



CARIBBEAN FINANCIAL ACTION TASK FORCE

Report on Sint Maarten

May Plenary 2017

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I. Introduction

This document represents a brief report on the progress made by Sint Maarten in the follow-up process. This report is presented in substitution of the report which would have been the 9th Follow-up report (FUR).

There was no specific information provided by Sint Maarten in the corresponding matrix. The table on the size and integration of the financial sector was updated for this brief report, particularly regarding the size of assets of the banks, other credit institutions, securities and insurance as well as deposits.

The drafting of the report takes into account the response submitted by Sint Maarten dated in March 29th, 2017 regarding the ICRG sanction and the conclusions for previous FURs.

II. Background

The Mutual Evaluation Report (MER) of Sint Maarten was approved in November 2012 and subsequently by Round Robin in January 8th 2013 being the last country to be evaluated in the third round of mutual evaluations by the CFATF. Sint Maarten received ratings of PC and NC on fourteen (14) of the sixteen (16) Core and Key Recommendations. Since then, Sint Maarten has presented eight follow-up reports and has remained in regular-expedited follow-up process.

From the 14 Recommendations rated PC or NC, Sint Maarten has met Core Recommendation 13 and IV and Key Recommendation 26. The elements of Core Recommendation II have been also met, except for the dissuasiveness and proportionality of the sanctions.

The outstanding Core Recommendations are: 5, 10 and the element of the dissuasiveness and proportionality of the sanctions for SR II. The outstanding Key Recommendations are: 3, 23, 35, 36, 40, I, III and V. Particular details on the outstanding deficiencies are described in the 8th FUR posted in <https://www.cfatf-gafic.org/index.php/member-countries/s-v/sint-maarten>

III. Overall progress made

Regarding the legal framework, Sint Maarten has achieved progress with the issuance of the new Penal Code in June 1st 2015 and has amended the Ministerial Decree containing the establishment of Indicators of the Unusual Transactions National Ordinance (MDIUT).

Since January 2013, Sint Maarten has been working on the amendment of the existing AML/CFT legislation and drafting of new AML/CFT legislation. As indicated in previous FURs, the legislation is in legislative process. The Authorities have reaffirmed that the following legislation is ready since December 2016, in order to continue the legislative process:

1. National Ordinance to Combat Money Laundering and Terrorist Financing
2. National Ordinance to Amend the Sanctions Ordinance
3. National Ordinance to Amend the National Ordinance Cross-border Money Transfers
4. National Orders on Harmonization of the Supervision Ordinances

5. National Ordinance Supervision of Money Remittance Offices
6. National Ordinance to amend the Criminal Procedures Code
7. National Ordinance to amend the Criminal Code
8. National Ordinance Administrative Enforcement

As noted in previous FURs, in relation to non - legislative measures, Sint Maarten has published Annual Reports of activities carried out by the Financial Intelligence Unit for for 2010-2011, 2012, 2013 and 2014; including information on typologies, training, statistics of STRS, mutual legal assistance and international cooperation; among other information. Sint Maarten has also worked on the closure of unlicensed MTCs by the Public Prosecutors Office, started the implementation of the supervision based on a risk approach and Customs and MOT personnel have received training on AML/FT, Supervision and ACAMS certification.

IV. Conclusion and Recommendation to Plenary

Since the adoption of the MER by Sint Maarten, the deficiencies highlighted have been clarified gradually through eight FURs in a period of more than four years until today. From the 14 Core and Key Recommendations rated as PC or NC, 10 remain outstanding (5, 10, 3, 23, 35, 36, 40, I, III and V) and 1 partly outstanding (SRII), which makes the AML/CFT system in Sint Maarten in a vulnerable system for the risks posed in the region.

In addition, the CFATF Plenary in November 2015, requested Sint Maarten to present an action plan in May 2016. It was presented by Sint Maarten at the Plenary meeting in June 2016. Based on the failure of meeting the commitments made by Sint Maarten in the action plan, the Plenary in November 2016, agreed to apply the first level of sanction to Sint Maarten, according with the CFATF ICRG Procedures adopted in May 2015.

Considering the overall framework and current situation of Sint Maarten, is strongly recommended to prioritise the approval and entry into force of the AML/CFT legislation prior 2018 and provide the updated information regarding the compliance of the FATF Standards.

CFATF Secretariat
May 9th, 2017