

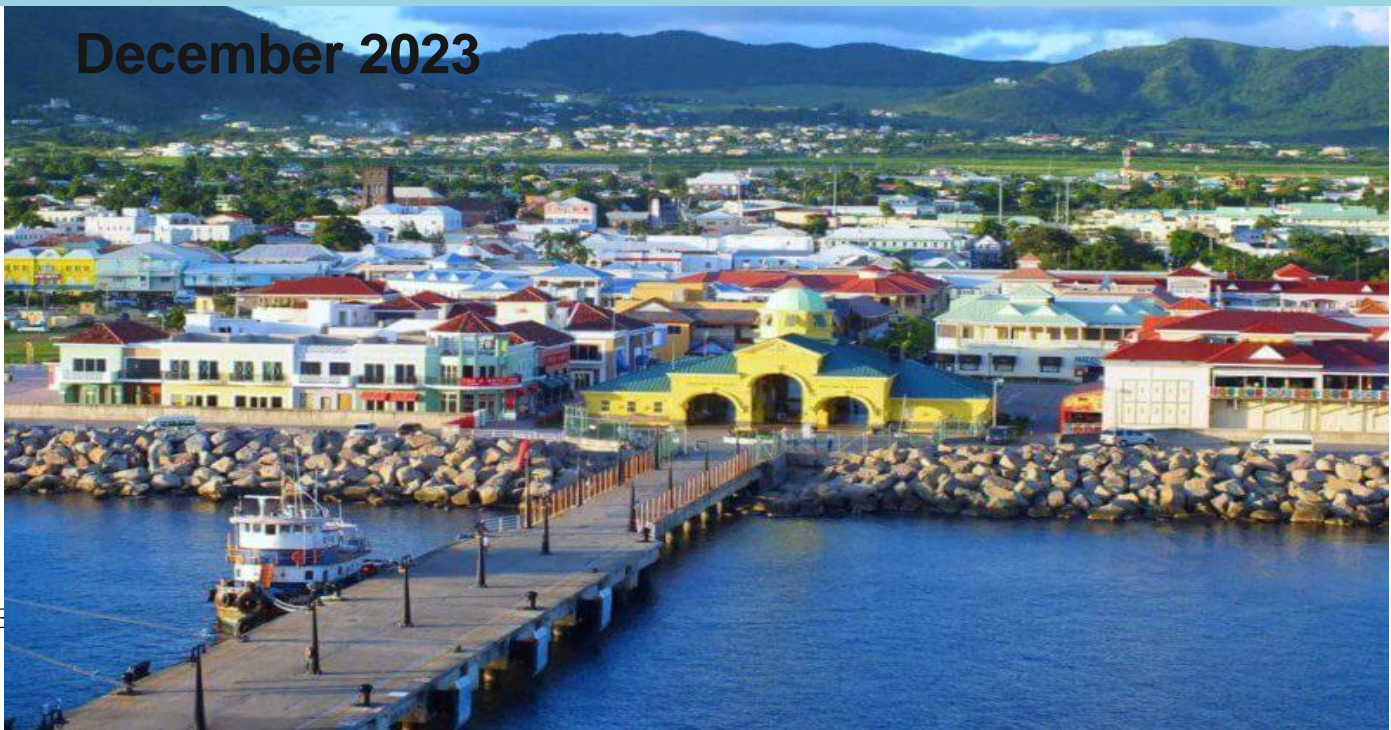


Anti-money laundering and counter-terrorist financing measures

ST. KITTS and NEVIS

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

December 2023





The Caribbean Financial Action Task Force (CFATF) is an inter-governmental body consisting of twenty-four member states and territories of the Caribbean Basin, Central and South America which have agreed to implement common countermeasures to address money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. For more information about the CFATF, please visit the website: www.cfatf.org

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St. Kitts and Nevis' Second Enhanced Follow-Up Report 2023

1. INTRODUCTION

1. The mutual evaluation report (MER) of St. Kitts and Nevis was adopted in November 2021 during the 53rd Caribbean Financial Action Task Force (CFATF) Plenary held virtually and Barbuda and published in January 2022. Since it met the thresholds of having eight (8) or more NC/PC ratings for technical compliance and a low or moderate level of effectiveness for seven (7) or more of the eleven (11) effectiveness outcomes, St. Kitts and Nevis was placed under the enhanced follow-up process¹.
2. This FUR analyses the progress of St. Kitts and Nevis in addressing the technical compliance requirements of the recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated. No new requirements relating to FATF Recommendations effective for the Fourth Round have been made since the MER was adopted.
3. This report does not analyse any progress St. Kitts and Nevis has made to improve its effectiveness.
4. The assessment of St. Kitts and Nevis' request for technical compliance re-ratings and the preparation of this report was undertaken by the Group of Experts consisting of Ms. Kara Duff-Yehudah (Legal Expert), Legal Advisor/Compliance Officer, Guyana Geology and Mines Commission, Guyana, and Mrs. Lesley Pearson (Financial Expert), Senior Manager Risk Analytics and Examinations – Risk Analytics and Examinations, Securities Commission of The Bahamas with support from Mr. Roger Hernandez of the CFATF Secretariat.
5. Section IV of this report summarizes the progress made to improve technical compliance. Section V contains the conclusion and a table illustrating St. Kitts and Nevis' current technical compliance ratings.

III. FINDINGS OF THE MUTUAL EVALUATION REPORT & FOLLOW-UP

6. St. Kitts and Nevis' MER ratings²³ are as follows:

R.	Rating
1	LC (MER 2021)
2	PC (MER 2021)
3	LC (MER 2021)

R.	Rating
21	C (MER 2021)
22	LC (MER 2021)
23	LC (MER 2021)

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up is based on the CFATF's policy that deals with members with significant deficiencies (for technical compliance and/or effectiveness) in their AML/CFT systems and involves a more intensive process of follow-up.

² There four possible levels of technical compliance are: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Effectiveness ratings for the 11 Immediate Outcomes are: Low, Moderate (Mod), Substantial or High.

³ St. Kitts and Nevis did not seek re-ratings prior to this FUR. Current ratings are indicated based on the original MER.

4	PC (MER 2021)	24	PC (MER 2021)
5	LC (MER 2021)	25	PC (MER 2021)
6	PC (MER 2021)	26	PC (MER 2021)
7	PC (MER 2021)	27	C (MER 2021)
8	PC (MER 2021)	28	PC (MER 2021)
9	C (MER 2021)	29	LC (MER 2021)
10	PC (MER 2021)	30	C (MER 2021)
11	LC (MER 2021)	31	C (MER 2021)
12	C (MER 2021)	32	LC (MER 2021)
13	C (MER 2021)	33	C (MER 2021)
14	LC (MER 2021)	34	C (MER 2021)
15	PC (MER 2021)	35	PC (MER 2021)
16	LC (MER 2021)	36	PC (MER 2021)
17	LC (MER 2021)	37	LC (MER 2021)
18	LC (MER 2021)	38	C (MER 2021)
19	LC (MER 2021)	39	PC (MER 2021)
20	C (MER 2021)	40	LC (MER 2021)

IV. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

7. In keeping with the CFATF Mutual Evaluation Procedures, this FUR considers progress made up until 27 May 2023. In line with the ME Procedures and FATF Methodology, the Group of Experts' analysis has considered progress to address the deficiencies identified in the MER and the entirety (all criteria) of each Recommendation under review, noting that this is cursory where the legal, institutional or operational framework is unchanged since the MER or previous FUR.
8. This section summarizes the progress made by St. Kitts and Nevis to improve its technical compliance by:
 - a) addressing the technical compliance deficiencies identified in the MER, and
 - b) implementing new requirements where the FATF Recommendations have changed since the MER was adopted.

4.1. Progress to address technical compliance deficiencies identified in the MER

4.1.1 Recommendation 2 (originally rated PC)

10. In its 4th round MER, St. Kitts and Nevis was rated PC with R.2. The technical deficiencies were inter alia: due to minimal analysis of TF risk in the NRA there was no TF actionable items in the National Action Plan; no measures for cooperation and co-ordination in combatting the financing of PF; other than the DPP, AG, WCCU, CATM and the Immigration Department there are no measures for cooperation and coordination to ensure the compatibility of AML/CFT requirements with data protection and privacy rules for other relevant CAs in St. Kitts and Nevis.
11. **Criterion 2.1 - (Partly Met):** The deficiency cited in the MER is that due to minimal analysis of TF risk in the NRA there was no TF actionable items in the National Action Plan. No action has been taken by St. Kitts and Nevis to deal with this deficiency which remains outstanding.
12. **Criterion 2.2 - (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Section 3 of the AMLNCA establishes the NAMLC. The mandate of the NAMLC includes coordinating the issuance and implementation of policies to address gaps identified in the AML/CFT framework.
13. **Criterion 2.3 - (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Mechanisms are in place to enable policy makers, the FIU, law enforcement authorities, supervisors and other competent authorities to co-operate, and where appropriate, co-ordinate and exchange information domestically concerning the development and implementation of AML/CFT policies. These mechanisms apply at both policymaking and operational levels.
14. **Criterion 2.4 - (Met):** Section 5 of the Miscellaneous Financial Services Amendment Act (MFSAA) No. 9 of 2021 amended section 4(g) of the Anti-Money laundering National Committee Act (AMLNCA) No. 2 of 2020 to authorise the National Anti-Money Laundering Committee (NAMLC) to coordinate actions to assess the national ML, TF and PF risks. The NAMLC as stipulated in section 5 of the AMLNCA is headed by the Attorney General with representatives from the Ministry of Finance, Customs Department, Office of the Director of Public Prosecutions, the Inland Revenue Department, the Immigration Department, the Financial Services Regulatory Commission, the Eastern Caribbean Central Bank, the Royal St. Christopher and Nevis Police Force, the Financial Intelligence Unit and the Legal Department of Nevis Island Administration. These CAs include all relevant authorities in the AML/CFT regime and have PF in their appropriate remit. No new CAs have been established solely for PF.
15. A new MOU amongst CAs replacing the previous MOU, was developed governing the communication, cooperation and information and intelligence sharing in the fight against ML/FT/PF in St. Kitts and Nevis. The MOU sets out a channel to collaborate on AML/CFT/CPF matters providing for consultation on an ongoing basis to enhance cooperation and effective collaboration.
16. **Criterion 2.5 - (Met):** The updated MOU does not speak to AML/CFT requirements with Data Protection and Privacy Rules. Sections 26 to 29 of the MOU provide for collaboration in conducting joint investigations, consultation on an ongoing basis to enhance co-operation among the parties to the MOU, sharing opportunities for training and for each party to provide guidance on related matters necessary for the efficient and effective collaboration on matters affecting the ability of all competent authorities with the aim of enhancing the effectiveness of the AML/CFT/CPF regime within St. Christopher and Nevis. Additionally, sections 5 to 21 stipulate the types of exchange of information and intelligence relevant for AML/CFT/CPF functions of the parties. As a result of the MOU, information is being shared to an even greater extent between the relevant law enforcement agencies (LEAs) including the White Collar Crime Unit (WCCU), Customs and Excise Department (CED), Police and FIU on an ongoing basis. Joint investigations have been conducted by the CED and the WCCU. This increased level of collaboration has resulted in improved intelligence flowing from international and regional LEAs and has contributed to more effective cash investigations and increased cash forfeitures. Additionally, each agency, which is a

part of the MOU, has its respective Standard Operating Procedures (SOPs) which outline the data protection procedures and mechanisms in place.

17. Criterion 2.5 is specifically concerned with co-operation and co-ordination between relevant authorities ensuring the compatibility of AML/CFT requirements with Data Protection and Privacy rules. St. Kitts and Nevis does have data protection and privacy rules, namely the Electronic Transaction Act, Electronic Crimes Act and the Interception of Communications Act. These pieces of legislation do not appear incompatible with AML/CFT laws. Issues relating to AML/CFT requirements and data protection/privacy policies are discussed at meetings of the following:

- National Anti-Money Laundering Committee (NAMLC);
- Implementation Committee (sub-committee of the NAMLC);
- Legislative Committee (sub-committee of NAMLC);
- Joint Security Operations Tactical Team (JSOTT) (law enforcement agency in the Ministry of National Security).

Weighting and Conclusion

18. The situation remains unchanged in relation to no TF actionable items in the NAP. There are measures for co-operation and co-ordination in combatting the financing of PF and the MOU amongst competent authorities allows for cooperation and coordination between relevant authorities. The deficiency regarding no TF actionable items in the NAP is regarded as minor given St. Kitts and Nevis' TF context. While the TF assessment was limited, there is no evidence of TF activity in the jurisdiction. There have been no international requests regarding TF activity and the two investigations into potential TF revealed no illicit activity.

19. **St. Kitts and Nevis is re-rated Largely Compliant with R.2.**

4.1.2. Recommendation 6 (originally rated PC)

20. In its 4th round MER, St. Kitts and Nevis was rated PC with R.6. The technical deficiencies included minimal requirements for all natural and legal persons in St. Kitts and Nevis to comply with TFS. There are deficiencies with regards to implementation of TFS without delay, communication of designated persons and entities and submission of de-listing requests to the relevant UN Sanctions Committees 1267/1989 and 1988. There are no procedures to facilitate review of designations by the 1988 Committee, no mechanisms for communicating de-listings and unfreezing to FIs and DNFBBs immediately upon taking such actions and limited guidance to FIs and DNFBBs on de-listing and acts of unfreezing.

21. **Criteria 6.1 (Mostly Met) 6.1(a) – 6.1(c) – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Under section 114 of the Anti-Terrorism Act (ATA) as amended in Miscellaneous Amendments Financial Action Task Force Act (MAFATFA), No. 11 of 2020, the AG is designated as the competent authority having responsibility for both identifying and initiating proposals of persons or entities to the UNSC and its relevant committees. (see the 2021 MER c.6.1(a) – (b)).

22. Section 116 of the ATA provides for the AG to make a determination, on a reasonable basis, based on the sufficiency of evidence as to whether an individual, group, undertaking or entity (a) should be proposed to the 1267 or 1988 Committee. (see the 2021 MER, c.6.1(c)).

23. **Criterion 6.1(d) – (Met):** Previously no regulations existed related to the requirements of 6.1(d). The procedures for the designation of names for listing pursuant to UNSCR 1267/1989 and the 1988 sanctions regimes is captured in regulations 6 and 7 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023. The designation criteria are outlined in Part A (Schedule 1) of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023. Further, regulation 7 (3) stipulates that a listing

request shall be submitted in respect of an individual, group or entity using one of the Standard Forms for Listing as set out on United Nations Security Council website under Procedures for Listing.

24. **Criterion 6.1(e) – (Mostly Met):** Part B of Schedule 1 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, 2023 outlines specific information to allow for the positive identification of individuals, groups, undertakings, and entities. Additionally, listing requests must contain a detailed Statement of Case in support of the proposed listing and the specific criteria under which the names of individuals, groups, undertakings or entities are being proposed for designation and shall include specific findings and reasoning demonstrating that the listing criteria are met; details of any connection with a currently listed individual or entity, information about any other relevant acts or activities of the individual or entity, the nature of the supporting evidence, such as intelligence, law enforcement, judicial, media, admissions by subject and related matters and supporting evidence or document. Regulation 6 (2) states that when submitting the names of groups, undertakings or entities, the competent authority shall, where it considers to be necessary, to propose for listing at the same time the names of the individuals responsible for the decisions of the entity concerned.
25. There is no mention in Regulations 6 and 7 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, 2023 that the statement of case should be releasable, upon request, except for the parts a member state identifies as being confidential to the relevant committee (the 1256/1989 Committee or the 1988 Committee). Further, there is no mention in Regulations 6 and 7 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023 that when proposing names to the 1267/1989 Committee, St. Kitts and Nevis shall specify whether their status as a designating state may be made known. Given that the main aspects of this sub-criterion are addressed, the Group of Experts considered and weighed these deficiencies to be minor.
26. **Criteria 6.2 (Met) 6.2(a) – 6.2(d) – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Under section 116 of the ATA the AG is responsible for both identifying and initiating proposals of persons or entities to the UNSCR 1373. Additionally, the AG shall ensure that prompt determination is made on reasonable grounds as to whether the proposed designee meets the requisite criteria for designation. .(see the 2021 MER c.6.2(a) – (d))
27. **Criterion 6.2(e) – (Met);** Regulation 13 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023 fully meet the criterion requirements and states that where pursuant to UNSCR 1373, a request is made to another country to give effect to the actions initiated under the freezing mechanisms, the competent authority shall ensure that such a request includes sufficient details in respect of identifying information and specifies adequate information supporting the designation.
28. **Criterion 6.3 (Mostly Met) 6.3(a) – (Met):** The criterion was rated met, as Section 116(3), provides for the AG to use such procedures or mechanisms to collect or solicit as much information as possible to identify persons and entities that would meet the relevant criteria for designation pursuant to the relevant Security Council resolutions. .(see the 2021 MER c.6.3(a)).
29. **Criterion 6.3(b) – (Partly Met):** Previously no regulations existed related to the requirements of 6.3(b). Regulation 8 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023 provides a mechanism for the competent authority to proceed ex parte against an individual who is being proposed for designation to the relevant UNSCR Committee. However, there is no indication that the competent authority is empowered to proceed ex parte where an entity is being proposed for designation to the relevant UNSCR Committee.
30. **Criterion 6.4 – (Met):** The criterion was rated met. Section 117 (1) of the ATA as amended by the Miscellaneous Amendments (Financial Action Task Force) Act No. 11 of 2020, states that where an individual group, undertaking or entity is designated by the 1267 Committee, 1988 Committee, 1373(2001) or any other relevant Security Resolution Committee, all natural and legal persons within SKN shall be required to freeze without delay the funds or other assets of those designated persons or entities. Section 115 of the ATA requires all regulated entities to scrutinize the OFAC, Sanctions list and other relevant

sanction list where individuals, groups, undertaking and entities may be identified. (see the 2021 MER c.6.4). The UN List received by the Ministry of Foreign Affairs is immediately disseminated to the FSRC – St. Kitts and Nevis Branches. Upon receipt, both branches immediately disseminate the List to all regulated entities via email blast and the List is then posted simultaneously on the respective websites for the branches. There is no transposition of the information received; the exact document received from the UN is disseminated and published without alteration. There is no mechanism of transposition required to ensure that TFS is implemented without delay.

31. **Criterion 6.5 (Mostly Met) 6.5(a) – (Met):** Section 117 (1) of the Miscellaneous Amendments (Financial Action Task Force) Act 2020 stipulates that where pursuant to section 114, an individual group, undertaking or entity is designated by the 1267 Committee, 1988 Committee, 1373 (2001) or any other relevant Security Resolution Committee, all natural and legal persons within St. Christopher and Nevis, shall be required to freeze without delay the funds or other assets of those designated persons or entities. According to regulation 9 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023, the requirement in section 117 (1) of the Miscellaneous Amendments (Financial Action Task Force) Act 2020 on all natural persons and legal persons to freeze without delay the funds or other assets of designated persons or other entities shall be done without prior notice.
32. **Criterion 6.5(b) – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Pursuant to section 117 (2) of the ATA, a natural or legal person is required to freeze the funds or other assets (a) that are owned or controlled by the designated person or entity and it is not necessary that those funds or assets are tied to a particular terrorist act, plot or threat; (b) that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (c) derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; and (d) of persons and entities acting on behalf of, or at the direction of, designated persons or entities. (see the 2021 MER c.6.5(b)).
33. **Criterion 6.5(c) – (Met):** Section 118 of the Miscellaneous Amendments (Financial Action Task Force) Act 2020 prohibits nationals or other persons or entities within St. Kitt and Nevis from making available any funds or other assets, economic resources or financial or other resources, directly or indirectly, wholly or jointly, for the benefit of designated persons or entities or persons acting on their behalf. Although the words “related services” as indicated in the sub-criterion requirements are not specifically mentioned within section 118, it is averred that the phrase “other resources” is sufficiently broad in scope to include “related services.”
34. **Criterion 6.5(c) – (Met):** An additional deficiency noted is no requirement for the prohibition in section 118 of the ATA to be in place unless licensed, authorized or otherwise notified in accordance with the relevant UNSCRs. In accordance with regulation 10 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, 2023, the prohibition in relation to the availability of funds or other resources shall remain in place unless licensed, authorized or otherwise notified in accordance with the relevant UNSCRs.
35. **Criterion 6.5(d) – (Met):** Regulation 14 (1) and (2) of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023 outlines the procedure for the communication of designations to FIs and DNFBSs and the provision of clear guidance on actions which should be taken in relation to funds or other assets. The words “upon receipt” in regulation 14 (1) (b) impose a duty on the Financial Services Regulatory Commission to ensure that communication to FIs and DNFBSs occurs immediately once it receives communication about the designated individual or entity from the Ministry of Foreign Affairs. Both branches of the FSRC have provided guidance and awareness to the regulated entities in respect of TFS by issuing newsletters on TFS on their websites. These newsletters provided the step-by-step procedures to be followed when a regulated entity is in receipt of a UN Listing. Guidance on TFS is also provided during training sessions provided by the FSRC St. Kitts and Nevis Branches on a quarterly and annual basis.
36. **Criterion 6.5(e) – (Met):** The criterion was rated met. Section 119 of the ATA requires a FI or DNFBS to notify the AG, the FIU and the FSRC of the action taken to prohibit the dealing in funds, assets or other resources by a designated person or entity or any person acting on behalf of the designated person and that

notification shall include any attempted transactions made by any of the mentioned persons. (see the 2021 MER c.6.5(e)).

37. **Criterion 6.5(f) – (Not Met):** The deficiency was no regulations for procedural requirements of freezing and prohibiting of dealing without delay in funds or other assets of designated persons or entities and outlining procedural requirements including measures for the protection of the rights and interest of third parties acting in good faith. No action has been taken by St. Kitts and Nevis to address the deficiency.
38. **Criterion 6.6 (Mostly Met) 6.6(a) – (Met):** St. Kitts and Nevis has established procedures for the submission of delisting requests to the Ombudsperson of the UNSC’s ISIL (Da’esh) and Al-Qaida Sanctions Committee under Regulation 11(1) and (2) of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023. Schedule 2 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, 2023 includes the supporting information which must accompany a delisting request as stipulated in Security Council resolution 2610 (2021).
39. **Criterion 6.6(b) – (Not Met):** Regulations 10 and 11 of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, 2023 cited by St. Kitts and Nevis do not provide the legal authorities and procedures or mechanisms to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to UNSCR 1373, that no longer meet the criteria for designation. The deficiency remains outstanding.
40. **Criterion 6.6(c) – (Met):** The deficiency is addressed by regulation 12 (1) of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023, where a designation has taken place pursuant to UNSCR 1373, a designee or other person materially affected by the designation, may appeal to the High Court for a judicial review of the decision in question. All legislation is available to the public on the St. Kitts Nevis Law Commission website as well as the FSRC St. Kitts and Nevis Branches’ websites. Additionally, the legislation is available to the public at the Office of the St. Kitts and Nevis Information Services.
41. **Criterion 6.6(d) – (Met):** Where a designation has taken place pursuant to UNSCR 1988, by virtue of regulation 12 (2) of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023, the designee or other person materially affected by the designation may, in accordance with the Guidelines of the Committee for the Conduct of its Work, petition the Focal Point mechanism set out under UNSCR 1730 to review the designation. All legislation is available to the public on the St. Kitts Nevis Law Commission website as well as the FSRC St. Kitts and Nevis Branches’ websites. Additionally, the legislation is available to the public at the Office of the St. Kitts and Nevis Information Services.
42. **Criterion 6.6(e) – (Mostly Met):** In accordance with regulation 12 (3) of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations 2023, where a designation has taken place pursuant to UNSCR 1267 or related to the Al-Qaida Sanctions List, the designee or other person materially affected by the designation, may petition the office of the Ombudsman pursuant to UNSCRs 1904, 1989 and 2083 to accept delisting petitions. Although regulations are considered a public document, no provisions were cited in relation to the public being informed about this procedure for submitting petitions to the office of the Ombudsman. The deficiency is considered minor.
43. **Criterion 6.6(f) – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Section 51 of the ATA provides a mechanism for persons to apply to the Court for a review of the freezing order to allow for the unfreezing of funds or other assets of persons or entities with the same or similar name as designated persons or entities who are inadvertently affected by the freezing. These measures were published on the Nevis FSRC website in August 2019.
44. **Criterion 6.6(g) – (Met):** Regulation 14 (1) and (3) of the Anti-Terrorism (Targeted Financial Sanctions Listing) Regulations, 2023 provide mechanisms for the communication of delistings of designated persons and entities to FIs and DNFBPs. The words “upon receipt” in regulation 14 (1) (b) impose a duty on the Financial Services Regulatory Commission to ensure that communication to FIs and DNFBPs occurs immediately once it receives communication about the delisting from the Ministry of Foreign Affairs. The UN List received by the Ministry of Foreign Affairs is immediately disseminated to the FSRC – St. Kitts and Nevis Branches. Upon receipt, both branches immediately disseminate the List to all regulated entities

via email blast and the List is then posted simultaneously on the respective websites for the branches. It is noted that regulation 14 (2) stipulates that the FSRC's notification to FIs and DNFBPs referred to in regulation 14(1) (b) should include clear guidance on how designated individuals or entities should be treated by regulated entities including (a) freezing without delay of assets, (b) reporting and (c) holding of targeted funds or other assets. Similarly, regulation 14(3) stipulates that the FSRC will inform FIs and DNFBPs in like manner as the designation was communicated to them regarding when a designated individual or entity has been removed from the UNSCR Sanctions Lists. Consequently, there is a requirement for the FSRC to also provide guidance to FIs and DNFBPs when communicating delistings of designated persons and entities. Both branches of the FSRC have provided general guidance and awareness to the regulated entities in respect of TFS by issuing newsletters on TFS on their websites. These newsletters provided the step-by-step procedures to be followed when a regulated entity is in receipt of a UN Listing. Guidance on TFS is also provided during training sessions provided by the FSRC St. Kitts and Nevis Branches on a quarterly and annual basis.

45. **Criterion 6.7 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Regulation 17 of the ATR establishes procedures to authorize access to funds frozen for basic living expenses in accordance with UNSCR 1452 or UNSCR 1373. (see the 2021 MER c.6.7).

Weighting and Conclusion

46. There are mechanisms within the latest anti-terrorism Regulations promulgated by St. Kitts and Nevis for the implementation of TFS-TF without delay. The Regulations *inter alia* outline the procedure for the communication of designations to FIs and DNFBPs and the provision of clear guidance on actions which should be taken in relation to funds or other assets. There are also established procedures for the submission of delisting requests to the Ombudsperson of the UNSC's ISIL (Da'esh) and Al-Qaida Sanctions Committee. Additionally, there are established procedures in place to allow designees or other affected parties to request reviews of UNSCR designations.
47. Extant deficiencies are considered minor since the important requirements, such as the requirement to implement TFS-TF without delay are enshrined in the legislation and Regulations. These deficiencies include absence of indication in the legislation that the competent authority is empowered to proceed *ex parte* where an entity is being proposed for designation to the relevant UNSCR Committee and absence of measures for the protection of the rights of bona fide third parties.
48. **St. Kitts and Nevis is therefore re-rated as Largely Compliant for R.6.**

4.1.3.Recommendation 10 (originally rated PC)

49. In its 4th round MER, St. Kitts and Nevis was rated PC with R.10. The technical deficiencies included: (i) no requirement for FIs to understand the purpose and intended nature of the business relationship with individuals; (ii) deficient requirements to identify and verify the identity of customers who are companies, partnerships, foundations and trusts; (iii) no requirement for identifying beneficial owner or controller of a legal person through consequential measures; (iv) no requirement for types of legal arrangements other than trusts, to identify and verify the identity of beneficial owners through specific information; (v) no requirement to identify the beneficial owner of existing customers and apply CDD measures on the basis of materiality and risk, (vi) no measures for regulated entities to be permitted not to pursue CDD to prevent tipping-off and (vii) no requirement to adopt risk management procedures concerning conditions under which a customer may utilize a business relationship prior to verification.
50. **Criteria 10.1, 10.2, 10.3 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Paragraph 69 of the Financial Services (Implementation of Industry Standards) Regulations (FSR) prohibits keeping anonymous accounts or accounts held in fictitious names. FIs are required under regulation 4 of the (Anti-Money Laundering Regulations/Anti-Terrorism Regulations) AMLR/ATR to apply CDD measures in all circumstances consistent with the criterion (see

the 2021 MER, c.10.2). FIs are required to identify and verify the customer's identity (see the 2021 MER, c.10.3).

51. **Criterion 10.4 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Regulation 4(2)(c)(i) of the AMLR requires FIs to identify any person acting on behalf of a customer that is not an individual and verifying that the person is authorized to act in that capacity. (see the 2021 MER, c.10.4).
52. **Criterion 10.5 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Regulation 4(4)(b) of the AMLR requires the identification and verification of the beneficial owner of customers. (see the 2021 MER, c.10.5).
53. **Criterion 10.6 – (Met):** Amendments made to Regulations 4 (2) (d) of the AMLR, APR & ATR, 2022 address the deficiency in criterion 10.6 by requiring regulated businesses to also understand the purpose and intended nature of the business relationship.
54. **Criterion 10.7 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Regulations 4(3)(a) and (b) of the AMLR require ongoing due diligence by scrutiny of transactions for consistency with knowledge of the customer including business and risk profile and ensuring that documents, data or information is kept up to date by undertaking reviews of existing records. (see the 2021 MER, c.10.7).
55. **Criterion 10.8 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Regulation 4(2)(c) of the AMLR requires FIs to understand the ownership and control structure of customers that are not individuals. Paragraph 34 of the FSR requires FIs to understand the nature of a customer's business prior to the establishment of the relationship. (see the 2021 MER, c.10.8).
56. **Criterion 10.9 (Mostly Met) 10.9(a) – (Met):** Requirements for the identification and verification of partnerships, trusts, foundations and multiform foundations through name, legal form and proof of existence as required have been implemented by amendments to paragraphs 92 and 93 of the FSR.
57. **Criterion 10.9(b) – (Mostly Met):** The Financial Services (Implementation of Industry Standards) (Amendment) Regulations amended paragraphs 92 and 93 of the FSR to require FIs to review the constitutional documents that regulate and bind the legal person or legal arrangement and the names of persons having a senior management position in the legal person or arrangement, in relation to Foundations, Trusts and Partnerships.
58. Further in relation to companies, paragraph 83 of the FSR has been amended to include the names and addresses of senior managers and signatories or the person(s) on whose instructions the signatories on the account are empowered to act.
59. However, a minor deficiency exists as no amendment was made to Paragraph 47 of the FSR, dealing with other legal persons/arrangements, such as associations, clubs and societies, institutes and charities) and there are no requirements for the names of the relevant persons having a senior management position in these entities. The requirement is limited to all signatories who operate the account to be treated as verification subjects. The deficiency is considered minor since it is part of sub-criterion 10.9(b) and the numbers of entities concerned i.e., associations, clubs, societies, institutes and charities are minimal in comparison to total number of legal persons and legal arrangements in St. Kitts and Nevis.
60. **Criterion 10.9(c) – (Mostly Met):** Amended paragraphs 83 (c), 92, 93 (a) (b) (c) and (d) of the FSR require FIs to obtain the address of the registered office, and, if different, a principal place of business for partnerships, trusts, foundations and companies. A small deficiency remains as the same requirement is not mandated for other forms of legal persons / legal arrangements such as associations, clubs, societies, institutes and charities. The deficiency is considered minor since the number of entities is minimal compared with the total number of legal persons and legal arrangements in St. Kitts and Nevis.

61. **Criterion 10.10 (Met) 10.10(a) – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Regulation 4(2)(c) of the AMLR/ATR requires FIs to identify the beneficial owner or controllers of a customer that is not an individual. (see 2021 MER c.10.10). Regulation 4(4)(b) of the AMLR/ATR stipulates that identification of a person includes obtaining evidence that can reasonably verify the identity of the customer, third party, beneficial owner or controller.
62. **Criterion 10.10(b) – (Met):** Sub regulation 4(2)(c)(iii)(B) of the AMLR / ATR / APR (Amendment) Regulations 2022 have introduced required measures to identify beneficial owners down to natural persons where there is doubt as to the identity of the beneficial owner. The measures require where there is doubt as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests, identifying the natural person, if any, exercising control of the legal person or arrangement through other means.
63. **Criterion 10.10(c) – (Met):** Sub regulation 4(2)(c)(iii)(C) of the AMLR / ATR / APR (Amendment) Regulations 2022 have introduced measures requiring where no natural person has been identified as exercising control through ownership interests or other means, identifying the relevant natural person who holds the position of a senior management official.
64. **Criterion 10.11 (Mostly Met) 10.11(a) – (Mostly Met):** The amendment to FSR Paragraph 93 (a) and (c) requires FIs to identify and take reasonable measures as part of the verification process of BOs for trusts by obtaining the name and address of the settlors, trustees, protectors, if any, the beneficiary or beneficiaries and any other natural person exercising ultimate control over the trust, including through a chain of ownership or control. It also requires that the verification of the beneficiary or beneficiaries should be completed on payout. A deficiency remains in that there is no requirement for FIs to obtain sufficient information concerning the beneficiary to satisfy themselves that they will be able to establish identity of the beneficiary at the time of pay-out or when the beneficiary intends to exercise vested rights, in the case of trust beneficiaries designated by characteristics or by class. The deficiency is considered minor in relation to the overall sub-criterion since it is limited to beneficiaries designated by characteristics or class. Additionally, the proportion of trusts in St. Kitts and Nevis in relation to total legal persons is minimal.
65. **Criterion 10.11(b) – (Not Met):** There are no requirements to ensure that for other types of legal arrangements, information on the identity of persons in equivalent or similar positions to settlors, trustees, protectors, if any, the beneficiary or beneficiaries and any other natural person exercising ultimate control over the trust, including through a chain of ownership or control is obtained. The deficiency is considered minor since it is applicable to types of legal arrangements other than trusts and there is no indication that such legal arrangements are utilised in St. Kitts and Nevis.
66. **Criterion 10.12 – (Met): (a)(Met)** Regulation 20 Para.183A of the FSR (amendment), No. 41 of 2020 outlines CDD measures that FIs must take for the beneficiaries of life insurance policies. These requirements include identification and verification as soon as the beneficiary is identified or designated. This provision would require taking the name of the beneficiary as required by sub-criterion (a). **(b) (Met)** The amendment to 183A in the replacement of subparagraph a in 183A of SRO 26 of 2022 addresses the fact that CDD measures should be conducted on the beneficiary of the life insurance or other investment related insurance policies as soon as the beneficiary is identified or designated. Where a beneficiary is designated by characteristics, class or by other means FIs are required to identify and verify such beneficiaries in accordance with 10.12 (b). For class or characteristics, the FI is required to implement this CDD measure when the beneficiary is identified. **(c) (Met)** As indicated in paragraph 183A of the FSR (amendment), No. 41 of 2020 Verification of the beneficiary is required in all cases before payout.
67. **Criteria 10.13 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Regulation 20 Para. 183A (c) of the FSR (amendment) No. 41 of 2020 requires FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced customer due diligence measures are applicable. If a beneficiary who is a legal person or legal

arrangement presents a higher risk, enhanced measures should be taken, including reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary at the time of the pay-out.

68. **Criterion 10.14 – (Met)**; Regulations 4(1)(a) and 4(5) of the AMLR/ATR require verification before the establishment of a business relationship or carrying out of a one-off transaction or completion after as soon as reasonably practicable if it is not sufficiently urgent or necessary to interrupt the normal conduct of business and there is little risk of ML/TF occurring in the interim. One-off transaction is defined in regulation 2 of the AMLR/ATR in line with FATF definition of occasional transaction. .
69. **Criterion 10.15 – (Not Met)**: The amendment referenced does not speak to FIs adopting risk management procedures concerning the conditions under which a customer may use the business relationship prior to verification. The amendments to regulation 4 stipulate that a customer must be assessed as being low risk as a condition to allow for the identification process to be completed after the establishment of a business relationship. There is no reference to risk management procedures.
70. **Criterion 10.16 – (Partly Met)**: As noted in the MER regulation 11 para. 34(2) & (3) of the FSR (amendment) No. 41 of 2020 requires a risk assessment to be conducted on existing customers involving applying CDD measures to existing customers, including identification of the customer and understanding the nature of the business. However, the measure did not include the identification of the beneficial owner. The deficiency in relation to identification of the BO was addressed by the amendment to regulation 4(2)(c)(iii) in respect to a customer that is not an individual as indicated under the analysis for criterion 10.10.
71. Regarding the deficiency with the requirement for CDD for existing customers on the basis of materiality and risk the amendment to regulation 4(2)(e) in the AMLR/ATR and APR, requires identification procedures for:

“(e) existing customers on the basis of materiality and risk, and to conduct identification procedures on such existing relationships at appropriate times, taking into account whether and when identification procedures measures have previously been undertaken and the adequacy of data obtained.”
72. However, the stipulated identification procedures as indicated in regulation 4(2) of the AMLR/ATR and APR are specifically those applicable before the establishment of a business relationship or carrying out a one-off transaction, or where there is suspicion of ML/TF or doubts about the veracity or adequacy of previously obtained documents and data. As such, existing customers are only subject to identification procedures when indicated rather than as required by the criterion. Consequently, the present measures provide for applying CDD measures to existing customers while conducting a risk assessment but not on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.
73. **Criterion 10.17 – (Met)**: No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Regulation 5(2) of the AMLR/ATR requires FIs to apply enhanced customer due diligence measures on a risk sensitive basis to high-risk situations as outlined in Regulation 5(1) and any other situation which by its nature can present a higher risk of money laundering or terrorist financing.
74. **Criterion 10.18 – (Met)**: Paragraph 9(b) of the Anti-Money Laundering Amendment Regulations No. 6 of 2021 provides for FIs to apply simplified CDD measures only where lower risks have been identified through an adequate analysis of risks by the FI or competent authorities of St. Kitts and Nevis The deficiency cited in the MER was addressed by the amendments to Regulation 6 of the ATR and APR, where the provision that FIs should not use simplified due diligence measures has been extended to include where there is a suspicion of TF and PF as previously there was only a prohibition on suspicion of ML. Further, the amendment to Regulation 6 of the AMLR, ATR and APR permitted SDD commensurate with lower risk factors and added that SDD is prohibited if specific higher risk scenarios are identified. Subsection 2 of regulation 6 was replaced in the AMLR/ATR and APR and two new subsections 3 and 4

were inserted which prohibited the use of SDD measures where there is a suspicion of money laundering / terrorist financing or proliferation financing or identification of specific higher risk.

75. **Criterion 10.19 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Sub regulations 4(9)(e) and 4(9)(h) of the AMLR/ATR requires FIs to not establish a business relationship or carry out or complete a transaction; or to terminate a business relationship or not carry out or complete a transaction as the case requires when the FI is unable to complete identification procedures. Further, regulation 4(9)(h) of the AMLR/ATR provides that a FI shall consider whether to make a suspicious transaction report when it is unable to comply with identification procedures.
76. **Criterion 10.20 – (Partly Met):** The amendment to Regulation 4(9)(f)(v) of the AMLR/ATR still has a deficiency as it is predicated on regulation 4(9)(f) which requires the consent of a designated reporting authority before the FI can decide not to pursue identification procedures and instead file a suspicious transaction report in instances where completing the CDD process will result in tipping off the customer.
77. This regulation does not allow the FI to make that decision on their own as required by the criterion. As indicated above the predicate circumstance outlined in Regulation 4(9)(f) is applicable thereby incorporating an additional condition not required by the criterion.

Weighting and Conclusion

78. St. Christopher and Nevis have addressed some of the deficiencies cited in the MER, such as amendments made requiring regulated businesses to understand the purpose and intended nature of the business relationship and putting measures in place for customers who are legal persons or legal arrangements to identify the customer, verify its identity through name, legal form and proof of existence, address of registered office and if different, principal place of business and names of relevant persons having senior management positions in the legal person or arrangement (for Trusts, Foundations, Partnerships and Companies). Further, amendments in relation to CDD measures for beneficiaries of life insurance policies have been enacted.
79. Some minor deficiencies remain in important areas noting the context of the jurisdiction. The deficiency regarding trusts is minor in relation to the overall sub-criterion since it is limited to beneficiaries designated by characteristics or class. Additionally, the proportion of trusts in St. Kitts and Nevis in relation to total legal persons and arrangements is minimal. The deficiency applicable to types of legal arrangements other than trusts is considered minor since there is no indication that such legal arrangements are utilised in St. Kitts and Nevis. A deficiency remains for other legal persons / arrangements (outside of partnerships, trusts & foundations) in that there are no requirements for the names of relevant persons having senior management positions and for the same group no requirements for the address of the registered office, and if different the principal place of business. The deficiency is considered minor since the number of entities i.e., associations, clubs, societies, institutes and charities is minimal compared with the total number of legal persons and legal arrangements in St. Kitts and Nevis. No requirement for FIs to adopt risk management procedures concerning the conditions under which a customer may use the business relationship prior to verification is mitigated by the fact that these situations are exceptions rather than the norm and the requirement that this is only permitted in low risk situations. A deficiency also remains regarding the application of CDD measures to existing customers on the basis of materiality and risk and the conduct of CDD at the appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of the data obtained. It is noted however, that as the AML/CFT regime came into force for some time ago, the number of clients at FIs this relates to should be small. Further, the amendment regarding cessation of CDD measures due to tipping off and instead filing an STR are based on the FI first making a report to a designated authority and getting consent of the designated authority before it can cease, thus the regulated business cannot just cease CDD and file an STR. These deficiencies are considered minor.
80. **St. Kitts and Nevis is therefore re-rated Largely Compliant for R.10**

4.1.4. Recommendation 25 (originally rated PC)

Second Enhanced Follow-Up Report and Technical Compliance re-rating of St. Kitts and Nevis

81. St. Kitts and Nevis was rated PC with R.25 in its 4th round MER. The technical deficiencies that existed included: (i) trustees are not required to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction; (ii) no requirement for information on residence of the trustee; (iii) no requirement for information on any asset of the trustee held or managed by a FI or DNFBP; (iv) no provision for proportionate and dissuasive sanctions for failing to grant to competent authorities' timely access to information regarding trust.
82. **Criteria 25.1 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. The requirements of criterion 25.1 are fully satisfied in relation to trusts registered under the TA and the NIETO. Trust business carried on under the TA and the NIETO are regulated business activities for AML/CFT purposes and are subject to CDD and beneficial ownership requirements of the AMLR and the ATR.
83. **Criterion 25.2 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Trust business carried on under the TA and the NIETO are regulated business activities for AML/CFT purposes and are subject to CDD and beneficial ownership requirements. Regulated businesses are required by regulations 4, 5 and 7 of the AMLR and regulations 4, 5 and 7 of the ATR to conduct ongoing verification procedures of all customers, including keeping updated beneficial ownership information.
84. **Criterion 25.3 – (Not Met):** While a greater duty is imposed on FIs and DNFBPs to collect a comprehensive suite of information as part of their CDD identification and verification procedures, legislation does not require trustees to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction as required by the criterion. FIs and DNFBPs are required by paragraph 93 (a) of the FSR as amended by the Financial Services (Implementation of Industry Standards) (Amendment) Regulations 2022, to collect CDD information on the status of the trustee during the verification procedures. Collection of information on the status of the trustee is specifically identified in the above cited provision as a component of the verification procedures.
85. **Criteria 25.4 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Trustees within St. Kitts and Nevis are not prevented by law or enforceable means from providing information relating to a trust to competent authorities, FIs and DNFBPs. Additionally, trustees within St. Kitts and Nevis are not prevented by law or enforceable means from providing to competent authorities, FIs and DNFBPs, upon request, with information on the beneficial ownership and assets of the trust to be held or managed under the terms of the business relationship.
86. **Criterion 25.5 – (Met)** Section 23 of POCA allows for the police to obtain production orders to access information from FIs, DNFBPs and other natural and legal persons. Regulations 4 and 8 (3) of the AMLR 2017 requires FIs and DNFBPs to keep CDD records which includes supporting documentation, data and details of each transaction carried out in the course of any business relationship or one-off transaction. Regulation 8(5) of the AMLR as amended by the Anti-Money Laundering (Amendment) Regulations No. 15 of 2022 stipulates that the FI and DNFBP shall keep the records under sub regulation (3) in such a manner that they can be made available within twenty-four hours to domestic competent authorities including the Commissioner, police officer or customs officer for the purposes of complying with a request for information or complying with a requirement under any relevant enactment. These legislative provisions allow for information held by trustees, FIs and DNFBPs to be accessed by all competent authorities. Notably, it is explained in regulation 8(11) of the Anti-Money Laundering (Amendment) Regulations 2012 that the term "competent authorities" means the Reporting Authority, the Commission and such other person or body authorized in law to have access to such records.
87. **Criterion 25.5(a) – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard.. Regulations 4(2) (c) (ii) and (iii), 4(4) (a) and (b) (I) and (8) (3)(a) of the AMLR and ATR require a FI or DNFBP to obtain and keep CDD information inclusive of beneficial ownership information. Additionally, paragraphs 93 (a) and (c) of the Schedule of the Financial Services (Implementation of Industry Standards) Regulations No. 51 of 2011 as amended by the Financial Services

(Implementation of Industry Standards) (Amendment) Regulations 2022, stipulate that as part of the verification procedure for trusts established under the Trusts Act, Cap. 519 and the Nevis International Exempt Trust Ordinance, Cap. 7.03, FIs and DNFBPs must obtain the name and addresses of the settlers, trustees, protectors - if any, the beneficiary or beneficiaries and any other natural person exercising ultimate effective control over the trust, including through a chain of ownership or control. The verification of new and existing settlers, trustees and protectors should be completed in accordance with the requirements of paragraphs 74-81 (which focus on obtaining CDD information for individuals) and in the case of a corporate trustee, the requirements of paragraphs 82-83 (which focus on obtaining beneficial ownership CDD information) should be applied. Therefore, as explained above, all competent authorities would have timely access to beneficial ownership information in the possession of FIs and DNFBPs.

88. **Criteria 25.5(b) – (Met):** Paragraphs 93 (a) and (c) of the Schedule of the Financial Services (Implementation of Industry Standards) Regulations No. 51 of 2011 as amended by the Financial Services (Implementation of Industry Standards) (Amendment) Regulations 2022 stipulate that as part of the verification schedule for trusts established under the Trusts Act, Cap. 519 and the Nevis International Exempt Trust Ordinance, Cap. 7.03, the address of the trustees must be obtained by FIs and DNFBPs. Therefore, the residence of trustees is information which would be in the possession of FIs and DNFBPs. Therefore, as explained above, all competent authorities would have timely access to information about the residence of trustees in the possession of FIs and DNFBPs.
89. **Criterion 25.5(c) – (Met):** Pursuant to regulation 8 (3) (a) (iii) of the Anti-Money Laundering Regulations No. 46 of 2011 as amended by the Anti-Money Laundering (Amendment) Regulations 2022, the records to be maintained by a FI or DNFBP includes a record of any asset or property held or managed by the FI or DNFBP on behalf of the customer with whom the FI or DNFBP has a business relationship or has undertaken an occasional transaction. Therefore, this measure would include trustees and as explained above, all competent authorities would have timely access to such information.
90. **Criteria 25.6 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. The FSRC is authorised by section 3 of the FSRCA to assist a foreign regulatory authority which has requested assistance in connection with inquiries being carried out by it or on its behalf in respect of any regulatory functions. The MACMA, the Mutual Exchange of Information on Taxation Matters Act, and the Rules for the Exchange of Information on Tax Matters, the POCA, the ATA, the FIUA, and the FSR (Exchange of Information) no.15 of 2002 provide measures for competent authorities to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically.
91. **Criterion 25.7 – (Partly Met):** The deficiency cited in the MER was that the civil sanction would only be proportionate and dissuasive for trusts managing properties of significant financial value and not for properties of minimal financial value. There are no changes to the AML/CFT framework in St. Kitts and Nevis to address this deficiency.
92. **Criterion 25.8 – (Partly Met):** The deficiency cited in the MER was that the sanction would only be proportionate and dissuasive for trusts managing properties of significant financial value and not for properties of minimal financial value. There are no changes to the AML/CFT framework in St. Kitts and Nevis to address this deficiency.

Weighting and Conclusion

93. St. Kitts and Nevis should be commended for amending the legislation governing domestic trusts and international trusts to ensure that FIs and DNFBPs obtain a comprehensive suite of CDD information which would be made available to competent authorities. Although, trustees are not required to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction, FIs and DNFBPs must obtain CDD information on the status of trustees as part of the verification procedures. Additionally, legislative sanctions would not be proportionate and dissuasive for trusts managing properties of significant financial value. The proportion of trusts in St. Kitts and Nevis in

relation to total legal persons and arrangements is minimal. Consequently, these deficiencies are considered minor.

94. **St. Kitts and Nevis is therefore re-rated Largely Compliant for R.25.**

4.1.5. Recommendation 26 (originally rated PC)

95. St. Kitts and Nevis was rated PC with R.26 in its 4th round MER. The deficiencies noted relate to: (i) provisions for insurance companies, MSBs preventing criminals or their associates from holding the function of a director or officer, or manager do not include being a beneficial owner; (ii) no provisions preventing criminals or their associates from holding a significant or controlling interest or holding a management function in securities entities; (iii) method for assessing the ML/TF risks of financial institutions is a component of the overall assessment of the FIs prudential risk; (iv) the measures in FSRC risk-based supervisory framework do not include consideration of ML/TF risk in the country; (v) the measures in the FSRC risk based supervisory framework do not include the requirements of sub-criterion 26.5 (c); (vi) the risk profile of an individual FI or group is a prudential risk profile and MLTF risk forms one part of the overall risk profile.
96. **Criterion 26.1 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. The supervisory framework for FIs remains as set out in the 2021 MER (see the 2021 MER, c.26.1).
97. **Criterion 26.2 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. All Core Principles FIs are required to be licensed. (see the 2021 MER, c.26.2).
98. **Criterion 26.3 – (Partly Met):** The deficiencies cited in the MER were that the provisions relevant to preventing criminals or their associates from holding the function of a director or officer or manager of an insurance company do not include being a beneficial owner and no provisions preventing criminals or their associates from holding a significant or controlling interest or holding a management function in securities entities. No action has been taken by St. Kitts and Nevis to deal with these deficiencies which remain outstanding.
99. **Criterion 26.4 – (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Section. 4(2)(d)(ii) of the FSRCA mandates the FSRC to apply regulatory and supervisory measures to monitor regulated persons for implementation of core principles that apply for prudential purposes, but which are also relevant to ML/TF. Section 4(1) and (2)(a) and (d) of the FSRCA provides that the FSRC is the ultimate body for the regulation of activities relating to financial services listed in First Schedule of POCA and matters relating to ML and TF, and this covers all other financial institutions for AML/CFT purposes.
100. **Criterion 26.5 (Met) 26.5(a) – (Met):** A new Risk Based Supervisory Framework for Anti-Money Laundering / Combating Terrorism and Proliferation Financing was approved by the FSRC Board of Commissioners on 27th April 2023. This framework takes into account the synergies amongst AML/CFT/PF, prudential regulation and market conduct. This framework applies to all FIs and DNFBCs under FATF definition. FSRC’s supervision involves activities geared towards establishing whether the regulated entities under its supervision have measures in place to mitigate ML/TF/PF risks using a risk-based approach. Key Principles have been detailed in this supervisory approach including the continuous nature of the supervisory process, the consideration of all ML/TF/PF risks in the country, the scope and characteristics of regulated entities, supervision on a consolidated basis, level and frequency of supervisory scrutiny and intervention based on composite ML/TF/PF risk rating of entities and relevant communication with entities.
101. The level of supervisory engagement (which includes desk-based reviews, onsite examinations, self-assessment questionnaires, review of board minutes and of enterprise-wide risk assessments, assessment of internal and external audit reports and meetings with the regulated entity) is based on the entities risk management system inclusive of internal controls, policies and procedures. There is an assessment of

ML/TF/PF risk at a group level, ensuring a holistic view of risks to which regulated entities which are part of a group are exposed. The risk profile factors in domestic and foreign risk elements. The supervisory engagement approach places more intense supervisory measures (such as more frequent on-site examinations) for those regulated entities that pose greater ML/TF/PF risk and utilisation of other supervisory tools, such as self-assessment questionnaires and desk-based reviews, for those regulated entities that are deemed to be of lower ML/TF/PF risk and impact. Further, the risk-based approach is not a “zero-failure/zero-tolerance” approach and does not exempt the supervision of regulated entities considered to possess a low risk of ML/TF/PF.

102. **Criterion 26.5(b) – (Met):** The updated Risk Based Supervisory Framework for AML/TF/PF has addressed the deficiency cited in the MER since the 2nd Key Principle of this supervisory approach is that the ML/TF/PF risks in the country would be considered when determining the frequency and intensity of on-site and off-site supervision.
103. **Criterion 26.5(c) – (Met).** The updated Risk Based Supervisory Framework for AML/TF/PF has addressed the deficiency that the framework did not take into account the characteristics of the financial institutions or groups, in particular the diversity and number of financial institutions and the degree of discretion allowed them under the risk-based approach.
104. The Updated Risk based Supervisory Framework takes into account the assessment of ML/TF/PF risk at a group level, ensuring a holistic view of risks to which regulated entities which are part of a group are exposed. The risk profile factors in domestic and foreign risk factors and review cross-border operations and the activities of branches and subsidiaries in the group in other jurisdictions, which may have a bearing on the overall risk profile of the regulated entity. The framework factors in the diversity and number of financial institutions. It also takes into account the adequacy and implementation of policies, internal controls and procedures. Further, under section 8.3(4) the framework accounts for the degree of discretion allowed under the risk-based approach to each of these financial institutions / groups to encompass, in an appropriate manner, a review of risk assessments underlying this discretion within the FIs framework.
105. **Criterion 26.6 – (Mostly Met):** The Risk Based Supervisory Framework for Anti-Money Laundering / Combatting Terrorism and Proliferation financing utilised by the FSRC requires each regulated entity to conduct an Enterprise-Wide Risk Assessment and independent audit. Part of the monitoring regime for regulated entities includes reviewing the ML/TF/PF and overall risks of the regulated entity to ensure they are up-to-date and relevant. This review can be done at least annually but should consider the occurrence of events that would trigger an increased frequency in the re-assessment such as a breach or new product/service.
106. A minor deficiency remains because while the assessment is done periodically (at least annually) there is no mandatory requirement to review the ML/TF risk profile of a financial institution/group, inclusive of the risks of non-compliance when there are major events or developments in the management and operations of the regulated entity. There might be a major change or development in the management or operation of the regulated entity shortly after the occurrence of the annual risk assessment but there is no requirement to perform another ML/TF assessment in light of that major event.

Weighting and Conclusion

107. While the jurisdiction has made great strides by developing and issuing a stand-alone framework for the AML/CFT/PF risk-based supervision of regulated entities, some deficiencies remain. These deficiencies include no measures for insurance companies and MSB preventing criminals and their associates from being beneficial owners Similarly there are no measures preventing criminals and their associates from holding significant or controlling interest or management function in securities entities. At the time of the onsite the securities sector was minimal in St. Kitts and Nevis. Finally, a deficiency remains in the assessment of the money laundering and terrorist financing risk profile of a regulated entity, where they are not required to review their risk profile when there are major developments in the management and operations of the financial institution/group. These deficiencies are considered minor.

108. **St. Kitts and Nevis is therefore re-rated Largely Compliant for R.26.**

4.2 Progress on Recommendations which have changed since adoption of the MER.

109. Since the adoption of the St Kitts and Nevis ‘MER no FATF Recommendations have changed mandating the implementation of new requirements for the Fourth Round of mutual evaluations.

V. CONCLUSION

110. Overall, St. Kitts and Nevis has made significant progress in addressing the technical compliance deficiencies identified in R. 2, 6, 10, 25, 26 and only minor deficiencies remain. St. Kitts and Nevis has been re-rated Largely Compliant on R 2, 6, 10, 25 and 26.

111. A summary table setting out the underlying deficiencies for the Recommendations assessed in this report is included at **Annex A**.

112. Overall, in light of the progress made by St. Kitts and Nevis since its MER was adopted, its technical compliance with the FATF Recommendations is as follows as of December 2023.

R.	Rating
1	LC (MER 2021)
2	PC (MER 2021) ↑ LC (FUR 2023)
3	LC (MER 2021)
4	PC (MER 2021)
5	LC (MER 2021)
6	PC (MER 2021) ↑ LC (FUR 2023)
7	PC (MER 2021)
8	PC (MER 2021)
9	C (MER 2021)
10	PC (MER 2021) ↑ LC (FUR 2023)
11	LC (MER 2021)
12	C (MER 2021)
13	C (MER 2021)
14	LC (MER 2021)
15	PC (MER 2021)
16	LC (MER 2021)
17	LC (MER 2021)
18	LC (MER 2021)
19	LC (MER 2021)

R.	Rating
21	C (MER 2021)
22	LC (MER 2021)
23	LC (MER 2021)
24	PC (MER 2021)
25	PC (MER 2021) ↑ LC (FUR 2023)
26	PC (MER 2021) ↑ LC (FUR 2023)
27	C (MER 2021)
28	PC (MER 2021)
29	LC (MER 2021)
30	C (MER 2021)
31	C (MER 2021)
32	LC (MER 2021)
33	C (MER 2021)
34	C (MER 2021)
35	PC (MER 2021)
36	PC (MER 2021)
37	LC (MER 2019)
38	C (MER 2021)
39	PC (MER 2021)

20	C (MER 2021)
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40	LC (MER 2021)
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113. St. Kitts and Nevis has 31 Recommendations rated C/LC. St. Kitts and Nevis will remain in enhanced follow-up based on effectiveness ratings. St. Kitts and Nevis 'next enhanced follow-up report is due November 2024.

5.1 Annex A: Summary of Technical Compliance –Deficiencies underlying the ratings ⁵

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating ⁶
R.2	PC (MER) LC (FUR 2023)	<ul style="list-style-type: none"> Due to minimal analysis of TF risk in the NRA there is no TF actionable item in the NAP.
R.6	PC (MER) LC (FUR 2023)	<ul style="list-style-type: none"> Absence of competent authority empowered to proceed ex parte where an entity is being proposed for designation to the relevant UNSCR Committee, Absence of prohibition on nationals or other persons or entities within St. Kitts and Nevis from making available financial or other related services to designated persons or entities, whether directly or indirectly, No regulations for procedural requirements of freezing and prohibiting of dealing without delay in funds or other assets of designated persons or entities and outlining procedural requirements including measures for the protection of the rights and interest of third parties acting in good faith. No provision for the legal authorities and procedures or mechanisms to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to UNSCR 1373, that no longer meet the criteria for designation. No provisions for the public to be informed about the procedure for submitting petitions to the office of the Ombudsman
R.10	PC (MER) LC (FUR 2023)	<ul style="list-style-type: none"> No requirements for the names of relevant persons having senior management positions for other legal persons / arrangements (outside of partnerships, trusts & foundations) No requirements for the address of the registered office, and if different the principal place of business for other legal persons / arrangements (outside of partnerships, trusts & foundations) No requirement for FIs to obtain sufficient information concerning the beneficiaries of trusts designated by

		<p>characteristics or class to satisfy themselves that they will be able to establish identity of the beneficiary at the time of pay-out or when the beneficiary intends to exercise vested rights.</p> <ul style="list-style-type: none"> • There are no requirements to ensure that for other types of legal arrangements, information on the identity of persons in equivalent or similar positions to trusts. • No requirements for FIs to adopt risk management procedures concerning the conditions under which a customer may use the business relationship prior to verification. • The application of CDD measures to existing customers on the basis of materiality and risk is limited to the opening of a business relationship or carrying out a one-off transaction.. • The amendment regarding cessation of CDD measures due to tipping off and instead filing an STR are based on the relevant person first making a report to a designated authority and getting consent of the designated authority
R.25	PC (MER) LC (FUR 2023)	<ul style="list-style-type: none"> • Trustees are not required to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction, • Sanctions would only be proportionate and dissuasive for trusts managing properties of significant financial value and not for properties of minimal financial value.
R.26	PC (MER) LC (FUR 2023)	<ul style="list-style-type: none"> • No measures for insurance companies and MSB preventing criminals and their associates from being beneficial owners. • No measures to prevent criminals and their associates from holding significant or controlling interest or management function in securities entities. • No requirement to review the risk profile of a regulated entity when there are major developments in the management and operations of the financial institution/group.

⁵ Ratings and factors underlying the ratings are only include for those recommendations under review in this FUR.

⁶ Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.



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Anti-money laundering and counter-terrorist financing measures in St. Kitts and Nevis

Follow-up Report & Technical Compliance Re-Rating

This report analyses St. Kitts and Nevis' progress in addressing the technical compliance deficiencies identified in the CFATF assessment of the measures to combat money laundering and terrorist financing of St. Kitts and Nevis. The report also looks at whether St. Kitts and Nevis has implemented new measures to meet the requirements of the FATF Recommendations that have changed since its 4th Round Mutual Evaluation assessment.

Follow-up Report