



CARIBBEAN FINANCIAL ACTION TASK FORCE

Saint Vincent and The Grenadines
12th Follow-Up Report

June, 2016

Montego Bay, Jamaica

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ST. VINCENT & THE GRENADINES: ELEVENTH FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of the progress that St. Vincent and the Grenadines' (SVG) has made with regard to correcting the deficiencies that were identified by the IMF in its third Detailed Assessment Report (DAR), since the last follow-up report in November 2015. This is the twelfth follow-up report and it is based on the information that SVG provided to the Secretariat on March 11th, 2016. Pursuant to the November 2015 Plenary decision, SVG would remain on enhanced follow-up and report back to the May 2016 Plenary.
2. SVG received ratings of PC and NC on eight (8) of the sixteen (16) Core and Key Recommendations respectively as follows:

Table 1: Ratings for Core and Key Recommendations

| | | | | | | | | | | | | | | | | |
|--------|----|----|----|----|----|----|----|----|----|----|----|----|----|-----|----|----|
| Rec. | 1 | 3 | 4 | 5 | 10 | 13 | 23 | 26 | 35 | 36 | 40 | I | II | III | IV | V |
| Rating | PC | LC | PC | NC | LC | PC | NC | LC | LC | LC | C | NC | LC | NC | NC | LC |

3. With regard to the other non- Core or Key Recommendations, SVG was rated partially compliant or non-compliant, as indicated below:

Table 2: 'Other' Recommendations rated as PC and NC

| Partially Compliant (PC) | Non-Compliant (NC) |
|---|--|
| R. 8 (New technologies & non face-to-face business) | R. 6 (PEPs) |
| R. 11 (Unusual transactions) | R. 7 (Correspondent banking) |
| R. 15 (Internal controls, compliance & audit) | R. 9 (Third parties and Introducers) |
| R. 27 (Law enforcement authorities) | R. 12 (DNFBPs – R. ,6,8-11) |
| R. 29 (Supervisors) | R. 14 Protection & no Tipping-off |
| R. 30 (Resources) | R. 16 (DNFBP-R. 13-15 &21) |
| R. 33 (Legal persons-beneficial owners) | R. 17 (Sanctions) |
| SR. VI (AML requirements for MVTs) | R. 18 (Shell banks) |
| | R. 21 (Special attention for higher risk countries) |
| | R. 24 (DNFBP-regulation, supervision and monitoring) |
| | R. 34 (Legal arrangements – beneficial owners) |
| | SR. VII (Wire transfer rules) |

4. The following table is intended to assist in providing an insight into the level of risk in the main financial sectors in SVG.

Table 3: Size and integration of SVG's financial sector as of December 2015.

| | | Banks¹ | Other Credit Institutions* | Securities | Insurance | TOTAL |
|-------------------------------|----------------------|--|--|-------------------|---|----------------|
| Number of institutions | Total # | (Domestic Banks) 4 Int'l Banks - 5 | Credit Unions – 4 Building Society– 1 | - | Domestic (21): Life – 2 Non-Life – 13 Composite – 7 International (2): Life: - 1 Non-Life - 1 | 38 |
| | | | | | | |
| Assets | EC\$ | \$1,973,497 | CU - \$145.13M | - | Domestic Life – \$118.0M | Total Domestic |
| | US\$ | \$339.0M | Building Society- \$198.28.0M | | Domestic Non-Life – \$86.0M | \$416.46M |
| | | | | | Domestic Composite - N/A | \$506.26M |
| Assets | US\$ | \$532.7M | CU - \$140.0M | - | Domestic Life – \$44.0M | \$888.7M |
| | | | B&L - \$81.0M | | Domestic Non-Life – \$32.0M | |
| | | | | | Domestic Composite - \$36.0M | |
| Deposits | | | | | Int'l Life -\$23.0M | |
| | EC\$ | \$1,556,732 | CU - \$114.760M | - | Domestic:- Life – N/A | \$155.75M |
| | US\$ | \$260.2M | Building Society - \$154.190M | | Composite – N/A | |
| Deposits | % Non-resident | 6% (Domestic) | N/A | N/A | N/A | N/A |
| | | 100% of deposits | | | | |
| International Links | % Foreign-owned: | % of assets | % of assets | % of assets | % of assets | % of assets |
| | | 5.67% (Domestic) | N/A | N/A | N/A | 100% |
| | | 100.0% | | | | |
| International Links | #Subsidiaries abroad | 7 | N/A | N/A | N/A | 7 |
| | | | | | | |

¹ Data for domestic sector is report in EC dollars. Figures for domestic insurance and international banks and insurances are all as of December 31st, 2015. Figures for domestic banks are as at 20th, August, 2012.

II. Scope of the Report

5. This report will focus on all Recommendations that were rated PC and NC and that still have actions, recommended in the DAR outstanding, this being: Core Recommendations 1, 5, 13 and Special Recommendations I and IV and Key Recommendation: Special Recommendation III. Also, Recommendations 6, 7, 8, 9, 11, 12, 15, 16, 17, 18, 21, 24, 29, 30, 33, 34 and Special Recommendations VI and VII, where updates were presented.²

III. Summary of progress made by St. Vincent & the Grenadines

6. Status from the previous 11th follow-up report has slightly varied, Authorities are now close to finalizing the Anti-Money Laundering/Terrorism Code (hereinafter AML/TF Code) and the Mutual Funds Bill and NPO Regulations. Authorities indicated that the AML/CFT Code has been reviewed by the Attorney General and the appropriate agencies involved; further improvements were submitted to ensure the greatest level of compliance with FATF Recommendations. The Mutual Funds Bill is pending the finalization of secondary legislation such as regulations, which are expected to be passed simultaneously.
7. With regard to Recommendation 31, it was clarified that the revised POCA (Proceeds of Crime Act No. 38 of 2013) greatly improves compliance with this Recommendation rated as LC, in that it provided the National Anti-Money Laundering Committee (NAMLC) with a specific statutory role of policy coordination (section 119 (1) (c)). Authorities also indicated that the FIU Act was amended in 2013 to allow the FIU to obtain appropriate law enforcement and other governmental information when needed.
8. With regard to Recommendation 35 (although progress is greatly described under Special Recommendation I), it is worth mentioning that the enactment of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 had a positive impact in this Recommendation rated as LC. Examiners recommended that the Terrorist Financing (SFT) and Palermo Conventions were ratified, which occurred according to country's update in August 2013. Examiner's recommendations also indicated a need to amend the Terrorist Financing Act, (UNATMA) at the time, to include all conventions that define the offences to which the SFT Convention applies and to cover of all Conventions listed in the SFT. This was partly solved by the cited Act No. 14 of 2015 which criminalized Terrorist Financing in line with the Convention. However, the said Act does not incorporate all Conventions nor does it provide a replacement for Schedule II to UNATMA (with all other Conventions), which was repealed. The Act also implemented a procedure for UNSCR 1267 and 1373 as will be explained under Special Recommendation III, which would be further improved in the future.

Core Recommendations

² Recommendations 2, 19, 20, 22, 25, 28, 31, 32, 35, 36, 37, 38, 39, and Special Recommendations II, V, and IX will not be discussed because they were rated as either C or LC in the DAR. Also, Recommendations 26 and 4 will not be included, because all the deficiencies were addressed according to the 7th and 9th follow-up report. Recommendations 4, 14, 18, 23 and 27 were deemed closed or with progress equivalent to an LC or C in the 11th follow-up report and will not be dealt with in this Report. Recommendations 3 and 10, 26, 31, 35 and 40, as well as Special Recommendation VIII (rated as LC) are only discussed in terms of continuous progress and implementation.

9. For **Recommendation 1**, deficiencies have been addressed for the most part (deficiencies 1 and 3 pending), as follows:
- i. **Deficiency 1-** *Certain offences in Section 41 of and the definition of 'property' in POCA are not consistent with the relevant articles of the Vienna and Palermo Conventions. This deficiency is outstanding.*
 - ii. **Deficiency 2-** *Self-laundering by way of simple possession of proceeds is not criminalized. As reported in the 5th follow-up report, the enactment of the POCA Act effectively implemented the Examiners recommendation that self-laundering by way of simple possession of proceeds be criminalized. Section amended Section 43 (1) by deleting the term "another person's". As a consequence of this amendment a person who acquires, possesses or uses his own criminal proceeds commits an offence. This deficiency is closed.*
 - iii. **Deficiency 3 –** *Racketeering, human trafficking and migrant smuggling are not predicate offences. As reported in the 4th follow-up report, SVG enacted the Prevention of Trafficking in Persons Act, (POTP), No. 27 of 2011, partially addressing this deficiency. The 6th follow-up report noted that "the Attorney General is currently reviewing the draft bill on Migrant Smuggling". Even though this status remained unchanged in the 7th, 8th, 9th, 10th, 11th and present follow up report, pertaining to this legislation as well as racketeering, there continues to be implementation of the existing measures through the on-going successful prosecution and conviction of persons for ML offences as detailed in the implementation section below ([Please see here](#)). Also, Authorities cited the offence of landing prohibited immigrants in SVG as a potential predicate to Money Laundering, which although does not equate to Migrant Smuggling in that there are elements of economic gain and a need for a broader definition of prohibited immigrants, includes the possession or procurement of false passports and other documents. This deficiency remains open.*
 - iv. **Deficiency 4-** *Effective implementation is weak in light of low number of criminal prosecutions and convictions for ML and related predicate crimes. ML cases have continued to be investigated and reported in the different follow-up reports since 2010. This matter is ongoing.*
10. With regard to **Recommendations 5**, status has not greatly varied from the previous follow-up report (Deficiencies 5, 10, 13, 15 and 19 are outstanding). POCA Regulations, which encompassed both CFT and AML requirements, were issued on August 6th, 2014. They addressed many of the deficiencies noted in the DAR. The Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 mentioned above, had an impact in that it allowed for POCA Regulations to explicitly cover TF. SVG has also been advancing a Mutual Funds Bill which is anticipated to address some of the remaining deficiencies in this Recommendation and which should be passed before the end of 2015. Some of the outstanding issues have been addressed as follows:
- v. **Deficiency 1-** *No implementation of CDD and other AML/CFT requirements for non-regulated lending operations. This matter was addressed given that Schedule 1 of the POCA Regulations clearly includes all lending activities as a "service provider" subject to AML/CFT regulations. Authorities explained that the previous schedule under the POCA 2001, restricted the applicability of the Act to certain types of lending activity, and the new POCA Regulations extended the applicability of the Act and Regulations to persons who engage in any type of lending activity (previous definition referred to personal loans and current Schedule 1 clarifies that commercial, mortgage credit, are covered along with*

factoring and other types of lending). As such, the two lending institutions referred in paragraph 226 of the DAR seem to be captured under section 1(c) (i) of Schedule 1 of the Regulations. Also, authorities mentioned that letters were sent to these entities to request the submission of an annual compliance program as requested by law, to be able to assess compliance with Regulations. This deficiency is now closed.

Deficiency 2- *The POCA and the Regulations issued thereunder do not cover FT.* With regard to this deficiency, POCA Regulations now explicitly cover FT. POCA Regulations refer to the Anti-Terrorist Financing and Proliferation Act, 2014 which has now been enacted as Act No. 14 of 2015. A minor subsequent amendment will be made to reflect the year the Act was actually enacted (2015). This deficiency is closed.

- vi. **Deficiency 3-** *No prohibition against keeping anonymous or fictitious name accounts particularly those that were in existence before the POCA Regulations were issued.* This matter was addressed through Regulation 19 of the POCA Regulations which explicitly prohibit maintaining numbered or anonymous accounts, or in a name which it knows or has reasonable grounds to suspect is fictitious. Additionally, authorities explained that through onsite examinations of financial institutions in the past several years and recently, it has been revealed that there are no anonymous or fictitious accounts being held. Financial institutions have strictly applied the requirements of the POCA and its Regulations to ensure that the identity of all account holders is known. This deficiency was closed.
- vii. **Deficiency 4-** *Full range of CDD (only identification verification) is not required for business relationships and one-off transactions.* With regard to this matter, full CDD requirements are imposed under POCA Regulations 6 (definition of customer due diligence) and 11, before establishing a business relationship or carrying out an occasional transaction (term which replaces “one-off transactions”), CDD measures would be applied to every customer, therefore leaving no exceptions on the basis of it being a “one-off transaction”. This recommendation / deficiency was closed.
- viii. **Deficiency 5-** *Threshold for one-off wire transfers significantly in excess of SRVII.* With respect to this point, POCA Regulations eliminate exemptions for one-off wire transfers and establish the need for obtaining full originator information of the payee, in every/any funds transfer, without distinction of one-off transactions (POCA Regulations 31 and 33). They do however provide an exemption in the case of batch transfers which does not make specific reference to the batch file containing information on the beneficiary, therefore this recommendation remains outstanding. This deficiency is the subject of further legislative amendments. The gap remains open.
- ix. **Deficiency 6-** *Identification requirement when there is suspicion limited to ML and to one-off transactions.* With regard to this requirement, Regulation 11 (b) (i) of the POCA Regulations establishes the obligation to apply CDD measures (including primary step of identification requirements) in a broader number of cases, for example, whenever there is suspicion of ML and TF, and not only when there is suspicion of ML, as it was set before. Also, the concept of limiting CDD to one-off transactions (above a certain threshold) is no longer included. This deficiency was closed.
- x. **Deficiency 7-** *No CDD requirement when there are doubts as to the veracity or adequacy of previously obtained customer identification data.* This requirement is now included in Regulation 11 of POCA Regulations; deficiency was therefore closed.

- xi. **Deficiency 8** -*Exemptions from CDD in the GNs, to the extent implemented, go beyond the risk sensitive measures allowed under c. 5.3 and c. 5.9, and in some cases beyond the POCA Regulations.* The country indicated that this matter will be addressed through revised GNs and to be included in the AML/TF Code, which are still underway. It is relevant to mention however, that the GNs reviewed at the time of the DAR are no longer in place.
- xii. **Deficiency 9**-*No explicit requirement to verify the identity of the ultimate natural persons who control an entity, and of persons authorized to act on behalf of a corporate entity, partnership or other legal arrangement, and provisions of power to bind entity limited to the power to open and operate accounts.* This requirement is now included in several sections of the POCA Regulations (POCA Regulation 6, especially sub regulation 1 (d) and Regulation 10; Regulation 4 also makes reference to the concept of beneficial ownership). This deficiency was closed.
- xiii. **Deficiency 10**- *Insufficient requirements for identification of legal arrangements such as trusts/trustees, including measures to determine settlors, beneficiaries and other parties to a trust.* This matter will be addressed in the AML/TF Code, still underway (current draft refers to identification information on trusts and trustees and the verification of the identity of trustees, settlors and beneficiaries, among other measures (paragraphs or sections 13-17)). This recommendation is outstanding.
- xiv. **Deficiency 11**- *Narrow requirement to obtain information on the purpose and intended nature, limited to accounts and does not extend to the broader business relationship.* This requirement is now specifically included in the new POCA Regulations, specifically for business relationships (Regulation 6, sub regulation 1 (f)). This matter was addressed.
- xv. **Deficiency 12**- *Ongoing CDD requirements do not include update of CDD records particularly with respect to higher risk business relationships.* With regard to this point, POCA Regulations refer to the need for periodic update of CDD records in Regulation 23, according to the risk of the business relationship, subject to analysis. The country would also be establishing a limit to the time CDD records can remain without updates (i.e. one year) and specify that risk assessments should also be regularly updated (Regulation 13). This matter was also addressed.
- xvi. **Deficiency 13**- *No requirements for enhanced CDD for higher risk clients and exemptions from identification verification go beyond the criteria for simplified CDD.* This matter was partially addressed through Regulations 14 and 16 of the POCA Regulations. However, it should be mentioned that provision in Regulation 16 (1) (a) (i) is too broad, by indicating that services providers (it is stated in a generic manner) will not be subject to AML/CFT requirements and the concept of services provider goes beyond “financial institutions” mentioned in the standard as an example of cases where simplified due diligence applies and covers DNFBPs. It also adds that this only applies provided that there is adequate supervision and in the case of DNFBPs supervision is yet to start. Also with regard to Regulation 16 (1) (a) (ii), in cases of foreign regulated entities, it should be clarified how these will be assessed. Authorities indicated that Regulation 16 will be further developed in the AML/TF Code to be issued. This deficiency is the subject of further legislative amendments. The gap remains open.

- xvii. **Deficiency 14-** *No requirement to terminate an existing business relationship in the circumstances covered by c. 5.16.* This matter was fixed by POCA Regulations, particularly Regulation 12, which discusses ceasing a transaction or terminating a business relationship when a service provider is unable to complete the verification of identification of a customer, third party or beneficial owner or unable to undertake ongoing monitoring.
- xviii. **Deficiency 15-** *The identification exemptions in the POCA Regulations should not apply when there is suspicion of ML or FT.* This matter seems to be partially fixed by Regulation 16 of the POCA Regulations where an exemption does not apply in cases “*where the services provider suspects money laundering or terrorist financing*” (see sub regulation 3 (a)). Our comments under Deficiency 13 above are also applicable here. This matter is outstanding.
- xix. **Deficiency 16-** *No requirement to apply CDD requirements to customers’ existing at the date the POCA Regulations came into effect, on the basis of materiality and risk.* This aspect is solved with the risk management concepts that would be introduced by POCA Regulations 11 (1) (c), where service providers are required to apply CDD measures to existing customers at appropriate times, as determined on a risk sensitive basis, at least once every 5 years, and when there are changes in customer information or beneficial ownership or changes in third parties or beneficial ownership of third parties. Regulation 13 is also relevant, as it addresses the need for a risk based approach and customer risk assessment.
- xx. **Deficiency 17-** *Requirement to perform CDD on existing customers is limited to the beneficial owners of anonymous or fictitious name accounts, and no requirement to close such accounts existing at the time the POCA Regulations came into effect.* This matter was addressed by POCA Regulations which introduce ongoing monitoring for existing customers (Reg. 11). Also, as explained above, a provision against anonymous or fictitious accounts was established. This deficiency was closed.
- xxi. **Deficiency 18-** *The GNs only require the suspension, and not prohibition, of a new or existing business relationship or transaction when verification of identity cannot be completed.* This matter was fixed by the prohibition of establishing a business relationship or carrying out a transaction without proper identification and verification, according to Regulation 12 of the POCA Regulations.
- xxii. **Deficiency 19-** *General weaknesses in implementation of CDD, especially for beneficial owners and bearer share companies.* This matter has yet to be fully addressed but would partly be solved by the multiple CDD provisions introduced in the 2014 POCA Regulations and especially with regard to beneficial ownership cited above. Authorities also indicated that with regard to bearer shares the International Business Companies Act, section 30, allows registered agents and approved custodians to immobilise bearer shares and as per enhanced onsite examinations they have been able to testify this is done in practice. It is also important to mention that as per section 29 of the same Act, registered agents have the obligation of keeping certain information on the company issuing the share and the beneficial owner of the share among others. Registered agents and approved custodians are the only entities authorized to do so; there is still a need to address CDD requirements regarding legal arrangements which makes this deficiency still outstanding. Authorities indicated that this will be addressed by the AML/TF Code to be issued.

11. The status of **Recommendation 13 and Special Recommendations IV** (Deficiencies 1, 2 and 4 have been addressed, 3 is pending) has slightly varied, however these Recommendations remain outstanding. Some of the deficiencies identified for these Recommendations have been further addressed, as follows:

- i. **Deficiency 1-** *The two-part threshold for filing of SARs does not meet the requirement of R.13.* With regard to this deficiency, it is important to clarify that according to paragraph 406 of the DAR, it referred to the need to modify article 46(3) of the previous POCA, which lead to the interpretation that only complex or unusual or similar transactions were to be disclosed or reported. Currently, section 127 of POCA 2013 provides for the making of disclosures to the FIU by Money Laundering Reporting Officers (MLROs) of Service Providers. MLROs are required to disclose knowledge, suspicion or reasonable grounds for such knowledge or suspicion that a person is engaged in money laundering, to the FIU as soon as reasonably practicable. In turn, MLROs receive information from any person or service provider in the same terms, that is, reports based on suspicion or reasonable grounds for knowledge or suspicion of a person being engaged in money laundering. Therefore, this deficiency has been addressed. In the same way, Section 15 of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015, provides for the making of disclosures to the FIU where a person knows or suspects or has reasonable grounds for knowing or suspecting that a another person has committed or attempted to commit a terrorist financing offence. The Terrorist Financing offence is defined in Section 6-10 of the draft Act and includes, inter alia, the provision and use of property for use in terrorism, using or possessing property with the intention that it is used for the purposes of terrorism, by a person. "Person" refers to any individual, group, undertaking, entity, organisation or body of persons according to subsection, section 2 of the Act. In this sense, the provision refers to filing a report in the case of funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. Though the definition of funds in the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015, can be considered not as broad (since it refers to "financial" assets primarily), as will be explained under Special Recommendations I and III, this matter was sufficiently addressed.
- ii. **Deficiency 2-** *Offshore insurance and banks are reporting at a very low level.* With regard to this deficiency, Authorities indicated that number of SARs filed by International Banks had gradually increased, from ten (10) in 2010, to forty three (43) as of October 2014. This matter was sufficiently addressed.
- iii. **Deficiency 3-** *SAR filing guidance is outdated, the last update was in 2004, contributing to low quality SARs.* This matter has yet to be addressed. However, Authorities indicated that a substantive amount of training has been provided to financial institutions and this has resulted in an increase in number and quality of SAR reporting, as mentioned above, for instance, for International Banks. Furthermore, all financial institutions are required to and maintain AML/CFT manuals of (policies and procedures which include guidance on SARs and suspicious activity indicators. Also, SAR forms have been updated and made available through the SVG FIU Website. Same situation from previous follow-up remains: training is ongoing with the various financial entities and service providers.
- iv. **Deficiency 4 (specifically related to SR. IV) -** *There is no requirement in UNATMA or POCA to file SARs for transactions or financial activities that could constitute or be related to financing of individual terrorists or terrorist organizations.* This matter was addressed through the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 which, section

15. Section 15(1) (a) (b) outlines the need to file a suspicious transaction report wherever a person has reasonable grounds for knowing or suspecting, that another person has committed or attempted to commit a terrorist financing offence. “Person” refers to any individual, group, undertaking, entity, organisation or body of persons according to subsection, section 2 of the Act. The Terrorist Financing Offence on the other hand, covers fund-raising, organising or directing others to commit a fundraising offence and the use of possession of property for purposes of terrorism, as well as entering into any kind of funding arrangements which derive in property being made available to another. This therefore covers the requirement to file SARs for transactions or financial activities that could constitute or be related to financing of individual terrorists or organizations. POCA Regulation 25 also makes reference to both the obligation of reporting money laundering and terrorist financing and services providers do in fact provide quarterly reports on whether they have identified any activity related to terrorist financing.

12. Authorities also indicated that an AML/TF Code with related Guidance Notes will be established before the end of 2016.

Key Recommendations

13. **Recommendation 3** was rated LC. The following actions have been taken to increase compliance with this Recommendation as follows (deficiency 1 pending):

- i. **Deficiency 1-** *There is no explicit provision of law empowering competent authorities to take steps to void contractual or other actions that would prejudice the ability to recover assets.* This matter is still pending, although Authorities explained that through the revised POCA issued in 2013, indirect proceeds of crime are subject to confiscation and these include “tainted gifts” as defined in Section 11 of the said Act. There are however no specific provisions to deal with void contracts.
- ii. **Deficiency 2-** *Effectiveness is weak in light of low number of cases and amounts with respect to forfeitures of cash and confiscations of property relating to ML and related predicate crimes.* Cash seizures have continued and reported in the different follow-up reports since 2010. This matter is ongoing.

14. **Recommendation 23** was rated as NC. Status for this follow-up report has not varied, though it has been significantly addressed (and therefore closed) in comparison with circumstances at the time of the assessment and can be considered of ongoing improvement. The following actions have been undertaken to address deficiencies identified in the DAR:

- iii. **Deficiency 1-** *Ownership structures of some offshore institutions reduce transparency and may limit the ability of regular review fit and proper criteria.* At the time of the Mutual Evaluation, the Supervisor’s resources were limited and this in turn limited the ability to review compliance, especially in the cases of institutions with mind and management overseas. This matter was substantially addressed since the Financial Services Authority (FSA), previously the International Financial Services Authority (IFSA), went through an extensive reform and refurbishment process which included increasing the number of staff members and the level of training. This enabled the FSA to carry out desk-based reviews and inspections of the international financial services sector, financial institutions such as money services businesses and the non-bank domestic institutions such as credit unions and building societies. The FSA’s staff is currently composed of twenty five (25) persons (previously only sixteen (16) persons assigned to the IFSA), inclusive of fifteen (15)

suitably qualified and experienced regulatory staff. Of note also are: (1) there is room for adding additional staff as required; (2) the FSA's Board of Directors comprises a plethora of multidisciplinary highly experienced skills in law, accounting, auditing banking, finance and actuarial science; (3) the FSA's Executive Director and Deputy Executive Director are experienced former heads of regulatory authorities; (4) the FSA has access to consultancy and expert advice from at least seven (7) experts in the areas of banking, mutual funds, insurance, credit unions, general strategy and problem resolution and regulation. The FSA Act contains specific requirements in terms of the qualifications and experience that the Director and Executive Director of the FSA must possess, including a minimum of seven years of experience in banking, insurance, economics, and law, among others, as explained by Authorities. The FSA has also an ongoing Strategic Plan (2013 – 2015), which among others, outlines the appropriate experience and qualifications for the filling of positions with the FSA. Authorities also indicated that fitness and properness of Directors is examined at the licensing stage. Due diligence is conducted on both Directors and Shareholders. External sources as well as information provided with the relevant application is used for that purpose and determine suitability. Any changes after initial review, must be filed and approved by the FSA.

- iv. **Deficiency 2-** *Systematically large building society not subject to effective AML/CFT Supervision.* To cure this deficiency, SVG reported for the previous (8th) follow-up report that the Authority carried out onsite inspections of all credit unions on the island. This was in keeping with the Assessors recommendation for SVG to “*Implement enhanced AML/CFT supervision of the systemically large building society and credit union*”. Furthermore, in August 2013, the FSA intervened and took control of the only building society in SVG, the largest non-bank financial institution, because of liquidity and poor management problems. The mentioned building society continues to be monitored and is under enhanced supervisory oversight by the FSA. The most recent on-site was conducted September 2015 and there is one scheduled for 2017. Therefore, this matter has been sufficiently addressed.
- v. **Deficiency 3-** *Infrequent focus on inherently high risk business areas such as e.g. correspondent banking, money remittance services and back-to-back loans.* With regard to this matter, Authorities indicated that the FSA and the Eastern Caribbean Central Bank (ECCB) have focused on these issues with respect to international banks and domestic banks. Particular focus has been given to ensuring that high risk business activities are being properly managed and that loan portfolios were not risky so as to pose an overall systematic threat to the banks. Regular onsite visits both full scope and prudential are undertaken by both the FSA and the ECCB to ensure that these issues are closely monitored. Authorities also explained that onsite inspections are conducted following a risk based approach, prior to the onsite, to understand areas of focus, deficiencies identified in previous financial reports or visits performed. Prudential standards are also taken into account. The matter has been addressed.
- vi. **Deficiency 4-** *Insufficient supervisory resources and understaffing to conduct effective ongoing supervision across all sectors, particularly in the non-domestic banking sector.* With regard to this point, as explained above, the IFSA now FSA, has gone through a restructuring process that enabled the FSA to increase and continue to increase its resources. Therefore, the matter has been addressed.
- vii. **Deficiency 5-** *No AML/CFT inspections/supervisions of the international mutual fund and insurance sectors.* To this respect, Authorities informed that staff dedicated to the

supervision of the international mutual fund and insurance sectors is in place and training is continuously provided, through collaboration with international organizations such as the European Union and Commonwealth Secretariat. Authorities have electronic databases for mutual funds, international insurances and registered agents which can help in monitoring compliance levels of these entities. The matter has been addressed and continues to be addressed.

- viii. **Deficiency 6-** *Lack of detailed AML/CFT inspection procedures for the non-domestic bank sectors.* With regard to this point, authorities indicated that a detailed onsite examination programme has been undertaken to review the AML/CFT procedures of international banks as per inspection manual shared (section 11 for Banks). This has been in place since 2009. In the case of the non-banking sector, an onsite examination programme commenced in 2012. The second round of onsite examination of this sector is ongoing. The FSA 2013 Annual Report was also illustrative of this point. This deficiency was addressed.
 - ix. **Deficiency 7-** *No AML/CFT supervision of money services business and possible existence of one unauthorized activity.* This has been addressed, the FSA is in charge of supervising money services businesses and on-sites for these entities commenced in May 2014.
 - x. **Deficiency 8-** *Lack of authorization and AML/CFT supervision regime for money lending business covered by the AML/CFT laws.* This matter was addressed as explained for Recommendation 5 / Deficiency 1 (see discussion above).
15. Status of **Special Recommendations I** has improved; there were three (3) recommendations for three (3) deficiencies to cure the NC rating and these have been addressed to a certain extent, as follows.
- i. **Deficiency 1-** *SFT and Palermo Conventions should be ratified and fully implemented.* On December 31, 2001 SVG signed the SFT Convention and ratified it on March 18, 2002. On July 24, 2002 SVG signed the Palermo Convention and ratified it on October 19, 2010. This gap remains open, given that the enactment of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 partially covered pending matters, as described below.
 - ii. **Deficiency 2-** *UNATMA should be amended to include all conventions that define offenses to which the SFT Convention applies.* This matter is still outstanding.
 - iii. **Deficiency 3-** *Legal provisions and other measures should be adopted in order to implement the requirements in UNSCRs 1267 and 1373. In particular, a mechanism for freezing funds, assets, and other financial or economic resources of terrorists and terrorist organizations.* With regard to this deficiency, Part VI of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 contains a freezing mechanism. Given that SVG did not have a freezing mechanism at the time of its DAR, compliance with all the different criteria will have to be reviewed. With regard to criterion III.1, the Act does not seem to contain provisions to freeze terrorist funds or other assets of persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with UNSCR 1267. Part VI only refers to what seems to be national or domestic designations (UNSCR 1373). With regard to criterion III.2, section 56 of the Act refers to possibility of the National Anti-Money Laundering Committee (NAMLC), after consulting with the National Security Minister, making a designation for the purposes of protecting members of the public from terrorism and to which financial restrictions (freezing of assets) would apply. However

there is no mention of this occurring without delay (a matter of hours) and without prior notification of the designated persons involved. The duration of the freezing order is also unclear. Authorities indicated that this fact is mitigated in a way, considering that the NAMLC is composed of individuals located in the same vicinity and this facilitate meetings and designations within a small amount of time; the Committee can respond to any possible threat expeditiously. The size of mainland St. Vincent (133 square miles) is also a factor to consider. The allotted mechanism also seems to be missing how it would give effect to actions initiated under the freezing mechanisms of *other* countries or jurisdictions as required by criterion III.3. Authorities explained however that through informal mechanisms they have been able to administratively and temporarily freeze assets under an investigation related to an EGMONT or Mutual Legal Assistance (MLAT) Request, through cooperation with Financial Institutions and they have also been able to obtain a special sitting at the Court to obtain freezing orders without delay. These are all factors to consider despite SR. III requiring a mechanism different to that of the used for MLAT. Criterion III. 4 is not met since it is not clear that freezing extends to all types of funds, definition of funds may not be broad enough (sub-criterion III. 4 (a) and (b)). With regard to criterion III. 5, section 60 refers to the need to publicize the designation (through for instance the Official or Government Gazette), however, it is unclear if there is an effective mechanism to notify relevant businesses (i.e. financial sector) directly and therefore, this criterion is outstanding. With regard to III. 6, there is no mention of guidance for relevant businesses being provided, although Authorities informed that training sessions are carried out and followed by individual reminders on laws to comply with, which would include an update on TF legislation, as well as advisories are issued and published on the FIU Website. With regard to III. 7 and III. 8, the only mechanism for de-listing and de-freezing would be the appeal and this may be insufficient when considering steps for de-listing. The country also has in the Committee, the faculty of varying or revoking a designation, which could be taken into account. Both procedures would be public given nature of it being in the Gazette. With regard to III. 9 and access to funds, the Act seems to contain no provisions in line with UNSCR 1452. With regard to III. 10, the appeal, along with the ability to review a decision on freezing (sections 78 and 79 of the Act) would also seem to be the only mechanism to challenge a freezing measure, however, this could be deemed sufficient under Special Recommendation III. Similarly, the implementation of **Special Recommendation III** was dependent on the new CFT legislation and has improved. The new law makes provisions for the implementation of UNSCRs 1267, 1373 and 1455 and any future Resolutions which require action in relation to terrorists and their assets, although with some aspects pending as described above. This Recommendation is still outstanding.

Other Recommendations

16. Increasing the level of compliance with Recommendations 6, 7, 8, 9, 10, 11, 12, 14, 16, 15, 18, 21, 24, 33, and Special Recommendation VII, was primarily dependent on the approval of the POCA Regulations which included broad provisions on politically exposed persons, record keeping obligations, internal controls, among others. These Recommendations are now substantially compliant with only minor deficiencies pending as explained below. In fact, Recommendations 14, 18 and 27 are now fully addressed. Progress in Recommendations 29 and 30, was also made. Authorities indicated for Special Recommendation VIII, that work with NPOs was ongoing and that requirements should be in place for the fourth round. In particular, the NPO Regulations were scheduled for completion by the second quarter of 2015. This was not met, however efforts are being made to have regulations completed during 2016.. No information was presented for Recommendation 17. With regard to Special Recommendation VI, it is important to mention that

the FSA is responsible for the supervision of money remitters and has completed the first round of onsite examination of the money remittance companies in SVG. The general findings were that the relevant AML/CFT policies and procedures are in place and are being applied, CDD measures are undertaken on a daily basis and there is ongoing internal and external AM/CFT training of staff. Authorities indicated that the FSA has also been responsible for the non-bank financial sector and onsite inspections have been carried out since 2012.

17. **Recommendation 6** was partially addressed (Deficiency 1 has not been fully addressed) as follows. Authorities indicated that this matter will be further developed in the AML/TF Code to be issued:

- i. **Deficiency 1 (unique deficiency)** - *No requirement to conduct additional and enhanced CDD measures, or to obtain senior management approval, for new, and/or existing PEPs relationships.* POCA regulation 14 explicitly establishes an obligation to perform, on a risk sensitive basis, enhanced due diligence and monitoring, in the case of PEPs and other high risk relationships (clients or beneficial owners, or even third parties), it does not indicate however that business relationships should not be established or continued with a PEP unless prior approval of the board or senior management is obtained. This gap therefore remains open, although expected to be covered by paragraphs 6 and 7 of the Code which requires such approvals

18. **Recommendation 7** was fully addressed as follows, further enhancements to be done through the AML/TF code to be issued identification and which refers to the establishment of correspondent banking relationships :

- i. **Deficiency 1**– *No specific requirements for perform, inter alia, additional and enhanced CDD on correspondent banking relationships.* This requirement was addressed, although mistakenly stated in the previous follow-up that it was outstanding. Regulation 28 (1) (d) requires regular customer due diligence measures be applied on respondent banks applying a risk based approach, following information obtained on domicile, ownership and management structure, among other factors. However, incises (a) – (c) and (e) - (k) provide for additional and enhanced measures related to correspondent banking relationships (i.e. management approval before engaging with a correspondent bank) and Regulation 29, refers to specific diligence measures which should be applied to correspondent banks, which provide a respondent bank with direct access to their services, through payable through accounts or other means.
- ii. **Deficiency 2**- *No requirements to assess the AML/CFT controls of respondent institutions.* This deficiency was addressed through POCA Regulation 28 (1) (f).
- iii. **Deficiency 3**- *No requirement to obtain senior management approval before establishing correspondent account relationships.* This deficiency was addressed through POCA Regulation 28 (1) (g) which indicates that an SVG bank should not enter into a new correspondent banking relationship unless it has prior senior management approval.
- iv. **Deficiency 4** - *No requirements with respect to the provision of correspondent payable-through accounts.* POCA Regulation 29 now addresses requirements applicable in the case of payable through accounts requiring CDD and where applicable enhanced CDD, as well as that the respondent bank is able to provide information upon request, to the correspondent bank.

- v. **Deficiency 5- Domestic banking sector provides correspondent/ nested correspondent banking facilities to offshore banks in breach of the ECCB's prudential guidelines.** Authorities explained that the ECCB prudential guidelines stipulate that banks should ensure that offshore banks have a physical presence; that they do carry out checks to ensure that the banks are not operating as shell banks. These guidelines are in effect repeated and strengthened by section 28 of the Anti-Money Laundering Regulations which set out the criteria that must be satisfied prior to engaging in correspondent banking services in general and with offshore (international) banks as described above. The purpose of the ECCB's guidelines is to ensure that banks are not affiliating or forming relations with shell banks. Furthermore, Authorities indicated that between the months of February- April 2015, training of the banking sector was done, news articles are published, and updates of website, and advisories are sent out to both domestic and offshore banks to ensure they are kept updated.

19. **Recommendation 8** was partially addressed (pending issuance of the AML/TF Code) as follows:

- i. **Deficiency 1 (unique deficiency) – No regulatory requirements to have policies or measures in place specifically to prevent misuse of technological developments for ML or TF, including non-face to face business relationships and transactions.** POCA Regulation 20 sets out these requirements among the matters to be addressed in a service provider's policies and procedures. Authorities also indicated that sections or paragraphs 18 and 25 of the Draft AML/CTF Code elaborate on Regulation 20 by requiring that a service provider to establish, maintain and implement systems and controls and take such other measures as it considers appropriate to guard against the use of technological developments in money laundering or terrorist financing. Measures to specifically address non-face to face relationships were included in POCA Regulation 15. Regulation 15 requires services providers to , in addition to complying with regulation 14 (enhanced due diligence), perform at least one additional check designated to mitigate the risk of identity fraud and apply such additional enhanced due diligence measures or undertake enhanced ongoing monitoring, as the service provider considers appropriate (if any). These obligations apply in conducting customer due diligence and carrying out ongoing monitoring. The "if any" insertion at the end of the Regulation, however, seems to imply that there may be lesser risk cases where enhanced due diligence or monitoring may not apply, which should not be the case for non-face-to-face business. Authorities indicated however, that this matter will be further addressed in the AML/TF Code to be issued and contains a section on non-face to face business.

20. **Recommendation 9** is fully addressed as detailed below:

- i. **Deficiency 1 – No mandatory requirement to immediately obtain CDD information from introducers.** This aspect is now covered by POCA Regulation 17 (2) where services providers must obtain written commitment from third parties with regard to providing CDD information without delay, before they are able to rely on them for CDD measures. Availability of information is not circumscribed to it being required in the margins of for instance, a criminal investigation as it seemed to be the case at the time of the DAR (according to paragraphs 338 and 339).
- ii. **Deficiency 2- No requirement to ensure that documentation can and will be available promptly on request, without limitation.** Although mistakenly stated as outstanding, this deficiency was addressed. As explained in the previous follow-up report, service providers must have written assurance from the third party that information will be available upon

request (Regulation 17 (2)) but are also obliged to immediately obtain information concerning the customer, third party or beneficial owner as per Regulation 17 (3), this meets the requirement and as explained under deficiency 1, information obtained is not limited to that obtained under criminal investigations or otherwise.

- iii. **Deficiency 3-** *The list of eligible introducers listed in the Regulations and the POCA Schedule 1 goes beyond the FATF list of FIs and DNFBPs, and should be limited as is intended in the Guidance Notes.* Authorities indicated that this will be dealt with in the AML/TF Code currently underway, and it was included as guidance on the conditions that it should be applied prior to relying on third parties. Authorities indicated that the list of eligible introducers referred to in this deficiency was repealed and has not and will not be re-enacted under revised POCA, the Regulations, or other instruments.
- iv. **Deficiency 4-** *Insufficient provisions that ultimate responsibility for customer identification and verification lies with the SVG FI.* This deficiency was solved. Regulation 17 (4) establishes that the services provider remains liable for any failure to apply customer due diligence measures.

21. **Recommendation 10**, rated as LC (Deficiency 2 is outstanding), was further addressed as follows, further enhancements to be done through the AML/TF code to be issued:

- i. **Deficiency 1 –** *Need for explicit provisions in the POCA Regulations to retain business correspondence.* This aspect is now covered by POCA Regulation 22 (1) (e) which requires all business correspondence pertaining a business relationship or occasional transaction, is kept.
- ii. **Deficiency 2 –** *Record keeping by some FIs (non-banks) outside of SVG may limit capacity for compliance supervision on an ongoing basis.* To meet this requirement among others, the assessor's recommendations talk about reviewing and removing potentially conflicting record keeping requirements between POCA Regulations, DOTA and some Guidance Notes. They also make reference to a need for reviewing the record keeping arrangements for some FIs that operate and keep records in SVG to ensure adequate compliance supervision and efficient access by competent authorities. The country informed that the previous Guidance Notes are no longer in effect and this together with the revised POCA Regulations and TF legislation improves the situation with regard to any conflicting provisions in terms of record keeping. The AML/TF Code, which will include revised Guidance Notes, is expected to increase compliance with this item as it introduces further details on Record Keeping obligations (currently paragraphs 33-39 of the draft Code).

22. **Recommendation 11** is still outstanding, as follows (Deficiencies 1 and 2 are outstanding). Authorities indicated however, as for other matters, that the AML/TF Code would contain further amendments.

- i. **Deficiency 1 –** *No requirement to examine as far as possible, the background and purpose of complex, unusual or unusual patterns of transactions and to establish such findings in writing.* Regulation 20 (2) partially addresses this deficiency since there is mention of the need of services providers to include this topic among their processes and procedures, however, there is no specific requirement to examine “as far as possible” the background of complex, unusual, or unusual patterns of transactions and specially, to document findings in writing as required by examiner's recommendation.

- ii. **Deficiency 2** – *No requirement to keep records of findings of the examination of the background and purpose of complex unusual patterns of transactions to be available to help competent authorities and auditors.* Regulation 22 makes reference to the obligation of keeping this information, however, given the deficiency in the requirement to examine and document findings, this requirement would not be operational and therefore is outstanding.
 - iii. **Deficiency 3** - *In implementing unusual transaction detection and analysis, the reporting entities focus almost exclusively on cash transactions* Authorities indicated that a review of the SARs submitted to the FIU have shown a variety of reasons that give rise to a determination that a transaction is unusual (Fraud, others). Further the Compliance Reports submitted by entities highlight that a number of risk factors are taken into a consideration including the jurisdiction that may be involved. Authorities also clarified that given that a large number of SARs submitted come from the money remittance sectors, reports include cases with large cash in, because of country of origin, suspicious senders, multiple senders, frequent transactions, etc.
23. **Recommendations 12, 16 and 24** are still outstanding, in that most of the assessor's recommendations still are. However, as reported previously and as provided for in Section 151 and 152 of the POCA, POCA Regulation 36 designates the FIU as a supervisory authority for DNFBPs for AML/CFT purposes. This is a significant advancement. Authorities also indicated that the AML/TF Code, which continues underway, would also have an impact in compliance with these Recommendations. With regard to RAs supervision, marked as one of the deficiencies for R.12, Authorities indicated that on-site examinations (as it has been included in previous and this follow-up report) are regularly undertaken for all services providers, since 2009 onwards, typically every twelve (12)- eighteen (18) months.
24. **Recommendation 14** was fully addressed as follows:
- i. **Deficiency 1**– *UNATMA and/or POCA do not prohibit tipping off the filing of SARS related to terrorist financing.* Amended POCA Section 129 now prohibits tipping off with regard to Money Laundering, section 18 of the Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 introduce similar provisions regarding terrorist financing disclosures.
 - ii. **Deficiency 2** – *POCA Section 45 does not explicitly prohibit tipping off of the fact of filing of the SAR itself.* Section 129 of the POCA now deals with the prohibition of tipping off Money Laundering Disclosures.
25. Both deficiencies were addressed.
26. **Recommendation 15** was partially addressed (Deficiencies 2 – 5 are outstanding) as follows:
- i. **Deficiency 1**– *Insufficient provisions for comprehensive policies (re internal controls, compliance and audit).* This matter was addressed through POCA Regulation 20 which makes reference to services providers establishing, maintaining and implementing appropriate risk sensitive policies, procedures, systems and controls to prevent and detect money laundering and terrorist financing and lists possible (minimum) items.
 - ii. **Deficiency 2**-*No requirements to train staff on current ML and FT trends, typologies, techniques, etc.* This matter is addressed through Regulation 24, although this Regulation

as other sections of the POCA Regulations make reference to Guidance Notes and an AML/TF Code that is still being reviewed and would be therefore considered at a later stage (i.e. current draft contains provisions in paragraph 33 regarding the types of training that must be provided). Authorities also indicated that the FIU has provided training to financial institutions and high risk service providers such as money remittance agents and businesses, banks, credit unions, with regard to typologies.

- iii. **Deficiency 3** - *No requirement to screen FI employees to ensure high standards.* This deficiency is also partly solved by Regulation 20 since policies and procedures must include a section or procedures on the screening of employees.
- iv. **Deficiency 4** - *Insufficient time and seniority of compliance officers devoted to AML/CFT functions by some FIs including inherent conflicts in multi- task responsibilities.* This matter was addressed by POCA Regulation 26 which includes requirements on seniority and time for the Compliance Officer.
- v. **Deficiency 5**- *Lack of specific training in on AML/CFT for high risk areas e.g. money remittance business correspondent accounts, wire transfers, back to back loans, and credit card operations.* The status of this deficiency has not greatly varied, although progress on AML/TF Code continues (and paragraph 33 of current draft makes reference to these matters) and authorities indicated that the training undertaken by the FIU with money service business and lending institutions on an annual basis, addresses these high risk areas. The FSA has completed a full round of onsite inspection of Money Service Businesses in 2014 and will have a second round in 2016. As part of these inspections, awareness raising on high risk areas take place. This is done via a thorough review of the AML/CFT procedures in place and being implemented. The same applies to pointing out high risk areas when onsite examinations are undertaken with all other members of the regulated sector which would be more in line with the stipulated by examiner's recommendation (see section 3.8.2 of the DAR, page 118) with regard to this deficiency: that FIs, especially banks, emphasize AML/CFT training for high risk areas, e.g. money remittance business, business correspondent accounts, etc. Authorities also indicated that the AML/TF Code underway would be brought into force before the end of 2016 and it is expected to cure other deficiencies and that the FIU commenced training of Services Providers on February 2nd, 2015. Letters were sent to all services providers operating in the jurisdiction.

27. **Recommendation 18** was fully addressed as follows:

- i. **Deficiency 1**– *Two offshore banks were identified as not having meaningful mind and management/significant presence in SVG.* Authorities indicated that all International Banks have appointed the relevant personnel to ensure that the meaningful mind and management is present in SVG, this is assessed at time of entry and through regular off-site and on-site examinations. This has been the case since 2010. Thus, there are presently no offshore banks which do not have meaningful mind and management. Also worthy of mention, is that one of the two offshore banks identified in SVG's DAR is no longer operating in SVG, having been placed into liquidation by the regulatory authority. This deficiency was closed.
- ii. **Deficiency 2** –*No prohibitions against entering into, or continuing correspondent banking relationships with shell banks.* This matter was addressed through POCA Regulation 28 which includes prohibition to establish relationships with shell banks or with a bank that is known to permit its accounts to be used by a shell bank, among others.

- iii. **Deficiency 3-** *No requirements for FIs to satisfy themselves that respondent in other countries are not used by shell banks.* This matter is addressed by Regulation 28 cited above, which includes a range of measures that should be taken with regard to the respondent bank, including measures to ensure respondent in other countries are not used by shell banks. This matter is closed.
 - iv. **Deficiency 4 -** *Offshore shell banks maintain correspondent accounts locally, contrary to Rec. 18, the GNs and ECCBs prudential regulations.* Authorities indicated that offshore banks maintain operational accounts or accounts used for operational expenses only, which is not in contravention of the ECCB prudential guidelines. Furthermore the provisions explained above, to prohibit shell banks or services being used or provided to shell banks, along with measures for all entities to have meaningful mind and management in SVG, imply that services are rendered to offshore banks that are not shell banks. These provisions are different than those under which comments and the deficiency identified by the examiner arose (see paragraphs 460 and 461 of the DAR). Therefore, this deficiency was addressed.
28. **With regard to Recommendation 18, and also Recommendation 33 and 34,** it is also relevant to mention that as at November, 2014, the FSA conducted inspections of the four (4) international banks and twelve (12) out of sixteen (16) registered agents since the last round of onsite inspections began in May 2013. This now comprises the entire international banking sector. Authorities indicated that this is the third and fourth round of onsite inspections of Registered Agents and Banks respectively, since 2008. For the 11th follow-up report, Authorities indicated that the second round for credit unions and the building societies had commenced; two on-site examinations were completed and other three examinations will be completed by November 2015. With respect to Money Service Businesses, the second round of onsite examinations will commence in the first quarter 2016. The fifth round of on-site examinations for international banks and the fourth for registered agents and trustees is also scheduled to be completed by the fourth quarter in 2015 and 2016, respectively. The fourth round of onsite examinations for registered agents and trustees is ongoing. In terms of resources, it is also relevant to mention that the FSA received training from the Caribbean Regional Technical Assistance Centre (CARTAC) on Risk Based Supervision. For this follow-up report. For this reporting period Authorities indicated that the second round of examinations of credit unions has been completed and a third round will commence in 2016. An onsite examination to the sole Building Society was conducted in September 2015. The second round of MSBs will commence in 2016
29. Registered Trustees are in their fourth round of onsite inspection and are, as explained above for all services providers, inspected every twelve (12) – eighteen (18) months.
30. **Recommendation 21** was partially addressed (all deficiencies to be further addressed in the AML/TF Code) as follows. Further enhancements to be done through the AML/TF code to be issued:
- i. **Deficiency 1–** *No requirement to pay special attention to transactions and relationships with persons from countries that do not or insufficiently apply the FATF Recommendations.* This element was covered in that service providers ought to take this factor into account when deciding upon conducting enhanced due diligence and monitoring (POCA Regulation 14), in addition to customer due diligence measures which apply generally and are stated in POCA Regulation 6.

- ii. **Deficiency 2**– *No formal mechanism to advise FIs of AML/CFT concerns with other countries and no such advisories have been issued to date.* Though there is no formal mechanism, the FIU and FSA have both issued advisories on jurisdictions or persons of interest from FATF or other similar bodies.
 - iii. **Deficiency 3**– *No provisions to apply counter-measures against countries that do not or insufficiently apply the FATF Recommendations and no such measures have been applied.* No information on this matter was provided.
31. **Special Recommendation VII** was partially addressed (both Deficiencies to be further addressed in the AML/TF Code) as follows:
- i. **Deficiency 1**– *No wire transfer requirements.* POCA Regulations 31-35 provide a broad list of requirements for wire transfers including: requiring full originator information and requiring verification of identity of originator for wire transfers of EC 2,500 or more (approximately 925 USD). Also, Regulation 32 (4) sets out a description of “electronic money” for the purposes of the Regulation; that is electronic money is money as represented by a claim on the issuer which is stored on an electronic device; is issued on receipt of funds of an amount not less in value than the monetary value issued; and is accepted as means of payment by persons other than the issuer, for which there are value and reloading ability limitations in place.
 - ii. **Deficiency 2**–*Partial implementation of SR. VII standards by banks and money transmitters.* Details of implementation cannot be assessed from a desk base point of view, though this aspect is partially covered by provisions above. Authorities also indicated that an AML/TF Code with Guidance Notes will be established before the end of 2016, which should enhance compliance with this Special Recommendation.
32. Compliance with **Recommendation 27** has improved since previous follow-up reports as it will be detailed below and is now closed. Regarding this Recommendation, examiners identified three (3) deficiencies:
- i. **Deficiency 1**– *Authority for applying POCA investigative and prosecutorial measures for FT is not explicitly included in the law.* In this respect, sections 27-37 of the Anti-Terrorist Financing and Proliferation Bill, Act No. 14 of 2015 provides for the search (which covers investigative faculties to a certain extent), seizure, detention and forfeiture of terrorist cash in summary proceedings. Further, Sections 38- 40 of the Act provides for the forfeiture of terrorist property, following the conviction of individuals for a terrorist financing offence. The Act provides for the making of Restraint Orders (Sections 45-51) where a criminal investigation has been started with regard to a terrorist financing offence, proceedings have been instituted in the State and not concluded and either a forfeiture order has been made or it appears to the Court that a forfeiture order may be made. Authorities also mentioned that as for AML and other offences they have used controlled delivery under common law (i.e. Antonio Gellizeau Case) in cooperation with Bermuda and other jurisdictions, for ML cases and could similarly apply them for TF. This matter was addressed.
 - ii. **Deficiency 2**– *Law enforcement authorities’ integration into the AML/CFT framework needs to be detailed and formalized.* With regard to the previous, the following was noted

by Authorities and seems to resolve this matter, although work to better cooperate and coordinate should be a permanent goal. Pursuant to Section 3 (2) of the Financial Intelligence Unit (FIU) Act, the FIU comprises of, inter alia, *“such number of police appointed by the Minister on the recommendation of the Commissioner of Police...”* The functions of the FIU, as set out in Section 4 (1) of the Act include, inter alia, the receiving, analysing, obtaining and disseminating information relating to the proceeds of offences created by POCA and UNATMA. By virtue of Act No. 7 of 2013, Section 4(2) of the FIU Act was amended to specify that the FIU *“may, where it appears to the Director that there are reasonable grounds to suspect that a relevant offence has been committed...require the production of information from law enforcement bodies...as the FIU considers necessary for the purpose of investigating the relevant offence or analysing the SAR”*. In addition, the FIU has, on June 17, 2009, executed an MOU with the Royal St. Vincent and the Grenadines’ Police Force (RSVGPF) and the Immigration Department. Work between organizations continues; several police officers have received training and qualifications through the FIU and have then been appointed as Financial Investigators with the FIU, this serves as an example of mutual reinforcement and cooperation. This matter was addressed.

- iii. **Deficiency 3-** *Inadequate resources for the DPPs Office affects implementation.* With regard to this point, the Office of the DPP has seen staff increases at least since 2012 and according to information provided by Authorities, augmented from four (4) to six (6) Crown Counsels in addition to the DPP and the Assistant DPP. Therefore, this deficiency was addressed.

33. Level of compliance with **Recommendation 29** has increased (only Deficiencies 5 and 11 pending), although it remains outstanding.

- i. **Deficiency 1-** *No explicit link between the applications of supervisory and administrative sanctioning powers in the financial laws and the AML/CFT legislation.* This matter was addressed through the creation of the FSA and the promulgation of the FSA Act. Section 5 of the cited Act requires the FSA to monitor and ensure compliance by financial and registered entities with the AML and CFT legislation, codes or guidelines.
- ii. **Deficiency 2-** *There are no powers or mechanisms to supervise, inspect and enforce AML/CFT compliance with respect to building societies and money lending operations.* This specific matter as explained for Recommendation 23 has been addressed, considering the creation of the FSA with adequate powers and resources to enforce AML/CFT Compliance. Additionally, Regulation 36 of the POCA Regulations provided for a supervisory authorities for the purpose of AML/CFT. The designated supervisory authorities are the FSA, the FIU and the ECCB. Sections 151 and 152 and Schedule 4 of the POCA 2013, sets out the objectives, functions and powers of the supervisory authority.
- iii. **Deficiency 3-** *Except for international banks and money services business, no explicit provisions for other regulators (functionally the ECCB, IFSA, Ministry of Finance), to supervise, inspect and enforce compliance by FIs of the POCA, POCA Regulations and anti-terrorism legislation, particularly the power to initiate enforcement proceedings under these laws.* This matter was greatly addressed through the creation of the FSA and the promulgation of the FSA Act. Section 5 of the cited Act requires the FSA to monitor and ensure compliance by financial and registered entities (which include International Banks, Registered Agents, Credit Unions, etc.) with the AML and CFT legislation, codes

or guidelines. Also as explained under Recommendations 12, 16 and 24, Regulation 36 designates the FIU as a supervisory authority for DNFBPs.

- iv. **Deficiency 4-***AML/CFT compliance obligations under the International Banks Act and Money Services Business Act do not extend to the POCA Regulations, limiting the scope of monitoring and enforcement.* This matter was addressed by the POCA (AML/CFT) Regulations, which covers all financial entities.
- v. **Deficiency 5-***No regulation and supervision of mutual fund underwriters.* This matter will be addressed by the proposed Mutual Funds Bill which is still underway.
- vi. **Deficiency 6-***Limitations under Section 8 of the IFSA Act could limit the scope of IFSA's supervisory and enforcement powers.* The IFSA Act was repealed by the FSA Act and the creation of the FSA, deleting any limitation to the scope of supervisory and enforcement powers, therefore, the matter was addressed.
- vii. **Deficiency 7-***Section 19(9) of the International Banks Act restricts access to the names, titles and confidential information about customers' accounts to the Executive Director of IFSA who does not have the power of delegation with respect to this function.* As explained under Recommendation 23, the IFSA was replaced with the FSA and in the Act that created the FSA (FSA Act 2011), there is a clear ability for the Executive Director to delegate its functions (section 19). The International Banks Act (2004) which is still in place, with the single replacement of the mentions to IFSA with FSA, refers to the Authority and the Executive Director (under its own section 19, subsections 5 and 8) being able to access a variety of information, including confidential information about a customer's accounts. It can therefore be inferred, that the ability to access information is not limited to the Executive Director. This matter was closed.
- viii. **Deficiency 8-***IFSA is constrained in its capacity to effectively supervise mutual funds, administrators and managers, and insurance companies and their managers, in cases where the books, records and information are held outside the SVG.* This matter has been addressed. As explained above the capacity of the FSA, former IFSA, has been increased. Authorities also indicated that there have been no practical difficulties in obtaining books and records of entities regulated by the FSA and in 2012, an onsite inspection was conducted at the branch office of a licensed entity.
- ix. **Deficiency 9-***No supervisory powers in either the AML/CFT legislation or the financial and regulatory laws, to enforce, sanction, or initiate proceedings for, violations of the AML/CFT legislation per se.* This matter was addressed with regard to AML/CFT legislation. Regulation 36 of the POCA Regulations, in conjunction with sections 151 and 152 and Schedule 4 of the POCA 2013 (which talks about Supervisory Authorities), enable the Supervisory Authorities for the different service providers (the FSA, FIU and the ECCB) to impose sanctions in the case of a breach of such regulations.
- x. **Deficiency 10-***Ability of IBC mutual funds to issue bearer shares (not immobilized) may limit CDD and exercise of powers of supervision.* This matter was addressed through the Financial (Miscellaneous Amendment) Bill. This issue is addressed under Part III of the Financial Laws (Miscellaneous Amendment) Act, 2014, where the section 29 was amended to include a provision which prohibits all IBCs which hold a license issued by the Authority (e.g. a Mutual Fund license) from issuing bearer shares.

- xi. **Deficiency 11-***Section 35 of the Mutual Funds Act can exempt FIs from supervision and enforcement under the Act with implications for AML/CFT.* This matter has yet to be addressed and it is expected to be addressed through the Mutual Funds Bill scheduled to be passed by the end of 2014 and is still underway.
 - xii. **Deficiency 12-***Limited access to records by Registrar of credit unions.* With regard to this point, Section 22 of the Co-operative Societies Act No. 12 of 2012, the Registrar may inspect the records of a co-cooperative society or credit union (financial or accounting records). This matter has been addressed.
34. With regard to **Recommendation 30**, status continues improving; substantial progress has been made, as explained below, although this Recommendation remains outstanding, namely due to Deficiencies 3 and 8.
- i. **Deficiency 1-***With regard to Supervisors: Understaffed and need for additional AML/CFT training for IFSA's and the Ministry of Finance-SRD supervisory staff; Registrar of credit unions generally understaffed and under-resourced.* This matter as explained for Recommendation 23 has been addressed. The IFSA now FSA went through a restructure process which included providing it with more staff and a continuous training program.
 - ii. **Deficiency 2-***No supervisory regime and resources as yet for the systemically important building and loan society.* This matter was addressed as the newly created FSA (established on November 12th, 2012 pursuant to the FSA Act 2011), which replaced IFSA, currently has twenty five (25) staff Members with a variety of experience and background including financial, actuarial, legal, etc. It is also relevant to mention that the FSA undertook enhanced supervision of the only building and loan society in the country which speaks to its current capacity. Likewise, the FSA has access to consultancy and expert advice from at least seven (7) experts in the areas of banking, mutual funds, insurance, credit unions, general strategy and problem resolution and regulation.
 - iii. **Deficiency 3-***With regard to DNFBPs, it was indicated that there was no supervisory regime or resources for the oversight of DNFBPs other than RAs.* This matter has yet to be addressed, but important steps have been taken towards it. Authorities indicated that the FIU, with a current staff compliment of eleven (11) persons, will undertake the task of supervising other DNFBPs, as decided by the National Anti-Money Laundering Committee and that this Committee would review that staff provided to the FIU for this matter is and remains sufficient. Training was provided in 2013, aimed at Car Dealers and Real Estate Agents.
 - iv. **Deficiency 4-***With regard to the FIU, it was said that the FIU does not have a full complement of analytical and investigative staff to assess the SARs and other financial intelligence collected.* This matter was addressed, since as explained for Recommendation 26 in the 7th Follow-Up Report, the FIU acquired additional analytical software and staff has been participating and will continue to participate in several trainings. Also, it is possible to assert that the Jurisdiction's highly successful ML conviction and confiscation rate can be attributed largely to the FIU's strong analytical functions which has facilitated the prosecution of complex ML schemes from the STRs it received. As also mentioned in other sections of the Report, the FIU increased its staff and in particular, added Financial Investigators. Authorities indicated that all staff is trained in SARs analysis and is involved in scrutinizing and investigating SARs. The FIU has also provided specialized (predicate

offences) training to the RSVGPF and to the Supervisor (FSA, training on Risk Based Supervision).

- v. **Deficiency 5-** *With regard to the DPP Office, it was concluded that it does not have sufficient staff to handle prosecutions of ML cases.* With regard to this point, Authorities indicated that both the AG and DPP Office have increased its resources. In particular, the DPP Office, passed from four (4) to six (6) Crown Counsels. Therefore, this matter has been addressed.
 - vi. **Deficiency 6-** *With regard to the Police, it was concluded that the Police do not require regular, specialized training in AML/CFT; training on AML/CFT is only provided regularly to new recruits during their Police academy sessions.* In this respect, Authorities informed that the Customs and Excise Department together with the Royal SVG Police Force have been recipients of ongoing training and awareness on AML/CFT in general and specifically, effective AML/CFT detection and investigation. This matter was closed.
 - vii. **Deficiency 7-** *With regard to Customs, it was mentioned that there is a need for additional AML/CFT training.* The matter of Customs training as explained for the above deficiency, was addressed. It is also relevant to mention that Custom's staff regularly attends training sessions in organizations such as the Caribbean Regional Drug Law Enforcement Training Center (REDTRAC). It was also highlighted that the Customs and Excise Department receives funding annually from the Confiscated Assets Fund for AML/CFT training at REDTRAC.
 - viii. **Deficiency 8-** *With respect to the Judiciary, the use of contracts compromises independence and results in turnover that diminishes effectiveness of judiciary.* This matter has yet to be addressed.
 - ix. **Deficiency 9-** *Need for additional AML/CFT training for judges and magistrates.* With regard to this deficiency, regular training for judges and magistrates is being imparted, in topics such as cash seizures and forfeiture; Proceeds of Crime Legislation, among others. This matter was addressed. Authorities indicated for this follow-up report that High Court Judges received training in AML/CFT and more specifically, Civil Recovery Proceedings in February 2015. A Proceeds of Crime Confiscation Workshop was conducted with members of the Magistracy in October and November 2015.
35. In order to fully comply with this Recommendation, it is necessary that the country continues to establish the supervisory regime for DNFBPs and that consideration is given to adding airport scanners and a permanent trace detector as well as mobile squads for ET Joshua Airport and the main seaport. Long term contracts for magistrates, of at least five and up to ten years, should also be considered, as recommended in the DAR.

Implementation

36. Authorities indicated that on November 21st, 2014 two (2) charges were laid against a Defendant in respect of (i) Brining in Criminal Property to the State and (ii) Possession of criminal property. The matter was heard on November 24th, 2015 & the Defendant pleaded guilty to both charges and was fined EC\$5,000 (approximately USD 1650) in respect of each charge (EC\$10,000 in total) to be paid forthwith or nine (9) months imprisonment. The sum of EC\$27,000 & €25 was also forfeited.

Also, on January 28th and 29th, 2015, eight (8) charges were laid against a Defendant in respect of the offences of (i) Acquiring criminal property & (ii) Bringing in Criminal Property to the State. This matter was set for trial on April 30th, 2015, however, it was withdrawn and will be back in court pending clarification of pertinent issues. Authorities indicated that there are currently (3) other cases being developed and charges are expected to be laid in the coming months. On January 18th, 2016, charges were laid against a Defendant for concealing property which knowingly or suspected that the property was benefit from criminal conduct. It is expected that matter is heard 28th of April, 2016.

37. In other matters where there is continued implementation, regarding Recommendation 26 which was rated LC and all deficiencies were addressed as explained in previous follow-up reports, Authorities indicated that Members of the Unit received training in i2 and iBase in September 2014 and this has contributed to efficient analysis of SARs and better feedback to reporting entities. Authorities also indicated that an additional Financial Investigator joined the FIU in January 2015 with SAR analysis as one of her core functions. MOUs were signed with Japan and Australia in 2014. In 2015, MOUs were signed with Belize, Antigua and Barbuda, Russian Federation and the British Virgin Islands' FIUs and also with the Money Laundering Reporting Authority of Montserrat on the 31st of March, 2016. The SVG FIU also continues to be seen as a Centre of Excellence. Twenty-seven (27) participants from seven countries (7): St. Lucia, St. Kitts & Nevis, Grenada, Antigua & Barbuda, Barbados, Dominica and Montserrat have taken place in its secondment programme.
38. Additionally, the FIU has continued training of all arms of the RSVGPF including the Coast Guard, Rapid Response Unit and Narcotics Unit. Authorities indicated that FIU training has been made part of the curriculum of the Police Training School and the number of contact hours with recruits has increased.
39. As of February 2016, two (2) new lawyers joined the FIU (since September 2015), as Legal Officers responsible for FATF and related matters, as well as for Civil Recovery and training for law enforcement officers. Additionally, a Financial Investigator joined the FIU on the 18th of January, 2016. A new Division to deal with Asset Recovery was formed (the Civil Asset Recovery Division, CARD).
40. With regard to international cooperation, it is also relevant to highlight that SVG is part of several Tax Information Exchange Agreements and SVG was rated "largely compliant" in the OECD Phase 2 Peer Review which concluded in September 2014. This review focuses on transparency, accessibility of information on accounting records, banking information, beneficial ownership, agreements for exchange of information, among other aspects. As of February 2016, SVG reported that their Phase 2 Questionnaire on Confidentiality and Data Safeguards was submitted in December 2015 and an onsite would take place in April 2016. By August 2016, SVG will become signatory to and is aiming to ratify the Multilateral Competent Authority Agreement to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters to facilitate international cooperation in this area.
41. Table 4 shows a breakdown of cash forfeited pursuant to the POCA since 2010.

Table 4: Cash forfeited 2010- 2016(As of March 2016)

| Year | Total Cash Forfeited (\$EC) |
|------|-----------------------------|
| 2010 | 274,091.94 |

| | |
|------|------------------------------------|
| 2011 | 957,213.45 |
| 2012 | 547,873.20 |
| 2013 | 426,826.29 |
| 2014 | 422,354.08 (end of year) |
| 2015 | 198,201. 97 (as of February, 27th) |
| 2015 | 484,627,64 (as of September 30th) |
| 2016 | 224,084.71 (as of February 2016) |

IV. Conclusion

42. The AML/TF Code is still outstanding, though scheduled to be concluded before the end of 2016. A revised POCA was issued December 2013, and appropriate POCA Regulations were also issued on August, 2014, as well as a Miscellaneous Financial Institutions Bill, which resulted in Recommendation 4 and 9 being fully met and progress in other Recommendations such as Recommendation 5, 6, 7, 8, 11, 12, 14, 15, 16, 18, 21, 23, 24, 27, 29, 30, 33, and Special Recommendation VII. The Anti-Terrorist Financing and Proliferation Act No. 14 of 2015 was enacted on August, 2015, with a positive impact on several Recommendations. Recommendations 14, 18 and 27 were then fully addressed and compliance with Special Recommendations I and III was improved.
43. SVG was rated PC/NC in eight (8) of the sixteen (16) Core and Key Recommendations: R. 1, 4, 5, 13, 23, Special Recommendations I, III and IV and it is now deemed compliant in a level equivalent to at least an LC, with R. 4 and 23. The following Recommendations are outstanding: R. 1, 5, 13 and Special Recommendations I, III and IV, although all with considerable progress. Given that compliance with outstanding Recommendations depends on the approval of legislative and other measures already under way, it is recommended that SVG remains in the first stage of enhanced follow-up and reports back to Plenary in November 2016. However, the fact that the May and November 2014, and subsequent Plenaries after that, confirmed that all jurisdictions should be seeking to exit or concluding their Third Round Follow-Up Process, may also need to be considered, in which case, a High Level Mission could be sent to the country, underscoring the need for prompt compliance (following the procedure for the second stage of enhanced follow-up). The Secretariat does not think that this is warranted at this stage, given continuous progress but invite the Plenary to urge the country to approve the required measures expeditiously.
44. The Plenary agreed that the Chairman of the CFATF should write a letter to St. Vincent and the Grenadines, encouraging the jurisdiction to pick up the pace of their improvement.

CFATF Secretariat
June, 2016.

**Matrix with ratings and follow-up action plan 3rd round Mutual Evaluation
St. Vincent & the Grenadines March 2016**

| 40+9Recommendations | Rating | Summary of factors underlying rating ³ | Recommended Action | Undertaken Action |
|---------------------|--------|---|---|--|
| Legal systems | | | | |
| 1. ML offense | PC | <ul style="list-style-type: none"> • Certain offenses in Section 41 of and the definition of 'property' in POCA are not consistent with the relevant articles of the Vienna and Palermo Conventions; • Self-laundering by way of simple possession of proceeds is not criminalized; • Racketeering, human trafficking and migrant smuggling are not predicate offenses; and <ul style="list-style-type: none"> • Effective implementation is weak in light of low number of criminal prosecutions and convictions for ML and related predicate crimes. | <ul style="list-style-type: none"> • Relevant laws should be strengthened to provide that: • The offenses set forth in Section 41 are consistent with the Vienna and Palermo Conventions; • Self-laundering by way of simple possession of proceeds should be criminalized; and • Racketeering, human trafficking and migrant smuggling should be enacted into law as criminal offenses and covered by POCA as predicate offenses. • Efforts should be made by competent authorities to increase the number of prosecutions and convictions for ML and related predicate crimes. | <p>Amendments to POCA which address these issues have been drafted and submitted to the Hon. AG for consideration.</p> <p>This matter is still pending as the Bill has not yet been tabled as envisioned. The matter is presently before the Hon. Attorney General.</p> <p>Relevant amendments to the FIU Act will be tabled before Parliament in November 2011 and the POCA Amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update:</u></p> <p>Amendments to POCA have been finalized, including an amendment to criminalize self-laundering by way of simple possession. The Bill was tabled before Parliament at its sitting on February 28, 2012 and was passed. It is currently awaiting the Governor General's Assent which should take place very shortly.</p> <p><u>Update - August 2012</u></p> <p>The Amendments to POCA have been published as Act No. 3 of 2012 and are attached hereto.</p> <p>Amendments to the FIU Act are expected to be tabled in Parliament in April 2012.</p> <p><u>Update - August 2012</u></p> <p>Amendments to the FIU Act have not yet been tabled as expected but will be tabled at the August 2012 sitting as a matter of priority.</p> |

³ These factors are only required to be set out when the rating is less than Compliant.

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| | | | | <p><u>Update-October 2012</u></p> <p>The Amendments to the FIU Act have not yet been tabled as expected. It is anticipated that this will occur before the end of 2012.</p> <p><u>Update-February 2013</u></p> <p>The amendments to the FIU Act have not yet been tabled before Parliament.</p> <p><u>Update-August 2013</u></p> <p>The amendments to the FIU Act have been passed in Parliament on May 16, 2013 as Act No. 7 of 2013 and now specifies, inter alia, the FIU's authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis. The amendment is attached hereto.</p> <p>A Bill on Human Trafficking has been drafted for adoption.</p> <p><u>Update:</u></p> <p>The Prevention of Trafficking in Persons Act, No. 27 of 2011 has been assented to and was proclaimed on 23rd January, 2012 is now in effect in St. Vincent and the Grenadines.</p> <p>Consultations continue with a view to drafting legislation on migrant smuggling and racketeering.</p> <p>There has been consultation with the Hon. Attorney General, DPP, Police, customs and immigration officers, prosecutors and other law enforcement officers and relevant stakeholders facilitated by the Organization of American States (OAS) in collaboration with the Ministry of National Security in St. Vincent and the Grenadines as it relates to Human Trafficking.</p> <p><u>Update-February 2013</u></p> <p>A draft bill on Migrant Smuggling is currently being reviewed by the Hon Attorney General.</p> <p>In October 2010 the competent authorities laid ML charges against four (4) individuals.</p> <p><u>Case 1</u></p> <p>October 14th – concealment and importation of the proceeds of criminal conduct.</p> |
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| | | | | <p>October 15th - concealment and importation of the proceeds of criminal conduct</p> <p><u>Case 2</u> October 22nd – concealment and disguising of the proceeds of criminal conduct.</p> <p>The Court returned a not guilty verdict in favour of two of the Defendants. The last matter has been adjourned to February 2012.</p> <p><u>Update:</u></p> <p>The case commenced on February 8, 2012 and the prosecution has called twenty (20) witnesses thus far. The matter has been adjourned to July 2012.</p> <p><u>Update -August 2012</u> This money laundering case (Case 2) remains part-heard as above and has been further adjourned to October 2012.</p> <p>One of the Defendants challenged the admissibility of his statement and the Court has ruled that it is inadmissible.</p> <p>The Prosecutions’ case will continue in October 2012 and it is anticipated that the Defence will file a no-case submission at that time also.</p> <p>Update-October 2012</p> <p>This case is scheduled to recommence on October 18, 2012 before the Serious Offences Court.</p> <p><u>Update –February 2013</u></p> <p>This case resumed on October 18, 2012. The prosecution closed its case and a no case submission was made by the Defence.</p> <p>On December 6, 2012 the Chief Magistrate overruled the no-case submission and adjourned the matter for January 15, 2013. The matter was called up for hearing on that date and was further adjourned to June 2013 where the Defence will put forward its case.</p> <p><u>Update-August 2013</u> The Defence commenced its case on June 27, 2012 and called three (3) witnesses. The prosecution presented written closing submissions on July</p> |
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| | | | | <p>19, 2013 and the Defence on August 9, 2013. The Chief Magistrate will deliver her verdict on September 2, 2013.</p> <p><u>Update-February 2014</u> On September 2, 2013 the 2 Defendants were convicted. One Defendant was sentenced to 2 years imprisonment on each charge to run concurrently and the other Defendant was fined \$10,000; \$1000 to be paid forthwith and the remainder in 3 months.</p> <p>US\$39,050 was forfeited to the State (Confiscated Assets Fund) as part of sentencing. Both Defendants indicated their intention to appeal conviction and sentencing.</p> <p><u>Case3</u> In addition, 3 additional money laundering charges, were laid in 2008</p> <p>This trial was adjourned to August 3, 2011 and has been part-heard to date. The next hearing date is listed for October 18, 2011.</p> <p>The money laundering trial incorporates charges against 3 Defendants stemming from the same set of facts.</p> <p>2 Defendants have been jointly charged with the offences of concealing another person's proceeds of criminal conduct and bringing it into St. Vincent and the Grenadines contrary to Sections 41 (2) (a) and (b) of POCA respectively.</p> <p>The third Defendant has been charged with concealing his proceeds of criminal conduct and bringing it into St. Vincent and the Grenadines contrary to Section 41(1) (a) and (b) of POCA respectively.</p> <p>The prosecution's case was completed on October 21, 2011 and the next hearing date is listed for November 25, 2011.</p> <p><u>Update:</u></p> <p>The case commenced on February 8, 2012 and the prosecution has called twenty (40) witnesses thus far. The Chief Magistrate handed down a guilty verdict on March 9th 2012 in relation to two of the defendants and one was found not guilty. The matter has been sent to the High Court for sentencing. A confiscation application has been filed in the High Court by the FIU. This case signifies the successful conviction of SVG's top money launderer.</p> |
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| | | | | <p><u>Update -August 2012</u></p> <p>The sentencing and confiscation hearing remain pending before the High Court and are likely to be heard in October at the criminal assizes.</p> <p><u>Update-February 2013</u></p> <p>The hearing date for the confiscation proceedings will be set by way of case management with the High Court on Friday March 1, 2013. Sentencing has been adjourned until the outcome of the confiscation hearing.</p> <p><u>Update-August 2013</u></p> <p>The confiscation hearing was set for July 10, 2013 and, upon the request of the defence, is adjourned to October 2013. Realizable assets likely to be confiscated in this matter amount to approximately EC\$10 million.</p> <p>The main Defendant was sentenced on July 22, 2013 to ten (10) years each on two (2) counts of money laundering, to run concurrently.</p> <p>The Second Defendant's sentencing is postponed to October 8, 2013 during the October assizes as his St. Lucian Attorney was not present at the sentencing hearing on July 22, 2013.</p> <p><u>Update- February 2014</u></p> <p>(i)<u>Sentencing</u></p> <p>The Second defendant was sentenced on October 8, 2013 to five and a half years imprisonment. He had been imprisoned since April 8, 2008 therefore his time served was credited and he was released.</p> <p>(ii)<u>Confiscation</u></p> <p>On October 9, 2013, the Defence again requested an adjournment of the Confiscation proceedings to December 2013. At the December hearing Senior Counsel was unavailable and a further adjournment was sought to February 2014. As a result of the decision of the Court of Appeal in January (as set out below), a further adjournment was granted in these proceedings to June 2014, so that the Court of Appeal may address issues of conviction and sentence.</p> <p>The main Defendant has applied to the Court of Appeal for leave to appeal his conviction and sentencing out of time. In January 2014 the Court of Appeal agreed to traverse the matter to the next sitting of the Court of Appeal in SVG in the week of May 26, 2014.</p> <p><u>UPDATE-August 2014</u></p> |
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| | | | | <p>In May 2014 the Court of Appeal granted leave to the Defendant to appeal his conviction and sentencing out of time. The Appeal is likely to be heard at the September 2014 sitting of the Court of Appeal in SVG.</p> <p>As a direct result, the Confiscation proceedings have been stayed pending the determination of the appeal proceedings.</p> <p>St. Vincent and the Grenadines continues to prosecute and convict persons for ML offences as highlighted in the following statistics: 2012- 2 convictions 2013-2 convictions</p> <p><u>UPDATE – FEBRUARY 2015</u> Money Laundering Prosecutions: <u>Case 1</u> - On November 21st, 2014 two (2) charges were laid against a Defendant in respect of (i) Brining in Criminal Property to the State and (ii) Possession of criminal property. The matter was heard on November 24th, 2015 & the Defendant pleaded guilty to both charges and was fined EC\$5,000 in respect of each charge (EC\$10,000 in total) to be paid forthwith or 9 months imprisonment. The sum of EC\$27,000 & €25 was also forfeited as part of sentencing.</p> <p><u>Case 2</u> – On January 28th and 29th, 2015, eight (8) charges were laid against a Defendant in respect of the offences of (i) Acquiring criminal property & (ii) Bringing in Criminal Property to the State. This matter is set for trial on April 30th, 2015.</p> <p>Update- August 2015 <u>Case 2</u> The trial of the matter would commence on the 2nd of November 2015 in the serious offences court, Kingstown St. Vincent.</p> <p>POCA: The <i>Proceeds of Crime Act, No. 38 of 2013</i> was proclaimed on April 8th, 2014 and came into effect on April 9th, 2014.</p> <p><u>UPDATE- MAY 2016:</u> <u>Migrant Smuggling and Racketeering:</u></p> <p>No legislation has been passed that specifically deals with migrant smuggling and racketeering. However, Section 26 of the Immigration (restriction) Act makes it an offence to land any immigrants into the state of St. Vincent and the Grenadines. Section 26 of the Act provides that:</p> |
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| | | | | <p>(1) any master of a vessel who knowingly suffers any prohibited immigrant who arrives in such vessel to land therefrom contrary to the provisions of this Act, is guilty of offence and liable to a fine of two thousand five hundred dollars,</p> <p>(2) Any prohibited immigrant who knowingly and wilfully lands, or suffers himself to be landed, and any person who knowingly lands, or procures to be landed, or who aids or assists in landing, any prohibited immigrant, contrary to the provisions of this Act is guilty of an offence and liable to a fine of Two thousand five hundred dollars.</p> <p>(3) The master of a ship of any vessel may, on the desertion of any seaman or the landing of any stowaway or prohibited immigrant on board his vessel, apply to a justice of the peace who shall grant such application, unless there are special reasons for not doing so, for a warrant to arrest and convey back on board the vessel such seaman, stowaway or prohibited immigrant, and on so doing such master shall be held harmless of all pains and penalties at law for so doing.</p> <p>In default of the fine a person may be subject to up to 5 years imprisonment according to section 26 and 29 of the Criminal Code. According to the Section 26 (c) the court in its discretion may direct that in default of payment of fine the offender shall suffer imprisonment for a term not exceeding the maximum term specified in section 29 in relation to that fine: According to Section 29 any fine exceeding \$500 would attract a maximum period of 1 year imprisonment in default. Since the penalty outlined in Section 26 of the Immigration (Restriction) Act is a fine of Two Thousand Five Hundred Dollars (\$2500) then the maximum term of imprisonment in default of such payment would be 5 years imprisonment. It therefore means that this would be a predicate offence according to the definition of criminal conduct found in the Proceeds of Crime Act, No.38 of 2014. The interpretation section (s.2) of the Act stipulates that criminal conduct is “conduct which constitutes an offence or would constitute an offence if it occurred in the State.” Further, Section 2 outline the definition of an offence to be: “an indictable offence or an offence that may be tried summarily and for which, if the offence was to be committed by an individual, the maximum penalty would be a term of imprisonment of 1 year or more.”</p> <p><u>Case 2</u> This matter was withdrawn. The matter is expected to go back before the courts pending the clarification of pertinent issues.</p> |
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| | | | | <p><u>Case 1 for 2016:</u> On January 18th, 2016 charges were laid against a Defendant for concealing criminal property to wit Twenty Thousand, One Hundred and Twenty six Eastern Caribbean Dollars and Seventy Five dollars which he did knowingly or suspect that the property in whole or in part constituted his benefit from criminal conduct. The matter is scheduled to be heard on the 28th of April.</p> |
| 2. ML offense—mental element and corporate liability | C | | | |
| 3. onfiscation and provisional measures | LC | <ul style="list-style-type: none"> There is no explicit provision of law empowering competent authorities to take steps to void contractual or other actions that would prejudice their ability to recover assets; Effectiveness is weak in light of low number of cases and amounts with respect to forfeitures of cash and confiscations of property relating to ML and related predicate crimes. | <ul style="list-style-type: none"> The relevant laws should be strengthened: <ul style="list-style-type: none"> To provide for an explicit provision subjecting to confiscation indirect proceeds of crime, including income, profits or other benefits; To provide for an explicit provision to allow competent authorities to take steps to prevent or void actions, whether contractual or otherwise, where, as a result of the actions of third parties, the authorities would be prejudiced in their ability to recover property subject to confiscation; and To provide in Section 3(4) of POCA for gifts that represent a value that is less than the value of the property, rather than “significantly less” under current law, to be subject to confiscation; In addition, efforts should be made by competent authorities to increase the | <p>See Recommendation 1</p> <p>All cases are strong ones for confiscation as there are instances of clear benefit from the offences as well as realisable property to be confiscated.</p> <p>In one case there is US\$1.76 million in cash detained and approximately EC\$3.5 million in property restrained and in another case US\$67,540 in cash is detained.</p> <p>In 2010 there were 23 successful forfeiture applications which resulted in forfeiture of EC\$292,151.94.</p> <p>Cumulatively to date, between 2010- 2011, EC\$519,741.25 was forfeited to the Confiscated Assets Fund. A further EC\$212,041.13 remains pending for forfeiture.</p> <p><u>Update:</u></p> <p>A total of EC\$925,924.55 was forfeited in 2011. For 2012 thus far EC\$97,499.97 has been ordered forfeited by the Chief Magistrate at the Serious Offences Court.</p> <p><u>Update - August 2012</u></p> <p>Additional updates of cash forfeited pursuant to POCA are provided as follows:</p> |

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| | | | <p>number and value of both cash forfeitures and confiscations of property;</p> <ul style="list-style-type: none"> The authorities should consider timely enactment of the bill currently under review by parliament that would provide for civil forfeiture of all property, not just currency, as well as the subsequent implementation of such forfeiture provisions. | <p>2010- EC\$274,091.94 2011-EC\$957,213.45 2012-EC\$369,283.37 2013-EC\$128,043.37 (update as at February 2013) 2013-EC\$267,971.47 (update as at August 2013)</p> <p><u>Update-February 2014</u> 2013-EC\$397,505.13 (TOTAL) 2014-EC\$79,939.20 (Update as at February 2014) 2014-\$EC\$103,572.92 (Update as at August 2014)</p> <p><u>Update - August 2012</u></p> <p>The Authorities are currently engaged in the review of a draft POCA Bill which may repeal and replace the current Act and which contains provisions addressing civil forfeiture. This draft Bill is modeled on Anguilla's POCA.</p> <p><u>Update February 2013</u> Since the start of 2013, EC\$128,043.37 has been ordered forfeited by the Chief Magistrate at the Serious Offences Court.</p> <p><u>Update-August 2013</u> The Authorities have completed review of the draft POCA Bill and have made recommendations for revisions to the Consultant. There is a complete Part (Part III) on Civil Recovery which encompasses all property. This therefore circumvents the need for SVG to implement separate legislation on Civil Forfeiture solely.</p> <p><u>Update-February 2014</u> The Proceeds of Crime Act, No. 38 of 2013 was passed in the House of Parliament on December 5, 2013.</p> <p>Sections 61-106 make provision for the Civil Recovery Authority (the Honourable Attorney General) to recover in civil proceedings property obtained through unlawful conduct or property that has been used in, is intended to be used in or in connection with unlawful conduct.</p> <p><u>UPDATE – FEBRUARY 2015</u> POCA: The <i>Proceeds of Crime Act, No. 38 of 2013</i> was proclaimed on April 8th, 2014 and came into effect on April 9th, 2014.</p> |
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| | | | | <p>Cash Forfeited pursuant to POCA:</p> <ul style="list-style-type: none"> • 2014 – EC\$422,354.08 • 2015 – EC\$198,201. 97 (as at February, 27th) <p>Update: Cash forfeited</p> <ul style="list-style-type: none"> • 2015 – EC\$484,627,64 (as at September 30th) <p><u>UPDATE : FEBRUARY 2016</u></p> <ul style="list-style-type: none"> • Indirect proceeds of crime is subject to confiscation under the Proceeds of Crime Act, no.38 of 2013. The act provides in section 7 that realizable property in relation to confiscation proceedings means “any property held by the defendant and any property held by the recipient of a tainted gift.” The Act defines property to mean property of every kind, whether situated in the State or elsewhere, and includes; (a) money, (b) all form of real or personal and heritable or moveable property; (c) things in action and other intangible or incorporeal property”. Further the Interpretation and General Provisions Act cap 14 of the Revised Laws of SVG defines property to mean” money, goods, choses in action, land and every other description of property, whether moveable or immovable, and all obligation, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of, or as incident to, property as hereby defined;” <p>Further a tainted gift is defined in Section 11 of the Act amongst other things to mean “a gift if it was made by the defendant at any time and was of property: (a) which was obtained by the defendant as a result of or in connection with his general criminal conduct; or (b) which, in whole or part and whether directly or indirectly, represented in the defendant’s hands property obtained by him as a result of or in connection with his general criminal conduct.</p> <p>These provisions cover both indirect and direct proceeds that are generated from criminal conduct.</p> |
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| | | | | <p>Cash Forfeited – February 2016</p> <ul style="list-style-type: none"> October- 25th February 2016 –EC\$224,084.71 |
| Preventive measures | | | | |
| 4. Secrecy laws consistent with the Recommendations | PC | <ul style="list-style-type: none"> Sectoral acts continue to have confidentiality and other limitations on access to information for regulators; It is unclear that the repeal of the 1996 Confidentiality Law also repealed common law definitions of bank secrecy and confidentiality or whether these were restored by virtue of the repeal. If the latter, the common law secrecy laws would need to be assessed in light of the gateways provided. | <ul style="list-style-type: none"> Each provision of confidentiality and limitation of access to information in sector specific acts, in particular Section 15(4) of the RAs and Trustees Act, should be removed from law; <p>The AG should provide a legal opinion on the meaning of “confidential” information in light of the repeal of the Confidentiality Act 1996, in particular the extent to which such repeal restored the common law definitions of bank secrecy and confidentiality.</p> | <p>All sector specific Acts are being reviewed so as to determine all amendments which are necessary in view of the recommendations of the IMF Assessors. The present DAR shows that numerous recommendations have been made for laws to reflect certain requirements. The review of our legislation is therefore being co-ordinated with the need to implement the Assessors’ recommendations as well as the desirability to update all the specific international financial sector Acts. In order to avoid several amendments at different times, amendments to each piece of legislation are being undertaken. A review of some Acts is ongoing by members of IFSA and some Acts are presently in the hands of Consultants.</p> <p>The review referred to above has been completed and recommended legislative amendments have been submitted to the Hon AG.</p> <p><u>Update-August 2013</u> The amendments are at draft stage. SVG does not however apply any secrecy provisions, notwithstanding their presence in the law.</p> <p><u>Update April 2014</u></p> <p>The Financial Laws (Miscellaneous Amendment) Bill 2014 has been finalized and is in fact scheduled to be presented before Parliament in May 2014. This Bill is hereto attached and makes amendments to the following legislation:</p> <ul style="list-style-type: none"> - <i>International Business Companies (Amendment & Consolidation) Act</i> - <i>Registered Agent and Trustee Licensing Act</i> - <i>Limited Liability Companies Act</i> - <i>Co-operative Societies Act</i> <p><u>UPDATE-August 2014</u> The Financial Laws (Miscellaneous Amendment) Act No. 10 of 2014 was passed in June 2014 (see attached).</p> <p>The Financial Laws (Miscellaneous Amendments) Act, <i>inter alia</i>, introduced specific additional accounting record keeping requirements on financial and registered entities. It introduces stricter accounting obligations and facilitates a more cohesive exchange of information framework for investigative purposes.</p> |

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| | | | | <p><u>Update- August 2015</u></p> <p>The new Financial Laws (Miscellaneous Amendment) Act is being implemented by way of onsite examinations, where particular attention is paid to verifying that the required accounting records are kept and maintained by the entities required to maintain such records.</p> <p><u>UPDATE-FEBRUARY 2016</u></p> <p>The implementation of the Financial Laws (Miscellaneous Amendment) Act is proceeding and verified at onsite examinations.</p> |
| 5. customer due diligence | NC | <ul style="list-style-type: none"> No implementation of CDD and other AML/CFT requirements for non-regulated lending operations; The POCA and the Regulations issued thereunder do not cover FT; No prohibition against keeping anonymous or fictitious name accounts particularly those that were in existence before the POCA Regulations were issued; Full range of CDD (only identification verification) is not required for business relationships and one-off transactions; Threshold for one-off wire transfers significantly in excess of SRVII; Identification requirement when there is suspicion limited to ML and to one-off transactions; No CDD requirement when there are doubts as to the veracity or adequacy of previously obtained customer identification data; Exemptions from CDD in the GNs, to the extent implemented, go beyond the risk sensitive measures allowed under c. 5.3 and c. 5.9, and in some cases beyond the POCA Regulations; No explicit requirement to verify the identity of the ultimate natural persons who control an entity, and of persons authorized to act on behalf of a corporate entity, partnership or other legal arrangement, and provisions of power to bind entity limited to the power to open and operate accounts; Insufficient requirements for identification of legal arrangements such as trusts/trustees, including measures to determine settlors, beneficiaries and other parties to a trust; | <ul style="list-style-type: none"> Consider explicitly covering of mutual fund administrators and managers, and of insurance agents and brokers in the POCA; Extend the POCA and the Regulations to explicitly cover FT; Explicitly prohibit anonymous or fictitious name accounts particularly those that were in existence before the POCA Regulations were issued; Extend the full range of CDD (only identification verification) for business relationships and one-off transactions; Reduce the threshold for one-off wire transfers to comply with SRVII; Extend the identification requirement when there is suspicion beyond one-off transactions and cover FT; Introduce a CDD requirement for cases when there are doubts as to the veracity or adequacy of previously obtained customer identification data; Remove/amend the provisions in the POCA Regulations that allow exemptions from for customer identification, and review similar exemptions contained in the GNs; Introduce: (i) an explicit requirement to verify the identity of the person authorized to act on behalf of a corporate entity, partnership or other legal arrangement; and (ii) expand the verification requirement of provisions | <p>The decision has been taken to explicitly cover mutual fund administrators in the revised Mutual Funds Act. A legal Consultant is engaged in redrafting a Mutual Funds Act, Mutual Fund Regulations and a Code. The said revision is incorporating the recommendations of the IMF's DAR.</p> <p>The Consultant has provided a draft Mutual Fund Bill, which has been reviewed and is being finalized. The Regulations and Code are still being drafted and would be finalized based on the provisions of the finalized version of the Mutual Fund Act.</p> <p>The Mutual Fund Bill would be circulated to the industry for their comment once an updated finalized draft is returned from the Consultant. The Consultant has committed to providing the finalized Bill, inclusive of changes requested by SVG, by the end of October 2011.</p> <p>The Bill will then be placed before the industry for their comments to be returned to IFSA by the end of November. Recommendations if accepted would be implemented and the Bill sent to the Attorney General for her consideration and adoption. It is expected that the Bill would be enacted by the end of the first quarter of 2012.</p> <p>The Consultant is working on finalizing the Regulations and Code and the target for adoption is the same – end of the first quarter 2012.</p> <p><u>Update:</u></p> <p>The Consultant has provided a second Draft of the Bill, which has been accepted by IFSA and has been forwarded to the Attorney General for her consideration for adoption.</p> <p>The Consultant is using this finalized Bill as the basis for finalizing the Regulations and Code and the target for adoption is the same of the Bill, Regulations and the Code – end of the second quarter 2012.</p> |

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| | | <ul style="list-style-type: none"> • Narrow requirement to obtain information on the purpose and intended nature; limited to accounts and does not extend to the broader business relationship; • Ongoing CDD requirements do not include update of CDD records particularly with respect to higher risk business relationships; • No requirements for enhanced CDD for higher risk clients and exemptions from identification verification go beyond the criteria for simplified CDD; • No requirement to terminate an existing business relationship in the circumstances covered by c. 5.16; • The identification exemptions in the POCA Regulations should not apply when there is suspicion ML or FT; • No requirement to apply CDD requirements to customers' existing at the date the POCA Regulations came into effect, on the basis of materiality and risk; • Requirement to perform CDD on existing customers is limited to the beneficial owners of anonymous of fictitious name accounts, and no requirement to close such accounts existing at the time the POCA Regulations came into effect; • The GNs only require the suspension, and not prohibition, of a new or existing business relationship or transaction when verification of identity cannot be completed; • General weaknesses in implementation of CDD, especially for beneficial owners and bearer share companies. | <ul style="list-style-type: none"> • regarding the power to bind entity, beyond the power to open and operate accounts; • Enhance requirements for identification of legal arrangements such as trusts/trustees, including measures to identify settlors, beneficiaries and other parties to a trust; • Extend the scope of the requirement to obtain information on the purpose and intended nature beyond accounts to include business relationships; • Extend the ongoing CDD requirements to include update of CDD records particularly with respect to higher risk business relationships; • Introduce enhanced CDD requirements for higher risk clients and review/delete exemptions from identification verification as they go beyond the criteria for simplified CDD; • Require termination of existing business relationships in the circumstances covered by c. 5.16, subject to any directions from the FIU/competent authorities in case of suspicion or other reason; • Remove the identification exemptions in the POCA Regulations especially for cases when there is suspicion ML or FT; • Introduce a requirement to apply CDD requirements to customers' existing at the date the POCA Regulations came into effect, on the basis of materiality and risk. This may be also be relevant for any future changes to the POCA Regulations and other applicable laws; • Extend the requirement to perform CDD on existing customers beyond the beneficial owners of anonymous of fictitious name accounts, and require termination of such accounts immediately to the extent that they may exist; | <p><u>Update-August 2013</u> The second draft of Mutual Fund Bill which was submitted by the Consultant and has since been reviewed and comments have been sent to the Consultant. See attached.</p> <p><u>Update – February 2014</u> The Mutual Fund Bill is expected to be finalized by the third quarter of 2014.</p> <p><u>Update- August 2015</u> The Mutual Funds Bill is in the final stages of completion and is expected to be presented to Parliament before the end of 2015.</p> <p>With respect to the other recommendations relating to Customer Due Diligence, all sector specific Acts are being reviewed with the objective of implementation of the recommendations of the DAR. The POCA and its Regulations are also being reviewed with this aim.</p> <p>Recommendations for legislative amendments to sector specific Acts have been submitted to the Hon AG. It is expected that such amendments once enacted, would result in full compliance with the FATF Recommendations and recommendations of the DAR.</p> <p>The Attorney General has indicated that these amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update:</u> These amendments are targeted for enactment by the end of the second quarter of 2012. The delay in enacting same has been largely due to the fact that there were several other pressing Bills and amendments which required urgent passage through Parliament, including but not restricted to the Financial Services Authority Act 2011 and the International Cooperation (Tax Information Exchange) Act 2011.</p> <p>Anti-Money Laundering and Counter Financing of Terrorism Guidance Notes have been drafted by an external Consultant and it is expected that these more elaborate Guidance Notes, which have taken into account the recommendations of the DAR, will replace the present Guidance Notes and will have effect as other enforceable means.</p> <p>IFSA and the FIU have reviewed the drafts produced and the said Guidance Notes are at the stage where it is to be circulated to the regulated sector and other stakeholders for comment after being reviewed by the IMF. The IMF through the Team Leader of the IMF Mission has kindly agreed to</p> |
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| | | <ul style="list-style-type: none"> • Review the provisions of the GNs that only require the suspension, and not prohibition, of a new or existing business relationship or transaction when verification of identity cannot be completed; • Enhance supervision and enforcement of compliance to address weaknesses across most sectors in implementation of CDD, including with regards to beneficial owners and bearer/nominee share companies. • Review the Schedule to the POCA to explicitly cover (i) mutual fund administrators, managers and underwriters; and (ii) insurance intermediaries i.e. agents and brokers; <ul style="list-style-type: none"> • Implement an oversight and AML/CFT compliance regime for non-regulated lending operations; • Extend the Regulations to explicitly cover FT consistent with the requirements of Section 46 of POCA. | <p>review the drafts produced. There has been a delay in getting the drafts to the IMF as sections of the Guidance Notes were still being reviewed by the AML/CFT Expert/Consultant with the objective of incorporating SVG's comments.</p> <p>The proposed unlike the existing Guidance Notes, addresses Terrorist Financing thoroughly. It also requires full CDD for Charities and Trusts. There are standard requirements which are now required for Trust such as full name of the Trust and its objective etc all the names of all beneficial owners are required.</p> <p>Financial Institutions would be required to conduct risk assessment on all clients, all high risks clients would be subject to enhanced due diligence. The uses of anonymous accounts are not permitted for new or existing clients.</p> <p>The new Guidance Notes now have a detailed section on PEPs all accounts to be opened by persons who are categorize as PEPs must under Enhanced Due Diligence and any such business transaction with PEPs must be approved by senior management.</p> <p>The draft AML/CFT Guidance Notes have been submitted to the IMF Team leader for review.</p> <p>The IMF team leader regrettably was unable to assist with an informal review of the Guidance Notes, and also indicated that the IMF is unable to undertake such review owing to other commitments and constraints. He has recommended that the CFATF or certain CFATF countries be approached to obtain technical assistance in this regard. This process is currently being undertaken.</p> <p><u>Update:</u></p> <p>The CFATF has agreed to assist with the finalization of SVG's AML/CFT Guidance Notes by sourcing a consultant. Dialogue is ongoing with Mr. Calvin Wilson (CFATF) in relation to technical assistance which may be given to SVG for this project, from the Commonwealth Secretariat.</p> <p>Amendments to POCA have been drafted and have incorporated the recommendations of the DAR. Such amendments are presently before the Attorney General.</p> <p>The Attorney General has indicated that these amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update:</u></p> |
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| | | | <p>•</p> | <p>Amendments to POCA have been finalized, including an amendment to Schedule 1 which now includes reference to Mutual Fund Administrators and Managers and Insurance intermediaries including Agents and Brokers. The Bill was tabled before Parliament at its sitting on February 28, 2012 and was passed. It is currently awaiting the Governor General's Assent which should take place very shortly.</p> <p><u>Update- August 2012</u></p> <p>See Act No. 3 of 2012 as mentioned above.</p> <p><u>Update-February 2013</u></p> <p>The Consultant provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains all recommended amendments made by the IMF as well as the FATF recommendations.</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN's by March 31, 2013.</p> <p><u>Update-August 2013</u></p> <p>A review of the POCA and the AML/CFT Regulations has been completed. The Regulations will encompass TF as well as AML requirements.</p> <p>CDD requirements are enhanced and extended and provision is made for applying a risk-based approach and conducting customer risk assessment and allows for simplified and enhanced due diligence to be conducted depending on the level and materiality of the risk of the customer. CDD and other measures will apply to ML as well as TF.</p> <p>Provision is made to strictly prohibit anonymous accounts with criminal sanctions applicable for financial institutions who fail to comply.</p> <p>In addition the threshold amount in relation to wire transfers has been reduced to EC\$2,500, less than the required USD\$1000 stipulated by the FATF in Recommendation 16 (formerly SRVII).</p> <p>Comments on the Draft POCA Regulations have been submitted to the <u>consultant</u> and a final draft is currently being awaited. See attached.</p> |
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| | | | | <p>The consultant has also undertaken a revision of the Proceeds of Crime (Money Laundering) Act to address the Revised 40 recommendations and other recommendations stated herein, the draft was submitted to and is presently before the Attorney General. It is expected that the Bill will be placed before Parliament at the November 2013 sitting. See attached.</p> <p>The Consultant is also working on finalising the Guidance Notes which will be in the form of a Code to enable enforceability.</p> <p><u>Update-February 2014</u> Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p><u>Update April 2014</u> The Regulations will be passed in May 2014. The Regulations do not require the sanctioning of Parliament, as indicated above, the Minister will authorise the Regulations to be made law.</p> <p><u>CDD</u> CDD requirements are extensively addressed in Part 2 (Regulations 10-17) of the AML/CFT Regulations and provision made for applying a risk-based approach and conducting customer risk assessment and allows for simplified and enhanced due diligence to be conducted depending on the level and materiality of the risk of the customer.</p> <p>i. Regulation 13 stipulates that, where a service provider is unable to complete the verification of the identity of a customer, third party or beneficial owner after the establishment of a business relationship, the service provider shall terminate the business relationship with the customer.</p> <p>Regulation 15 stipulates that a service provider shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring where a customer, transaction or business relationship involves companies which have nominee shareholders or shares in bearer forms</p> <p><u>Anonymous Accounts</u> Regulation 22 explicitly prohibits the existence of anonymous or fictitious accounts with a penalty of a term of imprisonment not exceeding 2 years or a fine not exceeding \$100,000 for breach of this provision.</p> <p><u>Wire Transfers</u> The threshold amount in relation to wire transfers has been reduced to EC\$2,500, less than the required USD\$1000 stipulated by the FATF in Recommendation 16 (formerly SRVII).</p> |
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| | | | | <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014 (see attached), as the necessary secondary legislation to the POCA 2013.</p> <p><u>UPDATE –February 2015</u></p> <p>A second draft of the <u>Mutual Funds Bill</u> was provided by the Consultant in February 2015. The Bill will be placed before the Attorney General for finalization and subsequent submission to Parliament. It is anticipated that the Mutual Funds Bill will be passed by the end of the second quarter of 2015.</p> <p>The Regulations and Code are still being drafted and would be finalized based on the provisions of the finalized version of the Mutual Fund Act.</p> <p><u>Update- August 2015</u></p> <p>The Mutual Funds Bill is in the final stages of completion and is expected to be presented to Parliament before the end of 2015.</p> <p>The <u>AML/TF Code</u> which includes the Guidance Notes is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The <u>Anti-Terrorist Financing and Proliferation Bill</u> has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – FEBRUARY 2015:</u> <u>Anti-Terrorist Financing and Proliferation Bill 2015</u> was forwarded to the clerk of the House of Assembly for the next sitting of Parliament on Tuesday 3rd March, 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 |
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| | | | | <ul style="list-style-type: none"> As stated above, CDD is extensively covered in Regulations 10 – 19 <p><u>UPDATE- FEBRUARY 2016</u></p> <ul style="list-style-type: none"> The AML/CFT code has been reviewed by the Attorney General and the appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it's not the final version. The passage of the Mutual Funds Bill has been delayed owing to Regulations still being finalized due to the desirability of passing the Bill and Regulations simultaneously. The bundle of laws, namely the Bill, Regulations and Code are targeted for passage in 2016. The Bill has been extensively revised and the Regulations are extremely comprehensive and detailed. At the same time the present law, the Mutual Funds (Amendment) Act applied in conjunction with the Financial Services Authority Act as well as AML/CFT law, provides for a cohesive regulatory framework for mutual funds and all intermediaries relevant to SVG. |
| 6. PEPs | NC | <ul style="list-style-type: none"> No requirement to conduct additional and enhanced CDD measures, or to obtain senior management approval, for new and/or existing PEPs relationships. | <ul style="list-style-type: none"> Require FIs to conduct additional and enhanced CDD measures, or to obtain senior management approval, for on new and/or existing PEPs relationships. | <ul style="list-style-type: none"> IFSA and the FIU working in conjunction with a regulatory and AML/CFT Expert/Consultant to address this issue in the re-drafted Guidance Notes. There are specific provisions dealing with Enhanced Due Diligence for PEPs. <p>This has been addressed in the revised AML/CFT Guidance Notes which are to be OEM.</p> <p><u>Update-August 2013</u></p> <p>The draft AML/CFT Regulations contain provisions addressing PEPs stipulating that financial institutions and other regulated persons shall ensure that no business relationship is established or continued with a PEP unless the prior approval of the board or senior management has been obtained. This applies equally to foreign and domestic PEPs.</p> <p><u>Update-February 2014</u></p> <p>Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of</p> |

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| | | | | <p>Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p>Regulations 18 and 19 stipulate that service providers shall ensure that no business relationship is established or continued with a PEP (both foreign and domestic) unless the prior approval of the board or senior management has been obtained.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014 (see attached), as the necessary secondary legislation to the POCA 2013.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> Regulation 14(2) (d) & (e) A service provider shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring – ... (d) where the service provider has or proposes to have a business relationship with, or to carry out an occasional transaction with, a foreign politically exposed person or a family member of a close associate of a foreign politically exposed person; (e) where any of the following is a foreign politically exposed person or a family member or close associate of a foreign politically exposed person; (i)a beneficial owner of the customer; (ii)a third party for whom a customer is acting; (iii)a beneficial owner of a third party for whom a customer is acting; (iv)a person acting, or purporting to act, on behalf of the customer. <p><u>UPDATE- FEBRUARY 2016</u></p> <p>The AML/CFT code has been reviewed by the Attorney General and The appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it’s not the final version.</p> |
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| 7. Correspondent banking | NC | <ul style="list-style-type: none"> • No specific requirements for perform, inter alia, additional and enhanced CDD on correspondent banking relationships; • No requirements to assess the AML/CFT controls of respondent institutions; • No requirements to obtain senior management approval before establishing correspondent account relationships; • No requirements with respect to the provisions of correspondent payable-through accounts; • Domestic banking sector provides correspondent/nested correspondent banking facilities to offshore banks in breach of the ECCB's prudential guidelines. | <ul style="list-style-type: none"> • Require FIs to for perform, inter alia, additional and enhanced CDD on correspondent banking relationships, assess the AML/CFT controls of respondent institutions, and obtain senior management approval before establishing correspondent account relationships; • Introduce requirements with respect to the provisions of correspondent payable-through accounts; • Enhance supervision of risk management practices and compliance with R.7 by domestic banks that provide correspondent/nested correspondent banking facilities to international (offshore) banks in breach of R.7 and the ECCB's prudential guidelines on correspondent banking (March 2001). | <p>AML/CFT Guidance Notes have been redrafted by a regulatory and AML/CFT Expert/Consultant. IFSA and the FIU have reviewed very comprehensive drafts produced and the said Guidance Notes are at the stage where it is to be circulated to the regulated sector and other stakeholders for comment after being reviewed by the IMF. The IMF through the Team Leader of the IMF Mission has kindly agreed to review the drafts produced. There has been a delay in getting the drafts to the IMF as all sections to be reviewed were not completed by the AML/CFT Expert/Consultant. It is expected that the Guidance Notes will be shortly sent to the IMF.</p> <p>As indicated, the IMF was unable to review the Guidance Notes and SVG was unable to fund consultancy services in order to complete this task. SVG is to seeking technical assistance for the required review.</p> <p><u>Update:</u></p> <p>The CFATF has agreed to provide technical assistance in the finalization of SVG's AML/CFT Guidance Notes. A suitable consultant has been sourced and the agreed target date for completion is June 2012.</p> <p><u>Update - August 2012</u></p> <p>The AML/CFT Guidance Notes are not yet completed. The consultant is expected to come to SVG to consult on the Guidance Notes. The Consultant has extended his completion date for review of the AML/CFT Guidance Notes to the end of August 2012.</p> <p><u>Update-February 2013</u></p> <p>The Consultant provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains all recommended amendments made by the IMF as well as the FATF recommendations.</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN's by March 31, 2013.</p> <p><u>Update-August 2013</u></p> <p>The draft AML/CFT Regulations contains provisions addressing correspondent banking relationships.</p> |
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| | | | | <p><u>Update-February 2014</u> Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p>Part 7 (Regulations 46-48) address correspondent banking and introduces, inter alia, the issue of payable through accounts and that appropriate risk-based measures are adopted in conducting enhanced due diligence to these relationships.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u> Part 5 of the Regulations addresses Correspondent Banking Reg 28 (1) A SVG Bank that is, or that proposes to be, a correspondent bank shall –</p> <ul style="list-style-type: none"> (a) Not enter into or maintain relationships with any respondent bank that is a shell bank; (b) Not maintain relationships with any respondent bank that itself provides correspondent banking services to shell banks; (c) Shall take appropriate measures to ensure that it does not enter into, or continue, a correspondent banking relationship with a bank that is known to permit its accounts to be used by a shell bank; (d) Apply customer due diligence measures on respondent banks using a risk-based approach that takes into account, in particular the respondent bank’s – (i) domicile; (ii) ownership and management structure; and (iii) customer base, including its geographic location, its business, including the nature of services provided by the respondent bank to its customers, whether or not relationships are conducted by the respondent on a non-face-to-face basis and the extent to which the respondent bank relies on third parties to identify and hold evidence of identity on, or to conduct other due diligence on, its customers; (e) Determine from publicly available sources the reputation of the respondent bank and the quality of its supervision; |
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| | | | | <p>(f) Assess the respondent bank's AML and TF systems and controls to ensure that they are consistent with the requirements of the FATF Recommendations;</p> <p>(g) Not enter into a new correspondent banking relationship unless it has the prior approval of senior management;</p> <p>(h) Ensure that the respective AML and CFT responsibilities of each party to the correspondent relationship are understood and properly documented;</p> <p>(i) Ensure that the correspondent relationship and its transactions are subject to annual review by senior management;</p> <p>(j) Be able to demonstrate that the information obtained in compliance with the requirements set out in this regulation is held for all existing and new correspondent relationships; and</p> <p>(k) Not enter into a correspondent banking relationship where it has knowledge or suspicion that the respondent or any of its customers is engaged in money laundering or the financing of terrorism.</p> <ul style="list-style-type: none"> Payable through accounts – Regulation 29 Where a correspondent bank provides customers of a respondent bank with direct access to its services, whether by way of payable through accounts or other means, it shall ensure it is satisfied that the respondent bank – <ul style="list-style-type: none"> (a) Has undertaken appropriated CDD and, where applicable, enhanced CDD in respect of the customers that have direct access to the correspondent bank's services; and (b) Is able to provide relevant CDD information and verification evidence to the correspondent bank upon request. Regulation 30 Regulations 28 and 29 also apply to a financial business that – <ul style="list-style-type: none"> (a) Undertakes securities transactions or funds transfers on a cross-border basis; or (b) Provides finance to facilitate international trade. <p><u>UPDATE: FEBRUARY 2016</u></p> <ul style="list-style-type: none"> The AML/CFT code (para. 4-22) provides for more enhancements through stipulating the type of CDD that should be done by Financial Institutions as it relates to identification and verification of legal persons. All matters identified by the DAR was addressed by the Regulations along with the prudential guidelines of the established Regulator-ECCB. The draft code is attached for ease of reference |
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| 8. New technologies & non face- to-face business | PC | <ul style="list-style-type: none"> No regulatory requirements to have policies or measures in place specifically to prevent misuse of technological developments for ML or FT, including non-face to face business relationships and transactions. | <p>Require FIs to have policies or measures in place to prevent misuse of technological developments for ML or FT, including non-face to face business relationships and transactions, and review the exemptions provided in the GNs for this type of business.</p> | <p>AML/CFT Guidance Notes have been re-drafted. There are penalties attached for failure to do the necessary due diligence checks on these customers.</p> <p>IBID – re : Status of AML/CFT Guidance Notes</p> <p><u>Update-August 2013</u></p> <p>Comments on the Draft POCA Regulations have been submitted to the consultant and a final draft is currently being awaited. See attached.</p> <p>The consultant has also undertaken a revision of the Proceeds of Crime (Money Laundering) Act to address the 40 recommendations and other recommendations stated herein, the draft was submitted to and is presently before the Attorney General. It is expected that the Bill will be placed before Parliament at the November 2013 sitting. See attached.</p> <p>The Consultant is also working on finalising the Guidance Notes which will be in the form of a Code to enable enforceability.</p> <p><u>Update-February 2014</u></p> <p>Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> The exemptions in the previous GNs no longer apply. New GNs have been drafted and are being finalised. Now in Regulation 32 Non face-to-face business – Regulation 15 Where a service provider applies CDD measures to, or carries out ongoing monitoring with respect to, an individual who is not physically present, the service provider, in addition to complying with regulation 14, shall – <ol style="list-style-type: none"> Perform at least one individual check designed to mitigate the risk of identity fraud; and |
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| | | | | <p>(b) Apply such additional enhanced CDD measures or undertake enhanced ongoing monitoring, as the service provider considers appropriate (if any).</p> <p>Regulation 14(2)(a) : A service provider shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring – where the customer has not been physically present for identification purposes.</p> <p><u>UPDATE-FEBRUARY 2016</u></p> <ul style="list-style-type: none"> • The AML/CFT Code makes further provision in relation to non-face-to-face businesses. Paragraph 18 makes provision for non-face-to-face business while the guidance details the measures that can be used to facilitate adherence to the Regulations and the code. Please see referenced paragraphs in the attached AML/CFT code. • The draft AML/CFT code provides that “ a service provider must establish and maintain and implement systems and controls and take such other measures as it considers appropriate to guard against the use of technological developments in money laundering and terrorist financing” (paragraph 25(2)). • Onsite examinations by FSA on financial entities and service providers have verified that the provisions of the law are being implemented. |
| 9. Third parties and introducers | NC | <ul style="list-style-type: none"> • No mandatory requirement to immediately obtain CDD information from introducers; • No requirement to ensure that documentation can and will be available promptly on request, without limitation; • The list of eligible introducers listed in the Regulations and the POCA Schedule 1 goes beyond the FATF list of FIs and DNFBPs, and should be limited as is intended in the Guidance Notes; <ul style="list-style-type: none"> • Insufficient provisions that ultimate responsibility for customer identification and verification lies with the SVG FI. | <p>FIs should be required to:</p> <ul style="list-style-type: none"> • immediately obtain CDD information from introducers; • ensure that documentation can and will be available promptly on request; • limit the eligibility of introducing institutions to those FIs and DNFBPs covered by the FATF standard, consistent with the provisions given in the GNs; <p>Explicitly state that ultimate responsibility for customer identification and verification lies with the SVG FI and not the introducer. The exemptions allowed for by the POCA Regulations and GNs are not consistent with this requirement.</p> | <p>The POCA and its Regulations are being reviewed with the objective of addressing these issues pointed out by the IMF Assessors.</p> <p>All necessary amendments to the POCA are being co-ordinated as a repeal of the POCA and/or its Regulations may be required to effect the many changes.</p> <p>Recommendations for the required legislative amendments have been submitted to the Hon AG. It is expected that such amendments once enacted, would result in full compliance with the FATF Recommendations and recommendations of the DAR.</p> <p><u>Update-August 2013</u></p> <p>A review of the POCA and the AML/CFT Regulations has been completed. The Regulations will encompass TF as well as AML requirements.</p> <p><u>Update-February 2014</u></p> <p>7. The Regulations include adequate provisions on reliance of third parties and introducers and financial institutions and other regulated</p> |

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| | | | | <p>businesses are required, before relying on an introducer or intermediary, to obtain adequate assurance in writing from the intermediary or introducer that the intermediary or introducer has applied the customer due diligence measures for which the regulated person intends to rely on . is required to keep, and does keep, a record of the evidence of identification relating to each of the customers of the intermediary or introducer and will, without delay, provide the information in that record to the regulated person at the financial institution/regulated person's request.</p> <p>/. In addition, provision is contained to the effect that, where a financial institution/regulated person relies on an introducer or an intermediary to apply customer due diligence measures in respect of a customer, third party or beneficial owner, the regulated person shall immediately obtain from the introducer or intermediary, the customer due diligence information concerning the customer, third party or beneficial owner.</p> <p>i. Further, it is clearly stated that, where a financial institution/regulated person relies on an introducer or intermediary to apply customer due diligence measures, the financial institution/regulated person remains liable for any failure to apply those measures.</p> <p>As Above. Regulations 20 and 21 address introducers and intermediaries.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The previous GNs no longer apply. • Introducers and intermediaries are covered by Regulations 17 and 18 <p>17 (2) : Before relying on an introducer or intermediary to apply CDD measures with respect to a customer, third party or beneficial owner, a</p> |
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| | | | | <p>service provider shall obtain adequate assurance in writing from the intermediary or introducer that the intermediary or introducer –</p> <ul style="list-style-type: none"> (a) Has applied the CDD measures for which the service provider intends to rely on it; (b) Is required to keep, and does keep, a record of the evidence of identification relating to each of the customers of the intermediary or introducer; (c) Will, without delay, provide the information in that record to the service provider at the service provider's request; and (d) Will, without delay, provide the information in the record for provision to the supervisory authority. <p>17 (3): where a service provider relies on an introducer or an intermediary to apply CDD measures in respect of a customer, third party or beneficial owner, the service provider shall immediately obtain from the introducer or intermediary, the CDD information concerning the customer, third party or beneficial owner.</p> <p>17 (4): Where a service provider relies on an introducer or intermediary to apply CDD measures, the service provider remains liable for any failure to apply those measures.</p> <p><u>UPDATE-FEBRUARY 2016</u></p> <p>The Proceeds of Crime Act no. 38 of 2013 does not make any provision for a list of eligible introducers or intermediaries. The list was repealed under the old Act and never re-enacted under the new Act. Further, the POCA Regulations of 2014 does not make any provisions for such. The drafted AML/CFT code that is attached does not provide a list of eligible persons but rather sets out the conditions consistent with the FATF standards that should be applied prior to relying on third parties. Thus the provisions outlined above in earlier updates that outlines the applicable conditions that must be applied before relying on third parties are the only applicable law as it relates to the eligibility of third parties as introducers or intermediaries.</p> |
| 10. Record-keeping | LC | <ul style="list-style-type: none"> ● Need for explicit provisions in the POCA Regulations to retain business correspondence; ● Recordkeeping by some FIs (non-banks) outside of SVG may limit capacity for compliance supervision on an ongoing basis. | <ul style="list-style-type: none"> ● Clarify in the regulations the provisions to keep records longer than the minimum period when required by the FIU, consistent with the GNs; ● Explicitly require FIs to retain business correspondence; ● Review for and remove potentially conflicting recordkeeping requirements between the POCA/POCA Regulations and the DTOA and with some of the provisions in GNs 102-110; | <p>The position is as set out at Rec. 9 above.</p> <p>IBID – re : Submission of the required amendment to the Hon AG.</p> <p><u>Update-August 2013</u></p> <p>The draft AML/CFT Regulations contain extensive provisions on record keeping requirements including a retention period of seven (7) years for all documents establishing identity and for applying CDD measures, the supporting documents, data or information that have been obtained in respect of a business relationship or occasional transaction which is the subject of customer due diligence measures or ongoing monitoring, record containing details relating to each transaction carried out by the regulated</p> |

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| | | <ul style="list-style-type: none"> Review recordkeeping arrangements by some FIs that operate and keep records outside of SVG to ensure adequate compliance supervision and efficient access by competent authorities. | <p>person in the course of any business relationship or occasional transaction, account files, and all business correspondence relating to a business relationship or an occasional transaction.</p> <p>i. Further, the Regulations include provisions which enables the FIU by way of written notice to specify a period longer than the minimum retention period of 7 years and that the period as is specified in the notice shall apply instead of the period of 7 years.</p> <p>i. <u>Update-February 2014</u></p> <p>k. As Above. Part 4 (Regulation 29-37) address record keeping requirements.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>Update- February 2016</u></p> <ul style="list-style-type: none"> The previous Guidance Notes are no longer in effect. Further, the relevant section (section 30- Retention of Records of Financial Institutions) that charged financial institutions with the responsibility of retaining records under the Drug Traffic Offences Act (DTOA) was repealed by section 173(1) of the Proceeds of Crime Act No.38 of 2013. Section 173 (2) provides that “the acts specified in schedule 6 are amended to the extent specified in that schedule.” Schedule 6 under the heading “Drug Trafficking Offences Act Cap. 173’ states that the Act is amended as follows: section 2 (e) repeals section 20 to 33 of the DTOA. Onsite examinations by the FSA on financial entities and service providers have verified that the provisions of the law in relation to record keeping are being implemented. |
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| <p>11. Unusual transactions</p> | <p>PC</p> | <ul style="list-style-type: none"> • No requirement to examine as far as possible the background and purpose of complex, unusual or unusual patterns of transactions and to establish such findings in writing; • No requirement to keep records of findings of the examination of the background and purpose of complex, unusual, or unusual patterns of transactions, to be available to help competent authorities and auditors; • In implementing unusual transaction detection and analysis, the reporting entities focus almost exclusively on cash transactions. | <ul style="list-style-type: none"> • The POCA Regulations should be amended to require explicitly that reporting entities be required to examine as far as possible the background and purpose of such transactions and to set forth their findings in writing; • The POCA Regulations should be amended to require that the written findings of reporting entities on their examination be subject to the POCA record keeping requirements; • POCA should be amended to provide for direct administrative sanctions for reporting parties that fail to adhere to the requirements for monitoring transactions, including failure to implement procedures to monitor, prepare written findings and maintaining records on such monitoring. | <p>The Regulations are currently under review to ensure that there is compatibility between the new Guidance Notes and the Regulations. Once the Guidance Notes are finalised for adoption the Regulations will be amended accordingly.</p> <p>The position above still prevails.</p> <p>Consideration is being given in the Guidance Notes to authorise competent authorities to impose administrative sanctions for failure to adhere to the requirements for monitoring transactions, including failure to implement procedures to monitor, prepare written findings and maintaining records on such monitoring.</p> <p>The issue of sanctions has been found to be more suitable for inclusion in the POCA Regulations and the FSA Act rather than the Guidance Notes, thus work is ongoing towards this objective.</p> <p><u>Update:</u></p> <p>The FSA Act was enacted in November 2011 and provides for administrative sanctions as well as criminal sanctions.</p> <p><u>Update-February 2013</u></p> <p>The FSA Act was proclaimed on November 12, 2012.</p> <p>The Consultant provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains administrative sanctions for failure to comply with AML/CFT requirements</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN's by March 31st, 2013.</p> <p><u>Update-August 2013</u></p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution , which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very</p> |
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| | | | | <p>important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Comments on the Draft POCA Regulations have been submitted to the consultant and a final draft is currently being awaited. See attached.</p> <p>The consultant has also undertaken a revision of the Proceeds of Crime (Money Laundering) Act to address the 40 recommendations and other recommendations stated herein, the draft was submitted to and is presently before the Attorney General. It is expected that the Bill will be placed before Parliament at the November 2013 sitting. See Attached.</p> <p>The Consultant is also working on finalising the Guidance Notes which will be in the form of a Code to enable enforceability.</p> <p><u>Update-February 2014</u></p> <p>Regulation 23 of the Draft AML/CFT Regulations stipulates that a service provider shall establish, maintain and implement appropriate risk-sensitive policies, systems and controls to prevent and detect money laundering and terrorist financing, including policies, systems and controls, which provide for the identification and <i>scrutiny</i> of complex or unusually large transactions, unusual patterns of transactions which have no apparent economic or visible lawful purpose and any other activity which the service provider regards as particularly likely by its nature to be related to the risk of money laundering or terrorist financing.</p> <p>“Scrutiny” is defined as including scrutinising the background and purpose of transactions and activities.</p> <p>Regulations 33 and 34 sets out that service providers shall maintain all records pertaining to suspicious transactions reports, records concerning reviews of complex or unusually large transactions, unusual patterns of transactions which have no apparent economic or visible lawful purpose and of systems, policies and controls for a period of 7 years.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u></p> |
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| | | | | <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>Onsite inspection of Credit Unions</u></p> <p>Six (6) on-site inspections were carried out by the FSA that covered AML/CFT issues. These inspections are carried out every twelve to eighteen to twenty four months – based on the risk profile of the Credit Union</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union”.</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with Financial Statements; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p><u>UPDATE – February 2015</u></p> <p>The second round of onsite examinations of credit unions and building societies to assess prudential as well as AML/TF requirements will commence in the second quarter of 2015.</p> <p>The second and third rounds of onsite examinations of Money Services Businesses and Insurance Companies will commence in the second quarter of 2015.</p> <p><u>Update- August 2015</u></p> <p>Two on site examinations have been completed so far in the second round for the credit unions and Building societies. The other three examinations will be completed by November 2015.</p> |
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| | | | | <p>With respect to Money Services Businesses the second round of onsite examinations will commence in the first quarter of 2016.</p> <p><u>FSA Capacity Building:</u> the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries.</p> <p><u>UPDATE – FEBRUARY 2015</u> Supervision & Sanctions: POCA 2013 – Part VII addresses Regulation, Supervision & Enforcement in Sections 151 to 159</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: (a) a person or body as the supervisory authority for regulated service providers; and (b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>Section 152 and Schedule 4 of POCA 2013 addresses the functions, powers and duties of the supervisory authorities.</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> <p>In the Schedule, Section 3- Power to require information and production of documents; Section 5 – Compliance visits; Section 9 – Offences; and Section 10 – Enforcement action.</p> <p>The list of Service Providers is found in Schedule 1 of the AML & TF Regulations, 2014 and Externally Regulated Service Providers are found at Schedule 2.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The previous GNs are no longer in operation. • Regulation 3(6): the service provider's supervisory authority or the FIU may, by written notice, specify a period longer than 7 years for the purposes of sub regulation (5), and such longer period as is specified in the notice shall be considered to be the minimum retention period instead of the period of 7 years. |
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| | | | | <ul style="list-style-type: none"> Regulation 22 – Records required to be kept 22(1)(e): The records specified for the purposes of regulation 21 are – all business correspondence relating to a business relationship or an occasional transaction. Regulation 20 (3): A service provider with any subsidiary or branch that carries on a relevant business shall communicate to that subsidiary or branch whether in or outside the State, the service provider’s policies and procedures maintained in accordance with this regulation. <p>Regulation 21(1): Subject to subregulation (2), a service provider shall keep the records specified in regulation 22 and such other records as may be specified in the Code –</p> <p>(a) In a form that enables them to be made available on a timely basis, when lawfully required, to the supervisory authority, the FIU or law enforcement authorities in the State; and</p> <p>(b) For at least the minimum retention period.</p> <p>Regulation 27(1)(a): the AML/CFT reporting officer and the AML/CFT compliance officer shall – be an employee of the service provider or of a company in the same group as the service provider and shall be based in the state.</p> <p><u>UPDATE- FEBRUARY 2016:</u></p> <ul style="list-style-type: none"> The POCA regulation of 2014 provides that financial institutions should have in place policies, procedures, systems and controls, record keeping and training programmes (regulation 20). The said programmes must include policies, systems and controls which provide for the identification and scrutiny of complex or unusually large transactions, unusual pattern of transactions and any other activity which the service provider regards as particularly likely by its nature to be related to the risk of money laundering or terrorist financing. The institution is obligated further to take additional measures (regulation 20(2) (b)) where appropriate to prevent the use of money laundering or terrorist financing. Regulation 20-23 then requires the institutions to keep records containing details relating to each transaction carried out by the service provider in the course of any business relationship or occasional relationship. These records are to be kept in a manner so that they can be assessed by the supervisory |
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| | | | | <p>authority and internal and external auditors for effectiveness in preventing and detecting money laundering and terrorist financing(regulation 23(c)).</p> <ul style="list-style-type: none"> • The above regulations have the effect of creating a duty on the service providers to ensure ALL records are kept, including those relating to background checks into the purpose and nature of unusual transactions. • The second round of onsite examinations of credit unions since 2013, which assess prudential as well as AML/TF requirements have been completed. A third round commences in the second quarter 2016. An onsite examination of the sole Building Society was conducted in September 2015. The second round of MSBs since 2014 will commence in April 2016. |
| 12. DNFBP–R.5, 6, 8–11 | NC | <ul style="list-style-type: none"> • No regulation or supervision of casinos; • Infrequent and insufficiently detailed monitoring of CDD compliance of RAs; • No arrangements for systematically spot checking CDD compliance by lawyers, real estate agents, accountants, jewelers, and car dealers; • Insufficient training, particularly of lawyers and of more complex international business relations. | <ul style="list-style-type: none"> • Casinos should be regulated and supervised; • All DNFBPs should be examined more systematically for CDD compliance; • IFSA on-site examinations should be more frequent and thorough, especially for RAs and trustees; • Some arrangement should be introduced for inspection of lawyers for compliance. Other DNFBPs should be subject to spot checks of files; • Additional training should be undertaken, particularly for lawyers but also for RAs | <p>At the time of the Mission, there were 28 RAs licensed and operating in SVG. That number has since been reduced to 18. Since the IMF visit to St. Vincent and the Grenadines between February - March, 2009, IFSA has carried out on-site inspections of fourteen (14) of the eighteen (18) remaining Registered Agent/ Trustee licensed entities. Four (4) Registered Agents were visited prior to the IMF's visit.</p> <p>The purpose of the visits were to review and assess the company's compliance with the Act and Regulations and the proper implementation of procedures stipulated in the Proceeds of Crime and Money Laundering (Prevention) Act, 2001. A list of International Business Companies and other entities files were examined to ascertain customer due diligence procedures and proper record keeping of their client's files. It was found that the large majority of the Registered Agents/Trustees records adhered to proper procedures such as completing due diligence questionnaire and obtaining identification on their client. Of note also is that the Registered Agents/ Trustees kept all their client's records in St. Vincent and the Grenadines. Issues of non compliance were discussed and directives given to the RA to rectify the problem.</p> |

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| | | | <p>in their procedures for relying on third-parties for CDD compliance</p> | <p>Follow up examinations for certain RAs are being scheduled.</p> <p>As of 30th March, 2011 the number of RAs licensed and operating have been further reduced to 16 as a result of IFSA's efforts to have only fully compliant RAs. IFSA completed a full on-site visit of all its licensed RAs in 2010 and has already commenced another round of onsite visits for the current year.</p> <p>To date IFSA has completed the second round of onsite examinations of nine (9) out of sixteen (16) Registered Agents/Trustees. The remaining onsite examinations are scheduled to be completed by January 2012.</p> <p><u>Update:</u></p> <p>IFSA has undertaken onsite inspections of fourteen (14) Registered Agents as at the 16th January, 2012. These entities have been found to have made significant progress since the last round of onsite inspections which were undertaken between late 2009 and 2010.</p> <p>IFSA is expected to complete onsite inspections of the final two (2) Registered Agents/ Registered Trustees, during the second quarter of this year.</p> <p>Altogether, IFSA has undertaken 2 rounds of onsite inspections of RAs in the past 3 and a half years. The number of Registered Agents operating in SVG has reduced from 28 at the time of the assessment to 16 at present owing to efforts by IFSA to monitor and ensure full compliance of the law by Registered Agents.</p> <p><u>Update- August 2012</u></p> <p>The onsite inspection of the St.Vincent Trust Service Limited and the St. Vincent Trust Company Limited is scheduled to take place from September 24th to September 27th at the companies' head office in Liechtenstein. Two members of IFSA's staff will comprise the inspection team.</p> <p><u>Update October 2012</u></p> <p>The onsite inspection of the Two Registered Agents and Trustees was completed at their European offices as scheduled. As such, the 16 Registered Agents and Trustees licensed in SVG have undergone a second round of onsite inspections in four years.</p> <p><u>Update-February 2013</u></p> <p>The Consultant provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> |
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| | | | | <p>The draft contains all recommended amendments made by the IMF as well as the FATF recommendations.</p> <p>The Consultant is working on bringing DNFBPs within the scope of the POCA Regulations. The list of “Financial Institutions” that will be subject to the AML/CFT obligations is intended to be amended to include DNFBPs. As such, they will be subject to undergo onsite examination to test their CDD and AML/CFT procedures</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN’s by March 31, 2013.</p> <p><u>Update-August 2013</u></p> <p>The FSA has commenced another round of onsite inspection of International Banks and Registered Agents. There are currently 17 Registered Agents and 5 international Banks in SVG. Most Lawyers who operate in the international financial services sector are holders of Registered Agent and Trustee Licences and are subject to the enhanced onsite inspection carried out by the FSA every 12-18 months.</p> <p>The FIU has continued to conduct training in AML/CFT with the DNFBPs and other financial institutions in SVG.</p> <p>The FIU, FSA and the National Anti-Money Laundering Committee have completed review of the draft POCA Bill and AML/CFT Regulations.</p> <p>Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u></p> <p>As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPs for AML/TF purposes.</p> <p><u>UPDATE – February 2015</u></p> |
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| | | | | <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – FEBRUARY 2015</u></p> <p>POCA 2013 – Part VII addresses Regulation, Supervision & Enforcement in Sections 151 to 159</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations. (see above)</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: ...(b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>The Financial Intelligence Unit had been designated as the body to supervise these entities.</p> <p>The list of Service Providers is found in Schedule 1 of the AML & TF Regulations, 2014.</p> <p><u>UPDATE- FEBRUARY 2016:</u></p> <p>Onsite examinations on financial entities and service providers are regularly undertaken. The statement 'Infrequent and insufficiently detailed monitoring of CDD compliance of RAs' is very outdated and no longer valid as onsite examinations have regularly taken place from 2009 onwards, typically every 12- 18 months.</p> |
| 13. Suspicious transaction reporting | PC | <ul style="list-style-type: none"> The two-part threshold for filing of SARs does not meet the requirement of R.13; Offshore insurance and banks are reporting at a very low level; SAR filing guidance is outdated, the last update was in 2004, contributing to low quality SARs. | <ul style="list-style-type: none"> Amend POCA (Section 46(3)) to require FIs to report all suspicion with respect to funds that are the proceeds of criminal conduct, not only those described under Section 46(2). Either POCA or UNATMA should be amended to require the filing of SARs for transactions or financial activities that are | <p>Amendments to POCA have been drafted and submitted to the Hon. AG for consideration. It is however intended that all amendments to POCA can be taken to Parliament together. The UNODC has endeavoured to provide technical assistance to redraft UNATMA and is in consultation with the Hon. AG on this matter.</p> <p>This matter is presently before the Hon. Attorney General.</p> |

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| | | | <p>suspected to constitute or be related to the financing of individual terrorists or terrorist organizations;</p> | <p>The Attorney General has indicated that these amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update:</u></p> <p>Having reviewed POCA, it is felt that the current wording of Section 46(3) is sufficient to require the reporting of <u>all</u> suspicion and not only those specified in Section 46(2). Subsection (3) is as follows:</p> <p><i>“Upon suspicion that the transactions described in subsection (2) or any other transaction or financial activity could constitute or be related to money laundering or the proceeds of criminal conduct, a financial institution or person engaged in a relevant business activity shall report the suspicious transactions to the FIU.....”</i></p> <p>The <u>Proceed of Crime (Money Laundering) Act</u> Chapter 181 of the Revised Laws of St. Vincent and the Grenadines, 2009 (attached hereto) includes the amendment to section 46(3). This amendment was made by Act No. 25 of 2002.</p> <p><u>Update-August 2013</u></p> <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA.</p> <p>It is anticipated that the new legislation will contain provision requiring the filing of SARs for transactions or financial activities that are suspected to constitute or be related to the financing of individual terrorists or terrorist organization.</p> <p><u>Update-February 2014</u></p> <p>The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners’ comments and it is anticipated that it will be passed prior to the May 2014 Plenary.</p> <p><u>Update April 2014</u></p> <p>Section 127 of POCA 2013 provides for the making of disclosures to the FIU by Money Laundering Reporting Officers (MLROs) of Service Providers. MLROs are required to disclose knowledge, suspicion or reasonable grounds for such knowledge or suspicion that a person is engaged in money laundering, to the FIU as soon as reasonably practicable.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u></p> |
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| | | | | <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – FEBRUARY 2015</u> The <i>Anti-Terrorist Financing and Proliferation Bill 2015</i> was forwarded to the clerk of the House of Assembly for the next sitting of Parliament on Tuesday 3rd March, 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 • Section 15 – Duty to report information • Where a person – • Has reasonable grounds for knowing or suspecting, that another person has committed or attempted to commit a terrorist financing offence; and • The information or other matter which gives reasonable grounds for such knowledge or suspicion came to him in the course of a relevant business, He shall report the information or other matter to the relevant Money Laundering Reporting Officer or to the FIU. • Section 71 – Reporting obligations of relevant businesses • A relevant business shall inform the FIU as soon as practicable if – • It holds an account for a person, has entered into dealings or an agreement with a person or has been approached by or on behalf of a person; • It knows, or has reasonable cause to suspect, that the person – • Is a designated person; or • Has committed an offence under section 63(1), 64(1), 65(1), 66(1), 67(1), 69 of 70; and • The information or other matter on which the knowledge or reasonable cause for suspicion is based came to it in the course of carrying on its business. <p>“designated person” means –</p> |
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| | | | | <ul style="list-style-type: none"> • A person specified in Schedule 1 as a designated person; or • A person who is the subject Of a designation under this Act; <p>UPDATE-FEBRUARY 2016:</p> <ul style="list-style-type: none"> • The “SAR Filing Guidance “referred to in the Detail Assessment Report (DAR) of 2009 appears to make reference to updating the SAR form and the Guidance Notes. The Guidance Notes are currently being reviewed towards further enhancement. • However, it must be noted that comprehensive training related to identifying suspicious transactions relevant to every category of Service Providers is done annually. These presentations identifying high risk transactions along with updates and advisories relating to new typologies and trends are normally shared with the financial institutions. • Further, the SAR form has been updated from the 2004 structure providing more guidance for the institutions as to what should be included on the Form. |
| 14. Protection & no tipping-off | NC | <ul style="list-style-type: none"> • UNATMA and/or POCA do not prohibit tipping off of the filing of SARs related to terrorist financing; • POCA Section 45 does not explicitly prohibit tipping off of the fact of filing of the SAR itself. | <p>POCA Section 45 should be amended to prohibit tipping off of the fact of the filing of the SAR itself;</p> <p>The defense in POCA Section 45(4) should be removed;</p> <p>UNATMA and/or POCA should be amended to prohibit the tipping of the filing of SARs and any related disclosure of information to a police officer of suspected terrorist financing activities or transactions.</p> | <p>Amendments to POCA have been drafted and submitted to the Hon. AG for consideration. It is however intended that all amendments to POCA can be taken to Parliament together.</p> <p>This matter is still pending as the Bill has not yet been tabled as envisioned. The matter is presently before the Hon. Attorney General.</p> <p><u>Update:</u></p> <p>Amendments to POCA have been finalized, including an amendment to Section 45 to prohibit tipping-off of the fact of the filing of a SAR itself. The Bill was tabled before Parliament at its sitting on February 28, 2012 and was passed. It is currently awaiting the Governor General’s Assent which should take place shortly.</p> <p><u>Update- August 2012</u></p> <p>See Act No. 3 of 2012 (Proceed of Crime Amendment (2)) as attached.</p> <p><u>Update-August 2013</u></p> <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA.</p> <p>It is anticipated that the new legislation will contain provision requiring the filing of SARs for transactions or financial activities that are suspected</p> |

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| | | | | <p>to constitute or be related to the financing of individual terrorists or terrorist organization.</p> <p><u>Update-February 2014</u> Tipping Off-Section 129 of POCA 2013 adequately addresses the examiners' comments regarding this offence.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – FEBRUARY 2015</u> The <i>Anti-Terrorist Financing and Proliferation Bill 2015</i> was forwarded to the clerk of the House of Assembly for the next sitting of Parliament on Tuesday 3rd March, 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 • Section 18 – Tipping off <ol style="list-style-type: none"> (1) Subject to section 19, a person is guilty of an offence if- <ol style="list-style-type: none"> (a) He knows or suspects that a relevant disclosure is being or has been made, whether by himself or another person; (b) He discloses the fact that a relevant disclosure is being or has been made; and (c) His disclosure is likely to prejudice any investigation that might be conducted following the relevant disclosure. (2) Subject to section 19, a person is guilty of an offence if- |
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| | | | | <p>(a) The person discloses that an investigation into allegations of terrorist financing, is being contemplated or is being carried out; and</p> <p>(b) The disclosure is likely to prejudice that investigation.</p> <ul style="list-style-type: none"> POCA 2013 does not contain the same provisions as the old Act as it relates to PCMLPA section 45 <p>Section 129(2) POCA – Subject to section 130, a person is guilty of an offence if:</p> <p>(a) He knows or suspects that a relevant disclosure is being or has been made, whether by himself or another person;</p> <p>(b) He discloses the fact that a relevant disclosure is being or has been made;</p> <p>(c) His disclosure is likely to prejudice any investigation that might be conducted following the relevant disclosure referred to in subsection (2); and</p> <p>(d) The information concerning the relevant disclosure came to him in the course of a relevant business</p> <p>UPDATE-February 2016:</p> <ul style="list-style-type: none"> The deficiencies identified here was fully addressed. |
| 15. Internal controls, compliance & audit | PC | <ul style="list-style-type: none"> Insufficient provisions for comprehensive policies; No requirements to train staff on current ML and FT trends, typologies, techniques, etc; No requirements to screen FI employees to ensure high standards; Insufficient time and seniority of compliance officers devoted to AML/CFT functions by some FIs, including inherent conflicts in multi-task responsibilities; Lack of specific training in on AML/CFT for high risk areas e.g. money remittance business, correspondent accounts, wire transfers, back-to-back loans, and credit card operations. | <ul style="list-style-type: none"> Enhance the requirements for FIs to have comprehensive policies, and consider revising the compliance and independent audit requirements under POCA Regulations 8 (narrower) to make them consistent with those under Section 46 of the POCA (broader); Require FIs to train staff on current ML and FT trends, typologies, techniques, etc.; Clarify the scope of the training requirement to ensure that the term “relevant” employees, i.e., to those that have/may have access to information that can be relevant to determine the existence of ML, does not restrict the training requirement; | <p>In the revised Guidance Notes there are special chapters which allow for the establishment and maintenance of procedures to prevent ML and TF which includes internal controls, risk assessment and management, the monitoring and management of compliance with such policies and procedures. It also requires senior management accountability including allocation to a director or senior management, the overall responsibility for the establishment and maintenance of effective AML systems and controls and the appointment of a person with adequate seniority and experience as the Compliance officer or reporting officer.</p> <p>There is also a chapter on staff awareness that emphasizes the need for regulated entities to ensure that staff is competent, remains so and is appropriately supervised and that their competence is regularly reviewed and they are trained in AML and CFT. This includes systems of ongoing monitoring of staff and proper screening that should go beyond simple reference checks. There are consequences for breaching these policies.</p> <p>There are specific chapters in the Guidance Notes that tell DNFBBPs how to keep records and identify suspicious transactions.</p> |

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| | | <ul style="list-style-type: none"> • Require FIs to properly screen employees for fit and proper criteria to ensure high standards; • Supervise and require FIs to ensure that compliance officers devote sufficient time and seniority to AML/CFT, and avoid inherent conflicts when multi-tasking such officers; • FIs, especially banks, should emphasize AML/CFT training for high risk areas e.g. money remittance business, correspondent accounts, wire transfers, back-to-back loans, and credit card operations. | <p>The said Notes are at the stage where they are being informally reviewed by the IMF Team Leader and upon feedback being obtained, the Guidance Notes will be circulated to the industry.</p> <p>The IMF team leader regrettably was unable to undertake an informal review of the Guidance Notes, and also indicated that the IMF is unable to undertake such review owing to other commitments and constraints. He has recommended that the CFATF or certain CFATF countries be approached to obtain technical assistance in this regard. This process is currently being undertaken.</p> <p><u>Update:</u></p> <p>The CFATF has agreed to assist with the finalization of SVG's AML/CFT Guidance Notes by sourcing a consultant. Dialogue is ongoing with Mr. Calvin Wilson (CFATF) in relation to technical assistance which may be given to SVG for this project, from the Commonwealth Secretariat.</p> <p>The CFATF has agreed to provide technical assistance in the finalization of SVG's AML/CFT Guidance Notes. A suitable consultant has been sourced and the agreed target date for completion is June 2012.</p> <p><u>Update -August 2012</u></p> <p>The Risk and Compliance Department of the Bank of Saint Vincent and the Grenadines (formerly National Commercial Bank (SVG) Limited) designated the month of June 2012 as AML/CFT month. During this month a number of activities were undertaken with a view to increasing employees' awareness on AML/CFT issues. In addition the FIU was invited to participate in a panel discussion on the topics of the FATF and its Recommendations and AML/CFT Regulations and Guidance Notes.</p> <p>Additionally the FIU has also engaged in AML/CFT Training exercises with more financial institutions, credit unions, money remitters and insurance agencies during the months March-July 2012. Training will continue through the end of 2012.</p> <p>The AML/CFT Guidance Notes are not yet completed. The consultant is expected to come to SVG to consult on the Guidance Notes. The Consultant has extended his completion date for review of the AML/CFT Guidance Notes to the end of August 2012.</p> <p><u>Update October 2012</u></p> <p>The main problem with the re-drafting of SVG's Guidance Notes (GN) is that the first Consultant appointed to update and revise the GN produced</p> |
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| | | | | <p>work which was incomplete and inadequate to be proposed for implementation. Another Consultant had to be retained after very extensive but inadequate GN were produced.</p> <p>Another external Consultant was retained to draft the Guidance Notes and his recommendation was for a new draft to be produced. This Consultant has worked successfully in other jurisdictions and has provided comprehensive details on his work and also provided updates on his progress. He has however exceeded the stipulated deadline for completion and explained that the undue delay is as a result of a 'prolonged unforeseen circumstance'. SVG has already gone through certain stages in the process of having the Guidance Notes redrafted by this Consultant and it would be very inconvenient to change yet another Consultant at this stage. The Consultant has committed to providing a revised draft of the Guidance Notes by end of October 2012. The Consultant is simultaneously providing draft amendments to the AML Regulations to more fully capture all Core FATF Requirements and taking into consideration the FATF Revised Recommendations of 2012.</p> <p><u>Update-February 2013</u></p> <p>The Consultant has provided a draft of the Proceeds of Crime and Money Laundering Regulations, which includes PEPs and terrorist financing, to the SVG FSA and FIU for review.</p> <p>The draft contains all recommended amendments made by the IMF as well as the FATF recommendations.</p> <p>The Consultant is progressing with completing both the POCA Regulations and the Guidance Notes. The Consultant is working closely with the relevant stakeholders to complete the GN's by March 31st, 2013.</p> <p><u>Update-August 2013</u></p> <p>Comments on the Draft POCA Regulations have been submitted to the consultant and a final draft is currently being awaited. See attached.</p> <p>The consultant has also undertaken a revision of the Proceeds of Crime (Money Laundering) Act to address the 40 recommendations and other recommendations stated herein, the draft was submitted to and is presently before the Attorney General. It is expected that the Bill will be placed before Parliament at the November 2013 sitting. See Attached.</p> <p>The Consultant is also working on finalising the Guidance Notes which will be in the form of a Code to enable enforceability.</p> <p><u>Update-February 2014</u></p> <p>Draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of</p> |
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| | | | | <p>Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – FEBRUARY 2015</u> Training: The Financial Intelligence Unit commenced training of Service Providers on February 2nd, 2015. These AML/CFT workshops will run from February to April, 2015. Letters were sent to all Service Providers operating within the jurisdiction and to date, training has been scheduled with 90% of them.</p> <p>Annual Compliance Report: In 2012, the FIU implemented this tool to ensure compliance with obligations under the various AML and TF legislation.</p> <p>From the reports submitted, the FIU would then undertake an assessment of the Service Provider to ascertain whether or not it is adhering to the provisions of the aforementioned Legislation. Entities are urged to assess whether these areas were strengthened and any deficiencies highlighted were cured. They are also advised to make the requisite improvements to their systems to ensure that all suspicious transactions are reported to the FIU and to safeguard themselves from sanctions for non-compliance.</p> <p>Annual Compliance Reporting has the following stages:</p> <ul style="list-style-type: none"> • Phase 1- Completing questionnaire on Compliance Structure • Phase 2- Completing questionnaire on Risk Based Assessment • Phase 3- Submission of Compliance Manuals • Phase 4- Completing questionnaire on Customer Due Diligence and Know Your Customer • Phase 5- Completing questionnaire on Monitoring and Reporting <p>Service Providers have been providing their Reports under this mechanism and this has greatly aided in identifying deficiencies and correcting them at the earliest opportunity. Based on the ratings obtained from their reports,</p> |
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| | | | | <p>entities are assigned a risk level as it relates to the threat they may pose in in facilitating AML and TF.</p> <p>Further, Section 30 of the <i>Anti-Money Laundering and Terrorist Financing Code</i> which will soon be implemented, states that annual compliance reports and quarterly reports must be submitted by all institutions. Failure to submit same carries with it a fine of EC\$100,000.</p> <p><u>UPDATE – AUGUST 2015</u> The old Regulations no longer have effect</p> <ul style="list-style-type: none"> Regulation 20 addresses Policies, Procedures and Controls, Record Keeping and Training Regulation 20 (7) states that a service provider who contravenes subregulation 1 (policies, procedures, systems and controls); 3 (subsidiary’s compliance with regulation); or 4 (procedures for monitoring and testing effectiveness); is guilty of an offence and is liable on summary conviction to a fine of \$100,000. Regulation 24 – Training <ul style="list-style-type: none"> (1) A service provider shall take appropriate measures for the purposes of making employees whose duties relate to the provision of relevant business aware of – <ul style="list-style-type: none"> (a) The AML & CTF policies, procedures, systems and controls maintained by the service provider in accordance with these Regulations and the Code; (b) The law of the State relating to ML and TF offences; and (c) These Regulations, the Code and any Guidance issued by the Committee. (2) A service provider shall provide employees specified in subregulation (1) with training in the recognition and handling of – <ul style="list-style-type: none"> (a) Transactions carried out by or on behalf of any person who is or appears to be engaged in ML or TF; and (b) Other conduct that indicates that a person is or appears to be engaged in ML or TF. (3) For the purposes of subregulation (2), training shall include the provision of information on current ML and TF techniques, methods, trends and typologies. (4) A service provider who contravenes subregulation (1), (2) or (3) is guilty of an offence and is liable on summary conviction, to a fine of \$100,000. <p>The definition of relevant business is found in Regulation 3 - the interpretation section and states that: “relevant business” means a business</p> |
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| | | | | <p>which, if carried on by a person, would result in that person being a service provider. (service providers are listed in Schedule 1 of the Regulations)</p> <ul style="list-style-type: none"> • Regulation 1(d) – screening of employees • Regulations 25 – 27 : Compliance and Reporting Obligations <p><u>UPDATE-FEBRUARY 2016:</u></p> <ul style="list-style-type: none"> • Along with the Sections noted above in earlier updates found in the POCA Regulations of 2014 the FIU is currently undergoing training with all financial institutions and high risk service providers which include money remittance agents and businesses, banks, credit unions, insurance companies and cooperative societies. They are being trained in relation to developing trends and typologies in their respective businesses. <p>The drafted AML/CFT code provides in paragraph 33 for the training of employees’ of Service Providers’.</p> <p>(1) It provides that a service provider shall:</p> <p>(a) provide appropriate basic AML/CFT awareness training to employees whose duties do not relate to the provision of relevant business;(b) establish and maintain procedures that monitor and test the effectiveness of its employees’ AML/CFT awareness and the training provided to them;(c) vet the competence and probity of employees whose duties relate to the provision of relevant business at the time of their recruitment and at any subsequent change in role and ensure that their competence and probity is subject to ongoing monitoring; (d) provide training, to temporary and contract staff and, where appropriate, the staff of any third parties fulfilling a function in relation to a service provider under an outsourcing agreement; and (e) provide employees with adequate training in the recognition and handling of transactions at appropriate frequencies.</p> <p>(2) The training provided by a service provider shall:</p> <p>(a) be tailored to the business carried out by the service provider and relevant to the employees to whom it is delivered, including particular vulnerabilities of the service provider; (b) explain the meaning of “money laundering” for the purposes of the Act, the Regulations and this Code and the meaning of “terrorist financing”, cover the legal obligations of employees to make disclosures under section 126 of the Act and section 17 of the Anti-Terrorist Financing and Proliferation Act and explain the circumstances in which such disclosures are required to be made;(c)explain the risk-based approach to the</p> |
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| | | | | <p>prevention and detection of money laundering and terrorist financing; (d) highlight to employees the importance of the contribution that they can individually make to the prevention and detection of money laundering and terrorist financing; and (e) be provided to employees as soon as practicable after their appointment.</p> <p>34. A service provider who contravenes paragraph 32 is guilty of an offence and is liable on summary conviction to a fine of three thousand dollars.</p> <p>Please see attached AML/CFT for ease of reference.</p> |
| 16. DNFBP– R.13–15 & 21 | NC | <ul style="list-style-type: none"> Minimal SAR reporting; No compliance supervision of most DNFBPs. | <ul style="list-style-type: none"> While the overall volume of business conducted by DNFBPs is low, many transactions, particularly cross-border transactions, are vulnerable to ML and FT risk. In this context, SAR reporting by DNFBPs is very low, suggesting a need for additional training and/or stricter oversight of compliance in this area; Need to strengthen internal compliance programs and supervision of the same, especially with respect to the larger DNFBPs. With the limited exception of some RAs, the adequacy of internal compliance programs has not been examined by supervisors; Need to assign responsibility for oversight of the reporting and internal AML/CFT compliance programs of lawyers, accountants, real estate agents, jewelers and car dealers. | <p>Revised Guidance Notes tells all institutions that they need to have the proper compliance structure in place and requires them to conduct risk assessments and put systems in place to protect against the identified vulnerabilities.</p> <p>There is also included a self assessment questionnaire which allows entities to evaluate their compliance systems.</p> <p>IBID – re: Status of AML/CFT Guidance Notes.</p> <p>As part of its mandate for training and awareness-raising, the FIU periodically sends out newsletters to financial institutions and DNFBPs on trends and typologies on ML and TF offences.</p> <p>In addition, the FIU intends to conduct onsite training with DNFBPs within the last quarter of 2011.</p> <p><u>Update:</u></p> <p>In the latter half of 2011 the FIU sent letters to all Financial Institutions and Relevant Businesses including DNFBPs to ascertain their training needs and to coordinate proposed dates and topics for training. While not all entities have responded, the FIU has commenced training in February 2012 and has conducted training to date with a local Bank, a Credit Union, an Insurance Company and a Money Remitter. Training will continue into 2012 until every Scheduled business and institution under POCA has received AML/CFT training.</p> <p><u>Update -August 2012</u></p> <p>The FIU has engaged in AML/CFT Training exercises with more financial institutions, credit unions, money remitters and insurance agencies during the months March-July 2012. Training will continue through the end of 2012.</p> <p><u>Update-October 2012</u></p> |

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| | | | | <p>In response to the examiners comments Paragraph 16 above, the training conducted by the FIU includes training of all Registered Business as listed in Schedule 1 of POCA which includes DNFBPs. It is anticipated that additional training of this sector will lead to increased SAR reporting.</p> <p><u>Update-August 2013</u></p> <p>The FIU, FSA and the National Anti-Money Laundering Committee have completed review of the draft POCA Bill and AML/CFT Regulations.</p> <p>Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u></p> <p>As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPs.</p> <p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – FEBRUARY 2015</u></p> <p>Training:</p> <p>Training was done with a number of DNFBPs in 2013</p> <ul style="list-style-type: none"> • Car Dealers – May: four (4) (onsite) June: workshop for all car dealers operating in the jurisdiction • Real Estate Agents – June: Workshop for all real estate agents operating in the jurisdiction <p>The Financial Intelligence Unit commenced training of Service Providers on February 2nd, 2015. These AML/CFT workshops will run from February to April, 2015. Letters were sent to all Service Providers operating within the jurisdiction</p> |
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| | | | | <p>Supervision: POCA 2013 – Part VII addresses Regulation, Supervision & Enforcement in Sections 151 to 159</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations. (see above)</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: ...(b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>The Financial Intelligence Unit had been designated as the body to supervise these entities.</p> <p>The list of Service Providers is found in Schedule 1 of the AML & TF Regulations, 2014.</p> |
| 17. Sanctions | NC | <ul style="list-style-type: none"> Regulatory laws lack the full range of administrative sanctions for non-compliance with POCA and the POCA Regulations; Regulatory laws lack explicit linkages between sanctions and non-compliance with POCA and the POCA Regulations; POCA and the POCA Regulations lack legal authority to regulators to impose sanctions for non-compliance; Regulatory laws do not have effective, proportionate and dissuasive administrative fines and criminal penalties; Regulatory laws lack authority for regulator to initiate a referral to the DPP for serious violations of POCA, UNATMA and the POCA Regulations; and Regulators, including IFSA and the Ministry of Finance, have imposed few, if any, administrative sanctions for non-compliance with AML/CFT measures even when authorized by law to do so. | <ul style="list-style-type: none"> Amend regulatory laws to ensure that the full range of administrative sanctions powers for violations of POCA and the POCA Regulations are available to regulatory bodies; such sanctions powers should be harmonized across regulatory laws to ensure consistency. Administrative sanctions should include, at a minimum: written warnings; orders or directives to comply with specific instructions; removal of controlling shareholders, directors and senior management officials; ordering regular reports; administrative fines for non-compliance (possibly on a daily basis); barring individuals from employment within any regulated sector; replacing or restricting powers of managers, directors, or controlling owners; imposing conservatorship; and suspension, revocation or withdrawal of the license; Amend POCA and the POCA Regulations to explicitly authorize all | <p>The offences under POCA are set out in the proposed Guidance Notes highlighting the sanctions for failure to comply. Consideration is being given in the Guidance Notes to authorize competent authorities to impose administrative sanctions for failure to adhere to the requirements. In particular, a single regulatory unit is being established whereby IFSA, the Supervisory and Regulatory Division of the Ministry of Finance and the Co-operatives Division will be merged. This unit entitled the 'Financial Services Authority' has not yet been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review.</p> <p><u>Update:</u></p> <p>The Financial Services Authority (FSA) Act was enacted on November 22nd 2011. The formal establishment of the FSA is targeted for April 2012. The Act provides for administrative sanctions as well as criminal sanctions.</p> <p>An Amendment to Section 23 of the International Banks Act to include POCA regulations and to initiate enforcement for breaches of AML/CFT legislation has been sent to AG for consideration.</p> <p>Recommended administrative sanctions for violations of POCA and POCA regulations have been sent to AG for consideration.</p> |

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| | | | <p>regulatory bodies and agencies, including IFSA with respect to international banks, mutual funds, insurance companies and RAs; the Ministry of Finance with respect to local banks, MSBs and insurance companies, and the Comptroller of Cooperatives with respect to credit cooperatives, to impose administrative sanctions referred to above for violations of POCA and the POCA Regulations;</p> <ul style="list-style-type: none"> • Amend regulatory laws to authorize regulators to recommend to the DPP that a criminal proceeding be initiated for serious violations of POCA and the POCA Regulations; and • Amend regulatory laws to ensure that civil fines and criminal penalties are substantially increased along the lines of those found in the Banking Act (see chart above) or in Section 47 of POCA. | <p>General recommendations made by IMF assessors have been submitted to the AG for consideration under the FSA Act.</p> <p>There has been a delay in the establishment of the FSA owing to national general elections in SVG which took place in December 2010. There were therefore disruptions in how quickly this entity could be established due to delays prior to and subsequent to elections when other matters of State took priority.</p> <p>The Financial Services Authority (FSA) has not yet been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review. There is still strong commitment to establish the FSA. The lease arrangement for the targeted premises for the FSA is being finalized.</p> <p>The Bill was presented in Parliament on October 18th 2011 and is slated to be enacted by November 18th 2011 after a Select Committee Review. The Minister of Finance has confirmed publicly that the FSA would be set up thereafter in January 2012. The lease arrangement for rental of premises for the FSA has been finalized.</p> <p><u>Update:</u></p> <p>The Financial Services Authority (FSA) Act was enacted on November 22nd 2011. The formal establishment of the FSA is targeted for April 2012. The physical location of the FSA has already been finalized as well as lease arrangements previously mentioned.</p> <p>Meetings are ongoing with the Director General/Finance and Planning and other representatives of the Ministry of Finance (Single Regulatory Division (SRD)) to address all logistics of the establishment of the FSA. The IFSA, SRD and Cooperatives Division are expected to be merged into the FSA and upon the request of the Director General, has now each assessed its human resources to determine competency of staff in order to facilitate the transition of competent staff and requisite skills into the FSA.</p> <p>A World Bank Consultant has been assigned through an Eastern Caribbean TA Project, to assist SVG in the establishment of the FSA. The Consultant is working with IFSA, SRD and the Co-operatives Division, to give strategic direction to the commencement phase of the FSA and work in ongoing to finalize a Business Plan for the first year of operation of the FSA. The first annual Budget is also being finalized and the organizational chart has been finalized.</p> <p><u>Update- August 2012</u></p> |
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| | | | | <p>The FSA Board of Directors and Executive Director have been appointed by Cabinet. A three (3) year Strategic Plan and Budget have been prepared. Other logistics are being sorted pending the imminent establishment of the FSA. The FSA is expected to be established during the latter half of 2012.</p> <p><u>Update October 2012</u></p> <p>The FSA Board has been working on logistical and administrative matters with respect to the establishment of the FSA.</p> <p>The FSA Board has held several meetings and made significant progress in finalizing administrative matters to ensure the smooth transition of three distinct regulatory bodies into the FSA and to ensure that the FSA would be fully operational on the date the FSA Act is proclaimed. The date set for proclamation is November 1st 2012.</p> <p>Extensive work was carried out to finalize a comprehensive Strategic Plan including an Organizational Structure and Plan, and a Three Year Operating Budget. Salary Scales for the FSA are included in the said Budget and this required in depth research and discussions locally with relevant stakeholders.</p> <p>Formal recommendations by heads of the three regulatory bodies have been made and accepted for the transition of staff into the FSA.</p> <p>Recruitments for additional staff required as per a finalized Organization Chart, is ongoing.</p> <p>The location of the FSA is very appropriate and has been secured however, is temporarily being occupied by the Ministry of Finance due to a fire in the latter's premises. The Ministry of Finance will be in a position to vacate the said premises in December 2012. The design for the physical premises of the FSA has been accepted and can readily be adapted to what already exists. The FSA will operate from the departments of the three regulatory bodies with IFSA being the main office until the physical move is made.</p> <p>All logistical details relevant to the FSA's formal establishment on November 1st are being addressed – official seals, stamps, stationery, websites, email and IT and other like matters, are all being purpose enhanced for the FSA.</p> <p>The groundwork for the liquidation of IFSA is also ongoing.</p> <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12th, 2012. The FSA is now fully functional.</p> <p>Section 5(1) (g) of the FSA Act requires the FSA to monitor and ensure compliance by financial entities and registered entities and by such other</p> |
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| | | | | <p>persons as are subject to them, with such Act, Regulations, Codes or Guidelines relating to Money Laundering or the financing of terrorism.</p> <p>(The FSA Act is hereto attached for information)</p> <p><u>Update-August 2013</u></p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution, which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p><u>Update-February 2014</u></p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union".</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p><u>UPDATE – February 2015</u></p> |
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| | | | | <p>The second round of onsite examinations of credit unions and building societies, which assess prudential as well as AML/TF requirements will commence in the second quarter of 2015.</p> <p>The second and third rounds of onsite examinations of Money Services Businesses and Insurance companies will commence in the second quarter of 2015.</p> <p><u>Update- August 2015</u> Two on site examinations have been completed so far in the second round for the credit unions and Building societies. The other three examinations will be completed by November 2015.</p> <p>With respect to Money Services Businesses the second round of onsite examinations will commence in the first quarter of 2016.</p> <p><u>FSA Capacity Building:</u> the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries.</p> <p><u>UPDATE – FEBRUARY 2015</u> POCA 2013 – Part VII addresses Regulation, Supervision & Enforcement in Sections 151 to 159</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: (a) a person or body as the supervisory authority for regulated service providers; and (b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>Section 152 and Schedule 4 of POCA 2013 addresses the functions, powers and duties of the supervisory authorities.</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> <p>In the Schedule, Section 3- Power to require information and production of documents; Section 5 – Compliance visits; Section 9 – Offences; and Section 10 – Enforcement action.</p> |
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| | | | | <p>The list of Service Providers is found in Schedule 1 of the AML & TF Regulations, 2014 and Externally Regulated Service Providers are found at Schedule 2.</p> |
| 18. Shell banks | NC | <ul style="list-style-type: none"> Two offshore banks were identified as not having meaningful mind and management/significant physical presence in SVG; No prohibitions against entering into, or continuing correspondent banking relationships with shell banks; No requirements for FIs to satisfy themselves that respondents in other countries are not used by shell banks; <ul style="list-style-type: none"> Offshore shell banks maintain correspondent accounts locally, contrary to Rec.18, the GNs, and ECCB's prudential regulations. | <ul style="list-style-type: none"> Review the physical presence of all offshore banks against the meaningful mind and management criteria of FATF Rec. 18 above and prohibit the continuation of any shell banks; Introduce explicit prohibitions against entering into, or continuing correspondent banking relationships with shell banks, consistent with the ECCB's prudential guidelines; Require FIs to satisfy themselves that respondents in other countries are not used by shell banks; Require domestic banks to comply with Rec. 18, the ECCB's prudential guidelines and the GNs with respect to correspondent banking facilities; | <p>All six banks in operation at the time of the Mission have been reviewed in keeping with the recommendation of the Assessors.</p> <p>At present only two active (2) international banks remain operating in SVG as one is in liquidation, two went into voluntary liquidation (liquidator approved by IFSA) and one is in controllership.</p> <p><u>Update</u></p> <p>There are currently four (4) international banks in SVG. Two (2) licences were approved in 2010 and 2011 respectively, but these Banks became operational in the latter half of 2011.</p> <p>SVG shall continue to closely monitor all international banks operating in SVG and submit that there are no shell banks so operating.</p> <p>The other aspects of the IMF's Recommendations under Rec. 18 need to be addressed by amendment and this will be part of the revision of the POCA Regulations and Guidance Notes.</p> <p>At present there are still only two active (2) international banks which remain in operation in SVG as <u>two</u> are in liquidation and two went into voluntary liquidation (liquidator approved by IFSA).</p> <p>SVG continues to closely monitor all international banks operating in SVG and reiterates that there are no shell banks so operating. Enhanced monitoring of existing international banks and enhanced vetting of applications are being diligently carried out by IFSA.</p> <p><u>Update:</u></p> <p>IFSA has undertaken 3 rounds of onsite inspections all offshore banks operating in SVG in the past three and a half years as a result of enhanced monitoring.</p> <p>Altogether, IFSA has undertaken 2 rounds of onsite inspections of RAs in the past 3 and a half years. The number of Registered Agents operating in SVG has reduced from 28 at the time of the assessment to 16 at present owing to efforts by IFSA to monitor and ensure full compliance of the law by Registered Agents.</p> |

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| | | | | <p><u>Update- August 2012</u></p> <p>The number of Registered Agents has arisen in the past month to 17, with the licensing of one new Registered Agent in July, 2012.</p> <p><u>Update – October 2012</u></p> <p>IFSA continues to closely supervise the operations of all its international banks and confirms that there are no shell banks operating in SVG.</p> <p><u>Update February 2013</u></p> <p>The fourth round of onsite inspection of international banks is scheduled to commence during the second quarter of 2013.</p> <p><u>Update-August 2013</u></p> <p>The FSA has commenced another round of onsite inspection of International Banks and Registered Agents. There are currently 17 Registered Agents and 5 international Banks operating in SVG.</p> <p><u>Update-February 2014</u></p> <p>Onsite inspections of SVG's Four (4) International Banks which now comprises the entire sector, and Five (5) Registered Agents have been completed since the last round on onsite inspections began. This is the fourth round of onsite inspections since 2009.</p> <p><u>UPDATE-August 2014</u></p> <p>Onsite inspections of SVG's twelve (12) of sixteen (16) Registered Agents and four (4) International Banks which now comprises the entire international banking sector, have been completed since the last round of onsite inspections began. This is the third and fourth round of onsite inspections of Registered Agents and Banks respectively since 2008.</p> <p><u>UPDATE – February 2015</u></p> <p>The fourth round of onsite examinations of International Banks and Registered Agents and Trustees are ongoing and are scheduled to be completed by the 2nd Quarter of 2015.</p> <p><u>UPDATE – February 2015</u></p> <p>The fifth round of onsite examinations of international banks will commence in the fourth quarter of 2015. The fourth round of onsite</p> |
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| | | | | <p>examinations of Registered Agents and Trustees are ongoing and scheduled to be concluded in 2016.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> Regulation 28 – Restrictions on correspondent banking <ol style="list-style-type: none"> A SVG bank that is, or that proposes to be, a correspondent bank shall – <ol style="list-style-type: none"> not enter into or maintain relationships with any respondent bank that is a shell bank; not maintain relationships with any respondent bank that itself provides correspondent banking services to shell banks; shall take appropriate measures to ensure that it does not enter into, or continue, a correspondent banking relationship with a bank that is known to permit its accounts to be used by a shell bank; <p><u>UPDATE-FEBRUARY 2016:</u></p> <p>The deficiencies identified hereunder were fully addressed.</p> |
| 19. Other forms of reporting | C | | | |
| 20. Other NFBP & secure transaction techniques | C | | The authorities should keep under review evolving opportunities for reducing the use of cash in the economy. | |
| 21. Special attention for higher risk countries | NC | <ul style="list-style-type: none"> No requirement to pay special attention to transactions and relationships with persons from countries that do not or insufficiently apply the FATF Recommendations; No formal mechanism to advise FIs of AML/CFT concerns with other countries and no such advisories have been issued to date; <ul style="list-style-type: none"> No provisions to apply counter-measures against countries that do not or insufficiently apply the FATF Recommendations and no such measures have been applied. | <ul style="list-style-type: none"> Require FIs to pay special attention to transactions and relationships with persons from countries that do not or insufficiently apply the FATF Recommendations; Implement a formal mechanism to advise FIs of AML/CFT concerns with other countries and where necessary advise FIs of such concerns; Introduce provisions and procedures that would require SVG to apply counter-measures against countries that do not or | <p>The Guidance Notes instructs the Compliance Officer to take account of FATF reports whether it be MEV or findings of the IMF or World Bank, to assess the ML and TF risk posed by jurisdictions that they may be dealing with and that high risk jurisdictions or jurisdictions with outstanding advisory notices and that they should take account of the risk associated with these jurisdictions.</p> <p>Notifications received by the FIU with reference to releases and advisories and updates on jurisdictions or persons of interest from FATF or other similar bodies are forwarded to those institutions regulated under the <u>Proceeds of Crime and Money Laundering Prevention</u> and the <u>United Nations Anti-Terrorism Measures</u> legislation.</p> <p>IFSA has updated its website to direct visitors to the <u>News and Events</u> section of the FATF's website where all publications and notices will be</p> |

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| | | | <p>insufficiently apply the FATF Recommendations.</p> | <p>readily available to them for perusal. These would include advisories on jurisdictions and persons of interests.</p> <p><u>Update-August 2013</u></p> <p>The Authorities have completed review of the draft POCA Bill and AML/CFT Regulations. This recommendation is adequately provided for in the scope of the AML/CFT Regulations which states that any financial institution with foreign branches or subsidiaries should comply with SVG's Regulations for the purpose of any business conducted within SVG by the local branch.</p> <p><u>Update-February 2014</u></p> <p>Regulations 55-58 adequately addresses this concern and makes provision for directions to be issued by the National Anti-Money Laundering Committee (NAMLC) to regulated businesses in relation to transactions or business relationships with the government of, or any person or persons carrying on business in, or resident, incorporated, constituted or formed in countries in which the FATF has advised that measures should be taken in relation to the country because of the risk that money laundering or terrorist financing is being carried on in the country, by the government of the country, or by persons resident in the country. Sanctions are applied for failing to comply with any directions issued by the Committee.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE - AUGUST 2015</u></p> <ul style="list-style-type: none"> Regulation 14 (2) (b) A service provider shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring – Where the service provider has, or proposes to have, a business relationship with, or proposes to carry out an occasional transaction with, a person connected with a country that does not apply, or insufficiently applies, the FATF Recommendations; |
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| | | | | <p>---</p> <ul style="list-style-type: none"> Regulation 20 (1) & (2) Regulation 28(1)(f) & (h) A SVG bank that is, or that proposes to be, a correspondent bank shall – <p>(f) Assess the respondent bank's AML and TF systems and controls to ensure that they are consistent with the requirements of the FATF recommendations;</p> <p>---</p> <p>(h) ensure that the respective AML and CFT responsibilities of each party to the correspondent relationship are understood and properly documented;</p> <p><u>UPDATE:FEBRUARY 2016</u></p> <p>The AML/CFT code has been reviewed by the Attorney General and The appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it's not the final version.</p> |
| 22. Foreign branches & subsidiaries | LC | <ul style="list-style-type: none"> No requirements for FIs to apply AML/CFT measures to their foreign branches and subsidiaries; <ul style="list-style-type: none"> No requirements for FIs to inform their supervisors when their foreign branches and subsidiaries cannot observe appropriate AML/CFT laws or measures. | | <p>The relevant amendments are being investigated under the revision of the POCA Regulations.</p> <p><u>Update February 2013</u> The draft POCA Regulations and Guidance Notes are currently being revised to include these matters.</p> <p><u>Update-August 2013</u> The Authorities have completed review of the draft POCA Bill and AML/CFT Regulations. This recommendation is adequately provided for in the scope of the AML/CFT Regulations which states that any financial institution with foreign branches or subsidiaries should comply with SVG's Regulations for the purpose of any business conducted within SVG by the local branch.</p> <p><u>Update-February 2014</u> See Regulation 2, of the draft AML/CFT Regulations which sets out the scope of the AML/CFT Regulations which states that any financial institution with foreign branches or subsidiaries should comply with</p> |

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| | | | | <p>SVG's Regulations for the purpose of any business conducted within SVG by the local branch.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p><u>UPDATE – February 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> |
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| 23. Regulation, supervision and monitoring | NC | <ul style="list-style-type: none"> • Ownership structures of some offshore institutions reduce transparency and may limit ability of regular review fit and proper criteria; • Systemically large building society not subject to effective AML/CFT supervision; • Generally inadequate supervision for AML/CFT across all sectors; • Infrequent focus on inherently high risk business areas such as e.g. correspondent banking, money remittance services and back-to-back loans; • Insufficient supervisory resources and understaffing to conduct effective ongoing supervision across all sectors, particularly in the non-domestic banking sector; • No AML/CFT inspections/supervision of the international mutual fund and insurance sectors; • Lack of detailed AML/CFT inspection procedures for the non-domestic bank sectors; • No AML/CFT supervision of money services business and possible existence of one unauthorized activity; <ul style="list-style-type: none"> • Lack of authorization and AML/CFT supervisory regime for money lending businesses covered by the AML/CFT laws. | <ul style="list-style-type: none"> • Enhance supervision of ownership and control structures of some offshore institutions to increase transparency of fit and proper criteria; • Implement enhanced AML/CFT supervision of the systemically large building society and credit union; • Strengthen onsite inspections FIs across all sectors, particularly in the non-domestic banking sectors; • Enhance oversight of inherently high risk business areas across all the relevant sectors esp. correspondent banking, money remittance services, wire transfers and back-to-back loans; • Increase supervisory resources and understaffing to conduct effective ongoing supervision across all sectors including through the use of external auditors/consultants, particularly in the non-domestic banking sector; • Prioritize development and implementation of a comprehensive AML/CFT inspections/supervision program for the international mutual fund and insurance sectors, including through development of cross-border supervisory cooperation mechanisms; • Develop detailed sector-specific AML/CFT inspection procedures for the non-domestic bank sectors; • Implement AML/CFT supervision of money services business and review and | <p>IFSA has been involved in a full scope review of all its regulated entities. Extensive work has been done at IFSA with the assistance of three Consultants under the auspices of a Technical Assistance Project sponsored by the European Union. Please see Appendix 1 for a summary of this regulatory and institutional capacity building project.</p> <p>The Building and Loan Society as well as all credit unions will be regulated by the FSA which is scheduled to be established by January 2011. This legislation is currently being refined by the Legal Drafter of the Hon. Attorney General's Chambers as relevant stakeholders have already reviewed the draft Bill and made their contributions.</p> <p>The intention is to hire skilled and qualified staff so as to ensure high level staff and of note is that the transition of IFSA's staff into the FSA is automatic while staff from the merging entities will be vetted to ensure that they possess the requisite the requisite capabilities to meet the staffing requirements of the FSA.</p> <p>Of note too is that the insurance sector will be regulated by the FSA.</p> <p>The Financial Services Authority (FSA) has not yet been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review.</p> <p>The FSA Bill was presented in Parliament on October 18th 2011 and is slated to be enacted by November 18th 2011 after a Select Committee Review. The Minister of Finance has confirmed publicly that the FSA would be set up thereafter in January 2012. The lease arrangement for rental of premises for the FSA has been finalized.</p> <p><u>Update:</u></p> <p>The Financial Services Authority (FSA) Bill was enacted on November 22nd 2011. The formal establishment of the FSA is targeted for April 2012.</p> <p>Meetings are ongoing with the Director General/Finance and Planning and other representatives of the Ministry of Finance (Single Regulatory Division (SRD)) to address all logistics of the establishment of the FSA. The IFSA, SRD</p> |
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| | | | <p>enforce licensing laws with respect to possible existence of one unauthorized activity;</p> <ul style="list-style-type: none"> • Review and if necessary implement an authorization and AML/CFT supervisory regime for the existing money lending businesses covered by the AML/CFT laws. | <p>and Cooperatives Division are expected to be merged into the FSA and upon the request of the Director General, has now each assessed its human resources to determine competency of staff in order to facilitate the transition of competent staff and requisite skills into the FSA.</p> <p>A World Bank Consultant has been assigned to assist SVG in the establishment of the FSA, has met with IFSA, SRD and the Co-operatives Division, to give strategic direction to the commencement phase of the FSA and work in ongoing to finalize Business Plan for the first year of operation of the FSA. The first annual Budget is also being finalized and the organizational chart has been finalized.</p> <p><u>Update- August 2012</u></p> <p>The FSA Board of Directors and Executive Director have been appointed by Cabinet. A three (3) year Strategic Plan and Budget have been prepared. Other logistics are being sorted pending the imminent establishment of the FSA. The FSA is expected to be established during the latter half of 2012.</p> <p><u>Update October 2012</u></p> <ul style="list-style-type: none"> • The FSA Board has been working on logistical and administrative matters with respect to the establishment of the FSA. • -The FSA Board has held several meetings and made significant progress in finalizing administrative matters to ensure the smooth transition of three distinct regulatory bodies into the FSA and to ensure that the FSA would be fully operational on the date the FSA Act is proclaimed. The date set for proclamation is November 1st 2012. • Extensive work was carried out to finalize a comprehensive Strategic Plan including an Organizational Structure and Plan, and a Three Year Operating Budget. Salary Scales for the FSA are included in the said Budget and this required in depth research and discussions locally with relevant stakeholders. |
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| | | | | <ul style="list-style-type: none"> • Formal recommendations by heads of the three regulatory bodies have been made and accepted for the transition of staff into the FSA. • Recruitments for additional staff required as per a finalized Organization Chart, is ongoing. • The location of the FSA is very appropriate and has been secured however, is temporarily being occupied by the Ministry of Finance due to a fire in the latter's premises. The Ministry of Finance will be in a position to vacate the said premises in December 2012. The design for the physical premises of the FSA has been accepted and can readily be adapted to what already exists. The FSA will operate from the departments of the three regulatory bodies with IFSA being the main office until the physical move is made. • All logistical details relevant to the FSA's formal establishment on November 1st are being addressed – official seals, stamps, stationery, websites, email and IT and other like matters, are all being purpose enhanced for the FSA. • The groundwork for the liquidation of IFSA is also ongoing. <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12, 2012. The FSA is now fully functional.</p> <p>The FSA is responsible for, among others, AML/CFT supervision of the international financial services sector, financial institutions such as money services businesses and the non- bank domestic institutions such as Credit Unions and Building Societies.</p> <p><u>Update August-2013</u></p> |
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| | | | | <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution, which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Onsite inspection of Credit Unions</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union".</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> |
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| | | | | <p>IFSA has been involved in extensive and comprehensive AML/CFT training through the auspices of the EU Technical Assistance Programme and specifically the services of an AML/CFT Consultant. Programs and operating procedures have been developed for inspections and ongoing supervision through this training for all regulated entities – banks, mutual funds, international insurance and the registered agents. AML/CFT training has also focused on trusts and the use of international business companies. Since IFSA will be spearheading the FSA, all work with respect to AML/CFT will be shared with all staff and entities which will be part of the FSA. It is expected that the FSA in implementing the new AML/CFT Guidance Notes and training received, would address all AML/CFT concerns in the DAR with respect to the inspection and supervision of international banks and non bank financial institutions. The ECCB will continue to regulate the local banking sector.</p> <p>International Insurance Companies:</p> <p>Extensive training was provided to the Authority in the area of insurance through the initiative of an EU Technical Assistance programme for a four month period (May to August 2010). This was facilitated through case studies, class-room style presentations and role playing. IFSA's capacity for insurance supervision was heightened tremendously from this project including through the enhancement of its AML/CFT approach to insurance, its onsite and offsite supervisory techniques and the areas of focus such as risk management.</p> <p>IFSA has been approved as a member of the International Association of Insurance Supervisors opening training opportunities and assistance with the further building of its supervisory capacity.</p> <p>The Authority has since strengthened its supervision of these entities by ensuring that all outstanding non compliance issues were addressed in a timely manner. The Authority has been working along with each Insurance Company to ensure that these are complied with and deadlines were given for same. It was also required that a standard questionnaire seeking additional information on each entity be completed to update the Authority on the International Insurance environment it regulated. Financial data is also being reviewed. The Authority continues to</p> |
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| | | | | <p>work assiduously to ensure that all Insurance Companies are fully compliant.</p> <p>At October 2010, there are six active (6) insurance companies, one insurance broker and manager. One insurance company is in the process of winding up its operations.</p> <p>The liquidation of the previously mentioned insurance company has been completed with no outstanding/unresolved claims. One (1) insurance company has been suspended-</p> <p><u>Update:</u></p> <p>As at March 30th, 2012, there are four (4) International Insurance Companies, one (1) Insurance Broker, one (1) Insurance Manager licensed in SVG.</p> <p>Mutual Funds:</p> <p>Extensive training was also provided to the Authority in the area of mutual funds through the initiative of the EU Technical Assistance Project.</p> <p>The Authority has been closely monitoring its Mutual Fund entities. This includes ensuring compliance with the legislation and the review of financial data. A data base of Mutual Fund entities has been created to facilitate continuous follow up with outstanding matters.</p> <p>Enhanced monitoring of mutual funds including enhanced vetting of new applications being completed particularly enhanced review and vetting of private funds being done.</p> <p>Two new staff members have been hired by IFSA to continue with its efforts to build on regulatory and supervisory capacity, namely a senior analyst and legal officer with very relevant qualifications and experience.</p> <p>Two other temporary staff members have been hired by IFSA to assist in reviewing and updating its registry systems to ensure efficiency and accuracy of records and statistics.</p> <p>The review and update of IFSA's registry systems as previously described have been successfully completed. The accuracy of records by both hard and electronic copy</p> |
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| | | | | <p>has been verified and has already resulted in more efficient record keeping systems, statistics and generation of reports.</p> <p>IFSA's recent associate membership in the Caribbean Group of Banking Supervisors (CGBS), allows for increased training opportunities and assistance with the further building of its supervisory capacity.</p> <p>Approval has also been obtained for IFSA to join the International Association of International Supervisors (IAIS), however IFSA has requested deferment of membership so that costs of membership can be shared under the proposed FSA.</p> <p>Like the CGBS, the IAIS offers further opportunities for collaboration and training on regulatory and supervisory best practices and the sharing of relevant information.</p> <p><u>Update:</u></p> <p>The two new staff members –a Senior Analyst and a Legal Officer – have both successfully complemented and enhanced the regulatory capacity of IFSA.</p> <p>The electronic databases for Mutual Funds, International Insurances and Registered Agents have been reviewed and updated to enable IFSA to ensure the accuracy of records and to more efficiently monitor compliance by these entities.</p> <p><u>Update- August 2012</u></p> <p>A two part training programme has been provided to the International Financial Services Authority (IFSA) in the area of mutual funds and financial services regulation. This was made possible through the initiative of the Commonwealth Secretariat.</p> <p>The first part of the training involved two senior personnel from the Gibraltar Financial Services Commission conducting a one week training workshop at the office of the IFSA on mutual fund regulation from June 18th to June 22nd, 2012.</p> <p>The second part of the training involves two members of the staff of the SVG International Financial Services Authority doing a two week work attachment at the Gibraltar Financial Services Commission from September 10th to September 21st, 2012.</p> |
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| | | | | <p>It is expected that the SVG IFSA will benefit greatly from this training as we are seeking to enhance the regulation and supervision of international financial entities in SVG.</p> <p><u>Update October 2012</u></p> <p>The scheduled training at the Gibraltar FSC was successfully completed by two members of the SVG IFSA regulatory staff. The training received was detailed and comprehensive and focused not only on mutual funds and trustees but on overall regulatory oversight and best practices. As a result of this training, a number of policies and procedures of the SVG IFSA will undergo review and possible change to achieve enhanced supervision and regulation of the international financial sector in SVG. The benefits of the training derived will be carried over to the FSA.</p> <p><u>Update-February 2013</u></p> <p>Several new employees with the relevant expertise and training have been recruited to enhance the regulatory capacity of the FSA.</p> <p><u>Update March 2014</u></p> <p>the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries</p> <p><u>UPDATE- FEBRUARY 2016</u></p> <p>The Anti-Money Laundering and Terrorist Financing Regulations, 2014 entered into force in August 2014. This legislation requires the ownership structures of international business entities to be revealed. International entities are required to disclose their beneficial ownership. Regulation 4 (1) (a) defines "beneficial owners" any person who exercises ultimate control over the management of a legal person, partnership or</p> |
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| | | | | <p>legal arrangement, whether alone or jointly with any other person or persons. Regulation 4 (1) (b) additionally captures the exercise of ultimate control over the management of the legal person, partnership, or legal arrangement, whether alone or jointly with any other person or persons. This therefore enhances the ability to determine whether a particular person is fit and proper.</p> <p>The FSA has conducted onsite inspections on its licensed entities which includes the AML/CFT aspect of their business. Registered Agents are currently undergoing their 4th round of on-sites.</p> <p>Since the establishment of the FSA, there has been one round of inspection of all Money Services Business which was held during July - September, 2014. The second round of on-sites would be conducted from March - November, 2016. Additionally, Credit Unions would be undergoing a third round of examinations which commenced in 2013. The Third Round examinations started February, 2016 and it is expected to conclude in September, 2016.</p> <p>The sole Building and Loan Society continues to be under enhanced supervision and an onsite examination was conducted in September, 2015 and the second phase is scheduled for 2017.</p> <p>The fifth round of inspections of International Banks since 2008 would be done throughout the course of 2016 with the first inspection schedule to be started in March.</p> <p>Onsite examinations have been conducted on all insurance companies and the second round since 2013 are ongoing</p> <p>Prudential Guidelines have been issued for Banks, Insurance companies and intermediaries,</p> |
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| | | | | <p>credit unions and Friendly Societies. FSA Regulations and a Corporate Governance Code have been submitted to the Attorney General for passage into law.</p> <p>Any AML/CFT Deficiencies which are noted are sited in external letters and time periods are given for compliance with legislative requirements. Follow-up reviews are conducted to determine the level of compliance with directives given by the FSA. Licensees are required to comply with the new legislation especially as it relates to implementing a risk based assessment of their respective Clients. These requirements are checked during onsite inspections to determine the required level compliance.</p> <p>The FSA has made considerable progress in promoting a cohesive regulatory framework. The Annual Report of the FSA 2014 is herewith provided.</p> |
| 24. DNFBP - regulation, supervision and monitoring | NC | <ul style="list-style-type: none"> • No regulation or supervision of casinos; • Gaps/inconsistencies in the RAs and Licensed Trustees Act; • Confidentiality provisions of RAs Act are a potential impediment to effective supervision; • Gaps in the oversight of RAs; • Inadequate supervision of the immobilization of bearer shares; • Weak arrangements for supervising large overseas activities of RAs; • No effective arrangements for overseeing and enforcing | <ul style="list-style-type: none"> • Procedures for licensing casinos should be regularized and regulation of casinos should be introduced; • A regulator with the adequate skills and capacity should be assigned to oversee and enforce compliance by casinos with their AML/CFT obligations; • The apparent exemption in the RAs Act barristers and solicitors and accountants from being licensed for Overseas Representation services should be eliminated; • Section 4 of the RAs Act should be repealed; • IFSA policies and procedures for on-site examination and supervision of RAs' | <p>The Registered Agents and Trustees (Licensing) Act, 1996 is being reviewed in its entirety to update same as well as to address the recommendations of the DAR.</p> <p>IFSA policies and procedures for on-site examination and supervision of RAs' compliance with AML/CFT obligations has been considerably enhanced. A full scope review of all RAs against the compliance requirements of the The Registered Agents and Trustees (Licensing) Act, 1996 as well as AML/CFT Requirements was undertaken following the IMF evaluation and IFSA has been involved in ongoing discussions with the RAs on same . Since the Mission's visit, the remaining onsite examinations of all RAs were completed. Licenses were suspended or revoked by IFSA or surrendered by the RA when RAs could not meet certain obligations. Consequently out of 28 RAs at the time of the Mission, 18 RAs are in operation.</p> <p>On-site inspections of RAs for 2011 have commenced in keeping with IFSA's increased and comprehensive review of RAs. An On-site checklist is being utilized and particular</p> |

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| | | <p>AML/CFT obligations of other DNFBPs.</p> | <p>compliance with AML/CFT obligations should be enhanced, including additional staff and additional training;</p> <ul style="list-style-type: none"> • Given its responsibilities for regulation of the entire international sector, the number of IFSA examiners –four–is too few; • Authority of the IFSA Executive Director to delegate examination responsibility should be included in the Overseas Finance Authority Act; • IFSA should adopt written internal policies and procedures for approving approved custodians; • Policies and procedures should be put in place by IFSA for retrospectively approving bearer share custodians who were authorized by RAs between 2002 and 2007, or for revoking such custodianship and establishing new, approved arrangements; • Policies and procedures, including if necessary, changes in laws or regulation, should be adopted to ensure that the extensive overseas business activities of some RAs do not create structures not subject to effective supervision. A variety of approaches are possible; • A supervisory authority (or authorities), with adequate powers and capacity, should be appointed to monitor and enforce compliance by other DNFBPs with their AML/CFT obligations; | <p>focus being placed on ensuring evidence of bearer share immobilization being verified.</p> <p>As of 30th March, 2011 the number of RAs licensed and operating have been further reduced to 16 as a result of IFSA's efforts to have only fully compliant RAs. IFSA completed a full on-site visit of all its licensed RAs in 2010 and has already commenced another round of onsite visits for the current year.</p> <p><u>Update:</u></p> <p>(1) IFSA has undertaken onsite inspections of fourteen (14) Registered Agents as at the 16th January, 2012. These entities have been found to have made significant progress since the last round of onsite inspections which was undertaken between late 2009 and 2010.</p> <p>IFSA is expected to complete onsite inspections of the final two (2) Registered Agents/ Registered Trustees, during the second quarter of this year.</p> <p><u>Update – August 2012</u></p> <p>The number of Registered Agents has arisen in the past month to 17, with the licensing of one new Registered Agent in July, 2012.</p> <p>The onsite inspection of the St.Vincent Trust Service Limited and the St. Vincent Trust Company Limited is scheduled to take place from September 24th to September 27th at the companies' head office in Liechtenstein. Two members of IFSA's staff will comprise the inspection team.</p> <p><u>Update October 2012</u></p> <p>The onsite inspection of the Two Registered Agents and Trustees was successfully completed at their European offices as scheduled. As such, the 16 Registered Agents and Trustees licensed in SVG have undergone a second round of onsite inspections in four years.</p> <p>(2) The FSA Act was enacted in November 2011 and this Act contains comprehensive oversight powers for the regulatory authority and requirements on the registered and regulated entities, including DNFBPs. The FSA is expected to be operational by April 2012.</p> <p>Additional staff has been undertaken by IFSA (refer to Appendix 2 for IFSA's updated Organizational Chart) and</p> |
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| | | | | <p>appropriate additional training has been given to staff of IFSA as well as staff of the RA by IFSA.</p> <p>The IFSA Act will be repealed by the FSA Act and the appropriate powers for the Authority to access information are addressed in this said Act. The FSA shall have appropriate sanctioning powers with respect to AML/CFT oversight.</p> <p>IFSA has addressed the issue of approval of Custodians of bearer shares by implementing a standard operating procedure for such approval.</p> <p>A review of the position taken between 2002 – 2007 under the old legislation is still to be completed.</p> <p>Of significance is that a three year TA project has begun, spearheaded by the ECCB and funded by the World Bank, with respect to strengthening accountability in the non-bank financial sector in all OECS countries. IFSA and the Ministry of Finance have been actively participating in discussions with ECCB in keeping with the Action Plan pertaining to this Project.</p> <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12, 2012. The FSA is now fully functional.</p> <p>The FSA is responsible for, among others, AML/CFT supervision of the international financial services sector, financial institutions such as money service businesses and the non- bank domestic institutions such as Credit Unions and Building Societies.</p> <p><u>Update-August 2013</u></p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution , which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well</p> |
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| | | | | <p>equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Update- February 2014</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union".</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p>The Authorities have completed review of the draft POCA Bill and AML/CFT Regulations. Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u> As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> |
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| | | | | <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPs for AML/TF purposes.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – MARCH 2015</u> Supervision & Sanctions: POCA 2013 – Part VII addresses Regulation, Supervision & Enforcement in Sections 151 to 159</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: (a) a person or body as the supervisory authority for regulated service providers; and (b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>Section 152 and Schedule 4 of POCA 2013 addresses the functions, powers and duties of the supervisory authorities.</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> <p>In the Schedule, Section 3- Power to require information and production of documents; Section 5 – Compliance</p> |
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| | | | | <p>visits; Section 9 – Offences; and Section 10 – Enforcement action.</p> <p>The list of Service Providers is found in Schedule 1 of the AML & TF Regulations, 2014 and Externally Regulated Service Providers are found at Schedule 2.</p> <p><u>UPDATE – AUGUST 2014</u></p> <ul style="list-style-type: none"> Non-Regulated Service Providers Regulations have been drafted and submitted to the office of the AG and should be gazetted before year end. The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 <p><u>UPDATE – FEBRUARY 2015</u></p> <ul style="list-style-type: none"> The AML/CFT code has been reviewed by the Attorney General and the appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it's not the final version |
| 25. | Guidelines & Feedback | LC | <ul style="list-style-type: none"> Need for updated guidance with more attention to sector specific issues, especially for DNFBPs. | <p>Updated guidance should be issued, with additional material applicable to the operations of DNFBPs</p> <p>Revised Guidance Notes stipulate to all institutions that they need to have the proper compliance structure in place and requires them to conduct risk assessments and put systems in place to protect against the identified vulnerabilities.</p> <p>There is also included a self assessment questionnaire which allows entities to evaluate their compliance systems.</p> <p><u>UPDATE-August 2014</u></p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> |

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| | | | | <p><u>UPDATE – March 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 <p><u>UPDATE – FEBRUARY 2015</u></p> <ul style="list-style-type: none"> The AML/CFT code has been reviewed by the Attorney General and the appropriate agencies involved and further improvements were submitted. Included in the Code are the relevant guidelines corresponding with the Acts, regulations and Code provisions. The changes encompassed more comprehensive provisions being included in the Code and the Guidelines to ensure the greatest level of compliance with the Revised FATF Recommendations. |
| Institutional and other measures | | | | |
| 26. The FIU | LC | <ul style="list-style-type: none"> Implementation of its analytical function is under pressure; The FIU has not directly developed a single case for prosecution of an ML or predicate offense originating from a SAR filed; Insufficient legal authority in the FIU Act for general | <ul style="list-style-type: none"> The FIU should strengthen its analytical function including through enhanced staff capacity; The FIU Act should provide broad based authority to obtain information from other governmental authorities to | <p><u>Analytical Function</u></p> <p>The FIU has undertaken several measures to enhance its analytical capacity including providing additional analytical software. Further the FIU is likely to take up an offer from the Bermuda FIU of a secondment program for analyst.</p> <p><u>Update:</u></p> |

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| | | <p>access to law enforcement information.</p> <p>to obtain information from other governmental bodies to support its intelligence analysis;</p> <ul style="list-style-type: none"> • The FIU does not issue additional and comprehensive guidance to reporting parties on SAR completions and filings; • The ability of the FIU to obtain additional information from reporting parties is subject to a threshold requirement that allows for reporting entities to reject additional requests on the basis that the information sought is not sufficiently correlated to a particular stated offense; • The FIU does not publish an annual report on trends and typologies. | <p>conduct analysis for financial intelligence purposes;</p> <ul style="list-style-type: none"> • The FIU should issue additional and comprehensive guidance to reporting parties on SAR filings to increase the quality and consistency of reports; • The FIU should publish an annual report on its operations. In this regard, sanitized information on trends and typologies should be regularly included in a public document. The FIU should consider creating a website with information on its operations, SAR forms and instructions for reporting entities, and information for requesting authorities on the FIUs exchange of information procedures; • The FIU should consider entering into MOUs with counterparts in other countries, especially where SVG registered institutions and entities operate. | <p>While the Secondment of the analyst to the Bermuda FIU has not yet taken place, it is an opportunity which the FIU hopes to be able to utilize in the near future.</p> <p><u>Update February 2014</u> The FIU's Financial Analyst is attending a "Strategic Analysis Course for Financial Intelligence Units" in Miami from March 3-7, 2014. This course approaches the subject of strategic analysis of financial information from both the theoretical and practical perspectives and is geared towards promoting strategic analysis as a new perspective for analyzing and disseminating the information gathered by FIUs.</p> <p><u>FIU Act</u></p> <p><u>Update:</u></p> <p>While the FIU considers its authority far reaching. Consideration has been given to an amendment to the legislation to provide more explicit powers.</p> <p>Amendments have been drafted to the FIU Act which provides the FIU with authority to obtain information from governmental authorities. Amendments to the FIU Act are expected to be tabled in Parliament in April 2012.</p> <ul style="list-style-type: none"> • The FIU continues to undertake training sessions with Regulated Financial Institutions and Businesses including providing guidance on circumstances under which SARs should be filed. Information is also readily available on the website svgfiu.com • Since the report the annual and quarterly reports all include trends and typologies. Further, a newsletter with trends and typologies was also published in 2010. - The FIU's website, in operation since May 2010, is updated periodically with trends and typologies. The website also provides downloadable SAR forms and information on identifying suspicious transactions which is sector specific. - Newsletters are also periodically sent to all entities-financial institutions and persons engaged in relevant business activities. <p><u>MOUS</u></p> |
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| | | | | <ul style="list-style-type: none"> - In 2010 the FIU signed MOUs with its counterparts in San Marino, Grenada and Barbados. In 2011 to date the FIU has signed MOUs with its counterparts in St. Lucia and Poland. An MOU is expected to be executed in the coming months between the FIU and its counterparts in Australia and Cayman Islands. <p><u>Update:</u></p> <p>To date, the FIU has finalized an MOU with its counterpart in the Cayman Islands. An MOU has been recently signed by the FIU and sent via courier for signature by the Turks & Caicos FIU. The MOU with AUSTRAC, the Australian FIU is in its final review stages by the Australian Government and is expected to be finalized by the second quarter of 2012.</p> <p><u>Update -August 2012</u></p> <p>The MOU with the FIU of Turks & Caicos has been finalized. The MOU with AUSTRAC remains pending.</p> <p>The FIU has entered into negotiations with the FIUs of Taiwan, India and Liechtenstein for signature. The FIU of Taiwan has indicated its interest in entering into a more formal Agreement for the exchange of financial information as opposed to a non-legally binding MOU.</p> <p><u>Update-February 2013</u></p> <p>The Agreement between the SVG FIU and the Taiwan FIU was finalized in December 2012.</p> <p><u>Update-August 2013</u></p> <p>The FIU has executed MOUs with its counterparts in Dominica, Trinidad and Tobago and Saint Maarten thus far for 2013.</p> <p><u>Update-February 2014</u></p> <p>Three (3) MOUs in total were signed in 2013 by the FIU and its Regional Counterparts as listed above. No MOUs have been signed thus far for 2014.</p> <p><u>UPDATE – MARCH 2015</u></p> <ul style="list-style-type: none"> • <u>Analytical Function</u> - Members of the Unit received training in i2 and iBase in September 2014 from a certified expert in that field. This has aided in the more efficient analysis of SARs and better feedback to reporting entities. |
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| | | | | <ul style="list-style-type: none"> - A greater number of the FIU staff now engage in SAR analysis - An additional Financial Investigator joined the staff of the FIU in January 2015 and one of her core functions is SAR analysis - SAR feedback is issued more regularly <ul style="list-style-type: none"> • <u>MOUs</u> In 2014 two (2) MOUs were signed with counterparts in Japan and Australia • <u>FIU Act</u> <i><u>Financial Intelligence Unit Act, Cap 174 of the Laws of St. Vincent & the Grenadines, Revised Edition 2009 as amended by Act No. 7 of 2013</u></i> <p>Section 4 (2) (b) (ii) : Without limiting the foregoing and notwithstanding any other law to the contrary the Financial Intelligence Unit may, where it appears to the Director that there are reasonable grounds to suspect that a relevant offence has been committed or that information is required for the analysis of suspicious transaction reports, require the production of information (excluding information subject to legal professional privilege) from law enforcement bodies, Governmental bodies and domestic regulatory authorities as defined in the Exchange of Information Act, as the Financial Intelligence Unit considers necessary for the purpose of investigating the relevant offence or analysing the suspicious transaction report;</p> <p>Subsection 4 states that for the purposes of subsection (2)(b) "governmental bodies" includes-</p> <ul style="list-style-type: none"> (a) the Immigration Department, (b) the Inland Revenue Department, (c) the Electoral Office, (d) the Ministry responsible for foreign affairs and trade, (e) the National Insurance Services <ul style="list-style-type: none"> • <u>ML Cases</u> <ul style="list-style-type: none"> - On January 28th and 29th, 2015, eight (8) charges were laid against a Defendant in respect of the offences of (i) Acquiring criminal property & (ii) Bringing in |
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| | | | | <p>Criminal Property to the State. This matter is set for trial on April 30th, 2015.</p> <p>These charges were as a result of SARs filed by a money remittance business</p> <ul style="list-style-type: none"> - There are currently three (3) other cases being developed with a view to charging before the end of the first half of 2015. <p><u>UPDATE – FEBRUARY 2015</u></p> <p><u>FIU PERSONNEL:</u></p> <ul style="list-style-type: none"> • Two (2) new lawyers joined the FIU team on the 15th of September 2015. They are both serving as Legal Officers specialising in different areas. One of the said Legal Officers is directly responsible for matters relating to compliance with the FATF Recommendations, training, drafting and reviewing of legislation amongst others. The Other Legal Officer's primary duties relate to all matters involving Civil Recovery, that is cash seizures, forfeiture matters, civil recovery cases and training law enforcement officers • Additionally, another financial Investigator joined the FIU on the 18th of January 2016. One of his primary duties involved the analysis of SARs. • A new Division was created at the Unit, called Civil Asset Recovery Division (CARD). This Division was set up in collaboration with the International Narcotics and Law Enforcement Affairs. Attached to this unit is a Financial Investigator and a Legal Officer. <p><u>MOUs-</u></p> <ul style="list-style-type: none"> • In 2015 four (4) MOUs were signed. One with our counterpart in Belize, another with the Office of National Drug and Money Laundering Control Policy of Antigua and Barbuda, the other with the Federal Financial Money Services (Russian Federation) of Russia and the other with the Financial Investigation Agency of the British Virgin Islands. |
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| | | | | <ul style="list-style-type: none"> An MOU with the Money Laundering and Reporting Authority of Montserrat is in the process of being finalised. <p><u>ML CASES</u></p> <ul style="list-style-type: none"> On January 18th, 2016 charges were laid against a Defendant for concealing criminal property to wit Twenty Thousand, One Hundred and Twenty six Eastern Caribbean Dollars and Seventy Five dollars which he did knowingly or suspect that the property in whole or in part constituted his benefit from criminal conduct. |
| 27. Law enforcement authorities | PC | <ul style="list-style-type: none"> Authority for applying POCA investigative and prosecutorial measures for FT is not explicitly included in law; Law enforcement authorities' integration into the AML/CFT framework needs to be detailed and formalized. Inadequate resources for the DPP's office affects implementation. | <ul style="list-style-type: none"> Specific FT-related authority should be incorporated either in UNATMA or by amending POCA to directly include any FT offense; Law enforcement authorities' designation and integration into the AML/CFT framework, including relative to the FIU, should be detailed and formalized; Resources for the DPP's office should be enhanced and consideration should be given to formally deputizing FIU lawyers as assistant DPPs. | <ul style="list-style-type: none"> The Office of the DPP has received an additional Attorney-at -Law, who before his admittance to the Bar was a member of the Royal St. Vincent and the Grenadines Police Force. The Office of the DPP is presently staffed with 4 lawyers. <p><u>Update -August 2012</u></p> <p>An additional Crown Counsel has been appointed to the Office of the DPP which is now staffed with five (5) lawyers.</p> <p><u>Update-February 2013</u></p> <p>An Assistant Director of Public Prosecution was appointed in December 2012 to the Office of the DPP.</p> <p>The office of the DPP is now staffed with six (6) Crown Counsels and the DPP and the Assistant DPP.</p> <p><u>Update April 2014</u></p> <p>i) In addressing the recommendation that specific FT-related authority should be incorporated either in UNATMA or by amending POCA to directly include any FT offense, we submit the following:</p> <p>Sections 29-37 of the Anti-Terrorist Financing and Proliferation Bill, 2014 provides for the search, seizure,</p> |

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| | | | | <p>detention and forfeiture of terrorist cash in summary proceedings. Further, Section 40 of the Bill provides for the forfeiture of terrorist property, following the conviction of individuals for a terrorist financing offence.</p> <p>The Bill provides for the making of Restraint Orders (Sections 44-49) where a criminal investigation has been started with regard to a terrorist financing offence, proceedings have been instituted in the State and not concluded and either a forfeiture order has been made or it appears to the Court that a forfeiture order may be made.</p> <p>A ‘criminal investigation’ is defined in Section 44(3) as <i>“an investigation which law enforcement or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.”</i></p> <p><u>UPDATE-August 2014</u></p> <p>The Anti-Terrorist Financing and Proliferation Act, 2014 was placed before Parliament in August 2014. Parliament directed a ‘Select Committee’ to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p>Further, pursuant to POCA 2013, applications for Restraint Orders (Section 42-43) may extend to FT offences by virtue of the definition of criminal conduct, which means conduct which constitutes an offence or would constitute an offence if it had occurred in the State.</p> <p>Pursuant to Section 134 of POCA 2013 Production Order may also be applied for where there are reasonable grounds for suspecting that, in the case of a criminal recovery investigation, that the person subject to the investigation has benefitted from his criminal conduct, hence an extension to FT offences also.</p> <p>(ii) In addressing the recommendation of Law enforcement authorities’ integration into the AML/CFT framework being detailed and formalized note the following:</p> <p>Pursuant to Section 3 (2) of the Financial Intelligence Unit (FIU), the FIU comprises of, inter alia, <i>“such number of</i></p> |
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| | | | | <p><i>police appointed by the Minister on the recommendation of the Commissioner of Police...”</i></p> <p>The functions of the FIU, as set out in Section 4 (1) of the Act include, inter alia, the receiving, analyzing, obtaining and disseminating information relating to the proceeds of offences created by POCA and UNATMA.</p> <p>By virtue of Act No. 7 of 2013, Section 4(2) of the FIU Act was amended to specify that the FIU “<i>may, where it appears to the Director that there are reasonable grounds to suspect that a relevant offence has been committed.....require the production of information from law enforcement bodies... as the FIU considers necessary for the purpose of investigating the relevant offence or analysing the SAR</i>”.</p> <p>In addition, the FIU has, on June 17, 2009, executed an MOU with the Royal St. Vincent and the Grenadines’ Police Force and the Immigration Department.</p> <p><u>UPDATE – March 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 <p>Sections 27 – 37 : Recovery and Forfeiture of Terrorist cash in Summary Proceedings</p> <p>Sections 38 – 44 : Forfeiture of Terrorist Property</p> |
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| | | | | Sections 45 – 51 – Restraint Orders Part VI – Freezing of terrorist property |
| 28. Powers of competent authorities | C | | | |
| 29. Supervisors | PC | <ul style="list-style-type: none"> • No explicit link between the application of supervisory and administrative sanctioning powers in the financial laws and the AML/CFT legislation; • There are no powers or mechanisms to supervise, inspect and enforce AML/CFT compliance with respect building societies and money lending operations; • Except for international banks and money services business, no explicit provisions for other regulators (functionally the ECCB, IFSA, Ministry of Finance), to supervise, inspect and enforce compliance by FIs of the POCA, POCA Regulations and anti-terrorism legislation, particularly the power to initiate enforcement proceedings under these laws; • AML/CFT compliance obligations under the International Banks Act and Money Services Business Act do not extend to the POCA POCA Regulations, limiting the scope of monitoring and enforcement; • No regulation and supervision of mutual fund underwriters; • Limitations under Section 8 of the IFSA Act could limit the scope of IFSA's supervisory and enforcement powers; • Section 19(9) of the International Banks Act restricts access to the names, titles and confidential information about customers' accounts to the Executive Director | <ul style="list-style-type: none"> • Make explicit provision for regulators to supervise and enforce compliance with the AML/CFT legislation including the application of administrative sanctioning powers in the financial laws; • Develop the legal and regulatory regime for regulators to supervise, inspect and enforce AML/CFT compliance for building societies and presently unauthorized money lending operations; • Introduce explicit legal provisions for other regulators (functionally the ECCB, IFSA, and Ministry of Finance), to supervise, inspect and enforce compliance by FIs broadly similar to those for international banks and money services business, in the POCA, POCA Regulations and UNATMA. These should include the power to initiate enforcement proceedings under these laws; • Extend the AML/CFT compliance obligations under the International Banks Act and Money Services Business Act to the POCA Regulations in order to provide broader regulatory scope for monitoring and enforcing compliance; | <p>A single regulatory unit is being established whereby IFSA, the Supervisory and Regulatory Division of the Ministry of Finance and the Co-operatives Division will be merged. This unit entitled the 'Financial Services Authority' is expected to be established by January 2011. A Bill to establish the FSA has been drafted and clear provisions are contained to give the FSA the power to impose administrative sanctions. This Bill is expected to be enacted in November 2010.</p> <p>AML/CFT oversight is expected to be strengthened as a result of a unified, consistent and more comprehensive AML/CFT approach under the FSA. The Building and Loan Society will fall under the regulatory ambit of the FSA, hence subject to a higher level of AML/CFT supervision.</p> <p>The proposed FSA Act also provides for access to information by the Authority.</p> <p>AML/CFT oversight has been strengthened resulting from implementation of recommendations from the DAR and training obtained from IFSA's EU TA Project (already reported on in the last Follow Up Report) with the enhanced and more comprehensive approach to on-site inspections.</p> <p>Relevant amendments to the International Bank's Act regarding IMF recommendations have been submitted to the AG for consideration.</p> <p>The revised Mutual Fund Act, Regulations and a new Code are to be received by IFSA on 18th April 2011 which would capture amendments relating to IMF DAR recommendations.</p> <p>The Financial Services Authority (FSA) has not yet been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing</p> |

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| | | <p>of IFSA who does not have the power of delegation with respect to this function;</p> <ul style="list-style-type: none"> • IFSA is constrained in its capacity to effectively supervise mutual funds, administrators and managers, and insurance companies and their managers, in cases where the books, records and information are held outside the SVG; • No supervisory powers in either the AML/CFT legislation or the financial and regulatory laws, to enforce, sanction, or initiate proceedings for, violations of the AML/CFT legislation per se; • Ability of IBC mutual funds to issue bearer shares (not immobilized) may limit CDD and exercise of powers of supervision; • Section 35 of the Mutual Funds Act can exempt FIs from supervision and enforcement under the Act with implications for AML/CFT; <ul style="list-style-type: none"> • Limited access to records by Registrar of credit unions. | <ul style="list-style-type: none"> • Develop and implement a regulatory and supervisory regime for mutual fund underwriters that would include AML/CFT, similar to that for fund administrators; • Review the possible limitation under Section 8 of the IFSA Act with respect to scope of IFSA's supervisory and enforcement powers; • Remove the technical restrictions under Section 19(9) of the International Banks Act that limit access to the names, titles and confidential information about customers' accounts to the Executive Director; • Review and as appropriate revise the legal and operational framework for mutual funds, administrators and managers, and insurance companies and their managers, to ensure that IFSA has efficient and timely access to books, records and information of such institutions to enable effective AML/CFT supervision; • Review and if necessary amend the Mutual Funds Act and Regulations to deal with the ability of IBC funds to issue bearer shares (not immobilized) as this may limit CDD and compliance supervision; • Review/amend Section 35 of the Mutual Funds Act that can exempt FIs from supervision and enforcement under the Act with implications for AML/CFT; | <p>the establishment, structure and functions of the FSA is in its final stage of review.</p> <p>The FSA Bill was presented in Parliament on October 18th 2011 and is slated to be enacted by November 18th 2011 after a-Select Committee Review. The Minister of Finance has confirmed publicly that the FSA would be set up thereafter in January 2012. The lease arrangement for rental of premises for the FSA has been finalized.</p> <p><u>Update:</u></p> <p>The Financial Services Authority (FSA) Bill was enacted on November 22nd 2011. The formal establishment of the FSA is targeted for April 2012.</p> <p>Meetings are ongoing with the Director General/Finance and Planning and other representatives of the Ministry of Finance (Single Regulatory Division (SRD)) to address all logistics of the establishment of the FSA. The IFSA, SRD and Cooperatives Division are expected to be merged into the FSA and upon the request of the Director General, has now each assessed its human resources to determine competency of staff in order to facilitate the transition of competent staff and requisite skills into the FSA.</p> <p>A World Bank Consultant has been assigned to assist SVG in the establishment of the FSA, has met with IFSA, SRD and the Co-operatives Division, to give strategic direction to the commencement phase of the FSA and work in ongoing to a Business Plan for the first year of operation of the FSA. The first annual Budget is also being finalized and the organizational chart has been finalized.</p> <p><u>Update- August 2012</u></p> <p>The FSA Board of Directors and Executive Director have been appointed by Cabinet. A three (3) year Strategic Plan and Budget have been prepared. Other logistics are being sorted pending the imminent establishment of the FSA. The FSA is expected to be established during the latter half of 2012.</p> <p><u>Update October 2012</u></p> <p>See update on the FSA above</p> <p><u>Update February 2013</u></p> |
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| | | | <ul style="list-style-type: none"> Amend the credit unions law to ensure full access to records by Registrar. | <p>The Financial Services Authority (FSA) Act was proclaimed on November 12th, 2012. The FSA is now fully functional.</p> <p>The FSA is responsible for, among others, AML/CFT supervision of the international financial services sector, financial institutions such as money service businesses and the non- bank domestic institutions such as Credit Unions and Building Societies.</p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution , which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Update- February 2014</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union".</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> |
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| | | | | <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p>Update April 2014</p> <p>Section 5 (g) and section 8 of the Financial Services Authority Act (FSAA) (attached hereto) when read together provides adequate provision for the supervision and enforcement of compliance with AML/CFT legislation by all Financial and Registered entities which fall under the supervision of the FSA. Section 8 provides several administrative sanctions as recommended. The deficiencies and ensuing recommendations relative to these entities have been addressed by the overarching FSAA. The Financial Laws (Miscellaneous Amendment) Bill (<i>attached hereto</i>), seeks also to address certain other recommendations to the sector specific legislation.</p> <p><u>UPDATE-August 2014</u></p> <p>The Financial Laws (Miscellaneous Amendment) Act No. 10 of 2014, was passed in June 2014.</p> <p>SVG's regulatory regime adequately facilitates the effective supervision for AML/CFT compliance of the non-banking financial services sector. Onsite inspections, both full scope and prudential continues to be carried out on these institutions to ensure that there is compliance with all relevant laws of SVG including the AML/CFT laws. The Financial Services Authority Act provides the legislative platform to enforce compliance.</p> <p>Regulation 36 of the Proceeds of Crime (Anti Money Laundering and Terrorist Financing) Regulations provides for the supervisory authorities for the purpose of AML/CFT. The designated supervisory authorities are the FSA, the FIU and the ECCB. Section 152 and Schedule 4 of the Proceeds of Crime Act 2013, sets out the objectives, functions and powers of the supervisory authority.</p> <p><u>UPDATE-August 2014</u></p> |
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| | | | | <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes and expands on the law, will be established by October 2014.</p> <p>With regards to Recommendation 30, previous follow-up.</p> <p><u>UPDATE – April 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015. <p><u>UPDATE – FEBRUARY 2016</u></p> <ul style="list-style-type: none"> • The Mutual Funds Bill • The AML/CFT code has been reviewed by the Attorney General and the appropriate agencies involved and further improvements were submitted. The changes encompassed more comprehensive provisions being included in the Code to ensure the greatest level of compliance with the Revised FATF Recommendations. A copy of the Drafted code is attached for review. However it must be noted that this code will be further updated so it's not the final version. |
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| 30. integrity, and training | Resources, | PC | <p>Supervisors: NC</p> <ul style="list-style-type: none"> Understaffed and need for additional AML/CFT training for IFSA's and the Ministry of Finance-SRD supervisory staff; Registrar of credit unions generally understaffed and under-resourced; No supervisory regime and resources as yet for the systemically important building and loan society. <p>DNFBPs: NC</p> <ul style="list-style-type: none"> No supervisory regime or resources for oversight of DNFBPs other than RAs. <p>FIU: LC</p> <ul style="list-style-type: none"> The FIU does not have a full complement of analytical and investigative staff to assess the SARs and other financial intelligence collected. <p>DPP: NC</p> <ul style="list-style-type: none"> DPP does not have sufficient staff to handle prosecutions of ML cases. <p>Police: LC</p> <ul style="list-style-type: none"> Police do not require regular, specialized training in AML/CFT; training on AML/CFT is only provided regularly to new recruits during their Police academy sessions. <p>Customs: LC</p> <ul style="list-style-type: none"> Need for additional AML/CFT training. <p>Judiciary: PC</p> | <p>Supervisors:</p> <ul style="list-style-type: none"> There is a need to strengthen the supervisory staff of IFSA's and the Ministry of Finance-SRD supervisory staff, including enhanced training on supervision and AML/CFT in particular; The planned transfer of supervision for credit unions and building societies to the SRD will require enhanced resources and training for supervisors in these new sectors; Supervisory authorities with adequate staff and resources should be assigned responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by IFSA. <p>FIU:</p> <ul style="list-style-type: none"> FIU needs additional training and resources to conduct core analytical functions, including accounting and forensic skills. <p>DPP:</p> <ul style="list-style-type: none"> Additional resources and training needed. <p>Police:</p> <ul style="list-style-type: none"> Police officers should receive regular and comprehensive training on ML and FT offenses and their linkages to predicate offenses; RSVGPF should have additional resources for technological and communication to improve the predicate crimes, ML and FT investigations. <p>Customs:</p> <ul style="list-style-type: none"> Additional AML/CFT training focusing on red flags and typologies should be provided to all Customs Department employees amounting to a | <p>A single regulatory unit is being established whereby IFSA, the Supervisory and Regulatory Division of the Ministry of Finance and the Co-operatives Division will be merged. This unit entitled the 'Financial Services Authority' is expected to be established by January 2011. A Bill to establish the FSA has been drafted and clear provisions are contained to give the FSA the power to impose administrative sanctions. This Bill is expected to be enacted in November 2010.</p> <p>The Building and Loan Society will fall under the FSA's supervisory regime.</p> <p>There has been a delay in the establishment of the FSA owing to national general elections in SVG which took place in December 2010. There were therefore disruptions in how quickly this entity could be established due to delays prior to and subsequent to elections when other matters of State took priority.</p> <p>The Financial Services Authority (FSA) has not yet been established but is expected to be established before the end of 2011. The Financial Services Authority Bill governing the establishment, structure and functions of the FSA is in its final stage of review.</p> <p>The FSA Bill was presented in Parliament on October 18th 2011 and is slated to be enacted by November 18th 2011 after a Select Committee Review. The Minister of Finance has confirmed publicly that the FSA would be set up thereafter in January 2012. The lease arrangement for rental of premises for the FSA has been finalized.</p> <p><u>Update:</u></p> <p>Financial Services Authority (FSA) Bill was enacted on November 22nd 2011. The formal establishment of the FSA is targeted for April 2012.</p> <p>Meetings are ongoing with the Director General/Finance and Planning and other representatives of the Ministry of Finance (Single Regulatory Division (SRD)) to address all logistics of the establishment of the FSA. The IFSA, SRD and Cooperatives Division are expected to be merged into the FSA and upon the request of the Director General, has now each assessed its human resources to determine</p> |
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| | | <ul style="list-style-type: none"> • Use of short-term contracts compromises independence and results in turnover that diminishes effectiveness of judiciary; • Need for additional AML/CFT training for judges and magistrates. | <p>total of at least two full days of training per year. The Department should consider coordinating with the FIU in researching, designing, and providing such additional training;</p> <ul style="list-style-type: none"> • Consideration should be given to adding airport scanners and permanent trace detector, as well as mobile canine squads for ET Joshua Airport and the main seaport. <p>Law Judiciary:</p> <ul style="list-style-type: none"> • Consider longer term contracts for magistrates of at least five and up to ten years be used. | <p>competency of staff in order to facilitate the transition of competent staff and requisite skills into the FSA.</p> <p>A World Bank Consultant has been assigned to assist SVG in the establishment of the FSA, has met with IFSA, SRD and the Co-operatives Division, to give strategic direction to the commencement phase of the FSA and work in ongoing to finalize a Business Plan for the first year of operation of the FSA. The first annual Budget is also being finalized and the organizational chart has been finalized.</p> <p>The FSA Act: a Brief Oversight:</p> <ul style="list-style-type: none"> • ‘Financial entities’ and ‘registered entities’ are clearly distinguished, as would be expected. The FSA has responsibility for the regulation and supervision of financial entities (international banks, mutual funds, insurances, money service businesses, registered agents and trustees, building and friendly societies and credit unions) and for the administration of registered entities (trusts, IBCs and LLCs). • Wide powers are vested in the FSA including suspension and cancellation of licenses and taking any action remedial or otherwise, as is necessary. • Express compliance provisions are stipulated as well as the responsibility to ensure compliance with the FSA Act, other sector specific legislation and AML/CFT law. • Powers of examination and investigation are detailed. The power to obtain freezing orders is provided, a power not previously held by any regulatory authority. |
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| | | | | <ul style="list-style-type: none"> • Access to information is provided to the FSA from financial and registered entities, auditors and from any person believed to have the information sought. • Administrative penalties as well as criminal offences have been provided. • An appeals procedure to an Appeal Tribunal is stipulated for appeals that would previously have been laid before the Court. <p><u>Update- August 2012</u></p> <p>The FSA Board of Directors and Executive Director have been appointed by Cabinet. A three (3) year Strategic Plan and Budget have been prepared. Other logistics are being sorted pending the imminent establishment of the FSA. The FSA is expected to be established during the latter half of 2012.</p> <p><u>Update October 2012</u></p> <p>See update on the FSA above.</p> <p><u>Update February 2013</u></p> <p>The Financial Services Authority (FSA) Act was proclaimed on November 12, 2012. The FSA is now fully functional.</p> <p>The FSA is responsible for , among others, AML/CFT supervision of the international financial services sector, financial institutions such as money services businesses and the non- bank domestic institutions such as Credit Unions and Building Societies.</p> <p><u>Update-August 2013</u></p> <p>Two and a half months after its establishment, the FSA intervened and took management and control the only building society in SVG, the largest and most iconic non bank financial institution. Prior to intervention, this</p> |
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| | | | | <p>financial institution was experiencing severe liquidity problems and poor management. The FSA has seconded some of its staff to assist with the day to day activities of the institution , which is now well on its way to financial stability. This intervention has been a test of the FSA's capabilities and capacity, both at a legislative and human resources level, and has illustrated that the FSA is well equipped to carry out its very important regulatory functions. Notwithstanding the ongoing crisis management in relation to the building society being undertaken by the FSA, the FSA has simultaneously also undertaken extensive work in the Credit Union Sector to ensure that the sector is effectively supervised and that the financial condition of all the country's credit unions is intact. Onsite examinations of all credit unions have now been undertaken.</p> <p>Update-February 2014</p> <p>Three of the six credit unions provide agency services on behalf of the money remittance company, Western Union.</p> <p>On-site examinations were done using a risk-based approach with the objective of evaluating the safety and soundness of the Credit Union, including compliance with laws and regulation. The main areas of concentration are protection; effective financial structure; asset growth; rates of return and costs; liquidity; and management and ML/CFT.</p> <p>The results of the onsite inspections were mixed where two credit unions were classified as low risk; two were considered medium risk; and two high risk.</p> <p>Based on the on-site examination, three credit unions were required to prepare re-capitalisation plans; one was required to signed a memorandum of agreement with the FSA; and recommendations were given to the others so that corrective action can be taken on areas of weakness identified.</p> <p>The Authorities have completed a review of the draft POCA Bill and AML/CFT Regulations.</p> <p>Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to</p> |
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| | | | | <p>supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u> As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPS for AML/TF purposes.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p>Two new staff members have been hired by IFSA to continue with its efforts to build on regulatory and supervisory capacity, namely a senior analyst and legal officer with very relevant qualifications and experience.</p> <p>Two other temporary staff members have been hired by IFSA to assist in reviewing and updating its registry systems to ensure efficiency and accuracy of records and statistics.</p> <p>IFSA’s recent associate membership in the Caribbean Group of Banking Supervisors (CGBS), allows for increased training opportunities and assistance with the further building of its supervisory capacity.</p> |
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| | | | | <p>Approval has also been obtained for IFSA to join the International Association of International Supervisors (IAIS), however IFSA has requested deferment of membership so that costs of membership can be shared under the proposed FSA.</p> <p>IFSA regulatory staff member (Examiner with responsibility for AML/CFT) has commenced studies from the International Compliance Association (ICA) with the University of Manchester for a Diploma in AML/CFT due to be completed in September 2011.</p> <p>The final examination for the said AML/CFT Diploma was completed by IFSA's regulatory staff member in September 2011 and results are expected by November 2011.</p> <p><u>Update:</u></p> <p>IFSA's regulatory staff member was awarded a Diploma in Anti Money Laundering, with Merit, by the International Compliance Association (ICA) on November 30th 2011.</p> <p>Other noteworthy training:</p> <ul style="list-style-type: none"> -Another of IFSA's regulatory staff successfully completed an examination at a Banking School and Analysis training programme which was held in December 2012. - Yet another member of IFSA's regulatory staff is pursuing accounting examinations to complement her legal qualifications. -The Deputy Director attended the Small Countries Financial Management Programme and received certification for this Programme from Isle of Man Small Countries Financial Management Centre and the Oxford University, England. - A member of the Registry staff is pursuing certification in Offshore Finance and Administration from the Institute of Chartered Secretaries Association (ICSA). <p>A three year TA project has begun, spearheaded by the ECCB and funded by the World Bank, with respect to strengthening accountability in the non-bank financial sector in all OECS countries. IFSA and the Ministry of Finance have been actively participating in discussions</p> |
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| | | | | <p>with ECCB in keeping with the Action Plan pertaining to this Project.</p> <p><u>Update:</u></p> <p>IFSA and the Ministry of Finance continue to be involved in this Project. A World Bank Consultant has been providing assistance to SVG in the establishment stage of the FSA.</p> <p><u>Update February 2013</u></p> <p>Several new staff members with the requisite training and expertise have been recruited by the FSA to enhance the regulatory capacity of the FSA</p> <p><u>Update April 2014</u></p> <p>Aside from the legislative framework, major positive changes have taken place on the administrative side in the implementation of recommendations of the DAR 2009. SVG has made tremendous progress in improving its resources in key areas – regulatory authority(FSA), the DPP's Office, AG's Chambers and the FIU (attached document on Resources refers). The following is of note:</p> <ul style="list-style-type: none"> • The resources of SVG's FSA are such that in its first year of establishment, it was able to undertake a ground breaking intervention into the country's sole building society (largest non bank financial institution, with a membership of one third of SVG's population) and successfully stabilize this institution. This was historic for the Eastern Caribbean and most of the larger Caribbean region. During this same period and to date, when it still continues its close oversight of the said building society, the FSA was/is able to execute all of its other regulatory functions and ensure that the other entities under its oversight were/are properly supervised (the IFS (|
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| | | | | <p><i>international banks, mutual funds, international insurance and registered agents), insurances, credit unions and money service businesses).</i> This included but is not restricted to ensuring that the credit union sector posed no risks, AML/CFT or otherwise to the financial sector of SVG. This was done by closely examining the credit unions' operations through offsite and onsite examinations.</p> <p>FSA became responsible for the supervision of credit unions November 2012, and its available resources made such progress possible. Likewise, in the insurance sector, full scope site examinations have commenced under the FSA in its first year of existence notwithstanding its work with the building society afore-mentioned, and its other priority focus at the time of the credit union.</p> <ul style="list-style-type: none"> • The significance of the progress which SVG has made on the regulatory front, in keeping with recommendations of the DAR, should not be underestimated - SVG has ensured the relevant governing legislation is in place with effective powers to the regulator (the FSA Act outlines <i>inter alia</i>, appropriate reporting requirements, sanctions, access to information powers, ETC) (power to intervene and assume management and control of a financial institution has already been successfully tested), ensured the appropriate administrative framework is in place by the physical setting up of the FSA, and significantly, ensured that the FSA is equipped with the appropriate human, financial and technical resources. • FSA's staff component of 25 persons inclusive of 15 suitably |
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| | | | | <p>qualified and experienced regulatory staff, is sufficient to effectively carry out its mandate. Of note also are: (1) there is room for adding additional staff as required; (2) the FSA's Board of Directors comprises a plethora of multidisciplinary highly experienced skills in law, accounting, auditing banking, finance and actuarial science; (3) the FSA's ED and Dep ED are experienced former heads of regulatory authorities; (4) the FSA has access to consultancy and expert advice from at least 7 experts in the areas of banking, mutual funds, insurance, credit unions, general strategy and problem resolution and regulation.</p> <ul style="list-style-type: none"> • It is worthy to underscore the fact that had SVG's regulatory resources NOT been sufficient to undertake an intervention which meant managing and controlling a major financial institution, it clearly would not have been able to assume this major responsibility successfully. This matter has already been the subject of a case study at a 2013 CARTAC Credit Union Regulators Workshop and is presently also the subject of a World Bank case study, as a positive 'turnaround' of a troubled institution. • The foregoing illustrates a strengthening of not only the country's regulatory framework but also its AML/CFT framework. AML/CFT supervision and enforcement is a legislated function of the FSA and a major component of the FSA's offsite and onsite supervision processes, thus, it is |
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| | | | | <p>clear that implementation of an effective AML/CFT regime is being actively promoted by the work of the FSA.</p> <ul style="list-style-type: none"> • The FIU has added to its resources and operating systems based on the DAR's recommendations. SVG's FIU has four (4) lawyers and this is innovatively proven to be very effective in obtaining positive results in relation to implementation of the AML/CFT law. These lawyers also engage in analytical work where applicable and as required, and also prosecution in conjunction with the DPP's Office, again where required and as applicable. • SVG's FIU is a forerunner in the Eastern Caribbean and wider Caribbean in relation to the results obtained in money laundering investigations and prosecutions, training to other FIUs on same, and actively obtaining production, restraint and forfeiture orders in order to carry out its mandate. The FIU has built a strong suspicious activity reporting regime, such that there is little or no likelihood that suspicious activities under the AML/CFT law would go undetected. • SVG FIU has been described as a 'centre of excellence' and model FIU and, in 2009, commenced a Secondment Programme, sponsored by the then UKSAT, to host and train participants from the OECS and Barbados. To date, we have hosted twenty (20) participants from six (6) countries which include St. |
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| | | | | <p>Lucia, St. Kitts, Grenada, Antigua, Barbados and Dominica.</p> <p><u>UPDATE – MARCH 2015</u></p> <p>To date there have been twenty four (24) participants from seven countries (7): St. Lucia, St. Kitts & Nevis, Grenada, Antigua & Barbuda, Barbados, Dominica and Montserrat</p> <ul style="list-style-type: none"> • In January 2010, the FIU Dominica hosted a return Secondment Programme where a Financial Investigator travelled to Dominica for a three (3) week period and was involved in searches and interviews. He also assisted with the preparation of court documents such as Production Orders, Restraint Orders and Prosecution Statements. • In July 2013, the FIU was again hosted on a return secondment programme to Dominica. On that occasion Director of the Unit, Mr. Grenville Williams conducted two (2) Workshops, the first dealing with the implementation of the new cash seizure provisions contained within the recent amendments to the Proceeds of Crime Act (Dominica). Participants included members of the FIU, Police Force and Coastguard and Customs Department assigned to the Financial Intelligence Unit. The second Workshop included Magistrates and Lawyers from the Attorney General's Chambers and Prosecutors from the Office of the Director of Public Prosecution. • In April 2013, The FIU was invited to participate in a specialized training course hosted by the Republic of China, Taiwan. Four (4) |
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| | | | | <p>members of the FIU attended, namely the Director Grenville Williams, a Legal Officer and two (2) Financial Investigators.</p> <ul style="list-style-type: none"> • The objectives of the course were to provide participants with knowledge of the Legal and practical Framework operated within the Republic of China (Taiwan) to combat the crimes of money laundering, terrorist financing and other serious crimes and improve relations between both FIUs. The course covered the topics of AML/CFT laws and mechanism, STRs and CTRs E-reporting systems, Application of AML/CFT related systems, Financial Supervision, Financial Examination for FIs, FIs reporting procedure for STRs and CTRs, Reporting and Analysis of CTRs and Case Study, Reporting Procedure for Cross Border Transportation of Currency and Bearer Negotiable Instruments, Reporting and Analysis of STRs and Case Study, Mechanism of seizure and Confiscation of Proceeds of Crime. • In September 2013, the FIU was hosted on a return Secondment to Belize. On that occasion the Director and a Financial Investigator provided technical assistance to the FIU Belize. The focus was on developing Suspicious Activity Reports, strengthening cooperation between the Police and FIU, preparation of restraint and confiscation files and developing cash forfeiture and money laundering cases. <p><u>UPDATE – MARCH 2015</u></p> |
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| | | | | <p>In September 2013, the FIU was hosted on a return Secondment to St. Lucia. On that occasion a Legal Officer was seconded for two (2) weeks to facilitate training of Police Officers and Prosecutors; assist with cases; and other matters relevant to Proceeds of Crime and Money Laundering legislation.</p> <ul style="list-style-type: none"> The FIU has since its inception been working closely with the DNFBPs in SVG on their AML obligations and compliance programme. It is thus best placed to advance to the position of assuming regulatory responsibility over DNFBPs. The FIU's resources are adequate to allow the desired level of regulatory supervision over DNFBPs and its supervision of same will be reviewed by the NAMLC within one year of the FIU undertaking this responsibility to ensure that adequate resources are in place. <p><u>UPDATE – MARCH 2015</u> Supervision & Sanctions: POCA 2013 – Part VII addresses Regulation, Supervision & Enforcement in Sections 151 to 159</p> <p>Section 151 states that the Anti-Money Laundering and Terrorist Financing Regulations shall designate: (a) a person or body as the supervisory authority for regulated service providers; and (b) one or more persons or bodies, which may include the Financial Services Authority and the Financial Intelligence Unit, as the supervisory authorities for externally regulated service providers and non-regulated service providers.</p> <p>Section 152 and Schedule 4 of POCA 2013 addresses the functions, powers and duties of the supervisory authorities.</p> <p>Section 152 (1) states that the objective of a supervisory authority is to supervise relevant service providers in relation to their AML/CFT obligations and to enforce compliance with those obligations.</p> |
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| | | | | <p>In the Schedule, Section 3- Power to require information and production of documents; Section 5 – Compliance visits; Section 9 – Offences; and Section 10 – Enforcement action.</p> <p>The list of Service Providers is found in Schedule 1 of the AML & TF Regulations, 2014 and Externally Regulated Service Providers are found at Schedule 2.</p> <ul style="list-style-type: none"> • Both the AG’s Office and the DPP’s Office have substantively added to its resources since the DAR 2009 (<i>Resources document refers</i>). • The Customs and Excise Department and the Royal SVG Police Force have been recipients of ongoing training and awareness raising on AML/CFT in general and specifically, effective AML/CFT detection and investigation, by the FIU. The Customs Department consistently sends representatives to the Financial Investigation Course by REDTRAC in Jamaica. <p><u>UPDATE – MARCH 2015</u></p> <ul style="list-style-type: none"> • The FIU has continued training of all arms of the Royal St. Vincent and the Grenadines Police Force including the Coast Guard, Rapid Response Unit and Narcotics Unit. <p>Additionally, training by the FIU has been made a part of the curriculum of the Police Training School and the number of contact hours with recruits has been increased.</p> <ul style="list-style-type: none"> • Following training received by the former Chief Magistrate in the United Kingdom, Police Officers play a greater role in application for Detention Orders thus necessitating a greater understanding of AML on their part. This has proven to be immensely beneficial |
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| | | | | <ul style="list-style-type: none"> • In January 2015 the FIU added an additional Financial Investigator who immediately attended a training course on core skills in financial investigation. • A greater number of the FIU staff now engage in the analysis of SARs • The entire FIU staff received training in i2 and iBase in September 2014 from a certified expert in that field. This has aided in the more efficient analysis of SARs and better feedback to reporting entities. • The office of the DPP has produces a procedures manual for prosecutors to ensure consistent and effective discharge of duties. <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 • High Court Judges received training in AML/CFT and more specifically Civil Recovery proceedings in February 2015 • The Customs & Excise Department receives funding annually from the Confiscated Assets Fund for AML/CFT training at REDTRAC. <p>UPDATE-February 2016</p> <ul style="list-style-type: none"> • The FIU added another Financial Investigator to Staff, whose primary duties include the analysis of SARs. • All Staff members trained in SARs analysis is presently involved in scrutinising and investigating SARs • The FIU has successfully executed it first batch of training with all the arms of the RSVGPF which are involved in any way with the investigation of money laundering and its |
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| | | | | <p>predicate offences. There is a second batch of training scheduled for the month of March.</p> <ul style="list-style-type: none"> All regulatory staff at the FSA have been trained in Risk Based Supervision inclusive of an AML/CFT component as well as other sector specific training. |
| 31. co-operation | National | LC | <ul style="list-style-type: none"> The FIU does not have specific FIU authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis; The NAMCL does not have a statutory role for policy coordination; Domestic regulatory authorities do not have uniform bases upon which to cooperate among each other and with law enforcement. | <p>FIU Act should be amended to specify the FIU authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis.</p> <p>An appropriate amendment submitted to Hon. AG for consideration.</p> <p>The NAMLC continues to play a strong/integral role as a forum for national co-operation of the competent authorities in SVG. Policy continues to be formulated at a national level and it is being considered by the authorities whether a statutory role is necessary for policy to be made and implemented.</p> <p>Domestic regulatory cooperation will be enhanced legally and formally under the FSA. The FIU is in the process of establishing MOUs with IFSA and will be seeking to do same with the proposed FSA.</p> <p>The FIU has already signed MOUs locally with the Royal St. Vincent and the Grenadines Police Force and the Immigration Department.</p> <p>Draft MOUs between the FIU and IFSA, the FIU and the Customs and Excise Department, the FIU and the Inland Revenue Department, the FIU and the National Insurance Services have been sent to the Hon. AG for her advice and attention. These are expected to be signed in the coming months.</p> <p><u>Update:</u></p> <p>The Hon AG's office is still in the process of reviewing the local MOUs as mentioned above. It is expected that they will soon be finalized for signature.</p> <p><u>Update-August 2013</u></p> <p>The FIU Act has been amended as stated above (Act No. 7 of 2013) and now specifies the FIU's authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis.</p> <p>The Hon AG has completed her review of the local MOUs and as such it is anticipated that the FIU will sign local MOUS with the following governmental departments within the next month:</p> |

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| | | | | <p>-Customs and Excise Department -Financial Services Authority -Inland Revenue Department -National Insurance Service -Electoral office -Commerce and Intellectual Property Office</p> <p><u>Update-February 2014</u> Local MOUs have been circulated to the heads of the aforementioned departments for their perusal and comments, if any, prior to signature and execution.</p> <p><u>UPDATE - AUGUST 2015</u></p> <ul style="list-style-type: none"> • <i>Proceeds of Crime Act, No. 38 of 2013</i> Section 119 (1): The Committee (NAMLC) has the following functions: <ol style="list-style-type: none"> (a) To identify and assess the ML and TF risks to which the state is exposed; (b) To periodically review and update the national ML and TF risk assessment carried out in accordance with paragraph (a); (c) To coordinate national AML and TF policies; (d) To advise the Minister: <ol style="list-style-type: none"> (i) in relation to the formulation of policies and on legislation and regulations concerning ML and TF; and (ii) as to the participation of the State in the international effort against ML and TF; (e) To issue one or more Codes under section 169; and (f) To perform such other functions, and exercise such powers; <ol style="list-style-type: none"> (i) As may be assigned or given to the Committee by the Act, any regulations made under this Act or any other law; or (ii) That are ancillary to the functions set out in this section. <ol style="list-style-type: none"> (2) In undertaking its functions, the Committee shall take account of international standards and best practice in relation to the prevention and detection of ML and TF. <p><u>UPDATE – February 2016</u></p> |
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| | | | | <ul style="list-style-type: none"> The FIU Act was amended in 2013 to specify that the FIU can request and obtain appropriate law enforcement and other governmental information when needed. See the amendment attached. |
| 32. Statistics | LC | <p>Supervisors: LC</p> <ul style="list-style-type: none"> Inadequate and untimely statistics obtained by insurance supervisors with respect to e.g. life and investment linked insurance policies; Insufficient financial statistics received and generated by financial sector supervisor to assist them in risk-profiling FIs for ML/FT risks, including with respect to their money remittance business, back-to-back loans, etc. <p>FIU: LC</p> <ul style="list-style-type: none"> Statistics on ML and FT vulnerabilities and trends are lacking. <p>Law Enforcement: PC</p> <ul style="list-style-type: none"> Most AML/CFT statistics are maintained by the FIU and the crime trend statistics on predicate offenses are not analyzed alongside or synthesized with AML/CFT-specific trends. | <p>Supervisors:</p> <ul style="list-style-type: none"> Inadequate and untimely statistics obtained by insurance supervisors with respect to e.g. life and investment linked insurance policies; Insufficient financial statistics received and generated by financial sector supervisor to assist them in risk-profiling FIs for ML/FT risks, including with respect to their money remittance business, back-to-back loans, etc. <p>FIU/Police:</p> <p>The FIU and Police should maintain statistics on trends, vulnerabilities and typologies of ML and FT offenses, and predicate offenses that analyze and synthesize the information obtained separately by each agency.</p> | <p>IFSA has been reviewing all of its databases to ensure the maintenance of up to date and accurate statistics. IFSA shall soon be concluding a Full Scope Review of all its registered entities to ensure the accuracy and adequacy of its records. Additional staff and up dated software were sourced to properly carry out this task. A full audit of IFSA's IT systems was also completed and the recommendations of same are being implemented, also with the aim of maintaining, generating and utilizing accurate records and reports, to be used among other things, in various analyses.</p> <p>The Full Scope Review of all registered entities has been successfully completed and the objectives of undertaking this task were achieved (ref: Rec. 23 above).</p> <p>The FIU maintains statistics on trends and typologies and regularly includes same in its quarterly and annual reports post mission.</p> <p>With the implementation of its website in May 2010 the FIU periodically inputs statistics on trends and typologies of ML and FT offences.</p> <p><u>Update -August 2012</u></p> <p>The FIU continually updates its website and continues to post trends and typologies of ML and TF offences. These are also included in newsletters which are sent to all financial institutions and relevant businesses, and continue to be included in quarterly and annual reports.</p> <p><u>Update-August 2013</u></p> <p>Trends and typologies continue to be published in the FIU's quarterly reports as well as monthly newsletters.</p> <p><u>Update-February 2014</u></p> <p>As above.</p> <p><u>UPDATE – MARCH 2015</u></p> <p>The FIU submits quarterly statistics to the Police as it relates to monies seized, detained and forfeited under the relevant legislation. Information is also provided as it</p> |

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| | | | | <p>relates to money laundering charges and confiscation proceedings.</p> <p>UPDATE –FEBRUARY 2016: The FSA Annual Report and Accounts is attached as well as its Insurance Report, both of which are completed on an annual basis. Financial entities are meeting their reporting requirements under the law.</p> |
| 33. Legal persons–beneficial owners | PC | <ul style="list-style-type: none"> • Bearer shares in IBCs are not properly immobilized since some are in hands of custodians that have not been approved by IFSA; • With respect to IBCs, onsite inspection procedures of IFSA not sufficient to ensure that adequate, accurate and complete information about beneficial owners is being collected and maintained by RAs; • For local companies, the Companies Registrar does not have legal authority to ensure that adequate, accurate and complete information about beneficial owners is available to them or to law enforcement authorities; • For local companies, there is no restriction on the use of nominee shareholders and directors in Companies Act nor is it possible for Companies Registrar to determine if nominees are being used. | <ul style="list-style-type: none"> • With respect to IBCs: (i) relevant laws should be amended to provide (a) that only RAs and approved custodians may immobilize bearer shares, (b) IFSA with the authority to strike off an IBC under Section 172 of the IBC Act for reasons of public policy along the lines of its authority under Section 34(1)(a) of the Insurance Act; (ii) measures should be taken by IFSA to verify, at a minimum, that (a) information about beneficial ownership of legal persons in the IBC Register is adequate, accurate and current, and consistent with such information about legal persons held by RAs, (b) AML/CFT procedures of both RAs and approved custodians are effective and comply with the laws of their home country as well as those of SVG, and (c) bearer shares are held in “safe custody” under the IBC Act and therefore have been properly immobilized by RAs and approved custodians, and that only approved custodians as defined by the IBC Act are authorized to immobilize bearer shares; • Consideration should be given to amending relevant laws administered by IFSA to require a wide range of effective, dissuasive and proportionate administrative and criminal sanctions against controlling shareholders, directors, officers and companies for failure to disclose material | <p>Section 30 (1) of the International Business Companies (Amendment and Consolidation) Act, 2007 requires that the Registered Agent and Approved Custodian keep in their safe custody all share certificates issued in respect of all bearer shares and that the said certificates cannot be distributed. The Act also provides for the following:</p> <ol style="list-style-type: none"> A penalty of ECS\$10,000.00 for the unauthorized issue of, or conversion to or exchange for bearer shares by an IBC; A penalty of ECS\$20,000.00 for the unauthorized issue of, or conversion to or exchange for bearer share by segregated cell company and; A penalty of EC\$10,000.00 for failure to notify registrar of IBCs, failing or refusing to comply with immobilization provisions. <p>Of the onsite inspections conducted since January 2009, seven were confirmed to be duly authorized to have issued bearer share certificates. All agents, inclusive of those who do not issue the said shares, have been made fully aware of their obligations in accordance with the Act. Any Agent who is found to be in breach of the Act would be fined accordingly if steps have not been taken to address the said matter.</p> <p>Procedure for Approving Custodians</p> <p>The Authority has approved one custodian - this was done in October, 2008. The procedure is as follows:</p> <ul style="list-style-type: none"> • The Registered Agent makes a request to the Registrar of IBCs who then conducts in house due diligence |

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| | | | <p>information to IFSA or to RAs or for misuse of any company in respect to ML, FT or any other predicate crime;</p> <ul style="list-style-type: none"> • IFSA's onsite inspection procedures should be revised to ensure that it has access to and is verifying that adequate, accurate and complete information with respect to beneficial ownership of IBCs is being collected and maintained by RAs; • IFSA should develop policies and procedures for approving custodians to hold immobilized bearer shares; • With respect to local companies, the Companies Act should be amended to (i) provide the Companies Registrar with the requisite legal authority to ascertain the beneficial ownership of all companies registered in SVG, and to ensure that information about beneficial ownership of legal persons in the Local Companies Registry is adequate, accurate and current, and (ii) consideration should be given to including a wide range of effective, dissuasive and proportionate administrative and criminal sanctions against controlling shareholders, directors, officers and companies for failure to disclose material information to the Companies Registrar and for misuse of any company in respect to ML, FT or any other predicate crime; • The use of nominee and non-SVG corporate directors and shareholders should be prohibited in the IBC and Companies Acts unless measures are taken to ensure that adequate, accurate and complete beneficial information is made available to IFSA and the Companies Registrar respectively and that the IBC and Companies Registers so reflect; and | <p>checks using the search engines World compliance and World Check. The individuals CV and supporting evidence is also perused to fulfill the fit and proper test.</p> <ul style="list-style-type: none"> • A summary report is then submitted to the Executive Director who further discusses the said matter with the Registrar. The Executive Director would then conduct further investigations with governing regulatory bodies to ensure that the individuals are indeed befitting the custody of the said certificates. • After this has been done, the Executive Director would submit her findings to the Board of Directors of IFSA. The application would be subject to additional scrutiny and after careful deliberations and consideration of the jurisdiction of the applicants the Board would vote on whether the application is to be approved or declined. • After this process has been done the Executive Director advised the Registrar of the decision and the Registrar or the Executive Director informs the Registered Agent of the approval or dis-approval of the Custodian. <p>This procedure requires the Board of Directors approval. The Board of Directors of IFSA is quite aware of the AML/CFT expertise required as the Executive Director, the Chairman and the Director of Finance and Planning are members of the National Anti- Money Laundering Committee.</p> <p>Amendments to the law so as to reflect recommendations of the IMF Assessors are being considered against a full scope review of all laws applicable to the IFS industry.</p> <p>Amendments have been submitted to the Hon. AG which addresses the deficiencies identified by the DAR under this section. For example:</p> |
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| | | | <ul style="list-style-type: none"> The Mutual Funds and International Insurance Acts should be amended to prohibit the use of bearer shares by licensees, and the Mutual Funds Regulations revised to reflect this change. | <p>-Recommendation to amend the IBC Act to reflect the recommendations of the IMF assessors has been sent to the AG for consideration save for that of immobilizing bearer shares as this is already captured under the law.</p> <p>-Recommendation to amend definitions, Section 4 of the International Insurance Act and to amend Regulation 11 sent to AG for consideration.</p> <p><u>Update February 2013</u></p> <p>The amendments to the IBC Act and the Insurance Act are at the draft stage.</p> <p>IFSA's onsite examination procedures have been enhanced owing to implementation of recommendations of the IMF Assessors and further training carried out under the EU TA Project (previously reported upon). An essential component of every on site examination of registered agents is verification of procedures for the immobilization of bearer shares. This issue is ventilated with the RA and procedures verified on site and against IFSA's records.</p> <p>Proper immobilization of bearer shares is part of IFSA's written standard approach as a necessary check in a RA onsite examination.</p> <p>Another round of onsite examinations has commenced and Registered agents are currently being reviewed with particular emphasis being placed on evidencing the custody of bearer shares.</p> <p><u>Update February 2013</u></p> <p>The second round of onsite inspections of Registered Agents in four years was completed in September, 2012. Most Registered Agents were found to have proper AML/CFT procedures in place</p> <p><u>Update-August 2013</u></p> <p>The third round of onsite inspection has commenced for 2013 and is ongoing.</p> <p><u>Update-February 2014</u></p> <p>Onsite inspections of the Four (4) International Banks and Five (5) Registered Agents have been completed since the last round on onsite inspections began.</p> |
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| | | | | <p><u>UPDATE-August 2014</u> The third round of onsite inspections since 2008 began in 2013 and to date twelve (12) of sixteen (16) Registered Agents have been examined, with the remaining 4 to be completed before year end.</p> <p>The fourth round of onsite inspections of international banks since 2008 began in 2013 and the onsite examinations of all four (4) International Banks have been completed.</p> <p><u>UPDATE – February 2015</u> The fifth round of onsite examinations of international banks will commence in the fourth quarter of 2015. The fourth round of onsite examinations of Registered Agents and Trustees are ongoing and scheduled to be concluded in 2016.</p> <p><u>UPDATE –April 2015</u> The second round of onsite examinations of credit unions and building societies, which assess prudential as well as AML/TF requirements will commence in the second quarter of 2015.</p> <p>The second and third rounds of onsite examinations of Money Services Businesses and Insurance companies will commence in the second quarter of 2015.</p> <p><u>Update- August 2015</u> Two on site examinations have been completed so far in the second round for the credit unions and Building societies. The other three examinations will be completed by November 2015.</p> <p>With respect to Money Services Businesses the second round of onsite examinations will commence in the first quarter of 2016.</p> <p><u>FSA Capacity Building:</u> the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision</p> |
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| | | | | <p>in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries</p> <p><u>UPDATED: FEBRUARY 2016</u></p> <p>The introduction of the Anti-Money Laundering and Terrorist Financing Regulations, 2014 has strengthened the regulation of bearer shares. Regulation 14 (2) (f) (ii) of the aforementioned states that service providers are required to conduct enhanced customer due diligence and ongoing monitoring on a risk- sensitive bases for companies that have nominee shareholders or <u>shares in bearer form</u>. Additionally, they are required to keep records for a minimum retention period of seven years. Thus, the service provider is required to hold information on all beneficial owners and director owners of all of their clients. This requirement must be maintained whether or not the service provider has an approved custodian who holds customer due diligence information. Failure to comply this requirement is an offence on summary conviction and would result service provider would be liable to a fine of \$100,000 or two years imprisonment.</p> |
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| <p>34. Legal arrangements – beneficial owners</p> | <p>NC</p> | <ul style="list-style-type: none"> • With respect to ITRs, no laws, regulations or other enforceable means requiring registered trustees to identify beneficial ownership of trusts (e.g. the settlor, trustee, beneficiaries and protector of the trust) and allowing IFSA access to such information; • With respect to ITRs, IFSA does not conduct sufficient inspections of registered trustees so as to ensure that beneficial owners of trusts have been identified; • With respect to local trusts, no laws, regulations or other enforceable means are in place to: (i) ensure that beneficial owners are identified; (ii) provide a mechanism so that competent authorities have access to adequate, accurate and complete information about beneficial owners of local trusts; and (iii) prevent misuse of local trusts for purposes of ML and FT; <ul style="list-style-type: none"> • With respect to both ITRs and local trusts, no restrictions on use of companies as settlors, trustees or beneficiaries. | <ul style="list-style-type: none"> • With respect to ITRs, relevant laws, regulations or other enforceable means should be amended to require registered trustees to identify beneficial owners of trusts (e.g. the settlor, trustee, beneficiaries and protector) and the IT Act should be amended to make clear that IFSA has the authority to request books, records and other information about beneficial owners of trusts; • With respect to ITRs, IFSA should conduct sufficient inspections of registered trustees so as to ensure that beneficial owners of trusts are identified; • With respect to local trusts, measures, including laws, regulations and other enforceable means, should be adopted to: (i) ensure that competent authorities have access to adequate, accurate and complete information about beneficial owners of trusts; (ii) prevent misuse of local trusts for purposes of ML and FT; and (iii) prevent use of companies as settlors, trustees or beneficiaries of trusts unless they can be adequately identified; • With respect to both ITRs and local trusts, relevant laws should be amended to prohibit use of companies as settlors, trustees or beneficiaries; and • With respect to both ITRs and local trusts, consideration should be given to amending relevant laws to provide | <p>All Registered Agents are also Registered Trustees and as such are subject to on-site inspections. The Authority has conducted onsite inspection of fourteen (14) Registered Agents over the period January 2009 to October, 2010. The Registered Trustee in accordance with the 63 (1) International Trust (Amendment) Act, 2002 is required to keep the following:</p> <ul style="list-style-type: none"> (a) a copy of the instrument creating the trust and copies of any other instrument amending or supplementing such instrument; (b) a register in which the following information is set out: <ul style="list-style-type: none"> (i) The name of the settlor and the name of the beneficiary or the beneficiaries and the names of the trustee or trustees and where applicable the name of the protector. (ii) if a purpose or charitable trust, a summary of the purposes of the trust and the name of the protector(s) of the trust, and (iii) Such documents as are necessary to show the true financial position of the trust, which shall be current as of one month following the close of each fiscal quarter. <p>Section 55 A & B the International Trust (Amendment) Act, 2002 has given the Registrar of Trust the power to do the following:</p> <ul style="list-style-type: none"> a) Require the Registered Trustee to provide the Authority; or any person acting on behalf of the Authority, at a time as may be specified, any information which the Registrar of Trusts may reasonably require for ensuring that the Trust complies with the provisions of this Act and any code of practice; b) Require the Registered Trustee to provide the Registrar of Trusts with a report prepared by the auditor or accountant of the Trust or any other person with the relevant professional skill, on a |
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| | | | <p>competent authorities with effective, dissuasive and proportionate sanctions to ensure that requisite information on beneficial owners is being disclosed and that corporate vehicles are not being used for ML or FT.</p> | <p>matter which the Registrar of Trusts may require under part (a) and the report must be prepared on a form as specified by the notice.</p> <p>In addition the Registrar of Trust has the power to require the production of documents as follows:</p> <p>The Registrar of Trusts may by notice in writing served on the Registered Trustee of the trust require the Registered Trustee:</p> <p>a) to produce within a time and place as may be specified in the notice, any document of a description as may be so specified;</p> <p>b) to provide to an officer, servant or agent of the Authority any information, or to produce to him any documents as he may specify which the Registrar of Trusts may reasonably require for ensuring that the Trust is complying with the provisions of this Act and any code of practice.</p> <p>While the Registrar may require the above information, the names of the settlor, beneficiaries and trust protectors are provided upon registration of all International Trusts.</p> <p>Amendments to the law so as to reflect recommendations of the IMF Assessors are being considered against a full scope review of all laws applicable to the IFS industry.</p> <p>Requests for amendments as outlined above have been sent to the Hon. Attorney General.</p> <p>IFSA has completed inspections of all its RAs in 2010 and commenced its 2011 RA on-site inspections.</p> <p><u>Re: Registered Agents and Trustees:</u> As at September 28th 2011, nine onsite inspections were completed and the remaining five are expected to be completed by January 2012.</p> <p><u>Update:</u></p> <p>IFSA has undertaken onsite inspections of fourteen (14) Registered Agents as at 16th January, 2012. These entities have been found to have made significant progress since the last round of onsite inspections which was undertaken between late 2009 and 2010.</p> |
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| | | | | <p>IFSA is expected to complete onsite inspections of the final two (2) Registered Agents/ Registered Trustees, during the second quarter of this year.</p> <p><u>Update – August 2012</u></p> <p>The onsite inspection of the St.Vincent Trust Service Limited and the St. Vincent Trust Company Limited is scheduled to take place from September 24th to September 27th at the companies' head office in Liechtenstein. Two members of IFSA's staff will comprise the inspection team.</p> <p><u>Update October 2012</u></p> <p>The onsite inspection of the Two Registered Agents and Trustees was completed at their European offices as scheduled. As such, the 16 Registered Agents and Trustees licensed in SVG have undergone a second round of onsite inspections in four years.</p> <p><u>Update-August 2013</u></p> <p>The third round of onsite inspection has commenced for 2013 and is ongoing.</p> <p><u>Update-February 2014</u></p> <p>Onsite inspections of the Four (4) International Banks and of Five (5) Registered Agents have been completed since the last round on onsite inspections began in August 2013.</p> <p><u>UPDATE-August 2014</u></p> <p>The third round of onsite inspections since 2008 began in 2013 and to date twelve (12) of sixteen (16) Registered Agents have been examined, with the remaining 4 to be completed before year end.</p> <p>The fourth round of onsite inspections of international banks since 2008 began in 2013 and the onsite examinations of all four (4) International Banks have been completed.</p> <p><u>UPDATE – February 2015</u></p> <p>The fifth round of onsite examinations of international banks will commence in the fourth quarter of 2015. The fourth round of onsite examinations of Registered Agents and Trustees are ongoing and scheduled to be concluded in 2016.</p> |
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| | | | | <p><u>UPDATE – April 2015</u></p> <p>The second round of onsite examinations of credit unions and building societies, which assess prudential as well as AML/TF requirements will commence in the second quarter of 2015.</p> <p>The second and third rounds of onsite examinations of Money Services Businesses and Insurance companies will commence in the second quarter of 2015.</p> <p><u>Update- August 2015</u></p> <p>Two on site examinations have been completed so far in the second round for the credit unions and Building societies. The other three examinations will be completed by November 2015.</p> <p>With respect to Money Services Businesses the second round of onsite examinations will commence in the first quarter of 2016.</p> <p><u>FSA Capacity Building:</u> the FSA staff has been exposed to a number of training opportunities offered by regional agencies including CARTAC, the most recent being the, CARTAC sponsored training on Risk-Based Supervision in February, 2015. The FSA's Annual report 2013 (<i>attached hereto for reference</i>) illustrates the accomplishments and developments of the FSA. This report was provided to the CFATF and many other CFATF member countries.</p> <p><u>UPDATE: February 2016</u></p> <p>The Registered Trustees are in their fourth round of onsite inspections and are inspected every twelve to eighteen months. To date, satisfactory levels of compliance have been noted with respect to maintenance of Trust Registers. Registered Trusts are also required to comply with the due diligence requirement of the Anti-Money Laundering and Terrorist Financing Regulations, 2014.</p> |
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| International Cooperation | | | | |
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| 35. Conventions | LC | <ul style="list-style-type: none"> The SFT and Palermo Conventions have not been ratified. Section 5 of the Palermo Convention has not been implemented and the SFT Convention has not been fully implemented with regard to the application of offenses in UNATMA to terrorist acts, terrorist organizations and individual terrorists. <ul style="list-style-type: none"> UNATMA does not include two of the conventions which define terrorist offenses that are listed in the annex to the SFT convention. | <ul style="list-style-type: none"> SFT and Palermo Conventions should be ratified and fully implemented; UNATMA should be amended to include all conventions that define offenses to which the SFT Convention applies; <p>Legal provisions and other measures should be adopted in order to implement the requirements in UNSCRs 1267 and 1373. In particular, a mechanism for freezing funds, assets, and other financial or economic resources of terrorists and terrorist organizations.</p> | <p>Between 25th and 29th May 2010 there was a Specialized Workshop on the Prevention and Fight against Terrorism and its financing facilitated by the UNODC and the Government of St. Vincent and the Grenadines. The UNODC has endeavoured to provide technical assistance to redraft UNATMA and is in consultation with the Hon. AG on this matter.</p> <p>The consultation process between the Hon. AG and the UNODC continues with a view to redrafting the UNATMA.</p> <p><u>Update-August 2013</u> Both Palermo and the SFT Convention have been ratified by St. Vincent and the Grenadines. The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA.</p> <p>It is anticipated that the new POCA and CFT legislation will more fully implement the provisions of both Conventions and UNSCRs 1267 and 1373.</p> <p><u>Update-February 2014</u> The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments.</p> <p><u>UPDATE-August 2014</u> The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a 'Select Committee' to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code</p> |

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| | | | | <p>is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 Section 2 – “relevant Security Council Resolutions” means any resolution passed by the Security Council of the United Nations and listed in Schedule 2; <p>Schedule 2 – United Nations Security Council Resolutions</p> <ol style="list-style-type: none"> 1. Security Council resolution 1267 (1999) and its successor resolutions; 2. Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination; 3. Security Council resolution 1718 (2006) and its successor resolutions; 4. Security Council resolution 1737 (2006) and its successor resolutions; and 5. Any future Security Council resolutions which impose targeted financial sanctions in the context of the financing of the proliferation of weapons of mass destruction. <p>Sections 27 – 37 : Recovery and Forfeiture of Terrorist cash in Summary Proceedings</p> <p>Sections 38 – 44 : Forfeiture of Terrorist Property</p> <p>Sections 45 – 51 – Restraint Orders</p> |
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| | | | | Part VI – Freezing of terrorist property |
| 36. MLA | LC | <ul style="list-style-type: none"> Bilateral treaties on MLA do not have the force of law. | | |
| 37. Dual criminality | C | | | |
| 38. MLA on confiscation and freezing | C | | | |
| 39. Extradition | C | | | |
| 40. Other forms of co-operation | C | | | <p>SVG has to date signed 20 Tax Information Exchange Agreements with several more in the pipeline widening its scope of international cooperation. Double Taxation Agreements are currently under consideration with Turkey and will be targeted for establishment with other countries.</p> <p>Negotiations are ongoing for the establishment of TIEAs with the Slovak Republic, Portugal, Spain and Romania.</p> <p>SVG is set to undergo its Global Forum Phase 1 peer review in the 2nd half of 2011 and are currently preparing. In preparing, it is reviewing all relevant legislation relating to the availability of information, access to information and the exchange of information as it relates to transparency for tax purposes which opens doors to greater access to information. This will provide the opportunity to further ensure that there are no legal or other impediments to access to relevant information.</p> <p>Update:</p> <p>SVG has completed Phase I of the OECD Phase 1 Peer Review. Two members of IFSA's staff (Executive Director and the Senior Analyst) attended the Meeting of the Peer Review Group of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, in Brazil from February 27th - March 2nd 2012, on behalf of SVG to defend the Country's report. The country's legislative and regulatory framework for the availability, access and exchange of information for tax purposes was evaluated in this Phase 1 Review. Out of nine elements assessed, SVG was found to have 8 elements in place. The Phase 1 Review Report on SVG will be published on the OECD website on April 5th 2012, having been formally adopted on March 30th 2012.</p> <p>SVG has successfully completed this Phase 1 Review and as such, moves to a Phase 2 Review in the latter half of 2013.</p> <p>Further, SVG is considered to have a favourable Phase 1 Review Report, as out of nine elements assessed, eight</p> |

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| | | | | <p>were found to be in place. Work is already ongoing to address the missing element and the other recommendations of the Report.</p> <p>SVG is presently undergoing its OECD Phase I Peer Review of its legal and regulatory framework for the transparency and exchange of tax information. SVG submitted the duly completed Questionnaire required for this Peer Review, to its Peer Assessors on October 28th 2011, thus meeting the stipulated deadline. A draft Phase 1 Peer Review Report was submitted to SVG on December 22nd 2011 which SVG has responded to, and which will be presented at a Meeting of the Peer Review Group of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, in Brazil from February 27th - March 2nd 2012. Two members of IFSA's staff will be representing SVG at the said Meeting when SVG's report is expected to be finalized.</p> <p>In order to strengthen its tax information exchange regime, SVG enacted the International Co-operation (Tax Information Exchange) Act 2011 on November 25th 2011. This Act focuses on ensuring that the appropriate legislative framework exists for giving effect to Tax Information Exchange Agreements and any other international arrangement for tax information exchange (for example, Double Taxation Agreements 'DTAs') which SVG enters into.</p> <p>Main Provisions of the Act</p> <ol style="list-style-type: none"> 1. The Act ensures that the competent authority in SVG, namely the Minister of Finance or his authorized representative, has the necessary powers to access information requested pursuant to a TIEA or any other tax arrangement, and to exchange that information with the requesting country. It is obligatory for the person from whom information is requested, to make that information available to the competent authority. 2. Procedures relative to the execution of requests for information and the instances when such requests may be declined by the competent authority are stipulated. |
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| | | | | <p>3. Safety mechanisms for preserving the confidentiality of information received by the requesting country and by SVG are outlined.</p> <p>4. The Act seeks to ensure compliance by criminalizing two offences: failure to provide the information required, and tampering with or altering the information to be received by the competent authority.</p> <p>5. The rights of any person aggrieved by a decision of the competent authority are preserved by specifically referencing the facility of judicial review.</p> <p>SVG is pursuing the establishment of 3 DTAs with the UK, USA and Canada.</p> <p>The TIEAs being pursued with the Slovak Republic, Portugal, Spain and Romania have not yet been finalized.</p> <p>SVG was removed from France's 'Blacklist' of non cooperative tax jurisdictions or 'tax havens' as of January 2012. SVG had been removed from the OECD's Grey List of countries which had committed to the international tax standards but had not demonstrated its commitment, since March 2010. At that time, SVG had completed 18 TIEAs. At present, SVG has signed Exchange of Information agreements with 31 jurisdictions of which 22 have been brought into force. SVG has completed its internal procedures for the entry into force of all these EOI agreements. Those are not in force is due to the other party to the agreements not yet completing its own internal procedures.</p> <p>There have not been any complaints against SVG for being uncooperative in tax matters or any the international matters pertaining to the investigation and prosecution of criminal offences including money laundering and terrorism financing offences.</p> <p><u>Update February 2013</u></p> <p>Phase 2 of the OECD Peer Review assessment of SVG is schedule to commence in the latter half of 2013.</p> <p><u>Update-February 2014</u></p> |
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| | | | | <p>The OECD Global Forum Phase 2 Review of SVG commenced on December 16th 2013. The onsite visit by the Peer Assessment team took place from February 11th - 13th, 2014. SVG anticipates positive results from this Review.</p> <p><u>UPDATE-August 2014</u> The OECD Global Forum will consider SVG's Draft Report at a meeting in Paris in September, 2014.</p> <p><u>UPDATE – March 2015</u> St. Vincent and the Grenadines was found to be “largely compliant” in its recent OECD Phase 2 Peer Review which concluded in September 2014. Please find attached the SVG Phase 2 Report.</p> <p><u>UPDATE: FEBRUARY 2016</u></p> <p>St. Vincent and the Grenadines submitted their Phase 2 Questionnaire on Confidentiality and Data Safeguards in December, 2015. An onsite visit has been scheduled in April, 2016 to conduct further assess the confidentiality and data safeguards systems within the state.</p> <p>In November, 2015 St. Vincent and the Grenadines became a signatory to the Multilateral Competent Authority Agreement to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.</p> <p>St. Vincent and the Grenadines has committed to becoming a signatory to the above-stated Convention and expects to have the Convention signed and ratified by August 2016.</p> <p>The Convention facilitates international co-operation for a better operation on national tax laws, while respecting the fundamental rights of tax payers. It also provides for all possible forms of administrative co-operation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion. This co-operation ranges from exchange of information, including automatic exchanges, to the recovery of foreign tax claims.</p> |
| Nine Special Recommendations | | | | |

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| <p>SR.I Implement UN instruments</p> | <p>NC</p> | <ul style="list-style-type: none"> • No legal framework implemented to comply with UNSCRs 1267, 1373 and 1455. • The SFT Convention has not been fully implemented and the relevant law, UNATMA, does not include two of the conventions listed in the annex to the SFT Convention. | <ul style="list-style-type: none"> • SFT and Palermo Conventions should be ratified and fully implemented; • UNATMA should be amended to include all conventions that define offenses to which the SFT Convention applies; • Legal provisions and other measures should be adopted in order to implement the requirements in UNSCRs 1267 and 1373. In particular, a mechanism for freezing funds, assets, and other financial or economic resources of terrorists and terrorist organizations. | <p><u>Update-August 2013</u> Both Palermo and the SFT Convention have been ratified by St. Vincent and the Grenadines.</p> <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA.</p> <p>It is anticipated that the new POCA and CFT legislation will more fully implement the provisions of both Conventions and UNSCRs 1267 and 1373.</p> <p><u>Update-February 2014</u> The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments and it is anticipated that it will be passed prior to the May 2014 Plenary.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 <p>Section 2 – “relevant Security Council Resolutions” means any resolution passed by the Security Council of the United Nations and listed in Schedule 2;</p> <p>Schedule 2 – United Nations Security Council Resolutions</p> <ol style="list-style-type: none"> 6. Security Council resolution 1267 (1999) and its successor resolutions; 7. Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination; 8. Security Council resolution 1718 (2006) and its successor resolutions; 9. Security Council resolution 1737 (2006) and its successor resolutions; and 10. Any future Security Council resolutions which impose targeted financial sanctions in the context of the financing of the |
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| | | | | <p>proliferation of weapons of mass destruction.</p> <p>Sections 27 – 37 : Recovery and Forfeiture of Terrorist cash in Summary Proceedings</p> <p>Sections 38 – 44 : Forfeiture of Terrorist Property</p> <p>Sections 45 – 51 – Restraint Orders</p> <p>Part VI – Freezing of terrorist property</p> |
| <p>SR.II</p> <p>Criminalize terrorist financing</p> | LC | <ul style="list-style-type: none"> The Convention on the Physical Protection of Nuclear Material (1980) and the International Convention for the Suppression of Terrorist Bombings (1997) are not included in the list of Conventions that define one aspect of the definition of terrorist act in UNATMA; Under Section 3(4) of UNATMA, the offenses under Secs. 3(1) and 3(3) do not apply to individual terrorists; <ul style="list-style-type: none"> POCA Regulations do not sufficiently cover identification of FT offenses. | <ul style="list-style-type: none"> The laws of SVG should be strengthened as follows: Schedule II to UNATMA should be amended to add two conventions that are listed in the annex to the SFT Convention, as follows: The Convention on the Physical Protection of Nuclear Material (1980); and the International Convention for the Suppression of Terrorist Bombings (1997); Section 3(4) of UNATMA should be amended to apply to individual terrorists, and not just terrorist acts and terrorist groups; and The POCA Regulations should be amended to cover FT offenses. | <p>Between 25th and 29th May 2020 there was a Specialized Workshop in the Prevention and Fight against Terrorism and its financing facilitated by the UNODC and the Government of St. Vincent and the Grenadines. The UNODC has endeavoured to provide technical assistance to redraft UNATMA and is in consultation with the Hon. AG on this matter.</p> <p>The Hon. AG and the UNODC are still in consultation with respect to the re-drafting of the UNATMA.</p> <p>The Attorney General has indicated that these amendments would be enacted by the end of the first quarter 2012.</p> <p><u>Update-February 2013:</u></p> <ul style="list-style-type: none"> The Hon Attorney General is presently reviewing a draft Anti-Terrorism bill with a view of repealing and replacing the UNATMA with one that is more current and adheres to all amended recommendations proposed by the IMF. See update to POCA Regulations above. <p><u>Update-August 2013</u></p> <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA. It is anticipated that the new legislation will include all the recommendations made herein including the application to individual terrorists.</p> |

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| | | | | <p>The new draft AML/CFT Regulations adequately addresses FT.</p> <p><u>Update-February 2014</u> The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments and it is anticipated that it will be passed prior to the May 2014 Plenary.</p> <p><u>UPDATE-August 2014</u></p> <p>The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a 'Select Committee' to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes will be established by October.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015. |
| SR.III | NC | | | <u>Update-August 2013</u> |

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| Freeze and confiscate terrorist assets | | <ul style="list-style-type: none"> Statutory provisions implementing relevant UNSCRs are largely absent. | <p>The authorities in SVG should take immediate action to implement the relevant UNSCRs, including, but not limited to UNSCRs 1267, 1373 and 1455, and any such provision of law should be flexible enough to apply as well to similar designations by other states as well as any future UNSCRs that require UN member states to freeze, seize and confiscate the assets of designated terrorists and terrorist organizations, as well as such designations by other member states in the future.</p> | <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA. It is anticipated that provision will be made therein which allows for the implementation of UNSCRs 1267,1373 and 1455 and any future UNSCRs which require action in relation to terrorists and their assets.</p> <p><u>Update-February 2014</u></p> <p>The draft Counter-Financing of Terrorism of Legislation intended to repeal and replace UNATMA remains pending. However it is anticipated that the provisions will adequately address the Examiners' comments and it is anticipated that it will be passed prior to the May 2014 Plenary.</p> <p><u>UPDATE-August 2014</u></p> <p>The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a 'Select Committee' to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p><u>UPDATE – March 2015</u></p> <p>The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015. |
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| | | | | <p>Section 2 – “relevant Security Council Resolutions” means any resolution passed by the Security Council of the United Nations and listed in Schedule 2;</p> <p>Schedule 2 – United Nations Security Council Resolutions</p> <ol style="list-style-type: none"> 11. Security Council resolution 1267 (1999) and its successor resolutions; 12. Security Council resolution 1373 (2001), including the determination that the relevant sanctions will be applied to the person or entity and the public communication of that determination; 13. Security Council resolution 1718 (2006) and its successor resolutions; 14. Security Council resolution 1737 (2006) and its successor resolutions; and 15. Any future Security Council resolutions which impose targeted financial sanctions in the context of the financing of the proliferation of weapons of mass destruction. <p>Sections 27 – 37 : Recovery and Forfeiture of Terrorist cash in Summary Proceedings</p> <p>Sections 38 – 44 : Forfeiture of Terrorist Property</p> <p>Sections 45 – 51 – Restraint Orders</p> <p>Part VI – Freezing of terrorist property</p> |
| SR.IV Suspicious transaction reporting | NC | <ul style="list-style-type: none"> There is no requirement in UNATMA or POCA to file SARs for transactions or financial activities that could constitute or be related to financing of individual terrorists or terrorist organizations. | | <p><u>Update February 2013</u></p> <p>This issue is addressed in the revised draft of the POCA Regulations and will be elaborated upon in the Guidance Notes.</p> <p><u>Update-August 2013</u></p> <p>The Consultant who has drafted the POCA and AML/CFT Regulations has been engaged to draft new Counter-Financing of Terrorism legislation to repeal and replace the UNATMA. It is anticipated that a requirement to file SARs for transactions or financial activities that could constitute</p> |

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| | | | | <p>or be related to financing of individual terrorists or terrorist organizations will be included in the new legislation.</p> <p><u>Update-February 2014</u> As Above</p> <p><u>UPDATE-August 2014</u></p> <p>The Anti-Terrorist Financing and Proliferation Act, 2014 was been placed before Parliament in August 2014. Parliament directed a ‘Select Committee’ to be convened for further discussion of this Bill. It is anticipated that the Bill will be enacted at the next sitting of Parliament in October 2014.</p> <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes will be enacted by October 2014.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p>The Anti-Terrorist Financing and Proliferation Bill has been placed before Parliament and the Parliamentary sanctioned Select Committee for discussion in the 4th quarter of 2014. It is anticipated that the Bill will be tabled at Parliament in its first sitting in 2015, for passage.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> • The Anti-Terrorist Financing and Proliferation Act, No. 14 of 2015 was passed in Parliament on August 18th, 2015 • Section 15 – Duty to report information • Where a person – • Has reasonable grounds for knowing or suspecting, that another person has committed or attempted to commit a terrorist financing offence; and • The information or other matter which gives reasonable grounds for such knowledge or |
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| | | | | <p>suspicion came to him in the course of a relevant business,</p> <p>He shall report the information or other matter to the relevant Money Laundering Reporting Officer or to the FIU.</p> <ul style="list-style-type: none"> • Section 71 – Reporting obligations of relevant businesses • A relevant business shall inform the FIU as soon as practicable if – • It holds an account for a person, has entered into dealings or an agreement with a person or has been approached by or on behalf of a person; • It knows, or has reasonable cause to suspect, that the person – • Is a designated person; or • Has committed an offence under section 63(1), 64(1), 65(1), 66(1), 67(1), 69 of 70; and • The information or other matter on which the knowledge or reasonable cause for suspicion is based came to it in the course of carrying on its business. <p>“designated person” means –</p> <ul style="list-style-type: none"> • A person specified in Schedule 1 as a designated person; or • A person who is the subject of a designation under this Act; <p><u>UPDATE-February 2016:</u></p> <ul style="list-style-type: none"> • The “SAR Filing Guidance “referred to in the Detail Assessment Report (DAR) of 2009 appears to make reference to updating the SAR form and the Guidance Notes. The Guidance Notes are currently being reviewed towards further enhancement. • However, it must be noted that comprehensive training related to identifying suspicious transactions relevant to every category of Service Providers is done annually. These presentations identifying high risk transactions along with updates and advisories relating to new typologies and trends are normally shared with the financial institutions. • Further, the SAR form has been updated from the 2004 structure providing more |
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| | | | | guidance for the institutions as to what should be included on the Form |
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| SR.V International cooperation | LC | <ul style="list-style-type: none"> The legal basis for conducting investigations and related prosecutorial measures for FT on behalf of foreign law enforcement is not specified in law. | <ul style="list-style-type: none"> The legal basis for conducting investigations and related prosecutorial measures for FT directly on behalf of foreign law enforcement should be specified in law; The scope and definition of financial intelligence information that is subject to sharing by the FIU to foreign counterparts and to foreign law enforcement needs to be clearly defined. Specific procedures should be established for expediting extradition requests. Pursuant to MACMA, SVG should adopt regulations that will allow for bilateral MLA treaties to have the effect of law; the AG should issue a legal opinion that the discretion to reject requests for MLA in the absence of dual criminality would not be exercised in respect to ML, predicate offense and FT requests. | |
| SR.VI AML/CFT requirements for money/value transfer services | PC | <ul style="list-style-type: none"> Lack of AML/CFT compliance monitoring and supervision of business conducted outside of banking sector. | <ul style="list-style-type: none"> The Ministry of Finance should quickly develop policies, procedures and capacity for on-site compliance examinations and begin such examinations; Investigate the existence of unlicensed money remittance operations and take appropriate action | <p><u>Update October 2012</u></p> <p>Money remitters will be subject to closer supervision and regulation by the FSA.</p> <p><u>Update-August 2013</u></p> <p>The Authorities have completed review of the draft POCA Bill and AML/CFT Regulations. Provision has been made for the FIU to assume responsibility for monitoring and enforcing AML/CFT compliance by those DNFBPs that are not now subject to supervision by the FSA. This will require a further amendment to the FIU Act in the future as the FIU does not currently engage in supervisory functions.</p> <p><u>Update-February 2014</u></p> |

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| | | | | <p>As indicated above, the FIU will undertake supervisory functions in relation to DNFBPs in particular. This will be finalized in the draft AML/CFT Regulations.</p> <p><u>UPDATE-August 2014</u> The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The FIU is the supervisory authority for DNFBPs for AML/TF purposes.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General’s Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE-February 2016:</u></p> <ul style="list-style-type: none">• The FSA has been responsible for the regulation of the non- bank financial sector in SVG since 2012 and comprehensive offsite and onsite examinations have been undertaken since then on all relevant non - bank entities | |
| SR.VII | Wire transfer rules | NC | <ul style="list-style-type: none">• No wire transfer requirements;<ul style="list-style-type: none">• Partial implementation of SR.VII standards by banks and money transmitters. | <ul style="list-style-type: none">• Binding regulations should be adopted requiring all wire transfer service providers, including banks, money transmitters, and other FIs, to adhere to the wire transfer recommendations of FATF SR.VII;• All FIs subject to wire transfer requirements should be monitored for compliance by a supervisor with the authority and capacity to enforce compliance. | <p><u>Update-August 2013</u> The AML/CFT Regulations contain extensive provisions on wire transfers in keeping with Recommendation 16 (formerly SR VII). All institutions which engage in wire transfers will be legally bound by the provisions of the Regulations and will face criminal sanctions for failing to do so.</p> <p><u>Update-February 2014</u> As indicated above the draft AML/CFT Regulations are in the final stages and, pursuant to Section 168 of POCA, No. 38 of 2013, shall be made by the Minister (of Finance) after consulting with the National Anti-Money Laundering Committee and Cabinet.</p> <p>UPDATE-August 2014</p> |

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| | | | | <p>The AML/TF Regulations No. 20 of 2014 were passed in August, 2014. The AML/TF Code which includes Guidance Notes will be enacted by October 2014.</p> <p><u>UPDATE – March 2015</u> The AML/TF Code, which includes the Guidance Notes, is presently being finalized by the Attorney General's Chambers. The Code will be brought into force by the National Anti-Money Laundering Committee (NAMLC) after consultation with the Minister of Finance. The Code is intended to be brought into force by the second Quarter of 2015.</p> <p><u>UPDATE – AUGUST 2015</u></p> <ul style="list-style-type: none"> Regulations 31 – 35 address Wire Transfers |
| SR.VIII NPOs | LC | <ul style="list-style-type: none"> No review of NPO sector laws and regulations; <ul style="list-style-type: none"> Limited monitoring of NPO financial activities. | <ul style="list-style-type: none"> The authorities should undertake a review of its laws and regulations as they relate to AML/CFT and the NPO sector; The Registrar of companies should establish policies and procedures to monitor financial filings of NPOs to verify that funds are being raised and disbursed in a manner consistent with the NPOs stated purpose; Financial reporting requirements should be broadened to including information on domestic and international sources of funds and applications of funds. | <p><u>Update-August 2013</u> The Authorities intend to implement Regulations which may be annexed to the AML/CFT Regulations and which will, inter alia, extend the powers of the Registrar of Companies to cover AML/CFT supervision of NPOs</p> <p><u>Update-February 2014</u> Sections 157-159 of POCA 2013 address NPOs and stipulate that NPO Regulations shall designate a person or body as the NPO Supervisory Authority. These Regulations have not yet been finalized and consideration will be given whether to designate either the FSA or the FIU as NPO Supervisor.</p> <p><u>UPDATE-August 2014</u> Work is ongoing on the NPO Regulations. It is anticipated that these regulations should be in place by the end of the Fourth quarter of 2014.</p> <p><u>Update – March 2015</u> The NPO Regulations have been scheduled for completion by the second quarter of 2015.</p> <p><u>Update- August 2015</u> The NPO Regulations have not been completed at the end of the second quarter as anticipated; however, efforts are being to have the Regulations completed by the end of 2015.</p> |

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| | | | | <p>UPDATE –FEBRUARY 2016:</p> <p>The NPO regulations are in the final stages of review and should be enacted into law during the year 2016 as part of the Legislative Agenda of the Attorney General. Please find attached a copy of the drafted Regulations.</p> | |
| SR.IX | Cross-Border Declaration & Disclosure | LC | <ul style="list-style-type: none"> ● The administrative process by which the Customs Department imposes a fine, accepts an admission of wrongdoing, and discharges the liability of the suspect does not allow the DPP, with the assistance of the FIU, to investigate, develop and prosecute criminal cases against suspects caught with undisclosed, suspicious or concealed currency; ● Administrative fines are not effective, dissuasive or proportionate; and <ul style="list-style-type: none"> ● A long-pending proposed MOU between the Customs Department and the FIU has not been signed. | <ul style="list-style-type: none"> ● The administrative process should be changed to allow the DPP, with the assistance of the FIU, to investigate, develop and prosecute criminal cases against suspects caught with undisclosed, suspicious or concealed currency; ● CCMA should be amended to increase administrative fines so that they are effective, dissuasive and proportionate; ● MOU between the Customs Department and the FIU should be signed. | <p><u>Update -August 2012</u></p> <p>All outstanding MOUs between the FIU and its local stakeholders have been sent to the Honourable Attorney General for her input and advice prior to execution.</p> <p><u>Update-August 2013</u></p> <p>The FIU Act has been amended as stated above (Act No. 7 of 2013) and now specifies the FIU’s authority to obtain appropriate law enforcement and other governmental information needed to develop intelligence and analysis.</p> <p>The Hon AG has completed her review of the local MOUs and as such it is anticipated that the FIU will sign local MOUS with the following governmental departments within the next month:</p> <ul style="list-style-type: none"> -Customs and Excise Department -Financial Services Authority -Inland Revenue Department -National Insurance Service -Electoral office -Commerce and Intellectual Property Office <p><u>Update-February 2014</u></p> <p>Local MOUs have been circulated to the heads of the aforementioned departments for their perusal and comments, if any, prior to signature and execution.</p> |