



Insurance Industry Briefing Overview of the CFATF MER and NRA, and its importance to The Bahamas

Cassandra Nottage
Office of the Attorney General

OVERVIEW OF CFATF

- ▶ The Caribbean Financial Action Task Force (CFATF) is an organisation of twenty-five states of the Caribbean Basin, which have agreed to implement common countermeasures to address the problem of criminal money laundering.
- ▶ It was established as the result of meetings convened in Aruba in May 1990 and Jamaica in November 1992.

CFATF MER

- ▶ One of the primary functions of CFATF is to conduct mutual evaluations of member countries.
- ▶ The CFATF assessors conduct onsite peer reviews of member countries regarding compliance with the FATF 40 Recommendations, the level of effectiveness of a country's AML/CFT system, and provides recommendations on how a country's AML/CFT system could be strengthened and enhanced.

The Bahamas CFATF Mutual Evaluation

- ▶ The Jurisdiction has been through four mutual evaluations by the CFATF, most recently in November 30 - December 11 2015, results of which were published in July 2017.

CFATF Mutual Evaluation Key Results

- ▶ The Bahamas MER was approved by the CFATF Ministerial Council in May 2017. The final report post FATF members' review was published in July 2017.
- ▶ Key findings -
 - ▶ ML/TF National Risk Assessment (NRA) should be completed and national AML/CFT policies requires documentation.
 - ▶ There is a reasonable understanding of ML/TF risks among competent authorities in the Bahamas.
 - ▶ A good foundation for national coordination and co-operation at national level has been established through the Task Force

- ▶ The Financial Intelligence Unit (FIU) is a well-structured and resourced unit.
- ▶ The focus of investigations and prosecutions on predicate offences has resulted in no ML convictions.
- ▶ The legislative framework for targeted financing sanctions (TFS) and proliferation financing is deficient.
- ▶ Financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) are overall well aware of their regulatory AML/CFT obligations.
- ▶ FIs that are not part of a large international group did not demonstrate sufficient awareness of their specific inherent ML/TF risks.

- ▶ The number of suspicious transactions reports (STRs) filed by financial institutions is limited, taking into consideration the substantial size of the financial sector in The Bahamas and the substantial presence in The Bahamas of inherent higher risk activities such as private banking and trust. More emphasis should be put on guidance reporting and on the feedback provided to reported STRs.
- ▶ The FIs and DNFBPs supervisory regimes are comprehensive and well developed. Supervisory powers are in general adequate and co-ordination among supervisory regulators works well. The FIs and DNFBP supervisors generally promote clear understanding of AML/CFT obligations.
- ▶ The application of sanctions is too limited.
- ▶ A risk-based approach for the credit unions and the securities industry should be implemented.
- ▶ Proactive outreaches to the sectors could be enhanced.

- ▶ A variety of legal persons can be created in The Bahamas.
- ▶ The Registrar General maintains the national company register.
- ▶ Beneficiary ownership (BO) information is required to be maintained by FIs and registered agents.
- ▶ No sanctions have been imposed on legal persons.
- ▶ The Bahamas has a well-functioning system for international co-operation which provides constructive mutual legal assistance (MLA) and extradition.
- ▶ International co-operation is facilitated through agreements, memoranda of understanding (MOUs) and asset-sharing protocols.
- ▶ The time to respond to requests can be improved.

Technical Compliance

- ▶ The Bahamas received Compliant Ratings for eight FATF Recommendations -
 - ▶ Criminalizing Money Laundering
 - ▶ Requirement for confiscation and provisional measures regarding money laundering
 - ▶ Financial institution secrecy provisions
 - ▶ Correspondent Banking
 - ▶ Licensing of Money or Value transfer Businesses
 - ▶ Reporting of suspicious transactions
 - ▶ Tipping off and confidentiality
 - ▶ Financial Intelligence Unit

- ▶ The Bahamas received largely compliant ratings on 10 FATF Recommendations -
 - ▶ Terrorist Financing Offence
 - ▶ Record Keeping
 - ▶ Wire Transfers
 - ▶ Powers of Law Enforcement and Investigative Authorities
 - ▶ Guidance and Feedback
 - ▶ International Instruments
 - ▶ Mutual Legal Assistance
 - ▶ Mutual Legal Assistance - Freezing and Confiscation
 - ▶ Extradition
 - ▶ Other forms of international cooperation

- ▶ The Bahamas received partially compliant ratings on 21 FATF Recommendations -
 - ▶ Risk Assessment, Assessing Risk and applying a risk based approach
 - ▶ National Cooperation and Coordination
 - ▶ Targeted financial sanctions related to proliferation
 - ▶ Customer Due Diligence
 - ▶ PEPS
 - ▶ New Technologies
 - ▶ Reliance on Third Parties
 - ▶ Internal Controls over foreign branches and subsidiaries
 - ▶ Higher Risk Countries

- ▶ DNFBPs - CDD
- ▶ DNFBPs - Other Measures
- ▶ Transparency and BO of legal persons
- ▶ Transparency and BO of legal arrangements
- ▶ Regulation and Supervision of Financial Institutions
- ▶ Powers of Supervisors
- ▶ Regulation and Supervision of DNFBPs
- ▶ Responsibilities of law enforcement investigative authorities
- ▶ Cash Couriers
- ▶ Statistics
- ▶ Sanctions

- ▶ The Bahamas received a non-compliant rating on one FATF Recommendation - Targeted Financial Sanctions relating to terrorism and terrorism financing.

Bahamas' Effectiveness Ratings

- ▶ The Bahamas received five Moderate and Six low effectiveness ratings on the eleven Immediate Outcomes. This feature of the CFATF Mutual Evaluations is new and The Bahamas were amongst the first five members to undergo such an evaluation.
- ▶ Most countries (CFATF / FATF) that have been evaluated with the New FATF effectiveness methodology have struggled to post good ratings.

Bahamas Plan to address MER recommendations

- ▶ **The National Risk Assessment -**
- ▶ First step - to complete the NRA.
- ▶ NRA was completed and approved by Cabinet in early December 2017.
- ▶ NRA was published on regulatory and industry websites.
- ▶ The NRA briefing was held 31 January 2018 - Melia Hotel - near 300 individuals from across the financial sector were in attendance.

- ▶ NRA reflected a collaboration of the private and public sector to identify money laundering and terrorist financing risks to The Bahamas.
- ▶ The NRA identified national threats and vulnerabilities.
- ▶ The NRA results reflected a composite **overall Medium Risk rating (59%) for The Bahamas'** financial sector post assessing ML/TF risks related to products, service providers, delivery channels, customers, and combatting legal, supervisory, regulatory, law enforcement and other mechanisms.
- ▶ The risk rating of the sectors assessed -
 - ▶ Banking (international & domestic) - 55%
 - ▶ Securities Industry - 60%
 - ▶ Insurance Industry - 61%
 - ▶ Other Financial Institutions - 69%
 - ▶ DNFBPs - 75%

Second Step - Government's Legislative Agenda

- ▶ The Government in its quest to keep the country ahead of the curve and agile in addressing international pressures and challenges over the last year developed an aggressive legislative agenda for this current Parliamentary term to enhance.
- ▶ This agenda will assist in addressing the CFATF Recommendations of the 2017 Mutual Evaluation Report and enhancements required to the legal, regulatory and supervisory framework.

Bills to be presented -

- ▶ A Bill to establish the Independent Office of the Director of Prosecutions passed in the Lower and Upper Chambers of the House in the last quarter of 2017.
- ▶ **Proceeds of Crime Bill, 2017**
- ▶ This Bill replaces and repeals the existing Proceeds of Crime Act and seeks to consolidate, strengthen and modernize the provisions relating to prevention, prosecution and cross-border cooperation of money laundering, terrorism financing, corruption, human trafficking and proliferation of weapons of mass destruction. The Bill will be presented to parliament before end of 2017.

▶ **Financial Transactions Reporting Bill, 2017**

▶ This Bill replaces and repeals the existing Financial Transactions Reporting Act and introduces additional requirements consistent with The Bahamas obligations under the FATF Recommendations. Upon enactment it will assist in bringing The Bahamas into technical compliance with 16 FATF Recommendations.

▶ Other legislation being put forth include -

▶ The Anti-Terrorism & Anti-Proliferation Bill,

▶ Travelers' Currency Declaration Bill

▶ The Gaming House Operators Regulations and

▶ The Integrity Commission Bill.

Third Step - to complete the National Identified Risk Strategy

- ▶ The National Identified Risk Strategy has been completed. The Strategy will be forwarded to Cabinet for its approval and after which published on the Government's, regulators and financial sector trade associations' websites.
- ▶ The Strategy is a three year roadmap to addressing the deficiencies noted in the CFATF MER and the NRA.
- ▶ It will be a living document and updated periodically to reflect actions contemplated to address other identified risks as noted in the Proceeds of Crime Bill, 2018.

Conclusion

- ▶ The Bahamas has long been an active participant in international efforts to disrupt organised crime and to remove the profit from criminal activity. As a founding member of the Caribbean Financial Action Task Force (CFATF), The Bahamas has demonstrated its commitment to international best-practice embodied within the 40 Recommendations of the Financial Action Task Force.
- ▶ Our National Identified Risk Strategy (NIRS) provides an overarching look at our vision of an efficient and effective Identified Risks Framework (IRF) and provides a guide for its achievement.

- ▶ It will assist competent authorities in initiating coordinated action for the implementation of adequate money laundering, terrorist financing, and proliferation financing risk mitigation measures, and allow the private sector to better align its efforts with national objectives.
- ▶ Notwithstanding the continual program of enhancements being carried out by The Bahamas' government, the goal post continues to move but we are determined to stay on the cutting edge while addressing any deficiencies that may be brought to our attention to avoid any negative pressure from international and regional initiatives.

- ▶ Staying on the cutting edge of addressing international initiatives and evolving international best practice and standards is crucial to the country's survival in the global financial framework.
- ▶ The Bahamas remains committed to international best practices, cooperation in the administration of justice, international tax transparency, anti-money laundering and the countering of financial terrorism initiatives including satisfying recommendations coming out of the Caribbean Financial Action Task Force (CFATF).