



Virgin Islands Proliferation Financing Risk Assessment

BVI Financial Services Commission



AGENDA

1. Why Conduct Risk Assessments
2. Results of Previous Assessments
3. What is Proliferation Financing
4. Why a PF Risk Assessment
5. What is PF Risk
6. Methodology and Data
7. Threats, Vulnerabilities and Control Factors
8. Risk Factors
9. Assessment Findings
10. Recommendations
11. Expectations
12. Questions

Why Conduct Risk Assessments

- To properly identify, assess, understand and mitigate against ML, TF and PF risks
- To allow for development and prioritisation of AML/CFT/CPF policies and activities to combat ML, TF and PF
- To focus cooperation and coordination by relevant CAs and LEAs on policies and activities to combat ML, TF and PF



Results of Previous Risk Assessments

Sector	ML	TF	
		Domestic	Foreign
Banking	ML	L	L
Money Services	MH	L	ML
Financing	L	L	L
Insurance	ML	L	ML
TCSPs	H	L	ML
Investment Business	MH	L	ML
Insolvency	ML	L	L
Legal Persons and Arrangements	H	-	-
Emerging Products (VAs and VASPs)	H	L	H

Results of Previous Risk Assessments

Sector	ML	TF	
		Domestic	Foreign
Legal Practitioners	MH	L	L
Accountants	MH	L	ML
Notaries Public	MH	L	L
Real Estate Agents	MH	L	MH
Jewelers/Precious Metals and Stones Dealers	MH	L	ML
NPOs	MH	L	ML
Other HVGs (Vehicle Dealers, Yacht Brokers and Dealers)	MH	L	ML



What is Proliferation Financing

The PFPA defines PF as the act of making available an asset, providing a financial service or conducting a financial transaction that facilitates:

- the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer, export, trans-shipment or use of:
- nuclear, chemical or biological weapons; or
- materials related to nuclear, chemical, biological or radiological weapons that are restricted or prohibited

PF also includes the provision of technical training, advice, service, brokering or assistance related to any of the above activities.



Why a PF Risk Assessment?

- Identification of the level of PF risk to which the Territory is exposed is critical in order to develop the proper mechanisms to effectively mitigate against these risks, and ensure the jurisdiction meets its counter-proliferation financing (CPF) obligations
- Seeing a growing emphasis being placed on PF during the current round of Mutual Evaluations (ME).
- Financial Action Task Force (FATF) has signaled that an assessment of PF risk will be included in the Fifth Round of Mutual Evaluations (ME).



What Is PF Risk?

A function of threats and vulnerabilities and resulting consequences

Threat - designated person and entity that has previously caused, or has the potential to evade, breach or exploit a failure to implement PF-TFS in the past, present or future

Vulnerability - comprises those things that can be exploited by the threat, or that may support or facilitate the breach, non-implementation, or evasion of PF-TFS. Effectively those factors that represent weaknesses in the Territory's CPF system, including features of a particular sector, financial product or type of service that may provide opportunities for designated persons and entities to raise or move funds or other assets

Risk - based primarily on the **threat** caused by illicit use of products and services and exploitation of key sectors by persons designated by the United Nations, and those who act on their behalf, to facilitate the financing of proliferation of weapons of mass destruction, and the **vulnerabilities** inherent in a jurisdiction's systems that allow these threats to persist.



Methodology

- Based on international best practices and implemented through the use of the Proliferation Financing Rapid Risk Assessment Tool developed by the Royal United Services Institute for Defence and Security Studies (RUSI)
- Review of PF threats in the context of various socio-economic, political, geographic, legal and sectoral factors within the Jurisdiction
- Vulnerabilities associated with the key areas of concern were also rated in the context of the PF threats within the jurisdiction taking into account any identified control factors
- **Application of Risk Matrix**
$$\text{Threats} + (\text{Vulnerabilities} - \text{Mitigating Controls}) = \text{Risk}$$



Data and Data Sources: 2018 - 2021

- **Macro-fiscal data** - Ministry of Finance
- **Supervisory and inspection data** - FSC
- **Enforcement data** - FSC
- **Prosecutorial data** - ODPP
- **Crime statistics** - RVIPF
- **Suspicious activity statistics** - FIA
- **Corporate Registry data** - ROCA
- **Sanctions Data** - GO
- **Shipping Data** - VISR



Key Threat Areas Reviewed

Use of Legal Persons and Legal Arrangements

International Trade and Collection and Movement of Funds

Ship Registration and Shipping Related Activities

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

Other Considerations

Domestic and International Cooperation Frameworks

Targeted Financial Sanctions Regime

Ability to Investigate and Prosecute PF Related Matters

LEAs Level of Understanding of PF



Vulnerability Indicators

Political and Social	Economic and Technological	Geographic and Environmental	Legal and Institutional	Legal Persons and Legal Arrangements
Level of political will to combat PF	Complexity of financial transactions engaged in	Proximity to proliferation countries or other high-risk jurisdictions	Level of financial intelligence and investigative capabilities	Volume of legal persons and arrangements operating in or from within VI
Level of exposure to high-risk customers from or connected to proliferation countries	Importance of jurisdiction in facilitating global business opportunities and fund transfers	Level of significance as a transportation hub	Strength of PF laws and framework for implementation of TFS and sanctions screening	Level of transparency of LPs and LAs including BO structures
Scope of operations	Level of regulation of VAs and VASPS		Level of public and private sector outreach, guidance and awareness raising	Level of understanding of business activities of BVIBCs
	Complexity of ownership structures		Strength of regulatory framework and adequacy of compliance and enforcement mechanisms	Level of robustness of market entry requirements for FIs including VASPs
			Existence of ships registry offering flags of convenience	Maintenance of BO information on vessels

Control Factors

Regulatory and Operational Controls	Level of CPF Awareness	Level of Adherence with AML/CFT/CPF Obligations	Level of Sanctions Monitoring and Appropriate Actions Taken
High	High	High	High
Adequate	Some	Adequate	Adequate
Low	Low	Low	Low

Identified Risk Factors

Legal Persons and Legal Arrangements

- Ability for structures established in the BVI to be misused may create significant reputational damage
- Impact of inadequate CDD/ECDD and sanctions screening measures carried out by TCSPs acting as RAs which led, in some instances, to the possibility that some RAs may not be able to identify and/or verify BOs of these entities

International Trade and Collection and Movement of Funds

- Ability of BVIBCs to engage in import/export and other trading related activities
- Use of BVIBCs, whether knowingly or unknowingly, to provide goods that may allow for the financing of proliferation related activities or development of proliferation capabilities
- Complexity of the international financial transactions engaged in by BVIBCs

Ship Registration and Shipping Related Activities

- No distinction between vessels owned through a BVIBC and those owned by or through a non-BVI corporate structure
- Use of BVI flagged vessels, including those owned through a BVIBC, to transport goods to sanctioned countries or be involved in other illegal activities
- Non-domestic vessels where ownership is through a BVIBC engaging in the illicit transportation of goods to sanctioned countries
- Lack of BO information maintained by VISR

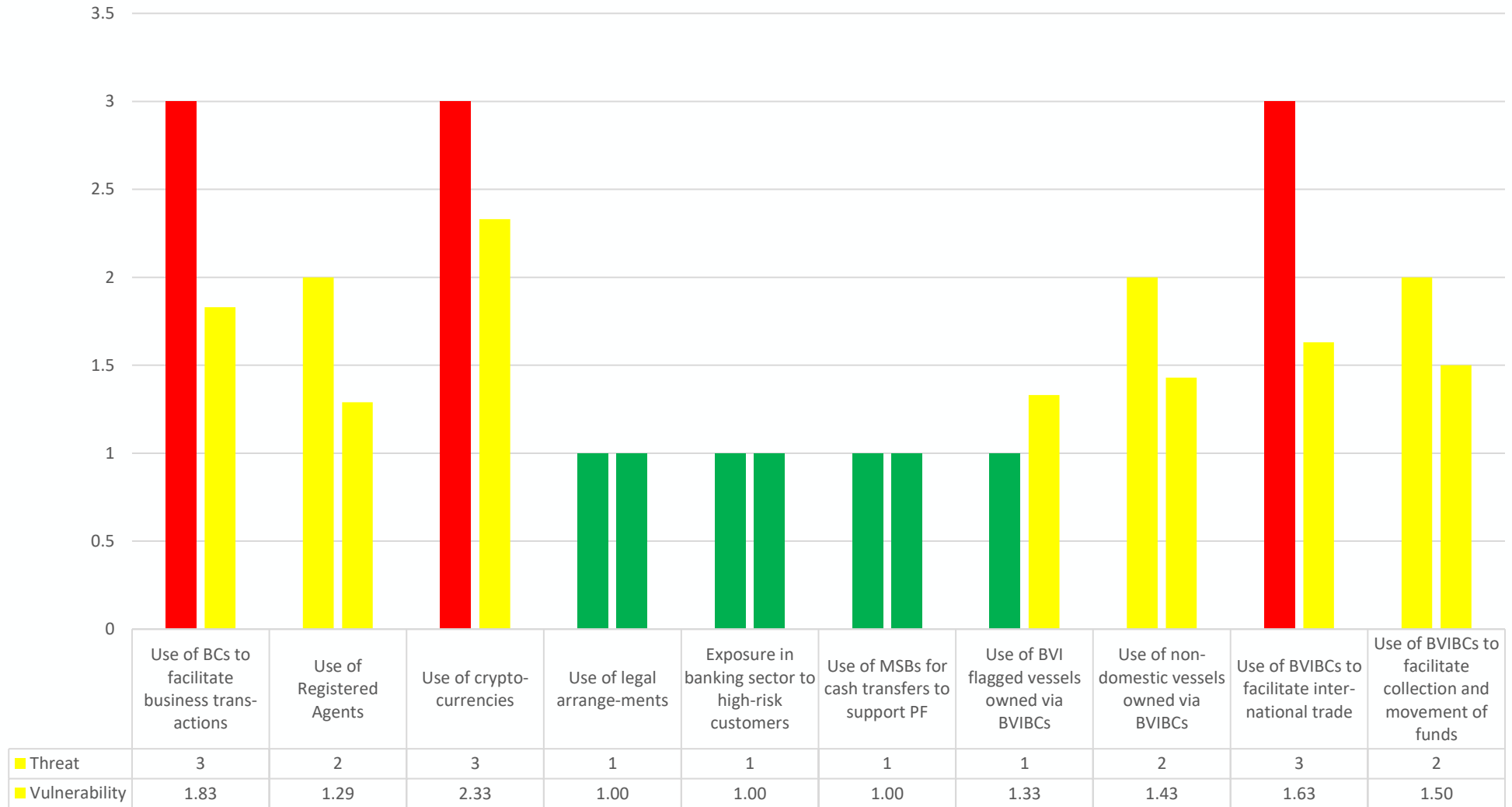
Virtual Assets and Virtual Asset Service Providers

- Digital assets are being used by non-state actors tied to the DPRK
- Level of anonymity provided while conducting multiple high value payments, the ease in which transactions may be structured and the ability to execute cross-jurisdictional transactions without being traced
- VAs and VASPs are currently unregulated
- Currently no requirement to conduct CDD or ECDD on clients of these services or to maintain any transactional records. Sanctions screening obligations also do not apply to unregulated BVIBCs

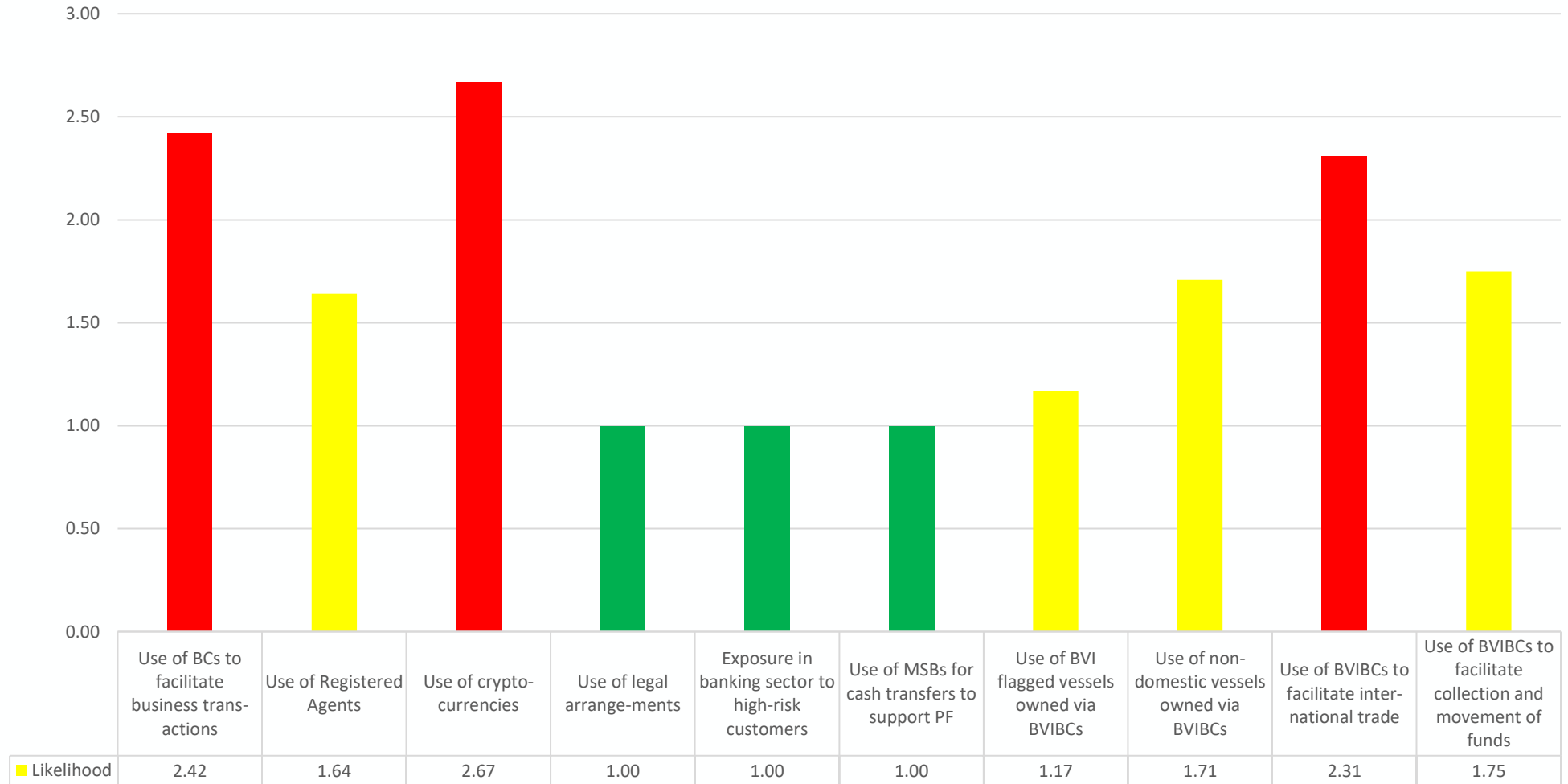
Overall Ratings

<u>Threat</u>	<u>Threat Score</u>	<u>Vulnerability Score</u>	<u>Vulnerability Rating</u>	<u>Risk Score</u>	<u>Risk Rating</u>
Use of BVIBCs to facilitate business transactions	3	1.83	M	2.42	H
Use of Registered Agents	2	1.29	M	1.64	M
Use of cryptocurrencies	3	2.33	H	2.67	H
Use of Trusts	1	1.00	L	1.00	L
Exposure in banking sector to high-risk customers	1	1.00	L	1.00	L
Use of MSBs for cash transfers to support PF	1	1.00	L	1.00	L
Use of BVI flagged vessels owned via BVIBCs	1	1.33	M	1.17	M
Use of non-domestic vessels owned via BVIBCs	2	1.43	M	1.71	M
Use of BVIBCs to facilitate international trade	3	1.63	M	2.31	H
Use of BVIBCs to facilitate collection and movement of funds	2	1.50	M	1.75	M

Threats and Vulnerabilities



Overall PF Risk Rating



Findings: Use of Legal Arrangements

- **Trusts (L)**

- Not typical vehicles used to facilitate PF. However, there is some residual risk in relation to legal arrangements where the ownership structure of a legal person includes a trust.
- No SARs filed relative to PF or PF related activities
- No PF related MLA requests received by the AGC involving trust structures
- No directions issued by the FIA in relation to any legal arrangement due to an association with PF.
- No reporting by FIs and DNFBPs of assets frozen or other actions taken against designated persons linked to any legal arrangements as required under the PFPA

Findings: Use of Legal Persons

- **Limited Partnerships (L)**

- Not identified in international typologies as being an attractive vehicle for PF purposes
- No SARs filed relative to PF or PF related activities
- No PF related MLA requests received by the AGC involving trust structures
- No directions issued by the FIA in relation to any legal person due to an association with PF.
- No reporting by FIs and DNFBPs of assets frozen or other actions taken against designated persons linked to any legal arrangements as required under the PFPA

Findings: Use of Legal Persons

- **BVIBCs (H)**

- BVIBCs used to facilitate business transactions, particularly in relation to movement of, and payment for goods and other services where the ultimate destination of such goods is a sanctioned jurisdiction
- BVIBCs used to establish ownership of vessels that have engaged in transporting illicit cargo to sanctions countries
- No SARs filed relative to PF or PF related activities
- No PF related MLA requests received by the AGC involving trust structures
- No directions issued by the FIA in relation to any legal person due to an association with PF.
- No reporting by FIs and DNFBPs of assets frozen or other actions taken against designated persons linked to any legal arrangements as required under the PFPA



Findings: International Trade and Collection and Movement of Funds

Banking (L)

- Predominantly provides banking facilities to residents and local businesses.
- Exposure to high-risk customers and PEPs is highly localised to those types of customers resident in the Territory.
- Banking products and services provided are standard and not overly complex

MSBs (L)

- No evidence of any financial flows involving Iran or DPRK or any high-risk conflict areas



Findings: International Trade and Collection and Movement of Funds

BVIBCs – International Trade (H)

- Geographical location of VI does not make it attractive as a trans-shipment point for goods destined to the DPRK or Iran
- Identification of the involvement of BVIBCs in illegal trade related activities with the DPRK

BVIBCs – Collection and Movement of Funds (M)

- BVIBCs and other available financial products may be used to facilitate payments through the legitimate banking system to other entities involved in the provision, transportation and/or delivery of proliferation related goods and services to sanctioned countries



Findings: Ship Registration and Shipping Related Activities (M)

- VISR currently does not distinguish between vessels owned through a BVIBC and those owned by or through a non-BVI corporate structure
- BVIBCs have been identified in ownership structures of vessels used to carry out illegal ship-to-ship transfers of fuel and other prohibited goods destined for sanctioned countries
- BO information needed for VISR to positively identify any vessel found to be linked to a sanctioned individual or which is itself subject to sanctions is not readily available as VISR relies on the RA of the BVIBC or the Representative Person of a qualifying non-BVIBC to conduct CDD on the beneficial owners of a vessel
- Reasons for de-registration are not officially tracked and owners are not mandated to provide the reason for de-registration
- VISR has not had to de-register a vessel due to any criminal action or activity



Findings: Virtual Assets (H)

- The VI has identified virtual asset exchanges including virtual asset platforms and those entities that provide custody and wallet related services as posing the most relevant risk
- VAs and VASPs are currently un-regulated, with the exception of a few carve outs that are regulated under SIBA
- An evolving risk from un-regulated BVIBCs operating in or from within the VI that serve as VASPs or facilitate the provision of VAs
- FIA has seen a large increase in the number of SARs filed relating to VA activities
- FIA currently does not have the resources or expertise to analyse or investigate crypto-based SARs which may elevate the risk of such activities going undetected or not being properly investigated
- VI is currently taking steps to regulate VASPs

Findings: Use of Professional Intermediaries (M)

- Failed to adhere to their own policies and procedures, or in some instances to have proper procedures in place
- Inadequacies in some policies and procedures in relation to the verification of legal persons led, in some instances, to not being able to identify and/or verify BOs of these entities
- Proper ECDD not conducted on high-risk clients
- Deficiencies identified in obtaining CDD information in relation to PEPs
- Weak or ineffective CDD measures could allow for manipulation of BVI entities by persons who may seek to engage in, or who may be affiliated with or connected to persons or entities that engage in PF related activities
- Frequency of sanctions screening did not facilitate adequate mitigation of the identified risk
- Failure to adequately detail how to handle an existing client that becomes a designated person



Findings: Law Enforcement's Understanding of PF Risk

- Only a fair understanding of PF generally, and in relation to specific roles within the national CPF framework
- Need for additional training as persons responsible for CPF issues did not have sufficient relevant expertise to fulfil their agency's CPF mandate, nor did the agency have sufficient resources to do so
- With the exception of the RVIPF, there were no documented policies, procedures and strategies across any of the other LEAs to address PF related matters
- PF related investigations conducted by the FIA generally emanate from referrals from the GO (only one documented matter was referred to the FIA by the GO during the reporting period)
- Weaknesses identified within the LEAs bring into question their ability to:
 - successfully investigate and prosecute should a case arise
 - to respond to international cooperation requests received from overseas LEAs that may relate to PF



National AML/CFT Recommendations

- Ensure the findings of this Report are considered when making changes or assessing the effectiveness of the national AML/CFT regime
- Ensure all relevant CAs and LEAs are adequately trained with regard to identification, investigation and prosecution of PF and PF related activities
- Ensure all relevant CAs and LEAs are adequately resourced to allow for effective Identification, investigation and prosecution of PF and PF related activities
- Ensure that relevant AML/CFT data is maintained, collected and analysed to demonstrate that the Territory is effective in the investigation and prosecution of PF, provision of international cooperation, and analysis and dissemination of SARs
- Finalise and implement the legislative and regulatory frameworks needed to regulate VASPs



National AML/CFT Recommendations

- Ensure the information contained this Report is used to better understand the types of PF risks posed and where these risks lie to ensure more effective use of surveillance and investigative mechanisms to mitigate PF risk
- Ensure that LEAs and CAs consider the findings of this report when developing their own internal policies and procedures to combat PF
- Ensure that the Report is kept up to date, having regard to changes in the identified threats, vulnerabilities and mitigating controls.



Supervisor Specific Recommendations

- Ensure timely and effective outreach to financial institutions and DNFBPs on the findings of this report, to ensure proper understanding of their PF related obligations including how the report's findings should be utilised in developing their own AML/CFT policies and procedures
- Ensure necessary steps such as increased desk-based and onsite monitoring are taken to evidence that financial institutions and DNFBPs are carrying out and implementing the requirements of their AML/CFT regime with regard to PF
- Carry out outreach to financial institutions and DNFBPs on red flag PF indicators to allow for better quality of SARs filings



Supervisor Specific Recommendations

- Ensure that the findings of this Report are considered when making changes to, or assessing the effectiveness of the AML/CFT regime which may impact FIs and DNFBPs
- Ensure that relevant AML/CFT data is maintained, collected and analysed to be able to demonstrate that it is effective in its supervision, enforcement and international cooperation
- Ensure sufficient monitoring of the perimeter to detect BVIBCs and other relevant entities involved in sanctions busting activities or owned by sanctioned individuals



Expectations: Supervisors

- Increased monitoring of licensees based on risk
- Full implementation of the Risk Assessment Framework
- More focused inspections based on areas of risk identified in this and other Risk Assessments and other monitoring mechanisms
- Proper and timely analysis of inspections and enforcement findings
- Publication of AML/CFT and other regulatory data



Expectations: All Supervised Sectors

- Enhanced monitoring of clients based on risk
- Demonstrable understanding of clients' behaviour and ability to identify potential areas of concern
- Ability to demonstrate adjustments to the level of client monitoring based on changes in activity *(i.e. ensure that sufficient information on the day-to-day business activities of a BVIBC is maintained to timely identify potential changes to its AML/CFT risk. This may include receipt of banking and other transactions records)*
- Ability to demonstrate proper monitoring of financial sanctions notices and actions taken relative to potential breaches *(i.e. entities must show that they are able to search their entire database of clients including beneficial owners, directors, trustees, settlors etc. within 24 hours of notice being issued. This 24 hour includes notifying relevant authorities as well as taking necessary measures to freeze any known assets)*
- Review and adjust policies, procedures and internal controls having regard to the findings of the Risk Assessment Report and other identifiable risk factors
- Ensure staff are properly trained





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