence, which is consistent with the findings of the NRA. One of the FIs mentioned that they think their risk exposure is low since their business does not accept cash, and several FIs suggested that the capital controls in place until March 2017 had mitigated the ML risks. Although these assumptions may have some level of validity, they did not appear to be based on any specific understanding of risk.

225. The NRA has not been distributed to the FIs, except for the largest 3 commercial banks, and this was just before the on-site interviews. Only the Icelandic Financial Services Association was asked to designate a representative to provide input to the NRA.

226. The FSA provided some limited guidance in their 2014 AML/CFT Guidelines on how to identify risk. However, almost all FIs that the team met with noted the significant lack of guidance from both the FSA and FIU-ICE on domestic typologies and trends for both ML and TF. This lack of guidance and focus from the authorities appears to negatively impact the FIs understanding of risk. In addition, the FIs understanding of risk and their use of a risk based approach have never been assessed by the FSA on inspections, and FIs are not required by law to identify and assess their risks (see c.1.10).

DNFBPs

227. Almost all of the DNFBPs that the assessors met with said that they believe they have a low risk of being misused for ML/TF purposes since all transactions go through the banks, and/or due to the small size of the local

population. However, none of the DNFBPs demonstrated that they understood the ML/TF risk to which they are exposed and none had conducted a risk assessment. In particular, law firms generally showed a low level of understanding about the potential risks for misuse within this sector, despite the fact that misuse of domestic and foreign legal persons is identified in the NRA as higher risk for ML/TF, as well as tax evasion. The large audit firms assess risk informally on a case-by-case basis. The lottery has some general knowledge about AML/CFT which was gained from international conferences, but has not assessed the ML/TF risks it is exposed to. Providers of slot machines became aware that they are covered by the AML/CFT Act a month before the on-site. They have no knowledge of the ML/TF risks to which they are exposed.

228. DNFBPs were not aware of the NRA and did not receive a copy from competent authorities. DNFBPs who met with assessors had largely not been provided with guidance related to ML/TF risk in Iceland or general guidance regarding AML/CFT obligations.

229. There has been limited supervision of most DNFBPs for compliance with the AML/CFT Act and Icelandic authorities assume that the sector has little awareness or understanding of their ML/TF risk.

230. While casinos are prohibited in Iceland, some limited gambling activities are permitted, including lotteries, slot machines and sports betting. The proceeds of these betting activities go to charitable causes. These lotteries and slot machines are licensed by the District Commissioner in the Southern Region who monitors compliance with the Lotteries Act 38/2005. For slot machines, winnings of up to ISK 70 million (EUR 570 435) are payable directly into the winners' bank account. There is no monitoring of the winners of such amounts, and the private sector estimates that each year pay-outs are equal to around ISK 3.5 billion (EUR 28 521 745). One operator identified a case where they suspected the fixed-odds match betting was being used for illicit purposes, and notified FIU-ICE in this case. In addition, competent authorities also became aware of the potential misuse of slot machines for ML, through a scheme whereby cash is fed into slot machines and then immediately cashed out. The slot machines print out a ticket which shows the player's credit balance. The ticket does not distinguish between money won as a prize and cash fed into the machine. While the organisations that operate these slot machines are obliged entities under the AML/CFT Act, there is no supervision of this sub-sector for AML/CFT, and in practice AML/CFT controls are largely not in place. The private sector reported that they have obtained their limited AML/CFT knowledge from international conferences and foreign partners. The providers of slot machines became aware of their obligations under the AML/CFT Act a month before the on-site visit.

Application of risk mitigating measures

231. In general, the commercial banks and certain credit undertakings assess the risk associated with their customers on a case-by-case basis, but they have not established a comprehensive risk based approach to their AML/CFT measures or put specifically targeted mitigating measures in place. For

example, their monitoring systems are not attuned to the risk they are exposed to. This leads to many false positives and an ineffective use of resources, in addition to the possibility of not detecting actual suspicious activity and also behaviour that would indicate changes in a customer's risk profile. As mentioned above, the largest commercial banks indicated that they recently increased their focus on AML/CFT based on pressure from their correspondent banks, rather than in an attempt to mitigate any identified risk. The FSA similarly noted that the number of AML/CFT compliance staff in the main commercial banks had increased in recent years. They also believed that the three largest banks in particular had invested a lot of time and effort trying to comply with the AML/CFT Act. In an effort to mitigate the perceived risks arising from foreign legal entities, Iceland's commercial banks require foreign customers to obtain a *kennitala* (Icelandic ID number) and have a legitimate connection to Iceland. Despite this recent progress, the limited understanding of the risks associated with their own businesses and the domestic context impedes efforts by the commercial banks to implement comprehensive mitigation measures.

232. The rest of the FIs also assess the risk associated with their customers on a case-by-case basis. Some of them, including the rural savings banks, the currency exchange provider and the investment firms, have not identified any customers as high risk.

233. The FIs update information on their customers on a general basis. However, it is not clear that an identified risk has an effect on the intensity of the ongoing due diligence (ODD) or any other preventative measures.

234. Some FIs, including the commercial banks and certain credit undertakings, have training related to ML/TF for their employees. Some mentioned that they had received training from their correspondent banks and/or had hired tutors from abroad. The majority of FIs that the team met with noted the lack of domestic AML/CFT training opportunities, as well as the lack of guidance from competent authorities on domestic typologies and TFS obligations.

235. None of the DNFBPs apply a risk based approach to their AML/CFT measures, and the majority do not monitor their customers on an on-going basis. Without an understanding of their AML/CFT risks, DNFBPs are unable to put effective mitigating measures in place.

Application of CDD and record keeping requirements

Financial Institutions

236. All the FIs interviewed reported that they perform CDD when customer relationships are established. As mentioned above, all natural and legal persons in Iceland have a *kennitala* (ID-number), and foreign natural and legal persons must also obtain a *kennitala* to open a bank account. A person's *kennitala* is accessible through a public database, and FIs use this mechanism to identify and verify the identity of their customers.

237. The large commercial banks also mentioned that they assess whether the purpose of the customer relationship is reasonable or not. If the customer is a foreign entity, the commercial banks require the entity to have a legitimate connection to Iceland. The commercial banks have refused customers on the basis of not having a legitimate connection.

238. Nevertheless, the assessment team's on-site interviews and the findings from the FSAs recent on-site inspections suggest that the level of awareness and compliance with CDD requirements outside of the 3 major commercial banks is generally weaker. For example, in some of the most recent on-site inspections undertaken by the FSA, they identified serious CDD deficiencies within one of the credit undertakings, as well as insufficient CDD being carried out by one of the rural savings banks (when granting loans).

239. Information on the beneficial owner is part of the FIs CDD procedures. However, the FSA indicated that they had had cases where FIs did not identify the beneficial owner, and they were aware that the FIs in general have difficulties identifying beneficial ownership (BO).

240. If the ownership of a legal person is completely within Iceland, the FIs can verify the provided information to a certain extent by checking the legal persons' annual statements, which contains general ownership information. Information on beneficial ownership is available through a private site called *credit info* which gathers information from legal persons' annual statements. However, the information in the annual statements is not up to date. If foreigners are involved, verification of the provided information is further impeded. Some of the large commercial banks reported that they rely on foreign registers to some extent to verify BO information; however, the majority of FIs rely on information provided by foreign customers. One FI reported that there is no requirement for FIs to verify BO under domestic law unless there is a suspicion. The FIs emphasised in the meetings with the assessors that they would welcome a company register with BO information.

241. Notably, the results from the FSAs 2012-2013 and 2015-2016 inspections of the 3 major commercial banks suggest maintaining information related to BO is an area where deficiencies remain (including maintaining information on the date when the BO information was obtained and recording whether BO information is unclear or not).

242. If the CDD process cannot be completed, the majority of the FIs refuse to establish the customer relationship, and some of the larger commercial banks reported that they would also file an STR.

243. During inspections, the FSA reviews the CDD procedures of FIs. This includes sample testing. Inspections have detected some irregularities regarding the CDD process in some FIs. According to the FSA, the shortcomings were caused by human mistakes and were not due to insufficient procedures. The FSA therefore assessed the shortcomings to be minor. Nevertheless, in the view of the assessment team, mistakes made by employees may still be an indication of insufficient implementation of CDD procedures.

DNFBPs

244. The majority of the DNFBPs conduct some CDD when customer relationships are established but information on beneficial owners is not usually collected or verified. However, this is not the case in large audit firms, which do verify the information (including beneficial ownership information) provided by the customer. Further, it is not clear that all of the DNFBPs refuse to establish a customer relationship if the CDD process cannot be completed.

245. The lottery and the providers of slot machines, which are obliged entities under the AML/CFT Act, do not conduct any CDD when customer relationships are established.

Application of EDD measures

PEPs

246. Almost all of the FIs the assessors met confirmed that they ask customers if they are foreign PEPs. The banks and some credit undertakings also screen against commercial PEP lists. A few of the FIs the assessors met with had some customers who are foreign PEPs, which they considered to be higher risk, but did not specify whether such entities are subject to EDD or not. There is no legal requirement under Icelandic legislation to identify domestic PEPs (see c.12.2), and screening among FIs is therefore limited to foreign PEPs.

247. DNFBPs do not have procedures in place to determine whether a customer is a foreign or domestic PEP. None of the DNFBPs the assessors interviewed said that they had such controls.

New technology

248. The commercial banks and certain credit undertakings assess ML/TF risk when introducing new products. They also mentioned that they are cautious about establishing customer relationships with companies that are in the FinTech business. However, due to their general risk understanding, it is difficult for the FIs to have a proper understanding of the ML/TF risk associated with new products. In addition, there was limited evidence that FIs outside of the commercial banks and some credit undertakings are regularly assessing the ML/TF risks when introducing new products.

Correspondent banking

249. The EDD requirements in the AML/CFT Act regarding correspondent banking are limited to correspondent banking relationships outside the EU, which is a deficiency. The FSA's guideline from 2014 recommends that the FIs should verify that correspondent banks within the EEA are compliant with the FATF recommendations. The commercial banks have correspondent banks mainly within the EU and consider them as low risk despite the absence of any actual risk assessment or consideration of risk at the national level. However, the assessors do not believe such an assumption is necessarily valid and should not be substituted for a proper risk assessment. The banks did not give an impression that their approach is compliant with the

FSAs guideline; on the contrary they said they are allowed to apply simplified due diligence on correspondent banking relationships within the EEA. One bank said they conduct an informal risk assessment of correspondent banks within the EEA. The assessors got the impression that the banks who have correspondent relationships with banks outside the EEA try to comply with the requirements in the AML/CFT Act when establishing such relationships. However, the FSA informed the assessors that the FIs who have correspondent relationships in general don't have the necessary broad perspective to determine if the requirements set in the AML/CFT Act, Art. 11 are satisfactory.

250. The main commercial banks said they had some problems with defining a correspondent relationship and that they have to give more attention to this in the future. This may indicate that the banks possibly could have established more correspondent banking relationships than they are aware of.

251. The commercial banks reported that they do not have correspondent banking relationships with institutions in jurisdictions considered to be offshore financial centres or countries with favourable tax regimes.

252. While the FSA has not yet carried out comprehensive inspections regarding correspondent banking relationships across all commercial banks, in 2014, they did conduct off-site inspections on the three largest banks where correspondent banking was one of the topics. The FSA assessed the banks' compliance with the AML Act, Art. 11 on correspondent banking relationships established in 2013. Only one of the banks had established correspondent banking relationships that year and no deficiencies were identified.

Wire transfers

253. The commercial banks the assessors met confirmed that they comply with EU regulation 1781/2006 when transactions are cross border. EU regulation 2015/847 has not yet been implemented in Iceland. While EU regulation 1781/2006 does not require information on the beneficiary, certain commercial banks include some information on the beneficiary with their cross border transactions.

Targeted Financial Sanctions

254. The commercial banks and certain credit undertakings have a good understanding of their TFS obligations, and regularly screen their customers against the UN sanctions lists. They all reported that they have not identified any designated persons or entities in Iceland; however, they have had cases of some false positives. One of the largest commercial banks reported that it proactively screened against the updated UN sanctions lists before being alerted by the FSA.

255. The majority of the DNFBSs and some FIs (including investment firms) are not aware of their sanctions compliance obligations. They generally believe they are obligated only to screen customer names against the designation lists of UNSCR 1267 and 1373 for direct matches or against the FATF list of high-risk and non-cooperative jurisdictions.

High risk countries

256. When asked how they would identify higher risk jurisdictions, the largest commercial banks and certain credit undertakings cited the FATF list of high-risk countries, as well as lists of higher-risk countries from foreign jurisdictions. However, this is not the case for the rest of the FIs and DNFBPs.

257. The FSA distributes FATF Public Statements when they are published. The FSA is of the perception that FIs have knowledge of which countries should be considered as high risk. The assessors did not however have the same impression after speaking directly with the FIs, and those institutions that did have some knowledge, obtained this from foreign rather than domestic sources.

Reporting obligations and tipping off

258. All FIs and the majority of DNFBPs that the assessment team met with were aware of their reporting obligation; nevertheless, in practice the commercial banks and agents of foreign payment institutions are filing almost all STRs. Providers of slot machines became aware of their obligations according to the AML/CFT Act, including the obligation to file STRs, a month before the on-site visit.

259. The banks indicated that their monitoring systems were not attuned to the risk they are exposed to and some of the main commercial banks also noted that they had a high number of false positives. This implies that the banks do not have an effective surveillance of suspicious transactions. Further, the large majority of the STRs filed by FIs relate to cash transactions, linked to tax evasion, cash controls, and drug offences. Although this coincides with the FIs' general appreciation of risk, as mentioned above, FIs are yet to assess the ML risks specific to their business or Iceland's domestic context.

260. While the number of STRs filed has gradually increased since FIU-ICE received more resources in July 2015, in general the number of STRs appears low, even taking into consideration the small size of Iceland's FI and DNFBP sectors (see Table 16). The large majority of the STRs (84% in 2015 and 91% in 2016) are filed by the commercial banks and agents of foreign payment institutions. Iceland Lottery filed one STR in 2016 concerning possible misuse of football betting. As mentioned above, the large majority of the STRs filed by FIs relate to cash transactions, linked to tax evasion, cash controls, and drug offences. The small number of TF related STRs filed by FIs related exclusively to withdrawals near the borders with conflict zones. This indicates that the reporting entities have a low understanding of other types of suspicious activity, e.g. related to cross border transactions and/or misuse of legal persons, caused partly by the lack of guidance and feedback from FIU-ICE and FSA. Except for a short description in the FSA guideline from 2014, the supervisory authorities and FIU-ICE have not provided the reporting entities with any guidance relating to STR-filing or typologies. In addition, while FIU-ICE reports that it now gives feedback to reporting entities as soon as an STR has been analysed and disseminated to competent authorities, a number of the FIs that the team met with reported that they had not received sufficient feedback on STRs that they had filed.

261. Despite the lack of feedback to the private sector and the limited supervisory efforts on STR filing to date (see IO.3), FIU-ICE is of the impression that the quality of the STRs that are filed are generally of good quality.

262. As discussed in relation to c.10.20, there is no provision permitting FIs to discontinue the CDD process where there is a suspicion of ML/TF and danger of tipping off the customer. Assessors are not aware of any other practical measures undertaken by FIs to avoid tipping off.

Table 16: Number of STRs Filed by FIs and DNFBPs 2015 – 2016

Type of reporting entity	July – December 2015	January - December 2016
Domestic commercial banks	85 (54%)	395 (60%)
Agents of foreign payment service providers	53 (34%)	203 (31%)
Credit undertakings	11	33
Financing funds	8	12
Payment Institutions	1	4
Competent authorities (e.g. NSU, police, ministries)	0	6
Private citizens	0	1
Iceland Lottery	0	1
DNFBPs	0	0
Total No of STRs filed	158	655

Internal controls and legal/regulatory requirements impending implementation

263. The FSA reported that both off-site and on-site inspections often focus on FIs internal controls and training. They indicated that the larger commercial banks appear to have sound internal controls related to ML/TF in place in most cases. The assessors came away with similar impression through the on-site interviews, despite the FIs' limited understanding of risk. The banks largely attribute the comprehensiveness of their internal controls to the demands of their correspondent banking partners. However, the FSA's recent on-site inspections suggest that compliance with internal controls may be lower within some of the credit undertakings, and as noted above, deficiencies detected by the FSA through spot checks indicate that some internal controls in commercial banks are not sufficient.

264. One of the commercial banks has a subsidiary in the UK which provides financial services subject to a license as an investment firm. None of the FIs have branches outside of Iceland. The branches have to follow the AML/CFT procedures that are established by the bank. Employees in the branches receive training related to ML/TF from the bank. Several FIs highlighted that they need more resources to be able to ensure AML/CFT compliance. None of the FIs or DNFBPs interviewed reported any legal or regulatory requirements that impeded efforts to implement AML/CFT obligations. However, some FIs suggested that additional clarity on Iceland's requirements related to the risk based approach might make it easier to apply a risk based approach to their AML/CFT compliance efforts.

Conclusion

265. Although the three largest commercial banks and certain credit undertakings have some understanding of ML/TF risk, they have not assessed the ML/TF risk related to the context of their own business. Further, other FIs and DNFBPs have no understanding of the ML/TF risk they might be exposed to. Lack of risk understanding limits the FIs' and the DNFBPs' abilities to mitigate their risk exposure in a sufficient and effective manner. This leads to insufficient monitoring and detection of suspicious activity. Fundamental improvements are therefore needed.

266. **Iceland has a low level of effectiveness for IO.4.**



CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

FIs

- Iceland generally has a comprehensive licencing and registration framework in place to prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest in FIs.
- Although the FSA has begun to identify some areas of risk, it does not have an adequate understanding of the ML/TF risks within the different sectors and entities they supervise. Inspections and other supervisory measures are not conducted using a comprehensive risk based approach. The focus has been primarily on the three largest commercial banks, based on the FSA's informal understanding of risks and the fact that the highest volume of transactions go through these institutions. AML/CFT supervision of other FIs has been limited and the FSA has conducted only minimal outreach to the sector on AML/CFT matters.
- Administrative sanctions are not available to the FSA specifically for breaches of AML/CFT obligations. Actions by supervisors are largely limited to requiring corrective actions and publishing notices that identify deficiencies found at specific institutions. Other sanctions are not generally applied in practice and have in general not had an effect on compliance in the relevant sectors.

DNFBPs

- Fit and proper checks are in place to some extent for DNFBPs; however these checks do not extend to the beneficial owners of all DNFBPs. There is a limited registration regime for dealers in precious metals and no licensing or registration regime for dealers in precious stones; thus neither is subject to fit and proper criteria.
- DNFBP supervisors, including SRBs, have limited understanding of the risks facing their sectors, are not fully aware of their responsibilities as AML/CFT supervisors, and are not adequately resourced. Generally, DNFBP supervisors have not begun AML/CFT supervision of their respective sectors; those who have initiated this work have not taken a risk based approach. In view of these gaps, there is limited impact on the compliance level of DNFBPs.
- Legal responsibilities have been imposed on DNFBP supervisors without providing corresponding powers necessary to supervise and enforce AML/CFT obligations.
- There is no designated supervisor on AML/CFT matters for lawyers.

- There is minimal outreach to DNFBPs and thus DNFBP's level of understanding of their roles, responsibilities and obligations are limited.
- While casinos are not permitted in Iceland, certain types of gaming and lotteries are permitted and there has been some evidence of possible criminal misuse in this sector. However, Icelandic authorities do not seem to understand the ML risks associated with these activities and none of these activities are supervised for AML/CFT.

Recommended Actions

- Supervisors should take steps to deepen their understanding of the ML/TF risks within the institutions and sectors that they supervise, and should implement a risk based approach to AML/ CFT supervision on the basis of the ML/TF risks identified, and the internal controls of entities or groups. In this regard, supervisors should also ensure that the risk profiles of FIs are reviewed periodically, particularly where there are major events or developments in the management or operations of the FI or group.
- Sanctions available to FI and DNFBP supervisors should be enhanced to ensure there is a range of proportionate and dissuasive sanctions, whether criminal, civil or administrative, to deal with natural or legal persons that fail to comply with AML/CFT provisions. Such sanctions should include the power to restrict or suspend the licences or registration of FIs and DNFBPs (other than real estate agents and auditors) and should be applicable not only to FIs and DNFBPs but also to their directors and management.
- Iceland should increase supervisory resources at the FSA and Consumer Agency to enable appropriate on-site and off-site actions commensurate with the risks within the financial and DNFBP sectors.
- Supervisors should provide more guidance and feedback to FIs and DNFBPs to enable them to apply AML/CFT measures, in particular with regard to supervisory expectations, risk identification, domestic typologies, red flags, and TFS obligations.
- The Consumer Agency should be given the necessary powers to prevent criminals or their associates from holding a significant or controlling interest or holding a management function in DPMS. For DNFBPs, this should also include those holding a management function.
- Iceland should designate a competent authority or SRB for monitoring and ensuring compliance of lawyers with AML/CFT requirements. In this regard, Iceland could consider allowing lawyers the option to submit STRs via the Icelandic Bar Association (IBA) to encourage filing.
- Iceland should consider requiring SRBs to take steps to incorporate on-going training in AML/CFT as part of the continuing professional education requirements.
- The co-operation between FSA, DNFBP supervisors/SRBs and other competent authorities such as the MoFEA, FIU-ICE and MoJ should be enhanced to ensure better supervision and regulation of FIs/DNFBPs (see IO.1). There should be more exchange of information amongst supervisors on areas such as guidance issued, number of STRs submitted by category of institutions, emerging risks, new typologies and red flags noted in the individual sectors and their risk profiles.

267. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.26-28 & R.34 & 35.

Immediate Outcome 3 (Supervision)

Context & Background Information

268. The FSA is the consolidated financial supervisor for AML/CFT. As for DNFBPs, there are 3 main AML/CFT supervisory bodies: the Consumer Agency, the Supervisory Committee for Auditors, and the Supervisory Committee for the Real Estate Agents.

269. The Consumer Agency supervises DPMS for AML/CFT as part of their overall mandate for product safety within this industry. Their mandate under the AML/CFT Act covers supervision of natural and legal persons, involved in trading in goods for payment in cash for the amount of EUR 15 000 or more. Nevertheless, in practice the Consumer Agency monitors DPMS for product safety and consumer right concerns but does not supervise them otherwise, due in part to their limited resources and lack of enforcement powers.

270. Since 2013, the Supervisory Committee for Auditors is responsible for ensuring AML/CFT compliance among state authorized auditors, while the Real Estate Supervisory Committee is responsible for ensuring AML/CFT compliance among real estate agents. In practice, both supervisory bodies have only just begun efforts to raise awareness of AML/CFT obligations within their industries, and, while the real estate supervisory committee has taken preliminary action to integrate AML/CFT compliance into routine inspections, supervision to date has been limited.

271. The professional body for lawyers, the Icelandic Bar Association (IBA) raises awareness to its members but there is no formally designated authority responsible for monitoring and ensuring compliance.

272. While the limited gambling activities permitted in Iceland e.g. slot machines, lotteries are within the scope of the AML/CFT Act, there is no monitoring or supervision of this sub-sector in practice for AML/CFT, which has led to a low awareness of both ML/TF risks and obligations within this sub-sector (see IO.4) Similarly, while TCSPs are within the scope of the AML/CFT Act, there is no designated AML/CFT supervisor for TCSPs in Iceland. The authorities report that there are no registered TCSPs in Iceland, and that in practice company formation is carried out primarily through lawyers and auditors.

Licensing, registration and controls preventing criminals and associates from entering the market

Financial Institutions

273. The Icelandic legal framework generally provides for robust licensing and registration requirements for all FIs, with the FSA conducting a

variety of fit and proper checks of directors, substantial shareholders, and beneficial owners on an on-going basis. These measures generally are effective at preventing criminals and their associates from controlling, owning or being the beneficial owner of FIs, and the FSA provided examples where they have both rejected and withdrawn licences for failure to comply with fit and proper criteria.

274. Prior to granting a licence for FIs, the FSA assesses the fitness and propriety of the managing director, the board members as well as owners of a “qualifying holding” (defined as 10% or more indirect/direct shareholding or voter rights). Amongst the areas assessed by the FSA are these persons’ professional history, conflicts of interest, financial independence, etc. The FSA then verifies the information provided via a number of different information sources (including credit info database and the court registry) for information on prior convictions. The FSA reported that it also interviews managing directors for FIs except MVTs providers and currency exchange offices. Board members of certain FIs (largely because of their size or concerns regarding their competence) have to go through an initial interview by an external advisory committee and the results are then sent to the FSA who will review and finalise the assessment. For senior management, the FSA has issued guidelines (No. 3/2010) requiring financial undertakings to set rules and assess key employees on compliance with fit and proper criteria. The FSA reviews these rules as well as the firms’ assessment of these officers. This is supported by one case where the FSA challenged the firm’s assessment of a proposed manager who was under investigation and advised that the operating license would unlikely be granted under such circumstances. In relation to key function holders in life insurance companies, there are special fit and proper requirements in Act No. 100/2016 on Insurance undertakings and the companies are required to inform the FSA about the internal assessment of individuals. The FSA also has the authority to assess the fitness and propriety of these individuals at any time.

275. For the period from 2013 to 2016, the FSA reported that they rejected 6 applications of board members while there were no rejections of managing directors. All of the rejections were due to a lack of knowledge/expertise or on financial grounds (rather than being specifically AML/CFT related). The FSA also highlighted that in a number of cases, particularly relating to pension funds; the board members withdrew their applications rather than face a rejection by the FSA. The FSA reported that they had approximately 5-10 such cases in the last 4 years. Details of the rejection by year are as follows:

Table 17: Rejection of Board Member Applications Annually

	2013	2014	2015	2016
No. of rejections	1	2	0	3

276. In addition to the fit and proper checks at the time of licencing, FIs are also required to notify the FSA at any point if there is a change in ownership or if parties intend to acquire a qualifying holding of more than 10% of its share capital, or voter rights. The FSA then assesses if there are grounds to suspect

that the intended ownership (including beneficial ownership) will increase the risks of ML/TF.

277. Moreover, the FSA can and does withdraw licences if shareholders, directors and management are later found not to satisfy eligibility requirements (under Act 161/2002). For the past 3 years, the FSA rejected the application of one insurance broker for not providing sufficient information and it was later sanctioned for operating without a licence. It withdrew the operating licences of one insurance undertaking for failure to comply with solvency requirements and one investment firm was also withdrawn as it had renounced its licence before operations begun. The FSA also highlighted that, following the financial crisis in 2008, they withdrew numerous licences of credit institutions, due to financial difficulties, as new undertakings were established to take over their operations or the firms ceased operation.

Unlicensed/Unregistered activity

278. The FSA has processes in place to identify unregistered/unlicensed activities. This is done in a variety of ways, e.g. tip-offs from the public and their supervised entities to detect such activities, ad-hoc reviews of other information such as web pages and information on entities in the business registry and special projects to identify unlicensed activities when there is issuance of new regulations/rules. In 2013, the FSA inspected 20 firms that were suspected of carrying out unlicensed financial services. The FSA is also of the view that since the number of institutions in Iceland is small, it is unlikely that unlicensed institutions will go undetected for long. In the last two years, the FSA has taken some disciplinary follow-up in response to tip-offs received (most notably by sending letters on the relevant registration requirements). The FSA indicates that it fined one entity ISK 2 500 000 (EUR 20 350) for unregistered/unlicensed activities and is in the process of determining fines in two other such cases.

279. The FSA reported that in the last 2 years they have had 4 reported cases of entities conducting payment services without a licence. Of these cases, the FSA confirmed that 1 firm was carrying out payment services and has since ceased this activity, while in another case no action was taken as the FSA did not have reasonable grounds to take further action. Regarding the other two cases, preliminary investigations are still on-going.

280. The FSA also cited another instance where one of their licensed entities provided information on suspected unregistered money exchange businesses and they have sent letters to the entities and the relevant association concerned highlighting the licensing requirement. However, after review, the FSA concluded that such entities are not required to register under the law.

DNFBPs

281. There are some controls in place to prevent criminals or their associates from being professionally accredited. Nevertheless, the fit and proper checks do not extend to the beneficial owners of DNFBPs, except for real estate agents and auditors.

282. In relation to state authorised auditors, they are subject, amongst others, to being of good character before they can be licensed. In cases where auditors are found not to meet fit and proper requirements after licencing, the supervisory committee of auditors can via their disciplinary board recommend to the Minister of Tourism, Industries and Innovation that the licence be revoked. The authorities reported that they have had 3 requests to revoke licences for inadequate filing and failure to comply with the auditing standards, and in all cases the individual was given the opportunity to hand in their licence instead. There have been no cases of licences being rejected or revoked for ML/TF-related issues.

283. With regards to real estate agents, they are subject to licensing criteria which specifies that they must not have been convicted under certain provisions of the criminal code. Real estate agents are licensed by the respective District Commissioner. The supervisory board of real estate agents reported that they in general revoke 2-4 licences every year for failure to send information on escrow accounts. Lawyers are licensed and need to fulfil certain criteria, amongst them, to be of untainted reputation and not be a bankrupt before they are licensed by the District Court.

284. There is a limited registration regime for dealers in precious metals and no licensing or registration requirement for dealers in precious stones. DPMS are not required to file annual returns/reports to the Consumer Agency. Although the Consumer Agency conducts market surveillance of dealers in precious metals for product quality, DPMS are not subject to any screening for fit and proper criteria.

285. The assessors have not been provided with any information regarding the steps taken by supervisors/SRBs to proactively identify unregistered/unlicensed activities and as such are unable to conclude that there are processes in place to detect such activities. The authorities are of the view that this is mitigated by the size of Iceland, where it will be difficult to carry on such business without it being known by the authorities or tipped-off by the institutions in the market.

Supervisors' understanding and identification of ML/TF risks

FSA

286. The FSA has not yet carried out a comprehensive risk assessment of the sub-sectors and individual institutions that it supervises. The limited resources in the FSA dedicated to ML/TF have also constrained the supervisors' efforts in this area. The informal understanding of risk that the FSA has to date is based on general perceptions, and on the FSA's experience and outreach to FIs to date. The FSA also participated in the January 2017 NRA, which includes a broad high level assessment of the ML/TF risks in the financial sector, with very limited input from the private sector. In particular, the NRA identifies the banking sector, e-money activities, and savings banks as being particularly vulnerable to ML/TF misuse. Nevertheless, the authorities have acknowledged that this risk assessment is also based on general perceptions (rather than

empirical data) and was conducted in a short time frame, and therefore the accuracy of the NRA findings cannot be guaranteed.

287. Based on the FSAs experience and outreach with FIs to date, they identify that the large majority of ML/TF risks are centred in the three main commercial banks, due to the range of services that they provide and the fact that most transactions go through these institutions. On the other hand they view the savings banks as having a low ML/TF risk due to the limited size and rural client base of this sub-sector, despite these institutions being licensed to carry out e-money activities, cross border payments (through their correspondent banks), and the very limited AML/CFT awareness in this sub-sector. They view the investment firms, pension funds, and life insurance companies as lower risk due to the types of products offered within the sector, and the highest volume of transactions go via commercial banks. The FSA has recently begun to consider the risks of ML/TF emanating from factors within institutions for some sub-sectors (e.g. the credit undertakings), such as the type of clientele of specific institutions, the products offered, technologies used etc. For example, they recently identified 2 credit undertakings that were higher risk on the basis of their expanding and international client base, and as a result targeted these institutions for inspection. Nevertheless, this institution-level analysis has not extended to the other sub-sectors that the FSA supervises, and has not been documented in a comprehensive risk assessment.

288. The FSAs assessment of TF risks as low is primarily based on the fact that there are no confirmed cases of this kind of offence being investigated in Iceland, and little consideration was given to the potential misuse.

DNFBPs

289. DNFBP supervisors and SRBs have not yet identified the ML/TF risks within the sub-sectors that they supervise, due in part to a lack of resources and also due to a lack of clarity among some DNFBP supervisors on their responsibilities as AML/CFT supervisors. As a result, there was a low level of understanding or awareness of the ML/TF risks within the DNFBP sub-sectors (see para. 69). The NRA identifies cash intensive businesses (including real estate agents), and offshore companies as higher risk for ML, but does not provide an assessment of whether or not the Icelandic legal, audit, or DPMS sectors are higher or lower risk for ML.

290. The Supervisory Committee on Real Estate agents mainly focuses on ensuring that real estate agents operates in accordance with laws and good practice in real estate transactions, and as a result the Board has not conducted a comprehensive ML/TF risk assessment. During the on-site visit, representatives of the board agree that use of cash in real estate transactions is an area of potential vulnerability but reported that in general they perceived the ML/TF risks to be low as cash is largely not used, and the highest volume of transactions go via FIs. This appears to contradict the view in the 2017 NRA which indicated that cash is sometimes used in real estate transactions and provides a channel for money laundering but no STR has been filed by real estate agents to date.

291. The Supervisory Committee of Auditors has not yet assessed the ML/TF risks within the sector. They also indicated they need more specific guidance with regard to their responsibilities as AML/CFT supervisors particularly with regard to identifying areas of risks, reporting requirements and a better understanding of the national ML/TF risks.

292. The Consumer Agency focusses mainly on ensuring the product quality of precious metals but not for precious stones, and as such do not identify or monitor ML/TF risks in this sector. As there is no requirement for DPMS to register or file reports with the Consumer Agency, the Agency generally has very little information on the numbers, materiality, and risk profile of the DPMS sector. There is no designated supervisor in law for lawyers, and the IBA did not demonstrate an understanding or consideration of the potential ML/TF risks within the legal sector.

Risk-based supervision of compliance with AML/CFT requirements

Financial Institutions

293. The FSA does not have a comprehensive risk based approach to AML/CFT supervision. As mentioned above, the FSA has not conducted a comprehensive ML/TF risk assessment of the sub-sectors or individual institutions that it supervises, and therefore the frequency and intensity of supervisory efforts to date has been based on the FSAs' informal assessment of risk. For example, the large majority of AML/CFT outreach and supervision to date has been focused on the 3 largest banks (and the deposit taking and payment services in particular), on the basis of the size and volume of their client base, and the fact that the highest volume of transactions go through these institutions. Meanwhile, there has been only limited supervision of other financial undertakings including savings banks, and no AML/CFT supervision for the last 4 years of currency exchange providers. Investments firms have been identified by FSA as a potential risk area that will be determined once their risk based supervision approach is finalised, while life insurance companies are identified as low risk. The FSA is of the view that for UCITS management companies, the risk is also low since 9 out of 10 investment firms outsource their CDD to banks. Due to the lack of a robust risk assessment of the overall ML/TF risks, it is difficult for the assessors to validate this assessment although on a materiality basis, this is not significant.

294. The FSA reports that the lack of supervision for institutions other than the three largest banks is due to both limited resources and the informal assessment that those sectors are low risk or that most of the transactions pass through the commercial banks. While those sectors are less significant (in terms of the volume of assets) compared to the commercial banks, the lack of a robust assessment of ML/TF risks for the financial sector and the absence of a comprehensive risk based approach makes it difficult for assessors to concur with this conclusion.

295. The FSA is carrying out both on-site and off-site inspections (see Table 18 below for figures). However there is limited evidence that the frequency and intensity of such measures is based on ML/TF risk.

296. Despite the relatively small size of Iceland's financial sector, the number of on-site and off-site inspections carried out also appears to be limited, and is constrained by scarce resources. For example, only one on-site inspection has been carried out on the savings banks and investment firms. Similarly, there have been no on-site or off-site inspections carried out on the one registered currency exchange provider, the 10 UCITS management companies, or 10 investment firms for the past 4 years. Moreover, due to a lack of resources and manpower, the FSA was only able to carry out two off-site AML/CFT inspections since 2015 (on a payment institution and commercial bank). The main responsibility for AML/CFT supervision lies within the Legal supervision group of the off-site division, which has 3 persons within this team (all legal advisors) who are responsible for AML/CFT issues and are supported by 2 employees of the on-site division. While in general the FSA has made efforts to increase the volume of resources dedicated to AML/CFT in the last year, noting that the FSA have spent around 2,9 full-time equivalent units on AML/CFT issues in the last year, the current resources available to FSA for AML/CFT supervision are inadequate.

Table 18: Number of On-site and Off-site Inspections Annually 2012 – 2017

On-site inspections ¹	2012	2013	2014	2015	2016	2017	Proposed in 2017
	No.	No.	No.	No.	No.	No.	
Banks (commercial and investment) (4)		3		1	2		3
Savings banks (4)					1		
Credit undertakings (5)						2	
UCITS management companies (10)	2						
Investment firms (10)		1					
Pension funds (25)	1		2				
Payment institutions (1)							1 (underway)
Currency exchange provider (1)							
Total (60)	3	4	2	1	3	2	5
Off-site inspections	2012	2013	2014	2015	2016	2017	Proposed in 2017
	No.	No.	No.	No.	No.	No.	
Banks (commercial and investment) (4)		2	3			1	
Savings banks (4)							4
Credit undertakings (5)		3					
UCITS management companies (10)							
Investment firms (10)							
Pension funds (25)							
Payment institutions (1)				1			
Currency exchange provider (1)							
Total (60)	0	5	3	1	0	1	4

Note: 1. Total number of institutions is provided in brackets next to the relevant sub-sectors.

297. The time spent on inspections (on-site and off-site) appears to be adequate, taking into account the size of the institutions, but the focus of the inspections needs to be enhanced. The focus of both on-site and off-site inspections to date has been largely limited to internal controls, training and

CDD and ODD, with only very limited focus on STR filing. On and off-site inspections do not cover FIs' systems for implementing TFS or assessing TF/ML risks. The authorities reported that on-site and off-site examinations typically last from 4 to 7 months and 5 months, respectively, and typically include sample testing of FIs' CDD/EDD procedures, as well as checking the FIs' internal rules and work processes against the AML/CFT Act. The FSA reports that the scope and focus of both on-site and off-site inspections similar; however the on-site inspections include a more comprehensive final report. The on-site inspections are carried out by a combination of staff from the on-site and off-site divisions (approx. 3 -7 employees). About one third of on-site inspections are prudential, with AML/CFT elements integrated. The rest are generally stand-alone AML/CFT inspections. Meanwhile, the off-site inspections are carried out by one or two staff from the off-site division.

DNFBPs

298. DNFBP supervisors largely have not begun supervision of their relevant sub-sectors, and supervisory efforts to date have been limited to preliminary outreach and are not risk based. Across all supervisors, there appears to be low awareness of their responsibilities as AML/CFT supervisors for their sector. In addition, supervisors do not have adequate resources or enforcement powers to either conduct supervision for AML/CFT or to ensure compliance in practice.

299. The Supervisory Committee also does conduct some limited inspections of real estate agents, and reported that questionnaires are used to check for AML/CFT compliance. Similarly, the Supervisory Committee on Auditors indicated that they informed audit firms to appoint a Money Laundering Reporting Officer, and that these names were submitted to FIU-ICE. However, beyond this, the committee has not conducted any supervisory outreach or monitoring for AML/CFT, and instead their efforts and limited resources have been solely focused on ensuring compliance with the relevant professional standards. The Supervisory Committee also reported that there is a lack of clarity on what their supervisory responsibilities entail in relation to AML/CFT.

300. The Consumer Agency has not yet carried out any AML/CFT supervision or monitoring of DPMS. The Agency has a section on their website where individuals can send suspicions on ML/TF. However the Agency has not carried out any AML/CFT outreach beyond this and no entity has ever submitted any notifications. The Agency has a very broad mandate to promote public education on consumer and other issues, and the current resources are insufficient to cover AML/CFT supervision. The agency currently has 15 staff to cover its responsibilities for consumer rights (all markets), product safety (articles of precious metals and general consumer products) and metrology responsibilities. The Agency has not received any additional staff or funding since taking on AML/CFT responsibilities.

Remedial actions and effective, proportionate, and dissuasive sanctions

301. The FSA has a limited range of remedial measures to ensure compliance with AML/CFT obligations and consequently, the remedial actions are not proportionate and dissuasive.

302. Following both on-site and off-site inspections, if deficiencies are identified, the FSA can apply corrective actions, and the FI is required to deliver an action plan on how they will rectify those deficiencies. Details of supervisory actions taken as of the date of the on-site visit are as follows:

Table 19: Supervisory Actions Taken Annually 2013 - June 2017

	2013/2014	2015	2016	2017
Demand for corrective actions for breach of AML/CFT	27	6	6	30
Comments on general issues and/or FSA guidelines	56	4	12	8

303. The FSA reported that the higher volume of supervisory actions in 2013/2014 reflects the increased focus at this time on internal rules and work procedures. The FSA has the power to apply daily fines and liquidation damages for failure to comply with such corrective actions within a certain time (under Art. 11 of Act 87/1998). To-date no such fines have been imposed with respect to AML/CFT breaches as the FSA reports that the institutions concerned have complied with the deadlines agreed upon with the FSA. The FSA also published the results of on-site and off-site inspections on their website. While the FSA views this as a strong deterrent for non-compliance, meetings with the private sector highlighted that compliance pressure is coming exclusively from international correspondent banks and partners, rather than the FSA.

304. Outside of the narrow powers to apply daily fines when corrective measures are not met, administrative sanctions are not available to the FSA specifically for breaches of AML/CFT obligations. However the FSA can refer such cases to the DPO to apply sanctions. The FSA reported that they had one recent instance of serious violations of AML/CFT Act, and that they sent this case to the DPO for further action. This is the first time the FSA has referred a case to the DPO for further action, and the competent authorities reported that investigations are still on-going (see Box 6 below). The case study illustrates the constraints faced by the FSA when serious breaches of AML/CFT are detected. In this case, since the deadline given was not breached, the FSA could not impose fines against the company. The FSA has expressed the view that more specific administrative sanctions under the law would assist them to undertake more punitive actions against FIs who breach AML/CFT Act.

Box 6. Case Study - Example of Supervisory Remedial Actions Taken Against a Credit Undertaking for Serious AML/CFT Breaches

During a 5 month on-site inspection of a credit undertaking in late 2016, the FSA identified a number of serious AML/CFT breaches, in relation to CDD requirements not being fulfilled according to the AML/CFT Act, shortcomings with regards to regular surveillance in general, training of employees, internal rules on AML/CFT, and deficiencies in relation to STR filing.

Following this inspection, the FSA made formal observations in numerous cases. The FSA also demanded corrective actions be taken within a certain time limit, and the FI was therefore required to hand in an action plan to the FSA which described how the identified deficiencies would be remedied. There were no other administrative sanctions taken in meantime. The FSA indicated that the administrative sanctions available to them under Act 87/1998 could not be applied in this case as they are only applicable if the corrective action were not taken by the deadline stipulated. The FSA informed the assessors that no administrative penalties can be imposed either on directors and controlling owners of FIs for AML/CFT breaches, as action can only be taken indirectly via breach of “fit and proper” criteria.

As in all AML/CFT cases, the FSA also published a notification on its website explaining the findings of the inspection. The FSA reports that the case gained significant media attention due to the severity of the breaches. Given the severity of the case, the FSA, following the on-site inspection also directed the case to the DPO for further inspection. The preliminary investigations are still ongoing.

DNFBPs

305. DNFBP supervisors generally have limited enforcement powers under current legislation, and are thus constrained in their ability to impose proportionate, dissuasive and effective sanctions in practice to ensure compliance. Overall, assessors were given the impression that the responsibility was added to the SRBs without giving them the power to impose sanctions other than their existing powers to revoke licences and issue warnings under their respective Acts. Feedback also indicated that some of SRBs are not clear of the actions required to be taken by them should they find violations of AML/CFT measures in the DNFBPs supervised by them.

306. The Consumer Agency cannot apply administrative sanctions under the AML/CFT Act. Instead, they must report AML/CFT breaches to the DPO for further action. The Consumer Agency has not yet applied any remedial actions in practice, and has no other power to remedy identified deficiencies in relation to AML/CFT. The Agency acknowledged that the current lack of enforcement powers restricts their ability to ensure compliance in practice.

307. The Supervisory Committee for Auditors has the provision whereby for minor deficiencies, the Committee may allow the auditor/audit firm a reasonable period to rectify them. They also have the powers to issue a warning

or a public notice naming firms who did not comply with the rules and in more serious cases, they can recommend to the Minister to revoke the auditors' licence. The Ministry of Industries and Innovation (MoII) indicated that for auditors, they have received 4 recommendations from the Supervisory Committee of Auditors for failure to meet with prudential standards. In these cases, auditors are given the option of surrendering their licences and most have opted to do so rather than have their licences revoked. Nevertheless, the supervisory committee of auditors reported that there has not been any instance of a breach in relation to AML/CFT obligations. The Supervisory Committee has the power to publish notice to remedy prudential breaches but it is unclear whether this extends to AML/CFT violations.

308. The Supervisory Committee of Real Estate Agents carry out regular checks on its members and where there have been serious breaches of the rules governing real estate agents, the agents licence have been revoked. On average two to five licences are revoked each year mainly due to failure to send information on escrow accounts maintained by them. There has not been any instance found where real estate agents were involved in breaches of AML/CFT. The Supervisory Committee also has the power to publish notice to remedy for breaches.

Impact of supervisory actions on compliance

Financial Institutions

309. The FSA has indicated that the publication of its AML/CFT findings on its website has raised the level of awareness amongst FIs on the need to ensure compliance with AML/CFT requirements. Similarly, the FSA pointed to the increased investment in AML/CFT IT systems among the main commercial banks as evidence that their supervisory efforts are increasing compliance and awareness. Nevertheless comments from the private sector indicate that the pressure to ensure compliance is coming from their foreign counterparties, who in many cases are carrying out checks of compliance with home regulations which are much higher than that set in Iceland. In addition laws from the EU, some of which have yet to be implemented in Iceland, also exerts pressure in raising compliance standards particularly in the largest banks and FIs

310. The private sector is mainly of the view that the sanctions imposed so far have a weak impact on compliance. This to some extent has resulted in a low level of awareness of, and compliance with, AML/CFT obligations outside of the commercial banks and certain credit undertakings (see IO.4).

DNFBPs

311. Assessors were not presented with any evidence that the limited actions and/or outreach by the Consumer Agency and SRBs to date have had an impact on AML/CFT compliance in practice within the relevant industries. There have been no STRs filed by the DNFBP sub-sectors and meetings with the assessment team's private sector suggested that awareness of AML/CFT obligations and risk is generally low, particularly within the legal sector.

312. The Consumer Agency has not yet commenced AML/CFT supervision of the DPMS sector, and acknowledges that they are unaware of the level of AML/CFT awareness within the industry. For auditors, feedback from the private sector suggested that pressure to implement AML/CFT measures was coming mostly from international partner companies, rather than domestic supervision, and that as a result AML/CFT compliance among the largest auditing firms was generally higher. Similarly, the supervisory body for real estate agents has conducted only minimal outreach to date, and has not taken any action against any real estate agent in relation to AML/CFT breaches.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

Financial sector

313. There had been limited outreach to FIs by the FSA, in part due to the limited human resources available to the FSA. Most of the engagements consist of ad hoc meetings, posting on-line AML/CFT information on AML regulations, interpretations and inspections conducted etc. The FSA reported that they do have regular communications with the three main banks (including on AML/CFT issues), but that on-going feedback and communications with the other FIs is not occurring in practice. The FSA also reported that they have not yet provided guidance to FIs on what suspicious activities to file as part of the reporting obligation, and that this instead would be under the mandate of FIU-ICE.

314. When assessors met with the FIs, most expressed the need for more guidance and more engagement on areas such as identifying emerging risks, mitigating risks, greater sharing of domestic typologies, as well as for speedier implementation of AML/CFT rules. Feedback from the private sector also indicated a need for more sector specificity, as guidelines currently issued are more tailored to the banks. Based on the above, the assessors are of the view that the outreach efforts are inadequate and there is a need for both the FSA and FIU-ICE to work together to promote greater understanding on ML/TF risks in the financial sector.

DNFBPs

315. So far, outreach to the different DNFBP sub-sectors has been limited. The MoI (who is in charge of most DNFBP SRBs) in co-operation with the Ministry of Interior (who is in charge of supervision of lawyers), held a half day seminar this year to inform auditors of their AML/CFT obligations. Meanwhile, the Supervisory Committees of the Real Estate Agents and Auditors sent a circular to all members to remind them of their obligations under the AML/CFT Act. According to the authorities, the IBA issued a guidance note to its members; however the assessment team has not been given a copy of the guidance. Aside from this outreach, no other steps have been taken to date to promote an understanding of AML/CFT obligations or risk within the different sectors.

316. Based on feedback from DNFBPs, they need more guidance from supervisors on their expectations and more engagement and feedback on areas

such as risk identification, domestic typologies, red flags, how to file STR reports. As such, the assessors are of the view that outreach efforts to date have been minimal and have not promoted a clear understanding of AML/CFT obligations and ML/TF risks.

Conclusions

317. The AML/CFT supervisory regime covers the financial sector and most DNFBPs with the exception of lawyers, and the limited gambling activities permitted in Iceland. While there are generally adequate fit and proper controls in place to prevent FIs from controlling or being the beneficial owner of FIs, the fit and proper controls in place for DNFBPs are significantly weaker. The FSA has a general understanding of ML/TF risks but this understanding needs to be further enhanced to take into account specific risks in sub-sectors, institutions, products and the interconnectedness to the rest of the financial system. The FSA has yet to implement a comprehensive risk based supervisory approach and the scope and depth of its supervisory efforts and powers need to be further strengthened. DNFBP supervisors have very limited understanding of ML/TF risks in their sector and there are significant gaps in the DNFBP supervisors' ability to supervise, monitor, address and mitigate ML/TF risks. DNFBP supervisors are yet to adopt a comprehensive risk based approach to supervision, and their supervisory efforts to date have largely been constrained by inadequate resources, and a lack of sufficient remedial powers.

Iceland has a low level of effectiveness for IO.3.



CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

Legal persons and arrangements (Immediate Outcome 5)

- The authorities have not assessed or identified how legal persons or foreign legal arrangements can be misused in Iceland. Iceland recognises that legal persons may be misused; however, it is generally assumed that the misuse is for tax evasion.
- Information on legal ownership of legal persons is generally available to authorities through annual statements filed with the business registry or from the company share register. However, the information in the annual statement and company share registry may not be kept up to date and does not include beneficial ownership where the legal owner and beneficial owner are not the same.
- The Business Register does not actively monitor compliance with registration obligations and no sanctions have been imposed for failure to register basic information.
- Legal arrangements cannot be created under Icelandic law. However, foreign legal arrangements may operate in or be administered from within Iceland and measures to prevent their misuse and ensure their transparency are limited.

Recommended Actions

- Iceland should assess the ML/TF risks associated with the different legal persons that can be established in Iceland and distribute the findings to FIs and DNFBPs. Further, Iceland should establish appropriate mitigating measures that are commensurate with the identified risks.
- Iceland should ensure that accurate information on basic and beneficial ownership for legal persons is accessible in a timely manner.
- Companies should be required to record accurate and up to date information on beneficial owners.
- Iceland should monitor legal persons for their compliance with their obligations to register basic information with the Register of Enterprises. Sanctions should be imposed if failures are identified.
- Iceland should put measures in place to prevent misuse of foreign legal arrangements operating in, or administered from within, Iceland and to ensure that such legal arrangements are sufficiently transparent.

318. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24 & 25.²⁵

Immediate Outcome 5 (Legal Persons and Arrangements)

Public availability of information on the creation and types of legal persons and arrangements

319. Information on the creation and types of legal persons, and the corresponding legislation, is available publicly on the [Moll's website](#). The information is comprehensive, easily accessible and available in both English and Icelandic. However, there is no information available to the public on the processes for obtaining and recording of basic and beneficial ownership information.

320. Legal arrangements cannot be created under Icelandic law, so there is no publicly available information on their creation.

Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

321. Due to a lack of resources, Iceland has not assessed how legal persons can be misused for ML/TF purposes. Icelandic authorities acknowledge that complex structures involving legal persons have been misused for tax fraud and ML, but they demonstrate limited understanding of the vulnerabilities specific to legal persons and arrangements.

322. As noted above and in the TC Annex at R.25, Icelandic law does not provide for creation of domestic trusts. However, there is no prohibition against forming foreign trusts and assessors were advised that reporting entities in Iceland do have foreign trusts as customers. There is also no prohibition against Icelanders serving as trustees for, or other parties to, a foreign trust. Nevertheless, Iceland has not assessed the ML/TF risk that may be associated with these activities.

Mitigating measures to prevent the misuse of legal persons and arrangements

323. Iceland has various measures in place to enhance transparency. These measures do, to some extent, mitigate the misuse of legal persons. However, information on beneficial ownership is often not available and what information that is available is often inaccurate or out of date.

324. As discussed in the TC Annex at criteria 24.3 and 24.4, the majority of legal persons must be registered with the Business Register and to register a legal person, specified basic information must be filed. That information is publically available, thus creating a certain level of transparency. However, the

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The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

Register does not have any legal obligation to verify the information filed, nor does it do so in practice.

325. Iceland's legal framework requires private and public limited companies to have a share register with information on legal ownership and to note in the register when there is any change in legal ownership. However, authorities advise that private limited companies do not always make these notations to their share registers and that no enforcement action is taken towards these companies. This undermines the importance of the share register and also limits the actual transparency of legal ownership.

326. When registered, legal persons, Icelandic and foreign, receive a *kennitala* (ID-number), which is necessary to establish a bank account and interact with government agencies. The *kennitala* therefore makes it easier to monitor legal persons' activities and enhances transparency. The same measures also apply to foreign trusts.

327. The above measures do not apply to beneficial ownership information and authorities indicate that obtaining beneficial ownership information remains a challenge when the legal owner and beneficial owner are different.

328. FIs and DNFBPs are obliged to obtain information on customers, including trustees, in accordance with the rules on CDD procedures in the AML/CFT Act. However, there is no specific requirement for trustees to disclose their status to obliged entities when involved in a business relationship or carrying out occasional transactions. Also legal entities or persons acting as professional trustees are obliged to perform the obligations laid down by the AML/CFT Act and may be sanctioned for failure to comply (although the mechanism for applying such sanctions is unclear).

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

329. As noted, there is no requirement for companies to maintain beneficial ownership information, nor is there enforcement of the requirements to update legal ownership information. This greatly impairs the accuracy and currency of basic ownership information on legal persons.

330. Companies are required to hold information on basic ownership and their share registers are to be available to the authorities. Basic ownership information, including the names and *kennitala* (Icelandic ID numbers), of shareholders who own 10% or more, together with the percentage of the holdings of each of them at year-end, is also included in the annual statements the companies file with the Business Register each year. The same is reported to the tax authorities. (Act on Annual Accounts, Art. 65). However, Icelandic authorities indicate that all ownership information is available and assessors remain unclear which is the case. Also, as stated above, the companies do not always update their share registers when shares change owner. Further, there is no explicit requirement for share owners themselves to report transfer of ownership to the authorities (although there may be incentive to do so since a share owner's rights cannot be exercised unless the owner is registered).

Therefore, in practice, authorities' access to basic information is not always accurate and up to date. Icelandic authorities recognise that there is room for improvement as regards timely access to adequate, accurate and current information.

331. As to cooperative societies, the number of members at the beginning and the end of the financial year shall be indicated in the annual statement, as well as the number of owners of the B-division shares within their members' fund. Partnerships and unlimited partnerships shall provide information on owners and their holdings at the beginning and end of the financial year.

332. Further, companies are not required to obtain and hold beneficial ownership information. Icelandic authorities informed the assessors that they are able to follow the chain of ownership through the companies' share registers or the annual statements filed with the Business Register. However, this approach is negatively impacted by the problems with accuracy and currency of the information noted above and is only possible if the ownership structure of a company is strictly Icelandic. If the ownership structure has elements of foreign ownership, LEAs are unable to determine the BO in this manner.

333. Icelandic authorities seek co-operation or request MLA if the ownership structure of a company has foreign elements. The length of time required for a response depends on the case and the country to which the request is sent. Icelandic authorities advise that they always try to find a way to get the information, even when co-operation or an MLA is required.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

334. Legal arrangements cannot be created under Icelandic law, but there is no prohibition against formation or administration of foreign trusts from within Iceland. Information on trust-relevant parties is only available from CDD information collected by reporting entities or foreign counterparts.

335. Since legal arrangements cannot be created under Icelandic law, timely access to up to date basic and beneficial ownership information on legal arrangements is generally not necessary. However, as noted above, foreign trusts may operate in or be administered from Iceland and are known to be customers of reporting entities in Iceland. Therefore, access to relevant information might be needed in practice. To open a bank account, a foreign trust must obtain a *kennitala* from the Business Register, who would request and register information on e.g. name, address, business form or corporate form, establishment date, name domicile and ID numbers of principals. However, Iceland has not provided the assessors with information regarding how the authorities would access ownership information in such cases, other than their general approach as regards foreign trusts mentioned below.

336. As stated above, Icelanders can serve as trustees for foreign trusts. However, information on trust-relevant parties is only available from CDD information collected by the FIs. Access to such information is therefore limited

to cases where the trustee has established a business relationship with an FI in the capacity as a trustee.

337. Although there are no legal requirements in place specific to legal arrangements, Icelandic authorities indicate that they have been able to get information on trusts on a case by case basis by sending MLAs to the relevant countries. However, the information is most often delayed.

Effectiveness, proportionality and dissuasiveness of sanctions

338. The Business Register does not actively monitor compliance with registration obligations and no sanctions have been imposed for failure to register basic information. However, the Register has fined several legal persons for not filing their annual statements (see Table 20). A fine is imposed if the deadline for submitting the annual statement passes and corrective action is required; the fine is reported by Icelandic authorities to be ISK 600 000 (EUR 4 885). Further, the Register of Annual Accounts shall file for winding up of a company if an annual account isn't filed with the register within eight months from the deadline or that the information provided is unsatisfactory (Act on Annual Accounts, Art. 121). Iceland did not provide information on whether this has happened.

Table 20: Number of Fines Imposed for Failure to File Annual Reports 2013 – 2015

Year	Number of Fines Assessed
2015	2 451
2014	1 181
2013	1 318

339. As described in IO.3, inspections (and consequently sanctions) on FIs and DNFBPs, and the application of beneficial ownership CDD by them, are infrequent.

340. According to the acts on private and public limited companies, representatives responsible for failure to comply with the registration and notification requirements may be subject to weekly or daily fines. However, such fines have never been imposed. As such, it is not possible to assess that available sanctions are effective or dissuasive.

Conclusion

341. Icelandic authorities can access basic and legal ownership information of legal persons. However, fundamental improvements are needed. There is no requirement for BO information to be maintained. Basic, legal and BO information that may be available is not always up to date. No sanctions have been imposed for failure to register basic information. Further, BO information is only available if the ownership structure is strictly Icelandic. When it is available, authorities cannot access to BO information in a timely manner. If there are elements of foreign ownership the accuracy and the accessibility of the information is further impeded. Iceland has not assessed the ML/TF risk to which the different legal persons may be exposed. Further, foreign trusts are customers of reporting entities in Iceland. However, Iceland

has not demonstrated how the authorities would access ownership information in such cases.

342. **Iceland has a low level of effectiveness for IO.5.**

CHAPTER 8. INTERNATIONAL CO-OPERATION

Key Findings and Recommended Actions

Key Findings

International co-operation (Immediate Outcome 2)

- Iceland has a good legal and procedural framework for international co-operation and assistance has been provided in a timely manner in both ML and TF cases. There is, in various areas and between different authorities, effective co-operation between Iceland and the other Nordic countries. The simplified procedures enabling LEAs to have direct contact and the use of the Nordic Arrest Warrant (NAW) enable Iceland to provide information or assistance in a timely and effective manner. In dealing with other countries, the standard procedures for providing MLA apply and are effectively implemented.
- LEAs actively seek informal and formal international co-operation and legal assistance in a wide range of cases when intelligence, information or evidence is needed from other countries or when assets can be seized or frozen. However, the instances when these mechanisms have been used in relation to ML/TF are limited by the low number of ML/TF investigations.
- FIU-ICE exchanges information with foreign counterparts, particularly via the Egmont Secure Web. However, information is mostly provided on request, not spontaneously.
- The FSA makes and receives requests for information involving foreign counterparts. The FSA's main form of co-operation on an international level is through European supervisory authorities.
- In the context of cross-border investigations, Iceland authorities request assistance from foreign counterparts to obtain legal and beneficial ownership information and provide similar assistance to foreign counterparts.

Recommended Actions

- Iceland should enhance the quality of statistics including data to reflect—
 - Co-operation accomplished informally through direct contact,
 - The types of crime for which MLA, extradition and other forms of co-operation are provided and requested
 - The value of assets frozen and confiscated domestically and abroad as a result of MLA and international co-operation

- Time required to complete incoming and outgoing requests for MLA/extradition/co-operation
- Exchange of basic and BO information on legal entities and arrangements
- FIU-ICE should share information spontaneously.

343. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.

Immediate Outcome 2 (International Co-operation)

344. On 13 April 2016, the Althingi unanimously passed a Resolution on National Security Policy. That policy explicitly identifies its fundamental premise as Iceland's status as a sparsely populated island nation that provides for its security and defence through active co-operation with other countries and within international organisations. Evidence provided by Icelandic authorities confirms that Iceland does engage in effective co-operation with other countries.

Providing constructive and timely MLA and extradition

345. According to available statistics, anecdotal evidence, case examples and interviews with competent authorities, there is a high level of knowledge of MLA and extradition and evidence that the systems are functioning effectively. This finding is supported by the feedback received from FATF Global Network members.

346. As noted in the TC Annex, Iceland has a good legal and procedural framework for international co-operation and extradition. According to Icelandic authorities, requests for MLA mostly relate to fraud, drug offences and cybercrimes and seek information on bank accounts, IP-numbers, business registrations, etc. Assistance has been provided in both ML and TF cases. Requests for MLA or extradition are only rarely refused, most commonly for lack of dual criminality.

347. The responses and feedback received from 13 FATF Global Network member countries²⁶ generally expressed satisfaction with both the timeliness and the quality of the assistance provided. The feedback covered co-operation by FIU-ICE, the NSU, DPO, District Police and the FSA and included asset freezing.

348. Iceland allows direct communication and simplified procedures in various areas and between competent authorities in Nordic countries. The requests made by direct communication make up a large portion of the total number of MLA cases. In other cases, the MoJ serves as Iceland's central authority for incoming and outgoing MLA and extradition requests and they use a case management system for handling requests. If a request involves an

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Belgium; Canada; Finland; Hong Kong, China; Japan; Jersey; Macao, China; New Zealand; Norway; Spain; Sweden; Turks and Caicos Islands and the United States.

urgent need to freeze assets, Icelandic procedure allows immediate action to be taken by the DPO. These simplified measures enable Iceland to provide information or assistance in a timely and effective manner.

349. Requests for MLA received by the MoJ are forwarded to the DPO and prioritised on a case by case basis. Any necessary information gathering or investigative measures are conducted by the district police, which take appropriate actions immediately. The district police then hand the case back to the DPO which hands the case to the MoJ which formally decides to send the information back to the requesting country.

350. There are no prosecutors who specialize in extradition or MLA; when a request is received, it is generally assigned to a prosecutor familiar with the underlying crime. However, the MoJ has issued guidelines for prosecutors handling extradition matters and there seems to be a high level of knowledge and commitment to MLA and extradition cases.

Table 21: Number of MLA Requests Received Annually

Year	Number of Requests
2013	26
2014	26
2015	39
2016	28
2017*	35

Note: *Jan - June.

351. Although statistics provided do not indicate the country of origin, Icelandic authorities advise that requests come primarily from the Nordic and other European countries. However, it should be noted that there are no reliable statistics reflecting MLA with Nordic countries since most requests are communicated directly between LEAs, as in other Nordic countries. It should also be noted that there is no data on what kind of assistance is provided, how much time is needed or the value of assets are frozen.

Table 22: Extradition Requests Received Annually (Including NAW)

Year	Number of Requests	Country
2012	11	Poland – 8; Russia – 1; Slovakia – 1; Hungary - 1
2013	10	Denmark – 4; Poland – 3; Lithuania – 2; Cyprus - 1
2014	6	Poland – 5; UK – 1
2015	8	Poland – 7; Albania – 1
2016	10	Poland – 6; Norway -1; Sweden – 1; Finland – 1; France - 1
2017*	2	Poland – 1; Holland - 1

Note: * Through April

352. Historically, Iceland has received from six to eleven extradition requests annually; mostly from European countries. For extradition cases involving Nordic countries, the Nordic Arrest Warrant (NAW) is in force. Requests for NAW are managed via direct contact among competent authorities and Icelandic prosecutors adhere to the deadlines prescribed in the applicable regulation. When the NAW is used, it takes approximately two weeks from the

request until the person is extradited to the other country. Extradition cases regarding other countries than the Nordic ones are handled by the MoJ. These requests are investigated by the DPO, which sends the evidence in the case back to the MoJ together with a report. The MoJ then decides whether to authorise extradition. The most common reason for refusing a request for extradition is expired statute of limitation.

353. The MoJ's decision to grant extradition can be appealed to the Supreme Court. The requests processed according to normal procedures can take from two months to a year to complete, depending on the circumstances of each case. Iceland is near to completing the process of ratifying the European Arrest Warrant, but had not yet done so by the end of the on-site visit.

354. Icelandic legislation prevents extradition of Icelandic citizens outside of the Nordic countries. If a third party asks for extradition of an Icelandic citizen, Iceland can consider opening its own investigation. Icelandic authorities indicate that this has occurred at least once in recent years, but that no prosecution was undertaken. Assessors were not provided with information sufficient to substantiate this assertion.

355. Despite the lack of comprehensive statistics, Icelandic authorities have given examples of MLA in the context of both ML and TF cases. In one such case, information was provided to Canada regarding the identity of suspected FTFs who had transited through the Iceland airport. In another case, Iceland successfully confiscated assets connected to ML at the request of the US.

Seeking timely legal assistance to pursue domestic ML, associated predicate and TF cases with transnational elements

356. According to available statistics, anecdotal evidence, case examples and interviews with competent authorities there is a high level of understanding and commitment to requesting assistance when needed and the mechanisms in place are functioning effectively.

357. Icelandic LEAs actively seek informal and formal legal assistance from other countries in cases with transnational elements. Assistance has been sought for intelligence, information, evidence and tracing, freezing and confiscation of assets. In particular, investigations and prosecutions arising from the bank crisis involved significant international co-operation. Requesting international legal assistance was a key-factor for the success in many of those cases. Icelandic authorities have demonstrated by examples that they are not deterred from seeking assistance by anticipated delays or difficulties with requested jurisdictions. The knowledge of seeking international assistance is high among LEAs and requesting legal assistance is frequently done in cases when needed.

Box 7. Successful Confiscation of Assets Moved Abroad

During the week preceding the on-site visit, Iceland obtained a conviction involving illicit funds that had been transferred to Luxembourg. In that case, Iceland traced and was able to freeze bank accounts held in the names of six related entities and successfully confiscated EUR 7 million with the assistance of Luxembourg authorities.

358. Iceland does not keep statistics on outgoing requests for assistance, other than requests for extradition or use of the NAW (see **Table 23** below).

Table 23: Extradition Requests Made by Iceland (Including NAW)

Year	Number of Requests	Country
2012	2	Denmark
2013	2	Denmark
2014	1	Netherlands
2015	1	Germany
2016	1	Norway
2017	1	Italy

359. However, Icelandic authorities estimate that they make from five to ten requests for assistance annually and provided several examples of successful cases based on assistance received. Most recent of these cases involved a request to Luxembourg to freeze almost seven million euro. The request was granted and a confiscation order entered two weeks before the on-site visit (see Box 7).

Seeking and providing other forms of international co-operation for AML/CFT purposes

360. Icelandic authorities use other forms of international co-operation to exchange financial intelligence and other information with foreign counterparts for AML/CFT purposes. In particular, the cases studies provided as well as the discussions held during the on-site visit indicate the effective use of international co-operation in various areas. FIU-ICE frequently seeks information from and provides information to foreign counterparts. LEAs are actively engaged in a variety of networks, use liaisons officers and take part in Joint Investigative Teams. The NSU has regular contact with foreign counterparts, especially the other Nordic countries. The FSA cooperates with international counterparts, both requesting and providing information. In general, the majority of Iceland's competent authorities are effectively engaged in international co-operation with their foreign counterparts for AML/CFT purposes, particularly with their Nordic counterparts.

LEAs

361. Icelandic authorities frequently use police contacts, Europol and Interpol to establish international co-operation. They also utilise international

networks like the Camden Asset Recovery Inter-agency Network (CARIN) and a system of liaison officers to facilitate co-operation. The NSU maintains an effective intelligence network to share information regarding terrorism and TF. Investigators and prosecutors have made effective use of joint investigative team to investigate ML and recover the proceeds of crime. Iceland provided assessors with a number of examples of informal co-operation and one example of a joint investigative team. However, owing to their sensitive nature, specifics of these cases cannot be included in this report.

362. Regarding TF, Icelandic authorities shared information regarding a case in Belgium that was based on intelligence from Iceland. However, authorities maintain that Iceland has not yet received any intelligence sufficiently useful to open a domestic TF investigation.

363. Owing to the low number of ML and TF investigations, most Icelandic requests for assistance relate to predicate offences.

FIU-ICE

364. FIU-ICE maintains good co-operation with foreign counterparts. However, FIU-ICE provides information to foreign counterparts almost exclusively on request, not spontaneously.

365. Prior to 2015, FIU-ICE did not maintain statistics regarding international co-operation. Icelandic authorities assert that, since 2006, the National Commissioner kept various records, including these statistics, and that the statistics were recorded in the annual reports of FIU-ICE from that time. However, assessors were not provided with information sufficient to substantiate that assertion. Since the current FIU-ICE began maintaining statistics in 2015, the unit received 33 requests for co-operation and made 15 requests. These statistics indicate that FIU-ICE responds to almost all requests within one to three weeks; its shortest response time being one day, and longest being 5 months.

FSA

366. FSA reports that its personnel communicate effectively with international counterparts, both requesting and providing information, particularly the UK's Financial Conduct Authority. Based on obligations imposed by the first Payment Services Directive, the FSA receives passport notifications regarding foreign payment institutions operating in Iceland and provides the home state with relevant information in return (see discussion of passporting at c.14.3). The FSA is keenly aware of its responsibility to inform the competent authority of the home state should they determine that an agent or branch of a foreign institution does not comply with the directive. However, the FSA provides that it not yet had reason to make any such report.

International exchange of basic and beneficial ownership information of legal persons and arrangements

367. Icelandic authorities regularly seek BO information when needed. In many cases referred to above, beneficial ownership information was part of the

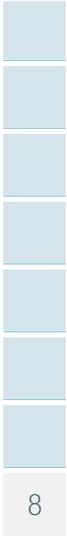
information sought. Iceland has encountered some difficulties in obtaining BO information from other jurisdictions, particularly the US and the UK. A request to Sweden concerning BO information was rejected for lack of dual criminality.

368. When Icelandic authorities get requests from other countries to provide information on BO, they use the same means as in a domestic case. Authorities provided information regarding a case with connections to Germany and Finland in which BO information was successfully obtained from DNFBPs and provided to the requesting country.

Conclusion

369. Overall, Iceland has many of the characteristics of an effective system in the area of international co-operation. Icelandic authorities provide MLA and extradition and exchange information in a constructive and timely manner and proactively seek international co-operation when required; only moderate improvements are needed.

370. **Iceland has achieved a substantial level of effectiveness for IO.2.**



TECHNICAL COMPLIANCE ANNEX-

Recommendation 1 – Assessing risks and applying a risk-based approach

These requirements were added to the FATF Recommendations when they were revised in 2012 and therefore were not assessed under the mutual evaluation of Iceland in 2006.

Criterion 1.1 – Iceland completed its first National Money Laundering and Terrorist Financing Risk Assessment (NRA) in January 2017, which provides a high-level overview of a range of ML threats and risks in Iceland, including areas thought to pose low risk. Icelandic authorities acknowledge that this assessment is based primarily on general impressions, rather than empirical indicators. While this NRA includes some assessment of TF risk, the information and analysis on which observations and conclusions are based are not clearly identified.

Iceland also has required its National Police Commissioner to conduct periodic organised crime and terrorism risk assessments since 2007 (No. 404/2007) with reports issued annually from 2008 - 2011, and then every other year with the latest report published in 2017. These risk assessments are based in part on responses to questionnaires sent to the police districts throughout Iceland, information received from other countries, as well as Europol and Interpol. Although the National Police Commissioner's risk assessments do not directly address either money laundering or terrorist financing risks the findings are relevant.

Criterion 1.2 – For the NRA, the Ministry of the Interior formed an intergovernmental ad hoc group, which included representatives from the Ministry of the Interior, FIU-ICE, District Prosecutor's Office (DPO), Reykjavík Metropolitan Police, National Commissioner of the Icelandic Police – National Security Unit (NSU), Suðurnes Police District, Directorate of Tax Investigations (DTI), Directorate of Customs, Financial Supervisory Authority (FSA), Central Bank of Iceland (CBI), Directorate of Internal Revenue, Ministry of Finance and Economic Affairs (MoFEA) and the Director of Public Prosecutions (DPP). No FIs or DNFBPs contributed to the NRA.

Criterion 1.3 – Iceland only recently completed its first NRA. The country indicates that authorities will maintain timely updates going forward through the AML/CFT Steering Group. As noted at c.1.1, risk assessments performed by the National Police Commissioner are updated regularly, although these do not directly address ML or TF risks.

Criterion 1.4 – The NRA was not broadly disseminated to either the public or the private sector. Iceland shared the report with the three commercial banks, the NSU, Metropolitan Police, and the Police Commissioners Association. Iceland indicates efforts are underway to establish mechanisms to disseminate the results of the risk assessment more broadly.

Criterion 1.5 – Iceland has not yet taken a risk-based approach to AML/CFT resource allocation or to implementing measures to mitigate ML/TF risks. Icelandic authorities indicate that they intend to use the NRA to help apply a risk-based approach going forward.

Criterion 1.6 – Art. 2 of the AML/CFT Act allows the FSA to exempt reporting entities from performing all of the requirements of the Act (rather than just some provisions) when engaging in financial activities on an occasional or very limited basis, where there is little ML/TF risk. The FSA has to date exempted two government agencies from the AML/CFT Act. However, the use of this exemption is not based on the NRA or other means of proving low risk.

Criterion 1.7 – Some high-risk areas are specified for application of enhanced CDD in Chapter III of the AML/CFT Act. In addition to these specific circumstances in which enhanced CDD is required, obliged entities are also required to apply enhanced CDD in circumstances which by their nature increase the risk of ML or TF, based on a risk assessment. However, several other areas of higher risk are identified in the NRA and the authorities have not required institutions to take measures to manage and mitigate these risks, nor to ensure that this information is integrated into FI risk assessments.

Criterion 1.8 - Article 15 of the AML/CFT Act allows reporting entities to apply simplified due diligence to certain customers that are financial undertakings, life insurance companies (within the EEA and those outside the EEA that are subject to requirements similar to those imposed in Iceland) and companies listed on a regulated market. In addition, Art. 15a states that SDD can be applied in certain situations, e.g. when electronic money is issued within certain amount limits. Icelandic authorities report that these SDD measures are based on Article 11 of the 3rd EU AML Directive (Directive 2005/60); not on a supranational or national risk assessment or other means of proving low risk (see also c.10.18 below).

Criterion 1.9 – Art. 25 of the AML/CFT Act imposes on the FSA the obligation to supervise FIs' compliance with the AML/CFT Act, including the application of the risk-based approach where appropriate. Similarly, there is a designated authority responsible for monitoring AML/CFT for most DNFBPs (with the exception of lawyers); however these bodies lack enforcement powers to ensure compliance. In addition, there is no clear obligation for FIs or DNFBPs to identify, assess and understand their ML/TF risks (see c.1.10-c.1.12 below).

Criterion 1.10 – Obligated entities are not required to identify, assess and understand their ML/TF risks.

Criterion 1.11– Art. 23 of the AML/CFT Act requires obliged entities to establish written internal rules and maintain internal controls to prevent ML/TF. However, obliged entities are not required to get senior management approval, monitor implementation, or enhance controls if necessary. In addition, obliged entities are not required to assess their risks (as noted in 1.10 above).

Criterion 1.12 - Art. 4 of the AML/CFT Act imposes a requirement for CDD when there is a suspicion of ML/TF regardless of any exemption or threshold. However, criteria 1.9 to 1.11 are not fully met.

Weighting and conclusion

Iceland's national risk assessment provides a high level overview of the country's ML/TF risks, but the information is not being used by the public and private sectors for resource allocation or prioritising AML/CFT efforts. Financial institutions and DNFBPs are not required to identify, assess and understand their ML/TF risks. Preventive measures, including EDD, are prescribed through regulation.

Recommendation 1 is rated Partially Compliant.

Recommendation 2 – National co-operation and co-ordination

In its 3rd mutual evaluation report (MER), Iceland was rated fully compliant with former R.31, with both formal and informal mechanisms for national co-operation and co-ordination in place.

Criterion 2.1. - Having only just completed its NRA, Iceland has not yet developed policies informed by the identified risks.

Criterion 2.2. - An AML/CFT steering group was established in 2015 by the Ministry of the Interior which has been tasked with, among other things, establishing and coordinating national AML/CFT policies. The Steering Group includes representatives from the ministries of finance and foreign affairs, as well as the Central Bank, FIU-ICE, the FSA and the DTI. Separately, in 2016 Parliament required the creation of a National Security Council (NSC) in the National Security Council Act. The NSC is tasked with establishing a national security policy that authorities say will include addressing threats to the nation's financial and economic security. Neither the NSC nor the AML/CFT Steering Group is currently operating either alone or in co-ordination as the country's coordinator of national AML/CFT policies.

Criterion 2.3. - Other than the handling and sharing of STRs (Reg. 175/2016), no mechanisms are in place for competent authorities to coordinate on AML/CFT policies and activities.

Criterion 2.4. - Icelandic authorities have in place a multi-agency steering group tasked with sharing information among relevant authorities regarding the identification and control of WMD dual use goods. The Steering Group is not typically a co-ordination or co-operation mechanism to combat WMD PF.

Weighting and conclusion

Iceland has a process in place for FIU-ICE to disseminate STR information to other competent authorities to facilitate AML/CFT activities, and has identified mechanisms to create policies and facilitate co-ordination, but no such policies or co-ordination efforts currently exist

Recommendation 2 is rated Partially Compliant.

Recommendation 3 - Money laundering offence

In its 3rd MER, Iceland was rated LC for old R. 1 and PC for old R.2 (para. 59 – 95), which contained the previous requirements in this area. The main technical

deficiencies for R.1 were inadequate coverage for all predicate offences and ancillary offences. The main technical deficiencies for R.2 were insufficient penalties and narrow criminal liability of legal persons. Deficiencies for R.1 were addressed in reference to R.13 (para 34) and for R.2 (para. 107 – 114) in Iceland's 3rd Follow-up Report.

Criterion 3.1 – ML is criminalised on the basis of the Vienna and Palermo Conventions. Art. 264 of the General Penal Code (GPC) covers all forms of taking position with gains derived from an offence against the GPC or other statute, including for example acceptance, making use of, acquiring, converting, transporting, sending or storing, assisting in delivering and concealing.

Criteria 3.2 – Iceland has an “all crimes” approach which ensures that a wide range of offences in each of the designated categories of offences are predicate offences for ML. All offences covered by the GPC and other statutes are predicate offences to ML. No limitations or thresholds are placed on predicate crimes.

Criteria 3.3 – Not applicable owing to the “all crimes” approach (see analysis of c.3.2).

Criterion 3.4. – The ML offence covers money and other property (“gains”) derived from an offence. All forms of gains are covered, regardless of value, which directly or indirectly represent proceeds of a crime. (Art. 264 and Art. 69 of GPC).

Criterion 3.5. – According to a judgement from the Supreme Court (Iceland's highest court) in case no. 200/2001, it is not necessary that the predicate offence is known or proven to prove that property is the proceeds of crime. Referring to Art. 264 of the GPC, the Court specifically stated “it is not necessary to establish exactly what kind of illegal act the proceeds have been derived from. Evaluating the nature of the proceeds depends on circumstances in each case - most importantly whether the prosecution has demonstrated that the proceeds or gains could not have been legally obtained”.

Criterion 3.6. – Art. 4 of the GPC specifically states that punishment shall be imposed for violations of Article 264 that are committed within the Icelandic State, even if the predicate offence was committed abroad and irrespective of the identity of the perpetrator.

Criterion 3.7. – Self-laundering is criminalised. A person who commits the original offence, and also an ML offence shall be convicted of both offences according to Art. 264 of the GPC. Art. 264 GPC also specifies that Art. 77 shall apply. Art. 77 of the GPC states that when a person is found guilty of the commission of more than one offence (while the same case is being heard), punishment for them shall be determined jointly in one sentence in such a way that both or all offences will be covered. The aforementioned reference to “offence” includes both predicate offences and/or multiple cases of ML.

Criterion 3.8. – Art. 109 of the Law on Criminal Procedure, No. 88 of 2008, (LCP) allows courts to infer the knowledge of the accused of the illegal origin of the proceeds from any objective factual circumstance resulting from the information gathered.

Criterion 3.9. – Criminal sanctions for ML are proportionate and dissuasive. According to Art. 264 of the GPC natural persons guilty of ML offences are subject to

imprisonment for up to six years. Art. 49 states that fines may be imposed in addition to the imprisonment in certain circumstances. Punishment may take the form of up to twelve years imprisonment in the case of gains from some narcotic offences (Art. 173a GPC) and, in the case of self-laundering, penalties for any predicate offence may be applied as well (Art. 264 and 77). If an offence under the first paragraph of article 264 is committed through negligence, the punishment shall take the form of a fine or up to 6 months' imprisonment.

Criterion 3.10. - Criminal liability and sanctions apply to legal persons for all offences under the GPC (Article 19(d) was added to the GPC through Article 1 of Act No. 74/2006). According to Chapter V in the GPC fines can be imposed. There is no limit to the fines. Sanctions are proportionate and dissuasive. Where criminal liability of the legal entity for money laundering applies, parallel administrative or civil proceedings – e.g. claims for damages - are not precluded. Such measures are without prejudice to the criminal liability of natural persons.

Criterion 3.11. – Ancillary offences to the ML offence – participating in, association with, attempt, aiding and abetting, facilitating and counselling the commission – are provided in Chapter III of the GPC, Art. 20 – 23 and conspiracy in GPC Art. 175. In Art. 20, attempt to the ML offence is criminalised. For an attempted offence, a more lenient punishment may be imposed than for a completed offence. Art. 22 states that “Any person who, by assisting in word or deed, through persuasion, encouragement or in any other manner, contributes to the commission of an offence, under this Act shall incur the punishment prescribed for the offence”. According to Icelandic interpretation of the legislation and court practice, an agreement or a conspiracy to commit a crime can be enough grounds for a conviction for attempt, especially if there is a plan how to execute the crime, regardless of the number of persons who are party to the agreement. Apart from this conspiracy is also criminalised in certain serious cases if the activity is within a criminal organisation.

Weighting and conclusion

Recommendation 3 is rated Compliant.

Recommendation 4 – Confiscation and provisional measures

In its 3rd MER, Iceland was rated LC with former R.3, which contained the previous requirements in this area. The deficiencies noted all related to the effectiveness of the regime, rather than technical compliance (para. 112 – 133).

Criterion 4.1. – Iceland's GPC, Art. 69 – 69g provide for comprehensive confiscation measures that meet the elements in paragraphs (a) – (d) of this criterion. Gains derived from an offence, items purchased with gains or that have replaced them, or a sum of money partly or fully equivalent to these gains or items may be confiscated. All forms of gains which directly or indirectly represent proceeds of a crime, regardless of value, are covered and costs incurred in the commission of an offence are not deducted when calculating “gains” (Art. 69). This includes property laundered. Art. 69a covers property, proceeds and instrumentalities of all offences, objects intended to be used or in danger of being used and items that have come into being through an offence. This framework is sufficiently broad to encompass

proceeds, instrumentalities, and property allocated for use in TF and property of corresponding value.

Criterion 4.2. – Iceland has measures in place enabling their competent authorities to take all the actions referred to in paragraphs (a) – (d) of this criterion.

a) LEAs are able to identify, trace and evaluate property that is subject to confiscation. The Police have investigative powers including identifying and tracing assets. They can have direct access to various databases (including the business register, vehicle register, real property register and Credit info) and can get information from banks with a court order.

b) LEAs have a variety of powers to carry out provisional measures to prevent dealing with property, including the authority to seize property, gather evidence in the absence of seizure (LCP, Chapter IX, Art. 68 – 72), and to freeze assets with a court order (LCP, Art. 102-104).

c) Competent authorities can prevent or void actions that may prejudice Iceland's ability to freeze, seize or recover assets subject to confiscation. Art. 19 of the AML/CFT Act empowers the police to request that execution of a transaction be delayed. Police may arrest a suspect's property if there is a perceived risk of the assets being concealed, lost or diminished in value (LCP Art. 88).

d) The LCP and The Rules on Special Methods and Operations of the Police during Investigation of Criminal Cases (No. 516/2011) enable a wide range of investigative measures, including controlled delivery and use of decoys and informants.

Criterion 4.3. – Protection of third parties is provided in GPC Art. 69e, which enables a judge to order payment of compensation to anyone who suffers loss or damage when the offence is committed; Art. 69f specifies a period of 5 years for the owner of seized items to lay a claim to the items; and the LCP Art. 72 obligates police to return property to the person rightfully entitled to it when it has been released.

Criterion 4.4. – Art. 71 of the LCP specifies that seized property shall be inventoried and preserved in a secure manner. Icelandic authorities indicate that Instructions No. 7 of 2017 and 11 of 2017 are relevant, but there are no rules in place regarding management of seized property or disposal of seized property, other than by release to the relevant parties.

Weighting and conclusion

Although there are minor shortcomings that should be addressed, Iceland's legal framework for confiscation and provisional measures is generally consistent with the requirements of R.4.

Recommendation 4 is rated Largely Compliant.

Recommendation 5 – Terrorist financing offence

In its 3rd MER, Iceland was rated LC with former SR.II, which contained the previous requirements in this area. The main technical deficiency was that the scope of TF offences did not fully cover all those activities listed in Article 2, par.1 of the CFT Convention. Those deficiencies appear to have been addressed.

Criterion 5.1. – The offences listed in Art. 2 of the CFT Convention are specifically punishable in Iceland under Art. 6 of the GPC, even if they have been committed outside the Icelandic State and irrespective of whom the offender is. Offences designated as “acts of terrorism” under GPC Art. 100a and related provisions in Art. 100b through 101 comprehensively criminalise TF on the basis of the CFT Convention.

Criterion 5.2. – Iceland’s framing of the terrorist financing offence is generally broad and does not require that the funds have actually been used for the purpose of carrying out a terrorist act. For prosecution purposes, it is sufficient to demonstrate that funds are collected or provided for the maintenance and operational expenses or more broadly for the benefit of either an individual terrorist or a terrorist organisation. Explanatory notes referring to this provision highlight the fact that terrorist activity need not be the organisation’s sole purpose.

Criterion 5.2bis. – Iceland authorities advise that the provisions of the GPC on terrorism and terrorist financing necessary to implement UNSCR 2178/2014 are being revised, but those revisions are not yet in force.

Criterion 5.3. – No distinction is made in Icelandic law regarding source of funds used to commit terrorist offences.

Criterion 5.4. – See criterion 5.2.

Criterion 5.5. – Intent and knowledge elements can be inferred from factual circumstances on the ground of the established principle of free evaluation of evidence by the court.

Criterion 5.6. – The penalty for perpetrating terrorist acts as defined by Sec. 100(a) is imprisonment for life, whereas terrorist financing is sanctioned with detention for up to 10 years. Therefore, the available sanctions appear proportionate and dissuasive.

Criterion 5.7. – Criminal liability of legal persons committing crimes against Sec. 100(a), (b), (c) of the Penal Code is provided by Art. 19a, b, c and d of the GPC and does not preclude parallel civil or administrative proceedings. The amount of a fine is determined according to Art. 51 of the GPC. There are no limits on the amount of fines which can be decided.

Criterion 5.8. – Iceland’s legal framework covers all ancillary offences required by this criterion.

a) Attempts to commit an offence are criminalised under GPC, Art. 20

b-c) GPC, Art. 22 states that any person who in word or deed provides aid or incites the commission of an offence, or by persuasion, encouragement or in any other manner contributes to committing an offence shall be punished as provided for in the provision applying to the offence.

d) GPC, Art. 100c specifically criminalise contribution to TF offences (or attempted offences) by a society or group with common aims. More generally, Iceland has criminalised conspiracy (GPC, Art. 175).

Criterion 5.9. – Under the “all offences” approach, TF offences are predicate offences to the ML offence.

Criterion 5.10. – No geographical restrictions are made regarding terrorist financing offences. GPC, Art. 6 specifies penalties have to be imposed according to Icelandic legislation even if the offence has been committed abroad and irrespective of the identity of the offender.

Weighting and conclusion

Iceland's framing of the TF offence is generally broad enough to cover the criteria. However, provisions of the GPC necessary to implement UNSCR 2178/2014 have not been brought into force.

Recommendation 5 is rated Largely Compliant.

Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing

In its 3rd MER, Iceland was rated PC with the former SR.I (para. 583 – 587) and NC with former SR.III (para. 134 - 154), which contained the previous requirements in this area. The key technical deficiencies included inadequate legislative framework; lack of mechanisms for designating persons, or acting on designation of other countries, in the context of UNSCR 1373; no requirement for responsive action to take place without delay and without notice.

Criterion 6.1. (UN Security Council 1267/1989 (Al Qaida) and 1988 sanctions regimes) –

In relation to UNSCRs 1267/1989 and the 1988 sanctions regimes—

(a) The Minister of Foreign Affairs is the competent authority to communicate proposals of designation targets to the relevant UN sanctions committees (Act 93/2008, Art. 12).

(b) Iceland has no mechanism in place to identify targets for designation.

(c) There are no rules or guidelines regarding the standard of proof for, or conditions applicable to, making proposals for designation.

(d) There are no procedures in place with respect to filing information with UN Sanctions Regimes in support of proposed designations.

(e) There are no rules or guidelines in place regarding provision of information in support of a designation proposal.

Criterion 6.2. (Designations pursuant to UNSCR 1373) –

In relation to UNSCR 1373—

(a) Article 5 of the Regulation on Actions Against Terrorism (No. 448/2014), as amended by Reg. No. 67/2016, requires the Minister for Foreign Affairs to consult with the DPO as to whether there is a reasonable basis to give effect to a designation request from another country.

(b) Iceland has no mechanism to identify targets for domestic designations.

(c) Iceland considers adoption of EU designations, but there is no explicit timeframe for consideration or requirement to act promptly.

(d) Pursuant to Art. 5, Reg. No. 448/2014, foreign designation requests are evaluated based on whether there is a reasonable basis for the designation.

(e) There are no rules or guidelines in place regarding provision of information in support of a designation proposal.

Criterion 6.3. (Collect information to identify those who meet criteria for designation; operate ex parte against a person whose designation is under consideration) – Art. 6 of the International Sanctions Implementation Act, No. 93/2008, (ISA) allows for an investigation, even if the party under investigation is not suspected of a crime. However, the application of Art. 6 is restricted to “a party against which sanctions are directed”. It does not apply to anyone who has not already been designated.

Criterion 6.4. (Implement without delay) – Icelandic legislation provides for implementation of sanctions under UNSCRs 1267/1989, 1988 and potentially 1373 to occur without delay. Iceland amended Article 4 para 3 of Act No. 93/2008 to acknowledge the original foreign language lists of the subjects of sanctions (Act No. 81/2015) and has issued regulations specific to the sanction regimes under UNSCRs 1267/1989, 1988 and 1373. In these regulations (Reg. No. 67/2016, amending Reg. No. 448/2014 regarding UNSCR 1267/1989; Reg. No. 897/2015, amending Reg. No. 1100/2013 regarding UNSCR 1988) reference is made to the relevant list that was established and is maintained by the UN Security Council (or Committee, as the case may be) and it is specified that subsequent changes and updates of the list shall enter into force as soon as they are published on the relevant website. All persons, including FIs and DNFBPs, are required to follow any changes that are made to the sanctions list and to freeze the funds of listed persons without delay.

Implementation of designations pursuant to UNSCR 1373, Art. 5 of Reg. No. 448/2014 states that the Minister for Foreign Affairs must consult with the DPO on whether to implement the proposed sanction. Implementation requires a regulation, which may cause some delay.

Criterion 6.5. (Legal authority to, and domestic competent authorities to, implement and enforce targeted financial sanctions) –

(a) The ISA, Reg. No. 119/2009 and Reg. No. 448/2014, as amended, require all natural and legal persons within the country to freeze funds or other assets of designated persons or entities without delay and without prior notice.

(b) Art. 7 of Reg. No. 119/2009 refers to the obligation to freeze applying to “funds and economic resources pertaining to, in the possession of, in the custody of or under the control of the persons in question” without the need to be tied to a particular terrorist act, plot or threat; interest, dividends and other income deriving from the funds or economic assets and to payments in respect of contracts or commitments entered into prior to the freezing. However, it does not specify that a freeze may apply to assets that are jointly or indirectly owned or controlled, income derived from assets indirectly owned or controlled, or funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

(c) The framework referred to in (a) establishes prohibitions and penalties for making funds or other assets available to a designated person or entity. However, as

noted in paragraph (b), the freezing obligation does not apply to the full range of assets as required.

(d) The Iceland FSA is required by Art. 16a of Act 87/1998 to issue a notice to the firms under its supervision listing individuals and legal entities whose funds and assets are to be frozen. All FIs are required to respond indicating whether they have frozen any assets. DNFBPs receive no direct notice of sanctions updates.

(e) Art. 7 of Reg. 119/2009 specifically imposes an obligation on all parties responsible for freezing funds and other economic resources to promptly notify the Ministry of Foreign Affairs (MoFA), the FSA and the owners of the assets frozen of the measures taken.

(f) Although it lacks specific detail, the framework referred to in (a) contains language shielding from liability bona fide third parties freezing funds or economic resources in good faith pursuant to the regulation.

Criterion 6.6. (De-listing and unfreezing) - Information is not publicly available regarding the submission of de-listing requests to the relevant UN sanctions committee or to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to any specific list. Art. 9 of the ISA provides that Icelandic citizens, residents and legal entities registered or established under Icelandic law may submit a request to be removed from a list to the Minister of Foreign Affairs, who will advise the party at that time of the available remedies.

Criterion 6.7. (Access to frozen funds for basic expenses, etc.) -The ISA and, specifically, Art. 7 of Reg. 119/2009 provide a general legal framework under which funds or other assets may be unfrozen by the Minister of Foreign Affairs when they are:

- necessary to meet the basic needs of the individuals in question and their dependants, including payments for food, rent or mortgages, medication or medical treatment, taxes, premiums and public service charges;
- intended solely to pay reasonable expert fees or for the reimbursement of the cost of legal services;
- intended only to pay fees or service charges for normal custody or maintenance of frozen funds or economic resources.

The legislation is silent as to whether the specific procedures set out in UNSCR 1452 (for example, notice to the appropriate Committee of intent to release funds, requirement for prior approval of the appropriate Committee, etc.) must be met.

Art. 8 of 448/2014 provides that the Minister of Foreign Affairs may grant exemptions from security measures (including freezing funds or other assets) on “humanitarian or other grounds”.

Weighting and conclusion

Iceland’s legislative framework to implement targeted financial sanctions has improved since the 3rd MER. However, there are still moderate deficiencies, including inadequate scope of assets subject to freezing, lack of mechanisms for designating persons and lack of procedures and publicly available information on unfreezing funds.

Recommendation 6 is rated Partially Compliant.

Recommendation 7 – Targeted financial sanctions related to proliferation

These requirements were added to the FATF Recommendations, when they were last revised in 2012 and, therefore, were not assessed during Iceland 3rd mutual evaluation which occurred in 2006.

Criterion 7.1. - The legal basis for the implementation of the U.N. Security Council resolutions (UNSCRs) pertaining to the financing of proliferation of weapons of mass destruction is set forth in the amended Act No. 93/2008 and Reg. No. 119/2009. Specifically, Reg. No. 160/2015, as amended by Reg. No. 496/2016, implements the UNSCRs relating to the Democratic People’s Republic of Korea (DPRK). Regulation No. 384/2014, as amended by Regulation Nos. 275/2015, 786/2015, 91/2016 and 506/2016, implements the UNSCRs relating to Iran. The mechanism for implementing the UNSCR relating to DPRK is the same as described in c.6.4 – the lists established and maintained by the UN Security Council are incorporated by reference and updates take effect automatically upon publication on the UN Security Council website. All persons, including FIs and DNFBPs, are required to follow any changes that are made to the sanctions list and to freeze the funds of listed persons without delay. However, the regulation that implements the UNSCR related to Iran has not been amended to incorporate the UNSC website. As such, the Iran UNSCR are implemented as transposed into the EU legal framework and, as previously noted, the transposition of designations under UNSCRs in the EU legal framework does not take place without delay.

Criterion 7.2. –

(a) Iceland’s implementation of UNSCRs requires for all natural and legal persons in Iceland to freeze the funds and other assets of designated persons/entities. As noted in 7.1, the obligation as relates to DPRK is effective as soon as the designation is published in on the UN Security Council website (Art. 2, para. 3. Reg. 160/2015). As relates to Iran, the obligation is not triggered until publication in the Official Journal of the European Union which means that freezing may not happen without delay for entities which are not already designated by the EU. This raises the potential for the designated person/entity to effectively receive prior notice before a freezing action can take place.

(b) As noted in c.6.5(b), the freezing obligation does not include assets that are jointly or indirectly owned or controlled, income derived from assets indirectly owned or controlled, or funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

(c) Article 11 of the ISA indicates Icelandic nationals and other persons in Iceland as well as Icelandic nationals abroad, both natural and legal persons, are prohibited from making funds and other assets available to designated persons and entities unless otherwise authorised or notified in compliance with the relevant UNSCRs.

(d) As noted in c.6.5(d), the requirement to communicate designations is limited to FIs supervised by the FSA.

(e) As noted in c.6.5(e), Art. 7 of Reg. No. 119/2009 imposes an obligation on all parties responsible for freezing funds and other economic resources to promptly notify competent authorities.

(f) As noted in c.6.5(f), the rights of bona fide third parties acting in good faith are protected.

Criterion 7.3. - Art. 9 of Act 87/1998 provides a general obligation for the FSA to inspect the operations of regulated entities as often as deemed necessary. There are no measures in place for monitoring and ensuring compliance governing the obligations under Recommendation 7, and the legislation does not include provisions on sanctions against non-compliance.

Criterion 7.4. - Information is not publicly available regarding the submission of de-listing requests to the relevant UN sanctions committee or to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to any specific list. Art. 9 of the ISA provides that Icelandic citizens, residents and legal entities registered or established under Icelandic law may submit a request to be removed from a list to the Minister of Foreign Affairs, who will advise the party at that time of the available remedies.

Criterion 7.5. -

(a) Article 7 of Reg. No. 119/2009 specifically permits deposit into frozen accounts of interest or other income and payments pursuant to contracts, agreements or obligations entered into or formed before the restrictive measures were decided and provides that such deposits will be frozen. However, it does not allow for a designated person to make payments due under contracts entered into prior to listing.

(b) Art. 8 of Reg. No. 119/2009 empowers the Minister to grant exemptions from restrictive measures for “humanitarian or other reasons” which could include payments due under a contract entered into prior to listing. Art. 8 of the ISA likewise provides the Minister with a general power to grant exemptions from sanctions and allows for conditions to be set to ensure that any exemption does not undermine or circumvent the objectives of the sanction. However, the specific conditions set out in sub-criteria 7.5(b) are not addressed.

Weighting and conclusion

Iceland has a basic legislative framework to implement targeted financial sanctions related to proliferation of WMD. However, there are still moderate deficiencies regarding the ability to implement sanctions regarding Iran without delay, inadequate scope of assets subject to freezing, monitoring for compliance and allowing a designated person to make payments due under contracts that pre-date imposition of the sanction.

Recommendation 7 is rated Partially Compliant.

Recommendation 8 – Non-profit organisations

During Iceland’s 3rd Round Mutual Evaluation in 2006, Iceland was rated non-compliant with former SR. VIII on NPOs. The main deficiencies were that Iceland had not yet reviewed the adequacy of their domestic laws and regulations that relate to NPOs vis-à-vis terrorist financing and had not yet undertaken any outreach to the NPO sector. In addition, there were no adequate measures in place to sanction violations of oversight measures or rules by NPOs. Amendments to R.8 in October

2016 strengthen the requirement for countries to take a risk based approach to supervision and monitoring of NPOs which they have identified as being vulnerable to TF abuse.

Taking a risk-based approach

Criterion 8.1. - (a) The Icelandic authorities have not yet identified which sub-set of organisations fall within the FATF definition of NPO. The authorities have not taken steps to identify the features and types of NPOs which by virtue of their activities may be at risk of TF abuse.

(b) In Iceland's 2017 national risk assessment, the authorities conclude that the TF risk in Iceland is low and do not include any information on, or assessment of, the threats posed by terrorist entities to NPOs in Iceland.

(c) The Icelandic authorities refer to a report assessing the overall importance of legislation on non-governmental and private institutions that was published by the Ministry of Welfare in 2010. However, the authorities confirmed that this report did not review the adequacy of measures in relation to TF.

(d) Icelandic authorities reported that the National Security Unit of the National Commissioner of the Icelandic Police regularly publishes risk assessments on national security and terrorism. Nevertheless, the report provided to the assessors did not contain any assessment of the potential TF vulnerabilities for the NPO sector. The Icelandic authorities did not provide any other information to demonstrate that they periodically re-assess potential vulnerabilities of the NPO sector to terrorist activities.

Sustained outreach concerning terrorist financing issues

Criterion 8.2. - (a) Iceland does not have policies to promote accountability, integrity or public confidence in the administration of NPOs.

(b)/(c)/(d) - Iceland has not yet conducted any outreach to NPOs or the donor community to deepen awareness about the potential vulnerabilities of NPOs to terrorist financing abuse, or to develop and refine best practice to protect NPOs from TF abuse.

Targeted risk-based supervision or monitoring of NPOs

Criterion 8.3. - Iceland has not completed a risk assessment of the features and types of NPOs that may be vulnerable to TF abuse and, therefore, has not taken steps to promote a risk based approach to supervision or monitoring of NPOs that may be at risk of TF abuse. While NPOs are subject to some supervision to a varying extent through existing regulatory measures (see below), these measures are not based on the identified risk of TF abuse.

Registration/Licencing – As part of general registration requirements for fund raising activities, individuals are required to provide information on the names of individuals organising the campaign, the purpose of their campaign and information on the accounts. (Art. 4 of Act 1977/No.5) Similarly foundations must provide information on their board of members and the aims of the fund or institution (Art. 2 of Act 1988/No.19).

In addition, in order to obtain a *Kennitala* (social security number) which is required to open a bank account, NPOs must register with the Business Register and provide information on the entity's name, identification number, address, types of business entity or legal form and any other information that is necessary to register about company activity according to law or necessity for public entities (Art. 2, 4 and 5 of Act No. 17/2003 on the Business Register).

Lastly, NPOs are also required to file annual reports with the Directorate of internal Revenue and the National Audit Office, providing details on their income, expenses and assets; however Icelandic authorities acknowledged that in practice many NPOs are unaware of this obligation and are not filing such report.

Record Keeping - All types of societies, funds and institutions that engage in business activity or engaging in fund raising or management of funds are obliged to keep accounts, including documents which accompany such records and any electronic data, for a period of seven years from the end of the relevant fiscal year (Art. 1 clause 7, Art. 20 of Act 145/1994 on Accounting).

Criterion 8.4. - (a) There is no designated competent authority responsible for monitoring or supervising NPOs regarding AML/CFT issues. Three different District Commissioners are tasked with more general supervision of NPOs: The District Commissioner of Suðurland; The District Commissioner of Norðurland Eystra; and The District Commissioner of Norðurland Vestra. Notably, Icelandic authorities report that the Ministry of Justice (MoJ) has sent the aforementioned three District Commissioners, a letter highlighting the possible risks of abuse posed to NPO's and attention drawn to FATF recommendations concerning NPO's when scrutinising information regarding registration, supervision and granting of permissions.

(b) The Icelandic authorities do not have adequate or proportionate measures in place to sanction violations of oversight measures by NPOs or persons acting on behalf of these NPOs. Notably, authorities do have some limited power to impose administrative sanctions for violations of the Act on Fund Raising Campaigns (see Art. 11 of Act 1977/No.5) and violations of the Act on Foundations Engaging in Business Operations (see Art. 43 of Act 33/1999). In addition, Art. 36 of the Accounting Act provides that violations of the Act are subject to a fine and, in cases of serious breaches (Art. 37 and Art. 38), subject to imprisonment for up to six years. Nevertheless, authorities do not have powers to remove trustees, or to de-licence or de-register entities that do not comply.

Effective Information gathering and investigation

Criterion 8.5. - (a) There are no co-ordination mechanisms for information sharing on NPOs between relevant competent authorities.

(b) Icelandic authorities report that all cases concerning possible terrorist financing would be investigated by the NSU, including cases relating to TF abuse of an NPO. However, assessors were not provided any law or policy specifying that the NSU mandate extends to investigating TF abuse of NPOs.

(c) The NSU may be able to obtain some limited information on the management and administration of NPOs via the business register and/or the annual tax returns during the course of an investigation. Nevertheless, as there is no direct obligation for NPOs to register with the business registry and the requirement for NPOs to file

annually is not enforced in practice, it is not clear that detailed or up-to-date information on the administration and management of NPOs would be available during the course of an investigation.

(d) FIs/DNFBPs are required to report STRs and other information to the police, including information relevant to TF abuse of NPOs to FIU-ICE (see R.20). Nevertheless, there is no guidance for reporting entities on red flag indicators for TF abuse of NPOs and it is not clear that reporting entities would know what types of activity to report.

Effective capacity to respond to international requests for information about an NPO of concern

Criterion 8.6. - There are no specific procedures in place for coordinating or dealing with international requests for information regarding NPOs vulnerable for TF abuse. Icelandic authorities report that the Sauðárkrókur District Commissioner would be responsible for international inquiries concerning funds and institutions; however there are no procedures in place to deal with such requests in practice and no designated contact point for the other types of NPOs.

Weighting and conclusion

Icelandic authorities have not yet taken any steps to identify the features and types of NPOs which by virtue of their activities may be at risk of TF abuse. In addition, there has been no outreach to the NPO sector on TF issues, and it is not clear that up-to-date information on the administration and management of NPOs would be available during the course of an investigation.

Recommendation 8 is rated Non Compliant.

Recommendation 9 – Financial institution secrecy laws

Iceland was rated *Compliant* with these requirements during the third evaluation (para. 380ff).

Criterion 9.1 – Pursuant to Art. 58 of the Act No. 161/2002 on financial undertakings, the officers of such undertakings, their employees and other parties who perform services for such undertakings are bound by a duty of confidentiality concerning any kind of knowledge they obtain during the course of their employment and which relates to the personal or business affairs of its customers unless provisions of law stipulate otherwise. The same professional secrecy provisions also apply for payment institutions and e-money institutions (paragraph 2 of Article 23 of Act No. 17/2013 (e-money) and paragraph 2 of Article 17 of Act No. 120/2011 (payment services)).

Similarly, Icelandic authorities report that insurance brokers and pension firms are also subject to similar confidentiality requirements (Art. 27 (1) of the Act on Insurance Mediation and Art. 31(1) of Act No. 129/1997 on Mandatory Pension Insurance and on the Activities of Pension Funds). In particular Iceland reports that the board of directors, managing director and other staff members, as well as the auditors of the pension fund, are subject to confidentiality concerning any

information which may come to their knowledge in the course of the performance of their duties and which is confidential by law or by nature.

There are no provisions concerning professional secrecy for MVTs providers or currency exchange providers.

In addition, all FIs are subject to the Act on the Protection of Privacy as regards the Processing of Personal Data, No. 77/2000. This Act provides that personal information may be shared if necessary to fulfil a legal obligation (Art. 8 of Act No. 77/2000).

Sharing on Information between FIs and competent authorities

The aforementioned confidentiality requirements provide that professional secrecy must be maintained unless provisions of law stipulate otherwise. Art. 17 of the AML/CFT Act therefore provides an exception from these confidentiality requirements, by requiring that, at the written request of police who receive notifications of ML or TF and investigate them, persons under obligation to report must provide all the information considered necessary for the investigation. In addition, Art. 21 of the AML/CFT Act provides an exemption from all non-disclosure obligations to which an FI/DNFBP may be bound by law or other means, when the FI/DNFBP discloses information pursuant to the AML/CFT Act to the police.

Similarly, all FIs are obliged to grant the FSA access to all their accounts, minutes, documents and other material in their possession regarding their activities which the FSA considers necessary, including AML/CFT (Art. 9 of the Act on Official Supervision of Financial Activities, No. 87/1998).

Sharing of information between competent authorities domestically (LEAs and FSA)

There are no provisions of current legislation which limit the possibilities of the police authorities in sharing information obtained pursuant to the duty to report under Article 17.

All employees of the FSA are bound by professional secrecy (Art. 13 of the Act on Official Supervision of Financial Activities, No. 87/1998), except when a judge rules that they should disclose such information in court or to the police or that such information must be disclosed in accordance with the law. Art. 15 of Act No. 87/1998 also allows the FSA to share any information with the Central Bank which is considered useful for the Bank's activities. The above restrictions for the FSA to share information with domestic counterparts appears fairly strict.

Sharing of information between competent authorities internationally

The FSA may provide supervisory authorities of another EEA member state with information subject to obligations of confidentiality, if such information sharing is a part of co-operation between states in supervision and information is to be used in performing supervisory activities in accordance with law (Art. 14 of the Act on Official Supervision of Financial Activities). Information may only be provided if it is subject to obligations of confidentiality in the receiving state. Agreements may be reached with regulatory authorities in states outside the EEA for exchange of

information provided that obligations of confidentiality are observed in accordance with the Act on Official Supervision of Financial Activities.

Sharing of information between financial institutions (R. 13, 16 and 17)

The relevant requirements (Art. 58 of Act No. 161/2002, Article 23 of Act No. 17/2013 and Art. 17 of Act No. 120/2011) clarify that professional secrecy is required unless provisions of law stipulate otherwise. Therefore the information required by R.13 (correspondent banking), R.16(wire transfers) and R.17 (3rd Party Reliance) can be exchanged on grounds of Article 11 and 16 of the AML/CFT Act, as well as regulation No. 386/2009 on wire transfers.

Professional Secrecy requirements also do not appear to inhibit information exchange within financial groups, as financial undertakings are permitted to share information necessary for risk management with a parent company (Art. 59 of the Act on Financial Undertakings No. 161/2002).

Weighting and conclusion

Overall, financial institutions secrecy laws do not impede the application of the FATF Recommendations. Nevertheless, the requirement for the FSA to only share information if required by law or if required by a court order, appears overly strict and may inhibit information sharing between FSA and other domestic competent authorities (e.g. LEAs).

Recommendation 9 is rated Largely Compliant.

Recommendation 10 – Customer Due Diligence

During Iceland’s 3rd Round Mutual Evaluation in 2006, Iceland was rated partially compliant with former R.5, which contained the previous requirements in this area. The main deficiencies were that CDD measures were limited to customer identification requirements, there was no general requirement to identify beneficial owners for all customers and the possibilities for FIs to apply no CDD measures were overly broad. In addition, there were no general requirements to apply CDD to existing customers, nor was there a requirement to terminate the business relationship in the case that CDD could not be performed. Since 2006, Iceland made important progress in addressing these deficiencies, through amendments to the AML/CFT Act in 2008 (AML/CFT Amendment Act No. 77/2008) and in 2016 (AML/CFT Amendment Act No. 64/2016).

Anonymous Accounts

Criterion 10.1 – While there is no explicit prohibition on anonymous accounts or accounts in fictitious names, the AML/CFT Act requires proof of identity when establishing a business relationship, including opening an account (Art. 5, AML/CFT Act). Art.9 of the AML/CFT Act prohibits establishing a relationship or carrying out transactions if identity is not proved in accordance with the first and second paragraphs of Art. 5 (on customer identification and verification).

When CDD is required

Criterion 10.2 – Reporting entities are required to perform CDD measures: (a) when establishing a permanent business relationship; (b) when carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked; (c) when a transfer of funds takes place, in the case of a single transaction, whether the movement of the funds is domestic or across borders, amounting to ISK 150 000 (approx. EUR 1 000) or more based on the official reference exchange rate as posted at any given time; (d) when there is a suspicion of ML or TF, regardless of any exemption or threshold; (e) when there are doubts about the veracity or adequacy of previously obtained customer identification data (Art. 4, points a-e, AML/CFT Act).

In 2016, Iceland amended the AML/CFT Act to also introduce a requirement for FIs to undertake full CDD measures (including those concerning the beneficial owner) when carrying out an occasional domestic or international wire transfer that is over EUR 1 000 (ISK 150 000) (Art. 4, point f). The definition of wire transfers covers wire transfers that go through Icelandic financial undertakings, payment institutions and/or electronic money institutions, but does not include branches or agents of foreign undertakings operating in Iceland that are of the same categories. This appears to be only a minor deficiency as there are currently only four agents of foreign payments institutions and one branch of a foreign life insurance company operating in Iceland. However, this may become a concern should additional foreign branches be allowed to operate in Iceland in the future.

Required CDD measures for all customers

Criterion 10.3 – FIs prior to establishing a business relationship or transaction must require the new customer to prove his/her identity (Art. 5, AML/CFT Act). Natural persons must present approved personal identification documents and legal persons must submit a certificate from the register of undertakings of the directorate of internal revenue, or a comparable agency, with the name domicile and official registration number.

Criterion 10.4 – FIs are required to ensure that holders of powers of attorney and other parties specifically authorised to represent a customer vis-à-vis a financial undertaking, including managing directors and members of the board of directors, prove their identity (Art. 5, para. 1, AML/CFT Act). Furthermore, such parties must demonstrate that their power of procuration or specific authorisation has been duly obtained. Nevertheless, this requirement does not appear to extend to customers that are natural persons.

Criterion 10.5 – For all customers, reporting entities are required to obtain information about the beneficial owner and to take reasonable measures to confirm his/her identity (Art. 5, para. 2, AML/CFT Act). In addition, all reporting entities are required to take steps to verify that information on the beneficial owner is correct and satisfactory. In cases where it is not clear who the beneficial owner is, then the obliged party is required to request further information from the customer (Art. 5, para. 2, AML/CFT Act). If it is not possible for FIs to find the beneficial owner, e.g. because the ownership is so widely dispersed, the obliged party must take lawful

measures to acquire satisfactory information about the individuals who in fact direct the customer's activities.

The AML/CFT Act defines the beneficial owner as: *"The natural person or persons who ultimately control the customer, legal person or natural person on whose behalf a transaction or activity is being conducted"* (Art. 3, point 4). This is broadly in line with the FATF definition.

Criterion 10.6 – FIs are required to obtain information from the prospective customer concerning the purpose of the intended business (Art. 5, para. 3, AML/CFT Act).

Criterion 10.7 - (a) FIs are required to carry out regular monitoring of their business relationships with their customers (Art. 6, AML/CFT Act). In addition, reporting entities must obtain satisfactory information and take lawful measures to verify it in order to ensure that transactions are consistent with the available customer information, e.g., by scrutiny of the transactions undertaken throughout the course of the contractual relationship.

(b) FIs are required to update customer information and obtain further information in accordance with the AML/CFT Act "as needed" (Art. 6, AML/CFT Act). Art. 7 further provides that the on-going measures stipulated in Art. 6 are permitted to be implemented on a risk-sensitive basis.

Specific CDD measures for legal persons and arrangements

Criterion 10.8 - FIs are required to independently assess whether they understand the ownership and administrative structures of customers that are legal persons (Art. 5, AML/CFT Act). While there is no explicit requirement for FIs to understand the nature of the customer's business in the Act, paragraph 19 of the FSAs 2014 Guidelines do clarify that a reporting entity proposing to enter into a contractual relationship with a legal person must know the identity of the legal person in question and be assured of its existence and the identity of its agents and the purpose of the transaction. In addition, paragraph 20 of the FSAs Guidelines provides that reporting parties shall verify that the legal person engages in business and that its operations have not been abandoned.

The above requirements however are limited to legal persons only and not legal arrangements.

Criterion 10.9 - Where the customer is a legal person, FIs are required as well as identifying the customer, to obtain a certificate from the Business register, or a comparable public agency, with information on the legal person's name, proof of existence, legal form and domicile (Art. 5, AML/CFT Act; Art. 4, Act No 17/2003 on Business Register). Financial Institutions are also required to obtain the identity of parties authorised to represent a customer vis-à-vis a financial undertaking, including managing directors and members of the board of directors (Art. 5, para. 1, AML/CFT Act). Nevertheless, this requirement does not extend to all persons having a senior management position, which is a minor deficiency.

The above requirements however are limited to legal persons only and not legal arrangements.

Criterion 10.10 - According to Art. 5, para. 2 of the AML/CFT Act, reporting entities are always required to identify of the beneficial owner, which is defined as “the natural person(s) who ultimately own or control a legal person through direct or indirect ownership of more than 25% share/voting rights in the legal person, or are deemed to exercise control by any other means.” If it is not clear from the materials submitted who the beneficiary owner is, the reporting entity shall request further information. If it is not possible to find the beneficial owner, e.g. because the ownership is so widely dispersed that no individuals own or direct the customer in the sense of this Act, the party under obligation to report is obliged to take lawful measures to acquire satisfactory information about the individuals who in fact direct the customer’s activities. Companies listed on a stock exchange and subject to disclosure requirements are exempt from this requirement (Art. 15 and Art. 3 AML/CFT Act).

Criterion 10.11 - For customers that are legal arrangements, FIs are required to identify the beneficial owners, which is defined as “the natural person(s) who are the future owners of 25% or more of the assets of a trust or a similar legal arrangement or who control more than 25% of its assets”. Where the individuals who benefit from such trust have yet to be determined, the beneficiary is defined as the person or persons in whose interest the fund is set up or operates. The above definition would also not cover the settlor or protector (if any) of trusts.

CDD for Beneficiaries of Life Insurance Policies

Criterion 10.12 - There is no explicit requirement for FIs to conduct the CDD measures listed in a) and b) in the criterion as soon as the beneficiary is identified or designated. Nevertheless, this appears to be only a minor deficiency, as FIs are required to verify the identity of the beneficiary no later than at the time of payouts or before the time the beneficiary intends to exercise rights vested under the policy (Art. 8 of AML/CFT Act).

Criterion 10.13 - There is no specific requirement for FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. Financial institutions are required to at all times to subject customers to enhanced due diligence in circumstances which by their nature increase the risk of ML or TF, based on risk assessment (Art. 7 AML/CFT Act).

Timing of Verification

Criterion 10.14 - According to Art. 5 of the AML/CFT Act, CDD measures shall take place prior to the establishment of a business relationship or transaction. However, Art. 8 provides that, in order not to interrupt the normal conduct of business, CDD may be postponed until a contractual relationship has been established, in cases where there is little perceived risk of ML/TF occurring. In such cases, a customer must prove their identity as soon as practicable.

Criterion 10.15 - Art. 8 of the AML/CFT Act clarifies that CDD may only be postponed until after the establishment of the business relationship in situations where little risk is perceived of ML/TF occurring. In addition, the AML/CFT Act further clarifies that while a bank account may be opened for a customer prior to CDD taking place; FIs may not carry out transactions prior to verification of the identity of the customer and beneficial owner.

Existing customers

Criterion 10.16 - Iceland amended the 2006 AML/CFT Act in 2008, to clarify that FIs/DNFBPs must carry out CDD on existing customers, as well as new customers (Art. 5), if they have not already done so. Art. 6 also provides that information on customers must be updated on a regular basis and further information obtained as needed. Art. 7 further provides that the on-going measures stipulated in Art. 6 are permitted to be implemented on a risk-sensitive basis.

Risk-based Approach

Criterion 10.17 - Under Art. 7 of the 2006 AML/CFT Act, FIs are required to subject customers to enhanced due diligence in circumstances which by their nature increase the risk of ML/TF, based on risk assessment. Chapter II of the AML/CFT Act further stipulates in which circumstances enhanced due diligence is required, including in relation to contractual relationships with PEPs, technologies or transactions that favour anonymity and distance selling transactions. Nevertheless, FIs are not required to identify, assess and understand their ML/TF risks (see c.1.10).

Criterion 10.18 - Art. 15 of the 2006 AML/CFT Act applies SDD to a) Icelandic FIs, corresponding legal persons holding a licence to operate in the European Economic Area (EEA) and regulated financial undertakings from countries outside the EEA which are subject to similar requirements to those stipulated in Iceland's AML/CFT Act; b) companies listed on a regulated market, as defined by the Act on Stock Exchanges; and c) Icelandic government authorities. In addition, Art. 15a states that SDD can be applied in certain situations, e.g. when electronic money is issued within certain amount limits. Icelandic authorities did not provide evidence that the aforementioned situations for SDD were based on identified lower risk. (see also c.1.8 above).

Art. 15 further clarifies that certain CDD requirements (basic and beneficial ownership identification and on-going due diligence) do not apply to simplified due diligence.

In addition to the scenarios provided under Art. 15 and 15a, Art. 7 of the AML/CFT Act provides that reporting entities more generally may implement CDD and ODD on a risk sensitive basis, based on an assessment of the risk of ML/TF. Financial institutions who exercise such permission must establish rules on the conduct of the risk assessment and are required to obtain approval from the FSA.

Failure to satisfactorily complete CDD

Criterion 10.19 - Iceland amended Art. 9 of the AML/CFT Act in 2008, to clarify that if a financial institution cannot conduct proper CDD, the business transaction or establishment of contractual relations with such person is prohibited. If a business relationship has already been established, it must be terminated. Consideration must also be given to filing an STR with FIU-ICE.

CDD and Tipping off

Criterion 10.20 - There are no provisions permitting FIs not to pursue the CDD process where there is formed a suspicion of money laundering or terrorist financing and performing the CDD process will tip-off the customer.

Weighting and conclusion

The possibilities to apply SDD remain overly broad and there is no specific requirement for FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. In addition, in the case where an FI forms a suspicion of ML/TF, there is no provision that permits FIs not to pursue CDD and to file an STR in the case that performing CDD would tip-off the customer. Lastly, for customers that are foreign legal arrangements, it is not clear that there is a requirement for FIs to identify the settlor or protector (if any), or to assess whether they understand the ownership and administrative structure.

Recommendation 10 is rated Partially Compliant.

Recommendation 11 – Record-keeping

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated compliant with former R.10, which contained the previous requirements in this area.

Criterion 11.1 - FIs are required to maintain information on individual customer transactions for a minimum of 5 years following the completion of the transaction (Art. 23, para. 4 and Art. 5, para. 6, AML/CFT Act). The requirement covers both domestic and international transactions.

Similarly, Art. 20 of the Accounting Act (No. 145/1994) requires all FIs to maintain complete accounting records, including documents which accompany such records and any electronic data, for a period of seven years from the end of the relevant fiscal year.

Criterion 11.2 - All reporting entities are required to preserve copies of personal identification documents and other required documents or adequate information from the documents, of a minimum of five years from the time that the business relationship ended or from the time of the transaction (Art. 5, AML/CFT Act).

Criterion 11.3 - All FIs must maintain records in such a way that individual transactions and the use of funds can be easily traced (Art. 6, Accounting Act, No. 145/1994).

Criterion 11.4 - All FIs must have systems in place which enable them to respond promptly to queries from the police or other competent authorities, including inquiries on individual customer transactions (Art. 23, para. 4, AML/CFT Act).

Weighting and conclusion

FIs are required to maintain information on individual customer transactions and CDD information or other required documents for a minimum of 5 years following the completion of the transaction and/or business relationship.

Recommendation 11 is rated Compliant

Recommendation 12 – Politically Exposed Persons (PEP)

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated non-compliant with former R.6, as Iceland had not implemented any AML/CDD measures regarding the establishment and maintenance of customer relationships with PEPs. Iceland has since introduced requirements concerning foreign PEPs, which entered force on 1 January 2008.

Criterion 12.1 - All FIs in respect to a contractual relationships or business transactions with foreign PEPs residing in another country are required to (a) determine whether the customer is a PEP; (b) obtain senior management approval before entering (or continuing, for existing customers) such business relationships; (c) take appropriate measures to verify the source of funds that are involved in the business relationship or transaction; and (d) conduct regular monitoring of the business relationship (Art. 12, AML/CFT Act). While there is no explicit requirement for FIs to verify the source of wealth, the FSAs 2014 AML/CFT guidelines Chapter 1.7.2, para. 44 clarifies that the verification of funds means that information should be obtained about the assets and income of the person in question.

Nevertheless, the above requirements are not entirely in line with the FATF definition of a foreign PEP and would not capture foreign PEPs residing within Iceland. In addition, it is not clear that the requirements in relation to foreign PEPs extend to the beneficial owner(s) of a customer.

Criterion 12.2 - There are no specific CDD requirements concerning domestic PEPs or persons who have been entrusted with a prominent function by an international organisation.

Criterion 12.3 - The obligation concerning foreign PEPs extends to immediate family members and/or close associates, of such persons (Art. 2, Regulation No. 811/2008). There are no specific CDD requirements concerning domestic PEPs.

Criterion 12.4 - There is no evidence that the requirements relating to foreign PEPs would also apply to the beneficiary of a life insurance policy. Icelandic authorities report that as life insurance undertakings are subject to AML/CFT Act Art. 12 on foreign PEPs, they should therefore apply all relevant principles of that Act when conducting their business with their customers; however Art. 12 does not contain any explicit PEP requirements towards beneficiaries (via-a-vis a customer). In the case that higher risks are identified, there is no requirement for FIs to inform senior management before the pay-outs of the policy proceeds.

Weighting and conclusion

Icelandic legislation does not cover domestic PEPs or persons who have been entrusted with a prominent function by an international organisation and there is no clear requirement for FIs to determine whether a beneficial owner or a beneficiary is a PEP. In addition, Iceland's definition of a foreign PEP is based on residency and is therefore not entirely in line with the FATF definition of a foreign PEP.

Recommendation 12 is rated Partially Compliant.

Recommendation 13 – Correspondent Banking

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated partially compliant with former R.7, which contained the previous requirements in this area. At the time, there were no requirements applicable to correspondent banking relationships with institutions in EEA countries. Similarly, at the time there was no requirement, regarding payable through accounts, to ascertain that the respondent institution's AML/CFT controls were effective and adequate.

Criterion 13.1 – The requirements of c.13.1 (a) to (d) are only required for cross-border transactions between Icelandic credit institutions and institutions outside the EEA (Art. 11 of the AML/CFT Act). While there is no explicit requirement for FIs to understand the nature of the respondent's business, Icelandic authorities report that in practice this would be included in the general requirement to gather sufficient information about the respondent's business (Art. 11 AML/CFT Act).

There are no similar requirements applicable to banking relationships with institutions in the EEA. While FIs are required to apply at all times EDD in circumstances where higher ML/TF risk is identified (Art. 7, AML/CFT Act), Art. 15 also permits FIs to apply SDD to customers (including correspondent banks) holding a licence to operate in the EEA and subject to similar requirements to those made in Iceland's AML/CFT Act.

Criterion 13.2 – With respect to payable through accounts, FIs are required to ascertain that their counterpart outside the EEA complies with CDD requirements (Art. 5, para. 1-2, AML/CFT Act) and conducts on-going due diligence (Art. 6, AML/CFT Act). Financial Institutions must be satisfied that the respondent is able to provide relevant information concerning the customer upon request (Art. 11, letter e, AML/CFT Act).

Nevertheless, CDD requirements are limited to the obligation to identify/verify the customer and beneficial owner and do not include a requirement to obtain information on the purpose of intended transactions. In addition, in regard with correspondent banking relationships within the EEA the same issues mentioned in C.13.1 apply here.

Criterion 13.3 – Credit Institutions are prohibited from entering into correspondent banking relationships with shell banks (Art. 13, AML/CFT Act). Credit Institutions are also prohibited from engaging in correspondent banking business with banks which permit shell banks to use their accounts.

Weighting and conclusion

Requirements described under c.13.1 and 2 do not apply to institutions within the EEA. Furthermore, for all correspondent banking relationships, it is not clear that there is a requirement for FIs to fully understand the nature of the respondent's business.

Recommendation 13 is rated Partially Compliant.

Recommendation 14 – Money or value transfer services (MVTs)

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated non-compliant with former SR.VI which contained the previous requirements in this area. At this time, there was no licence or registration of natural or legal persons that performed money or value transfer services and no mechanism for monitoring compliance with the FATF Recommendations. In 2008, Iceland passed amendments to the AML/CFT Act, introducing a requirement for all MVTs to register with the FSA.

MVTs sector

Within Iceland's regulatory framework, there are a number of FIs that can provide money value transfer services: Icelandic payment institutions (one currently registered under the Act on Payment Services), MVTs providers as defined by the AML/CFT Act (none currently registered) and other FIs (including Icelandic financial undertakings and electronic money institutions) that are licenced to offer similar services. Icelandic authorities report that following the implementation of the payment services directive into Icelandic law in 2011 all MVTs providers in practice would be registered as payment institutions.

In addition, under the payment services directive, Iceland allows foreign MVTs providers and their agents' licenced in other EEA countries to offer their services in Iceland. Icelandic authorities report that there are 4 agents of a UK payment institution providing money transfer services in Iceland, under the passporting system. The FSA reports that these agents are regulated by the home supervisor and that the FSA does not conduct any supervision or monitoring of these agents.

Criterion 14.1 – All natural or legal persons operating money exchange services or money value transfer services are required to register with the FSA (Art. 25a, AML/CFT Act; Art. 15, Act No. 120/27 on Payment Services). Financial undertakings, as defined in the Financial Undertakings Act, that provide MVTs do not need to register separately (Art. 25a, AML/CFT Act; Art. 2, FUA).

Icelandic authorities report that the FSA has issued rules (Rules 917/2009) which provide additional guidance on the implementation of, and conditions for, registration for MVTs. Nevertheless, assessors have not yet been provided with a copy of these rules and authorities report that the rules need to be updated to reflect amendments in the FSA's procedures.

Criterion 14.2 – While the FSA is not acting proactively to identify illegal MVTs activity, the FSA has responded to some notifications of potential illegal MVTs activity (e.g. through informative letters). The AML/CFT Act does provide that if a person is found to be providing illegal MVTs (i.e. without a valid licence), they may be fined (Art. 27, para. 2, AML/CFT Act). Nevertheless, there have been no sanctions taken to date and Iceland has not provided information on the size of applicable sanctions. It is therefore difficult to assess whether the sanctions are dissuasive or proportionate.

Criterion 14.3 – The FSA has the responsibility to monitor compliance by MVTs Providers and other FIs offering such services, with the provisions of the AML/CFT Act and rules and regulations issued pursuant to the Act (Art. 25, AML/CFT Act).

The FSA does not monitor agents of EEA MVTS providers that offer such services in Iceland (with a physical presence), under the passporting system. Under the EU Payment Services Directive, the monitoring of AML/CFT compliance is the responsibility of the home Member State in close co-operation with the host Member State.

Criterion 14.4 – The Act No 120/2011 on Payment Services states that the FSA must keep a register of payment institutions, including their agents and branches (Art. 13a, Act No. 120/2011). Nevertheless, there is no equivalent requirement for agents of MVTS providers to be registered or for MVTS providers to maintain a current list of its agents. As mentioned above, Icelandic authorities report that all MVTS providers will in practice be licenced as payment institutions. The deficiency is therefore minor.

Criterion 14.5 – According to the Act on Payment Services, Art. 23b and 23g, payment institutions providing services through agents shall include the agents in their internal control mechanisms, including their AML/CFT routines. There is no legal requirement for the payment institution to monitor the agents. However, the FSA expects that agents are included in payment institutions own fulfilment of the AML/CFT act and consequently are monitored.

Weighting and conclusion

Providers of MVTS must be registered with the FSA, who also has the responsibility for monitoring the Icelandic MVTS providers' compliance with the AML/CFT Act. Although there are deficiencies in relation to MVTS providers, there are currently no MVTS providers registered and, should registration be sought, they would be licenced as payment institutions. As such, these deficiencies are very minor in the context of Iceland. Although the FSA has responded to some notifications of potential illegal MVTS activity, the FSA is not acting proactively to identify illegal MVTS activity. Further, the FSA does not monitor agents of EEA MVTS providers that offer such services in Iceland.

Recommendation 14 is rated Largely Compliant.

Recommendation 15 – New technologies

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated largely compliant with former R.8, as the requirement for FIs to take measures as needed to prevent misuse of technological developments in ML/TF schemes was only partly covered by Art. 14 of the AML/CFT Act. The new R.15 focuses on assessing risks related to the use of all new and developing technologies and new products and business practices, and no longer specifically targets distance contracts.

Criterion 15.1 - There is no direct requirement for FIs to identify and assess the ML/TF risks in relation to the development of new products and business practices or the use of new or developing technologies. FIs in Iceland must always show special caution in the case of new technology, products or transactions that might favour anonymity (Art. 14, AML/CFT Act). Nevertheless, the scope of this requirement is limited to technologies that favour anonymity, and it is not clear that the obligation for FIs to "show caution" would require them to identify and assess the ML/TF risks in relation to these new technologies, products or transactions.

Iceland's 2017 NRA does not include a thorough assessment of the risks related to new technologies, but does identify e-money payments and virtual currencies as areas for potential ML/TF vulnerability.

Criterion 15.2 - In addition to the requirement to show special caution in the case of new technology, products or transactions that might favour anonymity, FIs must take measures to prevent the use of such business for ML/TF purposes (Art. 14, AML/CFT Act).

More generally, FIs are required to establish written internal rules and maintain internal controls designed to prevent their business activities from being used for ML/TF (Art. 23, AML/CFT Act). Nevertheless, there is no specific requirement for FIs to undertake a risk assessment prior to the launch of new products, practices or technologies. There is also no clear obligation to put in place mitigating measures to address identified risks in relation to new technologies.

Weighting and conclusion

Financial Institutions must show special caution in the case of new technology, products or transactions that might favour anonymity and must take measures to prevent the use of such business for ML/TF purposes. Nevertheless, there is no direct requirement for FIs to identify and assess the ML/TF risks in relation to the development of new technologies, new business practices or new and pre-existing products. Competent authorities have largely not identified or assessed the ML/TF risks in relation to new technologies (outside of the limited ML/TF assessment of virtual currencies and e-money in the NRA).

Recommendation 15 is rated Partially Compliant.

Recommendation 16 – Wire transfers

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated non-compliant with former SR VII (which contained the previous requirements in this area) as Iceland had not implemented any requirements regarding obtaining and maintaining information on wire transfers.

Since the 3rd MER, Iceland has transposed the EU Regulation on wire transfers (No. 1781/2006) into Icelandic law (through Reg. No. 386/2009), which came into effect in April 2009. According to the Icelandic authorities, Reg. No. 386/2009 is an exact copy of EU Reg. No. 1781/2006 (with the exception of Art. 3, para. 6 of the EU Regulation). Assessors did not have access to a translated version of the Icelandic regulation. Therefore, they referred to EU Reg. No. 1781/2006 for the assessment of this Recommendation. At the time of the on-site, Iceland had not implemented EU Reg. 847/2015.

Transfers taking place entirely within the EU and EEA are considered domestic transfers for the purposes of R.16, which is consistent with the R.16. Nevertheless, EU Reg. 1781/2006 does not include all the requirements of R.16 - specifically, it does not include requirements regarding information on the beneficiary of a wire transfer or obligations on the intermediary financial institutions involved in a wire transfer, which were added to the FATF standards in 2012.

Criterion 16.1. - FIs are required to ensure that all cross-border wire transfers of €1 000 or more are accompanied by the required and accurate originator information. However, there is no requirement to ensure that such transfers are also accompanied by the required beneficiary information (Art. 4 and 5, EU Reg. 1781/2006).

Criterion 16.2. - The requirements regarding batch files are consistent with the FATF requirements regarding originator information. However, there is no requirement to include beneficiary information in the batch file (Art. 7.2, EU Reg. 1781/2006).

Criterion 16.3. - Transfers of below €1 000 are required to be accompanied by the originator information. However, there is also no requirement to include the necessary beneficiary information (Art. 5, EU Reg. 1781/2006).

Criterion 16.4. - In cases where there is suspicion of ML/TF, verification of the customer (originator) information is required as part of CDD (Art. 4, AML/CFT Act).

Criteria 16.5 and 16.6. - Transfers within the EU and EEA are considered to be domestic transfers for the purposes of R.16 and are treated as such within EU Reg. 1781/2006. Domestic transfers may be accompanied only by the account number (or unique identifier) of the originator. The originator's payment service provider (PSP) must be able to provide complete information on the originator, if requested by the payee, within three working days which is consistent with the second part of criterion 16.5 and criterion 16.6. There is also a general obligation to provide information to competent authorities (Art. 6, EU Reg. 1781/2006).

Criterion 16.7. - The ordering FI is required to retain complete information on the originator for five years (Art. 5, EU Reg. 1781/2006).

In addition, FIs are required to maintain information on individual customer transactions (domestic and international) for a minimum of 5 years following the completion of the transaction (Art. 23, para. 4; Art. 5, para. 6, AML/CFT Act). However, the lack of requirements relating to beneficiary information also indirectly affects this criterion.

Criterion 16.8. - According to Reg. 1781/2006 Chapter II, the ordering FI has to comply with the requirements mentioned above before transferring funds. Art. 15 requires member states to lay down rules on penalties applicable to infringements of the provisions of the regulation and to take all necessary measures to ensure that they are implemented. Iceland authorities report that sanctions may be levied against FIs for infringement of regulations issued under the AML/CFT Act; including Reg. 386/2009 implementing EU Reg. 1781/2006 on wire transfers (Art. 27, AML/CFT Act).

Criterion 16.9. - Intermediary FIs are required to ensure that all originator information received and accompanying a wire transfer is kept with the transfer. There are no requirements to do the same for beneficiary information (Art. 12, EU Reg. 1781/2006).

Criterion 16.10. - Where the intermediary FI uses a payment system with technical limitations, it must make all information on the originator available to the beneficiary financial institution upon request, within three working days, and must

keep records of all information received for five years. However, there is also no requirement for beneficiary information (Art. 13, EU Reg. 1781/2006).

Criterion 16.11. - Intermediary FIs are not required to take reasonable measures to identify cross-border wire transfers that lack originator information or required beneficiary information.

Criterion 16.12. - There are no provisions relating to the role of the intermediary institution in responding to situations where the originator or beneficiary information is missing.

Criterion 16.13. - The payee's PSP (beneficiary financial institution) is required to detect whether the required information on the payer is missing. There are no requirements to detect whether the required beneficiary information is missing (Art. 8, EU Reg. 1781/2006).

Criterion 16.14. - There are no requirements for the beneficiary institution to verify the identity of the beneficiary under EU Reg. 1781/2006.

Criterion 16.15. - When there is incomplete payer information, the payee's PSP is required to either reject the transfer, or ask for the complete payer information. The payee's PSP is required to consider the missing or incomplete payer information as a factor in assessing whether the transfer of funds, or any related transaction, is suspicious and whether it must be reported to the relevant authorities. There are no requirements relating to cases where the required beneficiary information is missing or incomplete (Art. 9 and 10, EU Reg. 1781/2006).

Criterion 16.16. - The requirements apply to all PSPs, which are defined as any natural or legal person whose business includes the provision of transfer of funds services (Art. 2, EU Reg. 1781/2006).

Criterion 16.17. - PSPs and MVTs providers (as obliged entities under the AML/CFT Act) are required to inspect transactions and file an STR where ML/TF is suspected. However, when a PSP or MVTs controls both the ordering and beneficiary side of a wire transfers, there is no specific obligation to take into account information from both sides in order to determine whether an STR has to be filed and to file the STR in any country affected by the suspicious wire transfer.

Criterion 16.18 - Icelandic authorities report that all FIs when conducting wire transfers are required to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities, as per obligations set out in the relevant UNSCRs (UNSCRs 1267 and UNSCR 1373) (Art. 5, Reg. 448/2016 on measures against terrorist activities). However, the deficiencies under R.6 also indirectly impact this criterion.

Weighting and conclusion

There are no requirements relating to information on the beneficiary and a lack of requirements on intermediary FIs due to shortcomings in EU Reg. 1781/2006. Similarly, there are no specific requirements for MVTs providers who control both the ordering and beneficiary side of a wire transfer, to take into account information from both sides.

Recommendation 16 is rated Partially Compliant.

Recommendation 17 – Reliance on third parties

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated partially compliant with former R.9, which contained the previous requirements in this area. The main deficiency cited at the time was that certain requirements concerning reliance on 3rd parties were unenforceable as the obligation was placed on the 3rd party to provide information. Similarly, FIs were not required to take adequate steps to satisfy themselves that copies of the relevant documentation would be made available, or that the 3rd party is sufficiently regulated. The FATF's new requirements emphasise the country risk of the 3rd party required to perform due diligence on the customer.

Criterion 17.1- FIs are permitted to rely on 3rd party credit or financial institutions for conducting CDD measures (limited to identification of the customer, identification of the beneficial owner and understanding the business relationship) (Art. 16, AML/CFT Act). The article specifies that final responsibility as regards to the CDD measures rests with the obliged entities.

(a) There is no explicit requirement for FIs to immediately obtain the necessary information concerning CDD (identification of the customer/ beneficial owner and understanding the business relationship).

(b) FIs are required to ensure that the third party complies with the obligation to provide CDD information or other appropriate data and documents upon request without delay (Art. 16, AML/CFT Act). FIs must enter into a written contract providing in greater detail for the arrangements of the provision of information.

(c) Financial Institutions prior to obtaining information from 3rd parties, must attempt to ensure that the 3rd party meets requirements similar to Iceland's AML/CFT Act and is subject to surveillance similar to that which Icelandic financial undertakings are subject (Art. 16, para. 1, AML/CFT Act). The deficiencies in the AML/CFT Act in relation to CDD (see discussion under R.10) have a minor indirect impact on this criterion.

Criterion 17.2 - There is no specific requirement for FIs to take into account information on the ML/TF risks of a particular country when determining in which country the 3rd party may be based. FIs should however ensure that the 3rd party is subject to surveillance similar to that of Icelandic financial undertakings and meets requirements similar to Iceland's AML/CFT Act (Art. 16, AML/CFT Act). This requirement means that FIs are not obliged to consider the country-specific risks (outside of the supervisory regime).

Criterion 17.3 - The Icelandic framework does not contain any specific measures that changes the way in which a financial institution must meet the above requirements when the 3rd party introducer is part of the same financial group.

Weighting and conclusion

Country risk is not a specific requirement that must be taken into account when determining in which country a third party may be based. However third parties must be subject to surveillance similar to that of Icelandic financial undertakings and meet requirements similar to Iceland's AML/CFT Act. In addition, it is not clear

that FIs relying on 3rd parties are obliged to immediately obtain the necessary CDD information (outside of a specific request).

Recommendation 17 is rated Partially Compliant.

Recommendation 18 – Internal controls, foreign branches and subsidiaries

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated partially compliant with both former R.15 (Internal controls) and former R.22 (foreign branches and subsidiaries), which contained the previous requirements in this area. The main deficiencies cited for internal controls were that there was no requirement for training programs to be on-going so as to keep staff informed of new ML/TF development and no requirement to maintain an independent audit function to test the system. With regards to foreign branches and subsidiaries, there was no requirement that foreign branches (either within or outside EEA countries) observe Icelandic standards for AML/CFT other than for CDD and no requirements for branches within the EEA to apply AML/CFT rules consistent with Iceland standards. Iceland has made some minor progress in addressing these deficiencies.

Iceland authorities report that Icelandic FIs have not established any foreign branches and only one financial undertaking owns a foreign subsidiary (located in the U.K).

Criterion 18.1 - Reporting entities are required to establish written internal rules and maintain internal controls designed to prevent their business activities from being used for ML and TF (Art. 23, AML/CFT Act).

(a) *Compliance management system* – Financial institutions are required to nominate a specific person to be responsible for notification and ensuring compliance practices supporting the implementation of the AML/CFT Act (Art. 22, AML/CFT Act). This individual is required to have unconditional access to CDD information, transactions or requests for transactions and other relevant information (Art. 22, AML/CFT Act).

(b) *Screening procedures* – Financial institutions are required when hiring staff to establish specific rules on the checks to be performed on the applicant's records and in what instances transcripts from applicants' judicial records or other comparable testimonials regarding their careers and previous employment shall be required (Art. 23, para. 5, AML/CFT Act). There is no guidance or rules from the FSA that clarifies when such transcripts are needed; however the FSA reports that most FIs always require such transcripts

(c) *On-going training* – Financial institutions are required to ensure that employees receive on-going special training in measures against ML and TF, in order to make sure that staff are aware of their CDD and reporting obligations and are kept up-to-date on current ML/TF trends and methods (Art. 23, para 2, AML/CFT Act).

(d) *Independent audit function* - There is still no general requirement for financial institutions to maintain an independent audit function to test their AML/CFT system. This requirement is partly covered by the Act on Financial Undertakings, No. 161/2002 (Art. 16), which requires that a financial undertaking must have an auditing section handling internal auditing. The FSA's (non-enforceable) Guidelines No.3/2008 on Internal Control Systems in Financial Undertakings further clarify

that one of the obligations of internal auditors is to perform sample testing of CDD measures and to observe if laws and regulations regarding AML/CFT are complied with.

As payment institutions, life insurance companies, insurance brokers, pension funds and currency exchange providers are outside the scope of the financial undertakings Act; there is no explicit requirement for all FIs to maintain an independent audit function to test the system.

Criterion 18.2 – There is no explicit requirement for FIs to implement group-wide programmes against ML/TF. Nevertheless, the FSA’s 2014 non-binding AML/CFT Guidelines do state that internal rules, processes and internal controls regarding AML/CFT should extend to the operations of branches and subsidiaries abroad (whether within or outside the EEA).

In relation to domestic branches and subsidiaries, this requirement is covered to a very limited extent by the Act on Financial Undertakings, which permits financial undertakings to share information necessary for risk management with a parent company (Art. 59, Act on Financial Undertakings).

Criterion 18.3 – Some FIs, including financial undertakings, life insurance companies, pension funds, insurance brokers and insurance intermediaries, are required to ensure that their branches and subsidiaries outside of the EEA have in place CDD measures that are comparable to the AML/CFT requirements in Iceland (Art. 24, AML/CFT Act). If the legislation and rules that aim to combat AML/CFT are stricter in a foreign state where a branch or a subsidiary is located (outside the EEA), those rules must be observed (Art. 24, AML/CFT Act). Similarly, if the legislation of a state outside the EEA where the branch or subsidiary is located does not permit the application of equivalent CDD measures, financial groups must notify the FSA (Art. 24, AML/CFT Act).

Nevertheless these requirements are limited to CDD and do not extend to certain FIs, including payment institutions, e-money institutions, MVTS providers and currency exchange providers. In addition, there are no similar provisions for branches and subsidiaries within the EEA.

Weighting and conclusion

There is no general requirement for FIs to maintain an independent audit function to test the AML/CFT system. In addition, while some FIs must ensure that their branches and subsidiaries outside the EEA have similar CDD measures in place as those required under Icelandic legislation; there is also no binding requirement for FIs to implement group-wide programmes against ML/TF. Notably, the significance of these deficiencies is partially mitigated by the fact that Icelandic FIs have no foreign branches and there is only one registered foreign subsidiary.

Recommendation 18 is rated Partially Compliant.

Recommendation 19 – Higher risk countries

During Iceland’s 3rd Round Mutual Evaluation in 2006, Iceland was rated largely compliant with former R.21, which contained the previous requirements in this area. The most significant deficiency related to the lack of provisions available to apply

appropriate counter-measures where a country continues not to apply or insufficiently applies the FATF Recommendations.

Criterion 19.1 – All FIs are required to give particular attention to states or regions which do not comply with international recommendations and rules on measures against ML (Art. 26, para 2, AML/CFT Act). The FSA is required to issue notices and instructions if there is a need for special caution in business transactions with states or regions which do not comply with international recommendations on AML. Nevertheless, it is not clear that the requirement to pay particular attention would include EDD and the requirement does not appear to extend to countries with a higher TF risk

Criterion 19.2 – Icelandic authorities have some limited means to apply countermeasures. The Icelandic authorities report that the MoFA is mandated to apply restrictive measures and issue new sanctions regimes against countries, after consulting the parliamentary committee on foreign affairs (see Act on the Implementation of International Sanctions, No. 93/2008) The MoFA must then maintain a register of sanctions in force in Iceland and against whom they are directed.

Criterion 19.3 – The FSA is required to issue notices and instructions to FIs if there is a need for special caution in business transactions with states or regions which do not comply with international recommendations and rules concerning measures against ML (Art. 26, para 2, AML/CFT Act). As mentioned above, this does not extend to higher risk countries for TF. Icelandic authorities also report that the Ministry for Foreign Affairs co-operates with the FSA in an effort to further inform financial institutions of high-risk countries and restrictive measures in force. Further, it is stated in the Act on Official Supervision of Financial Activities Art. 16 that the FSA shall issue notices listing certain natural and legal persons.

Weighting and conclusion

Financial institutions are required to pay particular attention in circumstances where higher ML risks are identified. However this does not apply in circumstances where higher TF risks are identified and does not specify EDD measures are required. Furthermore, it is not clear that Icelandic authorities have the power to apply countermeasures proportionate to the risks when called upon to do so by the FATF or independently of any call to do so.

Recommendation 19 is rated Partially Compliant.

Recommendation 20 – Reporting of suspicious transactions

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated partially compliant with former R.13 and largely compliant with SR.IV, which contained the previous requirements in this area. The main deficiencies were that (i) the reporting obligation did not cover transactions related to insider trading/ market manipulation, arms trafficking and participation in an organised criminal group as these were not predicate offences for ML in Iceland and (ii) there were concerns that the broad secrecy requirement for lawyers may conflict with the obligation to report.

Criterion 20.1. - All FIs are obliged to carefully examine all transactions and proposed transactions suspected of being traceable to ML or TF and to notify the police of transactions which are considered to have any such links (Art. 17 of the AML/CFT Act). With the amendment to the GPC in 2009, insider trading/market manipulation and arms trafficking are now included as predicate offences for ML and are therefore included within the scope of reportable offences.

In the event that an FI forms a suspicion while a transaction is being processed, Art. 18 of the AML/CFT Act provides that FIs must file an STR promptly to FIU-ICE (i.e. immediately once the transaction is executed). Nevertheless, in the event that an FI forms a suspicion after a transaction has been executed (e.g. through CDD), there is no explicit requirement for FIs to report suspicious transactions promptly.

Criterion 20.2. - Reporting entities are required to report all transactions and proposed transactions suspected of being traceable to ML or TF to FIU-ICE (Art. 17, AML/CFT Act). The AML/CFT Act does not prescribe any monetary threshold on the reporting of transactions to FIU-ICE. In addition, Art. 4 of Reg. 175/2016 on the Handling of Notifications of Alleged Money Laundering or Terrorist Financing further requires that both transactions and proposed transactions should be notified.

Weighting and conclusion

FIs are required to report all transactions, and proposed transactions, suspected of being traceable to ML or TF to FIU-ICE. Nevertheless, in the event that an FI forms a suspicion after a transaction has been executed, there is no requirement for FIs to make an STR promptly.

Recommendation 20 is rated Largely Compliant.

Recommendation 21 – Tipping-off and confidentiality

3rd Round Compliance: During Iceland’s 3rd Round Mutual Evaluation in 2006, Iceland was rated compliant with former R.14, which contained the previous requirements in this area.

Criterion 21.1 - The AML/CFT Act provides that FIs are exempt from criminal or civil damages or breaches of non-disclosure obligations to which they are bound by law or other means when reporting in good faith information pursuant to the AML/CFT Act to the police (Art. 21, AML/CFT Act). This protection from civil or criminal damages applies to FIs, their directors, their employees and others working in their interest.

Criterion 21.2. - “Tipping off” a customer or any third party in connection with reporting a STR or related information is prohibited (Art. 20 of the AML/CFT Act). This prohibition applies to reporting entities, their directors, their employees and others working in their interest. The second paragraph of the Article provides for some exemptions on this prohibition (i.e. permits the disclosure of information) in certain circumstances, including:

- to the FSA.
- between lawyers and/or accountants working for the same legal person or enterprise

- between FIs or lawyers or auditors where both parties belong to the same professional category, the case concerns a natural or legal person who is a customer of both parties and concerns a transaction relating to both parties, both parties are subject to equivalent professional secrecy obligations and the information is used exclusively for the purpose of preventing ML/TF.

Weighting and conclusion

Recommendation 21 is rated Compliant.

Recommendation 22 – DNFBPs: Customer Due Diligence

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated Partially Compliant with former R.12, which contained the previous requirements in this area. At the time, there were no requirements for PEPs in force and similar deficiencies for CDD that applied to FIs also applied to DNFBPs. In addition, certain rules for reliance on 3rd party introducers were unenforceable and the requirement to prevent the misuse of technological developments in ML and TF schemes was only partially covered.

Criterion 22.1 [CDD] -

(a) Casinos: Gambling is prohibited in Iceland and there are no casinos in Iceland. Article 181-184 of GPC contains provisions for penalties for illegal gambling. Nevertheless, there are some limited gambling activities that are permitted in Iceland (e.g. slot machines, football pools and fixed odds gambling), AML/CFT obligations have been extended to all legal or natural persons who have been granted an operating licence on the basis of the Lotteries Act, and parties permitted under special legislation to conduct fund-raising activities or lotteries where prizes are paid out in cash.

(b) Real Estate Agents: Real estate agents are covered by the AML/CFT Act No 64/2006, when they are involved in transactions for a client concerning the buying and selling of real estate (Art. 2(f) and (i), AML/CFT Act) where they are subject to the same range of CDD requirements as FIs. Real estate brokers must perform CDD on both purchasers and sellers of real estate.

(c) Dealers in precious metals and stones: Dealers in precious metals and stones are included in the AML/CFT Act, which covers all natural and legal persons, engaged, by way of business, in trading in goods for payment in cash in the amount of EUR 15 000 (Art. 2(j), AML/CFT Act). They are subject to the same range of CDD requirements as FIs. However, there is a limited registration regime for dealers in precious metals and no licensing or registration requirement for dealers in precious stones.

(d) Lawyers, notaries, other independent legal professionals and accountants: Lawyers and other independent legal professionals are covered under the AML/CFT Act (Art. 2(f)), in the circumstances required by R.22, and are subject to the same range of CDD requirements as FIs. Notaries are not included within the scope of the AML/CFT Act.

State authorised public auditors are included within the scope of the AML/CFT Act and are subject to the same range of CDD measures as FIs (Art. 2(g)). The Act does

not appear to cover accountants. Iceland has not provided information whether accountants and other accounting professionals in Iceland are involved in activities such as management of client moneys and assets, management of companies or management of legal persons or arrangements. As such, the assessors are unable to confirm whether these accounting professionals should be exempted from compliance with CDD requirements.

(e) Trust and Company Service Providers: TCSPs are covered through Article 2(k) of the AML/CFT Act, in the circumstances required by R.22. However, Icelandic authorities report that there are no registered TCSPs in Iceland and that, in practice, company formation occurs through the use of lawyers and audit firms.

While the AML/CFT Act largely covers the scope and situations required by DNFBPs, the application of R.10 is lowered by the same deficiencies which apply to FIs. Most notably, the possibilities for all reporting entities to apply SDD remain overly broad as there is no assessment to limit the application of such measures to those countries that Icelandic authorities (or DNFBPs) are satisfied are in compliance with and have effectively implemented the FATF Recommendations. Similarly, in the case where a DNFBP forms a suspicion of ML/TF, there is no provision that permits DNFBPs not to pursue CDD in the case that performing CDD would tip-off the customer.

Criterion 22.2 [Record keeping] - Under the AML/CFT Act 2006, the broader scope of DNFBPs have the same obligations as FIs to maintain personal identification documents and other required documents for a minimum of five years (Art. 5, AML/CFT Act). Similarly, the broader scope of DNFBPs must maintain individual customer transaction records for five years (Art. 23, AML/CFT Act).

Both FIs and DNFBPs²⁷ are required according to Art. 6 of the Accounting Act (No. 145/1994) to ensure that transaction records are kept in such a way that individual transactions and the use of financial resources can be traced easily.

Criterion 22.3 [PEPs] - Under the AML/CFT Act, the broader scope of DNFBPs have the same obligations as FIs under Art. 12, which requires that reporting entities, in respect to a contractual relationships or business transactions with PEPs residing in another country, must (a) determine whether the customer is a PEP; (b) obtain senior management approval before entering into business transactions with such customer; (c) take appropriate measures to verify the source of funds that are involved in the business relationship or transaction; and (d) conduct regular monitoring of the business relationship (Art. 12, AML/CFT Act).

Nevertheless, the application of R.12 for DNFBPs is lowered by the same deficiencies which apply to FIs. Notably, there are no specific CDD requirements concerning domestic PEPs or persons who have been entrusted with a prominent function by an international organisation, and the definition of a foreign PEP is dependent on residency and is therefore not entirely consistent with the FATF definition (see discussion under R.12).

Criterion 22.4 [New Technologies] - Similar to FIs, the broader scope of DNFBPs are required under the AML/CFT Act to always show special caution in the case of new technology, products or transactions that might favour anonymity and must

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Applicable to DNFBPs as defined under Article 1, section 7 of the Accounting Act 145-1994

take measures to prevent the use of such business for ML/TF purposes (Art. 14, AML/CFT Act). Nevertheless, the same deficiencies that apply to FIs also apply to DNFBPs. Notably; there is no specific requirement for reporting entities to identify and assess the ML/TF risks in relation to the development of new technologies or products, or to undertake a risk assessment prior to the launch of new products, practices or technologies (see discussion under R.15).

Criterion 22.5 [Reliance on 3rd Parties] - Under the AML/CFT Act, the broader scope of DNFBPs have the same obligations as FIs in relation to reliance on 3rd Parties for conducting CDD measures (limited to identification of the customer, identification of the beneficial owner and understanding the business relationship) (Art. 16, AML/CFT Act).

The same deficiencies that apply to FIs therefore also apply to DNFBPs. Most notably; there is no specific requirement for DNFBPs to take into account information on the ML/TF risks of a particular country when determining in which country the 3rd party may be based (see discussion under R.17).

Weighting and conclusion

Similar deficiencies as identified in R.10, R.12, R.14 and R.17 are applicable for DNFBPs. Given that Iceland identifies misuse of corporate vehicles as a higher risk area for tax evasion and ML in the 2017 NRA, the deficiencies in relation to CDD and PEP requirements for lawyers and public auditors appears particularly significant.

Recommendation 22 is rated Partially Compliant.

Recommendation 23 –DNFBPs: Other measures

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated partially compliant with old R.16, which contained the previous requirements in this area. The main deficiencies were that the reporting requirement did not cover transactions related to market manipulation, insider trading, arms trafficking or participation in an organised criminal group as these were not predicate offences for ML in Iceland. Similarly, there were concerns that the broad secrecy requirement for lawyers might conflict with the obligation to report and there was no mechanism for DNFBPs to receive notices and instructions issued by the FSA if there is a need for special caution in transactions with a state or region.

Criterion 23.1 [STR Filing] - All DNFBPs (in the situations set out in c.23.1 and c.22.1) are required to carefully examine all transactions and proposed transactions suspected of being traceable to ML or TF and to notify the police of transactions which are considered to have any such links (Art. 17, AML/CFT Act). Nevertheless, as with FIs, it is not clear that there is a requirement to report all suspicious transactions in a prompt manner (see discussion under R.20).

Auditors and trust and company service providers are exempt from the reporting obligation under Art. 17 when they provide expert advice to a legal professional before, during or after the conclusion of judicial proceedings (Art. 17, para 3, AML/CFT Act).

Criterion 23.2 [Internal controls] - All DNFBPs are required to establish written internal rules and maintain internal controls designed to prevent their business

activities from being used for ML and TF (Art. 23, AML/CFT Act). The same deficiencies that apply to FIs in relation to internal controls therefore also apply to DNFBPs. Notably; there is no requirement for DNFBPs to maintain an adequate resourced and independent audit function to test their AML/CFT system.

Criterion 23.3 [High-risk countries] - DNFBPs are subject to the same requirements as FIs under Art. 26 of the AML/CFT Act, which requires all obliged entities to pay special attention to those states or regions which do not comply with international recommendations and rules on actions to combat money laundering.

There is no mechanism to notify DNFBPs of states or countries identified as having higher ML/TF risks.

Criterion 23.4 [Tipping off and Confidentiality] - Similar to FIs, DNFBPs are exempt from criminal or civil damages or breaches of non-disclosure obligations to which they are bound by law or other means when reporting in good faith information pursuant to the AML/CFT Act to the police (Art. 21, AML/CFT Act). This protection extends to their directors, supervisors and employees and is not dependent on precise knowledge of what the underlying criminal activity was, or whether criminal activity actually occurred.

“Tipping off” a customer or any third party in connection with reporting a STR is prohibited for all obliged entities, including DNFBPs (Art. 20, AML/CFT Act).

Weighting and conclusion

Similar deficiencies as identified in R.20 and R.19 are applicable for DNFBPs. Most notably, there is no mechanism for Iceland to enforce countermeasures against high risk countries. In view that there is a large offshore component that has been identified in NRA 2017 as being used for tax evasion, the lack of requirement for enhanced due diligence and counter measures proportionate to the risks for higher risk countries may pose a substantial risk.

Recommendation 23 is rated Partially Compliant.

Recommendation 24 – Transparency and beneficial ownership of legal persons

Iceland was rated PC with these requirements in the 3rd MER (para. 514 – 541). The main technical deficiencies were failure to provide timely availability of beneficial ownership information for companies and foundations and no legal requirement for foreign companies to disclose ownership information domestically. Follow-up reports do not indicate whether Iceland has taken steps to address these deficiencies.

Criterion 24.1 – Information on the different types, forms and basic features of legal persons in the country; and the processes for the creation of those legal persons is publically available on the website maintained by the Ministry of Industries and Innovation²⁸ (MoII). While information on the process for obtaining basic

²⁸ Ministry of Industries and Innovation (n.d.), *Establishing a Business in Iceland*, www.government.is/topics/business-and-industry/establishment-of-company/ and *Company Law - Establishment of Companies in Iceland*, www.government.is/topics/business-and-industry/establishment-of-company/company-law/

information is available, Iceland does not have a mechanism to identify or describe the process for obtaining and recording of beneficial ownership information.

Criterion 24.2 – Iceland has not specifically assessed the risks associated with all types of legal persons available in Iceland.

Criterion 24.3 – The majority of legal persons are required to register with the Business Register within the Tax Directorate of the MoFEA. To register a company (private limited, listed public or foreign company), the notice provided to the Business Register must contain: details on the company's articles of association (which includes the company's name and address), the amount of share capital and the names, identity number of and addresses of the founders, directors, managers and those authorised to sign for the company. Directors and managers must be natural persons. In the case of a foreign company, the notice must also contain a certificate of incorporation from their domestic Registrar and the most recent annual accounts. The same requirements apply for European companies, according to the Act on European Companies.

Commercial foundations provide information regarding their name and address, the purpose, the amount of establishment funds and the name identification number and address of directors, managers and holders of procuration powers. However, non-commercial foundations are not obligated to register.

According to European Community of Regulation (EEC) Reg. 2137/85 (Art. 5 and 7) information regarding a European Economic Interest Grouping's (EEIG) name, official address, the objects for which the grouping is formed, managers' name and any other identification particulars must be registered. Art. 7 provides that the contract for formation as well as changes to the contract, appointment of managers, assignment of participation, and other particulars must be kept updated. Art. 8 requires that particulars of the contract and date and place of registration must be published. This regulation was implemented in Icelandic legislation with Act No. 159/1994. According to Art. 1 in the mentioned Act, the regulation has the force of law in Iceland.

Registration requirements for partnerships are set out in the Act on Partnership, No. 50/2007. Registration requirements of Art. 3 and 4 of the Business Register Act apply to partnerships as well. According to the Business Register Act, Art. 3, the register shall maintain records of public limited companies, private limited companies, partnerships, limited partnerships, sole proprietorships and foundations engaging in business operations pursuant to statutory law governing such companies and organisations. The mentioned legal person's name, registration number, address, business form or corporate form, establishment date, name, domicile and ID numbers of principals, industry code, dissolution of company and other details required by law, shall be recorded in the register (Art. 4).

All information on Icelandic legal persons that are available in the Business Register is publicly available. Basic information is available on-line through the website of the Business Register and further information can be obtained from the Register by both domestic and foreign authorities.

<https://eng.atvinnuvegaraduneyti.is/laws-and-regulations/nr/nr/7348>

Criterion 24.4 – A company's Board of Directors must maintain a share register and maintain it at the company's office (Art. 19, Act No. 138/1994 for Private Limited Companies; Art. 30, Act No. 2/1995 for Public Limited Companies). All shareholders and the authorities have access thereto and may acquaint themselves with the contents thereof. However, requirements vary among different types of legal persons. Not all types of legal persons are required to list categories of shares or voting rights. Regarding co-operative companies, directors are required to maintain a register of members in the office of the co-operative, where it is publicly available (Act on Co-operatives Art. 7). According to Art. 20, para. 1, all members have equal voting rights unless otherwise provided in the society's articles of association. The articles of associations of co-operatives are publicly available from the business register.

According to Act on Partnerships the names, ID numbers and addresses of the partners are notified to the business registry (Art. 46). All partners have voting rights at partners' meetings (Art. 12). Decisions shall be taken by the consent of all partners or by majority vote in accordance with a partnership agreement. The partnership agreement is sent to the Business register when registered (Art. 46).

Foundations do not have any shareholders. Consequently, they are not required to hold information on shareholders. However, information on the founders shall be specified in the articles of association, including whether the founders or others shall enjoy special rights within the foundation (Act on Foundations, Art. 9). The articles of association are required to be registered with the Business Register, in addition to the name, identification number and address of directors, managers and holders of procuration powers, as mentioned in c. 24.3.

Requirements applicable to, EEIGs or European companies in Iceland do not include a requirement to register the contract for the formation of a grouping. As such, information on voting rights for these may not be publically available in cases where the EEIG or European company varies from the general rule that each member has one vote.

Criterion 24.5 – Regarding public and private limited companies, any changes to registered information must be notified within one month to the Register of Limited Companies (Public LCA, Art. 149; Private LCA, Art. 123). The information is also recorded in the minutes of a general meeting (directors) (Private LCA, Art. 65) and in a record of board meetings minutes (Private LCA, Art. 46). In case of a change of ownership of a share, the name of the new shareholder must be entered in the register of shares before the new owner can exercise any rights as a shareholder (Public LCA, Art. 30; Private LCA, Art. 19). According to Art. 65 of the Accounts Act No. 3/2006, all must publish the shareholders who own 10% or more of the company in their annual public accounts.

Requirements to update information referred to in c.24.3 are imposed on EEIGs (Art. 7 of EEC Reg. 2137/85) and foundations (Art. 39, Act on Foundations). Art. 8 of the Act on European Companies provides that European companies are subject to the same requirements as public limited companies.

According to the Act on Partnership, Art. 47, amendments to a partnership agreement and other reported information shall be reported as promptly as possible, and no later than within one month. As to co-operative societies,

amendments to the articles of association or any change in other respects regarding any reported matters shall be reported to the Business Register within a month from the change (Act on Co-operative Societies, Art. 12).

Criterion 24.6 – Iceland does not require companies or company registries to obtain and hold beneficial ownership information. Instead, Iceland relies on a combination of other mechanisms to obtain information on beneficial ownership, such as information available in financial statements reported yearly by legal persons to the Business Register and also through information obtained by reporting entities in the CDD process. However, the latter would not include entities that were not formed through a lawyer, auditor or TCSP, or that are not customers of FIs and DNFBPs in Iceland. Further, these two mechanisms are not sufficient to determine the beneficial ownership in a timely manner.

Criterion 24.7 – FIs and DNFBPs are required to conduct on-going due diligence and update information on customers on a regular basis. However, information available through the Business Registry is only updated annually and the deficiencies in c. 24.6 apply here.

Criterion 24.8 – When an obligated entity appoints a person as compliance officer under Art. 22 of the AML/CFT Act, that appointment is made known to the police in an effort to facilitate co-operation and availability of information collected in the CDD process, including BO information. Further, institutions under the FSA's supervision are required to provide all information that is requested by the FSA. However, there are no measures in place to ensure co-operation with any other competent authorities and, as noted at c.24.6 and 24.7, beneficial ownership information may not be available. Further, there are no specific requirements to ensure that legal persons as such cooperate with competent authorities in determining their beneficial owners.

Criterion 24.9 – See criteria 11.1 and 11.2. Also, Act 77/2014 on Public Archives requires most public institutions to transfer all their documents to the National Archives of Iceland for safekeeping and Art. 14, para. 5 states that trustees in bankruptcy and testamentary executors must transfer to the National Archives of Iceland any record which has not been presented in court or submitted to the office of a District Commissioner by the end of a public settlement procedure, but which may be of significance for that procedure. However, it is not clear that requirements on record keeping apply to legal persons. Further, there is a significant gap in requirements to keep beneficial ownership information, as noted at c.24.6 and 24.7.

Criterion 24.10 – Pursuant to para. 2 of Art. 17 of the AML/CFT Act, the police may by written notice require obligated persons to provide any information related to investigation of ML or TF deemed necessary on account of such notification. Compliance with such a notice is required without the necessity of a court ruling. Additionally, Art. 9 of the Official Supervision of Financial Operations Act, empowers the FSA in its supervisory capacity to access all information held by obligated persons. The Supervisory Committee of Real Estate Agents may at any time examine the accounting and all documents of realtors that relate to its operations or individual matters in a realtor's possession (Act on Real Estate Agents, Art. 21). An auditor or audit firm which is subject to a quality assurance review shall provide the reviewer with necessary assistance and access to information which may be requested in the course of the review (Act on Auditors, Art. 22). However, the power

to request information from an auditor or audit firm is limited to the context of a quality assurance review and other competent authorities do not have similar powers.

Criterion 24.11 – According to Act on Private Limited Companies No. 138/1994 and Act on Public Limited Companies No. 2/1995, all shares must be issued to a specific person (natural or legal). Bearer shares are not permitted.

Criterion 24.12 – According to Art. 12 of Act No. 108/2007 on Securities Transactions, a financial undertaking authorised to preserve financial instruments owned by its clients (i.e. nominees) must be licenced by the FSA. It is a condition of licensing that the undertaking comply with rules on disclosure of information to the FSA (Reg. No. 706/2008, Art. 4) and the FSA is specifically empowered to require a custodian to disclose the identity of his or her clients registered as owners of financial instruments (Id., Art. 14).

Art. 12 of the Act on Securities Transactions also requires the financial undertaking to keep a record of the holdings of each client. Reg. No. 706/2008 on Nominee Registration and the Custody of Financial Instruments in Nominee Accounts further details these requirements, specifying in Art. 8 that the record must always include the names and number of clients associated with the financial instrument, the number of financial instruments covered by each nominee registration agreement and that the record must “be prepared in such a way that there is no doubt regarding the ownership of financial instruments”.

Criterion 24.13 – Art. 15 of Reg. No. 706/2008 provides that the FSA may revoke a licence for registration in a nominee account for breach of the Regulation, failure to provide information to the FSA, serious or repeated violations of the legal provisions to which its activities are subject (including the AML/CFT Act).

Art. 11 of the Act on Official Supervision of Financial Activities, No. 87/1998, empowers the FSA to assess periodic penalties ranging from ISK 10 000 - 1 000 000 (EUR 81 - 8 084) for failure to provide requested information or to heed requests for corrective action. It further empowers the FSA to impose liquidated damages ranging from ISK 10 000 - 2 000 000 (EUR 81 - 16 168) for violation of decisions made by the FSA, including requests for corrective action. However, these penalties only apply to FIs supervised by the FSA (AML/CFT Act, Art. 25, para. 1). These administrative penalties are not available for other types of financial undertakings or DNFBPs.

Under Art. 27 of the AML/CFT Act, the potential penalty of an unlimited fine would apply to any “person under obligation” (referred to in Art. 2) who violates Ch. II, III, or V of the AML/CFT Act or fails to provide information or assistance as provided in the AML/CFT Act, and applies to both natural and legal persons. However, this is a legal penalty that may only be applied by the courts.

Iceland indicates that a fine of ISK 600 000 (EUR 4 850) may be imposed for failure to file annual reports with the Business Registry. Fines, detention or imprisonment may be imposed for failure to provide the Business Register with required updates, e.g. information on changes to information that was provided at the time of registration and amendments to articles of association. However, such fines have never been imposed and assessors were not provided with information regarding the possible range of any such fines.

Based on the information available to assessors, the range of available sanctions is limited and there is no evidence to indicate whether available sanctions are effective or dissuasive.

Criterion 24.14 – Some basic information in the Business Register is publicly available (in Icelandic) and can be directly accessed by foreign authorities at www.rsk.is/fyrirtaekjaskra/. However, beneficial ownership information may not be available (see c.24.6 – 24.8) and the limitations on Icelandic competent authorities' ability to provide international co-operation described under R.40 apply.

Criterion 24.15 – Icelandic authorities did not provide any information relevant to this criterion.

Weighting and conclusion

Serious gaps remain with respect to the availability of beneficial ownership information and measures to keep basic information accurate and updated for all types of legal persons. Also, where an Icelandic company has elements of foreign ownership, the availability of this information is further impeded.

Recommendation 24 is rated Partially Compliant.

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

In the 3rd Round MER, R.34 was not considered to be applicable to Iceland.

Criterion 25.1 – Sub-criteria (a) and (b) are not applicable as Icelandic law does not recognise trusts. Regarding (c), professional trust service providers are obligated persons within the scope of the AML/CFT Act (Art. 2, item (k); Art. 3, item 6) and are therefore required to conduct CDD on their customers and the customers' beneficial owner and to maintain the information for at least five years. But there are no specific requirements relating to the settlor, trustee(s), protector (if any), other natural person exercising ultimate effective control over the trust ("trust-relevant parties") that are neither the customer nor the customer's beneficial owner, although there is reference to beneficiaries of trusts in the definition of "beneficial ownership". Also, the deficiencies regarding customers who are legal arrangements, the scope of simplified due diligence and persons acting on behalf of someone else discussed in R.10 and R.22 are relevant here.

Criterion 25.2 – The CDD information collected by professional trustees is required to be up-to-date (see c.10.7(b)). However, the requirement does not apply to the information that is not collected as part of CDD, including information on trust relevant parties, and the deficiencies noted at c.10.7 are relevant here.

Criterion 25.3 – The AML/CFT Act does not specifically require trustees of foreign trust to disclose their status to reporting entities.

Criterion 25.4 – Because professional trust service providers are obligated persons within the scope of the AML/CFT Act (see c.25.1) trustees are required to provide competent authorities with information relating to trusts. Accordingly, any secrecy requirement is overridden. Likewise, a trustee wishing to establish a business

relationship with a reporting entity on behalf of the trust would be required to provide sufficient information to meet CDD requirements. However, as noted at c.25.1, there may be gaps in the information available under this mechanism.

Criterion 25.5 – Because professional trustees are obligated persons under the AML/CFT Act, powers discussed under c.24.10 apply. However, the deficiencies identified under c.25.1 and 25.2 regarding availability of information specific to trust-relevant parties are pertinent here.

Criterion 25.6 – Information held by Icelandic registries or public authorities regarding trusts or other legal arrangements (which includes the trust's name, registration number, address, establishment date, name, domicile and ID numbers of principals) would be made available to foreign competent authorities on the legal basis mentioned in R.37 and 40. The same applies to assistance on investigations. However, the deficiencies identified under c.25.1 and 25.2 regarding availability of information specific to trust-relevant parties are pertinent here.

Criterion 25.7 –) As obligated entities under the AML/CFT Act, trust service providers are legally liable for failure to comply with obligations arising under the AML/CFT Act. However, the deficiencies identified in c.24.13 are relevant.

Criterion 25.8 – Trust service providers are subject to the potential penalty of an unlimited fine for failure to provide information or assistance as provided in the AML/CFT Act (Art. 27). However, the deficiencies regarding proportionality and dissuasiveness discussed at c.24.13 are relevant here.

Weighting and conclusion

Requirements on professional trustees to conduct CDD, maintain records and provide information do not extend to trust relevant parties that are neither the customer nor the customer's beneficial owner. This deficiency limits the information available to Icelandic and foreign competent authorities. Further, trustees of foreign trusts are not required by law to disclose their status to reporting entities or to give authorities access to information held by them in relation to the trust. Other deficiencies identified in R.10 and 24 are also relevant.

Recommendation 25 is rated Partially Compliant.

Recommendation 26 – Regulation and supervision of financial institutions

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated partially compliant with old R.23 (p.100-101), which contained the previous requirements in this area. The main deficiencies were that there was no general requirement for MVTs providers to be licenced or registered and no supervisory powers existed for financial institutions not under FSAs supervision, such as MVTs providers, money exchange services or foreign remittance dealers that may operate outside of banks. Similarly, at the time of the 3rd round on-site visit, financial institutions were not subject to adequate supervision of compliance with TC requirements.

Criterion 26.1 – The FSA is the consolidated regulator responsible for supervising compliance of the following parties with the obligations under the AML/CFT Act and any associated regulations (Art. 25, AML/CFT Act):

- a. Financial undertakings (definition includes commercial banks, savings banks, credit undertakings, investment firms or UCITS management companies);
- b. Life insurance companies and pension funds.
- c. Insurance brokers and insurance intermediaries pursuant to the legislation on insurance brokerage when they broker life insurance or other savings-related insurance.
- d. Branches of foreign undertakings located in Iceland and falling within the scope of subsections (a)-(c) and subsections (f)-(g).
- e. Natural or legal persons who, by way of business, engage in foreign exchange trading or the transfer of funds and other assets.
- f. Payment institutions and their agents pursuant to the Act on payment services.
- g. Electronic money institutions according to the Issue and Handling of Electronic Money Act.

Following amendments to the AML/CFT Act in 2008, MVTs and currency exchange providers outside banks are now included in the FSAs supervision (under subsection (e) above).

Criterion 26.2 - The core principle financial institutions in Iceland include banks, investment firms, credit undertakings and also collective investment schemes (both the products and the intermediaries who offer them). All core principle FIs are required to be licenced by the FSA (see Ch. II, Act No. 161/2002 on Financial Undertakings).

All other financial institutions are also required to be licenced and registered by the FSA (Ch. III, Act No. 17/2013 on the Issuance and Handling of Electronic Money; Chapter II of the Act No. 120/2011 on Payment Services; Chapter VI of the Act No. 100/2016 on Insurance Activities; and Ch. II and IX, Act No. 32/2005 on Insurance Mediation, Art. 25a, AML/CFT Act). Iceland reports that the MoFEA issues operating permits to mandatory pension funds subject to review by FSA (see Ch. V, Act No. 129/1997 on Mandatory Pension Insurance and on the Activities of Pension Funds).

Shell banks can be indirectly inferred to be prohibited from being established, or operating, in Iceland through implementation of Art. 6 and 15 of the Financial Undertaking Act. Under Art. 6 and 15, a Financial Undertaking must have its head office in Iceland (physical presence) and must provide information on its operational structure, including information as to how the activities proposed will be carried out and the internal organisation of the undertaking.

Criterion 26.3 -

At the time of granting a licence - The FSA screens members of the board of directors and managing directors of financial undertakings, as well as owners of a qualifying holding at the time of granting a licence to assess whether they are fit and proper (see Ch. VII, Act No. 161/2002 on Financial Undertakings and Rules 150/2017). A “qualifying holding” is defined in the Act as a direct or indirect holding in an undertaking which represents 10% or more of its share capital, guarantee capital or voting rights, or other holding which enables the exercise of a significant

influence on the management of the company concerned. For key employees of financial undertakings, the FSA has issued guidelines (No. 3/2010) requiring financial undertakings to set rules and assess key employees²⁹ on compliance with fit and proper criteria and to take into account reputational and operational risks.

Similar rules apply regarding fit and proper requirements for life insurance companies, insurance brokers and insurance intermediaries, pensions funds, e-money institutions and payment institutions (see Ch. VIII and X, Act No. 100/2016 on Insurance Activity; Art. 16, Act No. 32/2005 on Insurance Brokers Who Broker Life Insurance; Ch. VI of the Act on Mandatory Pension Insurance; Art. 26 of the Act on E-Money Institutions; Art. 20 of Act No. 120/2011 on Payment Services).

Before granting licences or approval, the FSA also screens managers and beneficial owners of natural and legal persons operating money exchange services or money or value transfer services and may deny registration if in the preceding 5 years they have been declared bankrupt, or have been sentenced by a court of law for any criminal act under the GPC, the Competition Act, the AML/CFT Act or any special legislation governing parties who are subject to public surveillance of financial activities (see Art. 25 b of the AML/CFT Act).

After the licence or approval has been granted – parties intending to acquire a qualifying holding in a financial undertaking must notify the FSA in advance of its intentions and are subject to an evaluation by the authority (see Ch. VI, Act No. 161/2002 on Financial Undertakings). This applies specifically to financial undertakings, electronic money institutions and payment institutions. Similar provisions apply for life insurance companies (see Ch. X, Act 100/2016 on Insurance Activity). While rules on qualified holding do not apply to pension funds and insurance brokers, the director and the management board of those entities must at all times comply with fit and proper requirements (Art. 31, Pension Fund Act; Art. 15-17 Intermediaries Act).

Article 52, para. 7 of Act 161/2002 requires financial undertakings to notify in advance to the FSA of a change in board members or managing director. The FSA may require additional information to assess whether these changes comply with eligibility criteria. Similar provisions apply to insurance undertakings and pension funds. In addition, if the shareholders, board and management of these entities were to subsequently breach eligibility requirements, the FSA may revoke the licences of these entities.

Risk-based approach to supervision and monitoring

Criterion 26.4 -

(a) – Regarding Basel Committee on Banking Supervision (BCBS) principles especially, in September 2014, the International Monetary Fund (IMF) published the results of their audit, conducted in the first half of the year, on FSA compliance with the 29 Basel Core Principles for Effective Banking Supervision.³⁰ The IMF found that

²⁹ A Key employee is defined as a natural person in the position of management, other than the managing director, who is empowered to make decisions which are capable of impacting the future development and performance of the undertaking

³⁰ IMF (2014), *Iceland – Report on Observance of Standards and Codes (ROSC)*, IMF Country Report No. 14/257, www.imf.org/external/pubs/ft/scr/2014/cr14257.pdf

Iceland was compliant with seven of the principles; all essential criteria were met and largely compliant with nine of them. Thirteen principles were materially non-compliant. Moreover, the IMF found that Iceland's regulatory framework needs further adjustment as there is no requirement for STR to be reported to the FSA, only to police. And general guidance on CDD needs to be adjusted to reflect ultimate beneficiaries by banks. The assessors do not have adequate information to be able to assess whether core principle financial institutions are regulated and supervised in line with the principles set by the International Organisation of Securities Commissions and International Association of Insurance Supervisors which are relevant to AML/CFT. Consolidated group supervision for AML/CFT purposes does not appear to be done in Iceland as supervision of the activities of domestic parties abroad and foreign parties in Iceland is subject to the provisions of special laws and international agreements to which Iceland is a signatory (see OFSA, Art. 2).

(b) - As set out in criterion 26.1 above, natural and legal persons operating money exchange services or money or value transfer services are supervised by the FSA. Outside of banks, there is only one registered currency exchange provider, and one payment institution. Monitoring and supervision of AML/CFT requirements in this sector is not based on ML/TF risk.

Criteria 26.5 and 26.6 - The frequency and intensity of on-site and off-site inspections are not carried out on the basis of a comprehensive assessment of ML/TF risk. The FSA reports that on-site or off-site inspections are performed by the FSA annually at the three major commercial banks, and pertains mainly to internal controls according to the AML/CFT Act (e.g. internal rules and work processes regarding CDD, on-going due diligence, as well as training of employees) and review of the institution's AML/CFT procedures. Nevertheless, in the 2017 NRA, the authorities acknowledge that inspections on financial undertakings (outside of the 3 major commercial banks) particularly savings bank are less frequent and poses a risk for ML/TF.³¹ In addition, Icelandic authorities acknowledge that the FSA has not done a comprehensive risk assessment of the sub-sectors or individual FIs that it supervises.

Weighting and conclusion

While, the FSA conducts inspections annually on the three major commercial banks, AML/CFT supervision of other FIs appears to be limited, and authorities have not yet demonstrated that FSA supervision is based on a comprehensive assessment of ML/TF risk (as opposed to prudential risk). In addition it is also not clear whether group consolidated supervision is carried out for AML/CFT.

Recommendation 26 is rated Partially Compliant.

Recommendation 27 – Power of supervisors

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated largely compliant with old R.29, which contained the previous requirements in this area. The main deficiencies were that there were no supervisory powers for FIs not under FSA supervision (foreign exchange companies, or foreign remittance dealers that

³¹ P.27 of Iceland's 2017 NRA

may operate outside of banks), and that while there was a range of sanctions available, the range was not sufficiently broad (i.e. no administrative penalties which may be imposed against directors and controlling owners of FIs for AML/CFT breaches and no general possibility to restrict or revoke a licence for AML/CFT violations).

Criterion 27.1 – The FSA has the power to supervise and monitor compliance of FIs with the AML/CFT Act (Art. 25, AML/CFT Act). The FSA has powers available to ensure compliance of FIs with the requirements under the AML/CFT Act (Ch. III, Law No. 87/1998 on Official Supervision of Financial Operations).

Criterion 27.2 - The FSA has the power to conduct on-site inspections of parties subject to supervision as often as is considers necessary, in pursuit of its activities (Art. 9, Law No. 87/1998 on Official Supervision of Financial Operations). Article 9(3) also authorises the appointment of a special expert to undertake specific supervision for a period of 4 weeks at a time.

Criterion 27.3 - Financial institutions are required to grant the FSA access to all their accounts, minutes, documents and other material in their possession regarding their activities which the FSA considers necessary (Art. 9, Law No. 87/1998 on Official Supervision of Financial Operations). The FSA's power to compel production of or to obtain access to, a financial institution's records is not predicated on the need to obtain a court order.

Criterion 27.4 - Where a financial institution violates the relevant laws, regulations governing their activities, including AML/CFT provisions, the FSA can apply the following sanctions:

- **Corrective actions:** Require corrective actions within a reasonable time limit as per Art. 10, para 1, Act 87/1998 on Official Supervision of Financial Operations. In addition, the FSA may call a board or executive meeting of the party concerned to discuss its remarks and demands and discuss corrective action. A representative of the FSA may chair the meeting and enjoy the right of speech and make proposals (Art. 10, para. 3).
- **Fines:** If the party subject to supervision does not provide requested information or heed requests for corrective action within a certain time limit, the FSA may resort to sanctions in the form of daily fines of ISK 10 000 – ISK 1 000 000 (EUR 81 – 8 103), which will be determined on the nature of the negligence or violation and the financial strength of the party subject to supervision (Art. 11, Law No. 87/1998 on Official Supervision of Financial Operations).
- Similarly, the FSA can impose fines on FIs subject to supervision in violation of remedial actions imposed by the FSA. The fines can be between ISK 10 000 (EUR 81) and ISK 2 000 000 (EUR 16 206), based on the seriousness of the violation and the financial strength of the party subject to supervision.

Nevertheless, overall the sanctioning powers available to the FSA appear to be limited in scope. The FSA cannot impose administrative sanctions specifically for AML/CFT breaches. The FSA does not have the power to restrict or withdraw licences for all FIs in case of non-compliance with AML/CFT requirements. In addition, there are no administrative penalties which can be imposed against

directors and controlling owners of FIs directly for AML/CFT breaches, only indirectly by not meeting fit and proper criteria.

Weighting and conclusion

The FSA has a range of powers to supervise and monitor compliance of FIs with the AML/CFT Act (including powers to conduct on-site inspections and to compel production of relevant information). Nevertheless, the range of sanctions imposed by the financial supervisor does not appear to be dissuasive or proportionate and does not include the power to withdraw, restrict or suspend a financial institution's license or to apply administrative sanctions directly for AML/CFT breaches.

Recommendation 27 is rated Largely Compliant.

Recommendation 28 – Regulation and supervision of DNFBPs

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated non-compliant with old R.24 (which contained the previous requirements in this area), as there was no effective monitoring of AML/CFT compliance for DNFBPs at this time, and Iceland had not yet designated any competent authorities with adequate powers such as monitoring compliance of AML/CFT requirements of DNFBPs and/or applying sanctions.

Criterion 28.1 – Gambling is prohibited in Iceland and there are no casinos in Iceland. Article 181-184 of GPC contains provisions for penalties for illegal gambling. Nevertheless, under the Law on Lotteries (No. 38/2005), some limited gambling activities are permitted (e.g. slot machines, football pools and fixed odds gambling).

Criterion 28.2 – There is a designated body with responsibility for monitoring and ensuring AML/CFT compliance for most DNFBPs, with the exception of lawyers, notaries, TCSPs and the limited gambling activities permitted in Iceland. Notably, while Iceland reports that there are currently no registered TCSPs and that company formation is done primarily through lawyers and auditors, this may become a deficiency should TCSPs register in the future.

Dealers in precious metals or stones (DPMS): According to Art. 25 of the AML/CFT Act, the Consumer Agency (Neytendastofa) is the designated supervisor for natural persons, involved in trading in goods for payment in cash for the amount of EUR 15 000 or more whether in a single transaction or executed in several operations which appear to be linked.

Real Estate Agents: Under Article 19k of the Sale of Real Estate and Ships Act No. 70/2015, the Supervisory Committee supervises real estate agents for compliance with AML/CFT regulations.

Lawyers, notaries and other legal professionals and accountants: While lawyers are subject to ethical rules from their mandatory professional body (the IBA), there is no formally designated authority responsible for monitoring and ensuring compliance with AML/CFT requirements.

State authorised auditors are supervised by their Supervisory Committee under Art. 15 of the Auditors Act 79/2008, which was amended in 2013 to include a provision that auditors are subject to AML/CFT measures.

Criterion 28.3 – In practice, there are very limited systems in place for monitoring of compliance by the relevant competent authorities. Icelandic authorities report that some initial outreach has been carried out by the Supervisory Committee of Real Estate Agents and this body conducts regular checks on its agents (which includes some element of AML/CFT). AML/CFT on-site or off-site inspections for other DNFBPs have not been carried out. In addition, dealers in precious metals and dealers in precious stones are not required to be licenced with the Consumer Agency and, therefore, it is not clear how the Consumer Agency can ensure or monitor compliance in practice.

Criterion 28.4 –

(a) Powers to conduct inspections/ collect information – The Audit Supervisory Committee of Auditors and the Supervisory Committee for Real Estate Agents are given general powers to provide oversight over auditors and audit firms and real estate agents, and ensure that they perform their duties in accordance with the provisions of the relevant Acts (Act on Auditors and Act on Real Estate Agents), Code of Ethics and other rules, including AML/CFT regulations. In this regard, both Committees carry out periodic reviews on its members and can request information. However, these powers are broad and are not customised for monitoring compliance of these entities with AML/CFT regulations.

(b) Fit and proper checks – The state-authorized auditors and real-estate agents and their firms are subject to licensing criteria which amongst others require them to be either of good character or have not been convicted of a criminal offence before they can be licenced. These rules however, do not extend to the beneficial owners or those holding a management function in these entities.

(c) Sanctions - The Consumer Agency can apply the administrative sanctions provided under Art. 27 of the AML/CFT Act indirectly, by referring AML/CFT breaches to the DPO. The Consumer Agency does not have any other power of sanctions for DPMS. The other supervisory bodies (e.g. the Supervisory Committee for real estate agents, the supervisory committee for state authorised auditors and the IBA) do not have any powers to deal with compliance failures, other than their existing powers to recommend to the Minister concerned to revoke licences and issue warnings under their respective Acts.

Criterion 28.5 - Supervision and monitoring of DNFBPs is not being conducted on a risk sensitive basis. Icelandic authorities have reported that they are currently working on implementing the fourth EU AML/CFT directive which will implement a more risk based approach to the AML/CFT regime.

Weighting and conclusion

While there is a designated body responsible for AML/CFT supervision for most DNFBPs (with the exception of lawyers and notaries), there is no system in place for monitoring DNFBPs' compliance with AML/CFT requirements in practice and supervisors do not have an adequate range of enforcement or supervisory powers. In addition, the very limited outreach to the DNFBP sub-sectors to date has not been risk based.

Recommendation 28 is rated Non Compliant.

Recommendation 29 – Financial intelligence units

In its 3rd MER, Iceland was rated PC with these requirements as set out in old R.26 (para. 155 - 197). Among the most important technical deficiencies were the lack of sufficient structural and operational independence and lack of sufficient financial and human resources to perform its functions. FIU-ICE had not issued any guidance or provided any feedback or reports on typologies or trends. In June 2015, Iceland addressed most of the deficiencies with amendments to the Public Procedural Act and the Police Act, hiring additional staff, developing an on-going training programme, establishing procedures for dealing with STRs and dissemination of intelligence and obtaining feedback from police.

Criterion 29.1. - FIU-ICE is the national centre for receiving and analysing STRs, suspicious financial activity reports, suspected terrorist financing reports and other relevant and useful information and for analysing and disseminating the results of that analysis to competent LEAs, both domestically and on international level (Art. 8, Police Act, No. 90/1996; Art. 4-11, Reg. 175/2016 on Handling Notifications of Alleged ML or TF).

Criterion 29.2. – Art. 2 and 4 of Reg. 175/2016 specify that notifications of suspicious transactions and proposed transactions covered by Articles 17 and 18 of AML/CFT Act shall be sent to the financial intelligent unit by electronic or digital means. FIU-ICE does not receive any other information or reports, such as cash transaction reports, wire transfers reports or other threshold-based declarations/disclosures, as they are not required under Iceland’s legal framework.

Criterion 29.3. -

(a) Art. 17 of the AML/CFT Act empowers FIU-ICE to obtain from all reporting entities, on written request, information considered necessary for preliminary investigation/analysis.

(b) FIU-ICE has access to a wide range of financial, administrative and law enforcement information, including the national police database, national registries database, real estate databases, car registry and ownership information and tax authority database, airline passenger database, Icelandic genealogical database and Schengen information system, among others. FIU-ICE can also obtain information from public service providers to further improve analysis.

Criterion 29.4. -

(a) Icelandic authorities advise that FIU-ICE conducts operational analysis to identify transaction patterns over accounts owned by individuals or companies and over a period of time, thus establishing intent behaviour associated with money laundering and terrorist financing.

(b) FIU-ICE has not demonstrated that it conducts strategic analysis.

Criterion 29.5. - FIU-ICE is able to securely disseminate information and material upon request from relevant competent authorities. FIU-ICE uses the secure police crime database (LÖKE) to share information with local LEAs and other competent authorities, including tax and customs. This is done over encrypted channels available within the police database. Art. 7 and 9 of Reg. 175/2016 empower FIU-ICE to spontaneously provide information to the legally competent authority

(outside of a request) when there are indications that criminal conduct has taken place and to place that information in the police database.

Criterion 29.6. -

(a) Art. 3 of Reg. 175/2016 specifies that all FIU-ICE staff are bound by rules of confidentiality under the Police Act, No. 90/1996, and the Civil Servants' Rights and Obligations Act, No. 70/1996. Art. 5 of those regulations specifies that access to FIU-ICE database is limited to FIU staff. FIU-ICE also follows a general guideline regarding confidentiality and conduct found in the Government Employees Act, No. 70/1996. FIU-ICE uses Europol Handling Codes when disseminating information to other competent authorities

(b) FIU-ICE facilities, including IT systems, are physically separated from other departments of the DPO. Access is controlled by a card-lock and second internal security door and only FIU staff has access.

Criterion 29.7. -

(a) On 1 January 2016, the DPO took over the operation of FIU-ICE from the Special Prosecutors Office (SPO). FIU-ICE is an independent unit under Criminal Investigation Department I at the DPO. The Head of FIU-ICE is responsible for daily operations of FIU-ICE, including decisions to analyse and disseminate specific information.

(b) FIU-ICE is able to cooperate with other relevant authorities and partners abroad. The Head of FIU signs Memoranda of Understanding (MOUs) on behalf of FIU-ICE.

(c) FIU-ICE is located on the 4th floor in the same building as the DPO. The 4th floor is physically separated from other departments or operational units of the DPO and only FIU staff has access to FIU-ICE premises.

(d) The Head of FIU has control over an independent budget for FIU-ICE. The budget for FIU-ICE is for labour cost, travel expenses and training/education for the staff. Other overhead expenses regarding operating of the office is paid by the DPO.

Criterion 29.8. - FIU-ICE became a member of Egmont Group in July 1997.

Weighting and conclusion

FIU-ICE does not conduct strategic analysis to identify ML/TF related trends and patterns.

Recommendation 29 is rated Largely Compliant.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

In its 3rd MER, Iceland was rated LC with these requirements as set out in old R.27 (para. 198 - 207). The deficiencies related to effectiveness issues including inadequate AML/CFT training for law enforcement and lack of any mechanism to ensure that those who investigate/prosecute ML remain current in their knowledge.

Criterion 30.1 – Art. 8, para. 2 of the Police Act specifies that the National Prosecuting Authority has responsibility for ensuring that serious money laundering, associated predicate offences are properly investigated, within the

framework of national AML/CFT policies. In minor cases, the police forces in the nine police administrative areas also investigate suspicions of money laundering in connection with the predicate offences. Art. 5 of the Police Act designates the National Commissioner of Police to ensure that crimes against the constitution, which specifically includes terrorist financing offences, are properly investigated.

Criterion 30.2 – Police investigating predicate offences are authorised to pursue related ML/TF offences or, in serious cases, to refer the case to the National Prosecuting authority in accordance with Art. 8 of the Police Act. Likewise, customs refers serious cases, including cases involving narcotics, and DTI refers ML cases arising from investigation of tax offences to the National Prosecuting authority for investigation. In accordance with Customs Act Art. 162, violation of cross border currency declaration requirements are referred to the relevant police authority for investigation.

Criterion 30.3 – Art. 8, para. 4 of the Police Act specifies that the National Prosecuting Authority shall work on the recovery and confiscation of illicit gains acquired through any type of criminal activity in connection with police investigations made with the authority and other police commissioners' offices.

Criterion 30.4 – Under the Customs Act, No. 88/2005 and the rules of the Director of Tax Investigation on the arrest or seizure of assets, the Director of Tax Investigations and the Directorate of Customs have extensive authority to conduct investigations and take measures to freeze or seize suspected gains from offences under their legal frameworks.

Criterion 30.5 – Iceland has not designated any specific anti-corruption enforcement authority. Corruption and any related ML/TF offences are addressed in the same manner as other predicate offences.

Weighting and conclusion

Recommendation 30 is rated Compliant.

Recommendation 31 – Powers of law enforcement and investigative authorities

In the 3rd MER, Iceland was rated Compliant with these requirements to the extent they are set out in old R.28 (para. 207 - 219). The new Recommendation (R. 31) was expanded and now requires countries to have, among other provisions, mechanisms for determining in a timely manner whether natural or legal persons hold or manage accounts.

Criterion 31.1 – Competent authorities conducting investigations of ML, associated predicate offences and TF are empowered by the LCP to obtain access to all necessary documents and information for use in those investigations and in prosecutions and related actions, including powers to use compulsory measures for: (a) the production of records held by FIs, DNFBPs and other natural or legal persons (Art. 68 and 69); (b) the search of persons and premises (Ch. X); (c) taking witness statements (Ch. VIII); and (d) seizing and obtaining evidence (Ch. IX and X).

Criterion 31.2 – Iceland's competent authorities are empowered to use a wide range of investigative techniques for the investigation of ML, associated predicate offences and TF, including: (a) undercover operations (Art. 7, Rules on Special

Measures and Actions in the Investigation of Criminal Cases, No. 516/2011); (b) intercepting communications (Art. 86, LCP: Rules on Electronic Surveillance No. 837/2006); (c) accessing computer systems (Rules on Electronic Surveillance No. 837/2006); and (d) controlled delivery (Ch. IV, Rules on Special Measures and Actions in the Investigation of Criminal Cases, No. 516/2011).

Criterion 31.3 – Iceland has mechanisms in place which meet paragraphs (a) and (b) of this criterion.

(a) In ML investigations, Icelandic authorities can immediately access information regarding account ownership and control via FIU-ICE (Art. 17, AML/CFT Act). In other cases, the information can be accessed with a court order, which can normally be obtained within 24 hours.

(b) Competent authorities can access ownership information in various registries (e.g. real property, vehicles, businesses) without notice to the owner. In cases where a court order is required to obtain relevant information, the order may be granted without notice to any party (LCP, Art. 104).

Criterion 31.4 – Competent authorities conducting investigations of ML, associated predicate offences and TF are empowered to ask for all relevant information held by FIU-ICE. See discussion at c.29.5

Weighting and conclusion

Recommendation 31 is rated Compliant.

Recommendation 32 – Cash couriers

In the 3rd MER, Iceland was rated PC with these requirements to the extent they are set out in old SR.IX (para. 220 - 241). The main technical deficiencies included inadequate legal framework for declarations. These deficiencies were largely addressed by amendment to Art. 27 of the Customs Act, which decreased the declaration threshold from EUR 15 000 to EUR 10 000 and the obligation to declare cash was expanded to include bearer negotiable instruments. However, R. 32 contains new requirements regarding the declaration system and the safeguards to ensure the secured use of information collected.

Criterion 32.1 – Iceland has implemented a declaration system for incoming and outgoing cross-border transportation of currency and bearer negotiable instruments (Customs Act, No. 88/2005: Art. 27 for travellers and crew members. Art. 33, para. 4 of the Act on Postal Services prohibits transportation of cash or bearer negotiable instruments (BNI) by post. However, there is no obligation to declare cash or bearer negotiable instruments transported by cargo.

Criterion 32.2 – In the declaration system, all persons making a physical cross-border (including intra-EU) transportation of currency or BNI, which are of a value exceeding USD/EUR 10 000, are required to submit a truthful declaration to the Directorate of Customs.

Criterion 32.3 – Not applicable

Criterion 32.4 – Customs Act, Art. 30 empowers Customs authorities to request and obtain any necessary information and data for use in general customs control and

risk analysis from the carrier, FIs and all other parties, those liable for duties as well as others.

Criterion 32.5 – Customs Act, Art. 32 specifies that a party who signs and submits to the Director of Customs a written import declaration is liable for the authenticity of such information. Art.144 makes this provision applicable in the context of export and transit. Art. 172 provides that a person who provides incorrect or misleading information, or neglects to submit required documentation in respect of importation, shall be subject to fines at minimum of double, but not exceeding tenfold, the amount of import charges on the customs value which was evaded from levy. Since there is no charge on the importation of cash or BNI, it does not appear to be possible to assess a fine in relation to cash or BNI. However, Art. 181 provides that goods imported illegally are subject to confiscation. This sanction does not appear to be proportionate or dissuasive. The limited scope of the obligation to declare cross-border movement of cash and BNI (see 32.1), although relatively minor, is also relevant here.

In the case of a violation which has been committed intentionally shall in addition to a fine be punishable with imprisonment up to 6 years when committed repeatedly or the violation is in other respects serious.

Criterion 32.6 – Art. 184 of the Customs Act provides that, when an alleged violation of the Customs Act is connected with a violation under the GPC or other special penal laws, the Director of Customs must promptly notify the relevant chief of police and cooperate with the police and prosecuting authorities in investigations. Icelandic authorities indicate that information sharing with FIU-ICE as required by this criterion is not yet in place. Although Icelandic authorities indicate that a working group was formed by the MoFEA in April 2017 to review the relevant legislation, their work was not completed before the end of the on- site visit.

Criterion 32.7 – At the time of the on-site, Icelandic customs authorities did not work closely with immigration or police authorities on issues related to the implementation of R.32.

Criterion 32.8 – Art. 154 – 163 of the Customs Act give broad powers to Customs authorities to arrest, search, inspect all incoming goods (including postal consignments) and seize any item considered to have value as evidence in a criminal case; obtained by criminal means or that might be subject to confiscation due to violations of Customs Law or other laws. Art. 181 provides that where goods are imported illegally (including where there is a false declaration or false disclosure), those goods may be confiscated. Art. 162 specifically empowers Customs to seize cash of an amount exceeding EUR 10 000 carried by a traveller or crew member on arrival to or departure from Iceland when there is suspicion that it will be used for violations punishable by the GPC, including bearer negotiable instruments (Art. 27, para. 2).

Criterion 32.9 – At the time of the on-site, Iceland did not have any mechanisms for retaining the information obtained when (a) a declaration of cross border movement of EUR 10 000 or more is made; or (b) there is a false declaration or false disclosure; or (c) there is a suspicion of ML/TF.

Criterion 32.10 – Iceland has not provided any information to describe how the disclosure system protects against restricting either: (i) trade payments between

countries for goods and services; or (ii) the freedom of capital movements, in any way.

Criterion 32.11 – Persons who are carrying out a physical cross-border transportation of currency or BNI that are related to ML/TF or predicate offences are subject to proportionate and dissuasive sanctions under Art. 264 of the GPC (see criteria 3.9 – 3.11); and (b) measures consistent with Recommendation 4 which would enable the confiscation of such currency or BNI (see discussion of R.4). However, the limited scope of the obligation to declare cross-border movement of cash and BNI identified at c.32.1 (although minor) and deficiencies identified at c.3.9 – 3.11 and R.4 are relevant here.

Weighting and conclusion

There is no obligation to declare cash or bearer negotiable instruments transported by cargo; sanctions are not effective proportionate or dissuasive and, at the time of the on-site, there was no co-ordination between customs and other competent authorities.

Recommendation 32 is rated Partially Compliant.

Recommendation 33 - Statistics

During Iceland's 3rd Round Mutual Evaluation in 2006, Iceland was rated non-compliant with former R.32, which contained the previous requirements in this area. At this time, Iceland had no comprehensive statistics on the (i) no. of STRs analysed or disseminated, (ii) no. of ML or TF investigations, (iii) number. of cases and the amounts of property frozen seized and confiscated, or (iv) number of mutual legal assistance and extradition requests made and received. Statistics for ML/TF prosecutions and convictions were produced but there was no system for recording these figures and making them easily available. Since 2006, only limited progress has been made.

Criterion 33.1 -

(a) - *STRs received and disseminated*: FIU-ICE maintains some statistics on the number of STRs/SARs received, including information on the reporting entity and the amounts cited and which authorities received reports disseminated by FIU-ICE. The nature of the activity being reported in the STRs is not captured in statistics.

(b) - *ML/TF investigations, prosecutions and convictions*: Icelandic authorities maintain statistics on the number of ML offences and cases (2012-2017), which includes a breakdown of the status of all ML cases since 2012. However these statistics are not broken down by the type of underlying predicate offence, or the type of ML. There are no TF investigations, or prosecutions.

(c) - *Property frozen, seized and confiscated*: Icelandic authorities provided limited statistics on property frozen, seized and confiscated, providing case highlights but no comprehensive data. Iceland regularly maintains statistics on the annual amount of confiscations forfeited to the state but does not keep track of amounts confiscated that are returned or paid as compensation to victims.

(d) – *MLA or other international requests for co-operation made and received*: Iceland maintains statistics on mutual legal assistance (MLA) and extradition requests, including breakdowns of the requesting country. Nevertheless, the statistics provided do not include information on the nature of the underlying suspected criminal activity, or the outcome. FIU-ICE keeps statistics of all international co-operation requests made and received through the Egmont Secured Web; however these statistics have been maintained only from July 2015 onwards. Iceland also maintains statistics on the number of Nordic arrest warrants requested and received (although these statistics are not specifically ML related).

Weighting and conclusion

The assessors were provided with statistics on matters relevant to the effectiveness and efficiency of Iceland’s AML/CFT systems. FIU-ICE has collected some statistics related to STRs received/disseminated and international co-operation requests received/disseminated through the Egmont Secured site. Nevertheless, authorities are not tracking the nature of underlying activities to identify the suspected ML/TF activities.

Recommendation 33 is rated Largely Compliant.

Recommendation 34 – Guidance and feedback

During Iceland’s 3rd Round Mutual Evaluation in 2006, Iceland was rated non-compliant with former R.25, which contained the previous requirements in this area. The main deficiencies noted were that no guidelines had yet been issued to FIs or DNFBPs regarding AML/CFT issues and FIU-ICE had not provided any written guidance or feedback to reporting entities on their obligation to report STRs.

Criterion 34.1 -

FSA guidance and feedback to financial institutions and DNFBPs: The most recent AML/CFT guidelines issued by the FSA are the Guidelines No. 5/2014 on measures against ML/TF, which replace the earlier Guidelines No. 3/2011 on the same subject and apply to all FIs supervised by the FSA according to the AML/CFT Act. These Guidelines were developed in consultation with FIs and were made available via the FSA website.

The FSA does not provide proactive, on-going feedback to FIs. The FSA does provide guidance when requested by obliged entities, including with respect to AML compliance obligations.

Supervisors’ guidance and feedback to DNFBPs: In March 2017 the Supervisory Committee of Real Estate Agents sent a Circular Note to all licenced real estate agents with information and instructions as to their obligations according to AML/CFT Act. Other than that, there has been very limited outreach by DNFBP supervisors.

Guidance and feedback by FIU-ICE: Under Art. 11 of Reg. No. 175/2016, FIU-ICE is obliged to provide information on methodologies and red flag indicators; however, there is no evidence that this has been done.

In relation to feedback on STRs, FIU-ICE is obliged according to Reg. No. 175/2016, to provide guidance on the form and content of STRs filed, e.g. by publishing a special form (Art. 4), and notifying the filing entity in writing if an investigation is pursued and the outcome of the case, if investigations lead to criminal proceedings. (Art. 10). However, there is no evidence that this is being done in practice.

In March 2017, FIU-ICE sent letters to a number of financial services and DNFBP associations (including those representing auditors, financial services providers, lawyers, pension funds, real estate agents, and travel agents) to encourage them to notify obliged entities to nominate a specific person of managerial rank to be generally responsible for reporting to FIU-ICE according to Article 22 of the AML/CFT Act.

Weighting and conclusion

Iceland has made some limited progress towards addressing the deficiencies identified in the 3rd Round. The FSA has published AML/CFT guidelines and, since January 2017, FIU-ICE has commenced some outreach to reporting entities on ML/TF risk indicators. Nevertheless, FIU-ICE has not provided sufficient guidance on STRs to either FIs or DNFBPs and there has been only very limited outreach to DNFBPs by supervisors.

Recommendation 34 is rated Partially Compliant.

Recommendation 35 – Sanctions

In its 3rd MER, Iceland was rated PC with R.17 (para. 412 – 422, 433), which contained the previous requirements in this area. The main technical deficiencies were that the range of criminal and administrative sanctions were not sufficiently broad to cover directors and senior management of FIs in violation of AML/CFT obligation; there were no means to directly bar persons from the financial or DNFBP sector in the absence of conviction; there was no ability to restrict or revoke a license for AML/CFT violations.

Criterion 35.1 – Regarding requirements under R.6, penalty provisions of the Act on the Implementation of International Sanctions (Act 93/2008) in Art. 10 impose the following penalties on a party who violates an order or ban under that Act: fines, imprisonment for up to 4 years (unless a more severe penalty applies under another law), imprisonment for 6 years for serious cases and, for violations arising from gross negligence, fines or imprisonment of up to one year.

Regarding requirements under R. 8 – 23, Art. 27 of the AML/CFT Act provides only for imposition of fines in respect of certain violations. Available supervisory sanctions are discussed at c.24.13 and 27.4; however, the deficiencies identified in those criteria in relation to the limited scope of the FSA's sanctioning powers are relevant here.

DNFBP supervisors do not have a range of proportionate or dissuasive sanctions to ensure compliance. The consumer Agency can apply administrative sanctions indirectly by referring AML/CFT breaches to the DPO (Art. 27 of the AML/CFT Act). Sanctioning powers for other DNFBP supervisory bodies are limited to the withdrawal of licences (see c.28.4). Authorities do not have adequate or

proportionate sanctions to sanction violations of oversight measures by NPOs or persons acting on behalf of these NPOs (see c. 8.4).

Criterion 35.2 – Icelandic authorities confirm that penalty provisions referred to in c.35.1 apply to legal persons and employees of legal persons who commit a violation. However, the provisions do not apply to directors and senior managers, unless they personally commit the violation.

The FSA cannot apply sanctions directly against directors and senior managers for AML/CFT breaches, but can remove directors and senior managers indirectly for breaches of fit and proper requirements.

Weighting and conclusion

There are limited sanctions available and these do not appear to be adequately effective, proportionate or dissuasive.

Recommendation 35 is rated Partially Compliant

Recommendation 36 – International instruments

In its 3rd MER, Iceland was rated PC with former R.35 (para. 575-580) and former SR. I (para. 581 – 589), which contained the previous requirements in this area. The main technical deficiencies were failure to adequately criminalise conspiracy, participation in a criminal group, or self-laundering; scope of “terrorist act” did not cover all acts required by the CFT Convention; inadequate measures to identify beneficial owners; and failure to ratify the Palermo Convention.

Satisfactory measures to identify beneficial owners were put in place by amendments made to Art. 5 of the AML/CFT Act (No. 64/2006) by Art. 4 of the AML/CFT Amendment Act 2008 and further enhanced by Chapter 2.3.3 of FSA’s Guidelines, which gives guidance on what information shall be obtained about beneficial owners.

The Palermo Convention was ratified and entered into force, for Iceland, on 12 June 2010. Self-laundering is criminalised in Art. 264(2) of the GPC, as amended in December 2009. The December 2008 amendments also broadened the scope of “terrorist act” in Art. 100a of the GPC.

Criterion 36.1. – Iceland is a party to, and has ratified, the relevant Conventions, including the UNCAC, which was ratified on 6 September 2010 and entered into effect in Iceland on 1st March 2011.

Criterion 36.2. – Iceland has largely implemented the relevant articles of the Vienna, Palermo and TF Conventions by addressing the remaining deficiencies identified in the 3rd MER.

Iceland has largely implemented the relevant articles of the Merida Convention, with minor challenges in implementation as identified in the UNCAC Report of the Implementation Review Group³², adopted in June 2017.

³²

CAC/COSP/IRG/2017/CRP.8, available at www.unodc.org/unodc/en/corruption/IRG/session8.html.

Weighting and conclusion

There are minor gaps in implementation of the Merida Convention.

Recommendation 36 is rated Largely Compliant.

Recommendation 37 – Mutual legal assistance

In its 3rd MER (para. 676 – 690 and 696), Iceland was rated LC with former R. 36 and former SR. V, which contained the previous requirements in this area. The main technical deficiencies arose from the requirement for dual criminality in all cases of MLA. Failure to criminalise acts of terrorism in accordance with the CFT Convention, failure to fully criminalise conspiracy and failure to cover all predicate offences would impair Iceland's ability to provide assistance in cases involving actions not criminalised or covered. There was nothing in the legal framework for MLA to encourage or facilitate the voluntary appearance of witnesses or persons providing information to the requesting country and foreign judgments cannot be executed if the person is not domiciled in Iceland.

Criterion 37.1. – Art. 20-23b of the Act on Extradition of Criminals and other Assistance in Criminal Proceedings, No. 13/1984, as amended 2001, (ECOACP) allow for a wide range of mutual legal assistance in AML/CFT investigations and prosecutions as well as for enforcement of criminal judgements and confiscation orders.

Criterion 37.2. – Art. 22(3) of ECOACP establishes the Ministry of Justice (MoJ) as the central authority and provides that requests shall be sent to the MoJ unless other arrangements are decided in an agreement with another state. According to Icelandic authorities, there are clear processes for the execution of MLA requests, including a specific department for processing requests, entry into the MoJ case management system and immediate registration and execution of requests by the DPO. Requests are prioritised on a case by case basis with the most urgent requests being executed as rapidly as possible.

Criterion 37.3. – Art. 22 of ECOACP establishes the grounds for refusal of a request for legal assistance. Iceland requires dual criminality in all cases of MLA (apart from requests from the Nordic countries). However, none of these grounds are unduly restrictive.

Criterion 37.4. – Requests for MLA cannot be rejected on the sole ground that the offence is considered to involve fiscal matters or because of bank secrecy or confidentiality. **Criterion 37.5.** – (*Met*) All public officials that treat MLA requests are obliged by Art. 18 of the Government Employees Act, No. 70/1996, to observe confidentiality. Art. 136 of the GPC provides that a public official who discloses something that is supposed to be kept secret shall be imprisoned for up to one year, or up to three years if the official makes the disclosure to obtain unlawful gain for himself or herself, or another person.

Criterion 37.6. – Art. 20-23b of ECOACP clearly specify that dual criminality is always required, except in relation to Nordic countries. The Act is silent as to non-coercive actions.

Criterion 37.7. – Iceland’s requirement for dual criminality specifically refers to “the act giving rise to the request, or a comparable act” (ECOACP Art. 22). It is not relevant in what manner each country categorises or denominates the offence. The authorities look at the underlying facts and the nature of the activity involved.

Criterion 37.8 – Pursuant to ECOACP Art. 22, the provisions in the LCP shall be applied to gather evidence for use in criminal proceedings in another State in the same way as in comparable domestic proceedings. This includes the powers for Icelandic LEAs to use compulsory measures for the production of records (including financial records), for the search of persons and premises as well as for the seizure of evidence. Iceland’s MLA measures apply equally to ML, associated predicate offences and TF investigations, prosecutions and related proceedings.

Weighting and conclusion

The Icelandic legislation allows a wide range of MLA. The requirement for dual criminality could however be an obstacle.

Recommendation 37 is rated Largely Compliant.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In its 3rd MER, Iceland was rated LC with old R.38 (para. 610 - 625), which contained the previous requirements in this area. The main technical deficiencies were the inability to provide assistance in cases of self-laundering and some conspiracy and predicate offences; inability to execute a foreign judgment if the person is not domiciled in Iceland; and failure to consider sharing confiscated assets obtained after co-ordinated law enforcement efforts or establishing an asset forfeiture fund. The gaps in criminalisation of self-laundering and predicate offences have been addressed (see discussion at criteria 3.1 and 3.7).

Criterion 38.1. - The procedure for executing foreign requests that involve identification, freezing, seizing and confiscation of assets is the same as for any other case of mutual legal assistance. As discussed more fully in relation to R.37, domestic measures that give effect to foreign requests for search, freezing, seizing and forfeiture apply equally to money laundering, predicate offences and terrorist financing cases and the LCP applies to foreign requests. Under Iceland’s LCP, Art. 68, items shall be seized if it is reasonably believed that they may become subject to confiscation. Art. 69-69b of the GPC provide that investigative and other judicial powers (including confiscation) may be applied for securing and recovering proceeds, assets and instrumentalities used, or intended for use, in money laundering and terrorist financing as well as property of corresponding value. (see discussion of R. 3).

The general requirements for enforcing foreign criminal judgements are found in the International Co-operation on Enforcement of Criminal Judgements Act 56/93, as amended in 1997, which implements the 1970 Council of Europe Convention on the International Validity of Criminal Judgements. This law allows Iceland to enforce a confiscation order from a foreign court upon the condition that the assets could also be confiscated in Iceland if the case had occurred there (Art. 18). The provisions of this act also apply to agreements made with non-European states. Art. 3 allows for

the use of the act's provisions in specific circumstances even if there is no common convention between Iceland and the requesting State.

Criterion 38.2. - Art. 69d of the GPC provides that confiscation may be affected against a deceased person, but only in the case of criminal proceeds, equivalent value or items purchased with criminal gains, in accordance with Art. 69. This excludes instrumentalities (Art. 69a(1)), items that have come into being through an offence (Art. 69a(2)), items of value presumed to be proceeds of crime (Art. 69b) and value of gains mixed with lawfully acquired property. According to Art. 69f, confiscation may be effected without any person being indicted if the offender is unknown. Icelandic authorities indicate that assistance with confiscation also may be provided if the person concerned is absent or has taken flight, but assessors were not furnished with legislation to substantiate this assertion. Icelandic authorities confirm that Art. 88 of the LCP can only be used for confiscation in criminal cases.

Criterion 38.3. - Iceland does not have any specific agreement or MOU for co-ordinating seizure and confiscation actions with other countries. However, Icelandic authorities state that informal arrangements exist and that co-operation can also be arranged within the Schengen Agreement framework as well as through Interpol and Europol channels.

LCP, Art. 71, provides that seized property shall be inventoried and preserved in a secure manner and Art. 72 indicates when seized property is to be released; however there are no other mechanisms for managing property frozen or seized. Icelandic authorities indicate that Instructions No. 7 of 2017 and 11 of 2017 are relevant, but have not provided assessors with these documents.

Criterion 38.4. - The MoJ may decide whether confiscated property is to be divided between the Icelandic state and another state or states. (Art. 69g, GPC).

Weighting and conclusion

Although there are procedures and arrangements for addressing foreign requests, there are some shortcomings regarding non-conviction confiscation and management and disposal of confiscated, frozen or seized property.

Recommendation 38 is rated Largely Compliant.

Recommendation 39 - Extradition

In its 3rd MER, Iceland was rated LC with these requirements (para. 626 – 634, 637 – 638). The main technical deficiency was the inability to extradite in cases of self-laundering and some conspiracy and predicate offences owing to their inadequate criminalisation. The gaps in criminalisation of self-laundering and predicate offences have been addressed (see discussion at criteria 3.1 and 3.7).

Criterion 39.1. - Both money laundering and terrorist financing are extraditable offences in Iceland. Extradition rule and processes are dealt with in ECOACP and Act No. 51/2016 on arresting and surrendering persons to and from Iceland because of criminal acts on the grounds of an arrest warrant. However, as noted at c.5.2bis, UNSCR 2178/2014 has not yet been implemented, which means related TF offences would not be extraditable.

Although no extradition treaties are in place in Iceland, this does not prevent it from affording co-operation to foreign States since the current law does not subject extradition to the existence of a treaty. Case management and processes for timely execution and prioritisation of requests described in c.37.2 are applicable in requests for extradition. Iceland does not have any conditions or restrictions that appear unduly restrictive.

Criterion 39.2. – While Iceland does not extradite their own nationals (ECOACP Art. 2), Icelandic authorities do institute proceedings on special request by a state whose extradition request has been refused. This is governed by the second paragraph of Art. 6 of the European Convention on the Extradition of Criminals of 1957, to which Iceland is a party. The DPP gives instructions to the DPO and the Police Commissioners regarding processing speed to ensure timely processing. There is an exception to this prohibition applicable to the Nordic countries under the Nordic Arrest Warrant No. 12/2010 (NAW). (Measures to extend the European Arrest Warrant to Iceland have been enacted but are not yet in force.)

Criterion 39.3. – Iceland’s requirement for dual criminality specifically refers to “the act giving rise to the request, or a comparable act” (ECOACP Art. 22). It is not relevant in what manner each country categorises or denominates the offence. The authorities look at the underlying facts and the nature of the activity involved.

Criterion 39.4. – Simplified mechanisms are in place for the Nordic countries under the NAW.

Weighting and conclusion

Iceland has a strong legal framework for extradition. However, minor gaps exist in criminalisation of TF, which would prevent those offences from being extraditable.

Recommendation 39 is rated Largely Compliant.

Recommendation 40 – Other forms of international co-operation

In its 3rd MER, Iceland was rated LC with these requirements (para. 639 - 650). The only deficiencies identified related to effectiveness.

General principles

Criterion 40.1. – Icelandic authorities advise that Police, Customs, FIU-ICE, the DTI and the FSA are able to provide a wide range of international co-operation in relation to ML and associated predicate offences and TF. Icelandic authorities state that the relevant authorities can exchange information both spontaneously and on request.

Criterion 40.2. –

(a) Police (including FIU-ICE) are specifically obligated by Art. 2 of the Police Act (No. 90/1996) to observe international legal obligations, including co-operation on the bases of agreements and conventions to which Iceland is a party. FIU-ICE is also a member of Egmont and shares information based on the Egmont Principles. Art. 184, para. 2 of the Customs Law requires the Director of Customs to render assistance to foreign customs authorities on request. The FSA is authorised to

cooperate with regulatory authorities of EEA Member states. Co-operation with regulators of other states requires an agreement. (Art. 14, Act on Official Supervision of Financial Activities (No. 87/1998). The DTI is authorised to cooperate and share information based on the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, the Nordic Mutual Assistance Convention on Mutual Administrative Assistance in Tax Matters and 94 bilateral information sharing and double taxation agreements.

(b) There are no restrictions on allowing authorities to use the most efficient means of co-operation.

(c) FIU-ICE uses the Egmont Secure Website to facilitate transmission and execution of requests. No information has been provided regarding other competent authorities.

(d) Iceland provided evidence that they are prioritising the timely execution of requests; however this is not included in a formal written procedure.

(e) Icelandic authorities indicate that competent authorities must comply with the Data Protection Act.

Criterion 40.3 Where bilateral or multilateral agreements are needed, Iceland has entered into such agreements with their relevant counterparts. The FSA has signed 45 agreements with counterparts outside the EEA. FIU-ICE has, to date, signed only one MOU with counterparts outside the EEA. The DTI shares information based on 2 multilateral and 94 bilateral information sharing and double taxation agreements. The NSU has also reached out and formed bilateral agreements with counterparts, particularly in Nordic countries.

Criterion 40.4. – Generally, Icelandic competent authorities have not provided feedback, upon request, in a timely manner to competent authorities from whom they have received assistance, on the use and usefulness of the information obtained.

Criterion 40.5. – There is no indication that Icelandic authorities are entitled to refuse a request for assistance on the grounds set out in sub-criteria (a) – (d).

Criterion 40.6. – Icelandic authorities indicate that agreements Iceland has made about the handling of classified information include clauses restricting the handling and sharing of information beyond purposes other than those established by the originator and those for which the information is provided and exchanged. Assessors recognise such provisions as being standard language in OECD Model Tax Information Agreements, of which Iceland has signed many.

Criterion 40.7. – Icelandic authorities indicate that authorities who handle sensitive information must comply with the Data Protection Act. However, assessors were not provided with a copy of this legislation and cannot confirm whether it meets this criterion.

Criterion 40.8. – Pursuant to ECOACP Art. 22, the provisions in the LCP shall be applied to gather evidence for use in criminal proceedings in another State in the same way as in comparable domestic proceedings. See discussion at c.37.8.

Exchange of information between FIUs

Criterion 40.9. – FIU-ICE is part of the Egmont Group and shares information via the Egmont secure website regardless of the nature of the counterpart FIU, in accordance with the Egmont Principles. The FIU can share information with FIU of any regional group, including the EEA. The police can share open source information without a MLA request. The FIU also has established an MOU with one foreign counterpart outside the EEA.

Criterion 40.10. – Icelandic authorities indicate that FIU-ICE seeks to inform foreign FIUs regarding the process and outcomes of received intelligence and the purpose to which that intelligence was used.

Criterion 40.11. – FIU-ICE is capable of (a) exchanging relevant information with its counterparts at an international level and (b) exchanging information on a domestic level. See discussion at c.29.5 and 31.4

Exchange of information between financial supervisors

Criterion 40.12. –) Art. 14 of Act No. 87/1998 on the Official Supervision of Financial Activities (OSFA) authorises the FSA to share information with regulatory authorities of EEA member states and with regulators outside the EEA upon agreement for the purposes of prescribed supervision, which includes AML/CFT supervision (AML/CFT Act, Art. 25). In both cases, information sharing is subject to assurances of confidential handling of information.

Criterion 40.13. – OSFA Art. 14 specifies that the FSA may disclose information, which is to be treated confidentially in accordance with article 13. Art. 13 protects information on the business and operation of parties subject to supervision, related parties or others, which they acquire in their work.

Criterion 40.14. – OSFA Art. 9 empowers the FSA to request information in such a manner and as often as it deems necessary. Art. 14 empowers the FSA to share any information it acquires. The only limiting factor is that the receiving authority treat the information as confidential.

Criterion 40.15. –) The FSA is able to conduct inquiries for, and facilitate conducting inquiries by, the European Banking Authority, European Securities and Markets Authority and European Insurance and Occupational Pensions Authority (Act 24/17, implementing Regulation (EU) No. 1093/2010, 1094/2010 and 1095/2010). The FSA may also share confidential information with regulatory and other authorities of EEA states for supervisory and law enforcement purposes (Art. 14 and 14a, Act on Official Supervision of Financial Activities, No. 87/1998). For other international counterparts, an MOU is required.

Criterion 40.16. – Information the FSA receives from member states of the EEA can only be disclosed with an explicit consent of the legal authorities which disclosed them and only for the purposes agreed by those authorities (Act on Official Supervision of Financial Operations, Art. 14). For countries other than those in the EEA, further dissemination or use of information is addressed in each MOU.

Exchange of information between law enforcement authorities

Criterion 40.17. – Leas are able to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to money laundering, associated predicate offences or terrorist financing, including the identification and tracing of the proceeds and instrumentalities of crime, except in response to a request for mutual legal assistance.

Criterion 40.18. – Iceland LEAs are not able to use their investigative powers to conduct inquiries and obtain information on behalf of foreign counterparts, except in response to a request for mutual legal assistance.

Iceland authorities indicate that the regimes or practices in place governing law enforcement co-operation, such as the agreements between Interpol, Europol or Eurojust and individual countries, do govern restrictions on use imposed by the requested law enforcement authority.

Criterion 40.19. – Iceland has demonstrated that Leas are able to form joint investigative teams to conduct cooperative investigations and, when necessary, establish bilateral or multilateral arrangements to enable such joint investigations in the absence of a formal request for mutual legal assistance.

Exchange of information between non-counterparts

Criterion 40.20. – Competent authorities are not able to exchange information indirectly with non-counterparts, applying the relevant principles above or to take measures to ensure that the competent authority that requests information indirectly always makes it clear for what purpose and on whose behalf the request is made.

Weighting and conclusion

There are some strong points in Iceland's legal framework for international co-operation. Nevertheless, gaps remain in the information provided regarding potential prohibitions on sharing information.

Recommendation 40 is rated Largely Compliant.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<ul style="list-style-type: none"> The information and analysis on which the NRA conclusions are based are not clearly identified Findings of the NRA were not broadly disseminated to either the public or the private sector. The NRA is not being used by the public and private sectors for resource allocation or prioritising AML/CFT efforts. Exemptions from AML/CFT obligations, requirements for enhanced measures and permission for simplified measures are not based on identified risks. Financial institutions and DNFBPs are not required to identify, assess and understand their ML/TF risks. Obligated entities are not required to get senior management approval for AML/CFT policies, controls and procedures, monitor implementation, or take enhanced measures in cases of higher risk.
2. National co-operation and co-ordination	PC	<ul style="list-style-type: none"> Iceland has not yet developed policies informed by identified risks. Neither the NSC nor the AML/CFT Steering Group is currently operating either alone or in co-ordination as the country's coordinator of national AML/CFT policies. No mechanisms are in place for competent authorities to coordinate on AML/CFT policies and activities or measures to combat financing the proliferation of WMD.
3. Money laundering offence	C	The criteria are all met.
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> There are no rules in place regarding management of seized property or disposal of seized property, other than by release to the relevant parties
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> Provisions of the GPC on terrorism and terrorist financing necessary to implement UNSCR 2178/2014 are not yet in force
6. Targeted financial sanctions related to terrorism & TF	PC	<p>In relation to UNSCRs 1267/1989 and the 1988 sanctions regimes -</p> <ul style="list-style-type: none"> Iceland has no mechanism in place to identify targets for designation. There are no rules or guidelines regarding the standard of proof for, or conditions applicable to, making proposals for designation. There are no procedures in place with respect to filing information with UN Sanctions Regimes in support of proposed designations. There are no rules or guidelines in place regarding provision of information in support of a designation proposal <p>In relation to UNSCR 1373 -</p> <ul style="list-style-type: none"> Iceland has no mechanism to identify targets for domestic designations. There is no explicit timeframe for consideration of EU designations or requirement to act promptly. Art. 6 of the ISA does not apply to anyone who has not already been designated. Implementation of designations pursuant to UNSCR 1373

Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> requires a regulation, which may cause some delay. Art. 7 of Reg. No. 119/2009 does not specify that a freeze may apply to assets that are jointly or indirectly owned or controlled, income derived from assets indirectly owned or controlled, or funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities. DNFBPs receive no direct notice of sanctions updates. Information is not publicly available regarding the submission of de-listing requests to the relevant UN sanctions committee or to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to any specific list. There is no law, guidance or written policy requiring the specific procedures set out in UNSCR 1452 (e.g., notice to, or approval by, the appropriate Committee) to be met before granting access to frozen funds.
7. Targeted financial sanctions related to proliferation	PC	<ul style="list-style-type: none"> Transposition of designations under UNSCRs does not take place without delay. Deficiencies identified for criteria 6.5 and 6.6 apply also to R.7. There are no measures in place for monitoring, ensuring compliance, or sanctions for non-compliance with the obligations under R. 7. Specific conditions set out in sub-criteria 7.5(b) are not addressed.
8. Non-profit organisations	NC	<ul style="list-style-type: none"> Icelandic authorities have not taken any steps to identify the features and types of NPOs which may be at risk of TF abuse or to address any identified risks. There is no policy on, and there has been no outreach to, the NPO sector on TF issues. There is no mechanism in place to supervise or monitor NPOs at risk for TF abuse. Up-to-date information on the administration and management of NPOs would not be available during the course of an investigation.
9. Financial institution secrecy laws	LC	<ul style="list-style-type: none"> The FSA can only share information if required by law or if required by a court order, which may inhibit information sharing with other domestic competent authorities.
10. Customer due diligence	PC	<ul style="list-style-type: none"> CDD measures do not apply to foreign legal arrangements or require identification of any settlor or protector. FIs are not required to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. Permission to apply simplified measures is not based on identified lower risk (see c.1.8). There is no provision permitting FIs to discontinue CDD and file an STR when performing CDD would tip-off the customer.
11. Record keeping	C	All criteria are met.
12. Politically exposed persons	PC	<ul style="list-style-type: none"> Iceland's definition of a foreign PEP is based on residency and is therefore not in line with the FATF definition of a foreign PEP. There are no specific CDD requirements concerning domestic PEPs or persons who have been entrusted with a prominent

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		function by an international organisation. <ul style="list-style-type: none"> • There is no clear requirement for FIs to determine whether a beneficial owner or a beneficiary of a life insurance policy is a PEP.
13. Correspondent banking	PC	<ul style="list-style-type: none"> • Requirements described under c.13.1 and 13.2 do not apply to institutions within the EEA. • It is not clear that there is a requirement for FIs to fully understand the nature of the respondent's business in all correspondent banking relationships.
14. Money or value transfer services	LC	<ul style="list-style-type: none"> • The FSA does not act proactively to identify illegal MVTS activity or apply proportionate and dissuasive sanctions. • The FSA does not monitor agents of EEA MVTS providers operating in Iceland.
15. New technologies	PC	<ul style="list-style-type: none"> • There is no direct requirement for FIs to identify and assess the ML/TF risks in relation to the development of new technologies, new business practices or new and pre-existing products. • Competent authorities have not identified or assessed the ML/TF risks in relation to new technologies.
16. Wire transfers	PC	There is no requirement to ensure that - <ul style="list-style-type: none"> - cross-border transfers or batch files are accompanied by the required beneficiary information; - records on beneficiary information are kept by ordering institutions ; - intermediary institutions keep records on beneficiary information with the transfer or, when using a payment system with technical limitations make that information available - beneficiary institutions to detect whether the required beneficiary information is missing, to verify the identity of the beneficiary, or take any steps when beneficiary information is missing or incomplete. <ul style="list-style-type: none"> • Intermediary FIs are not required to take reasonable measures to identify cross-border wire transfers that lack originator information or required beneficiary information. • There are no provisions relating to the role of the intermediary institution in responding to situations where the originator or beneficiary information is missing. • There are no specific requirements for MVTS providers who control both the ordering and beneficiary side of a wire transfer, to take into account information from both sides.
17. Reliance on third parties	PC	There is no explicit requirement for FIs to - <ul style="list-style-type: none"> • immediately obtain the necessary information concerning CDD; • consider the country specific ML/TF risks when determining in which country the 3rd party may be based.
18. Internal controls and foreign branches and subsidiaries	PC	There is no requirement for FIs to - <ul style="list-style-type: none"> - maintain an independent audit function to test the AML/CFT system; - implement group-wide programmes against ML/TF. <ul style="list-style-type: none"> • Requirements addressing c.18.3 are limited to CDD and do not extend to all FIs or to branches and subsidiaries within the EEA.
19. Higher-risk countries	PC	<ul style="list-style-type: none"> • The requirement to pay particular attention in cases of higher risk does not include EDD and does not extend to countries with

Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
		<p>a higher TF risk</p> <ul style="list-style-type: none"> Icelandic authorities do not have the power to apply countermeasures proportionate to the risks when called upon to do so by the FATF or independently of any call to do so.
20. Reporting of suspicious transaction	LC	<ul style="list-style-type: none"> There is no explicit requirement for FIs to report suspicious transactions promptly when a suspicion is formed after the transaction has been executed.
21. Tipping-off and confidentiality	C	All criteria are met.
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> Deficiencies as identified in R.10, R.12, R.14 and R.17 are applicable for DNFBPs.
23. DNFBPs: Other measures	PC	<ul style="list-style-type: none"> Deficiencies as identified in R.20 and R.19 are applicable for DNFBPs. There is no mechanism applicable to DNFBPs for Iceland to enforce countermeasures against high risk countries.
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> Iceland does not have a mechanism to identify or describe the process for obtaining and recording of beneficial ownership information. Iceland has not specifically assessed the risks associated with all types of legal persons available in Iceland. Non-commercial foundations are not required to register. Not all types of legal persons are required to identify and maintain information on categories of shares or voting rights. Iceland's mechanisms to ensure availability of BO information - <ul style="list-style-type: none"> do not include entities that were not formed through a lawyer, auditor or TCSP, or that are not customers of FIs and DNFBPs in Iceland; are not sufficient to determine the beneficial ownership in a timely manner. There are no measures in place to ensure that legal persons (other than those supervised by the FSA) cooperate with competent authorities in determining BO. Record keeping requirements do not specifically apply to legal persons other than obligated entities and there are significant gaps in requirements to keep beneficial ownership information. Competent authorities, other than the FSA and Supervisory Committee of Real Estate Agents, do not have power to obtain timely access to BO information and the power of the Supervisory Committee of Auditors to request information is limited to the context of quality assurance reviews. Penalties for failure to provide information only apply to entities supervised by the FSA; there are no such penalties available for other types of financial undertakings or DNFBPs. Where they are available, the range of sanctions is limited and there is no evidence to indicate whether available sanctions are effective or dissuasive. Icelandic competent authorities' ability to provide international co-operation in relation to basic and BO information is impeded by deficiencies identified above. Iceland does not monitor the quality of assistance received from other countries in response to requests for basic and BO

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		information.
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> Requirements on professional trustees to conduct CDD, maintain records and provide information do not extend to trust relevant parties that are neither the customer nor the customer's beneficial owner. Information available to Icelandic and foreign competent authorities is limited by deficiencies identified above. Trustees of foreign trusts are not required by law to disclose their status to reporting entities or to give authorities access to information held by them in relation to the trust.
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> Rules on qualified holding do not apply to pension funds and insurance brokers. FIs other than core principles institutions are not regulated, supervised or monitored based on risk in the sector. Frequency and intensity of on-site and off-site inspections are not carried out on the basis of a comprehensive assessment of ML/TF risk. Supervisors do not review FIs' assessments of their risk profiles periodically or when there are major developments in the management or operations of the FI or financial group.
27. Powers of supervisors	LC	<ul style="list-style-type: none"> The range of sanctions imposed by supervisors does not appear to be dissuasive or proportionate and does not include the power to withdraw, restrict or suspend a license or to apply administrative sanctions directly for AML/CFT breaches.
28. Regulation and supervision of DNFBPs	NC	<ul style="list-style-type: none"> Not all DNFBPs have a designated body responsible for AML/CFT supervision. There is no system in place for monitoring DNFBPs' compliance with AML/CFT requirements. Supervisors do not have an adequate range of enforcement or supervisory powers. Supervision, monitoring and outreach to DNFBPs has been very limited and not based on risk.
29. Financial intelligence units	LC	<ul style="list-style-type: none"> FIU-ICE does not conduct strategic analysis to identify ML/TF related trends and patterns
30. Responsibilities of law enforcement and investigative authorities	C	All criteria are met.
31. Powers of law enforcement and investigative authorities	C	All criteria are met.
32. Cash couriers	PC	<ul style="list-style-type: none"> There is no obligation to declare cash or bearer negotiable instruments transported by cargo. Except in the case of repeated or otherwise serious offences, the only available sanction for making a false declaration is confiscation of the relevant cash or BNI; this is not proportionate or dissuasive. Icelandic customs authorities do not make information obtained through the declaration system available to FIU-ICE and do not work closely with immigration or police authorities on issues

Compliance with FATF Recommendations

Recommendation	Rating	Factor(s) underlying the rating
		<p>related to the implementation of R.32</p> <ul style="list-style-type: none"> Iceland does not have any mechanisms for retaining the information obtained in the circumstances outlined in c.32.9. There are no safeguards to ensure that the disclosure system protects against restricting either: (i) trade payments between countries for goods and services; or (ii) the freedom of capital movements, in any way.
33. Statistics	LC	<ul style="list-style-type: none"> Statistics are not comprehensive; authorities are not tracking the nature of underlying activities to identify the suspected ML/TF activities.
34. Guidance and feedback	PC	<ul style="list-style-type: none"> The FSA does not provide proactive, on-going feedback to FIs. Supervisors have conducted only very limited outreach to DNFBNs. FIU-ICE has not provided sufficient guidance on STRs to either FIs or DNFBNs.
35. Sanctions	PC	<ul style="list-style-type: none"> Deficiencies in FSA's sanctioning powers described in R.24 and 27 are applicable to R.35. DNFBP supervisors do not have a range of proportionate or dissuasive sanctions to ensure compliance. Authorities do not have adequate or proportionate sanctions to sanction violations of oversight measures by NPOs or persons acting on behalf of these NPOs. Sanction provisions do not apply to directors and senior managers, unless they personally commit the violation.
36. International instruments	LC	<ul style="list-style-type: none"> There are minor gaps in implementation of the Merida Convention.
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> The requirement for dual criminality applies to requests for non-coercive actions.
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> Iceland's ability to provide assistance related to non-conviction confiscation is limited to cases where the offender is deceased or unknown. There are no mechanisms for management and disposal of confiscated, frozen or seized property.
39. Extradition	LC	<ul style="list-style-type: none"> Because UNSCR 2178/2014 has not yet been implemented (see c.5.2bis), related TF offences would not be extraditable.
40. Other forms of international co-operation	LC	<ul style="list-style-type: none"> Other than the FIU, competent authorities do not have clear and secure mechanisms to facilitate transmission and execution of requests. Generally, Icelandic competent authorities have not provided feedback in a timely manner to competent authorities from whom they have received assistance, on the use and usefulness of the information obtained. Iceland's mechanism for ensuring confidentiality of shared information consistently with privacy and data protection obligations is unclear. Iceland LEAs are not able to use their investigative powers to conduct inquiries and obtain information on behalf of foreign counterparts, except in response to a request for mutual legal assistance. Competent authorities are not able to exchange information indirectly with non-counterparts.

*Glossary of Acronyms*³³

ACFE	Association of Certified Fraud Examiners
ARO	Asset Recovery Office
Art.	Article/articles
BCBS	Basel Committee on Banking Supervision
BEC	Business e-mail compromise
BNI	Bearer negotiable instruments
BO	Beneficial ownership
CARIN	Camden Asset Recovery Inter-agency Network
CBI	Central Bank of Iceland
CDD	Customer due diligence
CEPOL	European Union Agency for Law Enforcement Training
DNFBP	Designated non-financial businesses and professions
DPMS	Dealers in precious metals and stones
DPO	District Prosecutor's Office
DPP	Director of Public Prosecutions
DPRK	Democratic People's Republic of Korea
DTI	Directorate of Tax Investigations
ECOACP	Extradition of Criminals and other Assistance in Criminal Proceedings, No. 13/1984, as amended 2001
EDD	Enhanced due diligence
EEA	European Economic Area
EEC	European Community of Regulation
EEIG	European Economic Interest Grouping
EU	European Union
EUR	Euro
FI	Financial institution
FIU-ICE	Financial intelligence Unit - Iceland
FSA	Financial Supervisory Authority
FUA	Financial Undertakings Act, No 161/2002
GDP	Gross domestic product
GPC	General Penal Code, No. 19/1940
IBA	Icelandic Bar Association
ID	Identification
IMF	International Monetary Fund
ISA	International Sanctions Implementation Act, No. 93/2008
ISK	Icelandic króna
LCA	Limited Companies Act
LCP	Law on Criminal Procedure, No. 88 of 2008
LEA	Law enforcement authorities
MER	Mutual Evaluation Report
MoFA	Ministry of Foreign Affairs
ML	Money laundering

³³ Acronyms already defined in the FATF 40 Recommendations are not included to this Glossary.

MLA	Mutual legal assistance
MoFEA	Ministry of Finance and Economic Affairs
MoII	Ministry of Industries and Innovation
MoJ	Ministry of Justice
MOU	Memorandum of Understanding
MVTS	Money or value transfer services
NAW	Nordic Arrest Warrant
NPO	Non-profit organisation
NRA	National Money Laundering and Terrorist Financing Risk Assessment
NSC	National Security Council
NSU	National Security Unit
ODD	Ongoing due diligence
OSFA	Official Supervision of Financial Activities Act, No. 87/1998
PEP	Politically exposed person
PF	Proliferation financing
PSP	Payment service provider
Reg.	Regulation/regulations
SDD	Simplified due diligence
SPO	Special Prosecutors Office
SRB	Self-regulating bodies
STR	Suspicious Transaction Report
TCSPs	Trust and company service providers
TF	Terrorist financing
TFS	Targeted financial sanctions
UCITS	Undertakings for the collective investment in transferable securities
UNCAC	United Nations Convention against Corruption
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
USD	United States dollar
VAT	Value added tax
WMD	Weapons of mass destruction



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Anti-money laundering and counter-terrorist financing measures - Iceland

Fourth Round Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in Iceland as at the time of the on-site visit on 28 June -12 July 2017.

The report analyses the level of effectiveness of Iceland's AML/CTF system, the level of compliance with the FATF 40 Recommendations and provides recommendations on how their AML/CFT system could be strengthened.