



NATIONAL RISK ASSESSMENT - SAMOA 2024

ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM (AML/CFT)

NATIONAL RISK ASSESSMENT 2024

S A M O A

TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
Key Findings	4
Way Forward	7
1. INTRODUCTION TO SAMOA	9
1.1 Geographical Position	9
1.2 Population	9
1.3 Language	9
1.4 Government Structure	10
1.5 Legal System and the Judiciary	10
1.6 Law and Order	11
1.7 Economy	11
2. RISK ASSESSMENT METHODOLOGY	13
2.1 Purpose of National Risk Assessment	13
2.2 NRA Working Group	13
2.3 NRA Risk Assessment Methodology	15
2.4 NRA Process	18
2.5 Limitations of the Assessment	20
3. MONEY LAUNDERING THREAT ANALYSIS	21
3.1 Introduction	21
3.2 Domestic Threat	22
3.3 International Threat	31
3.4 Overall ML Risk	31
3.5 Next Steps	32
4. OVERALL MONEY LAUNDERING AND TERRORIST FINANCING COMBATING ABILITY	33
4.1 AML/CFT Legal and Regulatory Framework	33
4.2 High-Level Commitment and Institutional Framework	36
4.3 Prosecution and Judicial Process	45
4.4 Internal Inter-Agency Cooperation	46
4.5 External and International Cooperation	47
4.6 Overall National Vulnerability	49
4.7 Next Steps	50
5. SECTORAL MONEY LAUNDERING VULNERABILITY – FINANCIAL INSTITUTIONS	51
5.1 Overview	51
5.2 Banking Sector	52

5.3	Money Transfer Operators (MTOs) and Money Changers (MCs)	58
5.4	Insurance Sector.....	64
5.5	Money Lenders.....	66
5.6	Credit Unions.....	69
6.	SECTORAL MONEY LAUNDERING VULNERABILITY – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS (DNFBPS).....	72
6.1	Overview	72
6.2	Lawyers.....	73
6.3	Accountants	77
6.4	Casinos	79
6.5	Dealers in Precious Metals and Precious Stones	82
6.6	Trust and Company Service Providers.....	84
6.7	Real Estate Agents.....	89
7.	NON-PROFIT ORGANISATIONS (NPOS).....	91
7.1	Overview	91
7.2	ML/TF Risks	91
7.3	AML/CFT Systems and Controls	92
7.4	Next Steps	93
8.	LEGAL ENTITIES AND LEGAL ARRANGEMENTS	93
8.1	Overview	93
8.2	International Financial Services Sector	94
8.3	Domestic Companies.....	103
8.4	Domestic Trusts.....	106
8.5	Overall ML Risk.....	106
8.6	Next Steps	106
9.	TERRORIST FINANCING THREAT AND VULNERABILITY ASSESSMENT	107
9.1	Terrorism Threat	107
9.2	Terrorist Financing Threat.....	108
9.3	Terrorist Financing Vulnerability.....	109
9.4	Terrorist Financing Risk	112
9.5	Next Steps	112
ANNEX:	LIST OF ABBREVIATIONS.....	113

Executive Summary

This is Samoa's third money laundering and terrorist financing (ML/TF) national risk assessment (NRA), and the aim of this process is to identify, understand and assess the money laundering (ML) and terrorist financing (TF) risks faced by Samoa. This NRA is also intended to provide the basis for the National Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Strategy and Action Plan, which, together with the feedback from Samoa's Mutual Evaluation Report (MER) and Follow-up Reports, will lay the ground for further strengthening Samoa's AML/CFT regime.

The Financial Action Task Force (FATF) is an inter-governmental body whose objectives are to set global standards, to promote and to review the effective implementation of legal, regulatory and operational AML/CFT measures. Samoa has been a member of the Asia-Pacific Group on Money Laundering (APG), which is a part of a global network of similar bodies, referred to as Financial Action Task Force-Style Regional Bodies (FSRBs), since May 2000. Samoa is committed to the implementation of the FATF's recommendations which have been endorsed by over 180 countries as the international standards for combating money laundering, countering financing of terrorism, and forestalling the proliferation of weapons of mass destruction.

The requirement to assess risks at country-level is central to the FATF's analysis of the effectiveness of AML/CFT infrastructures. Samoa has already conducted its first NRA in 2012 and its second NRA in 2014. This third NRA of Samoa demonstrates its ongoing commitment as an APG member to effectively identify, assess and understand the ML/TF risks elements prevalent in its jurisdictions, reflect any changes to existing threats and vulnerabilities, and new threats and vulnerabilities as they emerge.

Key Findings

ML Threat

Overall money laundering threat of Samoa is assessed as **MEDIUM-LOW**. The level of domestic proceeds-generating crimes seems to be **LOW** in Samoa, with the main relevant crime types being relatively crimes against property, low level fraud and drug-related cases. Samoa has been relatively free from the influence of organised crime, but there are elements undertaking profit-driven crime in Samoa, particularly in relation to drug-trafficking. Most of the recent suspicious transactions reports (STRs) reported and disseminated by the Samoa's Financial Intelligence Unit (SFIU) relate to cyber-crime related cases – internet scam, possible romance and other foreign scams. Samoa's domestic financial system is small, and there is relatively low risk of large amounts of ML derived from domestic sources. However, the threat coming from proceeds of crimes committed outside of the country's territory is rated as **MEDIUM-LOW**.

The sectoral threat assessment likewise showed that the sectors involving commercial banks and Money Transfer Operators (MTOs) supervised by the Central Bank of Samoa (CBS), Trust and Company Service Providers (TCSPs) supervised by Samoa International Finance Authority (SIFA), and casinos supervised by SFIU are the most prevalent venues used by criminals to launder criminal proceeds warranting **HIGH** ratings, respectively. International financial services sector of Samoa has also been assessed as posing **HIGH** money laundering threat to Samoa due to its inherent nature and recent

typology reports. Insurance sector, lawyers, accountancy sector have the potential of being used as venues for money laundering in limited terms; hence, the **LOW** threat rating. The foregoing ratings may be attributed to the use of the products and institutions in the said sectors in laundering criminal proceeds, both from internal and external sources, in the money laundering schemes of criminals identified in this risk assessment.

ML Vulnerabilities

The overall ML vulnerability assessment of Samoa, considering national ability to combat ML and sectoral vulnerability is **MEDIUM**.

Samoa’s ability to combat ML is assessed as **MEDIUM**, characterised by its improving legal AML/CFT framework, high-level political commitment, close partnerships among government agencies, fair and efficient prosecution and judicial process, and good external and international cooperation. There are however still gaps that need to be addressed in order to strengthen Samoa’s overall AML/CFT regime, including enhancing its AML/CFT legal framework to ensure its effective compliance with the international AML/CFT standards, building strong public-private sector partnerships, improving capacity (human and technical) and capability for ML investigations, prosecutions and convictions, and strengthening external and international cooperation.

On the sectoral vulnerability, commercial banks, MTOs, TCSPs and casinos are identified to be **HIGHLY** vulnerable to ML risk. Insurance sector, lawyers and accountants are rated as **MEDIUM** whereas money lenders, credit unions, dealers in precious metals and stones, real estate agents and non-profit organisations (NPOs) are assessed as having **MEDIUM-LOW** vulnerability.

Despite the recent efforts to strengthen the legal and regulatory framework and mechanisms to ensure the transparency of beneficial ownership, the ML vulnerability of Samoa’s international financial services sector is assessed as **HIGH** due to the inherent high risk of them being abused by criminals to set up complex structures for illegal purposes such as move and conceal illicit funds and to hide their identities. The vulnerability of the domestic legal entities and arrangements of Samoa is assessed as **MEDIUM**, considering significant deficiencies in the legal and regulatory framework to ensure the transparency of their beneficial ownership, as required by the FATF standards.

Overall ML Risk

Overall, Samoa is exposed to a **MEDIUM** level of ML risk, comprising of **MEDIUM-LOW** level of threat and a **MEDIUM** level of vulnerability.

The table below gives an overview of the sectors which were given a final ML risk rating.

SECTORS	NRA 2024
Banks	HIGH

Money Transfers Operators (MTOs)	HIGH
Insurance Sector	MEDIUM
Money Lenders	MEDIUM-LOW
Credit Unions	MEDIUM-LOW
Lawyers	MEDIUM
Accountants	MEDIUM
Casinos	HIGH
Dealers in Precious Metals and Precious Stones	MEDIUM-LOW
Trust and Company Service Providers (TCSPs)	HIGH
Real Estate Agents	MEDIUM-LOW
NPOs	MEDIUM-LOW
International Financial Services Sector	HIGH
Domestic Companies	MEDIUM

TF Threat

Samoa is assessed to have a **LOW** level of terrorism threat and a **LOW** level of TF threat. There has been no confirmed TF case in Samoa. High-risk patterns commonly associated with TF such as abuse of NPOs or physical movement of large quantities of cash or negotiable instruments across boundaries are not observed in Samoa. Despite low TF threat, the popularity of Samoa as an international (offshore) financial services sector, as well as the global and regional TF landscape, the threat of TF taking place in or through Samoa cannot be completely ruled out and must be constantly monitored with vigilance.

TF Vulnerabilities

Samoa has a sound CFT framework in general. Gaps have however been identified in the fulfilment of the relevant United Nations Security Council Resolutions (“UNSCR”) and in ensuring effective compliance with FATF recommendations on combating TF. Steps should be taken to address these gaps.

Overall TF Threat

Samoa is exposed to **LOW** level of TF risk, with threat and vulnerability both rated as **LOW**.

Way Forward

In response to the risks identified in this assessment, there are five major areas of work that are considered necessary for Samoa to prioritise to mitigate the risk of ML/TF in the country. These include:

- a) **Enhancing the AML/CFT legal framework:** Despite a lot of effort that has been put into enhancing Samoa's AML/CFT legal framework in order to address the deficiencies identified in the 2015 Mutual Evaluation Report (MER) of Samoa, Samoa shall continue to work in strengthening its AML/CFT regime to comply with the international standards. Since MER 2015, Samoa has reviewed and amended a number of its AML/CFT-related legislations, including Money Laundering Prevention Amendment Act 2018, Tax Administration Amendment Act 2012, Counter-Terrorism Act 2014, Trustee Companies Act 2017, Proceeds of Crime Act 2007 and Crimes Act 2013. Nonetheless, there are still a number of deficiencies identified in the 2015 MER of Samoa that relate to procedural and policy requirements which are yet to be addressed by Samoa.
- b) **Enhancing capacity and resources for effective AML/CFT supervision, financial crime investigations and prosecutions:** Considering the large number of reporting entities and sectors under the supervision of Samoa Financial Intelligence Unit (SFIU), human resources and technical resources of the unit need to be strengthened to ensure effective AML/CFT supervision.

The capacity for ML/TF investigations is also restricted within the relevant agencies (including Ministry of Police) by the current available resources and limited availability of specialist staff with AML/CFT knowledge. This is an issue that has also been raised by the Office of Attorney General (AGO), coupled with limited staff trainings and workshop participations on AML/CFT.

- c) **Strengthening risk-based supervision and partnership:** Prudential and AML/CFT supervision of commercial banks, MTOs and TCSPs has been enhanced in the past few years. Nonetheless, there are still some gaps identified in implementing a risk-based AML/CFT supervision of these sectors which needs to be further strengthened to promote awareness and compliance with the AML/CFT obligations. AML/CFT Guidelines should be reviewed and updated from time to time to ensure that the requirements are in line with the international standards.

As regards to other financial institutions (i.e., insurance sector, credit unions and money lenders), DNFBPs (i.e., lawyers, accountants, dealers in precious metals and stones, casinos and real estate sector) and NPOs, the regulatory and supervisory authorities should develop targeted supervisory strategies, implement risk-based AML/CFT supervision and issue relevant sector-specific guidelines to facilitate practitioners and businesses to comply with their AML/CFT obligations. Lack of supervision or limited supervision of these sectors will contribute in increasing ML/TF risks for these sectors and for Samoa overall.

Capacity-building efforts also need to be strengthened to enhance the knowledge, understanding and awareness of all the sectors about ML/TF threats and the high-risk patterns pertinent to them. This will facilitate more efficient and targeted detection of suspicious activities and between focus

of AML/CFT systems on genuine risks. The typologies, methods and trends of ML/TF identified in this assessment, as updated from time to time, will provide useful references for the sectors. They should be disseminated in the government's regulator's outreach efforts.

Engaging the private sector more prominently as partners in combating ML/TF threat is an excellent strategy adopted in many other jurisdictions, which should also be explored by Samoan authorities. Public-private partnerships constituting of LEAs, supervisory/regulatory authorities and the private sector stakeholders should be formed to discuss the ML/TF cases, trends and typologies and for sharing of intelligence – all of which contributes to shared understanding of the ML/TF risks and formulation of risk-based interventions.

- d) **Monitoring new and emerging risks:** Risks may evolve with changes in patterns of predicate offences or terrorism and the related modes of ML/TF, as well as the development of new technologies creating new opportunities for unlawful activities. Samoa will continue to monitor risks and keep abreast with new and emerging typologies to ensure it responds appropriately and proportionately. ML/TF risks associated with virtual assets and virtual asset service providers, as well as proliferation financing need to be comprehensively identified and assessed.
- e) **Strengthening law enforcement efforts and intelligence capability:** To prepare a detailed ML/TF NRA a wide range of statistics and other data is required. It has been evident from the work on this ML/TF NRA that there has been a limited range of statistical and other case materials available to assist the development of this NRA. The lack of sufficient ML/TF related statistics has hampered the ability to validate the conclusions, particularly with regards to the threats and some vulnerabilities. To develop a more thorough NRA, statistical and other data need to be collected, maintained and analysed, commencing immediately. In particular, authorities should collect and maintain data not only on the predicate offences but also the actual funds derived from those crimes so that they can be made available for the next process of ML/TF. Relevant statistics are also required to be collected and maintained on the reporting entities – their products and services, customer base, transactions etc.– through which the associated funds are involved in the ML/TF process. Samoa should implement a program to ensure that all relevant government agencies identify, document and immediately collect and analyse all the essential data required to conduct an effective and efficient ML/TF NRA.

2. Introduction to Samoa

1.1 Geographical Position

Samoa is a small island country located in the Pacific region, approximately 4200 km southwest of Hawaii and about 4350 km northeast of Sydney, Australia. It has a total area of 2831 sq.km, which consists of 2821 sq. km of land area and 10 sq. km of water area. Samoa consists of two large islands of Upolu and Savaii which account for 99% of the total land area, and seven small islands and several inhabited islets.

There are three islets in the Apolima Strait (Manono Island, Apolima and Nu'ulopa), four Aleipata Islands off the eastern end of Upolu (Nu'utele, Nu'ulua, Namua, and Fanuatapu), and Nu'usafe'e (less than 0.01 km² – 2 1/2 acres – in area and about 1.4 km (0.9 mi) off the south coast of Upolu at the village of Vaovai.

Samoa does not share its land border with any country. It has a coastline of 403 km and 30,469 ports and trade terminal units. Samoa has inland waterways of approximately 11.5 km and road coverage of 1,150 km.

1.2 Population

In 2023, the current population of Samoa is 228,254 as of Sunday, April 14, 2024, based on World meter elaboration of the latest United Nations data 1. Samoa 2023 population is estimated at 225,681 people at mid-year. Samoa population is equivalent to 0% of the total world population. Samoa ranks number 188 in the list of countries (and dependencies) by population. The population density in Samoa is 80 per Km² (207 people per mi²). The total land area is 2,830 Km² (1,093 sq. miles) 15.8 % of the population is urban (35,665 people in 2023)

The median age in Samoa is 20.6 years. Christianity is the main religion in Samoa. According to 2016 data, 54.9% of the Samoa population is Protestants (Congregationalist 29%, Methodist 12.4%, Assembly of God 6.8%, Seventh Day Adventist 4.4%, other Protestant 2.3%), 18.8% Roman Catholic, 16.9% Mormon, 2.8% Worship Centre, 3.6% other Christian and 2.9% other religions (including Baha'i and Muslims).

1.3 Language

Samoaan and English are the official languages of Samoa. Samoaan (Polynesian) is the primary language spoken by 91.1% of the total population of Samoa. English is also widely used in the Government and other public institutions as well as by the professional and business sectors. English is spoken by 6.7% population of Samoa. There are also other unspecified languages spoken by 1.8% of the population in Samoa.

1.4 Government Structure

Samoa gained independence from New Zealand-administered UN trusteeship on 1 January 1962 and became the first Polynesian South Pacific Island country to gain independence in the 20th century.

The Constitution of Samoa provides for a parliamentary system of government. The National Government of Samoa is made up of three branches: Legislative, Executive and Judiciary. The legislative branch is Parliament, which comprises of the Head of State and the Legislative Assembly. The Constitution provides for a unicameral legislature elected by universal suffrage, which, in practice, however, is composed primarily of the heads of extended families, or “matai”. The Legislative Assembly comprises of 50 members – 49 members of the Legislative Assembly are elected directly by simple majority from 49 single-seat constituencies and there is a 1 seat for a woman, which is added for the 2016 election to meet the mandated 10 percent representation of women in the Assembly. The members of Parliament sit for five-year terms.

The Executive branch of the Government is the Cabinet, which comprises of 12 ministers including the Prime Minister as a chairperson. The Cabinet is appointed by the Head of State on the Prime Minister’s advice and is the central decision-making authority of the executive government. The Cabinet is responsible for the day-to-day management of the country and is accountable to the Head of State, Parliament and the people of Samoa.

The political situation in Samoa has been stable over a number of years except the recent constitutional crisis after the April 2021 elections. The ruling Human Rights Protection Party (HRPP) continued to dominate and hold Government since it won election in 1988. After 2021 elections, the Fa’atuatua I le Atua Samoa ua Tasi (FAST) party has formed its government in Samoa for the first time. There are 11 administrative divisions/political districts in Samoa, which includes A’ana, Aiga-i-le-Tai, Atua, Fa’asaleleaga, Gaga’emauga, Gagaifomauga, Palauli, Satupa’itea, Tuamasaga, Va’a-o-Fonoti, Vaisigano. Each district has its own constitutional foundation (10aavae) based on the traditional order of title precedence found in each district’s faalupega (traditional salutations).

Samoa has been ranked 81/100 in ‘Freedom in the World 2020’ report, published by the Freedom House, rating political rights in Samoa at 30/100 and civil liberties at 51/60. Freedom in the World report is a widely read and cited report that assesses the condition of political rights and civil liberties around the world.

1.5 Legal System and the Judiciary

Samoa has a mixed legal system of English common law and customary law. The judiciary interprets the law, ensures that the rule of law prevails and is the supreme law of Samoa. The Chief Justice is the judicial and administrative head of the judiciary.

Samoa’s judicial system consists of the District Courts, the Lands and Titles Courts, the Supreme Court and the Court of Appeals. The Court of Appeals is the highest court, which consists of the Chief Justice and 2 Supreme Court judges and meets once or twice a year. It has appellate jurisdiction only and can review the rulings of any other court. The Lands and Titles Court has jurisdiction over customary land

titles and is composed of vice presidents who are all Samoan ‘matais’ and Samoans experienced in traditional Samoan custom and practices. The Supreme Court, which consists of the Chief Justice and several judges, may review decisions of the Land & Titles Court

The Chief Justice is appointed by the Head of State upon the advice of the Prime Minister. The Supreme Court judges are appointed by the Judicial Service Commission, which is a 3-member body chaired by the Chief Justice and includes the Attorney-General and an appointee of the Minister of Judges. Judges in Samoa normally serve until the age of their retirement at 68.

There are also Fonos or village councils in Samoa, which are formally recognised by the Village Fono Act 1990. Village. Fonos deal exclusively with village affairs such as culture, customs and traditions and including all customary land matters.

1.6 Law and Order

Samoa’s crime rate is relatively low, compared to nearby Pacific Islands. The US Department of State Travel Advisory assessed Samoa at ‘Level 1’, indicating travellers to exercise normal precautions. Most crimes tend to occur in and around Samoa’s capital and largest city, Apia, which is its economic and employment centre. However, the US Department of State has assessed Apia as being a LOW-threat location for crime.

The most common offences are possession of narcotics, burglary, assault and theft from an employer. Despite Samoa has a low level of crime, there is an increase in proliferation in property crimes and residential break-ins. Most crimes in Samoa are crimes of opportunity.

1.7 Economy

Samoa’s economy is largely cash based and a relatively small open economy, with a real GDP of SAT\$2,827 million (January 2023 – December 2023) increasing by 22.7% compared to the SAT\$2,304.8 million. At the end of March 2023, the GDP at nominal prices reached SAT\$644.37 million (increased by 20.4% from March 2022), and per capita GDP of US\$11,601, an increase of 9.6% compared with March 2022.

The economy of Samoa has traditionally been dependent on development aid, family remittances from overseas, tourism, agriculture, and fishing. Agriculture, including fishing, furnishes 90% of exports, featuring fresh fish (20%), taro (3.3%), crude coconut oil (10.8%), coconuts (1.8%), copra, beer (1.7%) and nonu products (2%). Since the early 1990s, economic growth of Samoa has relatively picked up and fuelled by the expansion in construction, commerce, agriculture, fishing, food and beverages, and manufacturing sectors, which became the significant contributors to GDP. The manufacturing sector mainly processes agricultural products and accounts for nearly 22% of GDP while employing less than 6% of the labour force.

The total annual export of goods from Samoa constitutes SAT\$119.04 million by end of June 2023, which shows an immaculate increase of 43.6% from June 2022 at SAT\$82.90 million. The major export

partnering countries of Samoa are: American Samoa, New Zealand, Australia, United States. As per the statistics till mid-2022, Samoa has been exporting 26.66% of its products to American Samoa, 17.70% to New Zealand, 10.78% to Australia, 9.67% to United States, 1.32% to Singapore, 1.21% to China, 7.31% to Asian countries and 11.43% to other countries worldwide. By end of June 2022, the total annual import of good by Samoa constitutes US\$1,206.23 million, 34.4% higher than SAT\$897.50 million for the same period up to June 2022. The major import partner countries of Samoa are New Zealand, China, United States, Singapore, Australia, and American Samoa. As per the statistics till mid-2019, Samoa has been imported 24.93% from New Zealand, 11.89% from China, 10.19% from Singapore, 10.19% from United States, 9.61% from Australia, 0.41% from American Samoa, 0.40 % from other Asian countries and 26.40% from other countries worldwide. Annual merchandise trade deficit widened to SAT\$1,087.20 million in the FY 2021/2022, which has however increased by 33.4% at SAT\$814.60.

Tourism is catching up to pre-pandemic levels, while remittances continued strong growth. After 3 quarters of open borders, visitor arrivals in FY2023 were 76.1% of their FY2018–FY2019 levels and tourism receipts reached 78.0% of their pre-pandemic value. These factors helped narrow the current account deficit from the equivalent of 13.5% of GDP in FY2022 to 4.9% in FY2023. Meanwhile, remittances continued their strong growth, increasing by 13.6% during the fiscal year. Tourism and construction should continue to drive growth in the near term. GDP is projected to grow by 4.2% in FY2024, moderating slightly to 4.0% in FY2025. Besides continued implementation of public infrastructure projects, hosting international events— such as the Commonwealth Heads of Government Meeting (CHOGM) in October 2024—should boost economic activity and visitor arrivals. In addition, cruise ship tourism is increasing with 26 ships scheduled to visit Samoa through the end of 2024. However, accommodation and labour constraints may limit growth.

In September 2023 the total monthly remittances fell by 16.7% (or \$13.4 million) to \$66.8 million when compared to the previous month and was also 3.5% (or \$2.4 million) lower than that of September 2022. Private remittances, mostly from Samoan emigrants, are equivalent to about 17.22% of GDP in 2019, of which majority are mainly from Australia, American Samoa, New Zealand and US. Annual private remittances increased by 13.6% in June 2023, amounting to SAT\$832.13 million, as compared with the same period June 2022 at SAT\$732.43 million. Family and Household increased by 7.1% to SAT\$714.80 million. Non-Profit Institutions Serving Households (NPISH) increased by 0.7% to \$32.30 million. Hand carried cash expanded by \$55.27 million to \$65.02 million.

Employment numbers recorded for the December 2023 quarter went up by 7.0% compared to the corresponding quarter of the previous year; this makes it the fifth consecutive quarter of growth following twelve quarters of negative growth since December 2019. For December 2023 quarter, the economy continues to thrive surpassing pre-Covid levels of employment which has helped the nation recover economically. The Accommodation and Restaurant industries has experienced growth in total number of employees to accommodate and serve the influx of tourists and visitors entering the country since borders have opened. Wages and salaries for the quarter under review recorded an increase of 16.6% on a year-on-year basis which amounted to \$168.3 million. This performance was mainly influenced by the increase in wages and salaries in industries such as Accommodation, Restaurants and Other manufacturing to name a few.

2. Risk Assessment Methodology

2.1 Purpose of National Risk Assessment

This risk assessment builds upon the previous two national risk assessments of Samoa, conducted in 2012 and 2014. The information in those risk assessments is updated and supplemented by additional and more comprehensive data sets that are made available from the public and private sector.

The purpose of the national risk assessment is to provide a broad assessment of Samoa's ML/TF risks to enhance the understanding of them and to develop effective strategies to address them. This assessment is intended to assist Samoa, its law enforcement authorities, competent authorities, and the private to better understand Samoa's ML/TF risks, so that they can allocate resources and prioritise activities in a proportionate and risk-based manner.

Conducting a National Risk Assessment is a key recommendation of the Financial Action Task Force¹ and is the crucial basis for developing and prioritising AML/CFT policies and activities.² The key findings of this NRA will inform the future development of Samoa's AML/CFT regime and its National AML/CFT Strategy and Action Plan.

2.2 NRA Working Group

This assessment is a result of extensive engagement with a wide range of government bodies, regulators and supervisors, law enforcement agencies, and private sector representatives culminating in an overall collective understanding of ML/TF for the purpose of identifying and assessing the key risks facing Samoa and the effectiveness of Samoa's current approach to addressing those risks. Industry views on ML/TF risks were sought and were used, where available, to enhance and substantiate the information provided by the public sector.

The Samoa's National Risk Assessment Working Group (NRAWG) was established by the Samoa's Financial Intelligence Unit (SFIU), comprising of key stakeholders from a range of government and private sector entities to contribute to the NRA process throughout. The SFIU acted as a National Coordinating Agency responsible for the implementation and coordination of the NRAWG and the respective teams (meetings, discussions and workshops) in the conduct of the NRA. The NRA has been conducted between July 2020 and July 2021.

The following key stakeholders from the government and private sector bodies comprised of the Samoa's NRAWG:

¹ FATF (2012-2021), *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation* (FATF: Paris, France) (hereinafter '2012 FATF Recommendations'), Recommendation 1. Available at: <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf> (accessed 10 July 2021)

² FATF (2013), *Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of the AML/CFT Systems* (FATF: Paris, France) (hereinafter 'FATF Methodology 2013'), Immediate Outcome 1. Available at: <https://www.fatf-gafi.org/media/fatf/documents/methodology/fatf%20methodology%2022%20feb%202013.pdf> (accessed 10 July 2021)

Government Agencies	Private Sector	
	Financial Institutions	DNFBPs
Samoa FIU (Oversight) The Attorney General's Office Ministry of Police Ministry of Customs & Revenue Ministry of Commerce, Industry and Labour Ministry of the Prime Minister and Cabinet Transnational Crime Unit Immigration Division Ministry of Finance Samoa International Finance Authority Samoa Airport Authority Samoa Audit Office Ministry of Foreign Affairs and Trade	ANZ Bank (Samoa) Limited Bank South Pacific (Samoa) Limited National Bank of Samoa Samoa Commercial Bank FEXCO Samoa / Western Union Pacific Ezy Money Transfer Samoa Finance Samoa Money Transfer Pacific Pay Ink Patch IMEX Frankie Money Transfer South Pacific Business Development Vodafone (M-Tala) Digicel (Digicel Mobile Money) Unit Trust of Samoa Samoa Life Assurance Corporation Federal Pacific Insurance National Pacific Insurance Apia Insurance	Lawyers Stevenson Lawyers Drake & Company Clark Ey Lawyers Accountants Lesa ma Penn BDO (Betham & Co) Isitolo Leota Casino Whitesand Casino Blacksand Casino Real Estate Samoa Realty Samoa Properties Realtors Dealers in Precious Metals Treasure Box Janets TCSPs Asiatic Trust Samoa Intetrust Limited Pacific Fiduciaries Portcullis (Samoa) Vistra Samoa Limited NPOs Red Cross SUNGO Samoa Victim Support

Following an initial meeting between SFIU and the NRAWG members, nine teams were established to discuss the relevant issues, and to contribute statistics and other data and information to the ML/FT NRA process. The established nine teams comprise of the following members.

Team 1: Threat Assessment Team	Team 2: National Vulnerability Team	Team 3: Banking Sector Team	Team 4: Money Transfer Operators Team
Samoa FIU (Oversight) Attorney General Ministry of Police Ministry of Customs & Revenue Ministry of Commerce, Industry and Labour Ministry of the Prime Minister and Cabinet Transnational Crime Unit Immigration Ministry of Finance Samoa International Finance Authority Samoa Airport Authority Samoa Audit Office Ministry of Foreign Affairs and Trade	Samoa FIU (Oversight) Attorney General Ministry of Police Ministry of Customs & Revenue Ministry of Commerce, Industry and Labour Ministry of the Prime Minister and Cabinet Transnational Crime Unit Immigration Ministry of Finance Samoa International Finance Authority Samoa Airport Authority Samoa Audit Office Ministry of Foreign Affairs and Trade	Central Bank of Samoa Samoa FIU (oversight) ANZ Bank (Samoa) Limited Bank South Pacific (Samoa) Limited National Bank of Samoa Samoa Commercial Bank	Central Bank of Samoa Samoa FIU (oversight) FEXCO Samoa / Western Union Pacific Ezy Money Transfer Samoa Finance Samoa Money Transfer Pacific Pay Ink Patch IMEX Frankie Money Transfer South Pacific Business Development Vodafone (M-Tala) Digicel (Digicel Mobile Money)
Team 5: Other Financial Institutions Team	Team 6: DNFBP Team	Team 7: Offshore Sector and NPOs Team	Team 8: Terrorism Financing Risk Assessment Group
Central Bank of Samoa Samoa FIU (oversight) Unit Trust of Samoa Samoa Life Assurance Corporation Federal Pacific Insurance	Central Bank of Samoa Samoa FIU (oversight) Gambling Casino Authority Lawyers Stevenson Lawyers Drake & Company	Central Bank of Samoa Samoa FIU (oversight) Samoa International Finance Authority Ministry of Commerce, Industry and Labour	Samoa FIU (oversight) Attorney General Ministry of Police Ministry of Customs & Revenue Ministry of Commerce, Industry and Labour

National Pacific Insurance Apia Insurance	Clark Ey Lawyers Accountants Lesa ma Penn BDO (Betham & Co) Isitolo Leota Casino Whitesand Casino Blacksand Casino Real Estate Samoa Realty Samoa Properties Realtors Dealers in Precious Metals Treasure Box Janets	Asiaciti Trust Samoa Intetrust Limited Pacific Fiduciaries Portcullis (Samoa) Vistra Samoa Limited Red Cross SUNGO Samoa Victim Support	Ministry of the Prime Minister and Cabinet Transnational Crime Unit Immigration Ministry of Finance Samoa International Finance Authority Samoa Airport Authority Samoa Audit Office
--	---	--	--

In accordance with global best practices, Samoa's ML/FT NRA has been drawn on the best available data and information obtained through interviews, workshops, statistics and other data from government and private sector entities, media reports and other public sources as well as the expert opinions/value judgments of the government and private sector entities in responding to a questionnaire distributed in September 2020. The information gathered has been used to assess the ML/FT risk in and through Samoa using the standard risk management approach of identifying and evaluating the threats, systemic weaknesses/vulnerabilities and the possible consequences to Samoa should those ML/FT risks eventuate.

2.3 NRA Risk Assessment Methodology

The methodology used in this National Risk Assessment was developed having regard to the methodologies developed by other jurisdictions, the FATF guidance, the World Bank and the IMF approaches, and extensive consultation with public and private sector stakeholders. The risk assessment methodology combines both qualitative and quantitative information and professional expertise to identify the key risks to Samoa and to develop follow-up next steps to address them. A key part of this process is the development of the AML/CFT National Strategy and Action Strategy, following on from the publication of the NRA report, to suggest measures for addressing the risks identified.

This risk assessment follows the FATF guidance that states that money laundering and terrorist financing risk should be assessed as a function of criminal threat, vulnerability and consequence. These terms are described in [Table 1](#) below.

Table 1: Risk Terminology

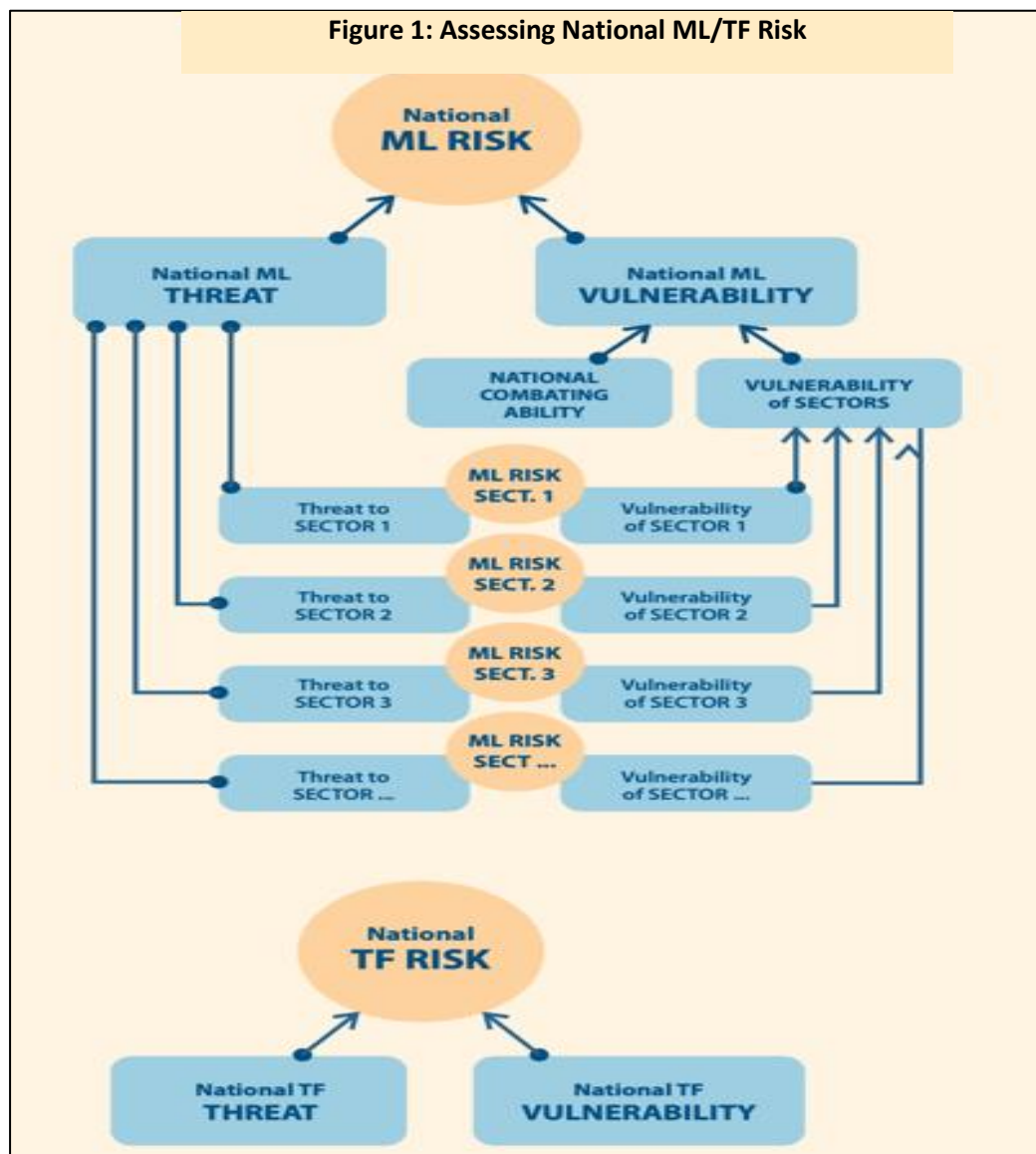
Term	Description
Threat	Threat is a person or group of people, object or activity with the potential to cause harm to the state, society, the economy etc. In the ML/TF context, 'threat' includes criminals, terrorist groups and their facilitators, their funds, as well as past, present and future ML or TF activities.
Vulnerability	When used in a risk assessment, vulnerability refers to those characteristics that can be exploited by the threat or that may support or facilitate its activities. This includes features of a particular sector that can be exploited, such as customer types, products and services, delivery channels and the foreign jurisdictions with

	which it deals. Vulnerability is also influenced by the AML/CTF systems and controls in place across the sector.
Consequence	<p>Consequence refers to the potential impact or harm that ML/TF activity may cause, and includes the effect of the underlying criminal and terrorist activity on financial systems and institutions, as well as the economy and society more generally.</p> <p>For the purpose of this risk assessment, the consequences component is regarded as constantly significant and will therefore not be dealt with in detail. The proposed methodology consequently focuses on the threats and vulnerability components.</p>
Mitigants	<p>Mitigants include all circumstances and mitigating measures in place in terms of law enforcement, supervision and capacity to combat ML/TF in various sectors.</p> <p>The mitigants can reduce the overall risk level of a sector where law enforcement and/or supervisory activity effectively mitigate the risk, thus leading to a lower residual risk.</p>
Risk	<p>Risk is a function of threat, vulnerability and consequence, as mitigated by certain factors and circumstances.</p> <p>A risk assessment involves making judgements about threats, vulnerabilities, mitigants and consequences.</p>

The two major components of this risk assessment are the “*national ML threat*” and “*national ML vulnerability*”. The *national ML threat* focuses on understanding the proceeds of crime in the country resulting from domestic-predicate crimes as well as external crime threat – the fund associated with which are laundered through or in Samoa. It also analyses generation, flow and patterns of proceeds of crime from different sector perspectives.

The *national ML vulnerability* assesses the defense mechanisms available for combating ML in Samoa. It is estimated as a function of the national ability to combat ML and the overall ML sectoral vulnerability. The former evaluates all the main drivers of the national ML combating ability, including the legal and regulatory framework, high-level commitment and institutional framework, prosecution and judicial processes, inter-agency cooperation, and external and international cooperation. The overall ML sectoral vulnerability considers the vulnerabilities of various sectors that could be potentially abused or exploited for ML, including financial institutions and DNFBPs.

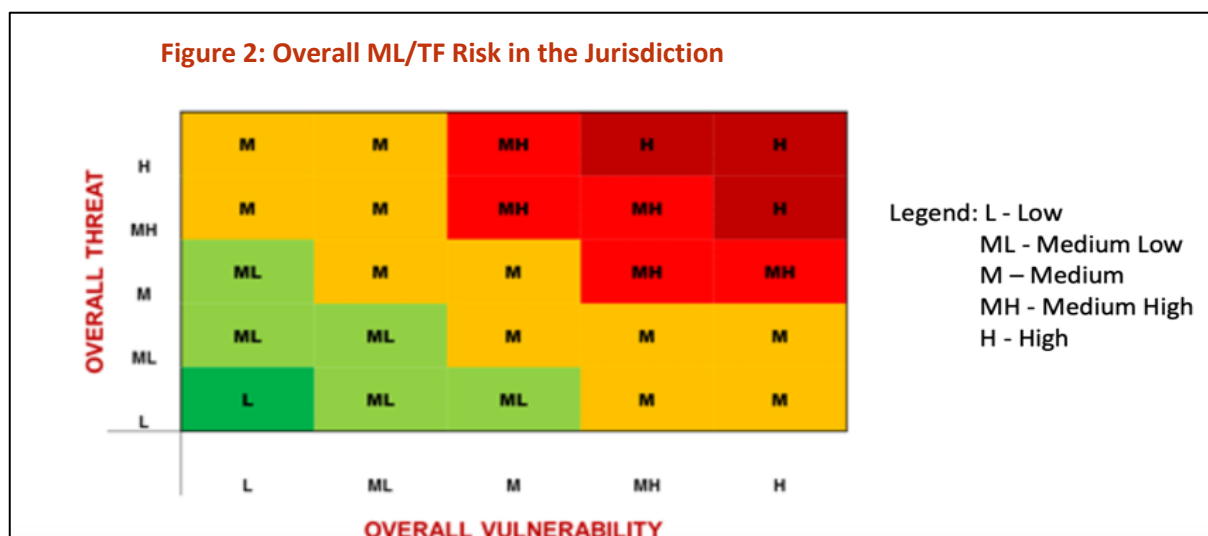
While there are many similarities between money laundering and terrorist financing in how funds are raised, stored and distributed, the terrorist financing risks posed to Samoa may be somewhat different than those posed by money laundering. For this reason, this assessment includes a separate chapter on terrorist financing risk, assessing TF threat and TF vulnerability.



Source: World Bank ML/TF Risk Assessment Tool

The categories used for the risk rating in this risk assessment, both for threat assessment and vulnerability assessment, are *Low*, *Medium-Low*, *Medium*, *Medium-High* and *High* rated on a 10-point grading scale, with 10 being the highest risk and 1 being the lowest risk.

To determine the overall ML or TF risk level, which is a function/combination of the results of the threat assessment and vulnerability assessment, the below correlation matrix has been used:



The overall analysis of the seriousness of the risk in terms of its impact or influence, as well as the probability of realisation has been rated as follows:

High	The level of risk is at the highest
Medium-High	The level of risk is of significant concern
Medium	The level of risk is of concern and needs to be monitored closely
Medium-Low	The level of risk is considered acceptable and unlikely to change
Low	The level of risk is manageable at this point in time

2.4 NRA Process

The methodology adopts a systematic approach that requires a combination of both quantitative (i.e. based on statistical figures) and qualitative (i.e. based on the views of experts in various areas of AML/CFT) data techniques to assess the ML and TF risks facing Samoa.

Since both the quantitative and qualitative data techniques have their own advantages and disadvantages, it is an appropriate approach to use both types of data collection methods so that the advantages of one may best be used to supplement the disadvantages of other. For instance, although the quantitative data has the advantage of being impartial, consistent, and easier to measure and compare, it is not sufficient to rely solely on statistics to analyse the highly complex components of AML/CFT regimes. In addition, the possibility of partial, inconsistent and low availability of AML/CFT data will further makes quantitative statistics difficult to rely as the sole data source of analysis. On the other hand, the qualitative data has the advantage of being based on the view of AML/CFT and industry experts or professionals who are familiar with the operation of the system, its complexities, and its shortcoming; however, it may suffer from relying on subjective views. The views of industry professionals may be unintentionally biased, overly focused on some aspects while overlooking others, or provided by professionals with limited expertise on the specific subject matter.

Furthermore, the use of both qualitative and quantitative data collection methods would also be advantageous at the data analysis stage where one type of data may be utilized to validate or inform

the other. This could happen, for instance, by requiring the industry professionals to review statistics to confirm their validity and general accuracy, and where it is determined that no undesired bias would be created, to be better informed before completing their own qualitative assessment.

The sample period for which the data has been collected and analysed for the purposes this NRA is five (5) financial years between July 2015 and June 2020 i.e., FY2015-16 to FY2019-20.

In order to identify the threats and vulnerabilities relevant to Samoa, the methodology consulted a broad range of stakeholders across the public and private sectors in order to identify relevant threats and vulnerabilities and to provide quantitative and qualitative information in respect of those threats and vulnerabilities. The methodology gathered and analysed the quantitative and qualitative data from the following sources for the purposes of the NRA:

- Crime and criminal justice statistics
- Suspicious Transaction Reports (STRs), Cash Transaction Reports (CTRs) and Border Cash Reports (BCRs) submitted in the past five years (July 2015 to June 2020);
- Other intelligence, information and monitoring reports from supervisory authorities, and a variety of other relevant agencies including SFIU, police, judiciary, customs, immigration, revenue and other law enforcement agencies across the government;
- General financial sector and economic statistics; and
- Surveys and questionnaires, feedback and professional insights offered during interviews and consultations with a range of entities operating in various sectors, as well as industry experts and industry associations.

In addition to the above, the assessment also collected and analysed information from a variety of other available resources, including previously conducted national risk assessments, mutual evaluation reports, follow-up reports, regional risk assessments, national and international guidance documents, strategic reports, sector-specific typology reports, as well as open-source information.

The information gathered through data collection templates, and otherwise provided by stakeholders (through interviews/questionnaires/surveys etc.), has been considered and assessed by NRAWG members to identify and prioritise the main threats, vulnerabilities and risks to Samoa.

The overall findings of NRA were analysed, discussed and presented to the members of the NRAWG for peer-review, revision where necessary, and sign-off on the final ratings. As such, the findings of the NRA will be the result of the stakeholders' assessment of the identified risk scenarios supported by qualitative and quantitative data, where available, and is informed by their collective expertise and professional judgment.

It is important to note, that whilst these ratings (*low, medium-low, medium, medium-high and high*) are for 'residual risk' – i.e. the residual risk after taking mitigants and other relevant factors into account – a higher rating does not necessarily indicate that there is low compliance in this sector, as some sectors will by their very nature or scale remain higher risk even with robust AML/CFT compliance, while others may remain relatively unproblematic, despite potential vulnerabilities.

2.5 Limitations of the Assessment

The risk assessment is faced by a number of limitations and challenges, which are as follows:

- Data and statistics required for the purposes of this risk assessment has either very limited availability, or is non-existent, or not updated by some agencies/authorities. Some agencies are still in the process of compiling and verifying 2019-2020 data. Furthermore, some sectors, such as those under the DNFBPs, do not maintain the data or statistics requested for the purposes of this risk assessment.

Due to the limited availability of appropriate statistics and information, this NRA heavily relies on the views and experiences of the representatives of government agencies, particularly the members of the NRAWG, and the private sector, and includes information from public sources, such as annual report of various government agencies, regional and international reports, research work, and related studies. For the next NRA, it is recommended that Samoa should take appropriate steps to ensure that the statistical and other required data for the NRA process is properly collected and retained by the relevant agencies and private sector entities.

- Challenges in collecting sufficient data and information from private sector stakeholders, particularly DNFBPs, for the purposes of this the risk assessment, which has been further heightened by COVID-19 situation.

There has been limited data received from some of the supervisory or regulatory authorities, as well as from the private sector. Despite various efforts made by the NRAWG, there has been no engagement or information received from some of the sectors for the purposes of this risk assessment, including credit unions, money lenders, lawyers, casinos, dealers of precious metals and stones, NGOs and real estate agents. Consequently, this NRA relies heavily on the views and experiences of the representatives of their supervisory and regulatory authorities, members of the NRAWG, limited survey responses and limited consultation meetings with a few sector representatives, open-source information, regional and international reports, research work, and related studies.

- Another major limitation in developing this ML/TF NRA has been the limited availability, or the non-existence, of statistics with regards to the value of funds associated with the predicate crimes. Proceeds generated from predicate crimes, terrorism and terrorist financing are usually not captured, making it difficult for the NRAWG to assess the impact and extent of these crimes. In such cases, the NRA relies on qualitative data such as survey results, research studies made by the competent authorities, and best estimates by the LEAs and government agencies, where available.

Nonetheless, the above data limitations do not in any way invalidate the results of this assessment.

3. Money Laundering Threat Analysis

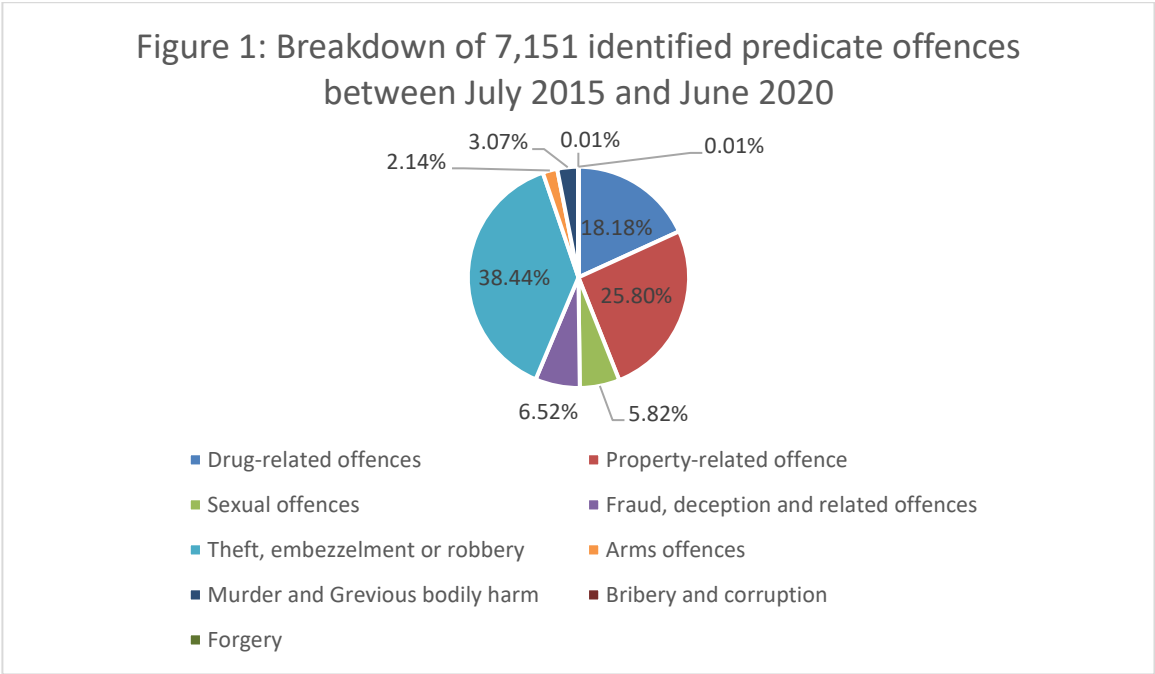
3.1 Introduction

This section of the NRA sets out the understanding of the nature and scale of criminal conduct in Samoa which generates illicit proceeds, particularly as informed by supervisory and law enforcement authorities.

The chapter identifies and assesses major ML threats based on the examination of 7,151 cases investigated, prosecuted and adjudicated by the law enforcement agencies (LEAs) and the Office of Attorney General (AGO), as well as 358 STRs received by the SFIU between July 2015 and June 2020.

The national money laundering threat level was assessed based on three major components: a) the prevalence of predicate offences and the estimated proceeds they generate (where available), b) sectoral threat assessment, which measures the extent to which the financial sector and DNFBPs were exposed to predicate offences and money laundering; and c) external threat assessment, which measures the exposure of the country to cross-border criminal proceeds and money laundering.

Overall, the level of domestic proceeds-generating crimes in Samoa seems to be **LOW**. A breakdown of the predicate offences identified to be associated with 7,151 cases is available in Figure 1 below. For the period covered, money laundering threat arising from the following crimes is considered as relatively **HIGH** (when compared to other domestic crimes): property-related offences; fraud, deception and related offences; theft, embezzlement or robbery; and drug-related offences. The threat arising from sexual offences, bribery and corruption, and tax evasion is rated as presenting **MEDIUM**. Lastly, the threat and criminal proceeds arising from other money laundering predicate offences were rated as **LOW**.



In the sectoral threat assessment, banks and MTOs were identified to be the sectors primarily and widely used to laundering the proceeds of their crimes. Following banks and MTOs, DNFBPs, particularly TCSPs and casinos, have the potential to be used to launder amount of proceeds of crime. International financial services sector of Samoa has also been assessed as posing high ML risk. Insurance sector, money lenders, credit unions, lawyers, accountants and NPOs have been identified to have been used in ML schemes less widely.

While Samoa has a low overall crime rate, it is exposed to both internal ML threats – those arising from domestic predicate offences, and external ones involving the laundering of proceeds from illicit activities elsewhere, which flow into or through the market or financial system. In the external threat, the threat coming from proceeds of crimes committed outside of the country's territory was assessed to be **MEDIUM-LOW**, which is primarily based on the alleged amount of illicit funds that flow through Samoa's international financial services sector, and requests for intelligence information and MLA requests received by the SFIU and AGO, respectively, from foreign jurisdictions between July 2015 and June 2020.

In the assessment of the ML threat (both internal and external), one of the major limitations of this risk assessment is little or no statistical information captured on the level of funds involved in some of these predicate crimes. Where possible, the views of various authorities based on their current and past investigations, as well as open-source information, is therefore taken into consideration to determine the possible level of funds available for ML/TF.

Overall, the national money laundering threat level was assessed as **MEDIUM-LOW**.

3.2 Domestic Threat

3.1.1 Threat arising from predicate crimes

3.1.1.1 Drug-related Offences (Possession of Narcotics, Cultivation, etc.)

Drug offences pose the most significant threat of money laundering to Samoa. Drug-related offences constitute 18.18% of the identified predicate crimes of the total cases investigated, prosecuted and convicted in Samoa. The drug-related cases in Samoa mainly involve marijuana, largely for personal use. The past few years have however seen an increase in the number of drug-related offences cases in Samoa; however, they have dropped significantly in the FY2019-2020. The use of harder drugs (cocaine and methamphetamine) has been reported to be growing, though it is still at a relatively low level.

The SFIU has also referred drug offences related cases to the LEAs on their analysis of the STRs. During the sample period for this risk assessment, the SFIU has referred a total of 4 drug offence-related cases to the Samoan Police services, which includes, 2 cases in 2016, 1 in 2019 and 1 in 2020.

Proceeds from drug offences are generally cash-based. The two main ML typologies identified by the LEAs is the use of third parties to deposit large amounts of cash into the bank accounts (placement stage) and withdrawal of cash, using ATMs, in countries abroad.

While domestic drug-related offences constitute around 96.5% of the identified cases examined, drug-offences involving both home and foreign jurisdiction constitute 3.5% cases. According to '2020 Crime and Safety Report of Samoa' by the US Department of State' Overseas Security Advisory Council (OSAC), 'the country has become more involved in illegal drug activity in the recent years, as cocaine and methamphetamine transit from Asia to Australia and New Zealand via the Pacific Islands.'³ While Samoa is not immune to drug trafficking and use, compared to other Pacific Island jurisdictions, Samoa has generally been spared for being used for a large drug trans-shipment point, which is also partly due to the geographical location of Samoa.⁴ Authorities have not reported very large seizures of drugs in Samoa that have been destined for other markets.

There are however no statistics available on the proceeds of crime generated by the drug-related offences in Samoa, which then needs to be laundered to make it appear as a clean money.

3.1.1.2 Property-related Offences (Burglary, Theft etc.)

Property-related offences include burglary or theft, which constitutes predicate offences in Samoa, and the punishment for these offences ranges from one year to 10 years making them qualify as 'serious offences' under section 2 of the Money Laundering Prevention Act (MLPA) 2007.

Theft and burglary related offences are the most commonly prosecuted offences in Samoa. Theft and burglary in Samoa are perpetrated by a wide range of individuals and mostly crimes of opportunity. A total of 1,652 cases related to theft and burglary were prosecuted in Samoa between July 2015 and June 2020, resulting into 193 convictions. There are however no statistics maintained on the proceeds of crime involved in these property-related offences.

3.1.1.3 Theft, embezzlement or robbery

Theft, embezzlement and robbery constitutes predicate offence for money laundering in Samoa. The imprisonment term for robbery or theft ranges from at least one year to 14 years, making them qualify as 'serious offences' under section 2 of the MLPA 2007.

A total of 323 theft, embezzlement or robbery cases have been investigated in Samoa within the sample period for this risk assessment.

Between July 2015 and June 2020, the SFIU has also referred five (5) cases related to theft and embezzlement or robbery to the LEAs for further investigation on the basis of its analysis of STRs. These includes 1 case in 2016, 2 in 2019 and 2 in 2020. There are however no statistics available on the amount of proceeds of crime involved in these cases.

³ US Department of State's Overseas Security Advisory Council (OSAC), *Samoa 2020 Crime & Safety Report*. Available at: <https://www.osac.gov/Country/Samoa/Content/Detail/Report/3d41f74a-5bc1-4b48-957b-18efb04447dc> (accessed 20 January 2020)

⁴ Samoa Risk & Compliance Report, March 2018, p. 6. Available at: http://www.knowyourcountry.info/files/samoaamlaug2014_3.pdf (accessed 30 June 2021).

3.1.1.4 Sexual Offences (rape, indecent assault etc.)

Sexual offences, as covered under Part VII and section 157 of the Crimes Act 2013, qualifies as a predicate offence for ML in Samoa, resulting into an imprisonment term of up to 14 years.

Sexual offences constitute 5.82% of the total predicate offences investigated, prosecuted and convicted between July 2015 and June 2020. A total of 515 Sexual Offences were investigated, with 360 cases prosecuted, resulting in 56 convictions.

There are however no statistics available on amount of proceeds of crime involved in the sexual offences.

3.1.1.5 Fraud, Deception and related Offences

Fraud, deception and related offences accounted for nearly 6.52% of all recorded predicate offences in Samoa between July 2015 and June 2020. A total of 568 fraud-related cases have been investigated in Samoa within the sample period for this risk assessment.

The SFIU has also referred fraud-related cases to the LEAs for investigation on their analysis of the STRs. During the sample period for this risk assessment, the SFIU has referred a total of 19 fraud-related cases to the Samoan Police services, which includes 6 cases in 2016, 6 in 2017, 2 in 2019 and 5 in 2020.

Three main typologies that have been identified to commit fraud-related offences in Samoa include:

- a) internet-banking fraud;
- b) online investments with huge weekly returns (ponzi-pyramid schemes); and
- c) phishing email, lottery scams and romance scams.

Among these fraud-related cases, the SFIU has also referred two cases relating to crypto-currency investment scams to New Zealand Financial Intelligence Unit (NZFIU) and Australian Transaction Reports and Analysis Centre (AUSTRAC) in 2016. In 2019, there was another case investigated of alleged pyramid-ponzi scheme which has been referred to different agencies within Samoa for information, intelligence and investigations purposes.

The SFIU has also referred one (1) forgery case to the LEAs for further investigation in 2019 based on its analysis of the STRs. There are no statistics available on the estimated proceeds of crime involved in fraud, deception and related offences.

3.1.1.6 Murder and Grievous bodily harm

Murder and grievous bodily harm, as defined under Crimes Act 2013, constitutes a predicate offence for money laundering in Samoa. It represents 3.07% (i.e., 265 cases) of the total predicate offences investigated in Samoa between July 2015 and June 2020.

3.1.1.7 Arms-related Offences

Illegal arms trafficking constitutes a predicate offence in Samoa, which is punishable with an imprisonment not exceeding 5 years, or a fine not exceeding \$20,000, or both. Arms-related offences

also represents 2.14% of total predicate offences investigated in Samoa between July 2015 and June 2020.

The past few years have seen an increase in arms-related offences in Samoa, especially a high number of such cases have been investigated in 2017. The UNODC threat assessment report on ‘Transnational Organised Crime in Pacific’ (2016) has also highlighted concerns from a few jurisdictions, including Samoa, about increasing firearms trafficking in the region and possibly leading to instability and insecurity in the Pacific countries.⁵ It has been reported that in Samoa, smuggled firearms seized by border agencies have primarily been small arms and hunting rifles for personal use.⁶

3.1.1.8 Illegal Export of Fish Species

During the sample period of July 2015 and June 2020, there was only once (1) case investigated by LEAs in 2019 related to illegal export of fish species. The SFIU has referred two (2) cases to the LEAs in 2019 involving illegal export of fish species in the submitted STRs. There are no statistics available on the estimated proceeds of crime involved in illegal export of fish species.

3.1.1.9 Bribery and Corruption

Corruption does not appear to be a large-scale problem in Samoa that would generate large amounts of proceeds of crime that needs to be laundered, though it occurs and is an important current focus of the government. Both the Ombudsman and the Auditor General have received additional resources to support efforts to combat corruption.

Public sector corruption seems largely limited to misappropriation of funds, some irregularities in cash management and procurement and middle and lower levels of the public sector. Allegations of abuse of power at higher levels tend to relate to claims about undue influence on government decisions, rather than personal gain. Samoa was ranked 50 (out of 175 countries) in 2014 by Transparency International and rated 73 on the World Governance indicator on the control of corruption, where rating of 100 is good and 0 is bad. The risk of the proceeds of foreign corruption being laundered through Samoa – in particular, the international financial services sector – certainly cannot be discounted.

During the sample period of July 2015 to June 2020, there was only one (1) case investigated by LEAs related to bribery and corruption in 2018. In 2019, the SFIU has referred 2 cases related to bribery and corruption to the LEAs for further investigation on their analysis of the STRs. Based on the information provided by the SFIU and LEAs, the proceeds involved in the bribery and corruption case investigated in 2018 were large, more than SAT\$ 1,500,000.00 (i.e., approximately USD\$590,000). It also has a trans-national element, involving other jurisdictions, including the United States of America (USA), Thailand, Fiji, Hong Kong and United Arab Emirates (UAE). However, there were no prosecutions and convictions involving bribery and corruption in Samoa.

⁵ UNODC, *Transnational organised Crime in Pacific: A Threat Assessment*. (September 2016), p. 64. Available at: https://www.unodc.org/documents/southeastasiaandpacific/Publications/2016/2016.09.16_TOCTA_Pacific_web.pdf (accessed 20 June 2021).

⁶ Ibid.

3.1.1.10 Tax Crimes

Tax crimes (related to direct taxes and indirect taxes), as set out in Part 12-Division 2 and Part 15-Division 1 of the Tax Administration Act 2012, Division 10 – Part 6 of the Income Tax Act 2012, and Part 10 of the Value-Added Goods and Services Tax Amendment Act 2006, qualifies as predicate offence for ML in Samoa. The Money Laundering Prevention Amendment Act 2018 has amended the Tax Administration Act 2012 to include tax evasion as an offence.⁷ The maximum penalty for tax evasion is a fine of SAT\$100,000 or imprisonment for 10 years, or both.

The SFIU has referred tax crime cases to the LEAs for further investigation on their analysis of the STRs. During the sample period for this risk assessment, the SFIU has referred a total of four (4) tax crime-related cases to the Samoan Police services, which includes 1 case in 2016, 2 in 2017 and 1 in 2019. Based on the information provided by the SFIU and AGO, there appears to be no data available on the proceeds involved in 4 tax crime related STRs and there are also no prosecutions and convictions involving these crimes. Nonetheless, the threat posed by tax-related crimes to money laundering cannot be underestimated and is assessed as **medium** in Samoa. This is particularly due to the popularity of Samoa as an offshore centre⁸ and concerns raised on the risk of tax evasion through Samoa's international financial services sector. In the sample period of July 2015 and June 2020, the Ministry of Customs and Revenue (MCR) has received tax exchange information requests from 24 overseas jurisdictions.

Box 1: Case Study – STR involving International Companies and Tax Avoidance

SFIU received an STR from a commercial bank concerning one of its customers who is an investor and owner of two International Companies. One of the international company's account has received a high inward remittance (above USD\$2,000,000) from an overseas company for a loan repayment and interest. The large amount involved has triggered a red flag and suspicious activity for ML. It is also suspected that the money is transferred as a loan repayment to avoid taxes for the company. the SFIU has disseminated a report to the relevant authorities Ministry of Police, Ministry of Customs and Revenue, Samoa International Finance Authority as well as to the Egmont Group for information and intelligence purposes.

As of June 2020, Samoa has concluded 16 bilateral tax agreements with a number of jurisdictions for the exchange of information with respect to taxes. These treaties provide for exchange of information on request in both criminal and civil tax matters. Jurisdictions with which Samoa has signed tax information exchange agreements include Australia, Faroe Islands, New Zealand, Greenland, Korea, South Africa, Mexico, Denmark, Finland, Iceland, Norway, Principality of Monaco, Sweden, Ireland, Netherlands and Japan. It has also signed Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information ('MCAA') with Barbados on 29th October 2015. In addition,

⁷ Section 77A, Tax Administration Act 2012.

⁸ In Samoa, entities registered under any of the laws administered by Samoa International Finance Authority (discussed in detail in Chapter 8 of this risk assessment) except for Trustee Companies are exempted (whether direct or indirect) on their profits or gains, or upon transactions and contracts from taxation. There are also no currency or exchange control regulations to the taking or sending of any foreign currency out of Samoa by any of the offshore entities via the banking sector.

Samoa is also a part of the Convention on Mutual Administrative Assistance in Tax Matters ('MAC') since 25th August 2016.

3.1.1.11 Other Offences/Unlawful activities

A. Cybercrime

The development of globalisation provides a new threat of cybercrime which threatens information and personal security. Cybercrime can also have a damaging effect on the investment and economy of a country, in general. It also has the ability to generate funds through online scams and extortion. There is no definition of “cybercrime” in Samoa legislation; however, there are sections in Crimes Act 2013 devoted to crimes against information security. Cybercrime is generally described as illegal actions, which are carried out by people using information technologies for criminal purposes. Among the main types of cybercrime are the release of malicious software, hacking passwords, stealing credit card numbers and other bank details, as well as the spread of illegal information (slander pornography) on the internet.

Majority (12) of the intelligence reports disseminated by the SFIU to LEAs in the sample period of July 2015 to June 2020 have been related to suspected cybercrime related cases.

While investigations have been undertaken by the Samoa Police and/or the Transnational Crime Unit (TCU) of Samoa on the basis of disseminated information, there has been no successful prosecutions of a predicate offence on ML. There are also no statistics available on the amount of funds involved in these cases; however, authorities have informed that a large proportion of these funds went abroad and consequently were not laundered in Samoa. Despite the lack of statistics in respect of funds relating to cybercrime, the value of associated funds with cybercrime has not considered to be very high by the authorities.

B. Crime against a Person

Crime against a person (including assault, causing injury etc.) has been assessed as a major crime in Samoa, based on the number of cases prosecuted and number of convictions in the sample period of July 2015 to June 2020.

Table 2: Number of arms offence-related cases in Samoa (July 2015 – June 2020)

Financial Year	No. of cases Prosecuted	No. of Convictions
2015-16	443	93
2016-17	145	-
2017-18	1186	-
2018-19	2235	-
2019-20	2287	436
TOTAL	6,296	529

3.1.2 Sector Threat Analysis

For the period between July 2015 and June 2020, the SFIU has received 358 STRs, which served as a basis for assessing sectoral threat. These cases are predicated mainly on six (6) drug-related cases, twenty (20) fraud-related cases, eight (8) theft and embezzlement related cases, and four (4) tax crime related cases. For majority of the STRs, they were submitted on ground of suspicious circumstances with no clear or unidentified underlying predicate offence.

A. Banking Sector

Money Laundering threat for the banking sector is assessed to be **HIGH**. Bank accounts are one of the most common vehicles exploited for ML purposes. Threats to the banking sector arise from domestic activities, but also, and to a greater extent, from external activities due to Samoa's international financial services sector and large number of remittances received in Samoa.

In the sample period of July 2015 to June 2020, the banking sector has submitted a total of 106 STRs to the SFIU, which represents 29.60% of the total STRs received during this period. The total value of STRs submitted by the banking sector in this period is approximately SAT\$ 32,978,296.74. The SFIU has referred 59 STRs submitted by the banking sector to the LEAs for further investigations during the sample period for this risk assessment.

The following characteristics were commonly cited in STRs where the banks have become suspicious of money laundering:

- Unusual transactions (including scams, fraud or other unusual transactions) (26% STRs);
- Large amount involved in transactions (29% STRs); and
- Complex transactions (including multiple deposits, third party payments, source of funds does not correspond with expected activities etc.) (38% STRs)

Some of the major predicate offences that have been highlighted in the STRs involving the banking sector includes:

- drug-related offences - 5 STRs involving an approximate total value of \$1,524,161.40
- fraud-related cases - 19 STRs with an approximate value of \$912,954.17
- tax crimes - 4 STRs with an approximate value of \$202,192.78
- theft and embezzlement - 3 STRs with an approximate value of \$126,712.

Cyber-related criminal activity poses a significant threat to the sector. 23 STRs received in the period of July 2015 and June 2020 relate to cyber-related crime, which represents 21.69% of total STRs submitted by the sector. The total value of cyber-related STRs submitted by the sector is SAT\$ 1,768,420.11.

B. Money Transfer Operators (MTOs)

Money Laundering threat to the MTOs sector is assessed as **HIGH**.

In the sample period of July 2015 to June 2020, a total of 234 STRs have been submitted to the SFIU by the MTOs, which represents 65.36% of total STRs received during this period. The total value of

STRs submitted by the MTOs in this period is approximately SAT\$ 3,986,939.92. The number of STRs involving MTO sector have increased since 2016 although the value involved in STRs varies from year to year, with it being exceptionally high in 2019.

An increase in number of STRs filed by MTOs has been attributable to the efforts made by the SFIU to raise MTOs knowledge and awareness about their AML/CFT obligations, as well as the recommendations and instructions issued by the SFIU to improve their AML/CFT systems and practices in its on-site visit reports. The improved AML/CFT systems has made it easier for MTOs to raise an alert or red flag from transactions process, conduct their internal investigation and if considered appropriate, file STRs to the SFIU.

The SFIU has referred 15 STRs submitted by MTOs to the LEAs for further investigations during the sample period for this risk assessment.

The following characteristics were commonly cited in STRs where MTOs have become suspicious of money laundering:

- Unusual transactions (scams, fraud or unusual transactions) (22% STRs);
- Large amount involved in transactions (44% STRs); and
- Complex transactions (including multiple recipients, insufficient sources and purposes of funds etc..) (34% STRs)

Some of the major predicate offences that have been highlighted in the STRs from the MTOs sector include:

- drug-related offences – 1 STRs involving an approximate total value of \$42,500
- fraud-related cases (mainly scams) – 5 STRs with an approximate value of \$164,292.94

In around 9 STRs, the predicate offence has been unidentified.

Cyber-related criminal activity poses major threat to the sector. 94 STRs received in the period of July 2015 to June 2020 relate to cyber-related crime, which represents 40% of total STRs submitted by the sector. The total value of cyber-related STRs submitted by the sector is SAT\$ 179,674.71. Some of the major cybercrime techniques and methods employed in the sector include phishing emails, romance scam and misusing personal information (especially emails).

C. DNFBPs and NPOs

For the period between July 2015 to June 2020, no DNFBPs have been detected to be involved in ML cases. Similarly, no STRs have been reported to be received from the sector, except from the TCSPs sector. Neither did financial investigations resulted to any finding pointing to the sector, except TCSPs, to have been used to launder criminal proceeds. Limited compliance checking have been conducted, nor were there any STRs filed by the said businesses and professions, with the exception of TCSPs.

With respect to the real estate sector, no data is available on the size and nature of this sector and the sector remains completely un-supervised and unregulated for the AML purposes. No STRs have been filed by this sector to the SFIU, making it difficult to assess the ML threat facing this sector.

Focussing on the casino sector, its present high potential for ML due to the cash-intensive nature of the sector, as well as its 100% overseas customer base. No STRs have however been filed by the sector to the SFIU and the AML/CFT supervision of the sector is limited.

Professionals can be used by criminals who need expert advice to devise complicated ML schemes. Cases of complicit involvement of professionals in ML in Samoa are relatively rare/non-existent. Lawyers and accountants can act as TCSPs, such as forming companies, acting as company secretary or assisting in opening bank accounts, but mainly for the domestic sector. There are no reported cases involving lawyers or accountants being convicted and sentenced to imprisonment due to their involvement in any ML activities within the sample period for this risk assessment.

In Samoa, only trustee companies registered and licensed by SIFA under the *Trustee Companies Act 2017* could act as TCSPs for the international financial services sector. In the sample period of July 2015 to June 2020, only 7 STRs have been filed by the trustee companies to the SFIU, representing 1.9% of total STRs received by the SFIU within this period. There are no reported prosecutions or convictions involving trustee companies. Nonetheless, due to the nature of business of trustee companies and the concerns related to ML risk presented by the international financial services sector of Samoa, there is a high potential of trustee companies to be abused to launder the proceeds of crime and other predicate offences.

The amount of criminal proceeds that are alleged to be laundered through trustee companies, the limited or lack of risk-based supervision of majority DNFBPs, the absence of comprehensive sector-specific guidelines, and limited AML/CFT knowledge of DNFBPs increases the ML threat facing DNFBPs in Samoa overall, where they could be used to perpetrate the crime and make it difficult for authorities to follow the flow of the illicit funds for recovery. The ML threat rating for DNFBPs is assessed as **MEDIUM**.

With respect to the NPO sector in Samoa, limited data is available on the size and nature of this sector and the sector remains completely un-supervised and unregulated for the AML purposes. No STRs have been filed by this sector to the SFIU, making it difficult to assess the ML threat facing this sector.

D. Legal Persons and Legal Arrangements

Chapter 8 of this risk assessment gives an overview of legal persons and arrangements in Samoa. Corporate vehicles and legal structures are inherently attractive to ML, especially because of their inherent characteristics, such as relative anonymity, the possibility to distinguish between legal and beneficial ownership, and possibility to create complex corporate structures etc.

Samoa is particularly attractive as an offshore financial centre to international entities due to various tax privileges and exemptions provided under the Samoan law. However, there is little firm evidence of the proceeds of foreign predicate crimes being laundered in Samoa or through its international financial services sector, but International Companies (ICs) in particular present a potential international conduit for ML. There have been a small number of foreign requests for information relating to Samoan ICs which indicate possible misuse for ML or associated predicate offences, including tax evasion, but none has led to any request for investigation by the Samoan authorities or to the conviction of any IC, beneficial owner or office-holder of an IC for an offence. Due to the lack of

available information and limited data, the extent of any misuse of the legal entities and arrangements for ML purposes is unclear. Nonetheless, the level of ML threat posed by this sector cannot be discounted due to its inherent characteristics, resulting into Samoa's international financial services sector being rated as facing **HIGH** ML threat.

3.3 International Threat

It is a declared policy of the country to ensure that Samoa shall not be used as a money laundering site for the proceeds of any unlawful activity, among others. Accordingly, Samoa extends cooperation in transnational investigations and prosecutions of persons involved in ML activities where committed. Undeniably, any attempt to transfer criminal proceeds generated abroad into the territory of Samoa would augment ML threat in the country.

Predicate Crimes and Proceeds originating from Abroad

Between July 2015 and June 2020, Samoa has received a total of 37 requests for information and assistance from other jurisdictions, including 32 incoming requests to SFIU through Egmont Group and 5 requests for Mutual Legal Assistance (MLA). The requests received by the SFIU were mainly related to various forms of fraud as the source of criminal proceeds, as detailed in **Table 3**. The MLA requests were received mainly from Australia, New Zealand and United States.

Table 3: Main offences as Subject of Requests to the SFIU (July 2015-June 2020)

Type of Offence	Number of Requests				
	2015-16	2016-17	2017-18	2018-19	2019-20
Fraud-related	6	7	4	9	6

There are no statistics available on the estimated proceeds of crime involved in these crimes originating from other jurisdictions. However, the five countries from which these crimes have been mainly originating from and thus subject to cross-border requests include: United States of America, American Samoa, Canada, France and Australia.

3.4 Overall ML Risk

All the foregoing showed the prevalence of predicate offences and to some extent, the proceeds they generate (especially from the STRs filed with the SFIU), the ML schemes employed by criminals and the extent financial sector, DNFBPs, NPOs, legal entities and arrangements were used in the ML schemes.

Overall, the level of domestic proceeds-generating crimes seems to be **LOW** in Samoa, with the main relevant crime types being relatively crimes against property, low level fraud and drug-related cases. Samoa has been relatively free from the influence of organised crime, but there are elements undertaking profit-driven crime in Samoa, particularly in relation to drug-trafficking. Most of the recent STRs reported and disseminated by the SFIU relate to cyber-crime related cases – internet scam, possible romance and other foreign scams. Samoa's domestic financial system is small, and there is relatively low risk of large amounts of ML derived from domestic sources. Moreover, the threat coming from proceeds of crimes committed outside of the country's territory is rated **MEDIUM-LOW**.

The sectoral threat assessment likewise showed that the sectors involving commercial banks and MTOs supervised by the Central Bank of Samoa, trustee companies supervised by SIFA, and casinos supervised by SFIU are the most prevalent venues used by criminals to launder criminal proceeds warranting **HIGH** ratings, respectively. Based on the same assessment, the insurance sector, lawyers, accountancy sector and real estate sector have the potential of being used as venues for money laundering in limited terms; hence, the **LOW** threat rating. The foregoing ratings may be attributed to the use of the products and institutions in said sectors in laundering criminal proceeds, both from internal and external sources, in the ML schemes of criminals identified above.

Accordingly, the overall money laundering threat of Samoa is assessed as **MEDIUM-LOW**.

3.5 Next Steps

The result of the assessment show that the ML risk posed by domestic proceeds-generating crimes involving illegal drug trade, corruption, fraud, crimes against person and tax evasion is relatively **LOW**. Nonetheless, there is a need for a closer coordination and cooperation between the SFIU and the respective LEAs authorised to investigate and/or prosecute the said unlawful activities. In addition, LEAs involved in the risk assessment must be encouraged to maintain statistics specifically needed in conducting the threat analysis to eliminate the challenge in data collection faced in the previous and current risk assessment, including identifying the funds associated with each offence and the movement of those funds.

4. Overall Money Laundering and Terrorist Financing Combating Ability

This chapter outlines and analyses factors affecting Samoa's ability to combat ML activities. It examines the AML/CFT legal, regulatory and institutional frameworks, prosecution and judicial processes, national and international co-operation mechanisms. Further detail on the legal framework relating to terrorist financing can be found in Chapter 9.

4.1 AML/CFT Legal and Regulatory Framework

The Money Laundering Prevention Act (MLPA) 2007 is the primary ML legislation in Samoa, which has repealed the Money Laundering Prevention (MLP) Act 2000. In addition to the MLPA 2007, the Crimes Act 2013, Proceeds of Crime Act (POCA) 2007 and the Counter Terrorism Act 2014 also provide the legislative basis for AML/CFT in Samoa. In 2009, Samoa has passed new Money Laundering Prevention Regulations (MLPR) 2009 to implement the provisions of the MLP 2007, which repealed and replaced the old MLP Regulations. Money Laundering Prevention (MLP) Guidelines have also been issued in 2010 to provide guidance to the financial institutions to comply with their AML/CFT obligations under the MLP 2007. This section will outline the legal and regulatory framework governing the AML/CFT regime in Samoa.

4.1.1 The Money Laundering Prevention Act (MLPA) 2007

The MLPA 2007 makes provision for the prevention of ML in Samoa. It has been amended in 2018, as Money Laundering Prevention (Amendment) Act 2018, to amend and introduce provisions with the objective to strengthen Samoa's AML/CFT regime to effectively combat ML and TF while adhering to international standards.

The MLPA 2007 (as amended in 2018) places a number of obligations on financial institutions and DNFBPs to prevent their services from being used for ML/TF purposes. Such requirements include the obligations to:

- Identify and verify customers and beneficial owners and to apply customer due diligence (CDD) and monitoring measures to their customers;⁹
- Apply additional measures to customers who are trust or another vehicle for holding personal assets, or a company with nominee shareholders or shares in bearer forms, or a non-resident customers from a country that insufficient AML/CFT systems or measures in place;¹⁰
- Report suspicious transactions to SFIU;¹¹

⁹ Section 16, 16A and 16B. The MLP Amendment Act 2018 added some new provisions relating to CDD which includes: a). CDD of all occasional customers (regardless of transaction value); b). CDD of existing customers on the basis of risk in certain circumstances; c). Taking reasonable steps to verify beneficial ownership; and d). CDD of any person acting on behalf of a customer.

¹⁰ Section 16C. The definition of PEPs has been amended by the MLP (Amendment) Act 2018 requiring senior management approval to establish or continue (for existing customers) business relationship with a PEP. A new requirement was introduced requiring FIs to conduct enhanced CDD checks on non-resident customers from higher risk jurisdictions.

¹¹ Section 23. An amendment was introduced by MLP (Amendment) Act 2018 requiring additional reporting by FIs to the SFIU. The requirement of STR reporting has been extended to TCSPs as a financial institution and also requiring TCSPs to provide information upon a direction made by the SIFA.

- Retain records evidencing the procedures applied, and information obtained, in respect of each customer;¹²
- Not “tip-off” any potentially impacted person that a suspicious transaction report has been filed or that an investigation is underway;¹³
- Appoint a compliance officer to whom knowledge or suspicion of money laundering or terrorist financing must be reported;¹⁴
- Adopt policies and procedures to ensure the effective prevention of ML/TF on a risk-assessed basis, including proper monitoring and managing compliance with those policies and procedures, and ensuring awareness and training of staff.¹⁵

4.1.2 The Crimes Act 2013

The Crimes Act 2013 regulates all crimes in Samoa, and is now the main legislation that criminalises ML. The offence of ML has been moved from the Proceeds of Crime Act (section 11 POCA) to the Crimes Act 2013 by creating three new sections – section 152A, 152B and 152C.

Section 152A of the Crimes Act 2013 criminalises the act of ML. The Act defines the offence of ML in terms of property that is the proceeds of crime. The principal ML offences are designed to cover all elements of ML and provides that the offence of ML is committed where a person:

- Engages in a transaction that involves property, knowing or having reason to believe that the property is the proceeds of crime; or
- acquires, possesses, uses, receives or brings into Samoa property, knowing or having reason to believe that the property is derived directly or indirectly from the proceeds of crime; or
- converts or transfers property derived directly or indirectly from the proceeds of crime; or
- converts or transfers property derived directly or indirectly from the proceeds of crime, with the aim of concealing or disguising the illicit origin of that property, or of aiding a person involved in the commission of the offence to evade the legal consequences thereof; or
- conceals or disguises the true nature, origin, location, disposition, movement or ownership of the property derived directly or indirectly from the proceeds of crime; or
- renders assistance to any other person for any of the above.

The offence of ML also extends to a person who, without lawful or reasonable excuse, attempts or aids, abets, counsels or procures the commission or, or who conspires to commit, the offence of ML.

Section 152C of the Crimes Act 2013 provides for ML offence penalties while extending the penalty levels for ML for both natural and legal persons. Section 152C of Crimes Act 2013 provides that:

¹² Section 18.

¹³ Section 23.

¹⁴ Section 31(a).

¹⁵ Section 31(b) and 31(c). A new provision has been introduced by the MLP (Amendment) Act 2018 requiring FIs to have risk-based policies and procedures on executing, rejecting or suspending a wire transfer that lacks required originator or beneficiary information.

(1) a person that is found guilty of an offence under section 152A is liable on conviction to a fine not exceeding 1,000 penalty units, or to imprisonment for a period not exceeding 15 years, or to both.

(2) A body of person, whether corporate or unincorporated that is found guilty of an offence under section 152A is liable on conviction to fine not exceeding 10,000 penalty units.

The Samoa's 3rd follow-up report has clearly noted that the 'new ML offence, as created by the Crimes Act 2013, provides for significantly higher penalties that are considered to be proportionate and persuasive'.¹⁶

4.1.3 Proceeds of Crime Act 2007

Part III of the Proceeds of Crime (POCA) Act 2007 sets out the legislative framework for the confiscation of proceeds of crime in Samoa. The confiscation provisions (forfeiture orders and pecuniary penalty orders) apply if a person is convicted of a serious offence. The ML offence, most predicate offences and TF offences are all serious offences.

Confiscation proceedings seek to recover the financial benefit that an individual has gained as a result of their offending. It is the most commonly used asset recovery mechanism. Confiscation orders are available following a criminal conviction. The type of property that can be confiscated is 'tainted property', which includes both proceeds and instruments of crime. The POCA provides that if the property is a 'tainted property', it may be confiscated even if held by a third party, even though the Act contain provisions on the protection of third-party interests. The definition of 'tainted property' is amended by the MLP (Amendment) Act 2018 to bring it more in compliance with the requirements of the Vienna and Palermo Conventions.

Section 24 of the POCA enables the court to identify the value of the benefit in monetary terms that the defendant has received, and orders him to pay an amount equal to the value of the property instead of the forfeiture of the property in certain circumstances. If the defendant fails to pay the sum, enforcement action for recovery of civil debt can ensue. Confiscation proceedings can only be instigated by the Attorney General's Office and the standard of proof in these proceedings is on the balance of probabilities.

Section 26 of the POCA also provides for the making of a restraint order, the effect of which is to restrain a person from dealing with the assets so as to prevent them from being dissipated in advance of a forfeiture or pecuniary penalty order being made. A restraint order can be applied for as soon as a criminal investigation has commenced. The test for grant of a restraint order is that the circumstances give rise to a "reasonable inference" that the money, property or interest will be transferred for the purpose of avoiding the forfeiture or pecuniary penalty order, unless the transfer was for valuable consideration to a third party acting in good faith and without notice.

The POCA also contains mechanisms for the management and disposal of property frozen, seized or confiscated. Section 39 of the Act sets out responsibility for seized property, and section 43 covers

¹⁶ APG, *3rd Follow-Up Report: Mutual Evaluation of Samoa*. (September 2018), para 57. Available at: <https://www.fatf-gafi.org/media/fatf/documents/reports/fur/APG-3rd%20Follow-Up%20Report-Samoa-2018.pdf> (accessed 11 July 2021).

retention of seized property if a restraining order made and disposal of property forfeited is dealt with under section 20(4)(b). In addition, sections 34 to 36 of the MLPA 2007 provide for the establishment of the Confiscated Assets Fund as a special purpose account for the purposes of the Public Finance Management Act 2001. The Governor of the Central Bank has been appointed as Administrator of the Confiscated Assets Fund.

4.2 High-Level Commitment and Institutional Framework

Samoa recognises the importance of maintaining a comprehensive and robust AML/CFT regime that requires high-level political commitment from the government and close collaboration and coordination among policy-making bodies, financial regulators and supervisors, LEAs and others.

4.2.1 Money Laundering Prevention Authority

Samoa has demonstrated high-level commitment to all issues bordering ML and TF by establishing the Money Laundering Prevention Authority (“the MLP Authority”) in 2007 under section 4 of the MLPA 2007. The MLP Authority is the lead agency in Samoa responsible for overall strategic co-ordination of AML/CFT issues and for providing the necessary framework to develop and enhance the AML/CFT regime.

Under the MLPA 2007, the MLP Authority is responsible for formally supervising financial institutions (FIs) and DNFBPs and issuing guidelines to the reporting entities on CDD, record-keeping and reporting obligations and the identification of suspicious transactions. The MLP Authority is also responsible to establish the SFIU. The functions of the MLP Authority are performed by the Governor of the Central Bank of Samoa (CBS).

4.2.2 Money Laundering Prevention (MLP) Task Force

The MLP Task Force, established under section 5 of the MLPA 2007, is the advisory body to the MLP Authority. The main function of MLP Task Force is to ensure close liaison and strengthen the cooperation and coordination among various competent authorities in Samoa in implementing the AML/CFT regime. As of June 2020, the members of the MLP Task Force are:

- the Governor of the Central Bank or such other person as may be designated by the Governor, as the Chairperson;
- the Attorney General;
- the Commissioner of Police;
- the Chief Executive Officer of the Samoa International Finance Authority (the international financial services sector regulator);
- the Chief Executive Officer of the Ministry of Finance;
- the Chief executive Officer of the Ministry of Customs and Revenue;
- the Controller and Auditor General;
- the General Manager of the Samoa Airport Authority;
- the Chief Executive Officer of the Ministry of Foreign Affairs and Trade;
- the Chief Executive Officer of the Ministry of the Prime Minister & Cabinet (Transnational Crime Unit and Immigration);

- the Chief Executive Officer of the Ministry of Commerce, Industry and Labour; and
- the Director of the Samoa Financial Intelligence Unit.

The MLP Task Force meets quarterly to advise or make recommendations to the MLP Authority. The MLP Task Force has also established a Memorandum of Understanding (MoU) among all members of the task force with respect to formal exchange and sharing of relevant information to counter ML offences and TF activities. The MLP Task Force also organises regular presentations and discussions, either with task force members only or including private stakeholders (such as banks and MTOs), to analyse any emerging ML threats, typologies and trends, such as risks associated with cryptocurrency, cash couriers, ponzi-pyramid scheme etc.

In the past five years, the MLP Authority in collaboration with the MLP Task Force has compiled and finalized the following documents for the purpose of strengthening the AML/CFT system to detect and prevent ML/TF and to comply with the international standards: (i) Samoa AML/CFT National Policy; (ii) Samoa AML/CFT National Strategy 2016-2020, and (iii) AML/CFT Policy Paper.

4.2.3 The Office of the Attorney General (AGO)

4.2.3.1 General Overview

The Office of the Attorney General's Office ("AGO") is an independent office established under section 41 of the Constitution of the Independent State of Samoa 1960. The AGO manages and assists in carrying out the constitutional, statutory and common law duties and responsibilities of the Attorney General, manages the provision of legal services to the government and to other government agencies, and provides, upon request, legal assistance to other arms of the State; for instance, providing prosecutions training to the police. The AGO comprises of five core legal divisions, which includes: the Legislative Drafting Division; the Civil Litigation and Opinions Division; Commercial and International Law Division; the Criminal Prosecutions District Court Division and Criminal Prosecutions Supreme Court Division, and also provides support to the Corporate Services Division.¹⁷

The Attorney General is both the chief prosecutor and principal legal adviser of the Government of Samoa in accordance with common law principles. He/She acts as the State Prosecutor in all criminal proceedings involving Government and also oversees civil litigation matters involving the Samoan Government or affecting its interests. The Attorney General is the protector of the Judiciary and also the common law protector of charitable trusts. The Attorney General is also responsible for drafting or amending legislative instruments and providing legal advice on legislation administered by Government Ministries and Agencies, as instructed.

The Attorney General is also a member of the Transnational Crime Unit (TCU) Management Committee and the MLP Task Force. The AGO is the central authority for formal international co-operation.

¹⁷ Office of the Attorney General, *2018-19 Annual Report* (31 October 2019). Available at: <https://www.ag.gov.ws/wp-content/uploads/2020/08/2017-2018-Annual-Report-ENG-FINAL-PRINTING.pdf> (accessed 25 July 2021).

4.2.4 Samoa Financial Intelligence Unit (SFIU)

4.2.4.1 General Overview

The SFIU was established under section 6 of the MLPA 2007 to carry out the functions and powers as specified in the MLPA 2007. The SFIU is based within the Central Bank of Samoa (CBS). However, it operates independently and autonomously within the CBS. As such, it is able to effectively exchange information in respect of STRs it receives internally and externally through established information exchange channels.

The primary role of the SFIU is to collect, analyse and disseminate relevant information to law enforcement agencies to assist with the investigation and prosecution of criminals and their illegal activities. The SFIU does not have any responsibility for directly investigating ML or TF offences. However, the SFIU has a role in supporting law enforcement agencies and the AGO by providing information obtained from financial institutions, regulatory agencies and international counterparts on request pertaining to investigations, prosecutions or mutual assistance.

In addition to its FIU role, the SFIU is also responsible for AML/CFT regulation and supervision of majority of entities in the DNFBPs sector, except TCSPs and accountants. The SFIU is the AML/CFT supervisory authority for casinos, lawyers, dealers in precious metals and stones, and real estate agents. As the SFIU is a part of the CBS, the SFIU staff is also involved in the AML/CFT supervision of reporting entities supervised by the CBS.

Sections 7 to 12 of the MLPA 2007 provide a series of specific functions and powers of the FIU in the detection and prevention of ML/TF activities.

The SFIU also continues to conduct regular trainings and meetings with the compliance officers of financial institutions and re-emphasized their obligations under the MLPA 2007, including reporting of suspicious transactions and cash transactions.¹⁸

The SFIU has established a new system for reporting cash transaction reports (CTRs), suspicious transaction reports (STRs) and border currency reports (BCRs) online. The SFIU ICT System for the reporting of CTRs via online was successfully implemented in December 2019. All CTRs for cash transactions equivalent to SAT\$20,000 and over are now submitted online for most of the Financial Institutions (i.e., Commercial Banks and MTOs). This involves sending, receiving, exchanging money or any other type of cash transaction. The system is then accessed by the SFIU in order to analyse the volume of traffic of these cash transaction reports. This web-based system is a solution to the increasing number of cash transactions that are being reported to the FIU (as opposed to reporting it manually). The FIU ICT System also have the components to file STRs and BCRs online. However, the compliance officers and relevant staff need proper training regarding the new components of the system.

The SFIU in partnership with other supervisory/regulatory agencies such as SIFA and CBS conducts onsite inspections of financial institutions especially the high-risk sector such as banks, MTOs and

¹⁸ Between July 2015 and June 2020, the SFIU has conducted ten (10) training workshops for commercial banks and MTOs.

trustee companies. The inspections are to strengthen and enforce compliance with the requirements of the MLPA 2007 and Regulations. Furthermore, regular consultations and meetings are held to discuss and resolve any issues in relation to AML/CFT requirements.

The SFIU has established a 'Customer Due Diligence Check Policy' in 2019 to guide and direct its staff on undertaking due diligence checks, searches and other enquiries on customers as may be requested in writing by the LEAs and other government agencies and departments from the SFIU's current databases, compliance system and other open source. The standard operating procedure has also been established in 2019 setting out the end-to-end procedure to be followed by the SFIU in relation to the receipt, check and analysis of CDD check findings. The SFIU has also established its standard operating procedures in relation to the receipt, analysis and dissemination of STRs, CTRs and Border Cash Reports (BCRs). There is also an established strategic analysis policy and procedure for the SFIU staff to identify money laundering and terrorist financing related trends and patterns from the STRs, CTRs, BCRs and other related information received by the SFIU.

4.2.4.2 Suspicious Transaction Reports (STRs)

Financial institutions and DNFBPs are required under the MLPA 2007 to report any suspicious transaction to the SFIU as soon as practicable but no later than 2 working days after forming a suspicion. The SFIU has observed a significant increase in the number of suspicious transaction reports (STRs) reported by obliged entities in recent years. In 2020, the FIU received 105 STRs compared to 77 in 2019 and 87 in 2018. Between July 2015 and June 2020, the SFIU has received a total of 358 STRs from various financial institutions and DNFBPs in the value of \$43,274,748.72. As it can be seen **Table 4** below, in the sample period of FY 2015-2016 to FY2019-2020, the number of STRs have increased since 2016 although the value involved in STRs varies from year to year, with it being exceptionally high in FY2018-2019. The increase in number of STRs might be attributed to an increasing number of trainings and awareness raising among the financial institutions and DNFBPs on their reporting obligations under the MLPA 2007 as well as their ability to identify any suspicious transactions.

Table 4: Number and Value of STRs & Accountancy Sector (July 2015-June 2020)

<i>Financial Year</i>	<i>No. of STRs</i>	<i>Value of STRs (US\$)</i>
2015-16	46	2,583,422.70
2016-17	43	6,345,505.30
2017-18	87	5,038,507.01
2018-19	77	25,875,966.41
2019-20	105	3,431,347.30
TOTAL	358	\$43,274,748.72

The SFIU has developed a guideline for Strategic Analysis as a basis to guide the SFIU staff to carry out strategic analysis using the data and information held by the Unit. A strategic analysis was conducted on the Border Currency Reporting and the Cash Transaction Reports in 2019. The strategic analysis function of the SFIU is still developing and it is expected to fully implement once the SFIU ICT System is completely designed to include the filing of STRs and BCRs.

4.2.5 As per the guideline for Strategic Analysis, every STR received by the SFIU is analysed thoroughly. During the assessment process, the SFIU usually requests the reporting institution to provide more data to add value to the analysis. The SFIU also seeks assistance from other financial institutions for any records/information they might have on the suspected transaction. The information collected helps the SFIU in putting together an intelligence assessment report to be disseminated to the relevant law enforcement agencies and government authorities for their information and further investigation. There has been an improvement in the recent years in the dissemination function of the SFIU.

4.2.6 Samoa International Finance Authority (SIFA)

4.2.5.1 General Overview

The Samoa International Finance Authority (SIFA) is an statutory authority established under the Samoa International Finance Authority Act 2005 to oversee the governance of Samoa's international financial services sector (also referred to as 'offshore sector'), including international companies, international banks, international trusts, international and limited partnership companies, international insurance companies and trustee companies (TCSPs) for international financial services sector. The statutory mandate of SIFA also includes the general administration of international financial services legislations including, for instance, the International Companies Act 1988, the International Banking Act 2005, the International Insurance Act 1988, the Trustee Companies Act 2017 etc. The Authority performs regulatory and supervisory functions including but not limited to the following:

- a) To monitor and supervise the conduct of international financial services provided within Samoa.
- b) To protect and maintain the good repute of Samoa as a centre for international financial services, and to promote Samoa as a centre for international financial services.
- c) To develop national objectives, policies, and priorities for the orderly administration of international financial services in Samoa.
- d) To make recommendations for the introduction, amendment, or replacement of legislation pertaining to international financial services, companies and other forms of business structures.
- e) To ensure coordination and cooperation between the public sector agencies, private corporations and non-governmental organisations concerned in any way with international financial services.

The SIFA is the AML/CFT supervisory authority of international financial services sector, which included the TCSPs sector.

SIFA is an active member of the Group of International Finance Centre Supervisors (GIFCS), Group of International Insurance Centre Supervisors (GIICS), Corporate Registers Forum (CRF), International Tax Planning Association (ITPA), the Peer Review Group (PRG) on Transparency and Exchange of Information for Tax Purposes of the Organisation for Economic Cooperation and Development (OECD),

and the International Association of Insurance Supervisors (IAIS)¹⁹, which have their own standards for the effective supervision of the banking and insurance sector, such as the Insurance Core Principles. These standards and principles are applied when SIFA processes applications for TCSP Licences, International Banking Licence and International Insurance Licence.

SIFA monitors compliance of the international financial services sector and TCSPs sector with its AML/CFT obligations under the MLPA 2007 by conducting a number of off-site and on-site inspections.

4.2.7 Ministry of Commerce, Industry and Labour (MCIL)

4.2.6.1 General Overview

The Ministry of Commerce, Industry and Labour (MCIL) came into existence in May 2003, through passage into law of the Ministerial and Departmental Arrangement Act 2003. MCIL is responsible for, and focal point to, a wide number of sectors such as companies (public, private and overseas companies doing business in Samoa), societies (incorporated and cooperative), charitable trusts, credit unions, and personal properties and securities.

The MCIL has a variety of mandated roles and responsibilities set out in more than 30 pieces of legislation to support the Government's national development agenda. This includes, for instance, promoting industry development, foreign investment and guaranteeing the rights of citizens to participate in the economy of Samoa, as well as managing and enforcing the statutory obligations of the registries of companies and other legal entities and protects the rights of Intellectual Property rights.

The Registry of Companies launched an Electronic Registry ('E-Registry') in February 2013 which has changed the process for registering companies and the maintenance of their details in Samoa. New and existing companies are now registered electronically and can request the authority online to maintain their companies. The public can now access information about companies operating in Samoa through the online E-Registry. Whilst the E-Registry has substantially changed many of the Registry of Companies' previously manual processes, requirements for the companies to comply with their statutory obligations in the Companies Amendment Act 2006 have not changed. In addition, the fee for registration of companies is still required to be manually submitted to the Office of the Registrar in ACC House, Apia, as online fee payment option is not included in the E-Registry.

MCIL affiliates with several organisations at both national and international level, including well known organisations such as the World Health Organisation (WHO), Food Agriculture Organisation (FAO), World Trade Organisation (WTO) and the New Zealand Department of Labour.

¹⁹ SIFA, *Annual Report 2019*. (14th Edition, 29 November 2019), p. 14. Available at: <https://www.sifa.ws/assets/Uploads/SIFA-ANNUAL-REPORT-2019-English.pdf> (accessed 20 June 2021).

4.2.8 Law Enforcement Authorities (LEAs)

4.2.7.1 Ministry of Customs and Revenue (MCR)

4.2.7.1.1 General Overview

The Ministry of Customs and Revenue (MCR) (Inland Revenue & Customs) perform the dual roles of revenue collection and taxation as well as border management and investigation in Samoa. Its main functions focus on revenue collection and enforcing Customs and Inland Revenue laws and other enforceable instruments such as rules and regulations. The Ministry is responsible for ensuring the smooth movement of people and goods across the border and collect the correct revenue due to the state. Furthermore, the MCR manages and administers the taxation system in a way that encourages compliance by all taxpayers.

The MCR is also involved in investigating ML and related predicate offences in cooperation with other enforcement agencies through its participation in the TCU. Samoa Customs works closely with other government and international enforcement agencies to detect and deter unlawful movement of goods and people across the border. The task of intercepting illegal drugs and firearms at all ports of entry has been greatly improved due to the application of sophisticated techniques such as intelligence analysis, risk management, detector dogs and various other technologies. Changes are in place through the on-going Customs Modernization Project aiming at strengthening of its services such as: improve the revenue flows for provision of government services; strengthen the economy through better services to the trading community; effective & efficient border management procedures; and strengthen the capacity to monitor and provide timely statistics.

The introduction of the Automated Systems for Customs Data World version also known as the ASYCUDA WORLD, capitalizes on the web technology to connect with its customers anywhere locally and abroad. As a member of the World Customs Organization (WCO), Samoa Customs has followed the Harmonized Systems (HS) Nomenclature “also known as Customs Tariff” to the classification of import, export and trans-shipped commodities. This HS Nomenclature is reviewed every five (5) years due to change in trade patterns of commodities as well as the introduction of new products in the world Trade.

In 2020, the MCR, working in collaboration with an overseas Vendor, has launched a new Tax Invoice Monitoring System Project (TIMS) to increase compliance with the tax matters and consequently reduce hidden tax evasion.²⁰ The MCR has also signed a five-year country plan with New Zealand Government through the New Zealand Customs Service to provide technical assistance and capacity building to Samoa custom officials in enhancing their skills, capacities and enforcement actions in protecting Samoa’ international borders .²¹

²⁰ MCIL, *Annual Report 2019-2020*. p. 11. Available at: <https://www.palemene.ws/wp-content/uploads/MCIL-Annual-Report-2020-english.pdf> (accessed 20 June 2021).

²¹ MCIL, *Annual Report 2019-2020*. p. 12. Available at: <https://www.palemene.ws/wp-content/uploads/MCIL-Annual-Report-2020-english.pdf> (accessed 20 June 2021).

The MCR has reported that in the past few years there has been an increase in the number of non-compliance and fraudulent activities and seizures made at the borders. There has been particularly an increasing number of seizure of narcotics, excess undeclared cash/foreign currencies, firearms and vehicles at the borders.²² A number of deterrence attempts to ensure compliance related to imported goods has also been made through investigation and joint audit work by the MCR. In the FY2019-20, the MCR has noted that they have dealt with more than ten(10) cases of companies that have been found to have committed either under-valuation or under-declaration or both of the imported goods.²³

4.2.7.1.2 Border Currency Reports (BCRs)

As stipulated under section 13 of the MLPA 2007, any person who leaves or enters Samoa with more than \$20,000 or such other amount as may be prescribed in cash or negotiable bearer instruments must first declare/report such amount to the SFIU. In the sample period of July 2015 to June 2020, a total of 181 BCRs from incoming border crossing have been received in the value of SAT\$ 22,231,946. During the same period, the number of BCRs from outgoing border crossing has been 560, in the value of SAT\$451,614,974.

During the sample period, no cases of undeclared or inaccurate BCRs from outgoing border crossings have been detected; however, there were five (5) such cases relating to BCRs from incoming borders crossing (4 detected in 2019 and 1 in 2020) in the value of SAT\$76,285.12.

The MCR keep copies of BCRs and forwards the original reports to the SFIU for information and analysis. Accordingly, the MCR is unable to detect a traveller hand carrying large amount of cash unless the traveller declares such money. Once a declaration is made on the arrival/departure card, the MCR then can complete the BCR.

4.2.7.2 Samoa Transnational Crime Unit (TCU)

4.2.7.2.1 General Overview

The Transnational Crime Unit (TCU) was established in 2003 to ensure the safety of Samoa by using high level local and global investigative and operational intelligence network to detect and prevent transnational criminal activities in Samoa, including drug trafficking, money laundering and terrorism. The TCU is a multi- disciplinary Unit within the Ministry of the Prime Minister and Cabinet and is a part of the Pacific Transnational Crime Network (PTCN), which is hosted by the Government of Samoa. It is made up of specialist officers from the Police Service, Ministry of Customs and Revenue and Immigration Department. It is responsible for supporting investigations of predicate crimes, ML and TF that include a transnational element. Investigative powers of the Unit only arise from the powers held by the seconded staff working within the TCU.

²² MCIL, *Annual Report 2019-2020*. p. 14. Available at: <https://www.palemene.ws/wp-content/uploads/MCIL-Annual-Report-2020-english.pdf> (accessed 20 June 2021).

²³ MCIL, *Annual Report 2019-2020*. p. 14. Available at: <https://www.palemene.ws/wp-content/uploads/MCIL-Annual-Report-2020-english.pdf> (accessed 20 June 2021).

TCU provides a core role in identifying and targeting transnational crime. They also undertake criminal investigations, Interpol and Financial Intelligence unit functions. TCU is the primary point of contact in-country for transnational and cross border matters. One of their key elements is to pro-active transnational criminal intelligence collection, analysis, target development and dissemination. The TCU also conducts research and publishes reports on risk and threat assessments, alerts on urgent transnational criminal matters, as well as current trends and typologies in the region. The TCU also disseminates Quarterly Bulletins to spread awareness about transnational criminal activities.

The TCU as part of capacity can seek assistances through the region using PTCN network. It also has Interpol which allows for request to be sent internationally and vice versa. Nature of the requests is to do with intelligence and information collection, and it is restricted. The TCU also receives requests from local agencies such as the Police, AGO, Immigration and Border agencies.²⁴ TCU also sends out requests to said agencies.

4.2.7.3 Ministry of Police, Prisons & Corrections (MOPPC)

4.2.7.3.1 General Overview

The Police Service Act 2009 stipulates specific functions and responsibilities of the Ministry of Police, Prisons and Correction (MOPPC) in maintaining law and order throughout Samoa, the preservation of peace, the protection of life and property, the prevention, detection and investigation of crime in Samoa, and the enforcement of the law generally in Samoa and any laws which vest functions, powers and responsibilities in the Ministry.

The Police Powers Act 2007 provides adequate powers to the Police to gather evidence and compel the production of financial records and files from financial institutions and DNFBPs. The Police also have sufficient powers to investigate and prosecute ML and TF offences using the same structures, staff and resources available for examining a range of crimes reported to the Ministry.

Limited resources (capital and equipment to respond to new technological developments) and high turnover of the staff due to them leaving for jobs elsewhere and dismissed/terminated staff is reported as one of the challenges by the MOPPC.²⁵

assessment Table 5 shows the total number of criminal cases reported and investigated by the Ministry's Criminal Investigation Division in the sample period for this risk assessment *Table 5: No. of criminal cases reported and investigated by the CID (July 2015-June 2020)*²⁶

²⁴ In the FY2016-17, the TCU received 70 requests including assisting local, regional and international partners with intelligence investigations, background check, deportation request, obtaining of statement locally, criminal history checks, company checks and location of suspects and fugitives. Available at: <https://www.palemene.ws/wp-content/uploads/MPMC-Annual-Report-English.pdf> (accessed 15 June 2021).

²⁵ Ministry of Police, Prisons and Corrections, *Annual Report 2019-2020*. (31 October 2020), p. 31. Available at: https://www.palemene.ws/wp-content/uploads/MPCC-Annual-Report_ENGLISH-FINAL.pdf (accessed 15 June 2021).

²⁶ See, Ministry of Police, Prisons and Corrections, *Annual Report 2019-2020*. (31 October 2020), p. 13. Available at: https://www.palemene.ws/wp-content/uploads/MPCC-Annual-Report_ENGLISH-FINAL.pdf (accessed 15 June 2021); Ministry of Police, *Annual Report – Financial Year 2018-2019*. (31 October 2019), p. 16. Available at: <https://www.palemene.ws/wp-content/uploads/MOP-Annual-Report-2018-2019.pdf> (accessed 15 June 2021); Ministry of Police, *Annual Report – Financial Year 2017-2018*. (30 October 2018), p. 12. Available at: https://www.palemene.ws/wp-content/uploads/MINISTRY-OF-POLICE_AR-2017-2018_ENGLISH-version.pdf (accessed 15 June 2021); Ministry of Police,

Financial Year	2015-16	2016-17	2017-18	2018-19	2019-20
No. of criminal cases reported & investigated	616	790	540	947	1,159

4.3 Prosecution and Judicial Process

The AGO provides legal advice to LEAs on their investigations and generally exercises the discretion whether or not to bring criminal proceedings. All prosecution decisions are made strictly in accordance with the law and admissible evidence. =

There have been no ML cases prosecuted or convicted in Samoa between July 2015 and June 2020. However, the AGO staff has been provided consistent and ongoing training on ML/TF prosecutions. The AGO also continues to foster links with counterparts in other jurisdictions and participates in international conferences and events to keep prosecutors abreast of the latest developments in the AML/CFT regime.

The summary of predicate offences prosecuted and convicted by the AGO during the sample period of July 2015 to June 2020 is as below in **Table 6**.

Table 6: Number of cases prosecuted and convicted by the AGO (July 2015-June 2020)

Predicate offences	No. of Cases Prosecuted	No. of Convictions
Drug-related Offences	718	130
Property Offences (burglary, theft etc.)	1652	93
Crime against persons (assault causing injury etc.)	6296	529
Sexual Offences (rape, indecent assault etc.)	360	56
TOTAL	9016	808

The AGO also tend to work effectively with its foreign counterparts, seeking their assistance in some of the cases involving transnational element. Below is a summary of one of the successful cases prosecuted by the AGO with the assistance from foreign counterparts.

Box 2: Case Study – Collaboration with Foreign Counterparts in prosecuting Fraud

In 2015, the AGO, together with the Police and the SFIU successfully prosecuted and convicted two individuals on charges of false accounting and obtaining by deception under the Crimes Act 2013. The case involved an alleged overseas pyramid scheme, which affected some countries in Asia. Law enforcement of an overseas Country and their FIU assisted with the case, with one of its senior police testifying in Samoa's Supreme Court against the defendants. The judgment was delivered by

Annual Report – Financial Year 2016/2017. (9 April 2018), p. 16. Available at: <https://www.palemene.ws/wp-content/uploads/Police-Annual-Report-16-17.pdf> (accessed 15 June 2021); Ministry of Police, *Annual Report FY2015-2016*. (8 February 2018), p. 18. Available at: https://www.palemene.ws/wp-content/uploads/MOP-AR-2015-2016_ENGLISH-ecopy.pdf (accessed 15 June 2021).

His Honour, the Chief Justice on 24 December 2015 and the sentencing was handed in February 2016.

4.4 Internal Inter-Agency Cooperation

Members of the MLP Authority and the MLP Task Force collaborate on various levels. The MLP Task Force has also established a Memorandum of Understanding (MoU) among all members of the task force with respect to formal exchange and sharing of relevant information to counter money laundering offences and terrorist financing activities.

SFIU continues to work closely with its counterparts in Samoa in respect of transactions involving ML/TF. The SFIU continues to host quarterly meetings with the MLP Task Force members to discuss AML/CFT matters (issues, challenges and the way forward).²⁷ One of the main functions of the SFIU is to provide assistance to the relevant government agencies and offices and supervisory/regulatory authorities in relation to information requests and due diligence checks to support their work. Based on the nature and purpose of the request, the SFIU collects information from financial institutions such as banks, trustees, money transfer operators etc. and regulatory offices like SIFA and MCIL. Such information was analysed, and findings were reported back to the requested agency together with relevant attachments. The SFIU had received and responded to seventy-two (72) requests from agencies between 2016 and 2020.

Other mechanisms (regular or ad hoc) to ensure timely and effective inter-agency cooperation in response to ML/TF threats and typologies include:

- a) The SFIU's distribution of STR brochures and public notices to the Financial Institutions and MLP Task Force members on completing and filling the STRs to the SFIU.
- b) The SFIU also conducts trainings and arranges seminars for the financial institutions, DNFBPs and MLP Task Force members to promote awareness and share information on risk and typologies and latest ML/TF developments, and to promote CDD, record-keeping and suspicious transaction reporting.
- c) The SFIU issues *STR Quarterly Analysis* to STR reporting entities to provide analysis and feedback on STRs and case typologies. It also delivers seminars to FIs and DNFBPs, and liaises with other regulators and supervisors to share information about topical AML/CFT issues.
- d) The SFIU issues industry alerts and meets the MLP Task Force members regularly to discuss the latest crime trends and provide updates on cases of interest and referrals. In the sample period of July 2015 to June 2020, the SFIU has conducted 2 meeting annually , on an average, with competent AML/CFT authorities. The SFIU also hosts quarterly meetings with the MLP

²⁷ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 24. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).

Task Force members and the compliance officers of financial institutions to discuss AML/CFT-related matters.²⁸

4.5 External and International Cooperation

ML often involves transnational crimes. Effective international cooperation is thus essential in tracing criminal proceeds and uncovering the identity and background of criminals. As a member of the APG, the International Criminal Police Organisation (“INTERPOL”), and the Egmont Group of Financial Intelligence Units (“FIUs”) through the SFIU, Samoa participates in a number of international efforts to combat ML and TF. Mechanisms are put in place for providing assistance to other jurisdictions, including mutual legal assistance (MLA), financial intelligence exchange, and cooperation among LEAs and financial regulators.

4.5.1 Mutual Legal Assistance and Extradition

The Mutual Assistance in Criminal Matters Act (MACMA) 2007 facilitates the provision and obtaining of mutual legal assistance in relation to criminal matters in Samoa. Section 3 of MACMA enables Samoa to provide and obtain a wide range of international assistance in relation to investigation, prosecution and related proceedings in respect of ‘serious offences’, as defined under the POCA 2007. Money laundering and terrorist financing qualifies as ‘serious offences’ in Samoa for MLA purposes.

Samoa is bound by the Scheme relating to the Scheme of the Mutual Assistance in Criminal Matters within the Commonwealth and has acceded to the United Nations Convention against Corruption on 18 April 2018. In the absence of any applicable bilateral agreement or multilateral conventions, MLA may still be provided on the basis of a reciprocity undertaking provided by the requesting State and the authorities can exchange information spontaneously.

The AGO is the central authority of Samoa for MLA and executes all incoming and outgoing MLA requests. The types of MLA that may be provided include taking of evidence and statements (including via a live video link), search and seizure, production of materials, transfer of persons (in custody or otherwise) to provide evidence abroad, confiscation of proceeds of crime (including freezing pending confiscation) and service of documents.

The only grounds for refusal are if the request would prejudice the sovereignty, security or other essential public interest of Samoa or would be against the interest of justice. Provision of MLA can be postponed if the request would prejudice the conduct of an investigation or proceeding in Samoa. Such conditions are common in MLA practices of many countries and are not considered unduly restrictive.

Five (5) MLA requests have been received by Samoa between July 2015 and June 2020. Three MLAs received in 2018 have been denied and one MLA has been executed. The request received in 2020 is still pending. The MLA requests are received mainly from Australia, New Zealand and United States.

²⁸ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 24. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).

4.5.1.1 *Extradition*

Extradition is regulated by the provisions of the Extradition Act 1974. The Act applies, with necessary modifications, where a bilateral agreement or arrangement exists.²⁹ Samoa is bound by the London Scheme for Extradition within the Commonwealth.

Extradition is only available to and from other countries pursuant to a bilateral extradition treaty and, in the absence of a treaty, to Commonwealth countries designated by order of the Head of State.³⁰ Samoa has not concluded any bilateral extradition treaties, and only 10 Commonwealth countries have been designated as extradition countries.

The extradition procedure involves both a judicial and an administrative procedure. Requests for extradition must be submitted through the diplomatic channel for transmission to the Minister of Justice, who may issue an authority to proceed unless an order for extradition could not be made in accordance with the provisions of the Extradition Act.³¹

Requests for extradition are not common in Samoa. Between July 2015 and June 2020, Samoa has received two extradition requests, one in 2018 and another one in 2019. It has also sent out two extradition requests in 2020, which are still pending.

4.5.2 *Financial Intelligence Exchange*

Under the MLPA 2007, the SFIU has the authority to exchange financial intelligence information with foreign counterparts by entering an agreement or arrangement in writing. However, the law also authorises the SFIU to exchange this information even without entering into any such agreement, arrangement or Memorandum of Understanding (MoU). The SFIU is a member of the Association of Pacific Island FIUs and has signed MoUs with the FIUs of Fiji, Indonesia, Papua New Guinea and with the Association of Pacific Island FIUs.³²

In addition, as a member of the Egmont Group, the SFIU works with the FIUs worldwide to support cross-jurisdiction law enforcement and intelligence exchange. Between July 2015 and June 2020, the SFIU has received 32 incoming requests and made 14 outgoing requests via Egmont Group for exchange of financial and intelligence information.

Majority of the requests received by the SFIU from the foreign FIUs have been timely responded. On an average the requests have been responded within 30 days. Majority of the requests have been received by the SFIU from its counterparts in New Zealand, Australia, USA and Hong Kong. The outgoing requests for information from the SFIU are primarily to its counterparts in New Zealand, Australia, Hong Kong and India.

²⁹ Section 20, Extradition Act 1974.

³⁰ Section 2, Extradition Act 1974.

³¹ Section 7, Extradition Act 1974.

³² UNODC 'SAMOA: State of Implementation of the UNCAC' (27 May 2020) <<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/8-10June2020/V2002773e.pdf>>

The SFIU also provides assistance to overseas LEAs, whenever appropriate. The SFIU officers participated in the meetings and workshops of the FATF, the APG and the Egmont Group, with a view to exchanging financial intelligence and sharing experience. Between July 2015 and June 2020, six (6) SFIU representatives have participated in 29 such international events (1 in 2016; 6 in 2017; 5 in 2018, 7 in 2019; and 10 in 2020). The SFIU staff has also participated in three (3) events organised in Samoa by other organisations.

4.5.3 External Cooperation by LEAs³³

Samoa law enforcement authorities can cooperate at the international level through a number of mechanisms and networks, including the Egmont Group and International Criminal Police Organisation (INTERPOL). Samoa became the member of the INTERPOL in 2009.

Australia and New Zealand have placed liaison officers who, as appropriate, act as advisors or mentors to the Samoa Police Service and help with cooperation at the operational level. Samoa has also been involved in exchanges of personnel.

The Fraud Squad of the Criminal Investigation Division (CID) of the Police Services also has specialised personnel to handle cybercrimes.

The Samoa Transnational Crime Unit is part of the Pacific Transnational Crime Network and the Pacific Transnational Crime Coordination Centre is hosted by the Government of Samoa.

Between July 2017 and June 2020, the Samoa LEAs have received five (5) cooperation requests from foreign LEAs, which all have been well-responded. These cooperation requests have been received from New Zealand, Australia and United States. Samoa LEAs have also sent two (2) cooperation requests to their counterparts in foreign countries (Australia and New Zealand), which have also been responded in timely manner.

The representatives of LEAs have participated in approximately 33 international events, including meetings, AML/CFT workshops and training organised by APG, with a view to exchanging financial intelligence and sharing experience between 2016 and 2020. The LEAs also participated in three (3) events organised in Samoa to enhance their understanding and knowledge of financial crime, including money laundering and terrorist financing.

4.6 Overall National Vulnerability

Samoa's ability to combat money laundering is assessed as **MEDIUM**, characterised by its legal framework, high-level commitment, a multi-agency AML/CFT institutional framework, rigorous law enforcement with LEAs of high capability and integrity, a fair prosecution and judicial system, and effective external and international cooperation. There is however still a room for enhancement in some areas, which are detailed below.

³³ UNODC 'SAMOA: State of Implementation of the UNCAC' (27 May 2020) <<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/8-10June2020/V2002773e.pdf>>

4.7 Next Steps

- **Enhancing the AML/CFT legal framework:** Ongoing efforts are needed to improve the AML/CFT legal framework in keeping with the changing security landscape and ensuring compliance with the FATF recommendations. The MLP Regulations 2009 and MLP Guidelines 2010 also need to be updated.
- **Enhancing the capacity, resources and skills of relevant agencies in AML/CFT:** Limited resource availability (both human and technical) as well as lack of proper training of the staff in the relevant agencies responsible for investigation and prosecution of ML/TF cases has been identified as a major hindrance in successful ML/TF investigations, prosecution and convictions. Ensuring sufficient resources and strengthening capacity of the relevant staff in different agencies to effectively detect and prevent ML will be taken as a priority step forward. The resources and capacity of supervisory authorities should also be strengthened to ensure effective and efficient risk-based supervision and monitoring of all reporting entities.
- **Expanding AML/CFT partnerships:** While the MLP Authority and MLP Task force ensures good cooperation and coordination among the competent authorities on exchanging information and intelligence on AML/CFT matters, efforts should be made to enhance partnerships with the private sector. Engaging private sector stakeholders in the fight against ML and TF through intelligence development and sharing will enhance the overall capability of the country to combat serious ML; and
- **Strengthening internal and external cooperation and coordination:** Samoa's participation in international cooperation and coordination arrangements provides a solid basis for cooperation with regulators and LEAs of other jurisdictions but needs to be further strengthened to ensure resources are focused on the most complex and multi-jurisdictional cases. Even internally, the AML/CFT coordination and cooperation among various operational and supervisory agencies should be further strengthened to ensure the effectiveness of Samoa's AML/CFT system, including the frequent and timely exchange of information between authorities both within and outside the working groups to ensure optimum outcomes in AML/CFT operational matters.

5. Sectoral Money Laundering Vulnerability – Financial Institutions

5.1 Overview

This Chapter sets out the assessment of the financial institutions, including banks, MTOs, insurance sector, money lenders, and credit unions. Each sector falling within the scope of financial institutions has been assessed individually to determine its ML/TF vulnerability and thus given an individual ‘vulnerability’ risk rating based on the average score of the identified risk factors. All these sectors are subject to the AML/CFT requirements prescribed in the MLPA 2007, MLP Regulations 2009 and MLP Guidelines 2010.

Vulnerability refers to the characteristics of a sector that make it susceptible to criminal exploitation. This includes nature, size and complexity of business, products and services, customers, delivery channels, countries/jurisdictions with which it deals. Sector vulnerability also takes into account the operational vulnerabilities common among businesses in the sector, as well as the AML/CFT systems and controls in place across the sector.

Data collection sheets and/or questionnaires were distributed to all the supervisors and regulators of these entities and also to the financial sector entities. No responses to the questionnaires have been received from the entities operating as money lenders and credit unions.

Here is the snapshot of ‘Vulnerability’ risk rating for each sector.

Financial Institutions	NRA 2023	NRA 2014
Banks	HIGH	HIGH
Money Transfers Operators (MTOs)	HIGH	HIGH
Insurance Sector	MEDIUM	LOW
Money Lenders	MEDIUM-LOW	LOW
Credit Unions	MEDIUM-LOW	LOW

5.2 Banking Sector

Despite the efforts being put in by the commercial banks to meet their compliance requirements, there is still a high concern that the banks and their systems are highly vulnerable to be exploited by criminals for laundering the proceeds of crime. Consequently, the overall level of ML/TF vulnerability for the banking sector is assessed as **HIGH**.

5.2.1 Overview

The commercial banking system in Samoa comprises of four banks: two locally owned banks and two foreign owned banks. The two locally owned banks are National Bank of Samoa and Samoa Commercial Bank, with the former having four (4) branches and the later fifteen (15) branches in Samoa, as of June 2020. The two foreign owned banks are ANZ Bank Samoa Limited and Bank South Pacific Samoa (BSP), which are the subsidiaries of ANZ from Australia and BSP from Papua New Guinea, respectively. The ANZ Bank has three (3) branches and one (1) agency, and the BSP has four (4) branches and one (1) agency in Samoa, as of June 2020. The foreign owned banks own the bigger share of the banking market in Samoa, which is estimated to be 85% of the total market share.³⁴ All banks are licensed and supervised by the Central Bank of Samoa in accordance with minimum prudential standards and requirements in line with the Basel Committee standards. In relation thereto, all banks are required to comply with the provisions of the Financial Institutions Act 1996 and the MLPA 2007.

5.2.2 ML/TF risks associated with the Banking Sector

A. Products and Services

The banking sector is generally at a risk of being targeted by criminals to launder the proceeds of crime and finance terrorism due to the broad range of products and services offered by the sector and the nature of the products and services offered.

All the four banks in Samoa are retail banks, playing an important role as gatekeeper to the financial system, for businesses must usually engage their services which are essential to operations such as paying employees and vendors or financing capital expenditure. These banks are providing a full range of general retail banking services to both individuals and businesses, which includes standard current accounts, loan and savings products, and payment transmission services. The nature of their services includes the provision of a basic bank account facility to complex money transmission business for medium-sized commercial businesses.

By the end of June 2020, the four banks in Samoa maintained twenty-five (25) branches and seventy-three (73) Automatic Teller Machines (ATMs).³⁵ The number of Electronic Funds Transfer at Point of Scale (EFTPOS) were 590 and the number of cash-in and cash-out bank agents (merchant stores) were

³⁴ Samoa Risk & Compliance Report, March 2018, p. 16. Available at: http://www.knowyourcountry.info/files/samoaamlaug2014_3.pdf (accessed 30 June 2021).

³⁵ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 21. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).

33, as of June 2020.³⁶ Majority of these financial access points are located in the Apia Urban Area. All the four banks in Samoa have been offering their financial services through various instruments, including mobile phone applications, card-based instruments as well as internet banking platforms.³⁷

The features of a wide range of products and services offered by retail banking makes it increasingly vulnerable to ML/TF risks. These include, for instance, cash-intensive nature of some products, online transaction capabilities, cross-border electronic payments, access to banking services by third parties, for example lodgements to third-party accounts and credit cards; and money exchange services that can be availed by non-bank customers, subject to certain thresholds.

The volume and value of transactions processed by retail banking also increases its ML/TF vulnerability. Retail banks in Samoa have processed a total value of approximately SAT\$10,153,327,21 transactions between July 2015 to June 2020, with average transaction size of SAT\$32,899.05. These transactions are conducted through a range of channels, including online and in-branch transactions. The volume and value of online banking, as compared to in-branch transactions, is however not significant and appeared to have decreased since 2016. Online banking only represents 0.49% (SAT\$50,410.00) of the total value of transactions conducted by the banks in the period between 2016 and 2020. Nonetheless, online banking is highly vulnerable to ML/TF. Eight (8) STRs involving online banking have been submitted to the SFIU during this period.

Telegraphic transfers enable the rapid movement of funds between accounts both domestically and internationally. The value of telegraphic transactions processed by banks between 2016 and 2020 is significant and the rapid movement of funds around the world creates many opportunities for ML and TF activities. A large volume and value of transactions are also processed through a network of ATMs provided by retail banks, with a total of SAT\$1,548,233.67 withdrawals between 2016 and 2020, representing an average of SAT\$30,846.74 per transaction. The banks have submitted a total of thirty-seven (37) STRs related to telegraphic transfers and four (4) STRs related to ATM withdrawals between the sample period of 2016 and 2020.

Cash is an important part of the Samoan economy and banks' retail operations continue to be exposed to potential ML risks from customers engaged in cash-intensive businesses. The banks offer cash intensive products including over the counter services such as cash deposits or withdrawals, sales and purchases of foreign currencies and issuing or encashment of foreign cheques (travellers' cheques, cashiers' cheques, etc.). The provision of services to cash-generating businesses is a particular area of risk associated with retail banking. Some businesses are legitimately cash based, including large parts of the retail sector, and so there will often be a high level of cash deposits associated with some accounts. The risk is where the level of cash activity is higher than the underlying business would justify, which may indicate that the account may be being used for money laundering or terrorist financing. The number of physical cash transactions taking place on a yearly basis through the banking system is quite significant and can facilitate the movement and concealment of criminal funds.

³⁶ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 21. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).

³⁷ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 21. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).

Deposit taking and related cash management account services have an increased risk of used for ML/TF and can be used at all three stages of ML. They are used during the placement stage of ML which involves the physical depositing of cash into an account or payment of cash for a service.

Physical cash can be introduced into the financial system either purely as proceeds of crime or intermingled with legitimate personal or business funds. The amount of cash deposited may be indicative of illegal funds if it appears that the transaction amount or group of transactions has been structured or the amounts appear inconsistent with the customer profile.

Deposit accounts are also used in the integration stage of ML whereby money is reintroduced to the financial system as clean funds once the origin has been obscured. Investment accounts such as term deposits may attract less attention than current transaction accounts from persons attempting to launder funds where term deposit arrangements limit access to and movement of those funds.

The feature of lending is generally that the initial funds advanced are paid into another bank account. Repayments are usually made from other bank accounts by direct debit; in most cases, repayments in cash are not encouraged. Given that a loan results in the borrower receiving funds from the lender, the initial transaction is not very susceptible of the placement stage of money laundering, although it could form part of the layering stage. The main money laundering risk arises through the acceleration of an agreed repayment schedule, either by means of lump sum repayments, or early termination.

Banks in Samoa generally involve in activities such as correspondent banking and cross border transactions (i.e., inwards and outwards payments) with businesses and clients in other jurisdictions, which also increases the vulnerability of the sector to ML/TF risk.

B. Customer Types

The wide range of the banking sector's customer base leaves the sector vulnerable to ML or TF. The customer base of the sector includes customers who may be sought out by criminals to facilitate the laundering of illicit funds. These include cash-intensive businesses (e.g., shopkeepers, petrol stations etc.); charities and not-for-profit organisations; lawyers, accountants and other professionals; politically exposed persons; high net worth individuals; and complex corporate structures.

Majority of the customers of Samoan banks include individual customers, constituting 77.31% of total customer base.³⁸ Non-resident/overseas customers of the commercial banks constitute approximately 18.61% of the customer base. Approximately 10% of banks' customers are Politically Exposed Persons (PEPs), which are subject to enhanced due diligence (EDD). During the process of this risk assessment, it has been highlighted by commercial banks that although the definition of PEPs under the MLPA 2007 only covers foreign PEPs within its scope, but, in practice, banks capture both domestic and foreign PEPs within the scope of 'PEPs' to apply EDD measures.

³⁸ Based on the responses provided by three commercial banks to the questionnaires sent for the purposes of this risk assessment, as well as discussions and information provided by the relevant authorities.

C. Delivery Channels

As discussed earlier, all the commercial banks in Samoa have established their branches and operating through this branch network throughout the country. The two foreign banks have also been operating through agencies in Samoa. In addition, retail banks also provide their services to customers *via* internet, mobile applications, post and telephone.

D. Country Risk

The Samoan commercial banks have a small (18.61%) percentage of non-resident overseas customers. Majority of their overseas customers are from New Zealand (40%) and Australia (30%), followed by Fiji (10%), United States (10%) and China (10%). Consequently, these are the countries with highest number of identified international transactions – New Zealand (40%), Australia (40%), Fiji (5%), United States (5%) and China (10%).

Nonetheless, the value of international transactions processed by banks on a daily basis is significant and the rapid movement of funds around the world creates many opportunities for ML and TF activities. There may be legitimate reasons for transactions in or through certain countries but there are risks with international transactions or foreign counter parties. Dealings with persons, entities, or countries with low or no protection to ML or TF is a major geographic risk which the banks need to mitigate by having in place strong and robust AML/CFT policies, procedures and system.

5.3.1 AML/CFT Systems and Controls

The Central Bank of Samoa is responsible for issuing licenses and for undertaking prudential and AML/CFT supervision of commercial banks. The MLPA 2007 and MLP Regulations 2009 imposes requirements on financial institutions related to reporting of suspicious transactions, record keeping, monitoring of transactions, implementation of policies and procedures, staff awareness and customer identification. Aspects of these requirements are outlined in MLP Guidelines 2010 to provide assistance to financial institutions to ensure compliance with their statutory obligations. Regardless of the size of the organisation or the nature of its activities, banks internal controls should address important factors such as (not limited to) to provide increased focus on a financial institution's operations (e.g. services, clients and geographic locations) that are more vulnerable to abuse by money launderers; to provide periodic review of the risk assessment and management processes, taking into account the environment within which the financial institution operates and the activity in the business environment; provide for adequate controls for higher risk clients and services as necessary, such as limits on the activity/service offer or management approvals; designate an individual or individuals at an appropriate level who is/are responsible for managing compliance with the MLPA, etc.

Banks have in place robust AML/CFT systems appropriate in managing ML/TF risks associated with its operation. For instance, screening of customers prior to establishing business relationships; screening of international transactions; and higher risk customers are subjected to enhanced customer due diligence measures. The two foreign-owned banks, being part of larger global financial groups, comply with both Samoan and home country AML/CFT requirements. They have a documented institutional-level risk-assessments and therefore implement a risk-based approach to supervision. However, the implementation of risk-based approach is limited and variable in this area particularly for the two

domestic banks that do not have documented risk-assessment and do not have sophisticated customer database and monitoring systems.³⁹

Banks continue to offer AML/CFT trainings and awareness programmes for all staff in order to achieve and satisfy their obligations under the Act and Regulations. Online AML/CFT trainings offered by parent banks to their subsidiaries add value to staff knowledge and understanding on the prevention and detection of ML/TF activities. In the sample period of July 2015 to June 2020, commercial banks' staff has participated in eight (8) AML/CFT trainings and workshops organized by the CBS and SFIU. The SFIU also regularly distributes awareness posters/brochures regarding AML/CFT requirement of commercial banks. Compliance meetings with the compliance officers of the financial institutions are also regularly coordinated by the SFIU on a regular basis to discuss AML/CFT related matters, including submission of STRs and emerging ML/TF trends and typologies.

SFIU conducts onsite inspections as part of its supervision efforts to encourage banks to take necessary measures and implement appropriate systems to counter these illegal activities.. During these on-site visits no major AML/CFT violations have been identified by the SFIU and their AML/CFT systems and programs have been identified to be in compliance with the requirements of the MLPA 2007 and MLP Regulations 2009. However, any minor deficiencies identified during onsite inspections in the application of their AML/CFT policies and procedures were discussed with banks and are effectively rectified and resolved in a timely manner. The banking sector has devoted significant resources to enhancing their AML/CFT systems and controls in recent years, including on-going monitoring of ML/TF activities.

The banking sector has reported a large number of STRs (106 out of 358 STRs between 2016 and 2020 in value of \$32,978,296.74), which is indicative not only of their materiality but also of their higher level of awareness on ML/TF risks and their understanding of their AML/CFT obligations. Analysis by the SFIU indicates that the quality and usefulness of information provided is improving and contributes to on-going investigations and for general intelligence relating to possible criminal activity including ML. Banks continue to offer AML/CFT trainings and awareness programmes to their staff (especially the front-line officers) thus, contributes to the flow of STRs from banks. Even the SFIU has been regularly co-ordinating compliance meetings for the compliance staff of banking institutions to discuss AML/CFT related matters, including new ML/TF methods and trends, which also contributes to enhancing their knowledge in identifying and assessing ML/TF risks.

Independent and periodic internal audit testing is also being done by banks to assess the overall integrity of their AML/CFT frameworks which strengthens the implementation of preventative measures. Results of these internal audits are submitted to the SFIU pursuant to the requirement under the MLP Regulations.

³⁹ Based on the data/information collected for the purposed of this risk assessment, as well as discussion held within the relevant authorities. This concern has also been raised in the APG, *Anti-Money Laundering and Counter-Terrorist Financing Measures – Samoa Mutual Evaluation Report* (September 2015) (hereinafter "Samoa Mutual Evaluation Report 2015"), p. 73. Available at: <https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/Mutual-Evaluation-Report-Samoa-2015.pdf> (accessed 10 June 2021).

5.3.2 Next Steps

Ongoing efforts by the authorities have resulted into strengthening the compliance of commercial banks with their AML/CFT obligations. On-site inspections of banks constitute an important step to improve AML/CFT compliance in this sector, which should be carried out by the SFIU on a more frequent basis considering the risk profile of the sector. The authorities should continue strengthening their risk-based AML/CFT supervision of the sector, including ensuring documented risk assessment by each commercial bank, and providing adequate guidance material to banks on customer due diligence and suspicious transaction reporting. Commercial banks should continue to strictly monitor the development of technology-based products to ensure adequate security and prevent their abuse for ML/TF purposes.

5.3 Money Transfer Operators (MTOs) and Money Changers (MCs)

The overall level of ML/TF vulnerability of MTOs is assessed as **HIGH**. There has been due to high volume of overseas remittances to Samoa, mainly through the MTOs, which makes the sector potentially highly vulnerable to money laundering. Although the AML/CFT regime and internal AML/CFT controls and systems of MTOs have been strengthened in the past few years, the SFIU need to continue its effective risk-based AML/CFT supervision of the sector to ensure that the sector is not being abused for ML/TF purposes. MTOs also need to continue to further enhance and strengthen their AML/CFT controls and systems, as there is still a high concern that the MTOs and their systems are highly vulnerable to be exploited by criminals for laundering the proceeds of crime.

5.3.1 Overview

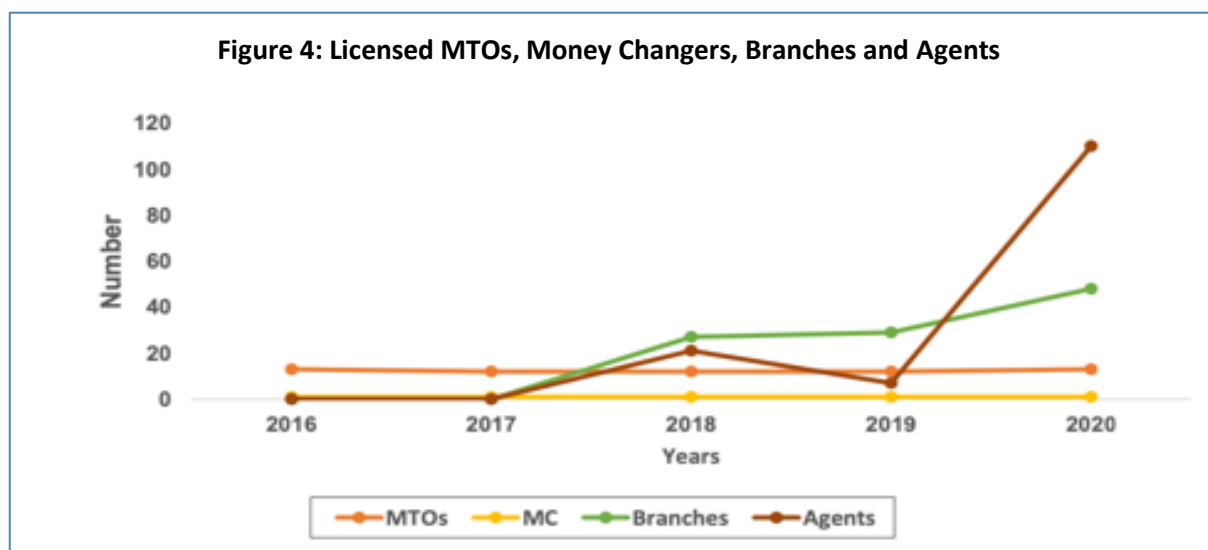
MTOs and Money Changers (MCs) are licensed and supervised by the Central Bank of Samoa under the Financial Institutions Act 1996, the MLPA 2007 and the Exchange Control Regulations 1999. As required by the legislation, MTOs and MCs must renew their licenses at the beginning of every year.

At the end of June 2020, the Central Bank of Samoa has issued renewal licenses to the following institutions:

- a) Thirteen (13) MTO licenses;
- b) One (1) MC license;
- c) Forty-eight (48) MTO branch licenses; and
- d) Hundred and ten (110) MTO agents' licenses.⁴⁰

As Figure 4 below shows, the number of licenses that have been issued/renewed for MTO branches continue to increase since 2017. Similarly, there appears to be a sudden increase in MTO agents' licenses in the FY 2019/2020 whereas the total number of MTOs and MCs have remained the same for the past five years.

⁴⁰ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 20. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).



CBS, Annual Report (July2019-June2020), (30th Oc. 2020), p. 20

Remittances play a vital role in Samoa's economy – is the biggest source of external income for Samoa and account for the biggest share of its GDP. According to a report of International Monetary Fund, remittances accounted for 30 percent of Samoa's GDP in the year 2020⁴¹ whereas they represent around 24 percent of the GDP in 2019.⁴² Annual remittances to Samoa saw an increase from US\$205 million in 2019 to US\$226 million in 2020, an increase of 23.5 percent about the World Bank's initial estimate of a 13 per cent decline for 2020.⁴³ Samoa is reported to be the sixth largest remittance receiving country worldwide.⁴⁴ As per the FY 2019-2020 annual report of the CBS, the value of inward private remittances to Samoa has been SAT\$567.53 million, which is an increase of 5.6% from FY 2018-2019.⁴⁵

MTOs continue to play a key role in facilitating the inflow of private remittances to Samoa, with the portion coming through the commercial banks continuing to decline. Commercial banks operate about 13-23% of all the remittances, and the rest is operated by non-bank financial institutions, mainly by

⁴¹ International Monetary Fund, *Samoa 2021 Article IV Consultation – Press Release; and Staff Report*. IMF Country Report No. 21/56, March 2021, p. 31. Available at: <https://www.imf.org/en/Publications/CR/Issues/2021/03/19/Samoa-2021-Article-IV-Consultation-Press-Release-and-Staff-Report-50283> (accessed 31 July 2021).

⁴² International Organisation for Migration (IOM), *Remittance Inflow Trends Snapshots*. (April 2021), pp. 32-33. Available at: https://www.iom.int/sites/default/files/remittance_inflow_trends_snapshot_web-compressed.pdf (accessed 10 July 2021). See also, Howes, S. and Surandiran, S. (2020) *Pacific Remittances: Holding up despite COVID-19*. (16 November 2020). Available at: <https://devpolicy.org/pacific-remittances-covid-19-20201116/> (accessed 10 July 2021).

⁴³ International Organisation for Migration (IOM), *Remittance Inflow Trends Snapshots*. (April 2021), pp. 32-33. Available at: https://www.iom.int/sites/default/files/remittance_inflow_trends_snapshot_web-compressed.pdf (accessed 10 July 2021).

⁴⁴ Le De, L., Gaillard, J.C. and Friesen, W. (2015) "Remittances and disaster: Policy Implications for Disaster Risk Management" *Migration, Environment and Climate Change: Policy Brief Series*, 2(1), March 2015. Available at: https://reliefweb.int/sites/reliefweb.int/files/resources/Policy_Brief_Series_Issue2.pdf (accessed 20 July 2021)

⁴⁵ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 3. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2021).

MTOs.⁴⁶ As per the report of IMF, 80 percent of remittances to Samoa are through MTOs.⁴⁷ There is growing competition in this important international financial service, resulting into lowering the fee and increasing the number of outlets for the convenience of customers. Although the average cost of remittance transfers has been falling in Samoa, yet it remains above the G20 objective of 5 percent.⁴⁸ In the FY2019-2020 however Samoa's high remittance transfer fees was reduced at the onset of the COVID-19 virus, contributing to an annual increase in the number and value of remittances to Samoa in 2020.⁴⁹

5.3.2 ML/TF Risks associated with MTOs and MCs

Products and services offered by MTOs include receiving and sending money, buying and selling currencies, and bill payments. MTO sector, on a yearly basis process 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.

The cash intensive nature of remittances transactions and the ability to process a large number of cash transactions, simply and swiftly attract potential money launderers to use MTOs to move illegal funds. Cash has been indicated as a main transaction method by all the four (4) MTOs that have participated and responded to the survey questionnaires for the purposes of this risk assessment. Moreover, in recent years, strains in correspondent banking relationships have contributed to a reluctance by banks to provide financial services in the remittance sector, resulting into MTOs in Samoa and their counterparts in Australia and New Zealand facing closure of their bank accounts and making this sector increasingly fragile to ML/TF risks.⁵⁰ Due to increased challenges in accessing financial services, some MTOs have been reported to be using personal accounts or are physically transporting money overseas,⁵¹ making this sector increasingly vulnerable to ML/TF.

Under the MLPA 2007, all the financial institutions, including MTOs, are required to report all cash transactions equivalent to SAT\$20,000 or more to the SFIU on weekly basis. In the FY2019-2020, the MTOs reported 1,524 transactions to the SFIU in the total value of SAT\$115,082,032. These figures clearly show the high cash transaction risk posed to this sector.

MTOs handle large amounts of physical cash and transact mainly with walk-in and one-off customers. Majority (95%) of MTO customers are face-to-face while only 5 percent were via third-party eligible introducer (based on responses to questionnaires by 4 MTOs for this risk assessment). The limited time

⁴⁶ World Trade Organisation (WTO), *Trade Policy Review: Samoa*. WT/TPR/S/386, 13 February 2019, p. 66. Available at: https://www.wto.org/english/tratop_e/tpr_e/s386_e.pdf (accessed 31 July 2021). See also, International Monetary Fund, *Samoa 2017 Article IV Consultation – Press Release; and Staff Report; and Statement by the Executive Director of Samoa*. IMF Country Report No. 17/112, May 2017, p. 7 (noting that 80 percent of remittances in Samoa are channelled through MTOs.)

⁴⁷ See, International Monetary Fund, *Samoa 2017 Article IV Consultation – Press Release; and Staff Report; and Statement by the Executive Director of Samoa*. IMF Country Report No. 17/112, May 2017, p. 7; AUSTRAC (2017), *Remittance Corridors: Australia to Pacific Island Countries – Money Laundering and Terrorism Financing Risk Assessment*. (2017), p. 08. Available at: <https://www.austrac.gov.au/sites/default/files/2019-06/remittance-corridors-risk-assessment.pdf> (accessed 20 July 2021).

⁴⁸ Ibid.

⁴⁹ International Organisation for Migration (IOM), *Remittance Inflow Trends Snapshots*. (April 2021), pp. 32-33. Available at: https://www.iom.int/sites/default/files/remittance_inflow_trends_snapshot_web-compressed.pdf (accessed 10 July 2021).

⁵⁰ International Monetary Fund, *Samoa 2017 Article IV Consultation – Press Release; and Staff Report; and Statement by the Executive Director of Samoa*. IMF Country Report No. 17/112, May 2017, p. 7. Available at: (accessed 20 July 2021).

⁵¹ Ibid.

reserved to process individual transactions and the large number of customers poses significant challenges in identifying suspicious transactions. In addition, it is doubtful to conduct CDD for a particular customer, which is later identified to be involved in illegitimate deal such as fraud/scams.

Also, the higher exposure to overseas customers is a risk to the business. Remittances provide a vital source of income to families in Samoa. 70 percent of total remittances to Samoa are for families and individuals whereas churches, schools and charities constitute the second major recipients of remittances from abroad.⁵² Australia and New Zealand are the two main countries of origin for remittance inflows to Samoa, followed United States and American Samoa.⁵³ In the year 2020, annual inflow remittances from Australia and New Zealand to Samoa have increased while remittances have declined from the United States, which is attributed to a strong depreciation of the Samoan Tala against the US dollar.⁵⁴

According to a report by the AUSTRAC, customers who are remitting large number of transactions to Samoa from Australia do not tend to remit large-dollar values.⁵⁵ The vast majority of remittances are for amounts less than AUS\$500.⁵⁶ There is no indication of a high risk of criminal activity in the STRs submitted related to remittances to Samoa. AUSTRAC has assessed that STRs involving Samoa were unlikely to indicate large-scale money laundering.⁵⁷ Overall, less suspicious behaviour associated with funds being remitted to the Pacific has been detected by remittance providers than for funds being remitted globally.⁵⁸

International transactions and wire transfers also bring about a greater risk of illegal funds being introduced into the financial system. For example, there have been cases where proceeds derived from scam activities (such as advance fee payment, romance scam, cybercrime, etc.) were transferred through MTOs.

5.3.3 AML/CFT Systems and Controls

The new and renewal applications for MTO licence are assessed by the Supervision Department of the Central Bank of Samoa based on the requirements as stipulated under relevant laws and regulations. All MTO licences are subject to annual renewal.

The MLPA 2007 and MLP Regulations 2009 clearly specify the AML/CFT obligations of the MTOs to prevent the sector from being misused for ML/TF activities. The MLP Guidelines 2010 issued to

⁵² Nataro, I. “\$503.73 million in remittances top foreign exchange earner”. *Samoa Observer*, 14 February 2019. Available at: <https://www.samoaoobserver.ws/category/samoa/6883> (accessed 20 July 2021).

⁵³ International Monetary Fund, *Samoa 2021 Article IV Consultation – Press Release; and Staff Report*. IMF Country Report No. 21/56, March 2021, p. 31. Available at: <https://www.imf.org/en/Publications/CR/Issues/2021/03/19/Samoa-2021-Article-IV-Consultation-Press-Release-and-Staff-Report-50283> (accessed 31 July 2021). See also, World Trade Organisation (WTO), *Trade Policy Review: Samoa*. WT/TPR/S/386, 13 February 2019, p. 66. Available at: https://www.wto.org/english/tratop_e/tpr_e/s386_e.pdf (accessed 31 July 2021).

⁵⁴ International Organisation for Migration (IOM), *Remittance Inflow Trends Snapshots*. (April 2021), pp. 32-33. Available at: https://www.iom.int/sites/default/files/remittance_inflow_trends_snapshot_web-compressed.pdf (accessed 10 July 2021).

⁵⁵ AUSTRAC, AUSTRAC (2017), *Remittance Corridors: Australia to Pacific Island Countries – Money Laundering and Terrorism Financing Risk Assessment*. (2017), p. 06. Available at: <https://www.austrac.gov.au/sites/default/files/2019-06/remittance-corridors-risk-assessment.pdf> (accessed 20 July 2021).

⁵⁶ Ibid, p. 23.

⁵⁷ Ibid, p. 17.

⁵⁸ Ibid, p. 12.

financial institutions also elaborate more on the requirements as stipulated under the legislation and the Regulations.

MTOs staff regularly participate in AML/CFT trainings, workshops and awareness programmes organized by the SFIU to enhance their knowledge and understanding of their AML/CFT obligations under the MLPA 2007, as well as latest ML/TF developments, typologies and trends related to the MTO sector. In the sample period of July 2015 to June 2020, the MTO staff has participated in seven (7) AML/CFT trainings hosted by the SFIU, which ranges from discussing their AML/CFT obligations to online reporting of CTRs.

SFIU endeavours to conduct regular inspections of MTOs as part of its supervision efforts and to encourage MTOs to take necessary measures and implement appropriate systems to counter the increasing sophistication of ML/TF techniques. In the past years, the Central Bank of Samoa has also closely worked with the IMF to complete initial work on KYC facility for the South Pacific region, reducing remittance costs by improving customer verification processes.⁵⁹

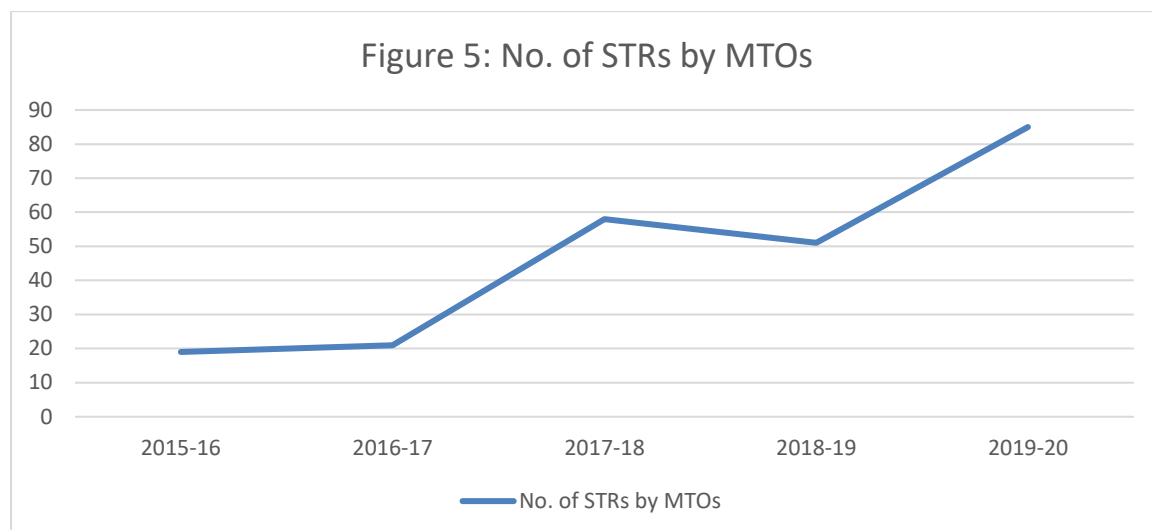
Table 7: : No. of MTOs inspected by the SFIU (July 2015 – June 2020)

Financial Year	2015-16	2016-17	2017-18	2018-19	2019-20
No. of MTOs inspected	12	0	9	0	9

MTOs are expected to implement strong AML/CFT controls appropriate with the nature, size, and complexity of their business activities. During its latest inspections, the SFIU has found that MTOs systems are not of course as robust as banks, but they have improved a lot compared to earlier inspections in 2016. All inspected MTOs have AML/CFT policies, procedures and systems in place, which complied with the AML/CFT requirements. Minor anomalies have been identified during inspections related to policies and procedures as well as their implementation. Weaknesses identified during onsite inspections were discussed with MTOs for rectification. Areas that require particular attention and further strengthening include the performance of proper CDD measures, record keeping for audit and trail purposes and on-going monitoring of customers transactions for unusual and or suspicious transactions.

The MTO sector has reported the largest number of STRs (234 out of 358 STRs between July 2015 and June 2020 in value of \$3,986,939.92), which is indicative not only of the crime threat the sector has been facing but also of their higher level of awareness on ML/TF risks and their understanding of their AML/CFT obligations. Since July 2015, the number of STRs reported by the sector has increased almost each year, from 19 in 2016, to 21 in 2017, 58 in 2018, 51 in 2019 and 85 in 2020 (as shown in Figure 5 below).

⁵⁹ International Organisation for Migration (IOM), *Remittance Inflow Trends Snapshots*. (April 2021), pp. 32-33. Available at: https://www.iom.int/sites/default/files/remittance_inflow_trends_snapshot_web-compressed.pdf (accessed 10 July 2021).



5.3.4 Next Steps

Ongoing efforts by the authorities have resulted into improving the compliance of MTOs with their AML/CFT obligations. On-site inspections of MTOs are an important step to improve AML/CFT compliance in this sector, which should be planned on a risk-sensitive basis. The authorities should continue strengthening risk-based AML/CFT supervision and providing appropriate guidance on enhancing compliance with customer due diligence and suspicious transaction reporting obligations by MTOs.

5.4 Insurance Sector

The overall level of ML/TF vulnerability of the insurance sector is assessed as **MEDIUM**. The Central Bank of Samoa has recently strengthened its prudential supervision of the sector through conducting both off-site and on-site inspections; however, there is limited information available on the level of sector's compliance with their AML/CFT obligations. The Central Bank should implement a risk-based AML/CFT supervision of the prevent it from being abused for ML/TF purposes and to lower the sector's vulnerability to such risks.

5.4.1 Overview

Insurance companies in Samoa are licensed, supervised and regulated by the Central Bank of Samoa in accordance with the statutory requirements as stipulated under several acts administered by the Central Bank. These legislations include the Insurance Act (IA) 2007, Financial Institutions Act (FIA) 1996, and the MLPA 2007 respectively. The Insurance Supervision Prudential Standards (ISPS) 2018/2020, AML Regulations 2009 and AML Guidelines 2010 are also in place to support and assist licensed insurers with prudential and AML compliance. The prudential supervision and licensing of the insurance industry are carried out by the Financial Supervision and Regulatory Services Department (FSRSD) whilst the AML supervision is the responsibility of the Legal and FIU Department of the Central Bank. The FSRSD also enforces the FIA 1996 and the IA 2007 requirements whereas the Legal & FIU imposes the MLPA 2007 conditions. The Governor of the Central Bank of Samoa is the Insurance Commissioner appointed under Section 4 of the Insurance Act 2007.

All insurers and intermediaries conducting insurance business in Samoa are required to be licensed by the Insurance Commissioner. As of June 2020, a total of twenty-five (25) insurers and intermediaries were licensed under the Insurance Act 2007. These include:

- a) Six (6) insurance companies (2 life and 4 general);
- b) Three (3) insurance brokers; and
- c) Sixteen (16) insurance agents (both corporate and individual).⁶⁰

The Commissioner receives and assess all applications for issuance and renewal of licenses by insurers, insurance agents and insurance brokers. Licenses are required to be renewed annually by the end of December each year.⁶¹ Licenses are issued and renewed only after the applicants have satisfied the stipulated requirements under the Insurance Act 2007. In FY2019-2020, one general insurer was granted only a provisional license for 3 months as a result of non-compliance with several provisions of the Insurance Act 2007.⁶² During this period, one insurance brokers license was also not renewed due to its decision to exit the market.⁶³

⁶⁰ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 17. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).

⁶¹ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2020, p. 17. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).

⁶² Ibid.

⁶³ Ibid.

In terms of market share, the size of the insurance industry is relatively small as compared to the banking sector and other non-bank financial institutions.

5.4.2 ML/TF Risks associated with the Insurance Sector

Insurance is not compulsory in Samoa, unless someone has a housing loan or a vehicle loan where it is a must to have those assets insured for security purposes and as a part of loan conditions imposed by banks. Insurance is treated as some form of ‘luxury’ by people in Samoa, and therefore, only a few have insurance policies (either life or general or both) in place. According to a report by the World Trade organisation (WTO), only 21% of adults in Samoa have any type of insurance.⁶⁴

The insurance sector provides a diverse range of products to customers via an equally diverse range of distribution channels, including insurance brokers and insurance agents. The main insurance products and services that are made available to the customers in Samoa include house insurance, contents insurance, motor insurance for commercial and person purposes, business protection (including industrial special risk), travel insurance, public liability insurance, contract works insurance, person accident insurance, employer liability and material damages insurance. The majority of insurance products offered in Samoa do not deliver sufficient functionality and flexibility to be the first choice of vehicle for the money launderer. The level of ML/TF risk in the general insurance industry is unlikely, as claims are only paid out if the specific insured event occurred. Fire insurance is the main non-life business segment.⁶⁵

There are only two (2) life insurance companies in Samoa which offers a wide range of services and policies to the public. Some of the policies include whole life assurance, endowment assurance, money back term, children policies, etc. The majority of policyholders are individuals (local residents). Their premium payments are mainly done via electronic transfers with a few made in cash. These premium payments are calculated by the insurer based on the premium rate determined by the company’s actuary and approved by the board of directors. As such, the risk of significant payments or overpaid policy premiums is low.

A life insurer registered under the Insurance Act 2007 is required to maintain a register of policies issued and claims paid. The register must contain all information in relation to the insured and his/her policy and claim. The insurer is also required to keep a separate register on any insurance business carried outside of Samoa. As such, all policyholders, including higher risk customers like PEPs are identified and assessed by the insurer before issuing a policy. The risk of using an insurer by a non-member to hide illicit funds is relatively low.

5.4.3 AML/CFT Systems and Controls

The Central Bank of Samoa has an integrated, risk-based system of supervision that uses both off-site monitoring and on-site inspections to examine the business of each insurer, evaluate its condition, quality, effectiveness and compliance with the key licensing requirements, regular submission of

⁶⁴ World Trade Organisation (WTO), *Trade Policy Review: Samoa*. WT/TPR/S/386, 13 February 2019, p. 67. Available at: https://www.wto.org/english/tratop_e/tpr_e/s386_e.pdf (accessed 31 July 2021).

⁶⁵ World Trade Organisation (WTO), *Trade Policy Review: Samoa*. WT/TPR/S/386, 13 February 2019, p. 67. Available at: https://www.wto.org/english/tratop_e/tpr_e/s386_e.pdf (accessed 31 July 2021).

financial reports and complying with specific requirements of the Insurance legislation. It generally adopts a consultative approach with the insurance industry to ensure compliance with the relevant legislation. This information provides the major source of information on ML/TF or other risks facing the sector.

The MLPA 2007 and Regulations clearly specify certain obligations for financial institutions (including life insurance) to undertake in order to prevent from being misused for ML/TF activities. In addition, insurance companies are required to comply with the provisions of the Insurance Act 2007.

Life insurers are expected to observe and monitor the conduct of the customer's life policy transactions to ensure that they are consistent with the insurer's knowledge of the customer, its business and risk profile, and where appropriate, its source of funds.

The Central Bank of Samoa has undertaken its supervisory activities of the sector mainly through off-site monitoring till 2018.⁶⁶ The Central Bank conducted its first full scope of onsite inspection of one general insurer in May 2019.⁶⁷ In the FY 2019-2020, full scope onsite inspections of three general insurers have been conducted by the bank, which were followed-up by submission of written onsite reports and consultation meeting with these insurers on the status of their actions taken to address weaknesses identified in the reports.⁶⁸ No on-site inspection of life insurers has been conducted by the Bank till June 2020.

5.4.4 Next Steps

Moving forward, the Central Bank of Samoa, as an AML/CFT Supervisor of the sector, should conduct more outreach activities in the insurance sector to enhance their knowledge, understanding and awareness on the AML/CFT issues, as well as their AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009. The SFIU should also implement a risk-based approach to the AML/CFT supervision of the sector and conduct effective supervision and monitoring of the sector accordingly.

5.5 Money Lenders

The overall level of ML/TF vulnerability of money lenders is assessed as **MEDIUM-LOW**. There has been limited involvement of the SFIU as an AML/CFT supervisory with this sector. Consequently, limited information is available as to the level of their compliance with the MLPA 2007 and MLP Regulations 2009. The SFIU must identify all the money lenders operating in Samoa and ensure a complete and effective supervisory role that encompasses these entities with full guidance to, and compliance by, the money lenders.

⁶⁶ Central Bank of Samoa, *Annual Report (July 2017-June 2018)*. 31st October 2018, p. 14. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-7/7097CBS-Annual-Report-2017-2018.pdf> (accessed 20 July 2020).

⁶⁷ Central Bank of Samoa, *Annual Report (July 2018-June 2019)*. 31st October 2019, p. 15. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9049Annual-Report-2018-2019-26Nov2019.pdf> (accessed 20 July 2020).

⁶⁸ Central Bank of Samoa, *Annual Report (July 2019-June 2020)*. 30th October 2019, p. 15. Available at: <https://www.cbs.gov.ws/assets/Uploads/DMS-9/9171Annual-Report-2019-2020.pdf> (accessed 20 July 2020).

5.5.1 Overview

In Samoa, there are four (4) non-bank public financial institutions (PFIs) that are providing lending and financing services. These include Samoa National Provident Fund (SNPF), Development Bank of Samoa (DBS), Samoa Housing Corporation (SHC), and Unit Trust of Samoa (UTOS), of which three (SNPF, DBS, SHC) are under the supervision of the Central Bank of Samoa. UTOS falls under the auspices of Ministry of Finance and monitored by Ministry of Public Enterprises. These PFIs mainly engage in policy lending to Micro-, Small and Medium-Sized Enterprises (MSMEs), State-owned enterprises (SOEs) and low-income households.

Policy lending by PFIs has captured majority lending and financing market share in Samoa. Other microlenders and credit unions serve a wider segment of the population in Samoa although their lending share is in its infancy.⁶⁹ Since the branches of the commercial banks in Samoa are concentrated in urban areas and their number is also relatively small compared to other PFIs, microlenders and credit unions cater to those who live in rural areas, contributing to financial inclusion.⁷⁰

Money lenders do not have a specific regulatory or licensing body in Samoa; however, they are required to obtain a business licence (under the Business Licence Act 1998) from the Ministry of Customs and Revenue before they operate.

5.5.2 ML/TF Risks associated with Money Lenders

An analysis of the websites of PFIs and money lenders in Samoa disclose that the loan products they offer consists of small loans, short-term loans, educational loans, vehicle loans, land loans, housing loans, and commercials loans. Money lenders in Samoa mainly offer small loans and mortgaged secured loans⁷¹ to their customers. Although the nature of the industry raises concerns on ML/TF activities, the imposition of the lending limits (i.e., from SAT\$2000 to ST\$50,000 in case of small loans and maximum loan of SAT\$120,000 in case of mortgaged secured with land)⁷² by the industry in Samoa has made it less attractive to money launderers and terrorists to channel their proceeds through the industry. The loan term for mortgaged secured loans is normally up to ten (10) years, but it can be extended to fifteen years maximum. The loan term for small loans is limited to five (5) years.⁷³

Loan amounts are generally minimal, such as SAT\$400 to SAT15,000 based on the members contribution balance and ability to service the loan. Higher amounts, such as vehicle loan (to a maximum of SAT\$50,000) and land loans, housing loans and commercial loans (which start from a minimum of SAT\$50,000) are determined based on borrower's capacity to pay, which is determined through appropriate documents.

Depending on the amount, disbursement of proceeds is mainly done through banks. Majority of loans repayments are transferred automatically from the borrower's account to the lender's account with

⁷¹ Mortgaged secured loan are loans in which an asset such as land may be pledged by the applicant or applicants to guarantee or secure the loan from the money lender.

⁷² See, Samoa Housing Corporation at: <https://www.samoahousing.ws/services/> (accessed 21 July 2021).

⁷³ See, Samoa Housing Corporation at: <https://www.samoahousing.ws/services/> (accessed 21 July 2021).

few repayments made in cash. Loan repayment amount is deducted either directly from the salary of the borrower or direct debit has been arranged through the borrower's bank account.

Majority of the loans are unsecured with interest rates higher than other financial institutions. The loan amounts vary and also have limits. Money Lenders usually provide credit facilities mainly to individuals who are middle to low income earners and need financial support (regardless of their annual salaries); for instance, to construct a new house, for renovations and repairs, and house extensions.⁷⁴ Due to their low income, the clients of money lenders are usually not able to access the facilities from commercial banks, as they are not able to meet the collateral requirements and/or repayment schedules.

The customers of money lenders are all residents of Samoa and were granted loans after satisfying the terms and conditions of the lending business. No international/non-resident customers are accepted by the money lenders in Samoa.

All money lenders in Samoa have established their branches and operating through this branch network throughout the country. In addition, money lenders also provide their services to customers via face-to-face, online and third party agents.

5.5.3 AML/CFT Systems and Controls

Any entity involved in the lending business is a financial institution as classified under Schedule 1 of the MLPA 2007. As such, money lenders are subject to the AML/CFT requirements prescribed under the MLPA 2007 and MLP Regulations. During the process of this national risk assessment, it has been assessed that regulatory and supervisory authorities of the sector (including both MCR and SFIU) have very limited knowledge and understanding of the operation of this sector in Samoa, which might be due to their low-risk status. There have been no specific legislation providing for the prudential supervision and monitoring of the sector, except for the PFIs.

No money lenders have responded to the questionnaire sent out for the purposes of this risk assessment nor participated in any invited meeting. No inspections of the sector have been carried out by the SFIU to assess their compliance with the AML/CFT obligations or the adequacy of their AML/CFT controls (if any). Nonetheless, authorities are of the view that money lenders have limited knowledge and understanding of their AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009 and thus might not have sufficient AML/CFT systems and controls in place.

5.6.1 Next Steps

Moving forward, the SFIU, in collaboration with the MCR, should identify all money lenders operating in Samoa and engage with them to enhance their knowledge, understanding and awareness on the AML/CFT issues, as well as their AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009. The SFIU should also implement a risk-based approach to the AML/CFT supervision of the sector and conduct effective supervision and monitoring of the sector accordingly. Prudential regulation,

⁷⁴ See, Samoa Housing Corporation at: <https://www.samoahousing.ws/services/> (accessed 21 July 2021).

supervision and monitoring of the sector should also be ensured by drafting and enforcing an appropriate legislation.

5.6 Credit Unions

The overall level of ML/TF vulnerability of credit unions is assessed as **MEDIUM-LOW**. There has been limited involvement of the SFIU as an AML/CFT supervisor with this sector. Consequently, limited information is available as to the level of their compliance with the MLPA 2007 and MLP Regulations 2009. The SFIU must ensure a complete and effective supervisory role that encompasses these entities with full guidance to, and compliance by, the credit unions.

5.6.2 Overview

A Credit Union is a non-profit, member-focused, financial body corporate offering deposit accounts, low-interest loans and other financial services to its members⁷⁵. Credit Unions in Samoa are required to be registered and regulated under the Credit Union Act 2015 (which repealed the Credit Union Ordinance 1960) administered by Ministry of Commerce, Industry and Labour (MCIL). The objectives of a Credit Union are defined in section 18 of the Credit Union Act 2015, which include the following:

- to promote thrift amongst its members;
- to receive the savings of its members either as payment on shares or as deposits; and
- to make loans to members exclusively for provident or productive purposes.

Credit unions are classified as financial institutions under Schedule I of the MLPA 2007, hence, they are required to comply with the provisions of the MLPA 2007 as well as the Financial Institutions Act and the Business License Act 1998.

As of June 2020, there are only three (3) credit unions registered in Samoa.⁷⁶

5.6.3 ML/TF Risks associated with Credit Unions

Credit unions represent the non-bank deposit taking sector in Samoa. They require membership of the union for customers to access services. Credit unions include small community organisations and generally focus on the supply of financial services to members associated with a particular community, geographical location, or employer. It requires at least 12 local residents to start a credit union with an unlimited capital with a share per value of not less than SAT\$2.00. According to Section 9(1) of the Credit Union Act 2015, the membership of a credit union is 'limited to a group of persons having a common bond of occupation or association or to a group of persons residing within well-defined neighbourhood, community, rural or urban district.' Credit unions offer basic saving and loan products to their members exclusively for provident or productive purposes.

⁷⁵ See, Ministry of Commerce, Industry and Labour website at: <https://www.mcil.gov.ws/services/business-registration/other-registries/credit-unions/> (accessed 21 July 2021).

⁷⁶ International Monetary Fund, Geographical Outreach: Number of Credit Unions and Financial Cooperatives for Samoa [WSMFCIODUNUM]. FRED, Federal Reserve Bank of St. Louis; Available at: <https://fred.stlouisfed.org/series/WSMFCIODUNUM> (accessed 31 July 2021).

The cash-intensive nature of the credit unions raises concerns on ML/TF activities. However, credit unions are required by law to maintain a register of their members and retain primary information on members, such as their full names, addresses, occupations, the number of shares held, the amount paid, the date on which each member was registered, and the date on which any members ceased to be a member.⁷⁷ Members of the union must be local residents. A director, officer or member of the union is prohibited from borrowing in excess of the value of his or her shares and deposits unless approved by unanimous vote of other members of the board of directors, a majority of the credit committee and a majority of the supervisory committee, sitting together.⁷⁸

The union is not allowed to lend money or accept deposits from a person who is not a member. There is not a significant change in the number of customers of credit unions since July 2015. As of January 2019, the total number of customers borrowing from credit unions were 1,046 and the total number of depositors at credit unions were 1,353.⁷⁹ The credit unions mainly deal with their customers face-to-face, via telephone, and email. They operate from their headquarters and do not have any branches.⁸⁰ Payments are made directly to the member's account or via cheque. The credit union only accept resident customers and do not have any foreigners/non-residents as their customers because their primary way of onboarding is face-to-face.

5.6.4 AML/CFT Systems and Controls

The affairs of a credit union are examined at least annually by the Registrar of MCIL. The unions are obligated to produce all books, documents and other papers required to conduct such examinations. A credit union is also required to submit to the Registrar an audited statement of accounts within two months after the end of each financial period. The Registrar has the authority to cancel a licence of a credit union (subject to the approval of the Head of State on the advice of Cabinet) if the union's incorporation was obtained fraudulently or its existence was for an illegal purpose. Since the FY2017-18, the MCIL has been carrying out regular annual inspections of all the credit unions registered then.

The MLPA 2007 and Regulations, clearly specify certain obligations for financial institutions including credit unions to undertake in order to prevent them from being misused for ML/TF activities. During the process of this national risk assessment, it has been assessed that credit unions have limited knowledge and understanding of their AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009. Since no credit unions has responded to the questionnaire sent out for the purposes of this risk assessment nor participated in any invited meeting, it is difficult to assess the adequacy of their internal AML/CFT controls or their compliance with the AML/CFT obligations. AML/CFT compliance also does not appear to form a part of the inspections carried out by the MCIL.

⁷⁷ Section 11, Credit Union Act 2015.

⁷⁸ Section 37, Credit Union Act 2015.

⁷⁹ International Monetary Fund, Use of Financial Services Borrowers: Persons Borrowing from Credit Unions and Financial Cooperatives for Samoa [WSMFCRODUPENUM]. FRED, Federal Reserve Bank of St. Louis; Available at: <https://fred.stlouisfed.org/series/WSMFCRODUPENUM> (accessed 31 July, 2021). No updated data available till June 2020.

⁸⁰ International Monetary Fund, Geographical Outreach: Number of Branches, Excluding Headquarters, for Credit Unions and Financial Cooperatives for Samoa [WSMFCBODUNUM]. FRED, Federal Reserve Bank of St. Louis; Available at: <https://fred.stlouisfed.org/series/WSMFCBODUNUM> (accessed 31 July 2021).

The SFIU has however reported to have prepared and distributed AML/CFT brochures to credit unions which clearly explained them some preventative measures to assist in identifying and recognising a suspicious activity.

5.6.5 Next Steps

Moving forward, the SFIU, in collaboration with the MCIL, should engage with the credit unions to enhance their knowledge, understanding and awareness on the AML/CFT issues, as well as their AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009. The SFIU should also implement a risk-based approach to the AML/CFT supervision of the sector and conduct effective supervision and monitoring of the sector accordingly.

6. Sectoral Money Laundering Vulnerability – Designated Non-Financial Businesses and Professions (DNFBPs)

6.1 Overview

This Chapter sets out the assessment of the DNFBPs sector, including lawyers, accountants, casinos, dealers in precious metals and precious stones, trust and company service providers (TCSPs) and real estate agents. Each sector falling within the scope of DNFBPs has been assessed individually to determine its ML/TF vulnerability and thus given an individual ‘vulnerability’ risk rating based on the average score of the identified risk factors. All these sectors are subject to the AML/CFT requirements prescribed in the MLPA 2007, MLP Regulations 2009 and MLP Guidelines 2010.

Vulnerability refers to the characteristics of a sector that make it susceptible to criminal exploitation. This includes nature, size and complexity of business, products and services, customers, delivery channels, countries/jurisdictions with which it deals. Sector vulnerability also takes into account the operational vulnerabilities common among businesses in the sector, as well as the AML/CFT systems and controls in place across the sector.

The DNFBP sector of Samoa is relatively small. The TCSPs sector is the most significant part of the DNFBP sector in terms of risk and materiality, given its central role in operation of the international financial services sector.

Here is the snapshot of ‘Vulnerability’ risk rating for each sector falling within the scope of DNFBPs.

DNFBPs Sector	NRA 2020	NRA 2014
Lawyers	MEDIUM	LOW
Accountants	MEDIUM	LOW
Casinos	HIGH	HIGH
Dealers in Precious Metals and Precious Stones	MEDIUM-LOW	LOW
Trust and Company Service Providers	HIGH	HIGH
Real Estate Agents	MEDIUM-LOW	Not Assessed

6.2 Lawyers

The overall level of ML/TF risk for lawyers is assessed as **MEDIUM**, based on the lack of engagement and very limited AML/CFT supervision of the sector by the SFIU, lack of AML/CFT training to the profession, and the non-availability of sufficient data on the level of application of AML/CFT controls by the legal profession.

6.2.1 Overview

Lawyers (including barristers and solicitors) who provide certain legal services are included within the scope of ‘financial institutions’ under the MLPA 2007. The relevant services which bring lawyers (including barristers and solicitors) within the scope of the Act are:

- a) the provision of assistance in the planning or execution of transactions for their clients relating to:
 - i) depositing or investing of funds; or
 - ii) buying and selling real property or business entities; or
 - iii) managing client money, securities or other assets; or
 - iv) opening or managing a bank, savings or securities accounts; or
 - v) organisation of contributions necessary for the creation, operation or management of companies; or
 - vi) creation, operation or management of trusts, companies or similar structures; or
- b) acting on behalf of or for a client in any financial or real estate transaction, but only to the extent that the lawyer receives funds in the course of the lawyer’s business for the purpose of deposit or investment or settling real estate transactions (whether or not the funds are deposited into a separate trust account);

The lawyers in Samoa are required to be registered with the Samoa Law Society to practice in Samoa. The Samoa Law Society (SLS), which was established under the Law Practitioners Act 1976, is the professional self-regulatory body responsible for regulating the legal profession in Samoa. The Council of the Law Society of Samoa (“Council”), which is comprised solely of members of the Law Society, is the executive body of the Law Society responsible for inquiring into and determining complaints made against legal practitioners in Samoa.

As of June 2020, a total of 174 lawyers are registered with the Law Society of Samoa.⁸¹ Out of these 75 are private lawyers and 88 are government lawyers.⁸² There are 35 law firms operating in Samoa.⁸³

A special Commission, known as the Law Reform Commission, was established in 2008 to coordinate the review of the Law Practitioners Act 1976 – the law which regulates lawyers in the conduct of their legal duties. The Commission was formed under section 5 of the Samoa Law Reform Commission Act

⁸¹ Graydon, C. (2021) *Situation Analysis of Pacific Lawyer Associations*. Pacific Judicial Strengthening Initiative, Federal Court of Australia, 26th March 2020 (updated, May 2021), p. A-13. Available at: <https://www.fedcourt.gov.au/psi/reports/technical-reports/PJSI-Situation-Analysis-of-Pacific-Lawyer-Associations.pdf> (accessed 31 July 2021).

⁸² Ibid.

⁸³ See, <https://www.sifa.ws/professionals/law-firms/>

2008. It submitted its Final Report 05/11 to the Parliament of Samoa in 2011, setting out its recommendations for reform of the Law Practitioners Act 1976. Consequently, the new *Lawyers and Legal Practice (LLP) Act 2014* was passed in 2014 to regulate the legal profession in Samoa, repealing the old Law Practitioners Act 1976.

6.2.2 AML/CFT risks associated with lawyers

The Samoa Law Society issues rules which bind and regulate the conduct of all members. Lawyers must meet minimum requirements for admission and continuation as members of the Samoa Law Society.

To be admitted as a lawyer with the Law Society of Samoa, one of the general qualifications is that the person must be of established good character⁸⁴, together with satisfying other requirements under the LLP Act 2014. For admission as a barrister or a solicitor, the applicant is required to provide certificates from the Courts or professional lawyers' associations in the jurisdiction where the applicant is practicing, or has practiced, attesting to the fact that no disciplinary action has been taken, or is pending, in relation to the applicant's practice of the law, and is also required to provide character references from at least two (2) persons who are practising lawyers in any jurisdictions for a period of not less than five (5) years and have known the applicant for not less than three (3) years.⁸⁵ In the latter case, a character reference from a person who is not a practising lawyer may also be accepted by the Law Society if the applicant provides reasons on oath that are acceptable to the Law Society for an alternative affidavit to be provided.⁸⁶ Any person who provides false or misleading information in the application or fails to provide any information which may have caused the Law society to refuse to issue a certificate commits an offence and is liable upon conviction for fine or imprisonment for up to 12 months.⁸⁷

Upon admission, lawyers are required to follow high standards of professional conduct and ethics. They are required to renew their practising certificates annually to continue practicing law in Samoa. The Law Society has also issued *Rules of Professional Conduct for Barristers and Solicitors of Samoa 2004*. The Samoa Law Society provides ongoing Continuing Legal Education (CLE) throughout the year.⁸⁸ They offer voluntary Continuing Professional Development (CPD) courses to lawyers on monthly basis and also organises a conference every two years for lawyers.⁸⁹ They have also previously engaged with the Victorian Bar and the Queensland Law Society to provide advocacy training to the lawyers.⁹⁰ Training on trust accounting practices has been arranged to be made available to the

⁸⁴ Section 23(1), Lawyers and Legal Practice Act 2014.

⁸⁵ Section 26(3), Lawyers and Legal Practice Act 2014.

⁸⁶ Section 26(4), Lawyers and Legal Practice Act 2014.

⁸⁷ Section 26(5), Lawyers and Legal Practice Act 2014.

⁸⁸ Graydon, C. (2021) *Situation Analysis of Pacific Lawyer Associations*. Pacific Judicial Strengthening Initiative, Federal Court of Australia, 26th March 2020 (updated, May 2021), p. A-8. Available at: <https://www.fedcourt.gov.au/pjsi/reports/technical-reports/PJSI-Situation-Analysis-of-Pacific-Lawyer-Associations.pdf> (accessed 31 July 2021).

⁸⁹ Graydon, C. (2021) *Situation Analysis of Pacific Lawyer Associations*. Pacific Judicial Strengthening Initiative, Federal Court of Australia, 26th March 2020 (updated, May 2021), p. 21 & A-8. Available at: <https://www.fedcourt.gov.au/pjsi/reports/technical-reports/PJSI-Situation-Analysis-of-Pacific-Lawyer-Associations.pdf> (accessed 31 July 2021).

⁹⁰ Ibid.

profession at least twice a year by the Samoa Law Society.⁹¹ Nonetheless, there are no details of any AML/CFT trainings being organised or provided by the Samoa Law Society to the lawyers.

Lawyers and law firms generally act for and provide legal services, including commercial, criminal, property, administrative law, family, employment, litigation and corporate matters, to their clients. According to the report by Pacific Judicial Strengthening Initiative, “60% of the Samoa Law Society members are under the age of 30 primarily doing court work, with older lawyers more likely to have moved into senior roles in Government or non-practising legal or non-legal corporate roles.”⁹²

In the course of their professional practice, lawyers do receive money for or on behalf of their clients relating to a business arrangement or deal. Such monies are required to be deposited or paid directly into a separate trust bank account of that lawyer or of the firm with who that lawyer is practising.⁹³ Lawyers are not allowed to use such funds unless instructed by the client.⁹⁴ Failure to comply with these requirements would constitute a professional misconduct and may result in criminal proceedings.⁹⁵ Lawyers are also obliged to ensure that their trust account is audited at least once a year by a certified chartered accountant.⁹⁶ The Law Society can also appoint an auditor to carry out an independent audit of the account if a complaint has been received.⁹⁷

Box 3: Misuse of Trust Account – Disciplinary Action by the Samoa Law Society⁹⁸

In 2019, the Disciplinary Tribunal of the Samoa Law Society, which comprises of the members appointed by the Council,⁹⁹ has suspended a senior lawyer for two(2) years over matters related to the misuse of trust funds. Before resuming practice after suspension, the concerned lawyer was required to undertake and complete a training on managing trust funds and is required to pay a fine of \$2,000 to the Samoa Law Society. The lawyer’s trust fund is also required to be audited annually by a chartered accountant.

6.2.3 AML/CFT Systems and Controls

Lawyers are subject to the AML/CFT requirements under the MLPA 2007 and MLP Regulations 2009. The statutory AML/CFT obligations applicable to the lawyers include the detecting and reporting of suspicious transactions, conducting proper due diligence checks of clients and identifying, verifying and obtaining identities of clients and those who have a controlling interest in a business or an entity. In addition, when a lawyer is asked to undertake a business deal between the client and the other

⁹¹ Ibid, p. 23

⁹² Graydon, C. (2021) *Situation Analysis of Pacific Lawyer Associations*. Pacific Judicial Strengthening Initiative, Federal Court of Australia, 26th March 2020 (updated, May 2021), p. 11. Available at: <https://www.fedcourt.gov.au/pjsi/reports/technical-reports/PJSI-Situation-Analysis-of-Pacific-Lawyer-Associations.pdf> (accessed 31 July 2021).

⁹³ Section 37(1), Lawyers and Legal Practice Act 2014.

⁹⁴ Section 37(2), Lawyers and Legal Practice Act 2014.

⁹⁵ Section 37(3), Lawyers and Legal Practice Act 2014.

⁹⁶ Section 39(1), Lawyers and Legal Practice Act 2014.

⁹⁷ Section 39(2), Lawyers and Legal Practice Act 2014.

⁹⁸ See, Newline Samoa, “Prominent lawyer remains suspended until next March” (14 December 2020). Available at: <https://newlinesamoa.com/prominent-lawyer-remains-suspended-until-next-march/> (accessed 31 July 2021). Ilalio, M.H., “Senior lawyer accepts decision of the Samoa Law Society” (Samoa Global News, 10 December 2021). Available at: <https://samoaglobalnews.com/senior-lawyer-accepts-decision-of-samoa-law-society/> (accessed 31 July 2021).

⁹⁹ Section 52, Lawyers and Legal Practice Act 2014.

party, the lawyer must ensure to have enough and obtain all information to verify the nature and purpose of the business relationship. Breach of their obligations is an offence which is punishable on conviction with a maximum fine not exceeding SAT\$50,000, or imprisonment for a term not more than 5 years, or both. However, lawyers are not required to disclose any privileged communication under section 30 of the MLPA 2007.

SFIU is the AML/CFT supervisory authority of the lawyers. Since the enactment of the MLPA 2007 and Regulations in 2007 and 2009, a complete package of AML/CFT documents (including the MLPA 2007, Regulations and Guidelines) was distributed to all existing law firms and the Law Society by the SFIU.¹⁰⁰ A brochure was also designed specifically for lawyers and was distributed, which summarises their responsibilities as reporting entities under the legislation.¹⁰¹ Nevertheless, no training was ever given/received by lawyers (either internally or arranged by the Samoa Law Society/SFIU) on how to comply with their obligations under the MLPA 2007 and Regulations or to identify and report suspicious transactions.¹⁰²

According to the MER of Samoa (2015), lawyers were observed to be aware of the risks associated with on-boarding clients or when offering financial advice to clients or when they are involved in handling accounts or opening/operating trust accounts on behalf of their clients.¹⁰³ Nonetheless, the AML/CFT supervision of the sector by the SFIU is limited. No off-site or on-site AML/CFT inspections of the sector have ever been conducted by the SFIU (as the sector's AML/CFT supervisor) to test the efficiency of their internal AML/CFT controls as well as their effective implementation to detect and prevent any ML activities.

Despite numerous efforts made by the NRA working group as well the questionnaires being sent out to the lawyers for the purposes of this risk assessment, there has been no engagement of the profession in the NRA process. They did not respond to the questionnaires nor participated in the invited meetings. It therefore makes it difficult to gather the required data to assess the profession's compliance with their AML/CFT obligations, the efficiency of their AML/CFT controls and their effective implementation.

6.2.4 Next Steps

Moving forward, the SFIU, in collaboration with the Samoa Law Society, should engage with the lawyers to enhance their knowledge, understanding and awareness of ML/TF risks associated with the profession, emerging ML/TF trends and typologies, as well as their AML/CFT obligations under the MLPA 2007. The SFIU should also implement the risk-based AML/CFT supervision of the sector and arrange to conduct off-site and on-site inspections of the reporting entities within the sector accordingly.

¹⁰⁰ APG, *Mutual Evaluation Report: Samoa*. (September 2015), p. 75.

¹⁰¹ *ibid*.

¹⁰² Graydon, C. (2021) *Situation Analysis of Pacific Lawyer Associations*. Pacific Judicial Strengthening Initiative, Federal Court of Australia, 26th March 2020 (updated, May 2021), p. A-31. Available at: <https://www.fedcourt.gov.au/pjsi/reports/technical-reports/PJSI-Situation-Analysis-of-Pacific-Lawyer-Associations.pdf> (accessed 31 July 2021).

¹⁰³ APG, *Mutual Evaluation Report: Samoa*. (September 2015), p. 75.

6.3 Accountants

The overall level of ML/TF risk for accountants is assessed a **MEDIUM**. This is primarily based on the limited AML/CFT supervision of the sector by the Samoa Institute of Accountants (SIA) as profession's AML/CFT supervisor. There is limited information available on implementation of internal AML/CFT controls by accountants and their compliance with the AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009.

6.3.1 Overview

Accounting and auditing services in Samoa are provided by chartered accountants registered with the Samoa Institute of Accountants (SIA), a self-regulatory body (SRB) recognised under section 4 of the Samoa Institute of Accountants (SIA) Act 2006. Accountants are subjected to the requirements of SIA Act 2006, SIA Rules 2008, SIA Code of Ethics 2009 and must adhere to these rules, ethics and standards at all times.

Under the MLPA 2007, accountants or public chartered accountants are required to comply with the AML/CFT obligations only if they provide investment advice or receive funds in the course of the accountant's business for the purposes of deposit or investment (whether or not the funds are deposited into a separate trust account).

As of 31 May 2018, the SIA has a total membership of 144, which comprises of 3 Fellow Chartered Accountants, 146 Chartered Accountants and 18 Accounting Technicians.¹⁰⁴ Only about 13% (i.e., 21 chartered accountants) are engaged in private practice, as per the SIA's Register of Members in Public Practice and therefore likely to be engaged in activities captured by Schedule 1 of the MLPA 2007.¹⁰⁵ Three persons from Fiji and one from Australia are also recorded in the Register of Persons holding Temporary Certificates of Public Practice in Samoa (as at 31 May 2018).¹⁰⁶

6.3.2 AML/CFT risks associated with accountants

The specialist nature of the knowledge and services provided by the accountancy service providers makes them vulnerable to being sought out and exploited by those who seek to launder the proceeds of crime or evade tax. It is recognised in international risk-based guidance that accountancy service providers may be sought to assist in the structure and design of transactions intended to conceal the nature and origin of funds. Vulnerable services include:

- Company and trust formations;
- Insolvency services;
- Providing financial advice;
- Providing tax advice
- Handling client money;

¹⁰⁴ SIA, *List of Members 2018*. Available at: <https://www.sia.org.ws/index.php/downloads> (accessed 31 July 2021). No updated data till June 2020.

¹⁰⁵ SIA, *List of Members 2018*. Available at: <https://www.sia.org.ws/index.php/downloads> (accessed 31 July 2021). No updated data till June 2020.

¹⁰⁶ SIA, *List of Members 2018*. Available at: <https://www.sia.org.ws/index.php/downloads> (accessed 31 July 2021). No updated data till June 2020.

- Managing client assets and financial accounts;
- Investment business services;
- Auditing financial statement; and
- Company secretarial services

Accountants in Samoa provide a range of the services, as mentioned above. However, chartered accountants in Samoa do not generally handle customers' funds nor operate accounts for their clients. As such, it is highly unlikely and of less interest of criminals to launder their illicit proceeds through accountants to conceal their illegal activities. Nonetheless, accounting firms in Samoa also act as TCSPs and render related services and products, which increases the potential for the sector being targeted by criminal entities as conduit for their criminal activities.

The nature of products and services offered by the accounting profession are in line with businesses activities except for some of the accounting firm who are rendering professional services (acting as an agent or a trustee); hence, the clarity on ownership structure, especially identifying and verifying the identity of ultimate beneficial owner (UBO), is very challenging for accountants in terms of their Know your Customer (KYC) process.

As per the data gathered for this risk assessment, a very small percentage of transactions (5% - 10%) in the sector involves third party payments which is mainly due to other professional services that are provided by some of the Accounting Firms. Payment of fees (auditing) for local customers has been mainly through cheques, account transfers, etc. Cross border remittances are mainly used by their foreign customers.

Majority (90%) of the customers of the sector are local residents based in Samoa. The sector only has limited (5 to 10%) overseas clients and hence, is involved in limited cross-border transactions. As per the data gathered for this risk assessment, the accounting firm indicate to rely on their third-party agents to conduct the CDD checks on their behalf on their foreign clients, which only constitute 5% - 10% of the total customer base of the sector. Number of PEP customers are not reported in the data/information provided for this ML/TF risk assessment.

During the risk assessment process, a few accountants have reported to have their dealings with their clients online. Online dealings with the clients increase potential ML vulnerabilities to the sector.

6.3.3 AML/CFT Systems and Controls

SIA is the AML/CFT supervisor of the accounting profession. Chartered accountants are required to comply with the requirements of the SIA Act 2006, SIA Rules 2008 and Code of Ethics 2009 in order to *'protect the public's interest at all times'*, as well as the MLPA 2007. SIA has a Professional Conduct Committee (PCC) which investigates complaints against members and a Disciplinary Committee who reviews and hears complaints referred by the PCC. There has been no ML or TF investigations, prosecutions and convictions involving the accountancy sector during the sample period of July 2015 to June 2020.

In addition, accountants also have statutory obligations under the MLPA 2007 to report suspicious transactions, keep records and verify customers' identity. No ML or TF STRs have been reported by the accountancy sector since July 2015.

The SFIU has held meetings with the SIA to advise their role and key responsibilities as a supervisory authority for the accountancy sector under the MLP legislation. While the supervisory authority has reported that the accountants have appropriate AML/CFT systems, controls and measure for ML/TF risks mitigation in place, no on-site or off-site inspections have carried out by the SIA till the end of June 2020. Only one accounting firm has responded to the questionnaire sent for the purposes of this risk assessment. Therefore, it is difficult to assess the adequacy of these systems and controls.

In June 2012, SFIU in collaboration with the Australian Transaction Reports and Analysis Centre (AUSTRAC) conducted a half day awareness programme for accountants to promote awareness and understanding in relation to their respective role and responsibilities under prevailing laws in the fight against money laundering and terrorist financing activities. There has been no record of any further AML/CFT trainings or workshops being arranged either by the SFIU or SIA for accountants on how to comply with their obligations under the MLPA 2007 and MLP Regulations 2009 or to identify and report suspicious transactions.

The STRs involving the accountancy sector have been reported to the SFIU, which are shared with the Audit Office for Intelligence purposes. There appears to be no mechanism in place to disseminate/share these STRs with SIA as the sector's AML/CFT supervisory authority. No ML/TF STRs have been filed by the accountancy sector in the sample period of this risk assessment i.e., between July 2015 to June 2020.

The obligation to report CTRs have been imposed on the accountancy sector since 2018 and the threshold is US\$20,000. No CTRs have been reported by the accountancy sector to the SFIU.

6.3.4 Next Steps

Moving forward, the SIA, in collaboration with the SFIU, should engage with the accountants and accountancy firms to enhance their knowledge, understanding and awareness of ML/TF risks associated with the profession, emerging ML/TF trends and typologies, as well as their AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009. The SIA should also implement the risk-based AML/CFT supervision of the sector and conduct off-site and on-site inspections of reporting entities within the sector accordingly.

6.4 Casinos

The level of ML vulnerability of the casinos sector has been assessed as **HIGH**. It is primarily due to their type of customers (only foreign passport holders are allowed in the casino), the significant amount of cash involved in daily operation, and the limited AML/CFT supervision of the sector by the SFIU. All these factors increase the vulnerability of the casinos in Samoa to be used as the conduit of ML/TF activities and to convert the proceeds of crime into clean money.

6.4.1 Overview

Under the MLPA 2007, casinos, gambling houses and lotteries are required to comply with the AML/CFT obligations under the Act when they engage in financial transactions equal to or above SAT\$10,000 with their customers.

Casinos operating in Samoa are licensed and regulated by the provisions of the Casino and Gambling Control Act 2010 (CaGC Act 2010, amended in 2012) and Gaming Control Act 2017. Only two casino licences are allowed to be issued under the CaGC Act in the first ten years of the coming into effect of this Act. On satisfying all the licensing requirements, the first casino license was issued in 2014 to the Whitesands Casino, which became operative in October 2014. Another casino license was issued to BlackSands Casino, which became operative in October 2016. The licensing, prudential supervision and monitoring of the casinos is done by the Chief Executive Officer and staff of the Samoa Gambling Control Authority, a special unit created under the CaGC Act 2010 for such purpose.

White Sands Casino Samoa is working in partnership with Aggie Grey's Beach Resort Samoa Limited & Indo Pacific Gaming International Pty Limited. The licensee is Aggie Grey's but the Casino Operator is the Gaming Concept Group based in Hong-Kong working in partnership with Indo-Pacific Gaming International Pty Limited in providing the slot gaming machines.

Both the casinos are owned by the Grey Investment Group and located in Apia, Samoa: Whitesands casinos in Aggie Grey Beach Resort and Spa, and Blacksands casino is located at the Sheraton Aggie Grey's Hotel in Apia, Samoa.

6.4.2 AML/CFT risks associated with casinos

The main products offered by the licensed casinos include slot machines and gaming tables for blackjack, baccarat, roulette, as well as jackpot poker, progressive stud poker that is reported to be quite popular with players.¹⁰⁷ There are around 220 slot machines at Whitesands casino and 100 at Blacksands casino, respectively. There are 24 gaming tables at Whitesands casino and 14 tables at Blacksands casino.

Casino is by nature a cash intensive business and the majority of transactions are cash based. According to the Gambling Casino Authority, 90% of transactions in casinos are cash-based while only 10% are made via *cheque*. Since the money used to play in casino is only Samoa Tala, the customers have to convert their country currency to cash in local currency to play at the casino. There is limited/no use of any other payment methods (such as online bank transfers (domestic/international), credit cards or pre-paid cards) at casinos in Samoa. It is this routine exchange of cash for casino chips which makes the casino an attractive target for those attempting to launder money.

Casino, as part of its operation, offers gambling for entertainment, but also undertakes various financial activities that are similar to financial institutions, which put them at risk of money laundering, including conducting foreign currency exchange, cheque cashing etc.

Casino utilises various value instruments to facilitate gambling by their customers. The type and use of the value instruments such as cash, casino chips, cashier's orders, casino cheques, etc. are most often used for money laundering by converting illicit funds from one form to another.

Individual launderers or organised groups use casino services to refine large amounts of low denomination bank notes into more manageable high denomination notes. Drug dealers, for instance,

¹⁰⁷ <https://whitesandscasino-samoa.com> (accessed 20 June 2021).

who accumulate large amounts of small denomination bills from drug sales, may seek to refine money by dividing it amongst the group before entering the casino individually, refine their portion of the money and meet again outside the casino to assemble the total amount.

There is a potential that this sector to be targeted by the foreign criminal entities as conduit of their criminal activities.

The casinos in Samoa only allow a foreign passport holder who is a residential guest of a hotel, to enter, remain or participate in casino gaming. Nationals are not allowed to enter. Hotels collect passport information of a customer (at the start of a relationship) who wishes to enter the casino and issue a casino membership card to allow him/her to enter the casino. All customers of casinos are face-to-face customers. No online gaming facilities/services are provided by the licensed casinos in Samoa.

According to the Gambling Conduct Authority, majority of customers in the casino are from Asian countries and this trend has been increasing – China (50%), Pakistan (20%), India (15%) and Others, including USA, Australia, New Zealand, Fiji, Philippines (15%).

As of June 2020, there are no casino junkets operating in Samoa.

The CaGC Act 2010 Act does not make any explicit mention of online casino gambling. However, all forms of unlicensed gambling are illegal in Samoa, which most likely includes online casinos. This is not enforced though, and there is no record of people who play in online casinos offered in Samoa for being prosecuted or fined in any way.

There are no ML related cases reported from this sector but there is a potential of significant transactions taking place in the sector. According to the SFIU, the lack of STRs from the casino sector might have been due to limited knowledge and experience of the casino operators about their AML/CFT obligations and how to identify suspicious transactions.

6.4.3 AML/CFT Systems and Controls

The CaGC Act 2010 clearly specify certain requirements for the operation of a casino. The designated authority put in place some controls to manage and prevent the casino from being misused for ML/TF activities.

Casino is classified as a financial institution under the MLPA 2007; hence, casinos are required to comply with the provisions of the MLPA 2007 and MLP Regulations 2009. Furthermore, casino is obligated to register any exchange (buy in/ cash out) of \$10,000 and above, and monitor all gamblers to ensure that they enter the casino only for the purpose of gambling.

As reported by the Gambling Conduct Authority, the licensed casinos in Samoa has no documented ML/TF risk assessment. However, they carry out customer due diligence on all their customers, including collecting information on name, address, date of birth, nationality, occupation, dual nationality, tax residency, tax id, sources of funds/sources of wealth, and their expected activity. The casinos usually ask for 2 valid IDs to identify and verify the customers identity at the time of 'on-boarding', but it does not use any verification system for customer identification.

The SFIU has met with the representatives from the Casino and Gambling Authority in January 2016 to discuss responsibilities of the casinos as a financial institution under MLPA 2007 and MLP Regulations 2009. The SFIU has also visited the licensed casino in December 2016. The visit was to meet face to face with the casino management and remind them of their AML statutory obligations under the MLPA 2007. This was also an opportunity for the SFIU staff to actually view how the casino operates and get to know the controls in place for monitoring and security purposes.

The SFIU has conducted a pre-onsite inspection of one of the casinos in 2017 to prepare for the full onsite visit examination scheduled for 2020. However, due to COVID-19 pandemic, the AML/CFT onsite inspection of the casino has been put on hold until further notice of the Samoa State of Emergency. During the pre-onsite inspection carried out by the SFIU, the SFIU has indicated that there is a possibility of low reporting of STRs and CTRs in the sector, which is due to limited knowledge and experience of the staff in AML/CFT matters. .

No STRs have been filed by the casino sector in the sample period of July 2015 to June 2020; therefore, no ML cases have been disseminated to LEAs and other Supervisory Authorities for investigation.

The obligation to report CTRs have been imposed on the casino sector since 2018 and the threshold is US\$20,000. No CTRs have been reported by the casinos sector to the SFIU.

6.4.4 Next Steps

Moving forward, the SIFU, in collaboration with the Gambling Conduct Authority, should continue to engage with the casino sector to enhance their knowledge, understanding and awareness of ML/TF risks associated with this sector, emerging ML/TF trends and typologies, as well as their AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009. The SIFU should implement the risk-based AML/CFT supervision of the sector, conduct off-site and on-site inspections of reporting entities within the sector based on the identified risks, and issue sector-specific AML/CFT guidelines.

6.5 Dealers in Precious Metals and Precious Stones

The overall risk assessment for dealers in precious metals and precious stones has been assessed as **MEDIUM-LOW**. There has been limited involvement of the SFIU as an AML/CFT supervisor with this sector. Consequently, limited information is available as to the level of their compliance with the MLPA 2007. The SFIU must identify all the dealers in precious metals and precious stones operating in Samoa and ensure a complete and effective supervisory role that encompasses these entities with full guidance to, and compliance by, the dealers in precious metals and precious stones with the MLPA 2007.

6.5.1 Overview

Dealers in precious metals sector do not have a specific regulatory or licensing body in Samoa. A dealer is required to obtain a business licence from the Ministry of Customs and Revenue, as specified under the Business License Act 1998.

As of June 2020, there are two dealers of precious metals and precious stones that have been identified to be operating in Samoa; however, there is lack of clarity on the total numbers. In terms of size and

share in the economy, the authorities noted that the dealers do not make a very significant contribution.

6.5.2 AML/CFT Risks associated with dealers of precious metals and stones

The products and services of dealers of precious metals and precious stones include buying and selling of gold, silver, and other jewelleries, design and repair jewelleries, scrap gold and pearl purchase. Majority of their customers use cash for payments whilst a few use credit cards and cheques.

Even though their common payment method is cash, but most transactions are geared towards personal consumption and not for trading purposes. Low-value jewellery is also understood to dominate the retail market.¹⁰⁸

The customers of dealers in precious metals and precious stones are mainly walk-in local customers, which represent more than 90% of their sales. Dealers of precious metals and precious stones are less attractive to international investors. According to the data collected for this risk assessment, international customers represent only 10% of the total customers of this sector. Even the MER of Samoa (2015) has noted that there is no significant jewellery market to cater for tourists in Samoa.¹⁰⁹

95% customers of the clients of dealers in precious metals and precious stones are face-to-face, while 5% customers are through 3rd parties' customers and via telephone.

6.5.3 AML/CFT Systems and Controls

Dealers in precious metals are subject to the AML/CFT requirements under the MLPA 2007 and MLP Regulations 2009. Under the MLPA 2007, the dealers are required to conduct CDD measures on their customers when they engage in any cash transaction that is equal to or above SAT\$50,000 (equivalent to approximately US\$21,000). The threshold set in the MLPA 2007 does not comply with the FATF standards, as it exceeds the threshold of US\$15,000 as required by the FATF Recommendations. No amendment has been made to this provision under the Money Laundering Amendment Act 2018 to bring it in compliance with the FATF standards.

Despite the numerous efforts of the NRA working group and the questionnaires being sent out to the dealers in precious metals and precious stones for the purposes of this risk assessment, they did not engage in the process. The sector did not respond to the questionnaires nor participated in the invited meetings. Even the AML/CFT supervision of the sector by the SFIU is limited. No off-site or on-site AML/CFT inspections of the sector have even been conducted by the SFIU, making it difficult to assess their compliance with the AML/CFT obligations, their AML/CFT controls and their effective implementation. There have been no details of dealers in precious metals and precious stones bring participated in any AML/CFT trainings or workshops organised by the SFIU.

Authorities are of the view that the sector has limited knowledge and understanding of their AML/CFT obligations. However, since all financial activities of this sector are conducted through financial institutions, such as commercial banks and MTOs, and the sector also mainly deal with domestic

¹⁰⁸ APG, *Mutual Evaluation Report 2015: Samoa*. (September 2015), p. 68

¹⁰⁹ APG, *Mutual Evaluation Report 2015: Samoa*. (September 2015), p. 68

entities/individuals, they consider that the sector presents a low risk of ML/TF, especially when all their financial activities will go through the banks and MTOs CDD process. The banks and MTOs will apply their AML/CFT obligation when dealing with all the transaction activities of this sector, thus leading to reduce the ML/TF risks for the dealers in precious metals and precious stones. There is however no data/information of the amount of cash transactions in the sector, which increases its vulnerability to ML.

6.5.4 Next Steps

Moving forward, the SFIU should take steps to identify and engage with all the dealers in precious metals and precious stones operating in Samoa. It should adopt a risk-based approach to the AML/CFT supervision of the sector and provides them with full guidance to, and compliance with, their AML/CFT obligations under the MLPA 2007. Trainings/workshops should also be arranged to enhance their AML/CFT knowledge and capacities to identify and report both suspicious transaction reports and cash transaction reports.

6.6 Trust and Company Service Providers

The overall ML/TF vulnerability of the Trust and Company Service Providers (TCSPs) is assessed as **HIGH**. This is primarily due to 100% overseas customer base of trustee companies, challenges in identifying and verifying the identity of ultimate beneficial owners (UBOs) and providing this information to the relevant authorities in a timely manner, reliance on third parties that are not licensed by the SIFA, and difficulties in conducting ongoing monitoring of transactions, for trustee companies are not involved in managing their clients' business.

6.6.1 Overview

In Samoa, the term TCSPs is mainly used refer to 'trustee companies' that are incorporated under the Trustee Companies Act 2017, which has repealed the earlier Trustee Companies Act 1988, and provide their services to the international financial services sector of Samoa. For the domestic legal entities and arrangements, these services (such as forming companies, acting as company secretary or assisting in the opening of bank accounts) are usually provided by individuals and corporate practitioners who are members of professional bodies i.e., Samoan Law Society or the Samoan Institute of Accountants.

TCSP services to the foreign sector can only be provided by Trustee Companies in Samoa. A trustee company is a domestic company registered with MCIL, has a business licence issued by the Inland Revenue Services (IRS) of the Ministry of Customs and Revenue, and is required to register and obtain a licence from SIFA under the *Trustee Companies Act 2017* (previously the Trustee Companies Act 1988) before they can provide trust and company services as a business in Samoa. There are three (3) types of licences available under the Act:

- a) a "Service Licence" for all financial services business except trust business;
- b) a "Trust licence" for the provision and administration of trust services only; and
- c) a "Composite licence" for both financial services and trust business.

Each type of licence can be operated by a TCSP or managed for a TCSP. The manager may be either another Samoan licensed TCSP or a Samoan registered firm of lawyers or accountants.

To obtain a licence from SIFA, the entity must provide identification information of every key person (i.e., owner, shareholder controllers, all shareholders, and directors) and beneficial owner of the entity, information on the organisational and ownership structure of the entity, and copies of AML/CFT policies and compliance manuals (Trustee Companies Act 2017, ss.26, 27). Any change in ownership must be reported to SIFA within five days (Trustee Companies Act 2017, s.29). TCSPs must file annual reports and renew their licences annually. Unlicensed provision of services is a criminal offence. Non-compliance with these obligations will result in a fine or may lead to the revocation of licence.

Trustee Companies operating in Samoa typically form part of a group structure with offices in other jurisdictions in Asia and all over the world. As of June 2020, eleven (11) trustee companies were licensed and operating in Samoa.

Trustee companies are classified as financial institutions under Schedule 1 of the MLPA 2007 and are therefore explicitly required to comply with the requirements of the MLPA 2007, the MLP Regulations 2009 and the MLP Guidelines 2010.

Trustee companies provide registered offices for international companies and as a trustee or nominee, can also provide other services required by the legislation under which they are incorporated, registered and licensed. All international legal entities and legal arrangements in Samoa must go through a trustee company for their incorporation, registration or licensing. They do not do any business in Samoa except the licensed trustee companies that represent them. The trustee companies are also not involved in the management of their business activities, and they are mostly pure equity holding companies and asset holding companies with beneficial owners mainly in Asia.

The volume and value of transaction by the Trustee Companies is significant and substantial, as indicated by the analysis of banking system, reported through CTRs and remittances pertinent to trustee companies.

6.6.2 AML/CFT risks associated with TCSPs

A. Products and Services

Trustee Companies offer and provide a complete range of services for businesses and private clients who wish to utilize Samoa's international finance services centre as a base for their international business operations and estate planning structures. Nevertheless, trustee companies are primarily engaged in the formation, management or administration of international trusts and international companies (ICs), as their main product and services demanded by users. International banks and international insurance companies are also set up and licensed through these trustee companies.

International entities, similar to domestic entities, are both at risk of being abused by criminals such as money launderers and terrorist financing organisations to carry out their illegal activities, just like in any other jurisdiction. TCSPs establish and provide corporate and trust structures which can be complex in nature. This is a legitimate activity but complexity provides the opportunity to disguise beneficial ownership, the source of funds and the activities of the entities concerned. The use of TCSPs to provide nominee shareholder activities within complex corporate structures can obscure identification of the true beneficial owner. However, the AML/CFT framework in place and the

alertness of all licensed financial institutions and their main offices to such risks prevent criminals from abusing our products and services for unlawful purposes. The TCSPs have their group compliance officers overseeing their compliance obligations in Samoa even though they also have local compliance officers who follow through their own compliance manuals, which are also submitted to SIFA for review annually.

Identifying the ultimate beneficial owners (UBO) of international entities has become critical and challenging for trustee companies. Trustee companies face challenges in identifying UBOs in cases involving complex offshore entities, especially for international customers where the source of information is a third party abroad. Identifying and verifying the identity of UBOs has been as reported as a main challenge and ML/TF vulnerability by all the four trustee companies who have submitted their responses to the survey questionnaire for this risk assessment.

The onsite visits conducted by SIFA however indicate that the UBO information is eventually made available and maintained by the trustee companies. This has also been noted by the MER of Samoa (2015) where it stated that trustee companies are generally effective in obtaining and maintaining beneficial ownership information on creation of international companies (ICs)¹¹⁰ Moreover, legislation and regulations have recently been amended to further facilitate the obtaining of this information about specified persons even in circumstances where a TCSP may cease business. On 1 July 2019, Samoa enacted amendments to the Trustee Companies Act 2017 requiring a TCSP to preserve its records for seven years after it has ceased business. Under this legislation, prior to revoking or suspending a license, the TCSP must inform SIFA about how its records will be kept, who will keep the records, where the records will be kept, and how the records will be made available. Under the Trustee Companies Act 2017, trust companies are required to record, verify and keep updated the beneficial ownership information of their customers and to make it available to the relevant authorities in a timely manner upon request.

Trustee companies in Samoa, however, face difficulties in conducting on-going monitoring of the transactions of their clients due to their historic business model where most of them have no direct relationship with their client and not involved in the day-to-day operations of their customers.

Majority of the trustee companies are only offering a limited service to their clients that involves the registration and renewal of an international company, trust or other licensed entity with relevant authorities in Samoa or being a trustee for a foreign benefitting trust. The minimal contact, involvement and monitoring of customers and their business activities by TCSPs in Samoa makes them highly vulnerable to be abused for ML/TF purposes – the risk that Samoa needs to understand and manage properly. Only a small proportion of international companies or trusts have a local Samoan trust companies acting as a corporate director, nominee shareholder and/or become involved in the creation and/or operation of an IC's (overseas) bank account, if any. However, transactions of these clients are subject to AML/CFT regulation in countries where they are taking place.

¹¹⁰ APG, *Mutual Evaluation Report 2015: Samoa*. (September 2015), p 5.

B. Customer Types

C. Trustee companies provide services only to non-residents of Samoa. Delivery Channels

Due to the international nature of the sector, business relationships of TCSPs with their clients are usually non-face-to-face and there is heavy reliance on third parties. Trustee Companies operating in Samoa typically form part of a group structure with offices in other jurisdictions. Their overseas head offices and other branches of their group structure are mainly located in Asia, particularly Hong Kong, Singapore and Taiwan.

There is no or minimal (if any) direct face-to-face dealing of the trustee companies with their clients and their involvement in the operations of their clients is limited, which are mainly handled by their group structure offices overseas.

Since TSCPs only provide services to non-residents of Samoa and therefore, most of their client relationships are established on the basis of referrals from the head office or third parties (mostly from outside Samoa). There are very limited Samoan trustee companies that are acting as a director or other office holder in the client businesses. Since they do not have any direct dealing with their customers, the reliance on third parties is extremely high, also in providing accurate and timely information with regard to the ultimate beneficial ownership of their clients.¹¹¹ The third parties are mainly law firms, accounting firms, and other TCSPs who should be regulated in their respective jurisdictions and also be subject to the same AML/CFT - FATF 40 Recommendations.

D. Country Risk

The geographical risk of trustee companies is high since they are dealing only with foreign non-resident customers based in different jurisdictions.

E. Operational Vulnerabilities

Majority of the transactions of the trustee companies are conducted through banks and correspondent banks who are however recently taking measures to de-risk, therefore distancing themselves from offshore business.

6.6.3 AML/CFT Systems and Controls

The MLPA 2007 and MLP Regulations 2009, as well as the Trustee Companies Act 2017 clearly specify the AML/CFT obligations for financial institutions including TCSPs to prevent from being misused for ML/TF activities.

SIFA, as the supervisor of licensed trustee companies, has conducted 52 on-site inspections of trustee companies in the sample period of 2016 to 2020 (9 onsite inspections in 2016, 8 in 2017, 12 in 2018, 12 in 2019 and 11 in 2020). The focus of these Inspections is to ascertain the level of compliance by trustees with their obligations under the Trustee Companies Act 1988 and now Trustee Companies Act

¹¹¹ APG, *Mutual Evaluation Report of Samoa*. (September 2015), p. 166

2017. There are no outstanding issues from these onsite visits. In addition, SIFA in the past has in conjunction with the SFIU conducted onsite inspection visits of its licensed trustee companies with the focus being on their compliance with AML/CFT. At the conclusion of these onsite inspections a report is put together of the findings which is then provided to the licensed entities. Warning letters and directions have been issued by SIFA to the relevant licensed trustee companies to compel compliance with their obligations under the legislations referred to above, which has resulted in compliance by the relevant trustee companies providing the required information.

Trustee Companies have participated in various trainings and workshops in the past to develop their knowledge and understanding of their AML/CFT obligations under the MLPA 2007. These trainings were mainly conducted with the assistance of the SFIU.

SIFA is vigilant in the monitoring of its license entities and have written numerous letters to compel relevant license entities to comply with their obligations under the relevant legislation upon which their license has been issued as well as non-compliance with their obligations under the MLPA 2007. SIFA has earlier revoked the license of a Trustee Company for repeated failure to comply with mandatory filing requirements under the Trustee Companies Act 2017. Other failure which resulted in the license being revoked was inadequate CDD policies and manuals for AML/CFT purposes in place.

Trustee Companies operating in Samoa typically form part of a group structure with offices in other jurisdictions.. The group of companies have their own AML standards with which all the group member companies must comply. Group AML standards of TCSPs businesses operating in Samoa also take account of the local AML requirements.

In the sample period of July 2015 to June 2020, only 7 STRs have been filed by the TCSPs to the SFIU, which represents 1.9% of total STRs received by the SFIU within this period. The low level of STRs reported by the trustee companies indicate significant concerns to the extent to which TCSPs currently understand and monitor the transactions of their clients and able to detect and report suspicious transactions undertaken by their clients. As noted in the MER of Samoa (2015), the TCSPs are still identified as not having efficient and effective ongoing due diligence procedures, which makes it difficult for them to detect and report suspicious activities of their clients and the extent to which they can be misused for ML/TF.¹¹²

6.6.4 Next Steps

Moving forward, the SIFA, also in collaboration with the SIFU, should continue to engage with the trustee companies to enhance their knowledge, understanding and awareness of ML/TF risks associated with this sector, emerging ML/TF trends and typologies, as well as their AML/CFT obligations under the MLPA 2007 and MLP Regulations 2009, including enhancing their capacities and skills to detect and report any suspicious activity to the SFIU. The SIFA should enhance its risk-based AML/CFT supervision of the sector, continue to effectively monitor the activities of trustee companies through off-site and on-site inspections, and issue sector-specific AML/CFT guidelines to sector, including guidance on the identification of ultimate beneficial ownership.

¹¹² APG, *Mutual Evaluation Report of Samoa 2015*. (September 2015), p. 3

6.7 Real Estate Agents

The overall ML risk assessment for real estate sector has been assessed as **MEDIUM-LOW**, which is primarily due to nature and small size of this sector. Nonetheless, it has been identified that there has been very limited involvement of the SFIU with this sector as its AML/CFT supervisor. Consequently, limited information is available as to the level of the sector's compliance with the MLPA 2007. The SFIU must identify all the real estate agents operating in Samoa and ensure a complete and effective supervisory role that encompasses these entities with full guidance to, and compliance by, the real estate agents with the MLPA 2007.

6.7.1 Overview

Real estate agents do not have a specific regulatory or licensing body in Samoa. A real estate agent is required to obtain a business licence from the Ministry of Customs and Revenue, as specified under the Business License Act 1998.

Although there is lack of statistics on the number of real estate agents operating in Samoa, the authorities have highlighted that the real estate market in Samoa is very small and there are very few real estate agents serving as intermediaries in real estate transactions. As per the MER 2015, there were 8 real estate agents in Samoa, as of June 2014.

6.7.2 ML/TF risks associated with real estate agents

Due to the nature and size of this sector, the real estate agents have been considered as low risk by the SFIU, which is the AML/CFT supervisory authority of this sector.

In Samoa, the Constitution recognises and defines three types of land tenures: freehold, public and customary. Of the total land area in Samoa, approximately 81 percent of land is estimated to be customary land, 4 percent as freehold land, and 15 percent as public land.¹¹³

Freehold land provides extensive rights to the titleholder, including disposition by sale, gift, mortgage, lease or will. Majority of the freehold land is in Apia and the surrounding urban areas. There are however restrictions placed on the disposition of even freehold land in Samoa. These includes: a) the requirement to register the transfer in the Lands Registry; and b) getting the consent of the Head of State for sale to a non-citizen of Samoa. Clearly, the later restriction makes it difficult to sell the freehold land to foreign customers.

¹¹³ Tu'u'u leti Taule'alo, So'oialo David Fong and Patea Malo Setefano (2003), 'Samoa Customary Lands at the Crossroads – Some Options for Sustainable Management' Proceedings of the 2002 National Environmental Forum, No. 4, p. 1-7. Available at: <https://www.sprep.org/att/IRC/eCOPIES/Countries/Samoa/77.pdf> (accessed 10 July 2021). Other secondary sources that have been referred to get further information on Samoa's land tenure includes: Government of Samoa (2013) *Samoa Law Reform Commission National Heritage Board Report 13/13* (May 2013); Chris Grant (2008) 'Accessing land for public purposes in Samoa'. In: T. Levantis et. al. *Making Land Work*. (Canberra, Australia: AusAID) p. 266-281. Available at: https://www.dfat.gov.au/sites/default/files/MLW_VolumeTwo_CaseStudy_13.pdf (accessed 10 July 2021); Jennifer Corrin (2008) 'Resolving land disputes in Samoa'. In: T. Levantis et. al (eds.). *Making Land Work*. (Canberra, Australia: AusAID) p. 199-221. Available at: https://www.dfat.gov.au/sites/default/files/MLW_VolumeTwo_CaseStudy_10.pdf (accessed 10 July 2021).

Public land, which constitutes approximately 15% of the total Samoan land, is held by the State and free from either customary or freehold title. The Land Board administers all public land.

Customary land is held under customary ownership. It is protected by the Constitution for the ‘customs and usage’ of the people of Samoa and is held ‘in accordance with Samoan custom and usage and with the law relating to Samoan custom and usage’.¹¹⁴ The authority over the customary land is vested in the holder of the *matai* (chief) title to which it is attached or, in case of uncultivated land, in the chiefs and orators (*faipule*) of the village. According to the Constitution of Samoa, it is unlawful to alienate or dispose of an interest in customary land.¹¹⁵

Due to the nature of land tenure in Samoa and limited size of real estate market, the authorities have considered low ML/TF risks associated with real estate agents.

6.7.3 AML/CFT Systems and Controls

Real estate agents are subject to the AML/CFT requirements under the MLPA 2007 and MLP Regulations 2009. Under the MLPA 2007, the real estate are required to conduct CDD measures on their customers when they are involved in transaction for their clients relating to buying and selling of real estate.

For the purposes of this risk assessment, there has been limited involvement of the real estate agents in the process. Despite numerous efforts of the SFIU and the questionnaires being sent out to the real estate agents for the purposes of this risk assessment, they did not engage in the process. The sector did not respond to the questionnaires nor participated in the invited meetings. The AML/CFT supervision of the sector by the SFIU is also limited, in light of it posing low risk of ML. No off-site or on-site AML/CFT inspections of the sector have even been conducted by the SFIU, making it difficult to assess their compliance with the AML/CFT obligations, their AML/CFT controls and their effective implementation. There have been no details of real estate agents to have participated in any AML/CFT trainings or workshops organised by the SFIU. The authorities are of the view that the sector has limited knowledge and understanding of their AML/CFT obligations. There is no data/information available on the amount of cash transactions in the sector, which increases its vulnerability to ML.

6.7.4 Next Steps

Moving forward, the SFIU should take steps to identify and engage with real estate agents, which might be a small number, operating in Samoa. It should adopt a risk-based approach to the AML/CFT supervision of the sector and provides them with full guidance to, and compliance with, their AML/CFT obligations under the MLPA 2007. Trainings/workshops should also be arranged to enhance their AML/CFT knowledge and capacities to identify and report both suspicious transaction reports and cash transaction reports.

¹¹⁴ Article 101(2), *Constitution of Samoa 1960*

¹¹⁵ Article 102, *Constitution of Samoa 1960*

7. Non-Profit Organisations (NPOs)

The overall risk assessment of the Non-Profit Organisation (NPO) sector has been assessed as **MEDIUM-LOW**. This has primarily due to the nature and small size of the NPO sector in Samoa. There has been, however, limited involvement of the Ministry of Commerce, Industry and Labour (MCIL) as an AML/CFT supervisor, as well as the SFIU, with this sector. Consequently, limited information is available as to the level of NPOs compliance with the MLPA 2007 and their internal controls and governance structure. The MCIL must identify all NPOs that satisfy the FATF definition of ‘NPOs’ and ensure a complete and effective supervisory role that encompasses these entities with full guidance to, and compliance with, the MLPA 2007.

7.1 Overview

NPO Sector in Samoa consists primarily of incorporated societies and charitable trusts. NPO sector is regulated by the MCIL under the Incorporated Societies Ordinance 1952 (ISO) and Charitable Trusts Act 1965. The MLP Amendment Act 2018 includes activities of NPOs in Schedule 1 of the MLPA, capturing NPOs as financial institutions under the MLPA and thus subject to the AML/CFT obligations.

Within the sample period for this risk assessment, a total of 189 incorporated societies and 303 charitable trusts were newly registered with the MCIL. Compared to only 19 incorporated societies and 16 charitable trusts registered in the FY2015-2016, the number of registrations have gone up in the past few years, particularly in 2018 and 2019. A total of 30 incorporated societies and 44 charitable trusts were newly registered in the FY2019-2020.

grants, aid, donations, contributions, sponsorships, subscriptions, etc. by the authorities. The authorities informed that majority of remittances received were for churches donations, contributions and to support churches activities.¹¹⁶

The authorities also reported that it is a rare occasion for NPOs in Samoa to send funds overseas, given that, Samoa does not have a large pool of people it can raise funds for overseas activities. Majority of the outward remittances were conducted by Churches, primarily for mission support services, missionary’s allowances, church conferences & fellowship held overseas.¹¹⁷

7.2 ML/TF Risks

The abuse of NPOs (charities) to conceal the source and nature of funds, as well as to facilitate distribution of funds to finance terrorism presents **medium-low** risk to Samoa because of its size and the number and nature of charities involved. The NGO sector in Samoa has mainly developed to serve the needs of vulnerable people, where government services and private enterprise are either absent or insufficient. This includes, for instance, addressing the needs of particular groups, such as people with disability (for example, the Special Olympics) or people with health needs that are not covered by

¹¹⁶ There is lack of data on inward and outward remittances by the NPOs sector, which should be collected for the next NRA.

¹¹⁷ There is lack of data on outward remittances by the NPOs sector, which should be collected for the next NRA.

government health systems (for example, Goshen Trust).¹¹⁸ Such charitable organisations (including, for instance, the Samoa Victim Support Group (SVSG), Red Cross and the Sāmoa Umbrella of Non-Government Organisations (SUNGO)) which are involved in addressing local issues would therefore only be spending their funds on local projects or local businesses. It would therefore be very noticeable for an organisation to transfer funds overseas. However, there are regional organisations which operate in Samoa such as the UNDP, but these organisations are well established internationally with funds mainly from overseas to operate and transmit overseas.

There are also community-based organisations in Samoa that are formed around particular needs and concerns in their community; for instance, Sili Village Coconut Oil Association, which has been formed to promote economic opportunities for young people in the community.¹¹⁹ These community-based organisations, as well as NGOs, are generally familiar to the small community and thus it is noticeable when suddenly a new organisation enters the market for aid. Also, many of these NGOs obtain their core funding through the Civil Society Support Programme (CSSP), a Government initiative with funding support from the Australian Agency for International Development (AusAID) and the European Union (EU), to review all applications for aid money, and to distribute all foreign aid among different organizations. The CSSP is implemented through the Samoan Government's Ministry of Finance, which is responsible to maintain oversight of funding arrangements and financial audits. NGOs are required to file spending statements with the CSSP at the Ministry of Finance, for all grants to charities are audited. Furthermore, the main source of funding for SUNGO is Bilateral Aid from Government directed to the development of Civil Society and NGOs, AusAID which provides Australian Youth Ambassadors, the United States Peace Corps Volunteers, and NZAID which caters for the bulk or core of SUNGO funding.

7.3 AML/CFT Systems and Controls

The Ministry of Commerce, Industry & Labour through the Registrar of Companies and Intellectual Properties division carries out inspections of NPOs to ensure compliance with statutory requirements. Such requirements include the renewal of registration annually, submission of an audited financial statement, submission of resolutions of its previous annual general meeting, as well as providing an updated list of its executive committee and members of the NPO to the Registrar. There is no requirement imposed on charitable trusts to submit annual audited financial statements to the MCIL. Such a requirement however exists for incorporated societies.

MCIL governs and manages NPOs from being misused for criminal activities through the enforcement of existing internal controls and requirements as well as laws and regulation already in place. MCIL also has the power to examine and investigate complaints against an incorporated society. Non-compliance and any possible breach of laws may be referred to the Police for further investigation or the Registrar may take any action necessary or required by law. Such action may result in losing of license, deregistration and publication for public awareness, and would damage an NGO's reputation

¹¹⁸ Ministry of Finance, *Civil Society Support Program – Phase II 2016-2020, Samoa*. (30 July 2016), p. 6 Available at: <https://www.mof.gov.ws/wp-content/uploads/2019/01/CSSP-II-Design-Documents-Final.pdf> (accessed 5 July 2021).

¹¹⁹ Ibid.

and may lose the trust of the community. Through inspections conducted by the MCIL, the MCIL is also able to identify NPOs that are defunct, which are later advertised and removed from the Register.

Despite the above measures, there is still no targeted risk-based AML/CFT supervision of the sector implemented by the MCIL. There has been limited outreach to the sector on the AML/CFT issues, as well as lack of clear policies to promote transparency, integrity and public confidence in the administration and managing of the NPOs. Even for the purposes of this ML/TF risk assessment, limited information has been provided by the relevant competent authorities on the NPO sector. There has also been limited engagement of the NPOs throughout the risk assessment process despite various efforts made by the NRA working group to gather relevant information from them, either through questionnaires or focus group discussions/workshops. No questionnaires that have been sent to the NPOs for the purposes of this ML/TF risk assessment have been responded.

7.4 Next Steps

Moving forward, the MCIL in collaboration with the SFIU should look for the best possible way to engage with the NPO sector and to educate, train and strengthen NPOs awareness in relation to AML/CFT matters. A comprehensive risk assessment of the NPO sector needs to be conducted, identifying the NPOs that satisfy the definition of 'NPOs' under the Revised FATF Rec. 8 and those that are considered to be higher risk. The risk-based AML/CFT supervision of the NPO sector should be implemented, including the collection of relevant statistics.

8. Legal Entities and Legal Arrangements

The overall ML risks associated with the international financial services sector of Samoa is assessed as **HIGH**. Despite the recent amendments in law and regulations and the efforts of SIFA to effectively regulate and supervise this sector, the risks associated with this sector are inherently high. This is primarily due to the nature of this sector with offshore controlling interest increasing the potential for the sector to be misused to hold or conceal criminal proceeds generated abroad.

The overall ML risks associated with the domestic legal entities and arrangements of Samoa (hereinafter referred to as 'domestic sector') is assessed as **MEDIUM**. This is primarily due to the lack of proper legal and regulatory framework, including systems and procedures, to capture and access the necessary information on beneficial ownership of domestic companies and domestic trusts.

8.1 Overview

Corporate vehicles can be misused for illicit purposes. Complex corporate structures and trusts are generally used to conceal ownership and control of proceeds of foreign tax evasion, corruption or other predicate crimes. The FATF Recommendations 25 and 25 deal with the transparency of legal persons (such as companies) and legal arrangements (such as trusts and foundations). The FATF also requires members to understand the associated risks of such entities under their jurisdictions.

For the purposes of this risk assessment, the corporate sector in Samoa has been divided into two: a) international financial services sector (also referred to as 'offshore' sector of Samoa); and b) domestic corporate sector, which includes domestic legal entities and arrangements, for the ML risks posed by

these two sectors can be varied and may be of different scale. As briefly discussed in Chapter 3 of this risk assessment, there is a major concern about the misuse of Samoa's international financial services sector as a conduit for ML. Although there is a limited evidence and data available on the widespread use of Samoa's international financial services sector for ML purposes, the use of this sector for ML cannot be discounted. A few reported typologies and STRs exist to reveal that the international financial services sector of Samoa has the potential of being abused in ML schemes at the layering stage to increase the difficulty and time taken to trace the proceeds of crime. There is less available data on the misuse of domestic corporate sector (both companies and trusts) in Samoa compared to the misuse of international financial services sector, although the risk of their abuse cannot be discounted, especially in light of some deficiencies in the existing legal and regulatory framework to ensure the transparency of beneficial ownership of domestic companies and trusts.

8.2 International Financial Services Sector

The international financial services sector is legally separated from the domestic corporate sector. The supervision and monitoring of activities in the international financial services sector is carried out by SIFA. The following entities fall within the scope of SIFA's supervisory role:

- a) International companies incorporated under the International Companies Act 1988 ("ICA");
- b) Segregated Fund International Companies (SFICs) incorporated under the SFIC Act 2000;
- c) International Partnerships and Limited Partnerships (LPs) formed under the International Partnership and LP Act 1998 ("IPLPA");
- d) Foreign benefitting trusts and SISTAs under the Trusts Act 2014 ("TA");
- e) Special Purpose International Companies (SPICs) incorporated under the SPIC Act 2012;
- f) Foundations formed under the Foundations Act 2016 ("FA");
- g) International insurance companies formed under the International Insurance Act 1988 ("IIA");
- h) International banks formed under the International Banking Act 2005 ("IBA");
- i) International mutual funds and fund managers under the International Mutual Funds Act 2008 ("IMFA"); and
- j) Trustee Companies (or TCSPs) under the Trustee Companies Act 2017 ("TCA").
- k) The Samoan international financial services sector is relatively small by international comparison. In terms of GDP, the contribution of the international financial service sector is valued at approximately USD13.0 million or 1 percent and in Gross National Income, it is roughly USD16.0 million.

8.3.1 International Financial Services Sector – Registration Process, the Role of TCSPs and Sanctions

8.3.2.1 Registration of Licensed Entities

Licensed entities within the international financial services sector include international banks, international insurance companies, international mutual funds, international fund administrators/managers, international fund managers, international insurance managers and trustee companies. The filing requirements include application forms, identification and due diligence of every key person as well as details of the beneficial owner(s). These entities are required to file legal

ownership and identity information upon application for a licence. Applications must also contain the organizational and the ownership structures of the entity as well as AML/CFT policies, KYC manual and Compliance Manuals. Due diligence requirements include:

- a) certified passport copies;
- b) police reports;
- c) personal questionnaire;
- d) utility bill;
- e) character references;
- f) bank reference; and
- g) curriculum vitae and professional qualifications.

Any change in key persons or any change to the ownership of an entity requires either a notification to the Regulator or the Regulator's prior written approval. In both cases, upon receipt of the information, SIFA thoroughly assesses the information and carries out checks on each individual/company which usually results in requesting for further information so the above list is not exhaustive. If a company is a shareholder, a certificate of incorporation and identification of the key persons in that company is requested. Key persons include the owner, shareholder controllers, all shareholders and directors of the company.

The international banks, international insurance companies and trustee companies file annual returns and annual reports to SIFA which are mandatory. (s.27 of IBA; s.14 of IIA; s32 of TCA), listing shareholders, directors and beneficial owners. The Annual Return is a form by MCIL which every domestic company must complete and submit every year and the Annual Report is a form issued by SIFA for its licensed entities to complete. Because trustee companies are domestic companies, they must also submit to SIFA their Annual Returns as well as an Annual Report. The Annual Report must be filed with SIFA within 6 months following the entity's financial year end and the Annual Return (MCIL form) is filed with SIFA at the same time it is due with MCIL.

The Regulator has powers prescribed under the respective laws to which the licensed entity is subject, should they not comply with any obligations or requirements including the maintenance of ownership information under the laws of which bind them. There are a range of disciplinary and also administrative actions/sanctions for certain violations, including monetary sanctions or fines, suspension or revocation of licence, or imposing conditions on a licence.

8.3.2.2 International Companies

International companies are required to keep a register of all members, including changes in ownership, and persons who ceased to be members including names, addresses and details of shares held by each member (ICA s.30G(3) and s.105). The register must be kept in Samoa at the registered office of the company which is the principal office of the trustee company (ICA ss.81 and 106) or such other place the directors deem fit however a copy of the Register must be maintained by the trustee company. International companies other than limited life international companies (LLCs) must have a resident secretary which must be a trustee company who is responsible for maintaining the company's records in Samoa (ICA, s.90). For LLCs, they must appoint a resident agent which must be a trustee

company to maintain its records in Samoa (ICA s.30J (1) and (3)). Any transfer of shares or debentures cannot be registered until a proper instrument of transfer is delivered to the company via its registered office. The register is prima facie evidence of any matter inserted therein as required and authorized by the ICA (s.105 (2), ICA). If default is made or unnecessary delays takes place in updating the register with any change in ownership the company, an officer of the company commits an offence. If a person's name is without sufficient cause entered or omitted from the register, the person aggrieved or any member of the company may lodge an application with the Registrar for rectification of the register. (ICA s.109).

8.3.2.3 International Partnerships and Limited Partnerships

International partnerships and limited partnerships must apply for registration with the Registrar of International Partnerships through a trustee company (IPLPA, s.6(1), 9 and 20). A partnership agreement is required as the means by which an international partnership or limited partnership is evidenced (IPLPA, s. 2(1)). Limited partnerships must complete, after registration and before commencing any business, a certificate disclosing the names and addresses of all partners distinguishing the general partners from the limited partners (IPLPA, s. 23(1)). This certificate may be filed with the Registrar (IPLPA, s. 23(2)).

Registration of international partnerships and limited partnerships is submitted by a trustee company to the Registrar of International Partnerships or SIFA. These partnerships cannot be registered unless the trustee company has provided the Registrar with a certificate attesting that one of the partners is a trustee company, an international company, or a foreign company registered under the ICA, and that each of the partners is a non-resident of Samoa (IPLPA, ss.2(1), 10 and 21). For an international partnership or limited partnership to exist, there must be certainty that these conditions are met at all times (IPLPA, s. 2). As a consequence, the registering trustee company must have knowledge of the identity of the partners of such partnerships. Both international and limited partnerships must have a registered office in Samoa that is the principal office of a trustee company (IPLPA, ss.12, 18).

8.3.2.4 Foundations

The Foundations Act 2016 allows for the creation and registration of a foundation. The foundation must appoint a resident agent which has to be a licensed trustee company (s.2,FA). The resident agent must apply to the Registrar to register a foundation together with a declaration confirming that it has in its possession the constitution of the Foundation and/or a guardian has been appointed. The identity and legal ownership information are kept by the resident agent that is the trustee company.

Schedule 4 of the Foundation Act 2016 provides SIFA with the requirement to keep a register of foundations which contains the names and addresses of the members, supervisory person(s), guardian and resident agent. This information is public information.

8.3.2.5 Trusts: Foreign Benefitting Trusts

Foreign benefitting trusts formerly known as international trusts can be created under the Trusts Act 2014 which is administered by SIFA. Trusts are not required to be registered. A foreign benefitting trust

can be created either by a lawyer or accountant or an exempt person as per Schedule 3 of the TCA; however, all foreign benefitting trust must appoint a trust corporation which is a licensed trustee company as one of the trustees. A private trustee company must also appoint a trustee company with either a TCSP licence or a trust licence to carry out trust administration services for the purposes of conducting the necessary checks to comply with any AML/CFT requirements. (TCA, Schedule 3). Therefore, legal ownership information on trusts is kept and maintained by the registering trustee company. The number of such trusts created under the TA is three (3), as confirmed through the onsite visits carried out by SIFA.

8.3.2.6 Sanctions for International Companies and Legal Arrangements

For the registered entities such as international companies, international partnerships and limited partnerships, foundations, SFICs which must all engage a trustee company, the applicable sanctions will be under the TCA 2017 on the TCSPs. The same is for the foreign benefitting trusts.

SIFA can impose penalty sanctions under section 45 of TCA 2017, or other actions under section 38 of TCA 2017 where a TCSP is or appears likely to become unable to meet its obligations as they fall due (its obligations include failure to identify and verify the beneficial owner of its vehicles) or where a TCSP has contravened the TCA 2017, MLPA 2007 or any other law. Such other actions that SIFA may take include issuing a direction, imposing conditions on the TCSP's licence, require the removal or replacement of any controller, director, officer or manager of the TCSP or even revoke the licence of the TCSP. The monetary sanctions include USD\$500 per month of part thereof, for the failure of a TCSP to comply with a direction issued by SIFA.

The ICA 1988 also has stipulated sanctions on the IC where it fails to comply with its obligations prescribed under the law and any other violations particularly in relation to record keeping of its register and index of members etc. These are in the form of fines and gradually increase as offences increase. There is also a punishment of imprisonment for a term not exceeding three months or both with fine if they violate the prescribing of location of register of members.

Under the SFIC Act 2000, the fund manager of a segregated fund international company is required to keep the records and accounts which identify shares or membership interests of shareholders or other members in respect of each segregated fund (SFICA, s. 21(2)). The penalty for non-compliance is 50 penalty units (SAT 5,000/USD 2,000) for a first offence and 100 penalty units (SAT 10 000/ USD4,000) for a second or subsequent offence (SFICA, s. 30(1)).

Section 30 & 39 of the Foundations Act 2016 requires the Council to ensure that the registered office of the foundation keeps the records on any accounting and other information concerning the foundation and is liable to a fine of 100 penalty units (SAT10,000/USD4,000) if they fail to do so.

The trustee of a trust is required under s.29(3)(a) of the Trusts Act 2014 to maintain accounts and records of the trustee's trusteeship. The trustee companies which provide registered offices for all international entities and arrangements registered with SIFA are liable to a monetary sanction under section 45 of TCA 2017 for failure to comply with any direction by the Regulator with regards to their obligations under the Act. The monetary sanction is USD\$500 per month or part thereof. It is also an

offence for a trustee company as a financial institution under the MLPA if they do not keep updated information on the entities they manage. (s.22, MLPA) and the offence includes a fine not exceeding 500 penalty units (SAT50,000/USD20,000) or imprisonment for a term not exceeding 5 years, or both.

There are also other sanctions available under the Money Laundering Prevention Act 2007 for any contraventions with this act specifically on the violation of due diligence requirements when dealing with customers.

8.3.2 Ensuring Transparency of Beneficial Ownership in the International Financial Services Sector: Comprehensiveness of Legal and Regulatory Framework

8.3.2.1 The ability to issue bearer sharer

International banks, limited life international companies, and segregated fund international companies cannot issue bearer instruments. As of April 2014, international companies could no longer issue bearer shares or share warrants and the existing bearer shares and share warrants would be either converted into registered shares or cancelled by operation of law by 27 October 2015. Prior to the abolition of bearer shares, all bearer shares and share warrants to bearers issued by an international company were to be physically lodged with a TCSP in Samoa. The TCSP acted as a custodian of the original bearer instruments for the beneficial owners.

In 2015, SIFA advised all TCSPs of the legislative amendment that abolished bearer shares and conducted on-site inspections. SIFA officials determined, through these visits, that all of the TCSPs, except for one, were compliant. One TCSP still had custody over bearer shares that had been issued by ten of its international companies which had not been cancelled or converted into registered shares. These ten international companies were struck from the register in February 2017. Records of these struck companies must be retained by the TCSP for seven years following the date of being struck from the register. No sanctions were applied against the TCSP because the legislation did not provide for sanctioning measures against non-compliant TCSPs.

Since 2015, SIFA officials continue to conduct on-site inspections and have not found any other TCSP to be non-compliant with its obligations relating to bearer shares.

8.3.2.2 Use of Nominee Shareholders and Directors

The Trustee Companies Act 2017 provides that a TCSP may act, or arrange for another person to act, as a nominee shareholder for its clients. As part of a TCSP's obligations, it must take reasonable measures to determine if a customer is acting on behalf of any other persons including on behalf of a beneficial owner or a nominee, and must verify the identity of both persons (Trustee Companies Act 2017, s.30). CDD documentation must be kept by a TCSP for seven years after the relationship with the client has ceased.

A subsidiary (wholly-owned by a TCSP) or a related company of a TCSP (i.e. the TCSP is directly or indirectly a shareholder controller of the company) may also act as a nominee to provide services under the International Companies Act 1988, the Trusts Act 2014, or the Foundations Act 2016.

However, in order to do so, the TCSP must apply for approval with the SIFA. SIFA conducts due diligence verification prior to granting approval. To date, SIFA has granted 17 approvals. Once approval is granted, the TCSP must ensure that the subsidiary or related company complies with all requirements of the trustee companies laws as if the subsidiary or related company were a TCSP. This includes all CDD obligations and maintaining ownership information on nominees.

8.3.2.3 Obligation to maintain the register of Shareholders and Beneficial Owners

Persons carrying on international banking business, international insurance business or international mutual fund business are required to disclose updated ownership information as part of the licensing or registration process, respectively with the Inspector of International Banks or SIFA. In practice, all ownership and identity information for international companies is maintained by the trustee company.

Trustee companies involved in the registration of these entities are required to record, verify and keep updated ownership information of all vehicles it provides registered office or resident agent services to (TCA, s.30) and retain and maintain at its registered office up to date copies of the register of directors and of the register of shareholders or of members of each vehicle (TCA, s.32(2)(h)). As discussed earlier in this risk assessment, trustee companies are caught by the MLPA 2007 through the definition of financial institutions; therefore, trustee companies are subject to the MLPA 2007, MLP Regulations 2009 and MLP Guidelines 2010.

As a “financial institution” under the MLPA 2007 (section 16) trustee companies are compelled to identify and verify the identity of a customer and obtain satisfactory evidence of identity when:

- a) Establishing a business relationship or
- b) Conducting any transaction or there is suspicion of a ML/TF offence or
- c) The financial institution has doubts about the veracity or adequacy of customer identification, verification of documentation or information previously obtained.

Additionally, under section 17 of the MLPA 2007, if a trustee company is not able to obtain satisfactory evidence of the identity of a customer, it must not proceed any further and must report the attempted transaction to the SFIU.

The MLP 2009 Regulations prescribes a comprehensive range of documentation for identification and verification, including information concerning natural persons (name and address) and legal entities (name, legal form, directors and control structure) (MLPR, s.5 and 6). Moreover, the Money Laundering Prevention (Amendment) Act 2018 requires trustee companies to take reasonable measures to identify and verify the identity of beneficial owner of the customer (MLPA, s. 16B(b); MLPR, s. 6(2)). These records must be kept up to date and maintained for at least five years.

As financial institutions under the MLPA 2007, trustee companies are also required to identify the person for whom, or for whose ultimate benefit, a transaction (other than a one-off transaction) is being conducted, as well as the person undertaking a transaction on behalf of another person, i.e., acting as a nominee (TCA s.30(b) and MLPA s.16).

8.3.2.4 Timing to update the BO information and its availability to authorities and public

Section 30 of the Trustee Companies Act 2017 sets out the professional duties of a TCSP. These duties include a requirement to: record, verify, and keep updated beneficial ownership information of the vehicle; know the beneficial ownership of the source of funds being vested in those vehicles; maintain full documents evidencing the nature of business to be engaged in; and have policies and procedures to establish, access in a timely manner and retain document and information as to the beneficial ownership for vehicles.

Beneficial owner is defined as any natural person who ultimately owns or controls any person on whose behalf a transaction is being conducted and includes any person who exercises ultimate control over a legal person or an arrangement (Trustee Companies Act 2017, s.2; MLPA 2007, s. 2).

Regulation 3 of the Trustee Companies Regulations 2018 set out how a beneficial owner is to be identified. Where a vehicle is a company, the TCSP must verify the identity of: (a) each natural person who owns directly or indirectly 25% or more of the vote or value of an equity interest in the vehicle; (b) if no such person in (a) exists or can be identified, the natural person exercising effective control of the vehicle through other means; (c) if no such person in (a) or (b) exists or can be identified, then the TCSP must identify and verify the relevant natural person who holds the position of senior managing official of the company.

In order to verify identity, TCSPs must comply with regulation 5 of the MLP Regulations 2009, which sets out the list of customer identification and verification documents that may be used (Trustee Companies Regulations 2018, r.3(5)). Any changes to beneficial ownership information must be reported to the TCSP without delay (Trustee Companies Regulations 2018, r.3(11)).

Beneficial ownership information must be maintained for seven years after the relationship with the vehicle has ceased (Trustee Companies Regulations 2018, r.3(8)). A TCSP that fails to maintain beneficial ownership information is in breach of its obligations, set out in section 30 of the Act, and SIFA may take measures against the TCSP, including imposing fines, imposing conditions on the TCSP's licence or revoking its licence (Trustee Companies Act 2017, s.38).

TCSPs may rely upon third parties to perform CDD measures on their behalf, if certain conditions are met, but the ultimate responsibility for the CDD measures are with the relying TCSP. The conditions are that: (i) the TCSP must ensure that contractual agreements with third parties are sufficiently robust to ensure that third parties can fulfil the obligations for obtaining and recording the information; (ii) the TCSP must test the abilities of those third parties to provide any sufficient information (which includes any of the CDD documents prescribed by the Regulations) without delay and to ensure that there is a contractual requirement between the TCSP and the third party; and (iii) the TCSP must terminate the contract with the third party if the third party does not properly perform the contract.

With respect to international companies and persons carrying out regulated activities, updated beneficial ownership information will be available with TCSPs and, in some cases, with SIFA.

8.3.3 Supervision, Information Verification and Enforcement

The Compliance Division of SIFA is required under the *Samoa International Finance Act 2005* to supervise various entities licensed under different international financial services legislation, such as trustee companies, international banks, international insurance and international mutual fund companies. This is in line with one of SIFA's functions which is to monitor and supervise the conduct of international financial services provided within Samoa.

Compliance Team carries out on-site inspections of the trustee companies as well as international companies focussing on assessing their Know Your Customer (KYC) procedures, keeping of accounting records, and beneficial ownership information. The earlier on-site inspections of SIFA were mainly focussed on international banks (2016 and 2017);¹²⁰ however, since 2018 SIFA has expanded its on-site inspections to trustee companies and other international financial services sector companies.¹²¹

8.3.3.1 Overview of International Entities registered and struck off by SIFA

With regards to international entities struck-off from the register, they may be struck voluntarily, once liquidated, or for non-compliance. SIFA confirmed that there have been no international entities being struck off or had their licences cancelled due to ML/TF activities. However, SIFA had struck off some companies from the register due to non-compliance with the licensing requirements.¹²²

8.3.4 ML Risk – International Financial Services Sector

Samoa is attractive to investors and businesses for carrying out offshore business activities. Some of the factors that make it attractive as an offshore centre includes:

- **Taxes:** All the entities registered under any of the laws administered by SIFA, except trustee companies, are exempt from taxation (whether direct or indirect) on their profits or gains, or upon transactions and contracts
- **Currency or exchange control:** There are no currency or exchange control regulations to the taking or sending of any foreign currency out of Samoa by any of the offshore entities via the banking sector.
- **Annual returns and audited financial accounts:** Since all the international entities registered with SIFA (except trustee companies) are exempt from taxation, there are no requirements for an entity to file a tax return. There are no annual reporting, accounting or any financial auditing requirements for the international (offshore) entities. There are no required accounting standards or good practices. Recently, however, the Trustee

¹²⁰ See, SIFA, *Annual Report 2016*. (11th ed., 20 February 2017), p.18. Available at: <https://www.sifa.ws/assets/Uploads/SIFA-Annual-Report-2016-Eng.pdf> (accessed 25 June 2021). SIFA, *Annual Report 2017*. (12th Edition, 21 December 2017), p. 14. Available at: <https://www.sifa.ws/assets/Uploads/SIFA-ANNUAL-REPORT-2017-Eng.pdf> (accessed 25 June 2021)

¹²¹ SIFA, *Annual Report 2018*. (13th edn., 27 November 2018), p. 15. Available at: <https://www.sifa.ws/assets/Uploads/SIFA-ANNUAL-REPORT-2018-Eng-FINAL.pdf> (accessed 25 June 2021).

¹²² 39 international companies were struck-off by SIFA in 2018 for non-compliance.

All the above factors increase the vulnerability of Samoa's international financial services sector being abused for the purposes of ML and other predicate offences.

Where corporate vehicles are engaged in international trade, there is a risk that those vehicles could be used to carry out one or more of the components related to trade-based money laundering. Trade-based money laundering is a method of ML that is believed to be prevalent internationally since verifying actual or purported trade movements and the identity of goods, shipments, documents etc. can be difficult. The misuse of vehicles to evade tax also features highly in international experience of offshore sector's risk and indeed this could potentially be an underlying predicate offence.

There is however only limited evidence of the proceeds of foreign predicate crimes being laundered in Samoa or through its international financial services sector (for example, on the basis of detections by domestic authorities or requests from foreign counterparts relating to Samoa's international financial services sector). In the sample period of July 2015 to June 2020, the SFIU has received 23 intelligence and information requests from foreign counterparts relating to the entities operating within Samoa's international financial services sector. Some of these requests also relate to ongoing ML and tax evasion investigations in other jurisdictions. There have also been STRs submitted to the SFIU relating to the activities of the international financial services sectors, although the number remains low. Nonetheless, the low number of STRs and information or intelligence requests from foreign counterparts may be due to a lack of ML/TF and predicate crimes involving the international financial services sector, despite the risks, or an inability to detect such crimes, or a combination of both.

The 2015 APG Typologies Report has however provided an example of complex tax avoidance scheme involving funds transfers between Australia, Samoa and New Zealand, in which Samoa's offshore superannuation fund (in which a Samoa-based trustee company has acted as a trustee of the fund) and a loan agreement has been misused to avoid tax.¹²³

During the period between 1 April 2015 and 31 March 2018, Samoa has also received a total of 16 requests for exchange of information on entities within Samoa's international financial services sector. The information requested related to (i) ownership information (14 cases), (ii) accounting information (12 cases), (iii) banking information (14 cases) and (iv) other type of information (16 cases).¹²⁴ The legal entities and arrangements for which information was requested involves both companies (16 cases) and trusts (one case).¹²⁵

¹²³ Asia Pacific Group on Money Laundering (APG), *APG Yearly Typologies Report 2015: Methods and Trends of Money Laundering and Terrorist Financing*. (16 July 2015), p. 23-25

¹²⁴ OECD (2019), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Samoa 2019 (Second Round): Peer Review Report on the Exchange of Information on Request*, (Paris: OECD Publishing, Global Forum on Transparency and Exchange of Information for Tax Purposes), p. 87.

¹²⁵ Ibid.

8.3 Domestic Companies

8.3.1 Company Formation

Domestic companies are incorporated under the Companies Act (CA) 2001 administered by the MCIL. An online registry, which is maintained by the MCIL and accessible to the public for domestic companies, holds basic information relating to company directors, shareholders, and the share register. Section 6 of the CA 2001 requires a domestic company to disclose on registration key information relating to the company. Such information includes the name of the company, the type of company (i.e. private or public), the full name and address of every director and shareholder, the registered office of the company, etc. This information is publicly available via MCIL’s online registry; however, MCIL does not hold information of the ultimate beneficial owner.

A company can be registered as a private company if its rules prohibit it from offering securities to the public, restricts the number of shareholders to not more than 100 and it has no more than 100 shareholders (CA 2001, s. 9(1)). A company that is not registered as a private company is a public company (CA 2001, s. 9(2)). A public company may apply to the Registrar to be registered as a private company if it meets the requirements of the private company and the application has been approved by shareholders by special resolution (CA 2001, s. 9(3)).

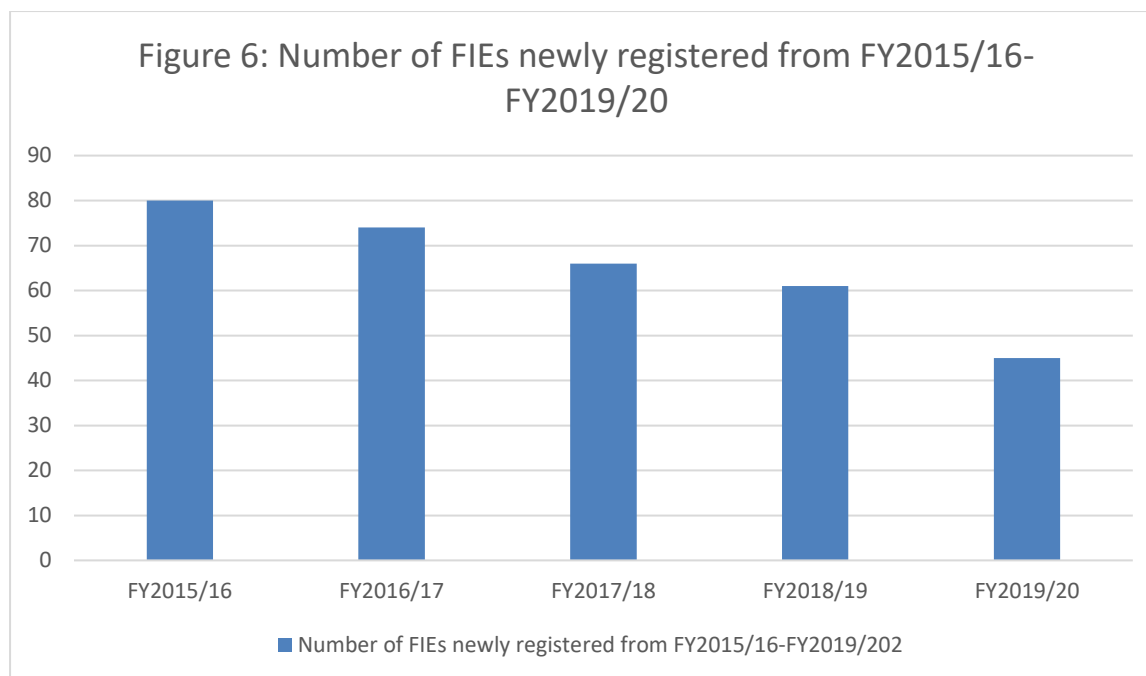
As of June 2020, there are approximately 1,774 domestic companies operating in Samoa.¹²⁶ In FY2019/2020, a total of 105 new domestic companies were registered with MCIL compared to 117 in FY2018/19 and 138 in FY2017/18, respectively.

Domestic companies with non-Samoan citizen shareholders (known as “Foreign Investment Enterprises (FIEs)”) are required under the Foreign Investment Amendment Act 2011 to hold a valid Foreign Investment Certificate (‘FIC’). Non-Samoan citizen directors are also required by law to obtain a work permit, and their company must also apply for a Foreign Investment Certificate. A formal letter and the completed Foreign Investment Registration form must be submitted to the CEO of MCIL for approval. MCIL maintains the registry for FIEs and is responsible for facilitating registration, approval and monitoring of foreign investments. The FIC is valid for the duration of the business to which it relates.

As of June 2020, there are a total of 139 registered FIEs in Samoa.¹²⁷ The previous few years have seen a drop in the number of new FIEs registered in Samoa, as it becomes evident from the Figure 6 below.

¹²⁶ Due to the lack of statistics here, this number has been estimated based on the study of the OECD which reported the number of domestic companies registered with MCIL, as of April 2018, to be 1,552. See, OECD (2019), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Samoa 2019 (Second Round): Peer Review Report on the Exchange of Information on Request*, (Paris: OECD Publishing, Global Forum on Transparency and Exchange of Information for Tax Purposes), p. 38.

¹²⁷ MCIL, *Annual Report 2019-2020*. p. 16-17. Available at: <https://www.mcil.gov.ws/storage/2021/03/MCIL-Annual-Report-2020-english.pdf> (accessed 27 June 2021).



Two sectors that remain highly attractive for foreign investment in Samoa are ‘professional services’ and ‘retailing of goods (excluding food and drink items)’, followed by manufacturing, restaurants/café, other services (such as salon, car wash etc.), wholesale and distribution.¹²⁸

All registered FIEs are advised to renew their FICs on an annual basis in line with Section 8B of the Foreign Investment Act 2000. Public notices through social media, television and newspaper from April to May 2020 were issued to remind all registered FIEs of their renewal obligations under the Foreign Investment Act. In the FY2019-20, a total of 115 FICs have been cancelled after 10 working days given for submission and reconsideration.¹²⁹

8.3.2 Transparency of Beneficial Ownership

The registration of a domestic company is quite simple and straight forward in Samoa, as all the work is done online. Keeping and storage of records for a specified period (i.e. 7 years) is the sole responsibility of each company, as provided under section 117 of the CA 2001. MCIL does not centrally hold any information on the company and its shareholders, including the ultimate beneficial owners. MCIL has the authority to request for any information from the company. Companies are required to notify the MCIL of changes in shareholders and the number of shares. The MCIL does not conduct due diligence checks on the owners/shareholders and director(s) of a company. Nevertheless, companies are obligated to produce accurate information to the Registrar for registration.

There is no definition of ‘beneficial owner’ in the CA 2001, but only the shareholders. Domestic companies in Samoa are thus not required to identify and verify the identity of their beneficial owners nor required to maintain a register of beneficial owners or report such information to the MCIL. Since

¹²⁸ MCIL, *Annual Report 2019-2020*. p. 17. Available at: <https://www.mcil.gov.ws/storage/2021/03/MCIL-Annual-Report-2020-english.pdf> (accessed 27 June 2021).

¹²⁹ MCIL, *Annual Report 2019-2020*. p. 17. Available at: <https://www.mcil.gov.ws/storage/2021/03/MCIL-Annual-Report-2020-english.pdf> (accessed 27 June 2021).

no information is required to be maintained or reported by the domestic companies on their beneficial owners, it is difficult to gather such information in a timely manner by the competent authorities or LEAs from domestic companies, when required. Nonetheless, this information can be obtained from the professionals, such as lawyers/accountants, involved in the creation of a domestic company (if applicable) or from a bank if the domestic company operates a bank account in Samoa, since lawyers, accountants and banks are all required to maintain and hold such information under the MLPA 2007.

There is no provision in the CA 2001 relating to bearer shares as well as on nominee shareholders or directors. It implies that the issuance of bearer shares is not prohibited in Samoa for domestic companies nor the appointment of nominee shareholders or directors. There is no mechanism put in place to prevent the abuse of bearer shares or to identify nominee shareholders or directors.

8.3.3 Supervision, Information Verification and Enforcement

MCIL through its monitoring and evaluation, inspections and on-site visits attempts to ensure the compliance of the domestic companies with their various legislative requirements, including CA 2001. MCIL also continuously engages with the domestic companies through social dialogues and awareness programmes to increase compliance. **Table 8** highlights the total number of inspections and follow-ups conducted by the MCIL in the sample period of July 2015 to June 2020.

Table 8: Total Number of Inspections and Follow-ups by MCIL of Domestic Companies (July 2015 to June 2020)¹³⁰

Financial Year	2015-16	2016-17	2017-18	2018-19	2019-20
Total no. of inspections & follow-ups	407	380	694	180	50

MCIL confirmed that there have been no companies struck off or have their licences cancelled due to ML/TF activities. However, companies were removed from the register due to non-compliance with the provisions of the CA 2001, including filing of annual returns.

Sections 339 to 343 of the CA 2001 provides for severe penalties that may be imposed on any company director, shareholder or employee who produce false statements to the Registrar and involve in fraudulent activities. Such penalties include a fine not exceeding \$100,000, or imprisonment for a term not exceeding 7 years, or both. Penalties also apply for failure to produce documents as required by the Registrar, allow inspection of documents and obstruction of the Registrar.

¹³⁰ See, MCIL, *Annual Report 2019-2020*. p. xv-xviii. Available at: <https://www.mcil.gov.ws/storage/2021/03/MCIL-Annual-Report-2020-english.pdf> (accessed 27 June 2021); MCIL, *Annual Report 2018-2019*. p. xix-xxiv. Available at: <https://www.mcil.gov.ws/storage/2020/10/Annual-Report-2018-2019-MCIL.pdf> (accessed 27 June 2021); MCIL, *Annual Report 2017-2018*. p. 68-74. Available at: <https://www.mcil.gov.ws/storage/2020/01/MCIL-Annual-Report-2017-2018.pdf> (accessed 27 June 2021); MCIL, *Annual Report 2016-2017*. Output 8. Available at: <https://www.mcil.gov.ws/storage/2018/02/Annual-Report-16-17-english.pdf> (accessed 27 June 2021); MCIL, *Annual Report 2015-2016*. p. 70-76. Available at: https://www.mcil.gov.ws/storage/2017/08/MCIL-AR-English_finalversionNov.pdf (accessed 27 June 2021).

8.4 Domestic Trusts

Domestic trusts in Samoa are regulated by the Trusts Act 2014, which has repealed the old International Trusts Act 1988. Except for the charitable trusts (discussed in Chapter 7 of this risk assessment), which are registered with the MCIL, no information is held centrally on any domestic trust that is created or operating in Samoa. It implies that there is no registration requirement imposed on domestic trusts in Samoa, except for charitable trusts.

There is no clear requirement imposed on the trustees to obtain and maintain information on the beneficial owners of trusts i.e., the settlor(s), the trustee(s), the protector (if any), beneficiary or class of beneficiaries, or the person who exercised ultimate control over the trust, nor there is an obligation to make this information available to the competent authorities in a timely manner.

8.5 Overall ML Risk

The overall ML risks associated with the international financial services sector is assessed as **HIGH**. Despite the recent amendments in law and regulations and the efforts of SIFA to effectively regulate and supervise this sector, the risks associated with this sector are inherently high. This is primarily due to the nature of this sector with offshore controlling interest increasing the potential for the sector to be misused to hold or conceal criminal proceeds generated abroad, as well as the number of intelligence/information requests from foreign countries, cases and typologies involving Samoa's international financial services sector.

The overall ML risks associated with the domestic (onshore) sector are assessed as **MEDIUM**. This is primarily due to the lack of proper legal and regulatory framework as well as systems and procedures to capture and access the necessary information on beneficial ownership of domestic companies and domestic trusts.

8.6 Next Steps

Samoa needs to take appropriate steps to improve the transparency of beneficial ownership of domestic companies, as well as the international financial services sector, in line with the FATF standards. With the introduction of amended Trustee Companies Act 2017 and the MLPA 2007 imposing AML/CFT obligations on TCSPs, the legal and regulatory framework to ensuring beneficial ownership transparency of international financial services sector has been strengthened. SIFA however needs to ensure (through off-site and on-site inspections) that this regime has been effectively implemented and adequate, accurate and current information on beneficial ownership has been maintained, reported and available in a timely manner. A comprehensive guidance on the beneficial ownership would be useful. SIFA should enhance its AML/CFT supervision of the offshore sector, including the scope of its on-site inspections capturing all the entities within this sector.

The Companies Act 2001 is required to be amended to incorporate the relevant provisions for ensuring the transparency of beneficial ownership of domestic companies. Domestic companies in Samoa are not currently required to obtain, maintain or report any beneficial ownership information, nor there is any prohibition or restriction on bearer shares or nominee shareholders/directors. CA 2001 needs to be amended to be in compliance with the international AML/CFT standards. Trusts Act 2014 should

also be amended to bring it in compliance with the international AML/CFT standards on ensuring transparency of beneficial ownership.

Since MCIL conducts regular inspections of domestic companies to examine and assess their compliances with the requirements of the CA 2001, this could also be an opportunity to provide AML/CFT training and awareness program (upon request) for companies as well as guidance with the enhancement of ML/TF international standards and requirements.

9. Terrorist Financing Threat and Vulnerability Assessment

This Chapter discusses the overall TF risk in Samoa. The assessment has taken into account all relevant considerations, including the extent of terrorism threat in Samoa, the risk of the country being abused for TF activities, and the strength of countering financing of terrorist (CFT) regime and systems, including the legal and regulatory framework, in Samoa.

9.1 Terrorism Threat

Recent years have seen the emergence of groups such as ISIL and Al-Qaeda which have perpetrated terrorist attacks in conflict zones as well as advanced economies, through home-grown terrorists or foreign terrorist fighters operating alone or in small cells. By virtue of its demographic and geographical location as well i.e., being distant from certain areas in Asia where terrorist incidents are frequent, there is a **low** risk of terrorism to Samoa.

Further, as noted in Chapter 1, Samoa's population is estimated to be approximately 203,774, of whom over 96% are ethnic Samoan. Non-Samoan ethnic groups constitute only around 4% of the population, including 2% Samoan/New Zealanders and 1.9% others. The main religion practiced in Samoa is Christianity, with only 2.9% of Samoan population practicing other religions (including Baha'I and Muslims). Given the lack of diversity, there are very low chances of Samoan population having links to areas where there is a higher threat of terrorism.

There have been no terrorist attacks in Samoa or evidence of known activities of domestic or foreign-based terrorist groups or TF. There has also been no specific intelligence or information exchange requests to suggest that Samoa is likely to be a target of terrorist attacks. There is no intelligence indicating signs of self-radicalisation and no known indigenous or transnational terrorist groups operating within Samoa's borders. In 2014, Samoa's Transnational Crime Unit (TCU) has undertaken terrorism threat assessment of Samoa with the support and assistance of the New Zealand Police and Australian Federal Police and confirmed that the risk of terrorism is "LOW"¹³¹ (meaning that there is a rare possibility of a terrorist attack, and no intelligence suggests that Samoa is likely to become a target). These findings have also been supported by the U.S. Department of State, which has assessed

¹³¹ Samoa Risk & Compliance Report, March 2018, p. 7. Available at: http://www.knowyourcountry.info/files/samoaamlug2014_3.pdf (accessed 30 June 2021).

Samoa as being a LOW-threat location for terrorism directed at or affecting US government interests.¹³²

9.2 Terrorist Financing Threat

The prevalence of terrorism worldwide has propelled the international community to make the fight against TF a priority. The FATF has identified that terrorist groups or organisations use funds for five broad purposes:

- a) Operations;
- b) Propaganda and recruitment;
- c) Training;
- d) Salaries and member compensation; and
- e) Social services.

NPOs, funding from criminal or legitimate activities, physical transportation of cash, the use of bank accounts and MTOs – are still prevalent. In addition, the financing of foreign terrorist fighters has become a prominent issue, and social media platforms and new payment products and services have been exploited for TF.¹³³ The 2016 TF regional assessment of South-East Asia¹³⁴ and Australia has found that “terrorist funds within the region are more likely to be used for operational than organizational expenditure – namely for personnel mobility and travel, and the purchase of weapons and explosives.”¹³⁵ Self-funding through legitimate sources for TF (particularly for foreign terrorist fighters travelling to or operating in conflict zones), raising funds through NPOs and cash smuggling to move funds are areas identified as prone to high TF risks.¹³⁶

9.2.1 TF in Samoa

Given the “LOW” level of terrorism threat in Samoa, the threat of financing domestic terrorism is assessed as LOW. The threat of financing terrorism abroad (including for foreign terrorist fighters) is also viewed as LOW by authorities, given Samoa’s cultural and economic dis-connectedness with regions affected by terrorism. STRs and investigations as well as TF-related MLA requests have not led to confirmation of any TF activity in Samoa, or discovery of high-risk patterns such as self-funding from legitimate sources, abuse of NPOs, or physical movement of cash across boundaries in Samoa. There has never been a terrorist incident in Samoa nor has there been any STRs reported pertaining to TF. There has been no instances or investigations, prosecutions or convictions related to financing of terrorism in Samoa, which is consistent with a low level of risk for FT. There are no known external cases in other jurisdictions concerning terrorism financing in Samoa. Open-source information also suggests that Samoa’s TF risk is low, which is consistent with other Pacific Island jurisdictions.

¹³² US Department of State’s Overseas Security Advisory Council (OSAC), *Samoa 2020 Crime & Safety Report*. Available at: <https://www.osac.gov/Country/Samoa/Content/Detail/Report/3d41f74a-5bc1-4b48-957b-18efb04447dc> (accessed 20 January 2020)

¹³³ FATF (2015) *Emerging Terrorist Financing Risks*. Paris: FATF/OECD.

¹³⁴ Including Indonesia, Malaysia, the Philippines, Singapore and Thailand.

¹³⁵ AUSTRAC (2016) *Terrorism Financing Regional Risk Assessment 2016*. Available at: https://www.austrac.gov.au/sites/default/files/2019-07/regional-risk-assessment-SMALL_0.pdf (accessed 3 July 2021).

¹³⁶ Ibid.

Nevertheless, being an offshore financial services centre and a jurisdiction with heavy reliance on foreign remittances, Samoa must guard against possible TF by persons locally or from abroad.

As regards the use of technology for TF purposes, available information does not indicate that social media platforms, VCs, online payment systems, prepaid cards, crowdfunding or other new payment methods in Samoa have been exploited. But as these platforms and products are evolving very fast, it is important to keep a close watch on their potential to be misused for TF.

9.2.2 TF-related STRs, Investigations and MLA Requests

TF-related STRs are required to be filed to the SFIU as a mandatory requirement under the MLPA 2007. Between July 2015 and June 2020, there were no TF-related STRs submitted to the SFIU.

No terrorist or TF activity or terrorist funds have ever been detected within Samoa or other Pacific Islands states involving Samoans and there have been no cases or attempts of TF detected, nor intelligence indications of such activities involving Samoa or Samoans. Samoa has been a member of the INTERPOL since 2010 and the TCU actively uses the INTERPOL network as a means of assessing risk generally, including the risk of terrorism and TF. There have been no foreign requests to the Government of government (either formal or informal) for information exchange or assistance relating to either terrorism or TF involving Samoa or Samoans.

9.2.3 Overall TF Threat

The TF threat of Samoa is assessed as **LOW**. There is no confirmed case of TF activity in Samoa. No MLA or other information exchange requests supports this understanding. Despite low terrorism threat, the popularity of Samoa as an international (offshore) financial services sector, as well as the global and regional TF landscape, the threat of TF taking place in or through Samoa cannot be completely ruled out and must be constantly monitored with vigilance.

9.3 Terrorist Financing Vulnerability

9.3.1 Implementation of UNSC sanctions in Samoa: Legal and Regulatory Framework

The Counter Terrorism Act (CTA) 2014, the Proceeds of Crime Act 2007 and the MLPA 2007 are the three main pieces of legislation criminalizing terrorist financing, implementing counter terrorism and sanction measures imposed by the United Nations Security Council (UNSC). The Money Laundering Prevention (Amendment) Act 2018 has made several amendments to the CTA 2014, including amending the TF offence to bring it in compliance with the United Nations Convention for the Suppression of the Financing of Terrorism 1999 (hereinafter “TF Convention”) and to address the gaps identified in the MER 2015.

The CTA 2014 prohibits nationals and persons within Samoa’s jurisdiction from making funds, resources or financial services available to terrorist groups or for terrorist acts. Under the amended CTA 2014, it is an offence:

- to willfully and without lawful justification or reasonable excuse provide or collect property or funds intending that they be used or knowing that they are to be used to carry out a terrorist act or for the benefit of a specified entity (punishable by a maximum penalty of 15 years imprisonment or a maximum fine of SAT\$1,000,000 or both).
- to attempt to provide or collect any property or funds to carry out a terrorist act or for the benefit of a specified entity (punishable by a maximum penalty of 12 years imprisonment or a maximum fine of SAT\$75,000 or both).
- to attempt to participate as a party to, organize or directs others to participate in, or in any other way contribute to, providing or collecting property or funds to carry out a terrorist act or for the benefit of a specified entity (punishable by a maximum penalty of 15 years imprisonment or a maximum fine of SAT\$1,000,000 or both).
- Either directly or indirectly, makes available property or financial or other related services to, or for the benefit of, a terrorist group (punishable by a maximum penalty of 15 years imprisonment or a maximum fine of SAT\$1,000,000 or both).
- Deals, either directly or indirectly, in any terrorist property; or collects, acquires or possesses terrorist property; or enters into, or facilitates, directly or indirectly, any transaction in respect of terrorist property; or converts, conceals or disguises terrorist property (punishable by a maximum penalty of 15 years imprisonment or a maximum fine of SAT\$1,000,000 or both).

According to the APG Follow-Up Report on the 3rd Mutual Evaluation of Samoa in 2018, the substituted TF offence under section 23(1) of the CTA 2014 now meets the requirements of Article 2(1) of the TF Convention, although a few minor deficiencies still remain to be addressed to be fully compliant with FATF Recommendation 5, including extending the 110 offence of terrorist financing to include financing the travel of foreign terrorist fighters.

The POCA 2007 implements, inter alia, a decision of the UNSCR 1373 requiring states to freeze the property and assets of terrorists. The property and assets that can be frozen are not required to be tied to a particular terrorist act or plot.

9.3.2 Certain gaps existed in the CTA 2014 and POCA 2007 vis-à-vis the FATF standards. Vulnerability to International TF Trends

Self-funding from legitimate sources for financing terrorist activities is a growing issue for TF internationally. In Samoa, the primary risk of TF would appear to relate to the possible movement of funds through the international (offshore) financial services sector, which is highly vulnerable to TF risk. Examples of international TF typologies through offshore sector include: the operation of, or sending money to, charities or other NPOs that are actually front organisations; companies which operate or run websites /social media accounts to distribute material supporting terrorism; companies which are used to channel funds by more sophisticated groups; The exports of materials or natural resources e.g., historic artefacts, oil, diamonds, etc. to raise funds for terrorism.

No such TF cases involving Samoa's offshore sector or TCSPs have ever been detected domestically till date. This may be as a result of TF activity going undetected; however, investigations of any Samoan ICs involved in TF activity would, as a matter of course (given ICs hold their bank accounts etc. outside of Samoa), involve international cooperation and are therefore more likely to be initiated in another

jurisdiction. Samoa has however never received a foreign intelligence or information request relating to possible TF, indicating that no such TF cases have so far been detected by foreign counterparts. No STRs relating to terrorism or TF have been detected or reported to the SFIU by the trustee companies/TCSPs.

Primarily due to lack of evidence of terrorism or TF in Samoa and it being considered as LOW risk, there is an absence of specific or targeted TF policies, procedures or guidance material on responding to the identification of possible TF activity or conducting TF analysis. Although the potential of TF is low in Samoa, this is a deficiency which needs to be attended. Moreover, all the ML vulnerabilities identified in earlier chapters of this risk assessment equally applies to TF.

In Samoa, banks and MTOs could be at the risk of TF, as foreign workers remit monies to their homelands. The financial regulators continue to monitor compliance by banks and MTOs with the AML/CFT obligations, and to promote awareness of TF among financial institutions, as discussed in Chapter 4 and 5 of this risk assessment. The SFIU provides regular updated to banks, MTOs and TCSPs to monitor the lists published by UN Sanctions Committees to ensure that they are aware of listing and de-listings. These alerts are however not automatic and not provided to all the reporting entities, but still sent to the entities constituting the majority of the domestic and offshore sector. The financial sector, including the international financial sector TCSPs, receives the Al Qaida and Taliban lists from the SFIU and monitors and verifies them against bank accounts and customers. This sector also uses multiple sources such as terrorist lists promulgated by the UN and other jurisdictions, specific AML/CFT databases, open sources and ongoing transaction monitoring to identify suspicious transactions. No funds have ever been identified in the domestic or international sectors of Samoa that have any links to terrorism or TF. As for DNFBPs and other financial institutions, the level of awareness on TF and their obligations is generally low and varies depending on the nature of the business or profession, and the size or resources of a firm.

The risks of NPOs being misused to move funds to terrorist organisations in other jurisdictions have been well recognized by the FATF. There has been no report of NPOs – incorporated societies or charitable trusts, in Samoa being misused for TF purposes, or found to sympathise with or condone terrorism, or linked to known or suspected terrorist groups. There has been no intelligence or evidence from STRs, investigations or MLA requests suggesting that NPOs in Samoa are being exploited for raising or moving funds for TF. On this basis, there is no apparent TF threat identified for the NPO sector in Samoa.

The inherent TF vulnerability of NPOs in Samoa is low, having regard to the landscape of terrorism and TF threats in Samoa as well as the inward focus of the majority of NPOs in Samoa. Large NPOs in Samoa are commonly part of the international charities network to which the funds raised are disbursed, and have to a large extent put in place internal due diligence controls on their own. Banks are also aware of the potential TF risks associated with the NPO sector and monitor closely for funding or transactional patterns which may give rise to higher risks and the need for enhanced monitoring.

9.3.3 Overall TF Vulnerability

Samoa has a sound legal and institutional framework, which has been strengthened by the Money Laundering (Amendment) Act 2018, to counter TF activities which is commensurate with the threat

identified. While some gaps from full compliance with the FATF’s recommendations still exist, majority identified in the MER 2015 have been addressed. The overall TF vulnerability is assessed as **LOW**.

9.4 Terrorist Financing Risk

Samoa has a **LOW** TF risk, with threat and vulnerability both rated as **LOW**.

9.5 Next Steps

While Samoa faces relatively low TF risk, the situation must be closely monitored, with current preventive measures kept under constant review. The SFIU, Central Bank of Samoa and other regulators and supervisors, and LEAs will continue to raise awareness of TF activities and emerging issues.

The legislative amendments made over the past few years by the Government has strengthened the CFT framework and further alleviated the TF risk. Nonetheless, the gaps still exist relating to the effective adoption and implementation of UNSC resolutions as well as in ensuring effective compliance with FATF recommendations on combating TF. The Government will make the necessary amendments in the legislative and regulatory framework to ensure the effective implementation and compliance with the international requirements.

A mechanism will be instituted of issuing early alerts to financial institutions and DNFBPs about TF/PF-related resolutions adopted by the UNSC as well as new individuals and entities designated by the UNSC or its Sanctions Committees. Under the mechanism, the SFIU monitor on every working day the adoption of UNSC resolutions and designation of sanctioned entities or individuals related to TF and PF, which are then disseminated within the same day to financial institutions and DNFBPs for their immediate attention and necessary action. This enables the implementation of targeted financial sanctions “without delay”, in accordance with the FATF recommendation.

In response to concerns about the offshore sector of Samoa allegedly being abused for TF purposes, the SIFA has taken additional measures to guard against this risk, including the recent on-site inspections of large number of international companies, TCSPs and other offshore entities. SIFA will enhance its risk-based AML/CF supervision of this sector and conducts its off-site and on-site inspections accordingly. Outreach efforts will also be strengthened, such as issuing brochures, conducting training and seminars etc. of the TCSPs on the terrorism and TF risks and sanctions regime, as well as on reporting terrorism or TF suspicious activity reports.

The Government will continue to monitor closely the terrorism threat and TF risk in Samoa, the effectiveness of the various counter-measures, and develop or adjust the counter- terrorism and CFT strategy as appropriate having regard to the changing security landscape and risk factors.

Annex: List of Abbreviations

AML/CFT	Anti-Money Laundering / Countering the Financing of Terrorism
APG	Asia-Pacific Group on Money Laundering
ADB	Asian Development Bank
AG	Attorney General
AGO	Office of Attorney General
ATM	Automatic Teller Machine
AUSTRAC	Australian Transaction Reports and Analysis Centre
BCRs	Border Cash Reports
BSP	Bank South Pacific Samoa
CaGC Act	Casino and Gambling Control Act
CBS	Central Bank of Samoa
CDD	Customer Due Diligence
CID	Criminal Investigation Division
CLE	Continuing Legal Education
CPD	Continuing Professional Development
CRF	Corporate Registers Forum
CSSP	Civil Society Support Programme
CTA	Counter Terrorism Act
CTRs	Cash Transaction Reports
DBS	Development Bank of Samoa
DNFBPs	Designated Non-Financial Businesses and Professions
EDD	Enhanced Due Diligence
FA	Foundations Act
FAO	Food Agriculture Organisation
FATF	Financial Action Task Force
FI	Financial Institution
FIA	Financial Institutions Act
FIU	Financial Intelligence Unit
FSRSD	Financial Supervision and Regulatory Services Department
FY	Financial Year
GDP	Gross Domestic Product
GIFCS	Group of International Finance Centres Supervisors
GIICS	Group of International Insurance Centre Supervisors

HS	Harmonized Systems
IA	Insurance Act
IAA	International Insurance Act
IAIS	International Association of Insurance Supervisors
IBA	International Banking Act
IC	International Company
INTERPOL	International Criminal Police Organisation
IMFA	International Mutual Funds Act
IPLPA	International Partnership and Limited Partnerships Act
ISO	Incorporated Societies Ordinance
ISPS	Insurance Supervision Prudential Standards
ITPA	International Tax Planning Association
KYC	Know Your Customer
LEAs	Law Enforcement Agencies
LLP Act	Lawyers and Legal Practice Act
LPs	Limited Partnerships
MACMA	Mutual Assistance in Criminal Matters Act
MCs	Money Changers
MCCA	Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information
MCIL	Ministry of Commerce, Industry and Labour
MCR	Ministry of Customs and Revenue
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual Legal Assistance
MLPA	Money Laundering Prevention Act
MoF	Ministry of Finance
MOPPC	Ministry of Police, Prisons and Corrections
MoU	Memorandum of Understanding
MPMC	Ministry of the Prime Minister and Cabinet
MSMEs	Micro-, Small and Medium-Sized Enterprises
MTOs	Money Transfer Operators
NPF	National Provident Fund
NPO	Non-Profit Organisation
NRA	National Risk Assessment

NRAWG	National Risk Assessment Working Group
NZFIU	New Zealand Financial Intelligence Unit
OECD	Organisation for Economic Cooperation and Development
OSAC	US Department of State’s Overseas Security Advisory Council
PCC	Professional Conduct Committee
PEPs	Politically Exposed Persons
PF	Proliferation Financing
PFI	Public Financial Institutions
POCA	Proceeds of Crime Act
RCIP	Registration of Companies and Intellectual Property Division
SFICs	Segregated Fund International Companies
SFIU	Samoa Financial Intelligence Unit
SHC	– Samoa Housing Corporation
SIA	Samoa Institute of Accountants
SIFA	Samoa International Finance Authority
SLS	Samoa Law Society
SNPF	Samoa National Provident Fund
SOEs	State-owned enterprises
SPICs	Special Purpose International Companies
STRs/SARs	Suspicious Transaction Reports/Suspicious Activity Reports
SUNGO	Samoa Umbrella of Non-Government Organisations
SVSG	Samoa Victim Support Group
TA	Trusts Act
TCA	Trustee Companies Act
TCSPs	Trust or Company Service Providers
TCU	Samoa Transnational Crime Unit
TF/FT	Terrorist Financing/Financing of Terrorism
UNODC	United Nations Office against Drugs and Crime
UNSC	United Nations Security Council
UNSCRs	United Nations Security Council Resolutions
UTOS	Unit Trust of Samoa
WCO	World Customs Organisation
WHO	World Health Organisation
WTO	World Trade Organisation

