



SAMOA
ANTI-MONEY
LAUNDERING AND
COUNTER TERRORIST
FINANCING
("AML/CTF")
NATIONAL STRATEGY
2016 - 2020



Vision: Samoa to be the leading Pacific Island Nation in the most practical application of international standards on anti-money laundering and countering terrorist financing (AML/CTF).

Mission: To effectively detect, deter, disrupt and prevent money laundering and terrorist financing in Samoa in collaboration with the pertinent national agencies, private sector and international counterparts. This trail will blaze toward a stable and safe financial, social, economic and political environment.

An effective AML system requires appropriate laws, motivated sufficiently resourced and informed authorities, and an engaged private sector.

AML is no more effective in reducing the harm caused by crime than any other law if the law is not enforced.

This National Strategy seeks to enhance the quality of information available to inform AML/CTF efforts; improve the legislation in place to address non-compliance; and engage the private sector both through liaison and targeted intelligence-driven sanction.

This National Strategy draws on the National Risk Assessment (NRA) 2014 and the Asia Pacific Group/Financial Action Task Force (APG/FATF) Mutual Evaluation (ME) and other sources to map a way forward over the next four years. At the end of this time Samoa will have:

- a. Started to fill known intelligence gaps and set in place a process to identify emerging and unknown intelligence gaps;
- b. Quantified the value of domestic and foreign proceeds of crime in Samoa, and consider the types or volume of threats associated with the range of predicate offences;
- c. Identified under-reporting of suspicious transaction reports (STRs) and addressed the issues causing under-reporting;
- d. Commenced collection and analysis of threshold transaction data;
- e. Remedied the technical deficiencies in the terrorist financing (TF) offence;
- f. Amended AML policies;
- g. Strengthened the legal framework for targeted financial sanctions (TFS) relating to terrorism and introduced a legal framework for TFS related to proliferation financing;
- h. Amended the International Companies Act 1988 (ICA 1988), Trusts Act 2014, Companies Act 2001, Money Laundering Prevention Act 2007 (MLP Act 2007) and Money Laundering Prevention Regulations 2009 (MLPR 2009) to address the technical deficiencies identified;
- i. Developed a mechanism to enhance the accuracy and timeliness of beneficial ownership information held by trust and company service providers (TCSPs) for international business companies (IBCs);
- j. Developed appropriate mechanisms for TCSPs to understand their money laundering/terrorist financing (ML/TF) risks;
- k. Expanded on the dissemination from Financial Intelligence Unit (FIU) to other agencies;
- l. Expanded the application of sanctions against financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) for breaches of AML/CFT requirements;
- m. Increased the level of compliance inspections undertaken;
- n. Provided feedback to supervised entities; and

- o. Pursued confiscation action in more serious and complex cases.

The Potential Impact of an Effective AML/CTF System

Anti-money laundering (AML) at its inception was intended to address financially motivated offending that law enforcement, through the use of traditional methods, could not. To be effective however, AML must either prevent access to the financial system or the assets which offenders would seek to turn their ill-gotten gains into.

Traffic laws are ineffective in lowering the incidence and harm caused by traffic accidents if drivers only comply when there is a police officer present and observing. Similarly, if banks and other financial institutions only stop transactions and cease business when instructed to do so on each and every occasion, then the offences that generate proceeds of crime (and the harm caused in society by them) are allowed to continue and grow.

Suppression of money laundering, and through it the crimes that cause harm to Samoans, must come from prevention – through rendering offending too difficult or too expensive – or through deterrence. Deterrence requires a genuine perception of risk in the minds of offenders and would-be offenders that they will be publically identified, caught and/or punished and this deterrence can be applied to both the predicate offenders and/or those who launder on their behalf.

AML/CTF is at its least effective when applied to individual predicate offenders laundering their own proceeds. Conversely it is at its most effective when it is used to change the behaviour of those who facilitate the laundering of the proceeds of multiple predicate offences from multiple offenders.

Law enforcement and regulators in few, if any, parts of the world are resourced sufficiently to investigate and address all offences that are committed. In terms of financially motivated crime, it is significantly more cost effective to change the behaviour of the facilitators of money laundering than it is to change the behaviour of every predicate offender or potential offender.

Changing the behaviour of a bank, lawyer, money transfer operator (MTO) or real estate agent that to cease or prevent laundering or terrorist financing for any and all of their customers is vastly less resource intensive than identifying and individually investigating and prosecuting all of the customers of those entities that might engage in financial crime or the financing of terrorism.

It is this concept that underpins the Samoan AML/CTF National Strategy.

Known Intelligence Gaps (RECOMMENDATION 1) Rate: PC

The value of domestic and foreign proceeds and the range of predicate offences

In order to make best use of AML systems to suppress financial crime, Samoan authorities will focus attention on the areas of highest threat associated with the range of predicate offences. The NRA 2014 identifies a range of high risk sectors however it has been noted that there has been no quantification of the amount of funds laundered through Samoa or the various sectors.

Quantification of the value of domestic and foreign proceeds of crime in Samoa, and the type and extent of threats associated with the range of predicate offences, is a priority for Samoan authorities to be able to direct AML/CTF resources so as to have the greatest impact.

The total value of funds laundered through the Samoan financial system is an intelligence gap that the Samoan authorities acknowledge. Similarly, the various proportions of these funds laundered through the financial entities, banks, casino, lawyers, real estate agents, MTOs, high value goods dealers and the like is an intelligence a gap that is yet to be addressed.

Samoan authorities have access to information that indicates the total funds which flows through the various sectors of the economy. This information combined with intelligence gleaned from financial crime convictions, unsuccessful prosecutions and covert and overt intelligence sources will be used to estimate the total value of funds laundered in and through Samoa as well as an apportionment of the illicit funds which flow through the various sectors (banking, casino, real estate, lawyers, MTOs etc.)

Action Item:

- Samoan authorities will commence a process to identify and collect intelligence that will support an estimation of the total volume of funds laundered through the Samoan financial system, the various sectors, and identify the various predicate offences that generate these funds.

High Risk Sectors (RECOMMENDATION 1) Rate: Partially Compliant (PC)

High Risk Sectors - Commercial Banks

The NRA 2014 identified commercial banks as facing higher inherent risks particularly with respect to transactions into and out of Samoa.

Banks around the world, particularly in the US and Europe have increasingly been sanctioned for either failing to put in place measures to prevent money laundering, or, more worryingly (as in the case of HSBC) have been sanctioned for actively encouraging and participating in money laundering.

Until about 2009 it was thought in AML circles that banks' concerns about their reputation would prevent them from actively engaging in money laundering. High profile cases since that time have shown that for many banks, the risk to their reputation is insufficient to outweigh the attraction of profits to be made¹.

The UK, US and (more recently) Australian²regulatory models have moved rapidly from an 'educational' light-touch form of regulation to active regulation through provision of what is termed credible deterrence³ using techniques such as 'deep dive' analysis⁴, financial sanction and criminal prosecution.

¹ See for example the UK National Risk Assessment 2015; ; UK Financial Services Authority report "Banks' management of high money-laundering risk situations - How banks deal with high-risk customers (including politically exposed persons), correspondent banking relationships and wire transfers" June 2011; and "Undue Diligence – How Banks Do Business with Corrupt Regimes"- Global Witness, March 2009

² See legal action recently announced against Tabcorp – www.austrac.gov.au

³ The FSA, "credible deterrence", and criminal enforcement – a "haphazard pursuit"?

The MER noted that the Central Bank of Samoa (CBS) and the Samoa International Finance Authority (SIFA) do not have established processes to identify and maintain an on-going understanding of the money laundering/terrorist financing (ML/TF) risks between different sectors and individual institutions. However, they regularly update their assessment of sectorial ML/TF risks particularly when there are major events or changes to a particular financial institution or sector.

Samoa's law enforcement agencies have a good understanding of cash-based money laundering. Samoa's economy is significantly cash-based and the intelligence gathered is a result of the resources that law enforcement agencies have invested over a number of years in focussing on cash-based money laundering and the drugs trade (which largely generates proceeds in the form of cash).

While cash-based money laundering continues to be recognised, as posing a high money laundering risk, significant intelligence gaps still exist in relation to high-value money laundering that is particularly relevant to major fraud and serious corruption, where the proceeds are often held in bank accounts, real estate or other investments, rather than in cash and in fact, may never be exchanged for cash at any stage of the laundering process.

The threat in this sector is judged to be significant; around 60% of money laundering cases investigated by other countries have funds initially moved through banks, compared with around 11% through MTOs⁵.

Action Items:

Samoa authorities will move to reduce the risk posed by commercial banks through:

- The analysis of financial intelligence and identification of the flow of high-risk funds;
- Reviews of banks procedures, particularly with respect to high risk customers and products;
- Establishing processes to identify and maintain an on-going understanding of the ML/TF risks between different sectors and individual institutions;
- Establishing processes to regularly update their assessment of sectorial ML/TF risks particularly when there are major events or changes to a particular financial institution or sector;
- Expanding education to improve banks' identification of predicate offending, proceeds and money laundering;
- Expanding education to improve banks' suspicious transaction report (STR) reporting;
- Expanding analysis to identify unreported STRs; and
- Intelligence driven targeted sanctions for non-compliance to promote behavioural change where required.

High Risk Sectors – MTOs

The NRA 2014 identifies MTOs as higher risk due to their cash-intensive business model. From international experience MTOs have been used to launder funds from domestic offences to move funds offshore.

Wilson Gary Wilson Sarah – Journal of Financial Crime, 2013

⁴ Financial Crime Newsletter, Sept 2011

⁵ UK NRA 2015 available here

Products and services offer by MTOs include receiving and sending money; buying and selling currencies; and bill payments. Annually, the MTO sector processes millions of tala and thousands of transactions. Businesses, government agencies/ministries and the general public use MTO services and products due to their convenience, flexibility and better exchange rates.

Customer due diligence (CDD) processes are known to be lacking in MTOs and two MTOs have been sanctioned in the past, though not for AML/CTF breaches.

Samoan authorities recognise an intelligence gap in relation to the extent and methods of laundering through MTOs.

Action Items:

Samoan authorities will commence:

- The process of gathering threshold transaction reports both cash and electronic transfers to address the intelligence gap with respect to MTOs;
- A process to identify unreported STRs by MTOs;
- An education process to improve MTOs reporting of STRs; and
- A process to ensure sanctions, if they need to be applied to MTOs, can be applied.

High Risk Sectors - The Casino

The NRA 2014 identified the casino as being assessed as higher risk due to the type of customers, large amount of cash involved in daily operations and the known use of casinos for laundering throughout the world.

The Samoan casino is not permitted to allow entry for gambling by Samoan residents and to this extent it may be less of a risk with respect to laundering of domestic proceeds (however may not necessarily prevent non-residents using the casino to launder funds on behalf of Samoan residents). From international experience laundering through casinos can take a number of forms, some of them identifiable through analysis of funds flows and others through physical surveillance.

Samoan authorities recognise an intelligence gap with respect to laundering through the casino.

Action Items:

Samoan authorities will commence:

- The process of gathering threshold transaction reports both cash and electronic transfers to address the intelligence gap;
- An education process to start the Casino reporting STRs; and
- A process to ensure sanctions, if they need to be applied to the casino, can be applied.

High Risk Sectors - International Businesses

The NRA 2014 identified International Business Companies (IBCs) that may be used by criminals or terrorism financing organisations to set up complex structures for illegal purposes.

The same factors that make Samoa an attractive place for legitimate financial activity – its political stability, advanced professional services sector, and widely understood language and legal system – also make it an attractive place through which to launder the proceeds of crime.

Samoaan offshore entities are advertised internationally as ‘high-secrecy’ companies⁶ and entities. While this doesn’t of itself mean that all entities are used for money laundering, it does make them attractive to launderers and raises the risk profile of Samoa when viewed by other countries.

Samoaan authorities acknowledge an intelligence gap in the value of funds, legitimate or otherwise, flowing through the international companies, banks and other entities incorporated in Samoa. Given the relative value of this sector to the Samoaan economy this poses a significant risk. If, for example, an international terrorist organisation were to be identified as having used a Samoaan incorporated entity to raise, move, store or use funds for terrorist purposes the international backlash may shut down not only this sector but may restrict all access by Samoaan entities to foreign exchange.

The Mutual Evaluation Report (MER) noted that, for SIFA, there were no indications that it employs a risk-based approach to supervision of the international banks and insurance companies.

Action Items:

- Samoaan authorities will commence a process to identify intelligence sources that will support an estimation of the volume of funds laundered through international companies, trusts and other entities, the predicate offences and the risk that this may pose to Samoa.
- Samoaan authorities will then commence a process to develop appropriate mechanisms for TCSPs to understand their ML/TF risks, have sufficient information, including in relation to the existence and operation of bank accounts, to enable them to ‘know their customer’ (including the beneficial owner of the IBC) and be able to undertake sufficient monitoring of their business relationships to meet their on-going CDD, record-keeping, STR reporting and other AML/CFT obligations.
- Samoaan authorities will work to enhance the accuracy and timeliness of beneficial ownership information held by TCSPs for IBCs requiring change of beneficial ownership to be recorded within one month of occurring.
- Samoaan authorities will also work to ensure TCSPs for IBCs are effectively applying the new financial information requirements under the International Companies Act 1988 to ensure that TCSPs understand who is the person who ultimately owns or controls the IBC.
- Samoaan authorities will commence periodic tests on selected customer files to determine if copies of beneficial ownership documentation held by a third party introducer can be supplied in a timely manner.
- SIFA will work towards a risk-based approach to supervision of the international banks and insurance companies.
- SIFA has begun re-designing its Supervisory efforts through updating its on-site procedures (process regarding TCSPs and IBCs).

⁶ See for example <http://www.privacy-solutions.com/setting-offshore-ibc-samoa.html>; <http://www.ocra.com/jurisdictions/samoa.asp>; <http://www.offshoreformations247.com/offshore-jurisdictions/samoa>

Cash-Based Money Laundering (RECOMMENDATION 32) Rate: Largely Compliant (LC)

Cash-Based Money Laundering – Border Currency Reporting (BCR)

Samoa authorities suspect significant under-reporting of cash movements in and out of Samoa.

The table below shows the number of Border Currency Reports (BCRs) filed by individuals entering and leaving Samoa.

Years	Total Number of BCRs
2011	0
2012	4
2013	2
2014	4

The MER notes that Samoa's declaration system only extends to personal luggage, rather than to cargo more generally, and does not fully cover mail. The interface between Customs' and Immigration's databases on incoming passengers is not integrated and is not fully adequate for implementation of the relevant Financial Action Task Force (FATF) recommendation.

Action Items:

- Samoan authorities will continue to conduct targeted luggage searches to identify unreported cash movements into and out of Samoa. The results of this process will be recorded and used to estimate the total volume of funds moved across the border in cash, the unreported volume, and the volume of these funds that are suspected of being proceeds and the suspected predicate offences.
- Commence a process to integrate the interface between Customs' and Immigration's databases on incoming passengers.

Non-cash based money laundering

Samoa's law enforcement agencies have a good understanding of cash-based money laundering. Samoa's economy is significantly cash-based and the intelligence gathered is a result of the resources that law enforcement agencies have invested over a number of years in focussing on cash-based money laundering and the drugs trade (which largely generates proceeds in the form of cash). While cash-based money laundering continues to be recognised, as posing a high money laundering risk, however significant intelligence gaps exist in relation to high-value money laundering that is particularly relevant to major fraud and serious corruption, where the proceeds are often held in bank accounts, real estate or other investments, rather than in cash and in fact, may never be exchanged for cash at any stage of the laundering process.

The threat in this sector is judged to be significant; around 60% of money laundering cases investigated by other countries have funds initially moved through banks, compared with around 11% through MTOs⁷.

⁷ UK NRA 2015 available here

Action Items:

Samoa authorities will move to reduce the risk posed by commercial banks through:

- analysis of financial intelligence and identification of high-risk funds flows;
- targeted reviews of banks procedures – particularly with respect to high risk customers and products;
- expanded education to improve banks' identification of predicate offending, proceeds and money laundering;
- expanded education to improve banks' STR reporting; and
- intelligence driven targeted sanctions for non-compliance.

Strengthening the Framework – Making Samoa More Hostile to ML and TF (RECOMMENDATION 20) Rate – LC

Reporting of Suspicious Transaction Reports (STRs)

The STR process is a fundamental element of an effective AML/CTF system. The narrow range of predicate offending and the low volume and limited sectors reporting STRs in Samoa since 2011 indicate a lack of reach by the AML/CTF legislation and authorities.

The table below shows the volume and source of STRs since 2011.

Sector	2014	2013	2012	2011
Banks	9	14	42	13
MTOs	4	5	3	3
Trustee companies	2	0	0	1
Lawyers	0	1	0	0
Total STRs	15	20	45	17

Samoa authorities possess intelligence indicating a broad range of predicate offences occurring in Samoa that should have triggered STRs and/or business rejection and account closures.

Action Items:

- Authorities will commence a process of threshold transaction analysis and targeted review of customer accounts and files, gambling patterns, to identify unreported STRs. This will be accompanied by an expanded education process and sanctions for non-compliance to produce behaviour modification.
- Furthermore, Samoa authorities will commence capturing of intelligence on transaction rejections, account closures and new business rejections in order to better assess the robustness of Samoa's AML/CTF regime.
- Authorities will commence a process to ensure financial institutions are advised of concerns about weaknesses in the AML/CFT system of other countries.

International Organised Crime

Pacific island countries may be used by international organised crime groups (IOCGs) as a transit point for their illegal activities. For the same reason that the Pacific island countries are attractive to tourists, it is attractive to international organised crime groups and the people and entities that

support them. The factors that attract IOCGs include Samoa's geographic location, stable economy and currency, low levels of violent and petty crime, and advanced banking system. In addition, Samoa has an internationally advertised reputation as a secrecy haven with low capacity law enforcement which adds to its attractiveness for international crime groups.

An effective AML/CTF system has the potential to reduce the attractiveness of Samoa for IOCGs.

IOCGs need to be able to move goods and money in order to be conduct business. A country that has a financial system which prevents the movement of funds to pay bribes, purchase drugs or other contraband and the repatriate profits is a country that is unattractive to IOCGs.

Samoa authorities recognise an intelligence gap with respect to the activities of IOCGs and will work to identify sources of intelligence to fill these gaps.

Action Items:

- Samoan authorities will commence engagement, through the Transnational Crime Unit (TCU) and other sources, on the nature and extent of IOCGs in operation in Samoa.
- Samoan authorities will commence the formulation of steps to reduce the attractiveness of Samoa as a place for IOCGs to do business.

Assessing risks & applying a risk-based approach (RECOMMENDATION 1) Rate: PC

The MER notes that:

- The NRAs (2012 & 2014) does not consider in any depth the types or volume of threats associated with predicate offences, nor does it draw to any real extent on the risks identified by law enforcement or the private sector concerning underlying predicate offences. It is also not clear from the NRAs how the relative importance of the threats and of the potential consequences or impact were assessed, other than it was based on 'consequence statements definitions within the context of the money laundering environment.'
- Although the private sector was engaged in undertaking the NRAs, only general feedback has been provided and no feedback on findings has been provided on-site to financial institutions (FIs) or designated non-financial businesses and professions (DNFBPs).
- Samoa has not implemented a comprehensive, risk-based approach to allocating resources and implementing measures to prevent or mitigate money laundering/terrorist financing (ML/TF) on the basis of assessed risks.
- Trustee companies providing offshore financial services in Samoa under any law that is administered by SIFA, may be exempted from any obligation arising under the MLP Act 2007. While in practice only one limited exemption has been granted, this potentially very broad exemption was not included on the basis of a proven low risk; on the contrary, the NRA suggests the risk in the offshore sector is high.
- There is a generic requirement in section 14 of the MLP Regulations 2009 for FIs to perform additional customer due diligence (CDD) measures for categories of customers, business relationships or transactions with a higher risk of ML.
- Monitoring of AML/CFT compliance has not fully extended to requirements on FIs and DNFBPs to assess risk and implement measures for risk mitigation.

- No explicit obligation for FIs to understand the risks or to document their risk assessments and to keep them up to date; no explicit requirement to proactively provide risk assessment information to the competent authorities.
- Since the risk-based obligations are not fully in line with the FATF Standards, some deficiencies remain (including that sub-section 17(3) of the MLP Regulations refers only to ML, and not TF).
- As noted under criterion 1.9, simplified measures are only allowed if lower risks have been identified and in the absence of any suspicion of ML or TF. However, not all the requirements of criteria 1.9 to 1.11 of the Standards have been met.

Action Items:

- Much of this will be covered in the process of filling intelligence gaps above; however, this section of the National Strategy is included to ensure that all elements of the MER are taken into account.
- Undertake a process to ensure that the next NRA does consider in-depth the types or volume of threats associated with predicate offences.
- Provide feedback on findings from NRA to FIs or DNFBPs.
- Implement a comprehensive, risk based approach to allocating resources and implement measures to prevent or mitigate ML/TF on the basis of assessed risks.
- Ensure that Trustee companies providing offshore financial services in Samoa under any law that is administered by SIFA, if exempted from any obligation arising under the MLP Act 2007. Is only included on the basis of a proven low risk.
- Ensure that additional customer due diligence (CDD) measures for categories of customers, business relationships or transactions with a higher risk of ML is only undertaken where it has been tied to the findings of the NRA.
- Expand monitoring of AML/CFT compliance to requirements on FIs and DNFBPs to assess risk and implement measures for risk mitigation.
- Only allow simplified if lower risks have been identified and in the absence of any suspicion of ML or TF.

Strengthening the legal framework

The NRA 2014 and APG/FATF Mutual Evaluation identify areas in Samoa's legislation that can be tightened in order to improve the robustness of our AML/CTF system.

In particular Samoa lacks the legislation to support targeted financial sanctions (TFS) relating to terrorism and a legal framework for TFS relation to weapons proliferation financing.

It has also been identified that Samoa should amend the International Companies Act 1988, Trusts Act 2014, Companies Act 2001, MLP Act 2007 and MLP Regulations 2009 to address technical deficiencies.

The MER notes that the range of sanctions applicable to FIs and the DNFBP sectors, which rely largely on criminal sanctions under the MLP Act 2007, is not considered proportionate and dissuasive.

Action Items:

- Samoan authorities will commence a process to document the legislative improvements required and pursue a process of legislative drafting.
- Samoan authorities will engage outside expertise (where required) to assist in drafting legislation.

Weapons of Mass Destruction (RECOMENDATION 7) Rate: Non-Compliant (NC)

The MER notes that no agencies or mechanism exist to coordinate efforts to combat the financing of weapons of mass destruction.

Action Item:

To commence the process of formulation with relevant agencies to identify a suitable method of addressing this issue.

Money Laundering Prosecutions

The APG/FATF Mutual Evaluation noted that Samoa has not had any money laundering prosecutions. Theories exist as to why this is the case (including lack of technical capacity in the Samoan police force and lack of motivation or reward for police to undertake this type of work) however no detailed assessment has been conducted.

Samoan authorities acknowledge that a key component of deterrence is prosecution of offenders for money laundering. As noted in the preamble to this National Strategy, prosecution of professional money launderers is a more cost-effective means of addressing money laundering than prosecuting individual predicate offenders who are 'self-laundering'.

Prosecution of professional launderers is a complex process, and Samoan authorities acknowledge an intelligence gap as to why there have been no ML prosecutions of either self-launderers or professional launderers.

Action Items:

- Conduct a detailed assessment to ascertain the reasons why there have been no ML prosecutions in Samoa.
- Implement recommendations of the assessment to address issues preventing prosecution.

Pursuit of Proceeds

The restraint and confiscation of proceeds of crime is recognised as a key deterrent in the fight against financially motivated crime. The APG/FATF Mutual Evaluation noted that Samoa has only confiscated assets in less complex, smaller matters.

Action Items:

- Conduct a detailed assessment to ascertain the reasons why there have been no confiscations in larger, more complex cases, including those from international offending.
- Obtain expert assistance internationally (where required) to support the pursuit of criminal proceeds.

Dissemination of Intelligence (RECOMMENDATION 2) Rate: PC & (RECOMMENDATION 40) Rate: LC

International intelligence shows that money laundering operates most harmfully in law enforcement intelligence vacuum. The sharing of intelligence is vital to reducing the effects of the predicate offences that generate laundered proceeds.

Samoa authorities acknowledge the need to expand intelligence sharing both within Samoa and internationally in order to suppress, deter and prevent financially motivated crime.

Samoa authorities are cognisant of concerns around potential 'tipping off' of offenders by the recipients of intelligence. This risk will be weighed against the potential for an increased general perception of risk that such tipping off might generate in the minds of offenders. That is, 'If you know that authorities are capable of watching you, you are less likely to offend.'

Action Items:

Samoa authorities will commence a program of data collection:

- threshold transactions;
- convictions of Samoan offenders both within Samoa and overseas;
- foreigners living in Samoa that have been convicted of offences;
- foreign PEPs who hold assets in Samoa; and
- domestic PEPs (as recommended by FATF).

Samoa authorities will commence a programme of dissemination of intelligence to the various agencies and entities that might be able to make use of this information.

Tax Evasion (RECOMENDATION 3) Rate: PC

In many countries⁸ the taxation authorities are the most active user of intelligence provided by their financial intelligence units. Samoa authorities acknowledge an intelligence gap in relation to the extent of tax evasion.

Action Items:

Conduct an intelligence gathering process to identify intelligence that may allow assessment of:

- The extent of tax evasion;
- Where evaded taxes are going;
- How ML processes may assist to reduce tax evasion;
- Whether avoided tax that has been sent offshore may be repatriated; and
- Unexplained wealth.

Designated Non-Financial Businesses and Professions (DNFBPs) (RECOMENDATION 22 & 23) Rate: PC

The MER noted that Supervision of DNFBPs is not performed on a risk sensitive basis, nor is a risk-based approach used when assessing the adequacy of the AML/CFT internal controls, policies, and procedures.

⁸ Notably Australia and UK.

Action Items:

- Include in the ML/CTF intelligence gathering processes intelligence that may allow assessment of the risk posed by DNFPBs.
- AML/CFT Awareness program for DNFPBs (Lawyers, Accountants, Dealers in Precious Metal, Real Estate agents, etc.).

Bearer Shares (RECOMENDATION 24) Rate: PC

As identified in the MER, under the International Companies Act 1988 amendment of April 2014 all bearer shares must be converted into registered shares within 6 months of the amendment coming into force otherwise any rights attaching to the shares will be cancelled by operation of law. Although enacted in April 2014, the amendment had yet to come into force at time of the MER on-site visit in November 2014.

Action Item:

- Amendment made under the International Company Act 1988 has been enacted and has commenced.

Statistics (RECOMENDATION 33) Rate: LC

The MER notes that statistics regarding informal international co-operation are not consistently kept.

Action Item:

- Commence a process of discussion with all members of the Task Force to ensure that this occurs in a timely fashion.

Non Profit Organisations (NPOs) (RECOMENDATION 8) Rate: PC

The MER notes that Samoa has not undertaken a domestic review of its NPO sector since the 2006 MER, no recent outreach or training has been conducted, and no inspection of NPOs has occurred since 2009 to ensure compliance with CFT requirements.

No specific points of contact or procedures for international NPO requests have been established outside of mutual legal assistance (MLA) and law enforcement co-operation networks.

There is limited monitoring of NPOs for compliance with registration and annual reporting requirements and the sanctions available under the Incorporated Societies Ordinance 1952 (ISO 1952) are not proportionate and dissuasive.

Action Items:

- Commence a process of review and outreach with the NPO sector.
- Conduct AML/CFT awareness training for Ministry of Commerce, Industry and Labour (MCIL) staff.

Guidance and Feedback (RECOMENDATION 34) Rate: PC

The MER notes that guidance has not been updated to reflect the 2012 NRA, the passage of the Counter Terrorism Act in 2014 (CTA 2014) or to reflect any feedback from reporting institutions.

There is only limited feedback between government agencies and very little ongoing feedback between the government, supervisors and the private sector.

Action Items:

- Commence a process within the SFIU to provide regular feedback including to reflect the 2014 NRA and, the passage of the CTA 2014.
- All Task Force members should record their feedback or any other related issues.

International instruments (RECOMENDATION 36) Rate: PC

The MER notes that Samoa is not a party to the UN Convention against Corruption (Merida Convention) or to the Palermo convention.

Action Items:

- Samoa has the authority to ratify Merida Convention prior to cabinet approval.
- Samoa already accepted the Palermo Convention in December 2014.

Extradition (RECOMENDATION 39) Rate: LC

The MER notes that there are limited designations and extradition treaties which prevent extraditions from taking place.

And that there is no requirement for Samoan authorities to instigate a domestic prosecution at the request of the country seeking extradition.

Action Item:

Commence a process of discussion with relevant agencies to expand the range of treaties and to instigate a domestic prosecution at the request of the country seeking extradition.

National co-operation and co-ordination (RECOMENDATION 2) Rate: PC

The MER notes that there is no national AML/CFT policy informed by risk. (The MLP Regulations and Guidelines do not fully constitute 'national AML/CFT policies.' The Guidelines do include some general policy statements/assumptions, but they only apply to the financial sector policies are not yet fully informed by risk. It appears that the Money Laundering Prevention Authority (MLPA) does not undertake a regular policy review function.)

No central body appears to have formal responsibility for national AML/CFT policies. (The primary statutory role of the MLPA is quite narrow, that is, to supervise FIs). The MLP Task Force has a much broader legislative remit, though section 5 of the MLP Act 2007 does not specifically give the MLP Task Force responsibility for national AML/CFT policies.)

Action Item:

Commence a process of discussion with relevant agencies to identify a suitable method of addressing this issue.

List of Acronyms:

AML – anti-money laundering
APG – Asia Pacific Group on Money Laundering
NBI – negotiable bearer instrument
CBS – Central Bank of Samoa
CDD – customer due diligence
CTF – countering terrorist financing
CT Act – Counter Terrorism Act 2014
DNFBPs – Designated Non-financial Businesses and Professions
FATF – Financial Action Task Force
FI – financial institution
FI Act – Financial Institutions Act 1996
FIU – Financial Intelligence Unit
IBC – international business company
ICA – International Companies Act 1988
IPLPA – International Partnership and Limited Partnership Act 1998
ISO – Incorporated Societies Ordinance 1952
MCIL – Ministry of Commerce, Industry and Labour
MER – mutual evaluation report
ML – money laundering
MLA – mutual legal assistance
MLPA – Money Laundering Prevention Authority
MLP Act – Money Laundering Prevention Act 2007
MLPR – Money Laundering Prevention Regulations 2009
MLPG – Money Laundering Prevention Guidelines 2010
MLP Task Force – Money Laundering Prevention Task Force
MLRO – Money Laundering Reporting Officer
MOU – memorandum of understanding
MTO – money transfer operator
NPO – non-profit organisation
NRA – National Risk Assessment
PEPs – politically exposed persons
POCA – Proceeds of Crime Act 2007
SAT – Samoan Tala
SFIU – Samoa Financial Intelligence Unit
SIA – Samoa Institute of Accountants
SIFA – Samoa International Finance Authority
SROs – self-regulatory organisations
STR – suspicious transaction report
TCU – Transnational Crime Unit
TCSP – trust and company service provider; trustee company
TF – terrorist financing
TFS – targeted financial sanctions
TIEA – taxation information exchange agreement
UNSCR – United Nations Security Council Resolution