



# Cayman Islands ML/TF National Risk Assessment (NRA) Survey

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Monday, 16<sup>th</sup> February 2015

## 1. Introduction

The Cayman Islands is a member of the Caribbean Financial Action Task Force (CFATF), which is the FATF-styled regional body for the Caribbean Basin that will be conducting a mutual evaluation of the Cayman Islands' AML/CFT regime. **The Cayman Islands is scheduled to undergo a 4<sup>th</sup> Round CFATF mutual evaluation in the first quarter of 2017**, based on the revised FATF 40 Recommendations of February 2012 and "The Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems" of February 2013 ("the Methodology").

A money laundering/terrorist financing (ML/TF) national risk assessment prior to the mutual evaluation is necessary, as outlined in Recommendation 1 (Assessing Risk and Applying the Risk-Based Approach) of the new 40 Recommendations, which states that each country should **"...identify, assess, and understand the money laundering and terrorist financing risks for the country, and should take action, including designating an authority or mechanism to coordinate actions to assess risks, and apply resources, aimed at ensuring the risks are mitigated effectively."**

As in the previous three rounds of mutual evaluations, the Cayman Islands will be assessed and rated in the 4<sup>th</sup> Round for technical compliance, based on having laws, regulations and guidance that are in line with the new 40 Recommendations. The technical compliance assessment will be conducted by way of desktop exercise based on the jurisdiction's completion of a mutual evaluation questionnaire.

What is new for the 4<sup>th</sup> Round of mutual evaluations will be a separate effectiveness assessment that will be risk-focussed, to be conducted on-site. The NRA will be of interest to the mutual evaluation examiners in determining how effective the Cayman Islands has been in identifying, assessing, and understanding money laundering and terrorist financing risks.

The 4<sup>th</sup> Round ML/TF mutual evaluation will be a country assessment of the Cayman Islands. The assessors will be interested in how well public sector agencies (policy, supervisory, enforcement, and others) are carrying out their functions. The CFATF mutual evaluation team will also meet with the private sector and other non-government bodies with a view to developing a comprehensive view of the Cayman Islands' AML/CFT framework.



## 2. The Cayman Islands NRA

In 2014, the Cayman Islands Government contracted with the World Bank to provide technical assistance for the preparation of the first national risk assessment (NRA) report and a draft action plan to address the outcomes of the NRA. The World Bank has developed an Excel-based NRA tool that enables countries to identify the main drivers of ML/TF risks through a methodological process based on the understanding of the causal relations among money laundering risk factors and variables relating to the regulatory, institutional, and economic environment. The technical assistance from the World Bank is divided into three phases.

### Phase 1: Initial Workshop (August 2014)

Seven NRA working groups were formed in August of 2014, as recommended by the World Bank, along with a parallel working group to examine technical compliance and effectiveness. Altogether, the working groups include roughly 60 persons from CIMA, relevant government agencies, and from the private sector. The official launch of the first phase of the ML/TF NRA took place during the 14<sup>th</sup> to 16<sup>th</sup> October 2014 at the Grand Cayman Marriott Beach Resort. The World Bank team facilitated general discussions on money laundering and terrorist financing risks in the Cayman Islands, and gave a hands-on introduction to the purpose and use of NRA Tool. This workshop was preceded by CFATF training on the new FATF 40 Recommendations during 6<sup>th</sup> to 8<sup>th</sup> October 2014.

### Phase 2: Data Collection & Report Drafting (between October 2014-September 2015)

The NRA is currently in its second phase whereby missing data/ information are to be collected by the working groups with a view to completing the assessments and ratings of the variables in all modules.

The working groups have developed online and anonymous surveys, using Survey Monkey, to gather information from financial institutions and DNFBPs on the ML/TF vulnerabilities they face in their respective sectors: banking, insurance, securities, other financial, and designated non-financial businesses and professions (DNFBPs).

**Your participation in the online survey is critical and, therefore, strongly encouraged. In completing the online questionnaire, in an honest and timely manner, you will ensure private sector contribution toward strengthening of the Cayman Islands' AML/CFT regime in advance of our 2017 CFATF mutual evaluation. The online survey closes on Tuesday, 30<sup>th</sup> March 2015.**

Based on the results generated by the NRA tool, the working groups will draft a risk assessment report, explaining the results and underlying facts. The World Bank will provide guidance throughout this phase, and will review the draft NRA report for robustness and consistency.

### Phase 3 - Finalisation of the Risk Assessment (SEPTEMBER to DECEMBER 2015)

In a final three-day workshop (likely in October 2015), the NRA and its results will be discussed by the working groups, management of participating agencies, and policy makers. The workshop will focus on: (1) a final review and discussion of the NRA results, (2) the design of a risk-based action plan, and (3) a discussion of implementation issues.



### 3. About Risk, Threats, Vulnerabilities, and Consequences

**Risk** can be seen as a function of three factors: threat, vulnerability and consequence. An ML/TF risk assessment is a product or process based on a methodology, agreed by those parties involved, that attempts to identify, analyse and understand ML/TF risks and serves as a first step in addressing them. Ideally, a risk assessment, involves making judgments about threats, vulnerabilities and consequences, which are discussed below.

**Threats** occur when a person or group of people, or an object or activity, has the potential to cause harm to, for example, the state, society, the economy, etc. In the ML/TF context this includes criminals, terrorist groups and their facilitators, their funds, as well as past, present and future ML or TF activities.

**Vulnerabilities** comprise those things that can be exploited by the threat or that may support or facilitate its activities. These may include factors that represent weaknesses in AML/CFT systems or controls or certain features of a country. They may also include the features of a particular sector, a financial product or type of service that make them attractive for ML or TF purposes.

**Consequences** refers to the impact or harm that ML or TF may cause and include the effect of the underlying criminal and terrorist activity on financial systems and institutions, as well as the economy and society more generally. The consequences of ML or TF may be short or long term in nature and also relate to populations, specific communities, the business environment, or national or international interests, as well as the reputation and attractiveness of a country's financial sector. *Given the challenges in determining or estimating the consequences of ML and TF it is accepted, by the FATF that incorporating consequence into risk assessments may not involve particularly sophisticated approaches, and that countries may instead opt to focus primarily on achieving a comprehensive understanding of their threats and vulnerabilities.*



#### 4. Cayman's ML/TF NRA Organisational Structure

**The Anti-Money Laundering Steering Group (AMLSG)**, chaired by the Honourable Attorney General, is the national AML/CFT policy-making body. Other members of the AMLSG include the Financial Secretary, the commissioner of Police, the Collector of Customs, Managing Director of the Cayman Islands Monetary Authority, and the Solicitor General. The NRA is supported at the highest levels of Government, particularly the Honourable Premier, the Honourable Minister for Financial Services, and the other members of Cabinet.

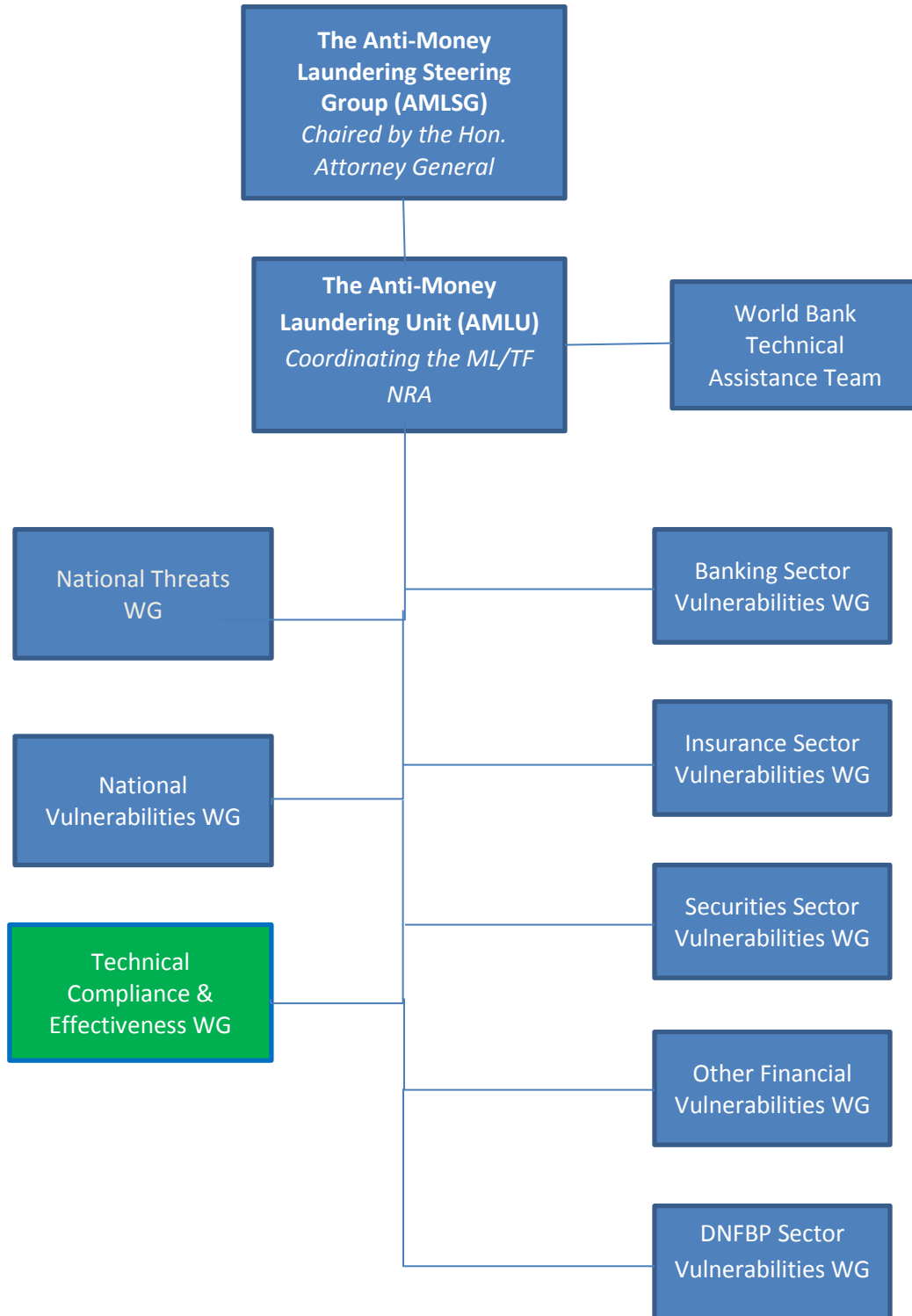
**The Anti-Money Laundering Unit (AMLU)** was established in the Attorney General's Chambers in March of 2014 as the office responsible for, among other things, the coordination of the AML/CFT National Risk Assessment (NRA) on behalf of the Anti-Money Laundering Steering Group (AMLSG). The AMLU is supported by the **World Bank Technical Assistance Team**.

**The ML/TF working groups** include 1) National Threats, 2) National Vulnerabilities; and sector-specific vulnerabilities working groups, namely 3) Banking, 4) Securities, 5) Insurance, 6) Other Financial, and 7) Designated Non-Financial Businesses and Professions (DNFBPs). Parallel to the other groups, a Technical Compliance & Effectiveness Working Group was formed to examine the extent to which the laws and other enforceable means (regulations and guidance) are in line with the new FATF 40 Recommendations. The technical compliance and effectiveness assessment is particularly necessary, given that the relevant laws, regulations and guidance have not yet been updated since the standards were revised in 2012.

The working groups are made up for persons from CIMA, the DPP's office, the Attorney General's Chambers, the Customs Department, the Financial Reporting Authority (FRA), the Financial Crimes Unit (FCU) of Royal Cayman Islands Police Service (RCIPS), staff from the Ministry of Financial Services, and other offices such as the Economics and Statistics Office. The sector-specific working groups have representations from relevant private sector organisations. CIMA staff chair six of the eight working groups.



Diagram 1: Organisational Structure of the Cayman Islands ML/TF NRA





## 5. The NRA Survey Questionnaires

### The Five Survey Questionnaires

The NRA questionnaires are organised along sectoral lines, and are ideally suited for compliance officers (COs) or money laundering report officers (MLROs) to complete. A link to each survey is also provided below.

#### **1. Banking Sector ML/TF Risk Assessment Survey 2015\_ Cayman Islands**

This survey is to be completed by banks that are licensees of the Cayman Islands Monetary Authority.

<https://www.surveymonkey.com/s/HF3Q65D>

#### **2. Insurance Sector ML/TF Risk Assessment Survey 2015\_ Cayman Islands**

This survey is to be completed by insurance companies, insurance brokers and insurance managers licensed by the Cayman Islands Monetary Authority.

<https://www.surveymonkey.com/s/HF8M9KP>

#### **3. Securities and Investment Sector ML/TF Risk Assessment Survey 2015\_ Cayman Islands**

This survey is to be completed by CIMA licensees and registrants under the Securities and Investment Business Law (2011 Revision), mutual fund administrators in the Cayman Islands under Mutual Funds Law (2013 revision), Cayman Islands Stock Exchange Listing Agents, and any other persons carrying out financial business related to securities or investment products.

<https://www.surveymonkey.com/s/5NNR5BT>

#### **4. Other Financial Sector ML/TF Risk Assessment Survey 2015\_ Cayman Islands**

This survey is targeted at persons carrying financial business not categorized or specified above, nor included under DNFBP below. This included money services business, financial leasing, non-bank lenders or depository institutions (such as credit unions, cooperative societies, short-term lenders, and mortgage lenders), and persons involved in money/currency changing.

<https://www.surveymonkey.com/s/HNY8THS>

#### **5. Designated Non-Financial Businesses and Professions**

This includes the following:

1. Real estate agents – when they are involved in transactions for their client concerning the buying and selling of real estate.
2. Dealers in precious metals and dealers in precious stones



3. Lawyers, notaries, other independent legal professionals and accountants – when they prepare for or carry out transactions for their client concerning the following activities:
  - a. buying and selling of real estate;
  - b. managing of client money, securities or other assets;
  - c. management of bank, savings or securities accounts;
  - d. organisation of contributions for the creation, operation or management of companies;
  - e. creation, operation or management of legal persons or arrangements, and buying and selling of business entities;
4. Trust and company service providers – when they prepare for or carry out transactions for a client concerning the following activities:
  - a. acting as a formation agent of legal persons;
  - b. acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
  - c. providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
  - d. acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement; v
  - e. acting as (or arranging for another person to act as) a nominee shareholder for another person.

<https://www.surveymonkey.com/s/ZQJ2K95>

### **Useful Information to Gather Before Filling in the Survey**

Each financial institution or DNFBP will get a maximum of fifty (50) AML/CFT related questions to complete. Be sure to respond honestly and completely, using best efforts.

Many of the questions are exactly the same as for all the sectors, with specific sector and sub-sector questions at the back of the survey.

In preparing for the survey, there are some questions that require you to collect information beforehand, which will make the survey process more efficient.

- Question 2 relates to the number of compliance staff and non-compliance staff you have in the Cayman Islands and outside the Cayman Islands.
- Question 3 requires the information on for the MLRO/DMLRO and Compliance Officers (COs) – a) time in role (range of months/years); b) industry experience (range of months/years); and c) member of relevant AML/CFT body (yes/no).



- Question 12 requests the number of clients you had at the end of 2012, 2013 and 2014. Clients can be natural persons or companies (or other types of legal persons or legal arrangements).
- Question 16 requires the five most common countries of residency and nationality of your clients who are natural persons, in each case showing the percentage of the total client base of natural persons.
- Question 17 requires the five most common countries of residency and nationality of your clients who are beneficial owners of clients that are not natural persons (of clients who are companies and other types of legal persons or legal arrangements), in each case showing the percentage of the total client base of beneficial owners.
- Question 18 asks about the number of clients that are classified as Low Risk, Standard Risk, High Risk, PEP – Standard Risk, PEP - High Risk, and Unknown Risk. Please put “0” for any category not used.
- Question 30 asks for the number of SARs filed with the FRA in 2012, 2013, 2014 and 2014 (to date) as a result of certain factors/reasons, such as cash deposits/withdrawals, cash purchase, complicated corporate/trust structures, etc.

**The Banking Sector ML/TF Risk Assessment Survey 2015\_Cayman Islands** asks banks about the total assets (in US\$0000) in the last financial year.

**The Insurance Sector ML/TF Risk Assessment Survey 2015\_Cayman Islands** asks for the number of policies in force and the volume of gross premiums written for the different lines of insurance products.

- For **domestic life insurers**, questions 38 and 39 ask about the number of policies in force and gross premiums written in the last financial year for
  - Non-Group Single Premium Insurance Products
  - Non-Group Pure Protection Life Insurance Plans - excluding Single Premium
  - Non-Group Life Insurance Plans with Cash Value and Investment/Savings Components - excluding Single Premium
  - Group Single Premium Life Insurance Products
  - Group Pure protection Life Insurance Plans - excluding Single Premium
  - Group Life Insurance Plans with Cash value and Investment/Savings Component - excluding Single Premium
- For **domestic non-life insurers**, questions 43 and 44 ask about the number of policies in force and gross premiums written in the last financial year for
  - Non-Group Non-Life Insurance Plans with Cash Value and Investment/Savings Component
  - Group Non-Life Insurance Plans with Cash Value and Investment/Savings Component
  - Re-Insurance Products with no Cash Value or Investment/Savings Component
  - Property Insurance Products with no Cash Value or Investment/Savings Component





- Other Non-Life Insurance Products with no Cash Value or Investment/Savings Component

**Securities & Investment Sector ML/TF Risk Assessment Survey 2015\_Cayman Islands** asks for the percentage of total revenue derived from the following activities: investment funds, equities, insurance linked securities/CAT bonds, derivatives, advice on capital structures/structured finance, and other.

**The Other Financial Sector ML/TF Risk Assessment Survey 2015\_Cayman Islands:**

- asks lenders about the average loan size and repayment term (period) for Consumer Credit, Mortgage Credit, Factoring (the sale of accounts receivables of a business to a third party at a discount) , and Financing of Commercial Transactions, and;
- asks those involved in financial leasing about the capitalized value (agreed amount) and repayment term for the following categories: vehicles, residential real estate, commercial real estate, financing of commercial transactions, aircrafts, ships and marine vessels, and other.

## 6. For Further Assistance

For further assistance, please email your queries to the following addresses:

***Banking Sector ML/TF Risk Assessment Survey 2015\_Cayman Islands***

[Banking.NRA.AMLU@GOV.KY](mailto:Banking.NRA.AMLU@GOV.KY)

***Insurance Sector ML/TF Risk Assessment Survey 2015\_Cayman Islands***

[Insurance.NRA.AMLU@GOV.KY](mailto:Insurance.NRA.AMLU@GOV.KY)

***Securities and Investment Sector ML/TF Risk Assessment Survey 2015\_Cayman Islands***

[Securities.NRA.AMLU@GOV.KY](mailto:Securities.NRA.AMLU@GOV.KY)

***Other Financial Sector ML/TF Risk Assessment Survey 2015\_Cayman Islands***

[Financial.NRA.AMLU@GOV.KY](mailto:Financial.NRA.AMLU@GOV.KY)

***Designated Non-Financial Businesses and Professions***

[DNFBP.NRA.AMLU@GOV.KY](mailto:DNFBP.NRA.AMLU@GOV.KY)



### Appendix 1: Key Acronyms and Explanations

Acronym	Explanation
<b>AML/CFT</b>	Anti-Money Laundering and Combatting (or Countering) the Financing of Terrorism
<b>BO</b>	<b>Beneficial Owner</b> - refers to the natural person(s) who ultimately owns or controls (10% or more of) a customer of a financial institution of DNFBP and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.
<b>CFP/PF</b>	<p>Combatting (or Countering) the Financing of Proliferation of Weapons of Mass Destruction/ Proliferation Financing.</p> <p><b>Proliferation</b> means the development or production, or the facilitation of the development or production, of nuclear, radiological, biological or chemical weapons or systems for their delivery.</p> <p>The United Nations has passed two resolutions relating to combat the financing of proliferation, one related to North Korea and the other to Iran. These resolutions are in force in the Cayman Islands via Overseas Territories orders passed in the United Kingdom, namely The Iran (Restrictive Measures) (Overseas Territories) Order 2012; The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) Order 2012; and The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) (Amendment) Order 2013.</p>
<b>CIMA</b>	Cayman Islands Monetary Authority
<b>CO</b>	Compliance Officer
<b>DNFBP</b>	Designated non-financial business non-financial business or profession. It includes (a) casinos; (b) real estate agents; (c) dealers of precious metals and stones; (d) lawyers, notaries, other independent legal professionals and accountants (sole practitioners, partners, or employed professionals within professional firms); and (f) Trust and Company Service Providers.
<b>FATF</b>	Financial Action Task Force
<b>FCU</b>	Financial Crimes Unit of the Royal Cayman Islands Police Service (RCIPS), which is responsible for investigating financial crimes within the Cayman Islands.
<b>FRA</b>	<b>Financial Reporting Authority</b> - The financial intelligence unit (FIU) of the Cayman Islands, responsible for receiving and analyzing suspicious activity reports (SARs).
<b>FIU</b>	financial intelligence unit
<b>ML/TF</b>	Money Laundering/Terrorist Financing



<b>MLRs</b>	Money Laundering Regulations
<b>MLRO</b>	Money Laundering Reporting Officer
<b>PEPs</b>	<b>Politically Exposed Persons</b> - Individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories.
<b>SAR</b>	<b>Suspicious Activity Report</b> - a report on suspicious ML/TF/PF activities filed with the FRA.