



Anti-money laundering
and counter-terrorist
financing measures

The Commonwealth of Dominica

Mutual Evaluation Report

July 2023





The Caribbean Financial Action Task Force (CFATF) is an inter-governmental body consisting of twenty-four member states and territories of the Caribbean Basin, Central and South America which have agreed to implement common countermeasures to address money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. For more information about the CFATF, please visit the website: www.cfatf.org

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Executive Summary

1. This report summarises the AML/CFT measures in place in the Commonwealth of Dominica (“Dominica”) as at the date of the onsite visit from 15th to 26th August, 2022. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the Commonwealth of Dominica’s AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- a) Dominica commenced its first NRA in 2016 and concluded it in the 1st quarter of 2020. The country identified drug trafficking, fraud/ATM scams, theft, burglary and firearm trafficking, inclusive of the possession of unlicensed firearms and possession of ammunition, as the greatest ML threats. However, certain categories of ML/TF risks, sectors and activities require further analysis to reflect the country’s profile more accurately. This includes a more comprehensive assessment of TF risk, cross-border financial flows, legal persons, non-profit organisations (NPOs), virtual asset service providers (VASPs) and the Citizenship by Investment (CBI) programme.
- b) Through the National Anti-Money Laundering Advisory Committee (NAMLAC) and its sub-committees, key competent authorities (CAs) and agencies have improved and strengthened cooperation and coordination, producing the country’s National Policy, National Strategy and National Implementation Action Plan (NIAP). Dominica has also taken significant steps to enhance its AML/CFT framework, including legislative and regulatory changes, training of competent authority staff, and improving domestic coordination and cooperation.
- c) CAs are able to access a wide variety of sources of financial intelligence and other relevant information when conducting investigations into ML, TF and associated predicate offences, developing evidence and tracing criminal proceeds. Suspicious Transaction Reports (STRs) received from reporting entities contain relevant and accurate information, which assists the Financial Intelligence Unit (FIU) in the conduct of its functions. The FIU produces good quality intelligence and adds value in financial investigations, with Law Enforcement Authorities (LEAs) acknowledging the high quality of these disseminations. Whilst ML investigations are triggered by disseminations from the FIU’s Analytical Department, the number of these disseminations are low. The FIU conducts strategic analysis, but it does not sufficiently reflect the higher risk areas identified in the NRA.

Although the FIU experienced from a shortage of human resources, its performance has improved significantly with the creation of distinct investigations and analytical departments and a subsequent increase in staff complement. The FIU's officers can perform their functions freely and objectively without undue influence.

- d) Dominica¹ has criminalised ML in keeping with international standards and LEAs have powers and responsibilities to investigate and prosecute ML offences. However, Dominica does not investigate and prosecute ML fully consistent with its risk profile. Whilst there are several avenues for initiating ML cases including disseminations from the FIU's analysis department, Mutual Legal Assistance (MLA) requests and parallel investigations, ML is mainly investigated together with the predicate offence on which the investigation is centred. Additionally, limited human resources allocated to ML investigation and the non-prioritization of ML cases within the judicial system weighs negatively on Dominica's ability to effectively fight ML. Dominica has not been able to achieve convictions, relative to ML.
- e) The structure of the CAs remains a concern as the assessors have identified a lack of human and financial resources within the LEAs and the primary Supervisory Authority, the FSU. These factors have contributed to their inability to effectively conduct their respective AML/CFT roles and responsibilities within the jurisdiction.
- f) The FSU is the primary AML/CFT supervisor for FIs, VASPs and DNFBPs, while domestic banks and securities are supervised by the Eastern Caribbean Central Bank (ECCB) and the Eastern Caribbean Securities Regulatory Commission (ECSRC), respectively. Supervisors have received World Bank training and adopted a risk-based supervisory framework, which has been applied to regulated entities in Dominica since 2020. The ECCB's AML/CFT supervision of domestic banks is robust, while the FSU's supervision of FIs and VASPs, has been moderately effective and the supervision of DNFBPs is still in its nascent stages. Although Supervisors are committed to effective risk-based supervision, for FIs and DNFBPs, the extent of coverage and frequency of supervision remains a challenge for the FSU due to resourcing and capacity issues.
- g) FIs and VASPs have a good understanding of ML/TF risks, AML/CFT obligations and preventive measures while in DNFBPs, it is low. The conduct of supervisory activities by the FSU in DNFBPs has been inadequate and largely attributed to the deficiencies identified in the sector.
- h) Dominica has identified a low level of risk for TF and has never had any incidences of terrorism nor TF. Despite the identified low risk, CAs have demonstrated an ability to identify and investigate TF activity. There are deficiencies in that Dominica lacks a national CFT policy which assesses the TF risks and guides CAs in the formulation of their policies to respond to these risks as well as reduces the terrorism and TF threat to the

¹ "On February 07, 2023, the jurisdiction acquired its first conviction for money laundering. The accused was sentenced to two years imprisonment and EUR162,000.00 was forfeited to the State." From the Commonwealth of Dominica Authorities

jurisdiction. While CAs have some understanding of TF risk, the understanding among FIs and DNFBPs varies, which reduces the jurisdiction's ability to identify TF.

- i) Dominica has enacted Targeted Financial Sanctions (TFS) legislation which is aimed at giving effect to UNSCR 1267 and 1373; however, the mechanisms and procedures for freezing without delay are still in need of development.
- j) The Companies and Intellectual Property Office (CIPO) has limited mechanisms and technical and human resources to fully meet the compliance requirements relative to legal persons and arrangements. While basic information on legal persons is available and accessible, beneficial ownership is not always available. Adequate, accurate and up-to-date BO information on legal persons is not always obtained, held, nor verified to ensure accuracy.
- k) Dominica does not have a legal framework, mechanisms or procedures in place to implement TFS relating to proliferation financing.

Risks and General Situation

2. Dominica's position in the north-eastern Caribbean Sea between the French overseas territories of Martinique and Guadeloupe makes it a transit country for regional trade between South America and other Eastern Caribbean islands. Its rugged coastline of inlets and bays makes it vulnerable as a trans-shipment point for drugs, firearms and other trade-based crime. In the 2020 NRA, 18 predicate offences were identified with a nexus to ML with the highest threats identified as: drug trafficking, possession and trafficking of firearms and ammunition, burglary, theft and fraud/ATM scams. LEAs have found that hucksters are being used as fronts to launder the proceeds of drugs and firearms trafficking, while couriers have been used to transport Euro payments from Guadeloupe and Martinique. Authorities indicated that during the period 2020-2022, there was an increase in four offences (drug trafficking, firearm trafficking, fraud/ATM scams and corruption) and hence they were given high prosecutorial priority. However, the lack of ML investigations into these predicate offences has not allowed for this prosecutorial priority to be fully implemented.
3. Dominica is not a regional or international financial centre, with FIs representing only 14.51 per cent of GDP, and DNFBPs representing just over 2 per cent of GDP. Money service businesses (MSBs), unregulated sectors (retail, huckstering, car rentals and entertainment business), and DNFBPs, including attorneys managing former IBC business, were identified as the highest risk sectors for money laundering. Car dealers and car rentals are not captured under the FATF's definition of DNFBPs. However, in Dominica, car dealers are supervised by the Financial Services Unit (FSU). Nonetheless both sectors have featured in money laundering schemes in Dominica.

4. Dominica has rated its TF risk as low, due to several factors including the country's demographics, geography, and economy. However, there are shortcomings in relation to the NRA, as some potential TF risks have not been fully addressed, including a comprehensive analysis of NPOs, VASPs, cross-border wires from certain jurisdictions and the CBI programme.

Overall Level of Compliance and Effectiveness

5. Dominica has made significant improvements to strengthen its anti-money laundering/combating the financing of terrorism (AML/CFT) regime since the last MER. The 2020 NRA triggered the creation of a National Strategy, National Policy and National Implementation Action Plan (NIAP). Members of the advisory and technical working group committees of NAMLAC represented by key members within each competent authority (the Attorney General, the Financial Secretary, the FSU, FIU, IRD, Customs, CDPF, DPP and the ECCB), have followed up on actions required in the NIAP. Changes to improve effectiveness have included joint operations between CAs, increased information sharing and the acquisition of equipment to detect the cross-border shipments of illicit drugs and firearms. Significant progress has been made in addressing the action items outlined in the NIAP, particularly in capacity building through various AML/CFT training and certification of staff.
6. In relation to technical compliance, Dominica has taken steps to amend the majority of its AML/CFT legislative framework. From 2009-2014, Dominica made significant progress in updating its legislation, including passing amendments to the MLPA, the POCA and the SFTA. By November 2014, Dominica's legislative action addressed all the deficiencies for the 13 core and key recommendations rated PC or NC and was removed from CFATF's regular follow-up process. At that time, only three key recommendations were considered outstanding. Further amendments were made to the MLPA in 2020 and additional legislative amendments were made in August 2022. However, several technical compliance deficiencies remain in relation to TFS for TF and PF, non-profit organisations, new technologies, the regulation and supervision of DNFBPs and transparency and beneficial ownership of legal persons.

Assessment of risk, coordination and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)

7. Dominica's first NRA has provided a good foundation for participating CAs and private sector members to understand the country's ML/TF risks. The TF risk understanding is in keeping with the nation's low TF risk profile. However, more work is required to understand related risks, including a comprehensive ML/TF assessment of NPOs, legal persons, VASPs, cross-border wires and the CBI programme. Updated FI and DNFBP sectoral risk assessments are needed to enhance the country's understanding of its ML/TF risk.
8. Dominica's strong commitment to national strategy and policy setting, with the development of a National Policy (2019-2024), National Strategy (2019-2024) and NIAP is a positive development and has triggered additional initiatives since the NRA. Significant coordination and cooperation including the development of MOUs, joint operations between CAs, increased information sharing and the purchase of detection equipment, have enhanced Dominica's control framework and interdiction efforts.

9. Dominica is heavily dependent on the CBI programme, which comprises 30 per cent of GDP. While the assessors were satisfied that the systems and vetting of CBI applications were stringent, ML/TF and corruption risks associated with the CBI programme were not analysed during the NRA.
10. Going forward, a realignment of the national policy and strategy framework is necessary to ensure that the threats, sectoral vulnerabilities and ML/TF risks identified in the NRA are captured in the NIAP. Additionally, ensuring that CAs have sufficient human capital, financial resources and access to improved data, statistics and ML/TF risk assessment information is important in order to meet all NIAP objectives.

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)

11. Financial intelligence, along with other relevant information, is used to a high extent in conducting investigations, developing evidence and tracing criminal proceeds related to ML, TF and predicate offences. The FIU plays a key role in enriching financial intelligence courtesy of the various sources of information to which the FIU has access to and its internal analytical tools.
12. The FIU's analysis and dissemination supports the operational needs of CAs to a large extent. The FIU cooperates and exchanges information regularly and effectively with domestic CAs. CAs acknowledge the quality of the disseminations of the FIU; but do not provide sufficient feedback to the FIU relative the outcome and the quality of its disseminations. Whilst ML investigations are triggered by disseminations from the Analytical Department, the number of these disseminations can be improved. The FIU conducts strategic analysis, but it does not sufficiently reflect all the higher risk areas identified in the NRA.
13. Dominica was able to demonstrate instances of ML investigations and prosecutions. However, the extent of ML investigations, prosecutions and convictions is not fully commensurate with Dominica's risk profile, particularly in light of the number of investigations of proceeds-generating predicate offences in the jurisdiction. Dominica takes a reactive rather than proactive approach to the identification of ML and it is not clear that ML cases involving professional ML networks, cash smuggling, complex ML and cases involving legal persons are being detected. Alternative measures, particularly confiscation of cash, are used extensively. ML cases are not prioritized within the judicial system, and this hampers the successful prosecution of cases to convictions.
14. The confiscation of criminal proceeds is pursued as a policy objective. There is a sound legal framework in Dominica on freezing, seizing and confiscation of instrumentalities and proceeds of crimes, confiscation of equivalent value, as well as extended confiscation and has been utilized to some extent. Dominica has a declaration system for cross-border movements of cash or BNIs. However, this system is not being effectively enforced, as the proportion of non-declared or falsely declared cash or BNIs that is confiscated is low.

Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39.)

15. Dominica has a strong legal framework for the criminalisation of TF. While Dominica has a fair understanding of its TF risks, the NRA did not consider several TF vulnerabilities. In its NRA, Dominica deemed the risk of TF to be “low”. However, the TF analysis performed in the NRA was not exhaustive as several sectors and activities were not assessed including cross-border wire transfers, NPOs, legal persons and VASPs.
16. Authorities in Dominica have not prosecuted any cases relating to TF in the period under review. Seven cases were investigated, with six being closed and the remaining case being considered for ML prosecution. The absence of prosecutions and convictions for TF appears to be in line with identified risk-profile of the jurisdiction. The effectiveness, dissuasiveness and proportionality of sanctions could not be assessed in the absence of any convictions for TF. No criminal justice, regulatory and other measures to disrupt TF have been employed so far when a TF conviction could not be secured.
17. CAs are equipped with broad powers to obtain financial information for identifying and investigating TF cases, and domestic cooperation amongst authorities on TF takes place to a satisfactory extent during financial investigations. However, the jurisdiction lacks a national CFT policy that would continuously assess the TF threat, identifies the requirements for training and professional development of CAs and allows for the development of policies by the CAs which would be in line with this national CFT policy.
18. For the implementation of TFS-TF without delay, Dominica has updated the legal framework required by UNSCR 1267 and 1373 and developed Central Authority procedures. However, the Central Authority procedures do not accurately distinguish between what is required under the two UNSCR resolutions and the freeze without delay mechanism is also deficient. The FSU as primary supervisory authority has implemented training to regulated entities to raise awareness of the TFS requirements in the SFTA. While regulated entities (REs) has demonstrated an awareness of TFS, the FSU has not issued guidance on TFS to FIs or DNFBPs on their obligations.
19. In relation to TFS-TF, recent amendments to the SFTA dealing with designations, procedures and mechanisms governing TFS-TF are reflective of Dominica’s nascent regime. While supervisors have provided outreach to the industry in relation to TFS, TF and PF, specific training has not been provided by the FSU in relation to the TF risks and vulnerabilities in NPOs. As noted in IO. 1, the NRA did not capture the risk of NPOs and, at the time of the onsite, a comprehensive sector review of NPOs was not conducted to inform the country’s assessment of TF risk. Substantial work remains for the FSU, supervisor of NPOs, to implement a targeted approach, outreach, or oversight of that sector.
20. In relation to deprivation of TF assets and instrumentalities, REs and CAs have the mechanisms and instruments to apply freezing measures as described under the SFTA. Nonetheless, the country has not found any assets of designated persons and has not implemented the asset freezing mechanisms in practice. Dominica does not have a legal or administrative regime to address PF requirements. Accordingly, Dominica has not implemented measures against PF.

The authorities should take expeditious steps to develop and implement appropriate measures to give effect to the UNSCRs targeted financial sanctions regimes.

Preventive measures (Chapter 5; IO.4; R.9–23)

21. Most institutions in the financial sector have a good understanding of ML/TF risks and AML/CFT obligations, with institutions refining their compliance systems and controls over time. FIs and VASPs demonstrated effective risk-based systems, procedures and risk-mitigation measures commensurate with their risk profiles, with the strength of internal systems and controls (including dedicated Compliance staff, Board-approved AML/CFT policies and procedures, regular Board reporting and AML/CFT training) varying between institutions and sectors. Improvements have been made progressively over the last few years resulting in improved AML/CFT compliance regimes, particularly for institutions in the insurance, credit union and offshore banking sectors. FIs and VASPs are compliant with CDD and BO obligations to varying degrees. Customer onboarding procedures were performed using a risk-based approach and FIs and VASPs understood the importance of identifying the indirect and direct owners and controllers within their corporate structures and employed enhanced due diligence (EDD) measures in relation to PEPs and higher risk countries. FIs and VASPs demonstrated a strong awareness of the ML/TF risks and obligations associated with wire transfers, new technologies and correspondent banking relationships; however, compliance with monitoring and STR reporting, risk and compliance standards varied by sector and institution. A few institutions in the domestic bank and offshore banking sectors indicated that they use manual monitoring and reported low or negligible STR statistics that were not in alignment with their size or ML/TF risk profile. FIs and VASPs in the higher risk credit union, MSB Class A and offshore banking sectors had compliant or largely compliant internal control systems² with some deficiencies seen in the lower risk building and loan, insurance and MSB Class E sectors in relation to ML/TF risk assessment and audit obligations.
22. In DNFBPs, most entities have a low understanding of ML/TF risks and AML/CFT obligations, which is largely attributed to the FSU's limited supervisory activities within the sector. Generally, ML/TF risk assessments are conducted to a minimal extent and the implementation of risk mitigation measures is nascent or a work in progress. The majority of DNFBPs have a reasonable understanding of their CDD requirements. Sectors such as attorneys, real estate and a larger jeweller indicated measures are applied using a risk-based approach and a multi-pronged approach is adopted within attorneys and real estate sectors, to identify and verify BO information. EDD is conducted on PEPs and potential customers or transactions involving customers from high-risk jurisdictions. Attorneys (registered agents and CBI agents) and real estate agents have increased measures in place for addressing TFS. Tools such as commercial databases (World Check, Google), the OFAC list and the FIU portal³ are utilised for sanction and adverse media screening purposes. Further, all DNFBPs indicated records are maintained beyond the stipulated seven years retention period.

² According to interviews with these sectors, supported by the FSU's sectoral compliance reporting.

³ Without filing an STR, a regulated entity with access can visit the FIU's e-filing portal and manually screen the name of any person or company against the OFAC and UN Sanctions List.

23. DNFBPs, including those of higher risk, indicated that they have had no reason to file SARs to the FIU. This coincided with one SAR filed by a jeweller and registered agent, respectively. Overall, a range of factors such as manual monitoring systems and procedures and the limited number of DNFBPs with compliance programmes and AML/CFT internal control mechanisms, contribute to the negligible reporting within the sector.

Supervision (Chapter 6; IO.3; R.14, R.26–28, 34, 35)

24. Overall, there is a moderate level of effective AML/CFT supervision in place for FIs and DNFBPs based on the level of ML/TF risk posed. The supervision of FIs was weighted more significantly given the sector's material importance to Dominica's economy. The FSU is the primary regulator for FIs, VASPs and DNFBPs, except for domestic banks and securities which are supervised by the ECCB and the ECSRC, respectively.
25. The ECCB and ECSRC employ a robust system of licensing for domestic banks and securities firms. Over the last two years, the ECCB has supervised domestic banks in Dominica and created a risk-based supervisory framework, conducted a sectoral risk assessment and demonstrated a good understanding of the risks of its regulated entities. There are no licensed securities firms for the ECSRC to supervise, although the ECSRC's framework for licensing and supervision is appropriate.
26. FIs supervised by the FSU are subject to an appropriate licensing framework, while for VASPs, the registration and licensing process is ongoing. From 2017-2021, the FSU's onsite and offsite work programme was based on offsite risk-based prudential data with some AML/CFT elements. Following World Bank training in May 2020, the FSU adopted a risk-based approach to AML/CFT supervision and commenced institutional risk rating from October 2021 to drive its AML/CFT onsite schedule. The FSU has demonstrated a strong commitment to risk-based supervision. This recent work to develop a risk-based framework for AML/CFT is notable, but its recent application and the lack of onsite has limited the effectiveness of the FSU during the period under review.
27. Market entry measures are in place for DNFBPs in the form of incorporation, and licensing of registered agents, with CIPO. A registration requirement also exists for all sectors with the FSU prior to operation and fit and proper checks are conducted at registration. However, due to the lack of annual re-registration and the FSU's challenged supervisory programme, there is no further ongoing monitoring at the institution level. The FSU's recent implementation of a risk-based framework and limited DNFBP supervision have informed the supervisor's varied understanding of ML/TF risks exposure in the sector. Onsite and offsite activities represented less than 50 per cent of the total number of sectors examined and did not account for supervisory activities in all DNFBPs. The frequency, intensity and scope of onsites and offsites have demonstrated that the FSU is in the nascent stage of supervising DNFBPs. Resultantly, the FSU's supervision in DNFBP sectors has limited to no impact on AML/CFT compliance.
28. Throughout the period of review, the supervisory activities of the FSU and ECCB also extended to training and sensitization workshops and the issuance of sector specific guidance notes to FI and DNFBP sectors. The FSU can use a range of enforcement measures but has used its

enforcement powers to a limited extent, with no fines imposed on FIs and DNFBPs. Human and financial capacity limitations have inhibited the FSU's execution of a comprehensive risk-based supervisory approach, particularly in DNFBPs. Enhanced data, risk analysis and onsite are needed to further develop the FSU's AML/CFT supervisory programme.

Transparency and beneficial ownership (Chapter 7; IO.5; R.24, 25)

29. CIPO maintains basic information in respect of legal persons and this information is readily accessible to CAs, LEAs and the public. BO information is not always available to CAs from CIPO as there is no general requirement for all types of legal persons to provide adequate, accurate and up-to-date BO information to CIPO. Where information is provided, CIPO confirms its accuracy in relation to previous filings, inquiries by the Registrar and confirming compliance with the Companies Act; however, the use of other mechanisms to consistently verify shareholder information is limited.
30. CAs can obtain adequate and accurate BO information from FIs and DNFBPs by means of interviews, requests for information and production orders. All legal persons are required to maintain a business relationship with an attorney at law and/or an accountant for the duration of their operations. BO information can also be obtained directly from the legal persons. FIs have demonstrated mechanisms for obtaining adequate, accurate and current BO information on legal persons through existing information sources in commercial databases collected as part of their CDD/KYC requirements and take reasonable measures to obtain up-to-date information. However, DNFBPs have not demonstrated that there are adequate CDD mechanisms in place to mitigate against the misuse of legal persons and arrangements. The FSU has been designated by law as the supervisor for trusts however, there are no registered trusts in the jurisdiction.
31. Legal persons were not included in the scope of the NRA. However, a complete assessment of the IBC agents and a preliminary assessment of the NPOs were conducted. While authorities have a general appreciation of the risks associated with legal persons, Dominica has not adequately demonstrated that it has assessed and understood the vulnerabilities of all types of legal persons and the extent to which they can be misused for ML/TF in its jurisdiction. This notwithstanding, Dominica has taken some measures to mitigate ML/TF risks. The ML vulnerability arising from an assessment of IBC agents led to the repeal of the IBC Act which was a significant measure taken to address the particular risk posed to Dominica by IBCs as these accounted for over 80 per cent of all legal persons in the jurisdiction.

International cooperation (Chapter 8; IO.2; R.36–40)

32. In general, Dominica has provided a broad range of Mutual Legal Assistance (MLAs) in accordance with its domestic legislation during the period under review. Dominica provided a response to all MLA requests received and the time taken for a response was determined by a combination of factors including the complexity and nature of the matter and the deadline given by the requesting country.
33. Dominica provides international cooperation both through (i) formal requests under the Mutual Legal Assistance in Criminal Matters Act, the Extradition Act and via Letters Rogatory, or (ii)

informal sharing of information by CAs with their regional and international counterparts and there has been no refusal by Dominica for MLA by foreign countries in relation to ML/TF.

34. LEAs rely on both informal and formal mechanisms through the sharing and receiving of information. Dominica has sought MLA from several international partners. Dominica's use of outgoing formal MLA requests is appropriate in light of the nature of investigations and types of assistance required by the jurisdiction. Dominica has sought cooperation through formal channels with non-traditional partners however, the jurisdiction encounters challenges, namely lack of timely responses. As such, Dominica's CAs and LEAs place greater reliance on informal cooperation to support domestic ML investigations and prosecutions.

Priority Actions

Dominica should:

- a) Ensure the next iteration of the NRA and sectoral risk assessments comprehensively take into account all ML/TF risks and vulnerabilities, including the risk associated with VASPs, NPOs, legal persons and the CBI programme. Further, Dominica should ensure that the 2018 preliminary analysis of NPOs is updated and a comprehensive review of the NPO sector is completed. Dominica should also conduct a comprehensive ML/TF risk assessment of all legal persons.
- b) Ensure that additional resources (human and financial) are available to the FSU to conduct its mandate as the primary competent supervisory authority. Further capacity building at the FSU is also required to supervise and monitor the ML/TF risks of the emerging VASP sector.
- c) Ensure that the primary AML/CFT supervisor, the FSU, enhances its AML/CFT supervision based on the Unit's risk-based supervisory approach to increase the frequency and intensity of AML/CFT supervision for all FIs and DNFBPs. The Supervisor should place an increased focus on DNFBPs to provide effective AML/CFT oversight to improve compliance with AML/CFT obligations.
- d) Develop a national strategy which seeks to combat TF and guide CAs in the formulation of their policies to respond to TF risks and reduce the TF threat to the jurisdiction. Further, Dominica should increase the level of knowledge and understanding of TF risks for all operators of the CFT system, particularly in DNFBPs.
- e) Develop a mechanism to ensure that accurate and up-to-date beneficial ownership information is available to competent authorities in a timely manner.

- f) Ensure all relevant competent authorities and agencies maintain comprehensive, accurate, consistent and up-to-date statistics on matters relevant to the effectiveness of Dominica's AML/CFT system.
- g) Ensure the FIU increases its operational analysis output and enhances its strategic analysis output in line with the higher risk areas identified in the NRA. Further, the FIU should increase the number of specifically trained and dedicated staff to conduct ML investigations within the FIU.
- h) Make provisions for the prioritizing of ML cases within the judiciary and allow for LEAs to make earlier collaboration with the FIU in the conducting of parallel investigations; with a view to realising an accompanying charge of ML.
- i) Improve the legal framework and develop clear procedures for implementing TFS-TF without delay in respect of designations made by the UNSC pursuant to UNSCR 1267.
- j) Develop a legal framework for the implementation of TFS-PF and allocate resources as appropriate to support the implementation of procedures and mechanisms put in place to operationalize this legal framework.
- k) Address the technical deficiencies identified in the TC Annex.

Effectiveness & Technical Compliance Ratings

Table 1. Effectiveness Ratings

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
ME	SE	ME	ME	ME	SE	LE	ME	ME	LE	LE

Note: Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

Table 2. Technical Compliance Ratings

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
LC	LC	C	C	C	PC	NC	PC	C	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	LC	C	LC	PC	LC	C	C	LC	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
C	PC	LC	PC	LC	LC	LC	PC	C	C
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
LC	C	LC	C	LC	C	LC	C	LC	LC

Note: Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non-compliant.

MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CFT measures in place as at the date of the onsite visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its onsite visit to the country from the 15th - 26th, August 2022.

The evaluation was conducted by an assessment team consisting of:

- i. Mr. Dylan Marin, Senior Analyst, Financial Intelligence Unit, Trinidad and Tobago (Law Enforcement Expert);
- ii. Mrs. Katherine Duguay, Principal, AML/ATF Supervision, Bermuda Monetary Authority, Bermuda (Financial Expert);
- iii. Ms. Lennique Quashie, Supervisor, Financial Analysis Unit, Office of National Drug and Money Laundering Control Policy (ONDPC), Antigua and Barbuda (Financial Expert);
- iv. Mr. Andre Coore, Senior Legal Officer, Ministry of Foreign Affairs and Foreign Trade, Jamaica (Legal Expert);

With support from:

- v. Ms. Nikima Prince, Financial Advisor, CFATF Secretariat (Mission Leader) and
- vi. Ms. Knalidi Jackson-Frederick, Financial Advisor, CFATF Secretariat (Co-Mission Leader).

The report was reviewed by: Ms. Sandra Hodabaks, (Sint Maarten), Ms. Holly Scott-Mason (United Kingdom), Ms. Alanna Lall (Guyana), and the FATF Secretariat

The Commonwealth of Dominica (referred to as Dominica) previously underwent a FATF Mutual Evaluation in 2009, conducted according to the 2004 FATF Methodology. The 2009 mutual evaluation and the eight follow-up reports conducted between 2012 and 2014 have been published and are available on the CFATF website at <https://www.cfatf-gafic.org/cfatf-documents/follow-up-reports-2/dominica>. The 2009 Mutual Evaluation concluded that the country was compliant with two (2) Recommendations; largely compliant with five (5); partially compliant with 21; and non-compliant with 21. Dominica was rated partially compliant or non-compliant with 13 of the 16 Core Recommendations and was placed in enhanced follow-up in 2009. Dominica strengthened its AML/CFT legislative and supervisory framework through the enactment of several laws. Of the 42 recommendations rated PC and NC, Dominica left only Recommendations 32, 33 and SRIX outstanding, leaving only minor shortcomings in relation to Recommendations 9 and 30. With all the other recommendations rated as PC and NC considered to be fully rectified, Dominica was placed on regular follow-up and biennial updates in November 2014.

Chapter 1. ML/TF RISKS AND CONTEXT

35. Dominica is an island nation in the Caribbean Sea, with 148 km (91 miles) of coastline, stretching 751 km² (290 square miles). The capital, Roseau, is located on the western side of the island. Dominica's neighbouring countries are the islands of Martinique to the south and Guadeloupe to the north. The country is also known as "Nature Isle," and famed for its rich flora and fauna, active volcanoes, lush rainforests and beautiful coral reefs.
36. The country's head of state is the President, while executive power rests with the Cabinet headed by the Prime Minister. Dominica is a parliamentary democracy with a unicameral parliament consisting of 30 members of the House of Assembly, 21 elected members and nine (9) senators who are appointed or elected by other members of the House. The legal system of Dominica is based on common law. Primary legislation is in the form of acts, while secondary is in the form of regulations and codes. The judiciary exercises its authority independently of both the executive and legislative branches.
37. The World Bank estimated the population of Dominica to be 72,412 in 2021. The country ranks 204 out of 234 countries in the world based on population size. Due to external migration, the population declined by 392 in 2022. The interior of Dominica is very mountainous, and this topography has affected population settlement. The greatest population densities exist in urban areas, around the capital Roseau which represents the primary commercial, cultural and social centre in the country and Portsmouth which is the main commercial centre in the northern region. In 2021, the World Bank estimated Dominica's GDP to be USD554.18 million. Dominica's GDP grew in 2019 by 5.50 per cent, declined in 2020 by 16.6 per cent, and increased by 6.54 per cent in 2021. Dominica's economy, which largely relies on agriculture and tourism, is still recovering from the damages caused by Hurricane Maria in 2017 and the impact of COVID-19. Hurricane Maria displaced about 80 per cent of the population. In addition to the lives that were lost, the cost of damage was estimated at USD930.9 million, and the cost of losses at USD380.2 million.
38. Dominica is a small developing island state and one of the smallest economies in the Caribbean. The financial sector represents 14.51 per cent of the GDP with the offshore, domestic, development banks, credit unions and MSBs being the most important financial contributors. DNFBPs, inclusive of wholesale and retail sectors, car dealerships and jewellers, are the largest contributors to GDP at 16.27 per cent. Other FIs and DNFBPs contribute less than 2 per cent to GDP. There are no casinos and trusts in Dominica. A few offshore banks licensed in Dominica offer VASP products and services. Following the VABA passage in June 2022, the FSU has registered those entities and has added them to the AML/CFT supervisory framework. Although not a requirement of the FATF standards, Dominica has included car dealers and pawn businesses under its AML/CFT regime, demonstrating that Dominica has proactively included sectors it deems as high risk in the NRA. However, for the report, car dealers and pawn businesses will not be considered in the overall weighting and conclusion.
39. The local currency in Dominica is the Eastern Caribbean Dollar (XCD), the currency of exchange for several neighbouring islands. The ECCB is the Central Bank of the Eastern

Caribbean Currency Union inclusive of the Commonwealth of Dominica and has maintained an exchange rate of 1 USD to XCD 2.70 since 1976.

1.1.ML/TF Risks and Scoping of Higher Risk Issues

1.1.1. Overview of ML/TF Risks

40. Crime in Dominica is relatively low compared to its Latin American and Caribbean neighbours. Dominica's NRA assessed ML as medium-high risk, with the most significant predicate offences and ML threats identified as drug and firearms trafficking, fraud/ATM scam, thefts and burglary. Drug offences and firearm trafficking is a major concern for the jurisdiction given its geographical location between two neighbouring French islands, making the jurisdiction susceptible as a transit point for ML activities.
41. Banks, insurance⁴, MSBs, huckstering businesses, attorneys, auditors and accountants, retail businesses (small bars and restaurants), car rentals and entertainment and dealers in precious metals and stones⁵ are the most impacted types of business linked to ML within Dominica. Particularly, car rental agencies and huckstering have been identified for their use as fronts and couriers. The unregulated sectors (hucksters, car rentals, entertainment centres, bars and restaurants) are part of the informal economy, which were rated high risk for ML. However, they are not caught in the schedule of the MLPA as regulated entities and, as such, are not subjected to AML/CFT measures in the legislative framework for Dominica. Further, the vulnerabilities identified included, among other things, weaknesses in the AML/CFT supervisory framework.
42. Dominica did not identify all of its ML/TF risks at the national level during the NRA although steps have been taken since then to close some of the remaining gaps. Although the ML/TF risk of legal persons was not assessed as part of the NRA, a subset of legal persons (IBCs) was reviewed as they were determined to be higher risk. Consequently, the IBC sector was dissolved effective 1st January 2022. Dominica also performed a preliminary analysis of the NPO sector in 2018. The ML/TF risk of the VASP sector was not part of the NRA as it was an emerging sector. Since that time, the FSU has met with entities offering VASP services and commenced a registration process for that sector. While the ML/TF risks of the CBI programme were not assessed during the NRA, that programme has had an audit and Dominica has a good approach amongst government agencies, local agents and CBI promoters to mitigate any inherent ML/TF risks associated with that programme.
43. In the NRA, TF was rated low risk, as Dominica had identified no known terrorist connections and terrorist activity, no requests for information from either regional or international partners regarding TF, and limited travel to high-risk areas. Additionally, there were no records of any terrorist attacks or activities, either planned and executed within Dominica or planned in Dominica and executed in another jurisdiction. However, Dominica has had gaps in the TF

⁴ Insurance and dealers in precious metals and stones were rated low-risk in the NRA.

⁵ Jewellers must get a license from the commissioner to import and export jewellery in Dominica. This requirement is placed under the Metal Act Chapter. 20:10

risk assessment from the exclusion of cross-border flows, the TF risk of legal persons, NPOs, VASPs and the CBI Programme to comprehensively identify its TF risk.

1.1.2. Country's Risk Assessment & Scoping of Higher Risk Issues

44. Dominica commenced its first NRA in 2016 and concluded it in the 1st quarter of 2020. The length of the NRA was impacted by Hurricane Maria, which hampered the timely completion of the risk assessment activities. An NRA technical working group (TWG) was established and included both public and private sector participation. The assessment was aimed at identifying, assessing and understanding the ML/TF threats and deficiencies in the ML/TF regime. The National ML/TF risk assessment tool used was by the World Bank (WB), consisting of seven modules. The FIU was the lead coordinating agency that reported to the National AML Advisory Committee (NAMLAC). The 2020 NRA identified ML as medium-high and TF as low in the jurisdiction. The overall ML/TF risk to the jurisdiction is deemed medium.
45. In identifying the issues for increased focus during the onsite, the assessment team (AT) reviewed material submitted by Dominica on its ML/TF risks, publications and credible open sources of information focussing on the high-risk and most vulnerable sectors.

Higher Risk Issues

46. ***Money Laundering and Confiscation related to Drug Trafficking⁶ ⁷ and Firearm Trafficking⁸***: Drug and firearms trafficking were rated high in the NRA and have been identified among the primary predicate ML offences and significant drivers of ML activities in the jurisdiction. Dominica's geographical location and porous borders create an avenue for the transshipment of narcotics, firearms and ammunition to neighbouring islands, North America and Europe. Further, LEAs have identified ML trends in high-level euro and money transmissions between Dominica and the two French islands of Martinique and Guadeloupe, which both transact in Euro, and large money transmissions between Dominica and Martinique, Guadeloupe and St. Vincent and the Grenadines, with large outflows to France, St. Vincent and the Grenadines and Colombia. These offences predominantly emanate from the two neighbouring French islands. As indicated in the NRA, both drug and firearm trafficking activities show an increasing and stable trend. The AT focused on the effectiveness of LEAs ability to identify, investigate, prosecute, and confiscate the proceeds from drug and firearms trafficking and the preventive measures employed.⁹ The effectiveness of international cooperation involving LEAs was also evaluated, given the transnational nature of drug and firearms trafficking.
47. ***Citizenship by Investment Programme (CBIP)***: Dominica established the CBIP in 1993 to boost foreign investments on the island. The CBIP plays an important role in the island's economy, accounting for 29.5 per cent of GDP and generating approximately USD165.769 million (XCD448 million) in revenue.¹⁰ Applicants can contribute a minimum of USD100,000

⁶ Specifically, Drug Trafficking refers to possession with intent to supply cannabis and cocaine.

⁷ Annual Report of the Dominica Alcohol and Drug Information Network 2018. <http://www.cicad.oas.org/oid/pubs/DADIN%20Report%202018.pdf>

⁸ Firearms Trafficking in relation to the possession of an unlicensed firearm, possession of ammunition and trafficking in firearms.

⁹ Global Financial Integrity. Financial Crime in Latin America and the Caribbean: Understanding Country Challenges and Designing Effective Technical Responses, GFI, 2021. <https://gfintegrity.org/report/financial-crime-in-latin-america-and-the-caribbean/>

¹⁰ International Monetary Fund. Western Hemisphere Dept, 2022. "Dominica: 2021 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Dominica." <https://www.elibrary.imf.org/downloadpdf/journals/002/2022/040/002.2022.issue-040-en.xml>

to the Economic Diversification Fund (EDF) for a single person or invest in designated real estate valued at least USD200,000.¹¹ While used for legitimate reasons, given its international nature, this type of programme is vulnerable to ML/TF risks. Dominica has not conducted an ML/TF risks assessment of the CBIP for the review period.¹² The AT focused on the preventive measures in Dominica, including the due diligence conducted on applicants, agents and promoters to mitigate the risk of the program, as well as permitted jurisdictions who can apply for citizenship.

48. **Corruption:**¹³ Corruption, including bribery, embezzlement, trading in influence and abuse of official functions, are major threats to stability and security worldwide. Global Financial Integrity, a DC-based think tank focused on transparency and illicit financial flows, has rated corruption as the biggest issue for Dominica behind ML. There is one case of public corruption before the courts, and charges have been laid in relation to immigration fraud, abuse of official functions and bribery of public officials. The Integrity in Public Office (IPO) is Dominica's primary agency for anti-corruption issues. At the time of the NRA, the IPO lacked the investigative and enforcement capacity required by the UN's Convention Against Corruption (UNCAC), and the UNCAC report was not fully implemented. Whilst the assessors note that corruption was risk-rated medium-low in the NRA, it is a high threat, and the IPO did not have adequate powers at the time of the NRA. The AT focused on the measures taken by Dominica to mitigate the ML risks associated with corruption and address deficiencies associated with PEPs, including the efficacy of LEAs and the prosecutorial sector.
49. **Financial Sector:** The NRA rated banks, credit unions, and insurance and MSBs as the most important financial sectors of the economy based on their level of importance and risk profile. Three domestic banks and one development bank¹⁴ provide banking services and financing to their customers on the island. In terms of vulnerability, the NRA deemed this to be a high ML threat sector due to the volume and cross-border nature of the transactions. Further, investigations by LEAs in collaboration with foreign counterparts have confirmed that the sector is being utilised for ML. The NRA notes that there are MSB transactions from drug-producing countries, such as St. Vincent and the Grenadines, Panama, Lebanon, Colombia and Venezuela; with significant cross-border transactions being transmitted to and from Colombia, St. Vincent and the Grenadines, Panama and France (including Martinique and Guadeloupe). Additionally, the unregulated sectors were rated high risk for ML, while all other regulated sectors were rated medium to medium-high, except for insurance which was rated low. The FSU supervises all FIs except for domestic banks and securities firms which are regulated by

¹¹ Citizenship by Investment Programme website. <https://cbiu.gov.dm>

¹² Residence/Citizenship by investment - Organisation for Economic Co-operation and Development (oecd.org)

¹³ During the scoping exercise of the mutual evaluation, prior to the onsite visit, the assessment team scoped corruption as a high-risk issue; however, during the onsite based on interviews conducted with both the private and public sector officials, the assessment team identified that Dominica has measures in place to mitigate corruption through the Integrity Commission and the police., only having one case of corruption before the court. From interviews, it was noted that the CAs and LEAs work together to mitigate corruption as a practice further. As such the AT concluded Dominica as having relatively low levels of domestic corruption. To this, the team de-prioritised the scope of corruption from a high-risk issue to a lower-risk issue.

¹⁴ Although the AT included the one development bank as a higher risk issue when scoping the banking sector in Dominica, during the assessment, the team noted that the development bank in Dominica was in fact rated low-risk by the FSU and is not a significant contributor to GDP. The AT further assessed that the development banks risk profile is also low risk considering the nature of its operations being solely lending products and repayments through salary deductions. As such the assessment team de-prioritised the scope of the development bank from a high-risk issue to a lower-risk issue.

the ECCB and ECSRC, respectively. The ECSRC is a body responsible for the regulation of the securities market, exchanges, persons engaged in the securities business and the public issue of securities within ECCU member countries. The AT focused on the extent of the FSU's and ECCB's AML/CFT supervisory framework with an increased focus on sectors that pose higher ML/TF risks: MSBs and Banks.¹⁵ The team also evaluated the preventive measures implemented to mitigate ML/TF risks.

50. **Designated Non-Financial Business & Professions (DNFBPs):** The NRA has identified DNFBP sectors as vulnerable to ML activity. In particular, sectors rated with medium vulnerability included attorneys (medium-high), accountants (medium-low) and real estate (medium-low). Based on investigations, law firms and attorneys were suspected of disguising the true origins of the funds in client-based activities, and real estate and high-end vehicular assets were identified in civil recovery ML matters before the court. All agents were rated high in the NRA due to their non-compliance with AML/CFT obligations. Additionally, the NRA indicated AML/CFT deficiencies within these sectors, namely a lack of effective entry controls, a limited understanding of AML/CFT obligations and a lack of effective oversight activities. Further, while the FSU has been the designated AML/CFT supervisor of DNFBPs since 2011, the NIAP indicates that the FSU's supervisory examination schedule for DNFBPs was formulated in October 2021. Therefore, assessors focused on the comprehensiveness of the FSU's risk-based supervisory framework and the preventive measures for medium to high-risk DNFBPs, namely attorneys, accountants and real estate.
51. **Misuse of Legal Persons & Legal Arrangements and the availability of Beneficial Ownership Information:** The International Business Companies (IBC) sector was dissolved on 1st January 2022 following the repeal of the International Business Companies Act in 2021, where IBCs were allowed to convert and register as domestic companies before the date of repeal, be continued elsewhere or were voluntarily struck off. Although the IBC Act has been repealed, there has been no ML/TF risk assessment of legal persons in Dominica to date. IBCs in Dominica were linked to fraud, embezzlement, ML, and other financial crimes prior to dissolution. Therefore, the assessment team focused on the current risks of formerly registered IBCs. In addition to evaluating the Companies Act and related legislation, companies are not under a general legal obligation to disclose BO information. Consequently, assessors evaluated the measures to obtain and hold BO information for legal persons and arrangements in Dominica.

Emerging Issues

52. **Virtual Assets (VA) and Virtual Asset Service Providers (VASPs):** In June 2022, Dominica enacted domestic legislation which governs the registration, licensing and supervision of VAs and VASPs. The FSU's website lists supervised entities operating within the jurisdiction that offer VASP services. However, the country has not conducted a VASP ML/TF risk assessment or provided details on the materiality of this sector. In addition, investigations by Asset Recovery Interagency Network of the Caribbean (ARIN-CARIB) and the Dominica's FIU identified a former IBC company registered in Dominica which defrauded individuals of

¹⁵ Except for the Development bank which was rated low risk by the FSU.

significant funds through its online cryptocurrency platform.¹⁶ Therefore, assessors examined the scope and perceived risks of this emerging activity and the actions the CAs took to identify VASP activities taking place in Dominica.

Lower Risk Issues

53. **Non-Profit Organisations (NPOs):** According to the NRA, NPOs accounted for less than 1.02 per cent of GDP XCD9.26M/USD3.43M in 2019. Approximately 672 NPOs were incorporated with the CIPO and registered with the FSU, the Trust and NPO supervisor as of June 2022. While the FSU has reviewed registered NPOs and determined them to be low risk for ML/TF, to date, the NPO sector has not been: i) subject to any ML/TF risk assessments, or ii) subject to enforcement actions, nor has sector-specific outreach been conducted. As such, the AT focused on efforts used to identify those NPOs at potentially higher risk for TF and risk-based monitoring of those entities as well as the adoption of AML/CFT supervisory mechanisms.
54. **Terrorist Financing (TF):** The NRA has indicated that the threat of TF is low in Dominica. In 2021, Dominica was ranked as the country with the second lowest Latin America index for ML/TF¹⁷. Trinidad and Tobago, a country in close proximity to Dominica with a higher risk of terrorism, was considered during the NRA as part of the TF threats to Dominica and there were found to be no known connections to terrorist links in that country. There are no records of any terrorist attacks or activities, either planned and executed within Dominica or planned in Dominica and executed in another jurisdiction. However, STRs received by the FIU link MSB transactions to cross-border TF activity. Therefore, the AT focused on the extent of Dominica's TF risk analysis, current TF risks and CFT strategy, including the implementation of TFS.

1.2.Materiality

55. Currently, the main drivers of Dominica's economy are agriculture, eco-tourism, and the CBIP. Agriculture contributes approximately 20.25 per cent to GDP, while the CBIP represents 30 per cent of GDP. According to ECCB statistics, the banana industry contributed some 4.98 per cent to GDP and other crops 13.85 per cent in 2021. Other major contributors to the Dominican economy are wholesale and retail 11.33 per cent, transport storage and communications 13.44 per cent, financial intermediation 11.57 per cent, and public administration, defence and compulsory social security at 12.63 per cent. The last 2021 IMF country report indicated that an estimated 46 per cent of the Dominican economy was informal. Informality includes all economic activities that are hidden from official authorities. The IMF indicates that this is difficult to measure by nature. The unregulated sectors are part of the informal economy which was rated high risk for ML, and the cash-based nature of these activities can affect economic viability.
56. Porous borders facilitate the transshipment of narcotics to North America and Europe and illicit activities. Huckstering is a conduit for the co-mingling of criminal proceeds from the sale of

¹⁶ Dominica's Effectiveness Questionnaire, Case example-06, p. 34.

¹⁷ Basel AML Index 2021: 10th Public Edition Ranking money laundering and terrorist financing risks around the world. [Basel AML Index 2021 | Basel Institute on Governance \(baselgovernance.org\)](https://www.baselgovernance.org/)

agricultural products to Guadeloupe and Martinique French markets. Persons of interest in the drug trade have established a large volume of cash intensive businesses which pose as legitimate entities serving to launder ill-gotten gains. In the retail business sector, known drug dealers and/or their associates are the proprietors of small bars, entertainment businesses or restaurants and operate as fronts for the laundering of criminal proceeds. The initial capital outlay for these businesses is funded primarily from the proceeds of drug sales.

57. Dominica is not considered a company formation or regional financial centre. Offshore and development banks, credit union and securities comprise of 8.42 per cent of GDP. Dominica has a total of three domestic banks operating within the sector with an asset size of USD2.3 billion. Additionally, a total of six credit unions operates within the sector with an asset size of USD333.2 million. Auxiliary financial services MSBs (Class A), Pay Day Advances (Class E) contributed USD0.52 M to GDP (2019). Operating within the insurance sector are 16 insurance companies; four life insurance companies, two composite (general and life) and the remaining ten companies offer general insurance services. The sector contributed USD4.39 M to GDP and the asset size amounts to USD95.3 M. Of the DNFBPs, wholesale and retail sectors, including car dealerships and jewellers, are the largest contributors at 16.27 per cent of GDP or USD54.68 million. Conversely, in 2019 DNFBPs contributed less than 2 per cent to GDP.

1.3. Structural Elements

58. Dominica has all the key structural elements required for an effective AML/CFT system, including political and institutional stability, governmental accountability, the rule of law, and a professional and independent legal profession and judiciary. The independence of the judiciary is premised on the separation of powers, principles of natural justice and procedural fairness in the judicial process. Dominica has a total of 24 attorneys with prescribed activities falling under Part II of the Schedule of the MLPA. Registered Agents consist of 12 entities as of 31st December 2021, where services related to the now dissolved IBC sector were provided by Attorneys at Law.
59. Dominica has exhibited political and institutional stability which demonstrates a high level of commitment to addressing AML/CFT concerns. The AML/CFT framework in Dominica is made up of the following: the NAMLAC, IRD, the AG, the Financial Secretary, DPP, FIU, CDPF, Customs, CIPO, FSU, ECSRC, and the ECCB. The ECCB is the monetary authority having prudential and AML/CFT regulatory oversight¹⁸ for domestic banks in Dominica with the objective of promoting, regulating, and maintaining financial stability.

1.4. Background and Other Contextual Factors

60. Dominica has been vulnerable to environmental and other external factors such as Hurricane Maria in 2017 (from which the island is still recovering) and the Covid -19 pandemic at the beginning of 2020. Both events have hindered Dominica's ability to effectively carry out the proper implementation of the country's AML/CFT measures. In particular, the FSU's responsibility is to provide comprehensive AML/CFT oversight to regulated entities. The onsite

¹⁸ [Eastern Caribbean Central Bank Anti-Money Laundering and Combating the Financing of Terrorism Risk Based Supervision Framework](#)

schedule of inspections of regulated entities was severely affected during this period. Throughout this period, the FSU and the FIU could not continuously provide AML/CFT training and outreach to the sectors due to the national protocols observed during both events. Also, there was a decline in the reporting of the STRs by regulated entities due to COVID-19 lockdown requirements; as such, the LEAs were not able to proactively investigate disseminations from FIU.

61. Additionally, the structure of the CAs remains a concern as the jurisdiction has identified a lack of human resources within the LEAs and the Supervisory Authority, namely the FSU. All the factors mentioned have contributed to the hindrance and ability to effectively conduct their respective roles and responsibilities within the AML/CFT regime in the jurisdiction.

1.4.1. AML/CFT strategy

62. Dominica's strategy for managing its AML/CFT/CPF is based on the findings of the 2020 NRA. Dominica has developed an (i) National AML/CFT/CPF Policy, (ii) a National AML/CFT/CPF Strategy and (iii) NIAP. The AML/CFT/CPF strategy defines the AML/CFT/CPF strategic priorities for 2019 to 2024. The AML/CFT/CPF strategy aims to effectively address the shortcomings in the jurisdiction's AML/CFT/CPF framework.
63. The AML/CFT/CPF Strategy is predicated on four overarching pillars. These pillars are (i) regular reviews of the jurisdiction's AML/CFT/CPF framework to maintain compliance with the international standards; (ii) an annual NRA to ensure that Dominica's risk is thoroughly identified and appropriate countermeasures are implemented; (iii) effective application Supervisory Technology (SupTech) tools and processes to ensure that all regulated entities are subjected to effective supervision by the supervisory authority; and (iv) enhanced capacity, collaboration and coordination and appropriate training of key CAs.
64. In addition to the AML/CFT/CPF Strategy, Dominica formalised and implemented the NIAP. The NIAP is aimed at detailing critical recommendations designed to remedy the identified deficiencies in the NRA. The NIAP serves as the jurisdiction's corrective action plan, with identification of key institutions with responsibilities for the implementation of recommendations and the creation of set timelines for the completion of necessary tasks (*departmental policies and resourcing*) to effectively address shortcomings in the AML/CFT/CPF framework.

1.4.2. Legal & institutional framework

65. The principal laws relevant to Dominica AML/CFT systems:

Table 1.1. Legislative Framework

Title of Legislation	Purpose
Proceeds of Crime Act Chapter 12:29 (POCA)	Sets the legal framework for the forfeiture or confiscation of the proceeds of crimes and connected matters.
AML/CFT Code of Practice (Code)	Provides the outline of the relevant requirements of the drug (prevention of misuse) Act, the POCA, the Financial Intelligence Unit Act (FIUA), the Money Laundering (Prevention) Act (MLPA), and Regulations made thereunder, and the Suppression of the Financing of Terrorism Act (SFTA), with respect to the detection and prevention of money laundering and terrorist financing and to ensure that every entity and professional puts in place appropriate systems and controls to detect and prevent money laundering and terrorist financing.
Money Laundering (Prevention) Act (MLPA) (Chapter 73:03 and subsequent amendments)	Establishes the criminal offence of money laundering and provides for the prevention of money laundering and for related matters.
Money Laundering (Prevention) Regulations (MLPR) (S.R.O. 4 of 2013 and subsequent amendments)	Provides guidance for regulated entities to ensure they meet appropriate systems and control requirements.
Suppression of the Financing of Terrorism Act Chapter 73:04 (SFTA) (And subsequent amendments)	Establishes a criminal offence of terrorist financing and a legal framework for implementing targeted financial sanctions.
Financial Services Unit Act Chap 63:04 (FSUA) (And subsequent amendments)	Provides the legal basis for financial sector regulation and supervision and sets out the financial sector's basic AML/CFT obligations.
Financial Intelligence Unit Act Chap 63:03 (FIUA) And subsequent amendments)	Provides the legal basis for the FIU and their responsibilities relating to the receipt, request for, analysis of, investigation of and dissemination of information concerning all suspected proceeds of crime and suspicious transactions and information relating to the property of terrorist groups and terrorist financing.

66. The agencies responsible for the formulations and implementation of Dominica AML/CFT system or regime are:

- a) **The National AML and Suppression of Terrorist Financing Advisory Committee (NAMLAC):** The NAMLAC was established under section 15 (1) of the MLPA, section 9A of the SFTA and section 60A of the POCA. NAMLAC was established for the general oversight of the AML policy of the government and to coordinate actions to assess the national ML/TF/PF risks. Members of NAMLAC's Advisory committee are the AG (Chairman); the FS (Deputy Chairman); the Director of the FSU; the Director of the FIU; the Chief of Police; the Comptroller of Customs; the Comptroller of Inland Revenue; the DPP; a representative of the ECCB and a representative from the ECSRC. NAMLAC is supported by the TWG consisting of technical officers from the various CAs mentioned above, with the FIU Director serving as the Chairman.
- b) The **Attorney General (AG):** is the Central Authority in Dominica for MLAs requests and extradition requests. In addition, the AG is the competent authority for the civil recovery of recoverable property under Part IIIA of POCA as well as the competent authority for proposing persons for classification.

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- c) The **Director of Public Prosecution (DPP)**: is responsible for instituting or undertaking any criminal matter for and on behalf of the State against any person or authority and matters relating to ML/TF.
 - d) The **Financial Intelligence Unit (FIU)**: is responsible for receiving, requesting, analysing, investigating and disseminating information concerning all suspected proceeds of crime and suspicious transactions and information relating to the property of terrorist groups and terrorist financing and related duties.
 - e) The **Commonwealth of Dominica Police Force (CDPF)**: the CDPF is established under the Police Act and is responsible for preventing crimes and investigating all criminal activities in Dominica.
 - f) The **Financial Services Unit (FSU)**: established under the MLPA as the Money Laundering Supervisory Authority (MLSA) for AML/CFT Regulations and supervision for FIs and persons carrying a scheduled business.
 - g) The **Eastern Caribbean Central Bank (ECCB)**: the ECCB is the central bank for the Eastern Caribbean Currency Union, which includes the Commonwealth of Dominica and is the prudential supervisor for licenced financial institutions) under the Banking Act, 2015 as amended. Section 7(2) of the MLPA establishes the ECCB as the MLSA of licenced financial institutions (FIs- domestic banks).
 - h) The **Eastern Caribbean Securities Regulatory Commission (ECSRC)**: the ECSRC is an independent, autonomous regional regulatory body established by agreement (The Eastern Caribbean Securities Regulatory Commission Agreement) on 19th October 2001. The ECSRC is the sole regulator of the Eastern Caribbean Securities Market (ECSM). The ECSRC is designated to regulate and supervise securities firms in Dominica.
 - i) The **Customs and Excise Division (CED)**: the designated law enforcement authority in relation to customs and excise offences. The CED is charged with collecting and protecting revenue and monitoring cross-border activities, including the illicit drug trade and other proceeds of criminal activities.
 - j) The **Inland Revenue Department (IRD)**: is responsible for administering and ensuring compliance with tax laws in Dominica.
 - k) The **Companies and Intellectual Property Office (CIPO)**: CIPO was established under Part II of the Patent Act, Chapter 78:40. CIPO is the national companies and intellectual property registry for the Commonwealth of Dominica. CIPO is responsible for administering legislations, registering and keeping records in relation to intellectual property, companies and business names.
 - l) The **Integrity in Public Office (IPO)**: the IPO was established pursuant to the Integrity in Public Office Act, Chapter 23:04. The IPO receives, retains and examines all declarations filed with it, make such enquiries as it considers necessary in order to verify or determine the

accuracy of any declaration filed with it; inquiries into any allegation of bribery or act of corruption under the Act; and receives and investigates complaints regarding non-compliance with provisions of the Act.

1.4.3. Financial sector, DNFBPs and VASPs

67. This section gives general information on the size and makeup of the financial sector, DNFBPs and VASPs sectors in Dominica. Dominica is not a company formation centre, regional or international financial centre, and the AT ranked sectors based on their level of importance in Dominica's context, given their respective materiality and level of ML/TF risks. The sectors are divided into highly important, moderately important and least important.

Table 1.2. Financial Sector Type, Number of entities and weight

Financial Sector	Number of Entities	Sector Weight
Domestic banks	3	Highly Important
Offshore Banks	19	Highly Important
Money Service Businesses	3	Highly Important
Credit Unions	6	Highly important
Offshore Banks offering VASP services	3	Moderately Important
Building and Loans	1	Least important
Development Bank	1	Least important
Payday Advances	6	Least important
Insurance ¹⁹	16	Least important
Trust	0	N/A
Securities	0	N/A

68. Banks, MSBs (Class A) and Credit Unions were considered to be **highly important** by the assessors; this was based on the following factors:
69. **Banking Sector:**²⁰ The banking sector contributes approximately 13.13 per cent% to the jurisdiction's GDP. Dominica's banking sector is weighted as a highly important sector based on the materiality, risk, customers, products and services offered and its contribution to the GDP. The banking sector consists of three domestic banks and 19 offshore banks. In the 2020 NRA, the ML threat to the banking sector in Dominica was rated medium-high. Some of the threats identified in the banking sector included employee abusing positions to facilitate the integration of proceeds of crime and other predicate offences such as fraud and theft.
70. **Money Service Businesses (Class A):** There are two MSBs (Class A) which are domestic agents of reputable international companies operating MSBs in Dominica. St. Vincent and the Grenadines, Panama, Haiti, Colombia, Venezuela and France (including Martinique and Guadeloupe) were some of the main destinations for outgoing funds transfers. The MSBs'

¹⁹ Life insurance (5), General insurance (12), Agents & brokers (5)

²⁰ Excluding of the development bank which is less important.

- contribution to GDP is 0.15 per cent. The MSBs (Class A) threat to Dominica was rated as high.
71. **Credit Unions:** A total of six credit unions operate within the sector in Dominica, with an estimated asset size of XCD900.62 million (USD3,312,598M) as of 31st December, 2019. Membership in the credit unions is restricted to Dominican nationals and international wire transfers are excluded from transactional activity. The NRA assessed the ML threat to the Credit Union sector as medium-high.
 72. Banks offering digital crypto services (VASPs) were considered to be *moderately important* based on the factors such as products and services offered, materiality, risk and contribution to GDP:
 73. **Virtual Asset Service Providers (VASPs):** This is an emerging sector with potential inherent risks to the business, including cross-border activity, non-face-to-face dealings, and possible anonymity. At the time of the onsite, Dominica did not conduct an ML/TF risk assessment of the sector which has increased its importance. Currently, the sector is still small, and was in the process of being registered. Seven offshore banks and one standalone individual applied for a license to provide VASP products/services at the end of the onsite. After a provisional registration period, of those eight entities, the FSU granted three offshore banks VASP licences. The one standalone individual was trading in digital currencies in a personal capacity and the rest had not commenced the offering or operating of virtual asset business and were not granted licensing approval.
 74. Insurance, building and loans, development bank, and MSBs (Class E) were considered *least important* based on the products and services offered and ML/TF risks.
 75. **Insurance Sector:** In 2019, the asset size of the insurance sector totalled XCD257,593,000 million (USD94,811,365.M), with a contribution of 1.31 per cent to GDP. In Dominica, the insurance sector comprised 16 insurance companies as of December 2020, with five life (long term), 12 general companies and five agents and brokers. The ML threat for the insurance sector in Dominica was rated low, given the size of the sector and the products offered.
 76. **Building and Loans:** Dominica has one building society that provides services to members such as mortgages, purchasing of real estate, and deposits which members apply towards shares within the society. The activities in this sector are not significant.
 77. **Development Bank:** Dominica has one development bank that provides only lending products to the public with salary deductions as the only repayment method. The activities under the bank are not significant.
 78. **Money Service Business (Pay Day Advance – Class E):** There are six payday lenders in Dominica. The direct contribution to GDP was not available. At the time of the NRA, the estimated asset size of the sector totalled XCD24,576,357/USD9,045,734. Payday lenders do not engage in any international transactions or services. They have predominantly a domestic customer-based specialising in lending for public government agencies. The activities in this subsector of the MSBs sector are of least importance.

Table 1.3. DNFBP Sector Type, Number of entities and weight

DNFBP Sector Type	Number of Entities	Sector Weight
Registered Agents	12	Moderately Important
Attorneys	24	Moderately Important
Real Estate Agents	11	Moderately Important
Accountants and Auditors	5	Least Important
Dealers in Precious Metal and Stones	5	Least Important

79. Attorneys, registered agents and real estate agents were considered to be ***moderately important*** based on factors such as products and services offered, materiality, risk and contribution to GDP.
80. **Registered Agents:** Attorneys conduct the role of registered agents in Dominica. The business activities of Registered Agents include the registration and incorporation of IBCs, and the management of IBC data. The registered agents' sector in Dominica consists of 12 entities as of 31st December 2021. The NRA deemed the inherent vulnerability of this sector to be high due to the low levels of compliance within the sector and nexus to IBCs. On 1st January, 2022, the IBC sector was dissolved, and its activities were not significant. However, the sector was weighted moderate due to the low levels of AML/CFT oversight, compliance with AML/CFT obligations by Attorneys and AML/CFT deficiencies among registered agents which existed during the period of review.
81. **Attorneys:** Dominica has a total of 24 attorneys which fall under Part II of the Schedule of the MLPA. In this context, attorneys' business activities include the buying and selling of real estate, managing client money, securities or other assets, managing bank, savings or securities account, organisation of contributions and the creation, operation or management of legal persons or arrangements. The inherent vulnerability level was deemed medium-high due to the activities in the sector, which included their involvement in large monetary transactions, complex transactions, non-face-to-face transactions, and implication in unscrupulous behaviours such as disguising the true origins of the funds in client-based activities.²¹ However, these activities were linked to the IBCs, and since the NRA, this service offered by attorneys has been discontinued.
82. **Real Estate Agents:** At the time of the onsite, Dominica had 11 real estate agents registered in the jurisdiction. The real estate sector contributed 1.93 per cent to the GDP as of 31st December, 2021. Most real estate transactions are mortgaged through the bank; there are one-off real estate transactions by foreign nationals, with a minority exercising the option to acquire real estate through the CBI programme. The inherent vulnerability of this sector was deemed medium-low, which was due to a lack of effective oversight by the supervisory authority.

²¹ The Commonwealth of Dominica AML/CFT/CPF National Risk Assessment Report 2020, pg. 54 and pg. 90.

83. Accountants and auditors, and dealers in precious metals and stones were considered ***less important*** based on the products and services offered, the sector's low contribution to GDP and ML/TF risks.
84. ***Accountants and auditors:*** In Dominica, accountants and auditors are solely grouped as having similar activities, namely taxation, audits and accounting services. The client base consists of micro to medium size business clients. The ML vulnerability rating was deemed medium-low. From the onsite visit, it was noted by the assessors that the accountants and auditors in Dominica are providing services that fall outside the scope of the FATF requirements.
85. ***Dealers in precious metal and stones (DPMS):*** In Dominica, there are five DPMS in operation. DPMS are retail-based family-owned entities. The sector's contribution to GDP was not available. The sector was not considered in the ML/TF threat analysis since no data showed any activities within the sector to suggest an ML/TF threat. However, these entities were given an inherent rating of medium due to the lack of AML/CFT controls in the sector.
86. Trust and Securities were not rated in the NRA and considered the least significant as no licensees are operating in the jurisdiction.

1.4.4. Preventive measures

87. Dominica's preventive measures are set out in primary legislation and statutory instruments (please refer to table 1.1), which demonstrate an evolving legislative framework extending to the full range of licensed FIs, DNFBPs and VASPs in satisfying the requirements of the FATF Standards. The MLPA, SFTA, the Code and POCA are the main legal basis of AML/CFT obligations on FIs and DNFBPs in Dominica. The recent enactment of the Virtual Asset Business Act in June 2022 brings virtual asset business within the ambit of the Code of Practice and includes the identification, assessment, management, and mitigation of ML/TF risks for VAs and VASPs. NPOs are captured under the Trust and Non-Profit Organisations Regulations, S.R.O. 11 of 2014 and the S.R.O. subjects NPOs to regulatory obligations under the Code of Practice. At the time of the onsite visit, Dominica enacted legislative amendments to address deficiencies identified in the 2020 NRA and legislative framework.

1.4.5. Legal persons and arrangements

88. The process of establishing a legal person in Dominica is guided by the Companies Act Chapter 78:04 and the Registration of Business Names Act, Chapter 78:46 and Regulations. Dominica recognises a range of legal persons which may be incorporated namely, Private Limited Liability Companies, Public Limited Liability Companies, Non-Profit Companies and External Companies. Pursuant to section 340 (1) of the Companies Act, a company that is incorporated outside of Dominica but registered in Dominica, cannot begin or carry-on business in Dominica until it is registered under the Companies Act.
89. Regulation 6 (1) of the Trusts and Non-profit Organisations Regulations, under the POCA, has designated the FSU as the Trusts and NPO Supervisor and as custodian of a register of trusts and NPOs. Trusts are recognized in Dominica. However, Dominica does not have a register of trusts as there are no trusts in the jurisdiction.

90. The ML vulnerability of the IBC sector led to repeal of the IBC Act governing their establishment, effective 1st January, 2022. Due to this repeal, IBCs were afforded the opportunity to convert to a domestic company prior to the date of repeal, continue elsewhere, or voluntarily dissolve. During the review period, 3,581 IBCs were struck off by the Registrar for non-compliance prior to the repeal of the IBC Act. There are no IBCs that are external companies. Additionally, there are IBCs which have been converted to domestic companies.

1.4.6. Supervisory arrangements

91. The MLPA no.6 of 2020 has made the ECCB the supervisory authority for domestic banks in Dominica. ECCB's regulatory framework is governed by the ECCB Act Chap 74:01, the Banking Act Chap 73:01 and the AML/CFT/CPF legislative framework of Dominica. Additionally, the ECCB Agreement Act, 1983 and its amendments, which under Article 3 paragraph 2 (e) of the ECCB Agreement Act gives the ECCB the power to "regulate banking business on behalf of and in collaboration with participating governments".
92. The ECSRC is a body responsible for the regulation of the securities market, exchanges, persons engaged in securities business and the public issue of securities in the member territories. The ECSRC is empowered as a Supervisory Authority under the POCA (as amended in 2022) to supervise and monitor Securities for AML/CFT requirements under the Code and to address breaches. The ECSRC has the authority to restrict or suspend a FI's license, impose civil penalties and prohibit individuals from managing a relevant FI due to breaching the Securities Act or where a securities-related offence has been committed.
93. The MLPA has established the FSU as the Money Laundering Supervisory Authority (MLSA) for the 17 sectors of FIs and persons carrying on scheduled businesses. The FSU is responsible for risk rating sectors and entities, conducting onsite and offsite supervision and providing outreach to regulated entities. NPOs are captured under the Trust and Non-Profit Organisations Regulations (TNPOR), S.R.O. 11 of 2014 which designates the FSU as the Trust and NPO Supervisor. The S.R.O. subjects NPOs to regulatory obligations under the Code of Practice which is administered by the FSU and the ECCB. Draft NPO procedures are currently being developed, which on completion will provide enhanced cooperation and information sharing between the IRD, CIPO and the FSU. The FSU requires access to data on the number of NPOs incorporated by CIPO and the correlation of that data with the IRD.

1.4.7. International cooperation

94. Dominica is located between two French islands; Martinique and Guadeloupe and is exposed to transnational ML/TF risks, mainly from drug trafficking. Although the jurisdiction is not a financial centre, based on its location, LEAs have identified ML trends in high-level euro and money transmission businesses transactions between Dominican nationals and the two French islands with outflows to France, St. Vincent and the Grenadines and Colombia.
95. Mutual legal assistance (MLA) falls under the purview of the Central Authority which is responsible for the receipt, coordination and management of the dissemination of incoming and outgoing MLA requests. Mutual legal assistance is regulated pursuant to the Mutual Assistance in Criminal Matters Act Chap 12:19 (MACMA). The MACMA governs incoming

and outgoing requests and provides for mutual assistance to both Commonwealth and non-Commonwealth countries.

96. The jurisdiction has signed the Caribbean Treaty on MLA in Serious Criminal Matters in 2017 which aims to increase cooperation in MLAs among Caribbean countries. Dominica has a Mutual Legal Assistance in Criminal Matters Treaty with the USA, signed in October 1996 and signed the CARICOM Arrest Warrant Treaty on 5th July 2017 and is in the stages of ratification of the said Treaty.
97. Other forms of international cooperation are conducted by the FIU, CDPF, IRD. The FIU has Egmont membership. Representatives of the FIU and the Chambers of the Attorney General are members of ARIN-CARIB, established in November 2016. For the IRD, the exchange of information is a key element in international cooperation and ensures the correct allocation of taxing rights between States and that States can enforce their own tax laws. Section 50 of the Income Tax Act makes provision for the International Agreement for the avoidance of Double Taxation. Currently, Dominica has signed and ratified nine Double Taxation Treaties with Antigua and Barbuda, Belize, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago.

Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key findings

Immediate Outcome 1

- a) Dominica completed its first ML/TF NRA in 2020 and has a reasonable understanding of its ML risks, with the primary risks related to drug trafficking, the possession and trafficking of firearms and ammunition, fraud/ATM scams, theft and burglary, and the most vulnerable sectors being MSBs and unregulated cash-intensive businesses (specifically hucksters, car rentals, entertainment and the retail sectors). Vulnerabilities in the CAs were identified in relation to human resource and financial capacity challenges at the FSU, DPP and the FIU, lack of a specialized terrorism unit within the CDPE, and a lack of AML/CFT/CPF training of FSU supervisory staff. Dominica's understanding of TF risk is fair due to the inability to obtain cross-border cash information for some jurisdictions, and a lack of analysis of NPOs, VASPs, legal persons and the CBI programme.
- b) Post-NRA, to address some of the existing gaps, the country conducted a preliminary analysis of the NPO sector, reinforced the controls within the CBI programme, conducted an assessment of identified VASPs and closed the IBC sector (a sub-set of legal persons).
- c) A national understanding of risk is still evolving. CAs, FIs and DNFBPs which were involved in the NRA have a good appreciation of Dominica's ML risk and national vulnerabilities. However, the dissemination of the NRA in April 2022 has affected the level of understanding for other institutions, with FIs having a higher level of understanding than DNFBPs.
- d) At the national level, a policy, strategy and NIAP to address ML/TF risks were developed and implemented. Strong cooperation and coordination were demonstrated by the CAs, in partnership with the private sector, in adoption of the country's AML/CFT regime. The commitment expressed by government officials and agencies will aid in enhancing the ML/TF/PP framework.

- e) Dominica's legislative framework does not capture exemptions, however, there are provisions for CDD and EDD measures. The country has not used the results of the NRA to support the application of EDD for higher risk and CDD for lower risk situations.
- f) In relation to the risks, the national policy and strategy did not adequately address the measures to be adopted to mitigate the threats, sectoral vulnerabilities and ML risks identified in the NRA. In this context, most action items identified were aimed at addressing vulnerabilities within the countries' CAs, which were also a part of the NRA results.
- g) The objectives and activities of the CAs are consistent, to some extent, with the evolving national AML/CFT policies and identified ML/TF risks.
- h) Dominica has a strong framework in relation to national coordination and cooperation for AML/CFT. The CAs have demonstrated coordination and cooperation for both policy and operational measures to address AML/CFT deficiencies and risk identified.
- i) The private sector was widely involved with the NRA exercise and CAs conducted considerable NRA sensitization meetings and disseminated the NRA's executive summary and sectoral portions via email and through the FSU's website. Members in the private sector that were involved in the NRA, had a good understanding of ML/TF risk consistent with the NRA's findings. Many FIs have integrated the NRA results into their AML/CFT programme and updated their ML/TF risk assessments. FIs that did not participate in the NRA, have less ML/TF risk awareness and some DNFBPs were unaware of the NRA or its findings.
- j) Delays in the dissemination of the NRA results impacted the private sector in that they were unable to assimilate the results and update their ML/TF risk assessments in a timely manner and have not received the full benefit of ML/TF risk and sectoral awareness due to the time lapse.

Recommended Actions

Immediate Outcome 1

Dominica should:

- a) Improve its understanding of ML/TF risk, with a focus on:
 - i. performing a more detailed analysis of TF risks, including the misuse of NPOs and legal persons by terrorist organisations.
 - ii. ensuring that the NRA and related sectoral risk assessments are updated in a timely manner, using sufficiently broad sources of information, reliable and relevant statistics and ML/TF trends and typologies.
 - iii. comprehensively assessing the risk posed by cross-border flows and the higher risk sectors, inclusive of VASPs and the CBI programme.
 - iv. ensuring that the NRA results and related sectoral risk assessments are shared with regulated entities and the public in a timely manner.
- b) Enhance the national strategy and policies to ensure that ML/TF threats and vulnerabilities, as identified in the NRA are prioritized and aligned with the existing work that is being done through the CAs.
- c) Dominica should develop and implement policies which guide and support the use of enhanced and simplified measures in practice based on the findings of the NRA.
- d) Review the current human and financial resource complement of the CDPF, FIU, FSU and the DPP and ensure that they have the resources required to fulfil their objectives within the NIAP. Additionally, the human resources of the FIU, FSU and the DPP should also be strengthened to be able to fulfil their individual AML/CFT/CPF mandates effectively.
- e) Continue to engage the regulated sector, particularly DNFBPs, on the NRA report findings and provide guidance and information to improve understanding of existing and emerging ML/TF risks.

98. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 2, 33 and 34, and elements of R.15.

2.2. Immediate Outcome 1 (Risk, Policy and Coordination)

2.2.1. Country's understanding of its ML/TF risks

99. Dominica has a reasonable understanding of its ML risks based on its NRA which was completed in the 1st quarter of 2020. There was a delay in the NRA which was partly attributed to the significant loss and hardship caused by Hurricane Maria in 2017. Nonetheless, the multi-agency NRA process was led by the NRA Working Group and executed by NAMLAC's TWG which included a diverse group of stakeholders from the public and private sector.
100. The country utilised the World Bank risk assessment tool and training which provided a robust framework for analysing the ML/TF threats and vulnerabilities affecting the jurisdiction. The NRA identified areas of strengths and weaknesses in the national AML/CFT/CPF framework. Both quantitative and qualitative data was used to populate the World Bank tool. Inputs included questionnaires completed by regulated entities, criminal records, financial databases, interviews with industry experts and national reports from the LEAs. Other sources of information included the national media, court filings and international reports from the US State Department, CIA, UNODC, IMF, Economy Watch, World Bank, FATF and CFATF.
101. The NRA's threats team analysed 18 main ML threats and identified the primary predicate crime of drug trafficking as the highest ML threat in the jurisdiction. Other crimes that posed a high threat were fraud/ATM scams, theft, burglary, the possession of unlicensed firearms and ammunition and trafficking of firearms and ammunition. Information for the NRA's threat and vulnerability assessment was supplied by LEAs, foreign LEA counterparts, supervisors and other government agencies. National ML/TF risks were informed by financial crime data, charts and analysis taken from 2013 to 2018, including investigations, seizures, prosecutions, and convictions related to predicate crimes. Other data included cash inflows/outflows across high-risk sectors including Class A MSBs, ML/TF trends/typologies such as high-value euro transactions, intelligence on illegal transactions and activity related to hucksters, car rentals, car dealers and unregulated cash-intensive businesses. The assessors note that the NRA took car dealers into consideration, they are captured under the FSU's supervisory remit and are also part of Dominica's NIAP with regards to priorities the FSU will be addressing going forward. NRA examples and discussions with LEAs demonstrated that Authorities were well informed about Dominica's ML risks. The data, charts, typologies and intelligence provided a sound basis for the authorities to build and develop the understanding of ML/TF risks facing the country.
102. The scope of the NRA and supporting information included an analysis of economic sectors associated with ML, an analysis of financial/DNFBP sectors and products abused for ML and TF, cross-border characteristics of ML, and an analysis of TF risks. The highest-risk ML vulnerability sectors were identified as the MTBs, the unregulated cash-intensive businesses (specifically hucksters, car rentals, entertainment and the retail sector) and DNFBP sector, specifically attorneys representing a medium-high ML risk. Vulnerabilities in the CAs were identified in relation to human resource and financial capacity challenges at the FSU, DPP and the FIU, lack of a specialized terrorism unit within the CDPF, and a lack of AML/CFT/CPF training of FSU supervisory staff.

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103. Further, the onsite discussions determined that there is a general consensus among the CAs that MSBs and banks are most exposed to ML risks. For MSBs, this was due to the cross-border MSB activity to jurisdictions associated with the drug trafficking trade and for the banking sector, exposure to cross-border transactions and unregulated cash-intensive businesses. During interviews, authorities demonstrated that they had a good understanding of proceeds-generating crimes, sectors and products which are vulnerable to abuse, and those parts of the national AML/CFT system which were not functioning effectively. LEAs described the interplay between Dominica's geographic location and crime, describing trends and examples of cash seizures, coordinated operations involving foreign LEAs, sectoral and product/service vulnerabilities including ATM fraud. The AT concluded that the CAs' expertise, operational knowledge of criminal activity and active participation in the NRA has resulted in them having a shared understanding of the ML risks identified.
104. At the conclusion of the NRA, the overall ML risk was found to be medium-high, and the TF risk was found to be low, with an overall ML/TF threat and vulnerability rating medium. The assessors found the ML rating to be reasonably in line with the ML risk identified by the NRA. There were some limitations during the data collection stage caused by the unavailability/ lack of information from CAs due to Hurricane Maria when some of the main agencies were relocated and documents were destroyed. Despite the data limitations, because of the analysis conducted, the AT concluded that Dominica has a reasonable understanding of its ML risks. Assessors considered the ML/TF expertise of the CAs, the conclusions of the NRA, as well as the solid statistics, case studies, typologies, sectoral risk assessments and regional/international intelligence used to determine the country's ML and TF risk for higher risk sectors. Assessors weighted the risk of the outstanding sectors (NPOs and VASPs) as less important based on their size and took into account the mitigating measures Dominica has applied to legal persons and the CBI programme.
105. In terms of TF, the outcomes of the risk assessment concluded that TF in Dominica is low due to the risk and context of the country. The TF risk assessment considered not only domestic threats to terrorism, but also international and regional threats including Dominica's proximity to Trinidad and Tobago which has had exposure to TF. Information provided by Dominica's international partners (UK, US, Canadian intelligence partners and their respective LEAs) as well as regional partners including the Regional Intelligence Fusion Centre (RIFC) and the Regional Security System (RSS), did not indicate that there were any threats of terrorist activity or TF in Dominica. The risk assessment concluded that there were no known terrorist connections and terrorist activity between the island and other regional and international countries, no incidents of radicalisation among Dominica's religious groups, no incidents of TF and limited travel to high-risk areas.
106. Additionally, the country did not consider the risk posed by the CBI programme during the NRA, or as part of other assessments. Contextually, as the CBI programme contributes 30 per cent to GDP, it is systemically important.
107. While CBI programmes are used for legitimate purposes, by their nature they are inherently vulnerable to abuse or misuse for ML purposes including in hiding or facilitating financial crimes, including bribery, corruption and tax crimes. Internationally, the risks relating to CBI

programmes have been tied to inadequate screening and due diligence along with the use of intermediaries, creating opportunities for potential misuse by criminals and PEPs using layering or integration techniques to hide their ill-gotten gains through investments or real estate programmes. Dominica has a CBI Unit (CBIU) which is a governmental organization responsible for managing the programme and has adopted internal and external processes to ensure transparency. To ensure that the preventive measures were in place to mitigate ML/TF, the AT reviewed the CBI application process in detail. The CBIU agents are vetted by a thorough due diligence and screening process and the CBIU requires and reviews extensive personal, professional and financial information prior to approval. Restrictions are placed on citizens from certain sanctioned jurisdictions and monitoring of approved applicants continues after application and citizenship approval. A review of the CBI application numbers from 2017-2021 noted that between 1.5 per cent to 4.7 per cent of all applications were rejected because of CBI's rigorous vetting process, confirming to the AT that the procedures and controls are working satisfactorily.²² Additionally, an AML/ATF audit of the CBI programme was conducted in 2018, with a subsequent review by an international consultant with an AML/CFT background. Given that the CBIU conducted an AML/CFT audit of the CBI programme and has a robust vetting and monitoring process for applicants and authorised agents to mitigate the associated ML/TF risks in the absence of an ML/TF risk assessment of the programme, the assessors concluded that to some extent Dominica has an understanding their ML/TF risks relating to the CBI.

108. Since the NRA, Dominica has taken steps to close some of the remaining gaps in the country's ML/TF assessment. As the ML vulnerability of the IBC sector had been highlighted at various international forums including by the OECD, the FSU commenced a series of reviews in 2017, 2019 and 2021 on registered agents who were charged with managing the IBCs (a significant subset of legal persons). As a result of the FSU's onsite and offsite reviews, the IBC sector was found to be too risky. In 2021, the FSU issued warning letters to the IBC sector stating that all IBCs were to cease and desist from engaging in unlicensed business activities. This notice was placed on the FSU's official website and the IBC sector was then dissolved effective 1st January, 2022. The AT concluded that Dominica's closure of this sector has significantly mitigated the risk of higher risk legal persons.
109. Dominica also performed a preliminary analysis of the NPO sector in 2018. The review identified sector participants and revealed that most of the NPOs operating in the Dominica do not have foreign outreach, nor do they have an international presence or transact with, or operate in, designated terrorist zones or terrorist organizations. The type of NPOs in Dominica consist of churches, religious, youth, agricultural, child welfare, social and recreational, fraternal societies, foundations, and charities. As a result of the NPO analysis, the AT concluded that competent authorities have a reasonable understanding of the risks in that sector.
110. While the ML/TF risk of the VASP sector was not part of the NRA, Dominica has put in place a VASP legislative and regulatory framework, enacting the VABA in June 2022, and putting existing entities on notice that they must register or cease current VASP business. The FSU embarked on a rigorous provisional registration process, followed by a full licensing regime

²² Dominica placed first for having the best CBI programme globally for six consecutive years according to the Financial Times' CBI Index, 2022.

for all eligible entities. This VASP licensing regime was as rigorous as the licensing process for banks. The FSU was able to subsequently grant a full licence to three of the seven registrants that met the licensing criteria. The identified institutions are licensed offshore banks offering VASP products and services. Those institutions have conducted an ML/TF risk assessment on their VASP product/service offerings and met with the regulator as part of the registration and licensing process. The AT concluded through interviews with the FSU and VASPs that Dominica has an understanding of the inherent risks of its current VASP licensees to some extent, however, the sector is still in its nascent stage and, as such, the AT was not able to perform a full assessment of the sector.

111. Considering the preceding points, the assessors found that Dominica has made strides to close some of the identified gaps related to the NRA and has a reasonable understanding of its ML risks and a fair understanding of its TF risks based on the country's analysis, and the vulnerabilities and threats to which the country is exposed. In making this determination, assessors considered Dominica's risk and context, weighing the country's understanding of higher risk sectors (including Class A MSBs, and credit unions and the banking sector) as more important. The robust AML/CFT screening, controls and preventative measures around the CBI programme, gave assessors further reassurance about the strength of the country's CBI framework. Considerations were also given to the wide range of mitigating measures applied to legal persons and the dissolution of the legal persons under the IBC sector in the absence of a full risk assessment on all legal persons. In terms of materiality, assessors placed less weight on the outstanding data related to the smaller three VASPs and the less risky NPOs. Overall, the assessors found that the collaboration and expertise shown by CAs, along with the supporting NRA data and statistics, provided a solid foundation for understanding the country's major ML and TF risks.

2.2.2. National policies to address identified ML/TF risks

112. As a result of the NRA, Dominica has displayed a commitment to strengthening its AML/CFT regime by developing a National AML/CFT/CPF Policy (2019-2024). The policy, developed by the TWG, was reviewed by NAMLAC and approved by the Head of Cabinet/Prime Minister on 1st July, 2021. The aim of the national policy is to effectively implement the requirements of the international standards addressing ML/TF/PF and to identify, continuously assess and mitigate the jurisdiction's ML/TF/PF risks. The main goals of the National Policy are outlined within eight overarching objectives which include: the establishment of key CAs that are resourced and trained; strengthening of domestic, regional and international cooperation mechanisms; enhancement of provisional measures by CAs in the execution of their roles, and implementation of a national self-test mechanism to gauge effectiveness.
113. The policy not only addressed the ML/TF/PF risks, but also the deficiencies identified within relevant CAs for more efficient and effective outputs. However, the policy failed to outline Dominica's approach in response to its main ML/TF risks resulting from drugs and firearms trafficking, possession of unlicensed firearms and ammunition, fraud/ATM scams, theft and burglary.

114. Dominica also developed a National AML/CFT/CPF Strategy (2019-2024), which outlines how the country will execute impending measures to address the shortcomings highlighted in the NRA. The strategy contains four overarching pillars which comprised a total of 52 actions. The four strategic pillars identified include: (i) ensuring that regular reviews are conducted of the jurisdiction's AML/CFT/CPF framework in order to maintain compliance with the international standards; (ii) conducting an annual NRA to ensure that Dominica's risk is thoroughly identified and countermeasures commensurate with deficiencies are implemented utilising the Risk-Based Approach (RBA); (iii) coordinating the effective application of Supervisory Technology (SupTech) tools and processes to ensure that all regulated entities are subjected to effective supervision by the supervisory authority and (iv) ensuring there is enhanced collaboration and coordination among key CAs, and they are provided with adequate training and increased capacity to allow for the effective execution of their responsibilities.
115. In relation to the risks, the National Strategy did not adequately address the measures to be adopted to mitigate the threats, sectoral vulnerabilities and ML risks identified in the NRA. The action items identified were aimed at addressing vulnerabilities within the countries' CAs, which were also a part of the NRA results. From the National Strategy, Dominica further developed a NIAP for the period 2021-2024. The NIAP itemised tasks also included prioritised actions to be taken by each competent authority to address deficiencies identified and not actions items prioritised based on the ML/TF risks identified in the NRA.
116. By the time of the onsite, Dominica had substantially actioned most of the remediation activities identified in the NIAP, by executing 66 per cent of those actions with 25 per cent ongoing and only 9 per cent of the activities outstanding. Subsequent actions by the CAs include upgrades to systems and IT infrastructure, specialized ML/TF training to staff, reviewing and amending key legislation, executing MOUs between CAs, including regional supervisory authorities, improving CAs systems and staff complements, and making improvements to the FSU's supervisory programme. Overall, the coordination and cooperation between CAs on these actions has been exceptionally good and, given the country's size and the overlapping functions within the CAs, the country has made substantial progress to fill gaps in the capacity, infrastructure and training.

2.2.3. Exemptions, enhanced and simplified measures

117. Exemptions, enhanced and simplified measures are not applied in practice based on the findings of Dominica's NRA. The AT is of the view that the significant period between the commencement, completion and dissemination of the NRA findings in April 2022 directly correlates to the non-application of exemptions, enhanced and simplified measures. In Dominica, FIs and DNFBPs are not allowed exemptions. There are legislative requirements for FIs and DNFBPs to apply enhanced measures for higher-risk scenarios and CDD measures for low-risk scenarios. As it relates to CDD, the measures required may be reduced or simplified for all scenarios determined to pose low risk as set out in the AML/CFT Code of Practice. FIs and DNFBPs are also required to adopt an RBA to determine the customers or transactions that are considered high or low risk in the business relationship. Accordingly, to determine the risk of the customer or transaction, FIs and DNFBPs must consider several factors such as PEP classification, transactions (complex and unusual), source of fixed income,

regulatory status (public vs. private entities) and persons from high-risk countries or countries with international sanctions or restrictions. While Dominica's legislation imposes a requirement for FIs and DNFBPs to engage in EDD and CDD measures, the AT did not identify any instances where the country applied EDD or CDD measures to activities.

2.2.4. Objectives and activities of competent authorities

118. The national AML/CFT strategy and the NIAP are intended to serve as policy tools which shape the objectives and activities of CAs.
119. The objectives and activities of the CAs are consistent, to some extent, with the evolving national AML/CFT policies and identified ML/TF risks. The main challenge experienced in the implementation of the NIAP is the lack of human resources and capacity to adequately implement certain actions by the CAs within the desired time frame. As of the time of the onsite visit by the AT, the extent to which objectives and activities of key AML/CFT agencies are aligned with the country's identified ML/TF risks varied.
120. The ECCB applies an RBA towards supervision of licensed FIs) which is captured in its AML/CFT supervision framework.
121. Upon the completion of the NRA and AML/CFT National Policy, the FSU's understanding of risks improved considerably, and the FSU undertook several measures to enhance its regulatory and supervisory functions; inclusive of a classification of the respective sectors as it related to the levels of AML/CFT risk. This resulted in the implementation of an RBA within the AML/CFT risk based supervisory framework of the FSU. Enhanced supervision is currently being undertaken offsite, with an onsite schedule planned to take effect from the end of 2022 through 2024. The FSU was also empowered with additional staffing whose responsibility is mainly focused on AML/CFT resulting in a small increase in the level of offsite/onsite examinations, in line with the FSU's work programme. Following the NRA, the FSU issued advisories, directives and guidelines to the REs, notifying them of their legislative obligations. The FSU also embarked on the development of its human resources to include the AML/CFT certification of all staff to aid in the implementation of its RBA to supervision. While the FSU has taken preliminary steps to implement the risk-based approach by implementing the World Bank tool and a risk-based framework, in practice the FSU does not have the full resource capacity to execute the supervisory responsibilities conferred on it. This has impacted the FSU's ability to demonstrate effective AML/CFT supervision.
122. The FIU has utilised the NRA findings and the development of the National AML/CFT Policy to prioritise its activities in the areas of dissemination of FIU products to CAs, development of an appropriate feedback mechanism, training and awareness building. The FIU has created a financial investigations department to strategize and engage in targeted ML/TF investigations. The department was augmented with an additional staff member from the CED, since trade-based money laundering was identified as an emerging ML threat to the jurisdiction. Additionally, the FIU created an analytical department in 2020 which was increased by two additional staff. The main objective of the department was to increase focus on, and analysis of, suspicious transaction reports (STRs) filed with the unit. A more effective

feedback mechanism was also developed to facilitate the receipt of feedback from CAs. These initiatives of the FIU, together with the development of task-force approaches with other CAs, indicates some progress to mitigating the risks identified by the NRA.

123. The findings of the NRA revealed that within the CDPF there was an absence of an institution-specific AML/CFT policy and/or procedure. Additionally, there was no police policy or strategy which detailed the CDPF's role in managing information relative to predicate offences. However, the CDPF has entered into MOUs with the FIU, FSU and the CED to allow for greater collaboration in areas of intelligence sharing, joint exercises and parallel investigations. A cash seizure policy was developed by the CDPF in May 2022 and a force order which speaks to parallel investigations was distributed in October 2021. Additionally, the CDPF has sought to implement activities aimed at targeting the high ML risks of drug trafficking and firearms trafficking. A joint sub-base was set up at the north of the island with CED to deal with drug trafficking activities and the drug squad of the CDPF engaged in increased joint water patrols with the marine unit. However, no actions were taken by the CDPF in developing policies aimed towards countering terrorism, nor an approach to treating with TF, in conjunction with the FIU.
124. The CED utilized the findings of the NRA to adjust its internal staffing complement and facilitate increased training for officers in ML. Training from the DPP was also received to increase capacity in report writing and prosecutions. An SOP was developed which addresses the seizure of cash via cash couriers. Additionally, given the risks identified with the prevalence of cash, the CED proactively analysed the data from its declaration system and identified persons who were making cash declarations above the threshold. The CED shared this intelligence with the FIU to aid in their work. The CED sought to increase its efficiency in inspection and to be better able to detect firearms, drugs and cash in conveyances passing through the borders. Monies from the asset forfeiture fund were used by the CED to purchase two non-intrusive scanners that were installed in January 2022 at certain designated ports of entry and exit. The use of these scanners by the CED allowed for eight interceptions that yielded 15 firearms, 26 magazines and over one thousand rounds of ammunition.
125. Upon completion of the NRA, the Central Authority undertook measures to enhance its procedures with respect to MLA and civil asset recovery. In addition to undergoing review of the Central Authority Procedures, the Central Authority (the Attorney General), considered and is currently undergoing an upgrade of its case management system, development of model legislation for asset sharing and training of state attorneys within the Chambers of the AG in civil asset recovery. At the time of the onsite, one state attorney was enrolled in the course for ACAMS. These initiatives of the Central Authority are in keeping with the vulnerabilities identified from the NRA.
126. The Office of the Director of Public Prosecutions (DPP) has established a dynamic partnership with the CDPF with the establishment of the National Prosecution Services (NPS). The NPS was established in 2011 in an effort to manage police prosecutors more efficiently as well as to ensure that there is greater independence and objectivity to the prosecution process by separating it from the investigative arm. The NPS consists of five police prosecutors that are supervised and advised by the DPP. This has strengthened the prosecutions of both summary and indictable matters within the State. The DPP has also partnered and collaborated with the CED, FIU and the CDPF in ML/TF training. In 2021, the DPP formed part of a civil asset

recovery live exercise workshop in collaboration with the National Centre of State Courts. This training involved all LEAs. The DPP has also upgraded the established Code for Prosecutors and has developed the National Prosecution Policy to include AML/CFT provisions.

127. The above examples indicate measures taken by the authorities, in response to the NRA. These positive developments are consistent, to some extent, with identified risk and priorities. Strategies and approaches have evolved in relation to identified risks such as activities in relation to the prevalence of cash, drug trafficking and firearms trafficking. There is also an overall greater level of collaboration amongst the LEAs and CAs to treat with ML/TF.

2.2.5. National coordination and cooperation

128. Dominica established a NAMLAC which is primarily responsible for facilitating cooperation amongst CAs and coordinating the development and implementation of policies and activities to combat AML/CFT/CPF matters at both the policymaking and operational levels. The NAMLAC is empowered to provide the general oversight of the AML policy of the Government, promote effective collaboration between regulators and LEAs, monitor the interaction and cooperation with overseas regulators and coordinate actions to assess the national ML/TF/PF risks. However, at the time of the onsite Dominica had not developed a national strategy for PF.
129. The TWG is chaired by the Director of the FIU, who meets regularly with sub - committees: the ML/TF working group, technical compliance review committee and the effectiveness monitoring committee. Minutes of the agenda items discussed are kept for formal meetings, which were provided to and reviewed by the AT. Deficiencies and recommendations identified for impending action are reported to NAMLAC by the TWG chair for subsequent approval.
130. During the onsite, interviews held with the NAMLAC's advisory committee and the TWG demonstrated strong cooperation and coordination amongst the highest level of CAs within this framework for policy and operational measures to address AML/CFT deficiencies identified in the NRA. At the policy level, legislative reviews of deficient or absent legislation in the AML/CFT framework were ongoing and, in some cases, addressed by the 2022 amendments across key legislation. Further, policies and procedures within the FIU, FSU, DPP and the CDPF that were in line with the ML/TF risks were approved. The CDPF implemented a cash seizure policy, as well as a policy governing the conduct of parallel financial investigation. An AML/CFT and a confiscation policy was also developed by the DPP.
131. From an operational perspective, the CAs were committed to addressing all remaining items outlined in the NIAP stemming from the NRA and the National Policy and Strategy developed by the TWG. This was evidenced by the CAs signed MOUs to enhance cooperation, sharing of relevant information and interagency operations. In particular, the IRD developed MOUs with other CAs in 2020 and 2021, allowing for greater coordination and cooperation with the FSU and CIPO. In 2020, the IRD provided the FIU with read-only access to its database to augment existing investigative sources. In addition, personnel of the IRD became members of the AML/CFT working group. Additionally, a joint patrol team with Customs and Police was created in 2019 with the aim of disrupting criminal organisations. The team has been successful

in cash, drugs, vessels, firearms and ammunition seizures, many of which have been prosecuted for offences including illegal entry, human smuggling/trafficking and drug trafficking. In practice, cooperation amongst CAs have also resulted in the use and sharing of available resources to strengthen detection and operational responsiveness in other authorities for AML/CFT initiatives.

132. Public and private sector stakeholders in AML/CFT cooperation have improved primarily due to participation in the NRA, which provided the forum for coordinating such activities. Supervisory efforts have yielded cooperation and coordination amongst the FSU and FIU to share information and provide training on AML/CFT issues through formal and informal mechanisms.
133. Overall, the AT concluded that the relevant AML/CFT CAs work in unison to address deficiencies in Dominica's regime which is reflected in the policy and operational responses to identified risks.

2.2.6. Private sector's awareness of risks

134. At the conclusion of the NRA, the NRA report was circulated to the CAs to address deficiencies and shortcomings through the NIAP. Members of the private sector that were part of the TWG were made aware of the results at that time. A redacted version of the NRA consisting of an executive summary and relevant sectoral sections was disseminated to FIs and DNFBPs by email and posted to the FSU's website in April 2022. The CAs followed up with presentations to the regulated sectors along with one-on-one meetings with individual institutions.
135. The dissemination of the NRA findings was supported by sensitization training produced by the FIU and the FSU from November 2018 to April 2021 and delivered to credit unions, offshore banks, insurance sector, DNFBPs and industry partners. The results of ML/TF NRA were also discussed in industry workshops in June 2022.
136. While Dominica made efforts to disseminate the results of the NRA, interviews indicated varying knowledge of the results of the NRA, which indicated that the mechanisms used for dissemination were moderately effective. Several FIs have integrated the NRA results into their AML/CFT programme and updated their ML/TF risk assessments following the dissemination of the NRA report. For other FIs that did not participate in the NRA, delays in the dissemination of NRA results impacted their level of ML/TF risk awareness and delayed updates to their ML/TF risk assessments. Among the DNFBPs, small jewellers and auditors were found to be unfamiliar with the NRA results and had not implemented an AML/CFT programme based on the NRA's findings.

Overall Conclusion on IO.1

137. Dominica concluded its first NRA in 2020 and has made important efforts to identify and mitigate its ML/TF risks. The country has shown a strong political commitment towards continual improvement in its AML/CFT regime. Dominica was found to have a reasonable understanding of ML risk and a fair understanding of TF risk.
138. At the national level, a national policy, strategy and action plan (NIAP) to address ML/TF risks were developed. The aim of these documents was directed towards addressing the vulnerabilities within CAs and not completely aligned with the ML/TF risks identified in the NRA. Nonetheless, Dominica has executed the NIAP to a large extent and addressed most of the vulnerabilities identified in the CAs. Throughout this process, the CAs and private sector have demonstrated strong cooperation and coordination in implementing the country's AML/CFT regime with their activities broadly in line with the NRA, the AML/CFT policy, strategy and NIAP. The primary challenge in implementing the NIAP has been the lack of human resources in the CDPF, FIU, FSU and the DPP and capacity to adequately implement certain actions within the desired time frame.
139. While some gaps in data and statistics were identified in the NRA for limited sectors, Dominica has endeavoured to address its ML and TF risk deficiencies by conducting a preliminary analysis of NPOs, registering VASPs and conducting an onsite on IBCs and repealing the IBC Act. Dominica's post-NRA analysis has shown that the ML/TF risk of NPOs is low, the VASPs sector is small, the CBI programme has robust controls, and the ML/TF risk has been greatly reduced by the repeal of the IBC sector.
140. CAs have held sensitization meetings and disseminated the results of the NRA through the FSU's website and emails. Several FIs have integrated the NRA results into their AML/CFT programme and updated their ML/TF risk assessments as a result. Overall, the assessors found that the collaboration and expertise shown by CAs, along with the supporting NRA data and statistics for the higher risk sectors, provided a solid foundation for understanding the Dominica's ML and TF risks. Although there are some gaps in TF risk assessment and work on some sectoral risk assessments is still ongoing, the country has made good progress on the NIAP with substantial advances to fill in gaps in capacity, infrastructure and training. Based on the foregoing, the AT concludes that IO1 is achieved to some extent, with major improvements needed.

Dominica is rated as having a moderate level of effectiveness for IO.1.

Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

- a) Financial intelligence, along with other relevant information, is widely used by competent authorities in investigations to develop evidence and trace criminal proceeds relating to ML, TF and associated predicate offences and done to a major extent in keeping with Dominica's ML/TF risks.
- b) The FIU is well equipped (IT tools and software) and structured (premises and units created within) to perform its core functions under R.29. The financial analysis and dissemination from the analytical department support the operational needs of the investigations department and relevant LEAs. Interviews with LEAs and prosecutorial authorities demonstrated that numerous intelligence products and cases are used in support of investigations and asset tracing.
- c) The FIU is the central agency for the receipt of STRs, from reporting entities. The FIU established STR feedback mechanism and training has increased the STR quality with 70% of STRs being deemed to be of a high standard. The quantity of STR filings has been consistent with the highest risk sectors, with the largest number of STRs being filed by MSBs, banks and credit unions in keeping with the ML/TF risk profiles.
- d) Strategic analysis is conducted by the FIU and has been done largely on the basis of need and urgency. Strategic analysis is utilised by the CDPF, CED, ECCB and the FSU in the conduct of their functions. These products have identified emerging risk areas such as pyramid schemes, along with ATM scams in keeping with Dominica's main ML/TF risk. Strategic analytical products have assisted the CDPF in the development of policies and targeted operations resulting in successful prosecutions, and allowed the FSU to hone its risk-based supervisory approach and improved the human resource and deployment strategies of the CED.
- e) The FIU has demonstrated effective cooperation with all other CAs and there are no impediments, statutory or otherwise, to hinder the domestic and international exchange of information. A substantial amount of information is exchanged, and feedback is received by formal and informal mechanisms. There are adequate measures in place to ensure

confidentiality of exchanged information amongst the CAs.

Immediate Outcome 7

- a) ML is primarily investigated as an integrated part of the criminal investigation of predicate offences. This has a limiting effect on the number of investigations of stand-alone ML offences. Whilst financial investigations are conducted as part of investigations for predicate offences, in practice such are not conducted on a systematic basis in most instances, the evidence gathered is not sufficient to trigger an ML prosecution and the investigative focus is on the direct proceeds of the predicate offence. The investigation and subsequent prosecution of ML *stricto sensu* does not appear to constitute a priority for authorities.
- b) ML cases are not prioritized within the judiciary.
- c) Authorities are not investigating and prosecuting ML in line with the overall risk environment and context, when compared to the significant number of predicate offences occurring within the jurisdiction. Additionally, there is a shortage in human resources dealing with ML investigations and prosecutions at the investigations department of the FIU and within the ODPP.
- d) The conversion rate from ML investigations to prosecutions is only 35%, despite the financial investigators liaising with the DPP during the entire life cycle of an investigation.
- e) Financial investigators are highly qualified and well trained. However, there has been no evidence that complex ML investigations have been undertaken.
- f) There have been no convictions for ML in the jurisdiction, therefore no conclusion could be made on the effectiveness, proportionality and dissuasiveness of sanctions. Additionally, no ML prosecutions involving legal persons have been initiated.

Immediate Outcome 8

- a) Dominica recognizes the importance of confiscation and has the necessary legal framework, structures and resources in place to address this. Tracing and preserving assets are strongly promoted as a policy objective and significant training has been undertaken in this area. Provisional measures are available and are routinely used by authorities.
- b) Dominica's legal framework for seizing, freezing and confiscating assets is adequate and has been used to some extent.
- c) The legal framework allows for the application of non-conviction-based confiscation and this mechanism has been successfully utilized in practice.
- d) The predicate offences for the cash seizures are in line with the country's risk profile as set out in the NRA, to a large extent. However, there is a lack of systemic confiscation data in

the jurisdiction, and this impinges the assessment of whether confiscations results are fully consistent with the risks identified in the NRA.

- e) When detected, cases of undeclared or false declarations relating to the cross-border movements of cash/BNIs are sanctioned. However, the sanctioning regime is not sufficiently dissuasive as confiscation in cross-border cash transportation cases is not applicable to a satisfactory extent. There have been limited instances wherein ML investigations have been initiated based on this declaration system. This is not reflective of the risks identified in the NRA.

Recommended Actions

Immediate Outcome 6

Dominica should:

- a) Continue to disseminate financial intelligence products which support the investigation of proceeds generating crimes to LEAs.
- b) Encourage CAs engagement with the FIU for continued use of operational and strategic products for effective cooperation and coordination to further ML/TF investigations and investigation of associated predicates.
- c) Ensure that comprehensive statistics are maintained by the FIU, relative to STR disseminations and the sharing of intelligence products between the analytical department and the investigations department.
- d) Continue to use the FIUs strategic analysis to ensure that emerging trends, the higher ML/TF risks and patterns are identified. This should include leveraging on the CTRs and other information sources.
- e) Encourage LEAs and the investigations department of the FIU to utilise the feedback mechanisms to provide sufficient regular feedback to the analysis department of the FIU, relative to the outcomes and quality of financial intelligence received.
- f) Continue to collaborate with reporting entities by providing feedback and training in order to encourage the reporting of STRs and increased reporting on serious crimes within the jurisdiction's context.

Immediate Outcome 7

Dominica should:

- a) Consider the designation of ML judges and magistrates, designated ML court time or increase sensitization training of judges and magistrates to increase the priority afforded to ML within the court system.
- b) Dominica should streamline its existing Force Order by introducing an obligation to proactively conduct and coordinate parallel financial investigations in all proceeds-generating cases, pursuing the “*follow the money principle*”; both at the operational and pre-trial stages. The pursuit of these parallel investigations should also be in line with those offences deemed as high-risk for ML from the findings of the NRA.
- c) Build human resources capacity within the investigations department of the FIU and the DPP to ensure investigators and prosecutors are adequately resourced and trained to identify, investigate and prosecute ML cases.
- d) Allow for self-laundering investigations and prosecutions through a more proactive approach to opening ML cases.
- e) Develop comprehensive statistics at the court and prosecutorial level with a view to increasing awareness of the conversion rate of ML investigations into prosecutions. Statistics should also be maintained regarding the performance of the ML investigation regime and the genesis of each ML investigation. Such statistics should include: (i) aggregation of active and concluded ML investigations; (ii) number of investigations initiated and the number of persons investigated; broken down by predicate offences, and (iii) prosecutions and defendants sent to trial including the predicate offence and the assets seized.
- f) Technical deficiencies under Recommendation 31 should be remedied to allow for the interception of communications which may prove vital in improving the evidence gathering process.

Immediate Outcome 8

Dominica should:

- a) Improve the collection of comprehensive statistics on seizures and related predicate offences. Such information will assist authorities in determining the effectiveness of the confiscation system in place.
- b) Continue the pursuit of confiscation in line with its risk profile and national AML/CFT policies and implementation plan.
- c) Improve its sanctioning regime for false or undeclared cross-border transactions of currency/BNIs with a view to increasing the ratio of confiscation vs fines and ensuring a more dissuasive system.

- d) Develop mechanisms that deal with asset management from the moment of seizure and ensure that they are able to manage or convert seized assets into cash.

141. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R.3, R.4 and R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

3.2. Immediate Outcome 6 (Financial Intelligence ML/TF)

142. Dominica has a hybrid-style FIU; meaning that besides its core functions as required by R. 29, the FIU has added responsibility for conducting ML and TF investigations and the identification, seizure, freezing and restraint of assets (see IOs 7, 8 and 9). Dominica's FIU is the established CA responsible for the receipt, analysis and dissemination of information and investigation relative to all suspected proceeds of crime and suspicious transactions. The FIU is largely staffed by police officers who are also members of the CDPF and is the main user of financial intelligence and relevant information relative to proceeds of crimes, including ML, and the identification and tracing of assets.

143. The FIU is placed within the Ministry of National Security and Home Affairs, with the Minister of National Security and Home Affairs carrying out the parliamentary responsibility for the FIU. The FIU receives an annual budget that sufficiently covers its operational expenses. In instances where the budget is expended prior to the close of the financial year, additional funding is provided within a timely manner from the Ministry, upon request, or from the Asset Forfeiture Fund. The FIU consists of a Director, a senior financial investigator, four financial investigators (three police officers and one customs officer) and three analysts (three police officers) trained in the analysis and investigation of financial crimes and one administrative staff. The Director of the FIU serves as the Chairman of the AML/CFT/CPF TWG and is a member of NAMLAC.

144. In 2020, the FIU was re-organized into two distinct departments: an analytical department and an investigations department. Prior to this, personnel at the FIU were tasked with conducting both analysis and investigation, together with administrative functions.

3.2.1. Use of financial intelligence and other information

145. Dominica's investigative authorities widely use financial intelligence and other relevant information required to conduct their analysis and financial investigations, to develop evidence, identify and trace assets, develop operational analysis and investigate ML, TF and associated predicate offences. Parallel investigations are largely undertaken as part of investigations of proceeds generating offences. Additionally, Dominica's supervisors use financial intelligence to inform their supervisory inspection cycles and scope.

146. The assessment team based its conclusions on a variety of information, in particular: statistics on the different types of data held by the FIU, interviews with investigative and prosecutorial

authorities, visits to the FIU's premises and the team's review of numerous cases demonstrating that such information and intelligence is used in practice to support investigations and trace assets.

147. Dominica's FIU is a key source of financial intelligence as it is the agency that is responsible for the receipt of suspicious transactions reports (STRs) and is responsible for analysing the information it receives in these STRs and other reports it receives. Pursuant to domestic legislation, STRs, cash transportation reports (CTRs) and terrorist property reports (TPRs) are all submitted to the FIU. The FIU's function is well understood by the other CAs, and its resources and outputs are used by these CAs.
148. The FIU plays a key role in enriching and exploiting financial intelligence courtesy of the various information sources to which it has access and its internal analytical functions. The financial intelligence developed by the FIU is disseminated for investigation and to other domestic and foreign LEAs, as required. Financial intelligence is largely developed following operational analysis conducted by the FIU's analytical department on financial information received from reporting entities that are contained in STRs, CTRs, TPRs and requests for financial information. The FIU's information security, access controls and governance of systems, staff and processes were shown to be robustly implemented. The assessors found that the FIU is appropriately staffed with human resources to fulfill its analytical objectives, in accordance with the requirements set out in R. 29. The human resources complement the technology resources that are available to ensure that the FIU conducts its analytical function in an effective manner.
149. A significant amount of financial and relevant information is housed within the FIUs, database that originates from STR submissions, CTR submissions, TPR submissions, information received from the FSU as the supervisory authority, intelligence from reporting entities, intelligence received from foreign FIUs, and information exchanged amongst local LEAs and CAs.
150. The FIU has access to a wide range of financial intelligence and other relevant information required to conduct its analysis and financial investigations, identify and trace assets and develop operational analysis for associated predicate offences. These data sources can be accessed directly within the FIU's databases, remotely via VPN connections or via traditional means of written requests for information. The assessors found that there are no impediments within Dominica's AML/CFT framework related to the access and use of financial intelligence. Due to the structure of the FIU, financial investigators housed at the FIU work closely with the intelligence analysts, thereby making it easy to access financial intelligence and relevant information. The FIU obtains information required to perform its function by accessing a number of databases as provided below in table 3.1, both directly and indirectly.

Table 3.1. Data sources accessible by the FIU

Direct Access	Remote Access	Written Access
FIU's Database	Online Intelligence: a) databases e.g., EU b) Sanctions List e.g., OFAC c) Sanctions List e.g. UN d) Other sanctions list	Scheduled reporting entities
DOM FIU e-filing portal	Social Media Platforms	Government registries include birth, death, marriage, titles and company information.
Local LEAs (Immigration and Criminal records (CRO))	Government Department websites e.g., Births, Deaths, Marriages, Titles, Companies Registry.	Other government agencies
Informal Intelligence sources (e.g., Trusted sources, law enforcement officers (LEOs))	Closed online databases such as Refinitiv World-Check	Regional and international LEAs inclusive of INTERPOL, ARIN-CARIB, RSS-ARU and CARICOM IMPACS.
	IRD database	
	CED database	

151. The FIU obtains and accesses relevant information and financial information from databases of public departments, ministries and other authorities within Dominica through direct, remote and written requests for information. The FIU has remote (read-only) access to the databases of both the IRD and CED. This access has provided the analytical and investigations departments within the FIU with real time access to data and relevant information to meet its operational needs. Information accessed via written means are essential in the furtherance of analysis and investigations by the FIU.

152. The time taken by the respective entities to respond varies based on the nature and urgency of the request. For example, if information is required forthwith, it would be provided immediately upon request; whilst, if less urgent, the average response time would usually be between two to seven days. This method of communication is prompt and supports the FIU's needs in performing its duties. In addition, there have been no instances wherein the public authorities have refused to provide requested information. Table 3.2 below illustrates the access to databases and data sources by the FIU, during the review period. The cumulative number of access to databases and/or data sources made by the FIU each year shows a gradual increase. This increase is commensurate with the increase in staff complement at the FIU and the increase in the analyses conducted by the FIU with the establishment of the dedicated analytical department. The information also demonstrates the FIU accessing and using relevant information to conduct its functions from a wide range of databases. In addition, box 3.1 below highlights a case example from the FIU where the use of the financial intelligence and relevant information would have resulted in an ML investigation being initiated, together with the subsequent commencement of civil recovery proceedings.

Table 3.2. Statistics showing the number of accesses to databases/data sources made by the FIU for the period 2017 to 2021

Data Source	Number of times database/data source was accessed for Information				
	2017	2018	2019	2020	2021
Companies Registry (CIPO)	5	4	6	2	12
Land Registry	10	5	11	22	12
Immigration Department	0	1	0	0	0
Criminal Records Office	0	1	1	5	3
The Commonwealth of Dominica Social Security	10	9	16	21	11
Government Ministries	6	7	7	4	11
Customs and Excise Division	2	5	16	10	4
Inland Revenue Division (IRD)	11	14	19	22	11
Insurance	0	3	1	0	20
Registered Agent	3	11	6	16	13
Public Utilities	0	9	9	6	16
Others	0	1	1	5	3
Total	47	70	93	113	116

Box 3.1. Use of financial intelligence and relevant information by the FIU resulting in an ML investigation and civil recovery proceedings.

In 2018, the Customs and Excise Division intercepted a significant amount of US currency from individual X who was a person of interest to LEAs in the Commonwealth of Dominica. The FIU joined the investigations and conducted parallel financial investigations. The investigations resulted in sourcing information from multiple sources to include counterpart agencies in Guadeloupe and St. Martin. Relevant information and financial intelligence were also sourced from various local sources to include, the Dominica Huckster Association, the Dominica Social Security, Immigration Department, Fisheries Division, Commonwealth of Dominica Police Force, Money Services Businesses among other agencies. A money laundering investigation and civil cash recovery proceedings were initiated. The sum of US\$ 239,960.00 was forfeited to the State in 2019.

Source: Dominican Authorities

153. Additionally, the FIU has the power to request financial information, without prior judicial order, as well as additional information from reporting entities, regardless of an STR being previously submitted, via letters of request from the Director of the FIU. During the period 2017 to 2021, a total of 955 requests were sent to reporting entities, with 94 per cent being sent to FIs and the remaining 6 per cent sent to DNFBPs. Of these 955 requests, 763 requests were made from the investigations department, 47 requests were made from the analytical department and 146 requests were made by the FIU to fulfil external requests for information.
154. Table 3.3 below lists the number of requests sent to reporting entities, during the review period. The statistics show a significant increase in the number of requests made by the FIU between 2018 and 2019. A further increase is noted in 2020, when the analytical department was

established. However, a significant decline is noted in 2021, when compared to 2020. The FIU was unable to produce statistics to show the time taken by reporting entities to respond to these requests. However, the assessors noted during interviews with the FIU, that responses were provided immediately based on urgency and would range from approximately one to 30 days, based on the volume, priority and type of information being requested. The FIU further indicated that in some instances the responses are given incrementally when the response contents are voluminous. Redacted samples of requests to the reporting entities were provided to the assessors, together with the responses, to show the period of time between the issuance of requests and the receipt of responses. Additionally, in interviews with the reporting entities, the assessors noted that the average time taken for responses to be produced are between one to ten days. In circumstances of urgency, the information is produced immediately or within a 24-hour period.

Table 3.3. No. of requests made to reporting entities by the FIU for the period 2017 to 2021

Number of Request Sent			
Year	FIs	DNEFBPs	Total
2017	128	3	131
2018	132	12	144
2019	229	4	233
2020	248	18	266
2021	157	24	181
Total	894	61	955

155. The FIU can also access financial and relevant information via production orders to facilitate investigations into suspected ML matters, associate predicate offences, processing of MLA requests and assisting other competent authorities, primarily the CDPF, in its investigations. Applications for production orders are afforded preferential treatment by the judiciary in Dominica. During the period 2017 to 2021, the FIU utilised nine production orders for evidential information held on persons under investigations. The predicate offences that were associated with these production orders included drug trafficking and human trafficking; production orders were also utilised to facilitate assistance to foreign jurisdictions. Table 3.4 illustrates the breakdown of the number of production orders utilised by the FIU, during the review period. The information presented in the table does not show an increase in the number of production orders obtained by the FIU and does not suggest increased investigations by the FIU. The assessors note that whilst no production orders were utilised with respect to any TF investigations, this is consistent with the outcomes of investigations conducted into the seven suspected TF-related investigations that were conducted within the review period (see IO. 9 for details of these investigations).

Table 3.4. No. of Production Orders made by the FIU and the associated predicate offence(s) for the period 2017 to 2021

Year	Number of Production Orders	Predicate Offences
2017	1	Drug trafficking
2018	4	Drug Trafficking; assistance to a foreign jurisdiction
2019	1	Drug trafficking
2020	2	Drug Trafficking; assistance to a foreign jurisdiction
2021	1	Drug trafficking; Human Smuggling
Total	9	

156. Financial intelligence and relevant information are accessed by the FIU from foreign competent authorities via various means, including the Egmont Group. Additionally, financial intelligence and relevant information are also requested and used by foreign FIUs and competent authorities from the FIU, without any impediments (See IO. 2 for more details). Requests for information are also sent to foreign FIUs via its membership in Egmont and these information exchanges are facilitated via the Egmont Secure Web. During the period 2017 to 2021, the FIU made 27 requests to foreign FIUs, whilst receiving 142 requests for information from foreign FIUs. Table 3.5 below highlights the number of requests for financial intelligence and relevant information made to foreign FIUs and the number of requests received from foreign FIUs, during the period of review. An example of a case involving the effective access of various national databases and data sources on behalf of a foreign FIU is presented in box 3.2. below.

Table 3.5. No. of Requests made by the FIU to foreign FIUs and the No. of requests received by the FIU from foreign FIUs for the period 2017 to 2021

Year	Number of Requests sent to the foreign FIUs	Number of Requests received from foreign FIUs
2017	0	28
2018	10	33
2019	1	26
2020	1	22
2021	15	33
Total	27	142

Box 3.2. Use of information retrieved from databases and data sources on behalf of a foreign entity

In 2019, the FIU received a request for information from a regional FIU, regarding a Dominican National and his involvement with an owner of a fishing business enterprise in that country. Both individuals were suspected of drug trafficking activities and ML. The request sought to obtain information from various entities; inclusive of the Immigration Division, Dominica Social Security, Fisheries Division and MSB entities. Upon receipt of the request, the FIU initiated investigations and obtained the relevant information. An analysis of the information was conducted and a detailed report, including supporting documentation, was shared with the foreign FIU. This assistance by the Dominican FIU resulted in a successful civil cash forfeiture.

Source: Dominican Authorities

157. The FIU also facilitated the sharing of financial intelligence with foreign regulatory agencies and received a total of 34 requests during the review period. Additionally, the FIU submitted two requests and two spontaneous disclosures to domestic regulatory agencies, during the review period.
158. In addition to these databases/data sources, the FIU also utilizes other informal methods to collect financial information, such as searches, human intelligence and information transmitted within the framework of cooperation with foreign LEAs and CAs.

Use of financial intelligence by other competent authorities

159. The CDPF and the CED access and use financial intelligence and other relevant information to support investigations and prosecutions of predicate offences. The CDPF, as the CA responsible for the investigation of associated predicate offences, also has a wide range of access to all necessary information. It obtains financial intelligence, as well as other law enforcement intelligence from a wide range of local and foreign sources. The CDPF has a good working relationship with other government institutions and information sharing is facilitated via these relationships. The CDPF submits requests in writing under confidential cover and submits the same to authorised personnel. All information received is treated with the strictest of confidentiality. The information received is only used for the purpose of investigations. The responses to these requests are normally provided within 24 hours of making the request, whilst those requiring research are provided within a reasonable time.
160. The criminal investigations department, task force, drugs squad unit and the National Joint Intelligence Centre (NJIC) within the CDPF, in the execution of their duties and functions made requests to the FIU. During the period of review, the CDPF made a total of 24 requests to the FIU for information on behalf of foreign counterparts and in the investigation of criminal offences relating to drug trafficking, fraud, cash seizures, theft, ATM scams, deception, burglary, forgery, homicide, human smuggling, firearm possession, trafficking of firearms and illegal importation of firearms and ammunition. In response to these requests, the FIU provided financial intelligence inclusive of banking information, remittance details, subject profiling details, information from registering agents, beneficial ownership information, telephone

records and analytical reports. The assessors note that the figures provided by the CDPF differed from the collated statistics presented by the FIU later in table 3.15; wherein 49 requests were made by the CDPF to the FIU. The jurisdiction indicated that the statistics provided by the FIU would be more precise as individual departments of the CDPF kept separate statistical records.

161. Statistics presented to the assessors in table 3.20 show that the CDPF investigated over 3,000 predicate offences during the period under review. With the statistics for robbery and stealing (burglary and theft) being pretermitted, 238 predicate offences were investigated wherein there were realistic possibilities of pursuing parallel investigations. However, with only 49 requests being made to the FIU for financial intelligence, it demonstrates that these requests to the FIU were made in only 21 per cent of the cases. Additionally, the breakdown of the number of requests that relate to each identified offence was not provided to the assessors; summary data was provided by the jurisdiction for table 3.15. As such, it cannot be concluded that the offences to which these requests originate are correlated to all the offences which were identified as being high-risk to the jurisdiction during the NRA, namely drug trafficking and firearms trafficking.
162. During the review period, the CED made 27 requests to the FIU for financial intelligence and other information. It is noted that the CED and FIU have an excellent working relationship whereby formal requests for assistance are not required in some instances. A customs officer is seconded to the FIU, and this greatly assists with the exchange of and requests for information.
163. The type of information requested by the CED includes remittance information from MSBs, financial transactions information, analytical information and information from foreign jurisdictions via the FIU network. The responses provided by the FIU greatly assisted the CED in the performance of their duties and primarily assisted the CED's post audit department into investigations involving false declarations, smuggling of goods, suspect profiling, false invoicing, financial information verification and concealment of goods. Eight legal persons and 20 natural persons were investigated and based on the information provided by the FIU, a total of USD271,760.68 in administrative fines were levied. As demonstrated by the case example below and prior (box 3.1), LEAs use their wide access to information through the various databases and registries to progress ML/TF and predicate offence investigations.

Box 3.3. Use of information retrieved from databases and data sources in the prosecution of money laundering / civil cash forfeiture matter

In 2018, the CED intercepted significant amounts of USD currency from individual X, who was a person of interest within the jurisdiction. The FIU joined the investigations and conducted parallel financial investigations. The investigations resulted in sourcing information from multiple sources, including counterparts from countries A and B. Information was sourced from the Dominican Huckster Association, the Dominica Social Security, Immigration Department, Fisheries Division, CDPF and MSBs. An ML investigation was also initiated. The collation of information requested provided cogent evidence in the development of a civil recovery case file. The matter was successfully litigated by the Chambers of the Attorney General and resulted in a civil forfeiture of USD\$239,960.00.

Source: The Commonwealth of Dominica Authorities

Table 3.6. No. of requests made by the FSU for financial intelligence and other information, for the period 2017 to 2021

Year	Number of information requests made to competent and relevant authorities	Type of information requested
2017	0	N/A
2018	2	Requests to IRD in relation to matters related to OECD Global Forum, relative to Offshore Banks and IBCs
2019	7	Request to CIPO in relation to beneficial ownership information and director changes for FIs
2020	13	Requests to CIPO in relation to beneficial ownership and incorporation documents for IBCs
2021	6	Request to CIPO for updated beneficial ownership information
Total	28	

164. In discussions with the various LEAs, DPP and AG Chambers, during the onsite visit, the assessors found that it is evident that informal sharing of financial intelligence and other information takes place between the different CAs and commences during the early stages of investigations and continues throughout the lifecycle of each case. Box 3.4 demonstrates a case example wherein the real time sharing of relevant information and intelligence were provided within the multi-agency approach. The foregoing demonstrates that there are no impediments amongst the operational agencies and other CAs, relative to the exchange of financial intelligence and relevant information and the value competent authorities place on the access and use of financial intelligences and relevant information.

Box 3.4. Use of real-time sharing or relevant information and intelligence in the genesis of an ML investigation.

In 2018, the FIU received three STRs relative to an individual who had made several transactions beyond his normal course of business. Internal investigations by the reporting entity provided information that the individual's source of income may have been from the proceeds of crime and not from his legitimate business. These STRs were analysed and a report was submitted to the Investigations Department of the FIU. An investigation was initiated and intelligence was shared with the CDPF and the CED. Preliminary investigations revealed that the individual possessed high valued assets inclusive of trucks, excavators, entertainment systems and fishing vessels. Stemming from the ML investigation, a civil asset recovery is in progress.

Source: The Commonwealth of Dominica Authorities

165. Overall, the FIU has the ability to produce financial intelligence of high quality using a variety of sources to identify, investigate and support prosecution of ML cases. Additionally, other LEAs and CAs also have direct access to, or the ability to obtain, a wide variety of information that enables them to contribute to the financial intelligence developed by the FIU. The assessment team found that there are no impediments encountered in accessing and using financial intelligence and other information to conduct analysis, develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF and to facilitate international cooperation.

3.2.2. STRs received and requested by competent authorities

166. The FIU is the central authority charged with the responsibility of receiving STRs that contain relevant information for the conducting of analysis and advancement of investigations (see analysis of R. 29). Reporting entities are required to submit STRs to the FIU in accordance with the required provision of the law (see analysis of R. 20). STRs are submitted in paper form and via the online filing system (electronic). Whilst the vast majority of STRs are filed via the online portal, the assessment team noted, during the onsite visit, that one of the larger banks did not utilise the online filing system due to concerns as to the security of its data. However, the physical security and cybersecurity implemented and demonstrated by the FIU shows that there is adequate safeguard in place to prevent cyberattacks, thereby ensuring information is protected as a whole and in events such as natural disasters.
167. During the period 2017 to 2021, the FIU received a total of 852 STRs; an average of 170 STRs per year. There has not been any noticeable increase in STR filings during the five-year review period. The number of STRs peaked in 2019 but has shown a decrease in the two years thereafter. This decrease is attributed to outreach and feedback regarding reporting requirements and proper reporting procedures. The source of the 852 STRs is illustrated below in table 3.7. FIs filed 99.8 per cent of these STRs while DNFBPs filed 0.2 per cent. Additionally, 65 per cent of the total STR submissions were made from the MSB sector, with the commercial banking sector and credit unions following with 20 per cent and 8 per cent respectively. The breakdown of the STR submissions, per sector, is captured in table 3.7 below.

Table 3.7. STR submissions to the FIU, during the period 2017 to 2021

Sector	Number of STRs submitted to the FIU				
	2017	2018	2019	2020	2021
Commercial Banks	54	24	32	45	14
Credit Unions	11	7	19	18	8
Money Service Businesses	118	93	137	76	133
Offshore Banks	1	23	2	22	13
Registered Agents	1	0	0	0	0
Jewellers	1	0	0	0	0
Accountants	0	0	0	0	0
Attorneys	0	0	0	0	0
Real Estate	0	0	0	0	0
Pawn Business	0	0	0	0	0
Total	186	147	190	161	168

168. The authorities indicated that the quality of STR reporting is good and generally sufficient for their needs, with 70 per cent of STRs being deemed to be of a high standard. This was evidenced by the sample of STRs that was presented to the assessors during the onsite visit for review. The largest number of STRs were submitted to the FIU from MSBs, banks and credit unions, which is consistent with the importance and ML risk assigned to these sectors. However, the assessors found that STR reporting by DNFBPs is low or non-existent, which is not always in line with the risk exposure of attorneys, registered agents and real estate agents (see Chapter 1 and Chapter 5 of the MER).

169. Feedback is provided by the FIU to reporting entities. This feedback provides guidance to the reporting entities on ways to improve filing, acknowledgement of reports, the status of the filing, and actions taken based on the filing of the STRs. From interviews, the assessors noted that in some instances, oral real-time feedback is provided in the form of guidance via email or telephone conversations. In general, the feedback to reporting entities consists of an immediate acknowledgement of receipt upon the filing of an STR, an initial interim report within three months of filing and subsequent updates, once there are updates on the matter. Whilst the assessment team were provided with samples of feedback provided to the reporting entities, during the onsite, it is noted that the feedback mechanism described by authorities differs from the statistical information presented in table 3.8 below; which only shows a total of 111 feedback over a three year period, compared to 519 STRs being received during the corresponding period.

Table 3.8. FIU Feedback to reporting entities, during the period 2019 to 2021

Sector	Number of Feedback provided to Reporting Entities		
	2019	2020	2021
Domestic banks	7	23	3
Credit Unions	0	11	1
Money Service Businesses	1	43	17
Offshore Banks	0	3	2
Total	8	80	23

170. The analytical department of the FIU, upon receipt and initial analysis of the STRs received from reporting entities, assigns a rating of low, medium or high risk for ML based on objective and subjective indicators as detailed in the FIU's Analysis and Procedure Manual. The FIU indicated that of the 852 STRs received, 674 STRs were analysed of which 155 STRs were rated high, 230 STRs were rated moderate and 289 STRs were rated low. The remaining 178 STRs (2017 – 2019) were not given a determinate rating since those STRs were completely analysed during the period of Hurricane Maria and the Covid-19 pandemic. All STRs that have been rated high are assigned to analysts within the analytical department for further analysis and subsequent dissemination to the investigation department or other CAs. An intelligence product containing the results of an analysis of reports which are medium or low are disseminated to other CAs and LEAs for further action or are filed for intelligence purposes.
171. The assessors were provided with a revised Analysis Department Operation Manual, dated 2021. Within this manual, a more intricate system of analysis was described. Upon receipt of an STR, the contents are checked for completeness by the administrative assistant who is responsible for reviewing and endorsing the STR. If the administrative assistant is of the opinion that the report is of an extremely urgent nature, the Director and analysts will be immediately informed of the report and an immediate decision will be taken by the Director as to the required action.
172. The Director of the FIU would then determine the priority of the STR based on whether the matter has any links to, or is indicative of ML, TF or whether the matter reveals obvious criminality. The criteria for risk-rating the STR and assigning priority is determined by several factors including the nature of the offence, criminality present, total value of property involved, the jurisdiction involved, and the currency of the funds involved. After the Director's rating, the STRs are then subject to a pre-analysis process that results in STRs being rated as "low," "moderate" or "high." STRs rated "low" and "moderate" are filed for intelligence, whilst "high"-rated STRs are then assigned to analysts for further operational analysis. This operational phase involves a more intrusive analytical process, the end result being the generation of an intelligence report. This report contains, *inter alia*, case summary, subject profile, key indicators, analysis of records, inferences, premises, risk assessment, recommendations and conclusions. The findings of these reports may then be forwarded to FIU investigators or to another LEA.

173. Table 3.9 provides a breakdown of ML, TF or predicate offences, based on STR submissions. The identification of ML, TF or predicate offences is performed by reporting entities at the time of STR submission. During the pre-analysis processes, the relevant STR is updated with the identified offence(s) by the analytical department. In table 3.9 below, details of 853 STRs are presented; 92 per cent (or 785) relates to ML, 3 per cent relate to fraud and 0.4 per cent relating to drug trafficking activities. There is a low number of STRs relating to the major serious crimes with respect to the country's context and this can affect the comprehensiveness of the benefits that LEAs can derive from the STRs. The total number of STRs provided in table 3.9 differs from the values provided in table 3.7, as one STR can relate to more than one underlying offence; as per the indication by FIU authorities.

Table 3.9. Underlying offences related to STRs submitted to the FIU, during the period 2017 to 2021

Types of suspected predicate offence and/or ML	YEAR				
	2017	2018	2019	2020	2021
Terrorist Financing	0	2	1	0	0
Fraud	3	1	2	12	4
Money Laundering	171	142	187	122	163
Human Trafficking	0	2	0	0	0
Drug-related crimes	1	1	0	0	1
Tax Evasion Crimes	0	0	0	0	0
Suspicious Foreign Exchange	9	1	1	27	0
TOTAL	184	149	191	161	168

174. The action taken by the FIU, relative to the number of STRs received, is illustrated in table 3.10 below. Prior to the establishment of the analytical department, there existed a backlog of STRs. This was due to investigators also having to analyse STRs, whilst conducting ML investigations, cash seizures and forfeiture investigations. Having established the analytical department in 2020, a strategic decision was taken to complete analysis of the most recent STRs, in order to be up to date on the threats and risks that were present within the various STRs submitting sectors. This is reflected in the backlog of STRs from 2017 to 2019, wherein 176 STRs remain pending analysis. Of the 852 STRs recorded, 122 were assigned for investigation within the FIU, while 518 were filed for intelligence. During the review period, from the analysis conducted on the STRs received, 14 strategic intelligence products were disseminated to external CAs; including the CED, FSU, ECCB and CDPF; the details of which are provided in table 3.11 below. These strategic intelligence products were generated from the analysis of 388 STRs. These 14 strategic intelligence products were all disseminated after the creation of the analytical department within the FIU. Additionally, the FIU indicated that 20 operational analysis products were developed and disseminated to the CED (1), CDPF (11) and the FIU's investigations department (8). The assessors were not provided with information relative to the underlying predicate offences of the nine operational analysis disseminations to the CED and the investigations department.

Table 3.10. STRs received by the FIU and action taken, during the period 2017 to 2021

STRs Received and Actions Taken					
Year	STRs Received	STRs to be Analysed / Investigated	STRs to be Monitored	STRs Assigned to Investigators and Analysts within the FIU	STRs filed for Intelligence
2017	184	120	26	27	39
2018	147	34	40	39	73
2019	190	22	27	28	141
2020	161	0	27	17	134
2021	170	0	37	11	131
Total	852	176	157	122	518

Table 3.11. Details of strategic analysis developed and disseminated by the FIU, during the period 2017 to 2021

		STRATEGIC ANALYSIS DISSEMINATED BY THE FIU		
Year	Number of strategic analysis disseminated	Competent Authority receiving strategic analysis	Strategic Analysis product type	Offence
2017	-	-		-
2018	-	-		-
2019	-	-		-
2020	5	CDPF (4) CED	CDPF – (1) Trend Analysis (Drug Trafficking), (1) Pattern Analysis (Migrant Smuggling), (2) Behaviour Analysis (ATM Fraud) CED – (1) Behaviour Analysis (TBML)	CDPF (Drug trafficking, migrant smuggling, ML, ATM scams); CED (TBML)
2021	9	CED (4) ECCB(3) FSU(2)	CED – (3) Behaviour (TBML), (1) Pattern Analysis (Migrant Smuggling)	CED (TBML, False invoicing, smuggling, migrant smuggling); ECCB (Domestic banks STR filing, foreign exchange transactions, large cash transactions); FSU (FIs' STR filings, Pyramid scheme)
Total	14			

175. Authorities provided the following information, relative to the number of operational intelligence products disseminated to the CDPF. (see table 3.12 below).

Table 3.12. No. of Operational Analysis Disseminated by the FIU to the CDPF, during the period 2017 to 2021

OPERATIONAL ANALYSIS DISSEMINATED TO THE CDPF			
Year	Number of operational analysis disseminated	Competent Authority Analysis disseminated to	Offence
2017	-	-	-
2018	3	CDPF	Theft (2), ATM Fraud (1)
2019	3	CDPF	ATM Fraud (1), Burglary (1)
2020	4	CDPF	Murder (1), Company records check (3)
2021	1	CDPF	Theft (1)
Total	11		

176. The analytical department of the FIU receives and analyses CTRs submitted to the CED by travellers entering and leaving the jurisdiction. These reports are received electronically and via physical delivery to the FIU. For the period under review, the FIU received 434 CTRs. A listing of these CTRs is illustrated in table 3.13 below. Pre-analysis is conducted on all CTRs received, with a view to verifying the source and intended use of funds. If the individual cannot sufficiently satisfy the FIU that the funds were legitimate or intended for legitimate usage, then the funds would be seized by CED or FIU and an investigation would be launched into that individual. The FIU indicated that it has disseminated information stemming from its analysis of CTRs to LEAs namely the NJIC with the CDPF and the CED. The AT notes that the statistics relating to these disseminations were not captured in table 3.12 above and the quantity and nature of these disseminations remain unclear. The FIU advised that a total of four CTRs initiated ML investigations; these investigations are still said to be ongoing. Additionally, the FIU indicated that information of its CTR analysis has been provided to several foreign FIUs both spontaneously and upon request. In the absence of cogent information from the jurisdiction, it appears that the information provided in CTRs are not widely used, in light of Dominica's risk profile with the outflows of funds relating to drug trafficking and firearms trafficking. Box 3.5 highlights a case example wherein information from a CTR was utilised in providing assistance to a foreign FIU.

Table 3.13. No. of CTRs received by the FIU, during the period 2017 to 2021

Year	Number of CTRs Received
2017	2
2018	105
2019	225
2020	78
2021	24
Total	434

Box 3.5. Information disseminated from a CTR to a foreign FIU based on a request for information

Operation Dryland

This investigation was initiated as a result of a number of financial activities identified to have been performed over a period of time, involving Suspects 'X' and 'Y'. These activities captured within the FIU's database include CTRs, STRs and spontaneous disclosures. From the analysis of the records, it was discovered that the suspects were both of Middle Eastern descent and holders of citizenship of a sister Caribbean Island. They arrived in Dominica in 2010 and between 2016 and 2017 they incorporated several businesses. Whilst the businesses were legally registered, the unexpectedly high levels of financial activities from these businesses were deemed suspicious. Egmont requests for assistance were sent to over seven (7) jurisdictions. Responses to these requests were received and analysed. The investigations, thus far, has shown that the suspects frequently travelled with large sums of EUR and USD currencies amounting to over USD122,000 and EUR \$37,000. While the declared sums of funds appeared to have been proceeds of the businesses, further investigations are ongoing to determine the source and intended usage of the funds.

Source: The Commonwealth of Dominica Authorities

177. During the onsite, CAs reported having a close working relationship with the FIU and a high satisfaction with the information provided in response to their spontaneous requests.

3.2.3. Operational needs supported by FIU analysis and dissemination

178. The FIU provides and disseminates analytical products, financial intelligence and relevant information to competent authorities, pursuant to the legislative provisions of the FIUA, MLPA and the POCA. The FIU's analysis and dissemination supports the operational needs of the competent authorities to a large extent, albeit some enhancements are needed. The FIU's analysis and dissemination contribute both to starting new criminal investigations and to supporting ongoing cases. However, the number of intelligence products from the FIU's analytical department that initiates ML cases is reasonable. The analytical department has also recently begun to produce quality strategic analyses that are being utilized by competent authorities.

179. There are two aspects to the dissemination function of the analytical department. Relevant information is transmitted to local CAs, including LEAs, for investigation whenever analysis reveals ML or any other criminal activity. In addition, information is transmitted to relevant regional and international agencies concerned with the investigation or prosecution of ML/TF. When the analytical department completes analysis of a case with a conclusion that there is substantial evidence of criminal conduct, it is the duty of the analytical department to disseminate the information and the results of its analysis to either the investigations department within the FIU or to local and foreign LEAs for investigation.
180. Prior to the establishment of the analytical department in 2020, the FIU consisted of financial investigators only who would conduct their own separate and unique analysis on STRs assigned to them. This process was less structured and less effective as investigators investigating ML and cash seizure cases could only focus on analysing the cases assigned to them, whilst limited focus was placed on the STRs assigned to them. With the establishment of the analytical department, there are now several mechanisms in place to assess the quality of analysis conducted by the analytical department. These mechanisms include the monitoring and supervision by the Director and senior financial investigator, weekly and monthly progress reporting of analysis conducted, annual appraisal system conducted within the department and feedback received from the dissemination of FIU products to other competent authorities. The analytical department and investigative department operate in the same space and utilizes the same database systems within the FIU; their feedback is provided both orally and within the database management systems. The FIU advised that in the majority of instances, operational intelligence products are presented and discussed with respective external CAs within the boardroom of the FIU. During these sessions, feedback is provided directly to the FIU regarding the quality and composition of these intelligence reports. The feedback received by the FIU is used to tailor the contents of their intelligence products to better match the operational requirements of the LEAs. In recognition of the foregoing, qualitative and quantitative statistics showing the feedback received by the FIU from the dissemination of its analysis could not be provided to the assessors. Notwithstanding, the FIU has developed a feedback form for use by the recipients of its analytical products and completed samples of these forms were provided to the assessors.
181. As indicated previously above paragraph, the FIU made 20 operational analysis spontaneous disseminations to the CDPF, CED and the FIU's investigations department. Of the eight operational intelligence products disseminated to the investigations department, three are being pursued as ML investigations, whilst five did not yield sufficient cogent evidence to pursue ML prosecution. The outcomes of the 11 operational analytical products that were disseminated to the CDPF are listed in table 3.14 below. Of these 11 operational analytical product disseminations, two resulted in convictions and two are still being prosecuted. It is noted that these 11 disseminations relate to three of the high-level threats that have been identified by the jurisdiction; ATM fraud theft and burglary. Additionally, from the information presented in tables 3.15 and 8.5, the FIU made a total of 202 disclosures of financial intelligence to local and foreign LEAs, upon request.

Table 3.14. Outcomes of Operational Analysis Disseminated by the FIU, during the period 2017 to 2021

OPERATIONAL ANALYSIS DISSEMINATED				
Year	Number of operational analysis disseminated	Competent Authority Analysis Disseminated to	Offence	Outcome
2017	-	-	-	-
2018	3	CDPF	Theft (2), ATM Fraud (1)	Investigations ongoing (1) Investigation closed due to the death of the suspect (1). Conviction for theft and confiscation of electronic devices. Also, forfeiture & release of cash to financial institutions (1).
2019	3	CDPF	Deception (1), ATM Fraud (1) Burglary (1)	Investigation closed. Not sufficient evidence (1). Suspects charged and convicted (1) Investigations ongoing (1)
2020	4	CDPF	Murder (1), Company records checks (3)	Being prosecuted (1) Facilitated timely submission of UBO information to foreign counterparts (3)
2021	1	CDPF	Theft (1)	Being prosecuted (1)
Total	11			

182. Overall, the assessors note that at least 48 per cent of the 852 STRs were subject to an in-depth analysis resulting in the generation of the 20 operational intelligence products and 14 strategic analytical products. Additionally, of the 20 operational analysis products, six of these disseminations could not be pursued further by the CDPF and the investigations department because they related to criminal investigations and prosecutions which require the criminal standard of proof (i.e beyond reasonable doubt). However, the products were still effectively utilised, including in joint investigations, asset recovery proceedings and successful cash forfeiture outcomes. For example, in 2019, an intelligence report submitted by the FIU to the CDPF's drug squad led to two Spanish nationals being intercepted with over USD13,000. The sum was successfully forfeited, and the two nationals were subsequently deported. These figures suggest that there is some room for improvement in terms of increasing the overall operational analysis output by the analytical department.

183. The analytical department within the FIU is also mandated to prepare and conduct strategic analysis reports. The Revised Analysis Department Operations Manual (2021) states that the analytical department conducts several strategic analysis products inclusive of typologies, trends, patterns, syntheses, geographic analysis, behaviour analysis, activity analysis and descriptive analysis. The manual did not specify which tools would be utilised by the analytical division in conducting the strategic analysis. However, the FIU utilises many tools in the development of its strategic analysis, such as, Analyst Notebook, Microsoft Office Suite, Open-Source tools and guidance from strategic analysis manual provided by trust partners.

184. Box 3.6, below, highlights an example of how the FIU analysis and dissemination supported the operational needs of CAs within the jurisdiction.

Box 3.6. Example of FIU analysis and dissemination supporting the operational needs of CAs.

Within the review period, the FIU collaborated with the CDPF, CED, FSU, credit unions, MSBs and commercial banks in the identification, arrests, prosecution, conviction of subjects that were defrauding FIs of funds held in several ATMs, and restitution of the funds to the FIs. Several STRs were received from credit unions, MSBs and commercial banks, which was complemented by request for information from the FIU to these entities, to obtain additional information to facilitate the development of an operational analysis product aimed at apprehending the suspects. Transactional data from these entities were analyzed utilising the FIU's analytical tools, in particular the IBM i2 Analyst Notebook, used specifically for gaining insight into complex datasets. Further, CCTV video recordings from the ATMs of these entities were also reviewed which evidenced the identity of the suspects during the commission of the crime at that specific date and time. This allowed CAs to link the suspects to the fraudulent transactions that were executed within the FIs, proving that the identified suspects were the perpetrators of the crime.

The finalised operational analysis product was used to guide tactical briefings with the participating CAs and FIs. The analytical product assisted in the identification of a high-risk threat namely ATM fraud and the quantification of the stolen funds from these FIs, and also aided in understanding the trends and techniques used by the ATM fraudsters. During the execution of the operation, seven (7) suspects were arrested at the ATMs, due to extensive surveillance and real-time reporting by the FIs to the LEAs forming part of this operation. Post the arrest of the suspects, searches were conducted by the CDPF at the residence of the suspects and instrumentalities of the crimes along with the seizure of XCD25,000.00, the amount defrauded from both FIs. Due to the fact that the seven (7) suspects were non-nationals, this allowed the CED to provide information evidencing declarations by the subjects that was not consistent with their immigration and customs declarations relative to the volume of cash they were in possession of. The suspects were convicted of offences of theft, fraudulent use of card, receipt of money obtained by fraudulent use of cards, possession of counterfeit cards and possession of card making equipment. The monies was proportionally restituted to each FI.

Strategic Outcomes

Several strategic outcomes were realised to include:

- A strategic approach was successfully developed with input from all affected financial institutions in collaboration with the FSU, resulting in the upgrade of all ATM systems of these institutions to the Europay, MasterCard and Visa (EMV) Chip Debit Card.
- Establishment of a Task Force within the CDPF that worked closely with the affected FIs, who utilised staff to conduct real-time surveillance of the ATM machines and report suspicious activities of similar types of crimes to the CDPF.
- The LEA actions resulted in the disruption of similar and future ATM fraud activities.
- A compliance association among compliance officers of the impacted FIs was established with the intervention of the FIU.
- The instrumentalities of the crimes were handed over to the FIU for utilisation as training aids.
- One criminal case is pending trial at the court.

Source: The Commonwealth of Dominica Authorities

185. Strategic analysis products are prioritised based on need and urgency. If a CA requests statistics for the performance of their functions, priority will be given to having the strategic analysis product disseminated to that authority. Otherwise, priority is given to need based on the function of that CA. For example, most of these products are submitted to the supervisory authority as it relies heavily on these products to effectively conduct onsite and offsite monitoring and examination of scheduled entities. Also, in relation to urgency that would

depend on whether a particular trend, pattern or typology is observed or ongoing. In facilitating the protection of the financial economy where matters of national concern are observed while conducting these analytical products, they are submitted to the relevant authority.

186. The strategic analysis products developed by the FIU are primarily statistical data that has been provided to CAs based on requests made to the FIU. Whilst these products were produced in reaction to requests from other CAs, the information provided therein would have satisfied the criteria of the request. However, strategic analytical products relating to key risk areas and including domestic contextual information have not been largely forthcoming. Despite this gap, the AT was provided with a comprehensive strategic analysis product that was recently shared with the FSU relative to the recent “pyramid scheme” phenomena. This product focused on an emerging high- risk area and contained strategic information from STRs within the FIU’s database. Whilst the AT was provided with the completed feedback form from the CA, relative to this dissemination, statistical qualitative data was not provided to show the overall feedback received from the various CAs in response to the strategic analysis products.

187. Notwithstanding, during discussions with the CAs, the assessors were informed of the outcomes of the strategic products, as follows:

- CDPF – The strategic analysis products assisted the CDPF in the development of policies and targeted operations which have resulted in successful prosecution.
- FSU – The strategic analysis products enable the FSU to develop better mechanisms to boost their operational functions such as conducting onsite and offsite examinations as well as strategizing the agency’s policies.
- CED – The strategic analysis products enable the CED to better strategize as it relates to human resource and deployment of officers. Further, it has led to the increase in duty recovery by the CED, as a result of targeted operations.

188. Financial intelligence products developed by the FIU’s analytical department are considered to be of a high quality by its primary users. The three main triggers for initiating ML investigations in Dominica are: (i) incoming MLA requests, including spontaneous information received from foreign jurisdictions, (ii) financial intelligence products submitted by the FIU’s analytical department, and (iii) information obtained from the CDPF in the course of their investigations. The overall number of ML investigations initiated in the jurisdiction can be increased with the corresponding increase in the number of disseminations of operational products from the FIU (see I.O. 7 for further details).

3.2.4. Cooperation and exchange of information/financial intelligence

189. A good spirit of co-operation exists amongst all CAs in Dominica and has resulted in several effective investigations using financial intelligence. There are no impediments, statutory or otherwise, which hinder the domestic and international exchange of information. Table 3.15 below shows the number of information requests made to the FIU, by LEAs and other CAs during the review period. The FIU received 117 requests from the CDPF, CED, FSU and Central Authority, to facilitate MLA Requests, for a range of offences. The number of requests

made to the FIU shows a sustained average, during the review period, with no marked increase nor decrease. Box 3.7 highlights a case example wherein financial intelligence provided by the FIU was utilized in a case being investigated by the CED.

Table 3.15. Requests made to the FIU by LEAs and other CAs, during the period 2017 to 2021

Year	Competent Authority	Type of Offence	Number of Requests	Total
2017	CED	False Declaration	10	25
	Central Authority	ML; Fraud	2	
	CDPF	ML; Drug Trafficking	13	
2018	CED	False Declaration	3	17
	Central Authority	ML; Fraud; Drug Trafficking	9	
	CDPF	ML; Drug Trafficking	4	
	FSU		1	
2019	CED	Fraudulent Evasion; Falsification of documents; failure to declare	8	25
	Central Authority	Drug Trafficking	8	
	CDPF	ML; Theft; Burglary; Fraud; Forgery	9	
2020	CED	ML; False Declaration	4	23
	Central Authority	Fraud; Drug Trafficking	7	
	CDPF	Burglary; Theft; Drug Trafficking; Murder; Fraud	11	
	FSU	Fraud	1	
2021	CED	False Declaration	2	27
	Central Authority	ML; Fraud; Theft; Drug Trafficking	13	
	CDPF	ML; Possession of Firearm and Ammunition	12	
Total			117	117

Box 3.7. Use of financial intelligence by the Customs and Excise Division as a result of cooperation and sharing

In 2020, the FIU initiated investigations after an informal collaboration with Customs Audit and a formal request for assistance by the Comptroller of Customs. The FIU utilised provisional measures and obtained over 1,000 pages of financial information from a financial institution. All transactions were analysed and a detailed report submitted to the Comptroller identifying the various transactions and receipts that identified the various customs offences to include false invoicing and under invoicing. The officers of the Customs Audit and the FIU collaborated over a period of three (3) years to collate the information and provide a completed casefile to the Comptroller of Customs. Having concluded the investigations into the matter, two other cases (2) were identified. The investigations are ongoing by the Customs and Excise Division.

The Comptroller of Customs levied a fine of over USD150,000.00 against the beneficial owners of both companies. Further investigations are being conducted due to other discrepancies identified. As of March 2020, the FIU has received another request from the Comptroller of Customs in relation to the same two companies, that investigation is ongoing.

Source: Dominican Authorities

190. The FIU implements adequate measures to protect the confidentiality of information exchanged with domestic and foreign counterparts. The FIU implemented the “DOMFIU E-Filing system” which allows for the secure and confidential exchange of information amongst all CAs. The security level at the FIU’s premises and of its I.T infrastructure is sufficient to protect against natural disasters and cyber-attacks. The FIU also exchanges information with foreign counterpart FIUs and foreign authorities, when necessary, to a large extent.
191. There has been an increase in the sharing of information between the FIU and the FSU. An example of this information sharing has been in instances wherein deficiencies in STR reporting has been detected by the FIU and these flaws in the CDD processes of the reporting entities are provided to the FSU. The receipt of this type of information allows the FSU to identify weaknesses in a supervised entity, select areas of focus for AML/CFT examination and assess the overall effectiveness of the entity’s compliance programme.

Overall conclusion on IO.6

192. The FIU is a key source of financial intelligence and other relevant information in Dominica, with access to the widest range of information and relevant databases. Other CAs, including LEAs, routinely access information from both the FIU and from other available sources. The financial intelligence generated by the FIU is used to a large extent to investigate associated predicate offences, ML and possible TF, to trace and recover criminal proceeds and to render international cooperation. There are no impediments encountered by the FIU in accessing financial intelligence and other information to develop its analytical products.
193. Whilst the quality of STRs received by the FIU is considered appropriate, they are not fully aligned with some of the threats identified within the jurisdiction. In addition, given the identified risk relating to certain sectors of DNFBPs, a gap in financial intelligence may exist with the extremely low volume of STR reporting from DNFBPs (attorneys, registered agents and real estate agents).
194. The FIU has well developed analytical capability to produce good quality financial intelligence. Successful cases provided to the assessment team confirm the appropriate use of financial intelligence by the competent authorities. Whilst both operational and strategic analysis present a strong feature of the overall AML/CFT system in the jurisdiction, some areas still warrant increased focus. The number of operational intelligence and strategic intelligence products disseminated from STRs analyses is low, relative to the volume of STRs received. The strategic analytical products do not always relate to key risk areas nor address domestic contextual information. The increased number of operational and strategic analysis still requires minor improvements.
195. Overall, the assessors found that Dominica has substantially demonstrated adequate use of financial intelligence, including analysis and disseminations of SARs and IO 6 is being achieved to a large extent, with moderate improvement needed.

Dominica is rated as having a substantial level of effectiveness for IO.6.

3.3. Immediate Outcome 7 (ML investigation and prosecution)

3.3.1. *ML identification and investigation*

196. Dominica has a legal system and institutional framework enabling the investigation and prosecution of ML. The legal system provides a wide range of powers and responsibilities for LEAs to investigate and prosecute ML offences (see R. 3, 30 and 31). Both the CDPF and the FIU can initiate ML investigations. However, there is a national policy that dictates that the FIU investigators should initiate ML investigations and the officers of the CDPF investigate the predicate offences. Accordingly, in practice, ML investigations are only

conducted by the FIU. It should be noted that the investigators at the FIU are all members of the CDPF.

197. The authorities in Dominica have adequate competencies and access to information to progress investigations effectively. The staff of the FIU and other CAs are actively participating in ongoing training programmes, geared towards a continuous building of capacity and competency, inclusive of the areas of ML identification and investigation. In particular, the staff of the FIU have been extensively trained and are recipients of several designations in the field of AML/CFT and CPF. Evidence of the training afforded to the FIUs staff during the period 2019 to 2021 were presented to the assessors and included a wide range of topics. However, the FIU stated that the lack of personnel in the FIU hampers the investigations of ML. The CDPF plays a supporting role to the FIU in the provision of human resource assistance, when necessary, for e.g., in joint operations for searching.
198. Investigators use financial intelligence to a high extent, as an input into ML investigations (see IO.6.). Authorities indicated that ML investigations can be triggered in a number of ways, such as STRs analysis, parallel financial investigations into predicate offences, cash seizures, CTRs, MLA requests and ML profiling. Once initiated, investigations are prioritized by the FIU after discussions with the DPP. In the prioritization of ML cases by the FIU, risk factor is a major consideration. Cases relating to drug trafficking, firearm and ammunition trafficking, ATM fraud, customs & excise breaches and the interception of cash proceeds are given increased focus and prioritization.
199. During the period under review, Dominica initiated 73 ML investigations; resulting in 13 ML charges; a conversion rate of 18 per cent. Based on the statistics provided by the jurisdiction, the origins of these 73 ML investigations were from operational analysis disseminations from the analytical department (STR analysis and CTR analysis), parallel investigations and MLA and other foreign requests only and are highlighted below in table 3.16. The assessors note that 52 per cent of the ML investigations were related to MLAs and other foreign requests, whilst 16 per cent came from analysis of CTRs and STRs.

Table 3.16. Number of ML investigations conducted by the FIU, during the period 2017 to 2021

Source	Number of ML Investigations	Number of ML charges
STR analysis dissemination from the FIU's Analytical Department	8	3
CTR analysis from the FIU's Analytical Department	4	0
Parallel investigations into predicate offences	23	10
MLA and other Foreign Requests	38	0
Total	73	13

200. The FIU collaborates with national and regional partners in the identification and investigation of ML cases. During the period under review, the investigation department

within the FIU, in the identification of potential ML cases for the review period, held case conferences, discussions and presentations with partnered regional organisations, namely the Regional Security System Asset Recovery Unit and National Centre for State Courts. Both organisations are well-resourced with expertise in ML investigations and prosecution. These partners provided mentorships, guidance and advice in the identification of potential cases and the prosecution of identified ML matters. During the period under review, the FIU identified and discussed 27 ML cases with these partners. Following due consideration, including case conferences with regional partners the DPP, and the Chambers of the Attorney General, decisions were conclusively taken as to whether to proceed with prosecution of predicate offences, utilize the alternative civil recovery, utilize the forfeiture process or prosecute for ML.

201. Based on the information presented to the assessors (see IO.6), eight disseminations were made to the investigations department from the analytical department. Table 3.17 below shows statistics that were presented by the FIU to illustrate the number of ML charges that were initiated from analysis conducted by the analytical department. From a total of 852 STRs submissions, 20 STRs were analysed and developed into eight intelligence products; resulting in three ML charges. It is noted that all of the intelligence products submitted by the analytical department were investigated for ML by the investigations department.

Table 3.17. Number of ML charges initiated by the analysis conducted by the Analytical Department of the FIU, during the period 2017 to 2021

Year	Ongoing Analysis	Filed for Intelligence	ML Identification	ML Charges
2017	120	39	171	0
2018	34	73	142	0
2019	22	141	187	1
2020	0	134	122	0
2021	0	131	163	2
Total	176	518	785	3

202. The standard operating procedure adopted by the FIU in the investigations of reports referred by LEAs is that a parallel financial investigation is initiated into the persons arrested for predicated offences. The SOP of the investigations department provide the policies and procedures in the conduct of ML investigations. In regard to parallel financial investigations, cases are referred to the FIU by other LEAs such as the CDPF and the CED. In instances where individuals have been charged for predicate offences, information is also relayed to the FIU by the different units within these LEAs, based on individual lifestyle, unexplained assets and via intelligence sharing mechanisms that have identified suspected illicit activities. For the review period, the FIU initiated 23 ML investigations as a result of the reporting of predicate offences to the FIU and statistics relative to these cases are illustrated in table 3.18 below. Based on the information provided, from the 23 ML investigations, eight investigations resulted in ten ML charges being instituted; a prosecution success rate of 35 per cent. However, the authorities also stated that, at the conclusion of the investigations, these 23 cases were dealt with solely as predicate offences, proceedings via the civil recovery

regime and administrative fines from the CED. Authorities also indicated that two of these ML cases are presently before the court. Box 3.8 below illustrates a case example wherein a parallel investigation was conducted by the FIU, relative to a cash seizure by the CDPF.

Table 3.18. Number of ML investigations initiated as a result of predicate offences reporting to the FIU, during the period 2017 to 2021

Year	Number of Investigations	Competent Authority or LEAs involved	Actions Taken	Predicate Offence
2017	6	Dominica Port Authority, CED.	ML Charges instituted against 2 individuals and cash forfeiture application filed.	Drug Trafficking
		Dominica Port Authority, CED	ML Charges instituted against 2 individuals and cash forfeiture application filed.	
		CDPF	ML charges instituted and charges for theft and possession of fraudulent cards pursuant to the Electronic Funds Transfer Act	
		CDPF	Application of Cash Forfeiture Order granted in respect of currency with the equivalent of XCD \$179,935.56	
		CDPF	Application of Cash Forfeiture Order granted in respect of currency with the equivalent of XCD \$550,562.92	
		CDPF	Application of Cash Forfeiture Order granted in respect of currency with the equivalent of XCD \$78,626.30	
2018	3	CDPF	ML charge instituted against one (1) individual RE: €187,245.00	Drug Trafficking
		CDPF	Seizure of XCD\$4,975.50, USD\$658.00, €1,515.00. Money was returned as there was insufficient evidence to prosecute.	
		CDPF	Cash forfeiture application for XCD\$14,262.72	

2019	6	CDPF	ML charge instituted against one (1) individual RE: €19,000.00	Drug Trafficking
		CDPF, CED	False declaration charges. Cash forfeiture of USD\$239,980.00	False Declaration / Smuggling of Goods
		CDPF	Application for cash forfeiture against €16,600.00	Possession of Firearm
		CED	Cash forfeiture of €19,380.00	<i>No information provided</i>
		CDPF	Cash forfeiture application against €8,000.00	
		CDPF	ML charge instituted against one (1) individual RE: €19,000.00	
2020	3	CDPF	Cash Forfeiture of €11,930.00. Two individuals charged for illegal entry	Smuggling of goods (cash)
		CDPF	Charged for drug possession and possession of firearms and ammunition. Application for cash forfeiture of €490.00 and XCD\$12,560.00	
		CDPF, CED	Matter dealt with administratively by the CED. A fine of XCD\$15,000.00 and forfeiture of €10,000.00	
2021	5	CDPF, CED	ML Prosecution against one (1) individual Re: €296,709.00 equivalent to USD\$269,709.00	Drug Trafficking
		CDPF, CED	Cash forfeiture of €149,640.00 equivalent to USD\$136,036.35	
		CDPF	ML prosecution against one (1) foreign national RE: €162,000.00 equivalent to USD\$145,945.95	
		CDPF	Civil forfeiture of USD\$1,322,667.27	
		CDPF	Civil forfeiture of €23,500.00	
Total	23			

Box 3.8. Joint approach to the identification and investigations of ML matter

The FIU in collaboration with the Drug Squad of the Commonwealth of Dominica Police Force carried out an investigation into the circumstances surrounding the seizure of Euro 8,000.00 (16 x 500) equivalent to XCD22,654.40 from Defendant K. The Defendant who is a Dominican national is self-employed and operated a small bar.

A financial investigation was carried out with a view to determine whether the cash seized was proceeds of unlawful conduct. During the investigations, it was discovered that the level of revenue Defendant K claimed to have earned could not be supported. The financial records obtained along with other evidence gave rise to the irresistible inference that the cash is recoverable cash, because it is not likely that the large denominations would have been obtained from customers purchasing meals, as K claimed.

It is believed that the Defendant was involved in the first stage of the three-stage process of Money Laundering. It is believed that he illegally obtained the funds and was seeking to give the appearance of having obtained it legitimately.

Results: Money laundering investigations and profiling of two individuals. A Forfeiture Application was filed in respect to the seized cash and the hearing is pending while a Money Laundering charge was preferred against an individual with a nexus to Defendant K.

Source: Dominica Authorities

203. Whilst parallel investigation is undertaken when cases are referred to the FIU from the CDPF and the CED, the number of ML investigations resulting from parallel investigations is not consistent nor proportionate with the number of investigations undertaken into the predicate offences (see table 3.19 below). Of the 3,476 predicate offences investigated by the CDPF, only 23 ML investigations were undertaken in parallel 0.07 per cent of the total number of predicate offence investigations.

204. Potential ML cases were also identified and investigated based on mutual assistance requests from various jurisdictions; made through the Central Authority. For the review period, the FIU identified and investigated 38 potential ML cases stemming from mutual legal assistance requests. A breakdown of these 38 cases is presented in IO. 2.

205. In addition, the FIU also indicated that ML investigations are initiated from CTRs submitted to the FIU and from its performance of ML profiling of individuals and legal entities in order to identify and investigate potential ML matters. No statistics in support of the profiling of persons and legal entities was provided to the assessors for evaluation. However, a case example, relative to initiation of an ML investigation from CTR analysis was put forward and is illustrated in box 3.9 below.

Box 3.9. ML investigation initiated from the submission of a Cash Transportation Report

This investigation was initiated as a result of a number of financial activities identified to have been performed over a period, through Cash Transportation Reports (CTR), involving, Suspect X and Suspect Y. These activities captured within the DOMFIU's database include, outboard cash declared to the DOMFIU or Customs and Excise Division. From the records obtained, a Money Laundering investigation was instituted. Through the use of various investigative tools and pursuant to Section 17 of the Money Laundering Act Chap 73:03, a financial analysis was conducted. The analysis revealed that between 2016 and 2017 the suspects incorporated a restaurant and three clothing stores. While it is evident that the suspects' businesses are legally registered, the unexpectedly high levels of financial activities from these businesses are suspicious. A review of the suspects' businesses financial records identified that there is no declared business income with the Dominica Social Security and Inland Revenue Division to support the suspects purported income declared to FIU or Customs via the Cash Declaration Forms.

Suspect X and Suspect Y high level of financial activities coupled with their frequent travels with large sums of cash instead of the use of credit/debit cards gives rise to suspicion. Any prudent businessperson would not operate business transactions solely on cash. While the declared source of funds appeared to have been proceeds of the businesses, further investigations are necessary to determine the source of funds and intended use of the funds.

Results: A Money Laundering investigation is ongoing, a financial analysis is being conducted to determine whether Suspect X and Suspect Y benefited from the proceeds of crime and if so, to what extent.

Source: Dominica Authorities

206. Despite the large number of proceeds generating offences investigated in Dominica which may give rise to ML activity and the low number of operational intelligence products disseminated to the investigations department from the analytical department of the FIU, there have been few investigations and prosecutions for ML. Whilst the financial investigators have appropriate skills and experience in investigating ML, the number of ML investigations undertaken is hampered by the insufficient number of financial investigators at the FIU; these investigators are also tasked with investigating TF matters (see IO.9.). In addition, whilst there are tools and techniques available for the investigation of ML, the inability to use interception of communications (see R.31) for intelligence and evidential purposes can affect the thoroughness of investigations, given the pervasive use of technology in contemporary crimes.

207. Despite Dominica having a largely effective system to identify ML, the opening of investigations for ML has not been triggered by open-source information nor reports made by members of the public, within the review period. Notwithstanding, the FIU indicated that in the past, ML investigations have been initiated from OSINT and intel received from the public.

3.3.2. Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

208. To address the investigations and prosecution of ML offences, the FIU has developed a Standard Operating Procedure manual for the investigations department. This manual provides guidance as to the processes and procedures that should be adopted in the conduct of ML investigations. The risk factor is a major consideration in the investigations of ML cases. The predicate offences of drug trafficking, firearm and ammunition trafficking, ATM frauds, customs and excise breaches and interception of cash proceeds are prioritized for ML investigations. The DPP has developed two policy documents: namely National Prosecution Policy-Dominica and the Code of Prosecutors. Both documents, when taken together, provide that the prosecution of ML offences be conducted in line with the national interest.

209. For the review period, before initiating any major investigations with a nexus to ML or the proceeds of crime, the FIU often informs the DPP. Case conferences are set up where the cases are presented to the DPP for consideration on whether to proceed with ML or use alternative measures such as prosecution for the predicate offence or litigation under the civil recovery regime. The investigations conducted by the FIU are oftentimes comprehensive. In the consideration of whether to proceed with the ML charges several factors are considered

such as the financial status of the suspect, issues of double jeopardy, the suspect being a foreign national, issues of mutual assistance in criminal matters and the delays in obtaining information of evidential value. Once a decision is taken to proceed with an ML investigation where cash is involved, the officers of the FIU, as per procedures, produce two files: a money laundering casefile and a cash forfeiture casefile. The cash forfeiture casefile is presented to the AG Chambers.

210. These procedures ensure that in the event that the criminal matters fail or are withdrawn, an *in rem* application is presented. The overall aim of the jurisdiction is to take profit out of crime. The FIU produces completed ML casefiles for review. The ML casefiles provided for review contained detailed financial investigations and, in some instances, forensic accounting reports have been attached so that an informed legal decision could be taken. In 2020, the DPP provided training to the FIU staff in preparing ML cases utilizing Criminal Procedure (Preliminary Inquiries) Act Chapter 12:03. The FIU has been effective in investigating ML matters and must also be applauded for their extensive cooperation with the DPP. One major deficiency identified is in regard to cases investigated by the CDPF stemming from predicate offences. Often these investigations are aimed solely at the predicate offences and the nexus to ML are often ignored before the information of the case is transmitted to the FIU. Provisional measures such as search warrants to collect financial information to buttress the investigation are not properly conducted. Ultimately, this has affected the number of ML investigations originating from parallel investigations.
211. ML cases are treated as serious offences. However, several factors are considered in the prioritisation of cases by the Courts such as age of the accused, age of the victim, foreign national, grievousness of the matter, inter alia. In recent years, the Court has guided the prosecution to prosecute ML related matters utilising the paper committal application and procedures to reduce prosecutorial delays. This was as a result of cases not being given special priority within the court system and being prolonged over lengthy periods of time. The DPP stated that prior to 2022, all ML offences were indictable offences. This meant that there was a long preliminary inquiry stage before indictment at the High Court.
212. Information provided by the FIU shows that, during the review period, there have been six prosecutions for ML. However, the DPP provided information to the assessors during the onsite visit which shows that there have been seven prosecutions for ML during the corresponding period and information from the Judiciary shows that there were eight prosecutions for ML. Consequently, the assessors are unable to verify the precise number of prosecutions in the jurisdiction over the review period. With competent authorities not agreeing on the number of ML prosecutions, it again raises questions about the accuracy and efficacy of ML-related statistics within the jurisdiction. The authorities indicated that statistics are maintained differently per CA. For example, the FIU maintains statistics per case, whilst the judiciary maintains statistics per charges preferred. Therefore, as it relates to ML prosecution for the period, eight prosecutions stand as the most accurate figure.
213. As illustrated in table 3.18 above, of the 23 ML investigations identified, 15 of these investigations were linked to drug trafficking; representing 65 per cent of the total number of investigations. Smuggling of cash was identified in four cases; representing 17 per cent of the total number of investigations. The NRA had concluded that predicate offences high-risk for

ML were drug trafficking, Fraud/ATM Scams, Theft, Burglary and Firearms Trafficking. With only drug trafficking being identified in the ML investigation statistics, it does not appear that ML investigations and prosecutions are fully consistent with the threats and risk profile of Dominica. Box 3.10 illustrates a case wherein a ML charge originated from a cash seizure investigation linked to drug trafficking.

Box 3.10. ML charge originating from a cash seizure investigation linked to drug trafficking.

Operation: Mule Must Pay

In July 2021, based on an intelligence – driven operation, a foreign national was found at a hotel room with the sum of €162,000.00. He was subsequently questioned and arrested on suspicion of ML. A joint investigation between the FIU and CDPF led to a charge of ML being instituted against the individual. A civil forfeiture matter was also filed against the individual.

Source: Dominican Authorities

214. Table 3.19 below shows the number of predicate offences that were investigated by the CDPF, during the reporting period. Stealing accounted for 85 per cent of these predicate offences and is deemed high-risk for ML; yet this has not been the trigger of any ML investigation. The CDPF investigated 75 offences relating to drug trafficking, but only 15 ML investigations followed. With only a 20 per cent conversion rate from drug trafficking investigations to ML, there does not appear to be a correlation with the investigations of ML and the investigation of drug trafficking as a predicate. While deemed high-risk for ML, there have only been four investigations for firearm trafficking and 70 for fraud-related offences, but neither has yielded any subsequent ML investigation. Of note, these statistics show that the total number of ML investigations were 25. Further to the initial concern raised by the assessors, there was no clarification whether these figures represented the ML investigations undertaken by the FIU and raises more concerns as to the true number of ML investigations undertaken during the review period.

Table 3.19. Number of predicate offences investigated by the CDPF, during the period 2017 to 2021

Predicate Offence	YEAR					TOTAL
	2017	2018	2019	2020	2021	
Possession of controlled drugs for the purpose of supply contrary to section 7(3) of the Drugs (Prevention of Misuse) Act, 13, 11, 18, 12, 5	13	11	18	12	5	59
Trafficking in controlled drugs contrary to section 16 of the Drugs (Prevention of Misuse) Act	24	16	18	7	10	75
Assisting another to retain the benefit of drug trafficking contrary to section 17 of the Drugs (Prevention of Misuse) Act	0	0	0	0	0	0
Abduction	1	0	2	0	2	5
Blackmail	0	0	0	0	0	0
Corruption	0	0	0	0	0	0
Counterfeiting	5	3	4	3	9	24
Extortion	0	0	0	0	0	0
Firearm Trafficking	0	1	0	1	2	4
Forgery	10	7	7	7	15	46
Fraud	0	0	0	0	0	0
Illegal Deposit Taking	0	0	0	0	0	0
Prostitution	0	0	0	0	0	0
Robbery	72	69	86	41	37	305
Financing of Terrorism	0	0	0	0	0	0
Terrorism	0	0	0	0	0	0
Stealing (burglary, theft)	871	619	494	557	421	2962
Trafficking in persons / Smuggling in person	0	0	0	0	0	0
Piracy	0	0	0	0	0	0
Money Laundering	1	5	5	4	10	25

215. The associate predicate offences to which the eight ML investigations originating from STR analysis relate were not provided to the assessors and this prevents the assessors from making a more detailed analysis of these ML investigations being in line with the risk profile of the jurisdiction. Of the 38 ML requests that originated from MLA requests and other foreign requests, the underlying predicate offences included drug trafficking, wire fraud, tax fraud and investigations relating to the IBC sector. Summary statistics were provided, as opposed to a breakdown of the offences for each investigation. A comprehensive assessment of the consistency of ML investigations and prosecutions being in line with the threats and risk profile and national AML policies cannot be conducted.

216. The FIU provided information indicating that the FIU, in collaboration with other LEAs, was pursuing ML investigations into two major firearm trafficking cases and several trade-based

ML matters. However, details of these investigations were not provided to the AT and an assessment of these cases cannot be undertaken.

217. In keeping with the national AML/CFT Strategy, the DPP developed a policy to ensure that the proceeds of crime and ML were given prosecutorial priority. The DPP identified ML activities with a nexus to drug trafficking, firearm trafficking, fraud/ATM scam and corruption to be given high prosecutorial priority. Authorities indicated that during the period 2020-2022, there was an increase in these four offences and hence they were given high prosecutorial priority. However, the lack of ML investigations into these predicate offences has not allowed for this prosecutorial priority to be fully implemented.
218. The absence of comprehensive datasets relating to ML investigations and prosecutions has not allowed the assessors to make a comprehensive assessment of whether ML investigations are fully consistent with threats, risk profile and national AML policies of the jurisdiction. Notwithstanding, the assessors note that the ML cases are not fully commensurate with the jurisdiction's threat and risk profile. In addition, the lack of prioritization of ML cases within the court system is counterproductive to the prosecutorial priority applied to ML cases by the DPP.

3.3.3. Types of ML cases pursued

219. The statistics and case studies demonstrate that the prosecutors have the ability and knowledge to take all types of cases forward within the court system; both criminal and civil routes (although these cases are not fully commensurate with the jurisdiction's risk, as described above). However, the DPP identified the lack of adequate human resources as one of the major challenges in attaining successful ML case prosecutions. Lawyers were not interested in prosecuting criminal law and prefer to work in private practice where it is more lucrative and beneficial; thereby affecting the retention and acquisition of staff at the office of the DPP.
220. During the review period, 2017 to 2021, the FIU indicated that there have been six ML prosecutions. The types of these ML prosecutions are illustrated in table 3.20 below. These six prosecutions involved seven defendants and a total of 13 charges. No information was provided to the assessors which suggested that any of the cases prosecuted were linked to a foreign predicate offence. Whilst the information in table 3.20 clearly shows the type of ML cases prosecuted, no information was provided to the assessors regarding a similar breakdown of the types of ML cases investigated.

Table 3.20. Types of ML prosecutions, during the period 2017 to 2021

Year	Number of Cases	Third-party ML	Self-Laundering	Stand-alone ML	Number at the Prosecutorial Stage	Number of Convictions	Alternative Criminal Measures	Money Value in USD \$
2017	3	0	0	3	0	0	3	\$65,000.00
2018	1	0	0	0	1	0	1	\$205,965.50
2019	1	0	0	1	1	0	1	\$20,900.00
2020	0	0	0	0	0	0	0	\$0.00
2021	1	0	0	2	1	0	1	\$326,348.00
Total	6	0	0	6	3	0	6	\$618,213.50

221. With 73 ML investigations being commenced and only six investigative cases leading to an indictment, this gives a conversion rate of 8 per cent. With a further conversion rate of 0 per cent from prosecutions to convictions, this suggests that the investigative process may not be adequately filtering out cases with unsatisfactory evidence, poor prosecution presentation of cases or limited judicial understanding or receptivity to ML. The 9 per cent conversion rate is attributed by authorities to instances wherein the subjects of these investigations being foreign nationals who are unable to retain proper legal representation, subjects possessing limited resources in cases where significant cash seizures have been effected and the utilisation of a risk-benefit analysis in relation to ML prosecution or civil forfeiture by the DPP. Further, information utilising MLAs and expert witness statements take lengthy periods to be obtained and the strict indictable nature of ML offences proves to be a major impediment as a result of preliminary inquiries, unavoidable delays in the court system and other judicial factors.
222. Authorities indicated that the main factor that contributes to the low conversion rate from investigations to prosecutions, and from prosecutions to convictions for ML is the absence of sufficient evidence. A few of the ML investigations undertaken by the FIU have been hindered by the unavailability of adequate evidence needed to prove all the elements of the offense. Additionally, the conversion rate in respect of ML matters is low because the criminal law dictates the procedures which are carried out during the investigation and prosecution of criminal matters. For example, in the past, ML was treated as a solely indictable matter and as such, a preliminary inquiry would be conducted prior to the matter being brought before the High Court. Further, it is indeed frequent that the counsel for the defendant/ accused would try to raise points of procedural irregularities and also object to the admissibility of evidence which delays the prosecution of the matter. Additionally, defence counsel sometimes file applications for judicial review relating to the matter before the High Court which often further delays the ML proceedings as a stay is placed on the proceedings pending the outcome of the judicial review application.
223. To date, only natural persons have been prosecuted for ML; in keeping with the risk profile of the jurisdiction. Apart from the data presented in table 3.20 above, a similar breakdown was not provided for ML investigations. There have been no prosecutions involving foreign predicate offences or ML through legal persons. Parallel investigations, when conducted, are primarily in support of proceeds of crime confiscation efforts, rather than dedicated

investigations into the accompanying ML offence. Dominica has not demonstrated that it prosecutes different types of ML effectively.

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

224. There is a wide range of sanctions available for ML. However, ML convictions have not been secured in any cases prosecuted, thus far²³. Of the six ML cases prosecuted, only three are still before the courts. The assessors noted during interviews that the ML matters currently before the courts have not been completed because the provision of witness statements via the mutual legal assistance framework takes lengthy periods of time and the strictly indictable nature of the ML offences is a major impediment to how swiftly matters can be dealt with.
225. There have been no convictions for ML in the jurisdiction and an assessment of the effectiveness, proportionality and dissuasiveness of sanctions, in practice cannot be undertaken. There have been no sanctions applied against legal persons, as no legal person has been charged for ML.

3.3.5. Use of alternative measures

226. Dominica considers applying alternative measures when it is not possible to prove ML and demonstrated this in several references to cases. Based on the information provided in table 3.20, alternative measures have been adopted in each of the six cases that have been prosecuted with a total monetary value of USD618,213. Additionally, from the 23 ML investigations listed in table 3.18 above, cash forfeiture has been granted in 13 of these cases and returned in three cases. Five of these cases are still pending in the courts.
227. The policies of both the FIU and DPP state that where there is a case of potential ML from an associated predicate offence, an ML investigation is firstly instituted for the purposes of gathering sufficient evidence to satisfy the criminal standard. This is done to facilitate the instituting of ML charges. In instances where it is determined that the criminal standard cannot be met and cash, which is suspected to be recoverable cash, is involved, the cash is detained pursuant to the POCA and an investigation to gather evidence to satisfy the civil standard is conducted. In some instances, however, both the criminal case and civil case are filed in regard to the same matter. Where a criminal conviction is not possible for ML, the alternative is to institute proceedings against the tainted property to include cash. Alternative measures are considered when ML prosecutions are not possible in the following circumstances:
 - i. Based on investigations, the perpetrator is considered low profile and does not own significant assets;
 - ii. The suspects are vulnerable individuals who are considered as cash mules;
 - iii. Based on the cost benefit analysis;
 - iv. The offenders are foreign nationals;
 - v. Insufficient evidence for ML;
 - vi. There is a thrust to pursue civil asset recovery;

²³ On February 07, 2023, the jurisdiction acquired its first conviction for money laundering. The accused was sentenced to two years imprisonment and EUR162,000.00 was forfeited to the State.

- vii. The charges for the predicate offences are considered sufficient;
- viii. Where a conviction is not obtained through criminal trials.

228. For the review period, there are presently two civil recovery matters in the court system. These two matters have an estimated value of USD13,000,000 and involve property freezing orders against high - end vehicles, real estate properties. Box 3.11 below highlights a case study wherein alternative measures were utilized in an ML investigation.

Box 3.11. Use of alternative measures for an ML case

The FIU commenced investigations into a report, involving the arrest of two foreign nationals and a Dominican for ATM skimming activities. During the investigations for ML, both foreign nationals pleaded guilty for various offences under the Electronic Funds Transfer Act. Subsequently, a removal order was obtained, and both accused were deported. As a result, the ability to pursue and obtain a ML prosecution and conviction against the Dominican national proved futile since the guilty plea by the foreign national for associated predicate offenses affected the collation of evidence against the Dominican national. In 2019, the Dominican national was subsequently charged for theft and a civil cash forfeiture application was filed, resulting in the forfeiture of Euro €19,380.

Source: Dominica Authorities

229. The assessors found that the use of alternative measures, especially civil forfeiture, has been successfully utilized as an important tool in the AML/CFT regime. However, such alternative measures appear to diminish the importance of, or be a substitute for, prosecutions and convictions for ML offences. This appears to raise a concern that there is really little risk of being jailed for ML, if the criminal has funds available to be confiscated. The effectiveness, proportionality and dissuasiveness of sanctions is affected by the decisions to pursue alternative measures.

Overall conclusion on IO.7

230. To a large extent Dominica's legal framework enables the effective detection, investigation and prosecution of ML, including the ability to prosecute both self and third-party ML. The cases investigated are managed effectively by a seamless cooperation amongst the FIU and other relevant CAs and are carried out by highly trained financial investigators at the FIU. Investigations are prosecution-led and affords investigators with timely and proper guidance.
231. Whilst considerable information was provided by the FIU relative to the scope of its ML investigations, in most instances, datasets and statistics to verify these pronouncements were not provided to the assessors. As such, the assessors are unable to fully assess the efficacy of ML investigation and prosecution in Dominica. Notwithstanding, the assessors note that the ML cases are not fully commensurate with the jurisdiction's threat and risk profile.
232. Additionally, with convictions not yet being achieved, the assessors are unable to evaluate the overall effectiveness of the application of sanctions that are in place, relative to ML. The failure to secure ML convictions can be remedied by the prioritization of ML cases within the judiciary. Although alternative measures have been successfully implemented, their usage appears to be a substitute for prosecutions and convictions for ML offences.
233. Concerns remain regarding the overall accuracy of statistics provided and lack of information regarding the total number of ML investigations undertaken by the FIU, the genesis of each investigation, type of ML investigation, status of investigation and associated predicate offence. Whilst the financial investigators at the FIU are highly trained and experienced, the overall number of investigations into ML is limited given the overall number of predicate investigations in the jurisdiction.
234. Considering the above mentioned, IO 7 is being achieved to a negligible extent, with fundamental improvement needed.

Dominica is rated as having a low level of effectiveness for IO.7.

3.4. Immediate Outcome 8 (Confiscation)

3.4.1. Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

235. Dominica has in place a comprehensive legal framework for confiscation and provisional measures, as detailed under Recommendations 4, and it has been used to some extent. The freezing/seizure of the proceeds of crime is strongly promoted as a policy objective. Confiscation of criminal proceeds and instrumentalities and property of equivalent value is an integral part of the law enforcement activities in Dominica. However, the confiscation of property of equivalent value does not appear to be pursued as a policy objective.

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236. Departmental policies exist which speak to depriving criminals of their ill-gotten gains. Adequate tools are provided for the detection, restraint and confiscation of instrumentalities and proceeds of crime. The legal framework in place also allows for a sound non-conviction based civil recovery regime.
237. The policy directives of the DPP, within the National Prosecution Policy, provide for prioritisation of both ML, TF, customs and excise offences. Criminal confiscation is a policy directive within the DPP as it relates to matters under investigation by the FIU and the CED. Criminal confiscation is prioritised within the DPP since it is pursued post-conviction for ML/TF and predicate offences. Page 26 of the Code for Prosecutors underscores the level of consideration afforded to the initiation of confiscation proceedings to ensure that persons do not benefit from crime.
238. Within the FIU's SOP, provisions are made for both criminal confiscation and non-conviction-based confiscation. This is a policy objective of the FIU. For every matter that falls under the purview of the FIU, an assessment is made on whether there is a likelihood for confiscation and what will be the appropriate course of action. The policy within the unit provides for discussions with the DPP and the Chambers of the AG, together with external partners such as the Asset Recovery Unit of the RSS and the National Centre for State Courts. Confiscation of criminal proceeds, instrumentalities and property of equivalent value is considered on a case-by-case basis; dependent on whether the defendant has benefited from crime and the extent of that benefit. In consultation with the other CAs and external partners, several factors are taken into consideration inclusive of a cost benefit analysis, time to be spent within the criminal justice system and the utilisation of the civil forfeiture regime.
239. During the course of an investigation, the investigating officer, apart from collecting evidence to prove the elements of the offence being investigated, also seeks to identify property used in, or in connection with, the commission of the offence; or property derived, obtained or realised, directly or indirectly, from the commission of the offence; or property intended for use in any manner in the commission of the offence; or instrumentalities derived from or connected or related to the offence. The search for property subject to seizure and ultimately confiscation often includes searches at the IRD, Land Registry, CIPO, Fisheries Division, FIs, Open Sources and intelligence units within various CAs. Once the property has been identified and there is sufficient evidence to create a nexus to the criminal conduct, as well as evidence in support of the substantive matter, an application for a freeze order is developed by the appropriate competent authority (DPP or AG). Post finalisation of the documents, the application is filed at the Court. If the application is successful, the Court issues a freeze order, and the said order is subsequently served on the named respondents. Upon successful prosecution of the principals in the criminal case, an application for confiscation is filed with the Court. If successful, the defendant may be ordered to pay the value of his benefit from the criminal conduct, or a forfeiture order may be made by the Judge against realisable property(ies) if he is unable to pay the amount set out in the confiscation order.
240. Whilst the CDPF has incorporated parallel financial investigation into its operational procedures, the FIU's provisions for confiscation are relied upon, given that in practice the FIU deals with all matters relating to confiscation. The heads of the various units within the CDPF are mandated to contact the FIU's Director at the earliest opportunity with the intention of coordinating investigations and asset recovery proceedings for the confiscation/forfeiture

of criminal assets, relative to all criminal offences with an XCD equivalent of XCD10,000/USD3,700.

241. The CED has established procedures for the confiscation of criminal proceeds, instrumentalities, and property of equivalent value. The Comptroller of the CED also uses administrative sanctions to deprive criminals of their ill-gotten gains. During the review period, the CED confiscated items such as vehicles, foreign currency and fishing vessels. A listing of these items is contained in table 3.23 below, but no additional information was provided to the assessors to identify whether these seizures were related to predicate offences or merely evasion of duty.
242. Provisions for confiscation and procedures to be adopted by the IRD relative to appropriate offences under the Value Added Tax Act (VATA) and the Collection of Tax Act (CTA) are contained within Sections 46, 47 and 28 of the VATA and Section 100 of the CTA. During the review period, the IRD had not confiscated any proceeds relating to tax fraud matters. One major impediment that arises, relative to confiscation, is that items have to be assessed and then auctioned in order to recover any taxes. In addition, during the review period, the IRD has issued no tax penalties to recover proceeds of crime.
243. Significant training has been afforded to practitioners within Dominica, relative to seizures and confiscation procedures. The FIU partnered with the Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State and the NCSC to host a number of workshops for judges, magistrates, state attorneys, prosecutors, and law enforcement officers. These workshops took the form of presentations, live exercises, case conferences and case monitoring. The objectives of a sample of these workshops are listed in box 3.12 below.

Box 3.12. Sample objectives of workshops held relative to seizures and confiscation procedures.

a) Magistrate Training Workshop:

This workshop was aimed at:

- a) Increasing understanding of legislation and procedures relating to cash seizures/forfeiture;
- b) Awareness of key cash forfeiture case authorities;
- c) Increased confidence in adjudicating cash forfeiture cases;
- d) Adjudicating on unattended cash in accordance with the Rules;
- e) Hearing and deciding an application for further detention within the 72-hour period, in accordance with the Act; supported by the case of *Walsh v Commissioner of Customs* (UK decision);
- f) The procedure for filing the forfeiture application before the court in accordance with the Privy Council decision in *Powel v Spence* (Jamaica);
- g) Understanding that cash seizure/forfeiture is strictly a civil matter and not quasi-criminal;
- h) Making a constitutionally valid cash forfeiture order (*Primnath Geelal and Another v The Attorney General of Trinidad and Tobago*).

b) Civil Asset Recovery Live Exercise

The purpose of the civil recovery live exercise was to provide practical, real-life civil recovery training to law enforcement actors, financial investigators, state attorneys and prosecutors. This exercise afforded participants an opportunity to conduct a civil forfeiture case, from investigation to final disposal at court. It offered critical upskilling in civil forfeiture and helped build capacity in civil forfeiture to tackle transnational organized crime and improve citizen security. The exercise comprised of the following modules:

- i) Online Learning - participants reviewed webinars and completed quizzes on a range of topics relating to investigating and prosecuting a civil recovery case;
- j) Practical Exercise - teams were required to conduct a real-time civil recovery investigation, complete an investigation log and make recommendations for how to proceed with the case;
- k) Application for a Property Freezing Order - using evidence obtained during the practical exercise, each team prepared and applied for a Property Freezing Order before a panel of regional judges;
- l) Mock Trial - a mock trial of the civil recovery case before a panel of regional judge.

Source: Dominican Authorities

244. There is no specific body designed to manage seized assets. Each CA in possession of assets that have been seized implements their respective procedures in the management of the respective seized assets. The details of CA specific procedures for the management of seized assets were not provided to the assessors for review. Under the provisions of the law, the court can also appoint a qualified receiver to manage the seized property.

245. Authorities did not provide evidence that instrumentalities of crime are systematically confiscated. In addition, Dominica did not present any case examples where property of equivalent value was confiscated for ML. In addition, there has been no confiscation of assets from legal persons for ML; as there were no opportunities for such confiscation.

3.4.2. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad

246. LEAs in Dominica have not investigated many cases involving foreign predicate offences in which the proceeds have been moved to Dominica or to other countries. For the period under review, the FIU investigated one case involving foreign predicate offences of ML. This case is described in box 3.13 below. In addition, the FIU received MLAT requests and provided

information to foreign jurisdictions, relative to various IBCs registered in Dominica that were allegedly used to launder funds in these jurisdictions.

Box 3.13. ML investigation involving foreign predicates.

The Central Authority received a request for mutual assistance from a European country. In the request, the authorities of the foreign jurisdiction were investigating an individual who was a well-connected banker who had defrauded account holders of a bank and laundered the criminal proceeds on behalf of organized criminal groups and drug traffickers. The individual utilised both complex elaborate schemes of international business companies in multiple jurisdictions to launder his ill-gotten gains and used criminal associates to disguise the ultimate beneficial owners.

LEAs in Dominica and in the foreign jurisdiction conducted a joint operation which resulted in a successful search of properties where items of evidential value were extracted. In addition, witnesses were interviewed, and other provisional measures were undertaken to fulfil this complex request. The execution of all aspects of the request took a period of three (3) years. The individual was arrested through the assistance of another State and subsequently prosecuted.

In 2021, the individual was given a prison term of eight (8) years for habitual money laundering, embezzlement and forgery. In 2021, Dominica filed a property freezing order against properties with an estimated value of over XCD5,225,000. The intention of the recovery order is to recover properties inclusive of real estate properties and high-end vehicles. The matter is still pending at the High Court.

Source: Dominican Authorities

247. The cases in box 3.14 below illustrate three case examples which demonstrate effective forfeiture of criminal proceeds.

Box 3.14. Effective forfeiture of criminal proceeds

a) Case 1:

The FIU, in collaboration with the CDPF, completed investigations surrounding the circumstances of the seizure of USD\$495,381.00. During the execution of a search of an apartment, the said cash was found and seized. Two suspects were arrested and interviewed. On completion of the investigations, a forfeiture application was filed. The application for a forfeiture order in respect to the said cash was heard before a Magistrate. The Court, having been satisfied that the cash was recoverable cash or was intended for use in unlawful conduct, granted the Forfeiture Order. The cash was subsequently paid into the Asset Forfeiture Fund, in accordance with Section 68C of the POCA.

b) Case 2:

Investigations conducted in collaboration with the CED and the CDPF led to the seizure of €149,640.00 and XCD50,000.00. During the investigation, a search was conducted of a vehicle which was believed to have been used by a Dominican national and the cash was found concealed in plastic wrappings. The suspect was interviewed, and he denied knowledge of the cash. On completion of the investigations, an application for forfeiture of the cash was filed in respect of the said cash. The application was heard before a Magistrate. The Court, having been satisfied that the cash was recoverable or was intended to be used in unlawful conduct, granted the Forfeiture Order. The cash was subsequently paid into the Asset Forfeiture Fund, in accordance with Section 68C of the POCA.

c) Case 3:

A foreign national, amongst other crew members, was onboard a shipping vessel, while docked at one the ports of entry. During a routine examination, confirmation of crew and declaration of goods by the CED, USD\$239,980.00 was found concealed in a box. A joint investigation was conducted by the CED, together with the FIU. During interviews conducted, it was determined that the individual failed to declare the cash. On completion of the investigations, an application for forfeiture of cash was filed in respect of the said cash. The application was heard before a Magistrate. The Court, having been satisfied that the cash was recoverable or was intended to be used in unlawful conduct, granted the Forfeiture Order. The cash was subsequently paid into the Asset Forfeiture Fund, in accordance with Section 68C of the POCA.

Source: Dominican Authorities

248. The cases listed in box 3.14 represent non-conviction-based forfeitures. During the review period a total of 33 applications for cash forfeiture were filed and 12 forfeiture orders were granted totalling XCD5,667,795/USD2,086,126. Table 3.21 below gives the breakdown of cash forfeiture applications and forfeiture orders per year. Of these 33 cash forfeitures, 25 were related to drug trafficking, five were related to fraudulent evasion of duty and three were related to ATM Scams.

Table 3.21. Cash Seizures and forfeitures, during the period 2017 to 2021

Year	Number of Cash Seizures	Value of Cash Seizures (XCD\$)	Number of Cash Forfeiture	Value of Cash Forfeited (XCD\$)
2017	10	\$1,126,214.53	2	\$2,671,933.71
2018	3	\$587,368.70	2	\$159,058.03
2019	5	\$423,672.11	2	\$673,611.75
2020	4	\$91,464.21	3	\$269,375.75
2021	11	\$2,794,414.77	3	\$1,893,816.59
Total	33	\$5,023,134.32	12	\$5,667,795.83

249. During the review period, two freezing orders were instituted against property. The details of these orders are listed in table 3.22 below. No details were provided by the authorities regarding the measures instituted to manage these assets subject to restraint.

Table 3.22. Details of two cases wherein assets have been successfully frozen, pending forfeiture

	Type and Value of Asset Frozen	Associated Predicate Offence
Freezing Order #1	- One concrete house (XCD\$1,050,000.00) - Two vehicles (XCD\$ 245,000.00)	Drug Trafficking
Freezing Order #2	a) One three-storey building (XCD\$3,000,000.00) b) 6.86 acres of real estate (XCD\$375,000.00) c) On premise Chapel (XCD\$120,000.00) d) Gardener's House (XCD\$30,000.00) e) Eleven vehicles (XCD\$1,700,000.00)	ML, Theft, Forgery, Embezzlement

250. The CED provided the information in table 3.23 to illustrate its confiscation results. However, comprehensive data was not provided, nor was information regarding the associated offences to these confiscations. Authorities indicated that property seized by the CDPF would be subject to confiscation by the CED.

Table 3.23. Details of confiscation made by the CED, during the period 2017 to 2021

Year	Types of assets seized	Types of assets confiscated
2017	No data provided (Hurricane Maria)	No data provided (Hurricane Maria)
2018	• 2 Open Keel Fishing vessels • Foreign currency • Local currency • Cigarette papers • Two beers • Speakers • Four outboard engines	• 2 Open Keel Fishing vessels • Four outboard engines • Cigarette papers • Beers • USD Cash
2019	• Yacht • Two Open Keel Fishing vessels • Two outboard engines • Televisions • Foreign currency • Local currency • Fish	• Two Open Keel Fishing vessels • Two outboard engines • Yacht • XCD cash
2020	• Liquor • Cigarettes • Sloop Sailing Vessel • Outboard engine • Foreign currency • Local Currency	• Sloop Sailing Vessel • One Outboard engine
2021	• Two Motorcycles • Wrangler SUV • Toyota Hilux • Open Keel vessel • Foreign currency • Local currency • Fruits • Food items • Apple iPad • Building Materials	• Two motorcycles • Wrangler SUV • Toyota Hilux • Open Keel vessel • Fruits

3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNI

251. Dominica's declaration system for cross-border transportation of currency or BNIs is in general adequate and used by the CED and the FIU. The requirement to make a declaration is included on immigration arrival cards. Criminal and administrative sanctions, pursuant to the Customs Act, are undertaken by CED with regard to its declaration regime. Within the CED, there is an intelligence unit and investigation unit. Screening is undertaken by the CED to detect cash smuggling. Security risk profiling is conducted on travellers and intelligence received from domestic and foreign counterparts' feeds into the CED's targeted screening operations. However, given that cross border transportation of cash has been identified as a

high risk for ML, the confiscation of falsely or undeclared cross-border movements of currency and BNIs has not been applied as a proportionate nor dissuasive sanction.

252. Tables 3.24 and 3.25 illustrate the statistics relative to the confiscation of non-declared or falsely declared cash or BNI over the review period. Section 151 of the Customs Act gives the Comptroller of the CED the authority to levy fines and penalties for any breaches of the Customs Act or any other customs enactment. During the review period, matters of false declarations or undeclared cash were investigated jointly by the FIU and CED, based on the nature and circumstances of the cases. By mutual consent, matters were dealt with administratively by the Comptroller of the CED or the FIU would have filed a cash forfeiture application in the matter. Forfeiture for breaches of the cross-border declaration system does not appear to be proportionally applied in all cases as there is a trend towards the issuance of fines rather than confiscation. The jurisdiction indicated that the Comptroller of the CED has discretionary powers to levy a sanction without confiscation of the goods. The jurisdiction further indicated that the amount returned indicated that the goods (i.e. cash) may have been returned with a monetary penalty being imposed.

Table 3.24. Numbers of Confiscation of Non-Declared or Falsely Declared Cash/BNI, during the period 2017 to 2021

Year	Number of Declarations Received	Number of Undeclared or False Declared Cash/BNI	Number of Confiscations derived from undeclared or false cash/BNIs	Number of undeclared or false cash/BNIs returned	Number of Sanctions Imposed
2017	39	37	9	27	26
2018	53	16	2	15	16
2019	61	27	2	25	26
2020	54	9	2	7	5
2021	51	6	0	5	5
Total	258	95	15	79	78

Table 3.25. Values of Confiscation of Non-Declared or Falsely Declared Cash/BNI, during the period 2017 to 2021

Year	Currency	Value of Cash/BNI Seized	Total Value of Fines Paid	Value of Cash/BNI Restituted	Value of Cash/BNI Confiscated
2017	USD	\$477,645.24		\$209,015.24	\$268,630.00
	EUR	\$27,260.00	\$93,900.00	\$20,260.00	\$7,000.00
	XCD	\$75,510.00		\$41,210.00	\$34,300.00
	GBP	\$4,125.00		\$4,125.00	

	CNY	\$1,732.00		\$1,732.00	
2018	USD	\$101,201.00		\$100,201.00	\$1,000.00
	EUR	\$53,799.00		\$21,659.00	\$32,140.00
	XCD	\$11,740.00	\$56,000.00	\$11,740.00	
	GBP	\$3,260.00		\$3,260.00	
2019	USD	\$122,784.00		\$122,784.00	
	EUR	\$107,384.00		\$101,384.00	\$6,000.00
	XCD	\$61,289.00	\$58,970.00	\$52,549.00	\$8,740.00
	CAD	\$200.00		\$200.00	
2020	USD	\$51,393.00		\$38,923.00	\$12,470.00
	EUR	\$46,470.00		\$46,470.00	
	XCD	\$23,645.00	\$29,908.10	\$23,645.00	
2021	USD	\$30,341.00		\$30,341.00	
	EUR	\$26,850.00		\$3,430.00	\$23,420.00 is seized and the matter is pending
	XCD		\$17,800.00		

253. The information presented in table 3.25 shows that a significant amount of the cash/BNI seized are restituted, as opposed to being confiscated. Authorities indicated that this was a result of the procedures utilised for each seizure. Once cash or BNIs are seized, the FIU becomes involved. If the cash/BNIs are found to be legitimate, then the person will pay the fine for non-declaration and the funds will be returned to the person. If the funds are found to be related to criminal activity, then the funds would be seized.

3.4.4. Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities

254. To some extent, the confiscation results of authorities in Dominica reflect ML/TF risks and national policies and priorities. The two current matters wherein restraint orders have been instituted are linked to drug trafficking; a predicate offence deemed high-risk by the NRA. Similarly, the associated predicate offence for which cash seizures were most prevalent was drug trafficking; 76 per cent of the cash forfeitures were related to drug trafficking and 9 per cent related to ATM Fraud. In relation to cross-border movements of cash, it was not clear that confiscation results are in line with risks identified.

255. Authorities in Dominica have assessed that the proceeds of crime (USD and EUR) are primarily brought into the jurisdiction via “go fast” boats, hucksters and cash couriers. As such, the LEAs developed a policy objective of coordinating law enforcement ability with the establishment of a border patrol mechanism utilising personnel of the CED and the CDPF.

256. As a result of the increasing number of civil cash forfeiture matters, the Chambers of the AG, which is responsible for litigation in civil recovery matters, has prioritised those matters by designating two state attorneys to expeditiously provide assistance to the LEAs once cash has been seized.

Overall conclusion on IO.8

257. Dominica has a sound legal framework for freezing and confiscation of criminal property and there exists an operational commitment to pursue confiscation as a policy objective. Results achieved during the period of review are reasonable with significant funds being confiscated. Non-conviction-based confiscation is frequently utilised and presents an important feature of the overall confiscation regime, given the context of the jurisdiction. However, Dominica has no case examples of confiscation of property of equivalent value.
258. CAs have demonstrated their strong capabilities in pursuing direct proceeds of crime, as well as the property laundered. The confiscation results relating to cash seizures are in line with the risk profile of the jurisdiction to some extent. Cash is seized at the ports of entry but the forfeiture for breaches of the cross-border declaration system is limited and not applied proportionately or dissuasively in all cases. This is not commensurate with the high-risk attributed to the transportation of cash in the NRA.
259. Additionally, the lack of confiscation statistics, as it relates to property and asset recovery, prevents a thorough assessment of the consistency and processes relating to the confiscation of the proceeds and instrumentalities of crime, in practice.
260. IO 8 is being achieved to some extent with major improvements needed.

Dominica is rated as having a moderate level of effectiveness for IO.8.

Chapter 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

- a) Dominica has a regulatory framework suitable for the investigation, prosecution and punishment of TF offences. However, Dominica has not recorded any prosecutions nor convictions for TF, during the review period. Whereas Dominica identified its TF risk as low, it cannot be concluded that the lack of prosecution results is consistent with the risk profile, due to the deficiencies in the country TF risk assessment.
- b) There were seven TF-related investigations in Dominica, during the review period. The features of these cases illustrate the authorities' skills, knowledge and competencies to deal with TF offences. Authorities are able to utilize a wide range of sources and investigative techniques when identifying and investigating TF.
- c) Authorities advised that they follow Standard Operating Procedures when conducting TF investigations. However, these procedures lack comprehensiveness in terms of addressing the prioritization and acceleration of these investigations.
- d) In Dominica, there are no counter-terrorism or counter TF strategies or policies. Therefore, the investigation of TF is not integrated with nor used to support national counter-terrorism strategies and investigations.
- e) With no convictions, Dominica has not had an opportunity to apply sanction measures. Therefore, the effectiveness, proportionality and dissuasiveness of sanctions could not be measured. The measures provided within the legal framework do appear sufficient and dissuasive and are in line with international standards.

- f) Alternative measures are available to authorities in Dominica, inclusive of asset freezing, deportation, non-admission and revocation of NPO licences, that can be applied when TF convictions are not possible, and have been applied, in practice.

Immediate Outcome 10

- a) Dominica has recently passed legislation which is aimed at improving their implementation of TFS-TF pursuant to UNSCR 1267 and 1373. The amendments have established a Sanctions committee which is responsible for identifying persons who satisfy the criteria for designation. The law establishes the AG as the competent authority for proposing persons for designations to the UNSCR Committee.
- b) Although Dominica has enacted legislation to implement a TFS regime which seeks to give effect to UNSCR 1267 and 1373, the mechanisms and procedures for freezing without delay are still in need of development as the procedures required to give effect to the law are unclear.
- c) The jurisdiction has a legal framework and mechanisms to prevent terrorists, terrorist organisations and terrorist financiers from raising, moving, using funds or misusing funds. CAs can take the necessary actions including investigations, prosecutions and other relevant law enforcement actions to combat TF and TF activities.
- d) While supervisors have provided outreach in relation to TFS, TF and PF, no specific training has been provided to the private sector in relation to the TF risks of NPOs or the NPO sector. The NPO supervisor, the FSU, has not effectively supervised NPOs which has resulted in no targeted approach, limited outreach and oversight of NPOs. Substantial work remains, particularly as it relates to conducting a full NPO sector review, outreach for increased awareness about vulnerabilities to TF risks, mitigating measures for Dominica to demonstrate effectiveness in mitigating TF risk in NPOs and implementing a targeted approach.
- e) No funds or other assets have been frozen in Dominica, to date, under TF-related TFS. However, REs are aware of TF-related TFS screening obligations and the requirements to freeze funds/assets. There are elements which are indicative of a functioning system e.g. identification of partial matches and matches with non-TF sanctions regimes.
- f) There have been several investigations relating to TF, none of which resulted in any prosecution, consistent with Dominica's TF risk profile. While the legislation and mechanisms in place provide for a reasonable platform for authorities to combat TF, there are still several shortcomings that remain outstanding, which include the implementation of a TFS-TF mechanism.

Immediate Outcome 11

- a) Dominica does not implement TFS concerning the UNSCRs 1718 and 1737.
- b) Dominica's exposure to WMD-sanctions evasion of PF is low.
- c) There has been limited outreach or guidance to REs and relevant CAs on the issue of TFS relating to PF.
- d) In the absence of a legislative regime that addresses TFS-PF, there is no obligation for CAs to monitor and ensure compliance with TFS-PF requirements. However, supervisors have started to integrate PF risks and TFS-PF into their prudential returns in 2022.

Recommended Actions

Immediate Outcome 9

Dominica should:

- a) Ensure that TF activities are investigated and prosecuted in line with its improved understanding of national TF risks.
- b) Enhance knowledge and expertise of investigators, prosecutors and the judiciary with regard to TF.
- c) Develop counter terrorism strategies, based on identified and emerging risks, as well as on the outcome of previous TF investigations, that also incorporates a developed CFT policy.
- d) Ensure that in the event of potential TF, the SOP, and measures therein, that deals with TF investigations and related measures are able to be applied swiftly.
- e) Prioritise measures to disrupt TF activities where a TF conviction is not possible or cannot be secured.

Immediate Outcome 10

Dominica should:

- a) Revise the procedures within the legal framework to implement TFS without delay.
- b) Ensure that the 2018 preliminary analysis of NPOs is updated and a comprehensive sector review of NPOs is completed.
- c) Enhance the licensing, supervision and monitoring of the NPO sector, focussing on those NPOs identified to be most at risk for TF abuse, in line with the risk-based approach.
- d) Conduct sector specific outreach to raise awareness of the nexus of the potential vulnerabilities of TF, TF abuse and the NPO sector. Information can also be shared via sector specific guidance.
- e) Apply sanctions for non-compliance with TF-related TFS requirements, such as the requirement to screen all customer transactions against sanction lists and to maintain adequate internal controls in this regard.

Immediate Outcome 11

Dominica should:

- a) Establish a legal, regulatory and institutional framework to monitor, supervise and effectively implement TFS related to proliferation.

- b) Raise awareness through continued outreach, guidance notes and related training to the relevant CAs and regulated entities to develop an appropriate understanding of the PF vulnerabilities and TFS obligations.
- c) Following the passage of TFS-PF legislation, supervisors should incorporate TFS-PF monitoring into their onsite and offsite examinations to ensure compliance by all regulated entities.

261. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5–8, 30, 31 and 39, and elements of R.2, 14, 15, 16, 32, 37, 38 and 40.

4.2. Immediate Outcome 9 (TF investigation and prosecution)

262. Dominica's legal framework to fight TF is in line with international standards to a large extent. However, some deficiencies have been identified (see R.5). Pursuant to the SFTA, the FIU is assigned the responsibility of transactional analysis of suspected activity linked to terrorism, as well as being a recipient of quarterly reports filed by regulated entities pursuant to section 36 of the SFTA. In addition, the FIU is charged with the responsibility for investigating TF offences.

263. The CDPF is responsible for responding to terrorism activities, information on any terrorism related threats or acts and investigating the presence of offenders in Dominica. Information on trends would be shared with the CDPF, CED, IRD or any other competent authorities as the need arises. The NJIC, along with other similar agencies within the region, conducts intelligence gathering and monitors criminal activities to include terrorism related threats.

4.2.1. Prosecution/conviction of types of TF activity consistent with the country's risk-profile

264. Dominica has never experienced a terrorist attack in its history, nor has there been any terrorist activity connected to the jurisdiction. Demographic and geographical factors pose a low risk of domestic terrorism. The authorities advised that there is no information which would indicate that any terrorist organisation operates in or has any links to Dominica.

265. During the period of review, no cases of TF had reached the prosecution phase. Seven TF-related investigations were conducted by the FIU, but these investigations did not result in prosecutions because no evidence relating to TF in Dominica was found nor did there exist any nexus between the subjects of the investigations and Dominica (in the case of incoming TF-related requests). As such, there has not been the opportunity by the jurisdiction to demonstrate the effective prosecution of TF.

266. Law enforcement, the ODPP and other competent authorities have received foreign assistance to build up their capacity and capability to handle TF-related offences. Additionally, the CDPF and FIU's analysts and investigators have received training in the area of TF. Members of the

LEAs have also taken specialised courses covering techniques of financial investigations, illicit economy and financial flows investigations, financial investigative training and financial investigative techniques, relative to TF and counter-terrorism. Further, the Major Crime Unit of the CDPF is tasked with conducting terrorist crime scene investigations but there is no policy that speaks to terrorism-related investigations. Authorities indicate that the FIU and the CDPF have the ability to identify TF activities, having received a moderate level of training in the investigations and analysis of TF-related methods and activities.

267. The DPP is responsible for prosecuting TF offences. The DPP, State Attorneys within the DPP and Police Prosecutors have received training in respect of the prosecution of TF offences. The training for the period of review was received from the US Embassy/National Center for State Courts (NCSC), International Law Enforcement Academy (ILEA) and through the partnership with the RSS and the US through the Caribbean Basin Security Initiative. Whilst the DPP has received training relative to TF, attorneys within the ODPP lack sufficient training and have not been exposed to the entire criminal justice system (as discussed in IO.7). Further specialist training in TF matters can enhance the competencies of the lawyers within the DPP; Inclusive of more practical training such as mock investigations and prosecutions. Additionally, the judiciary can also benefit from continuous TF training opportunities.

268. Whilst there are major gaps in the jurisdiction's analysis of its TF risk (please see analysis in IO 1), the assessment team did not find any information indicative of Dominica facing an elevated TF risk, including the absence of incoming TF related MLAs, and that the authorities have investigated seven possible TF cases which did not realise any evidence in furtherance of such prosecution. The assessment team is of the opinion that the mechanisms in place to prosecute and convict persons for TF would work effectively and according to the country's identified risk profile, should the need arise. For these reasons, the assessment team concludes that the absence of TF prosecutions and convictions is commensurate with the risks to which Dominica has identified as being exposed to.

4.2.2. TF identification and investigation

269. The SFTA provides a sound legal framework for investigating and prosecuting TF, as set out in Recommendation 5.

270. The authorities advised that they look at a range of sources in order to identify potential TF cases, including analysis of STR submissions, information from domestic authorities dealing with matters such as immigration and customs, and information from other jurisdictions or international bodies.

271. As stated above, there were seven TF-related investigations. Table 4.1 below shows the origin of these seven TF-related investigations. These seven investigations originated from three STRs, three Egmont requests, a spontaneous disclosure from a foreign FIU and one from the result of an intelligence analysis. The genesis of the intelligence analysis was intelligence from local sources, the NJIC, which led to profiling and surveillance. Five of these investigations were completed and reports were submitted to the FIU's Director. Following the submission of these reports, it was concluded that these cases did not meet the threshold for prosecution as there was no credible TF activity being undertaken. Two cases remain under active investigation, with the aim of developing prosecutable ML cases. Authorities indicated that

detailed disclosures were also made to three countries in regard to the suspected individuals. The case examples in Box 4.1 and 4.2 below illustrates how two of the cases were identified, analysed and passed for investigation.

Table 4.1. Origin of TF cases investigated by the FIU during the period 2017 to 2021

Year	Origin of Case			
	STR	Intelligence Analysis	Egmont Request	Spontaneous Disclosure
2017	0	0	1	0
2018	1 (2 STRs from MSBs)	1 (Combination of local intelligence sources, CTRs and a previous STR)	0	0
2019	1 (Domestic Bank)	0	1	1
2020	0	0	0	0
2021	0	0	1	0
Total	2	1	3	1

Box 4.1. Example of a TF Investigation (STR submitted to the FIU)

In 2019, the FIU received a suspicious activity report from a financial institution with a nexus to an individual from a jurisdiction with a high risk of terrorist activities. The STR involved the flagging of an incoming wire transfer relative to the CBI Programme wherein the financial institution received a positive hit for links to a known terrorist group during due diligence checks. This STR was analysed and requests for information were sent to various foreign jurisdictions in relation to the individual, his family and business interest. Within one week of the request, information was provided by various jurisdictions in relation to the request. The investigation also involved local relevant authorities to include the institution which filed the STR. All information received was analysed and a report prepared. The collated report provided information in relation to the concerns of the financial institution and the enhanced due diligence measures implemented.

A detailed report was submitted to the financial institution which provided all the necessary linkages, within a period of four months. Due to the fact that the STR was TF related and the facts of the matter, the FIU found it prudent to furnish the FI with such information so that the necessary action or decision could be taken by the FI. A report was also provided to other stakeholders to include the Ministry of National Security. At the conclusion of the analysis/investigation of the report, TF related activities were not identified, but a positive match on a sanctions list was identified by the financial institution.

Source: Dominican Authorities

Box 4.2. Identification and investigation of a suspected possible TF-related case from an MSB (STRs submitted to the FIU)

In 2018, the FIU received two STRs from two MSBs operating within the jurisdiction. Having reviewed the STRs, it was apparent that based on an internal review by the MSBs, a number of outgoing transactions were flagged. These transactions, whilst minimal in value, were sent to several high-risk countries known for TF and terrorist activities.

From the initial analyses conducted by the FIU, a number of indicators arose. The frequency of the transactions and the jurisdictions to which the funds were sent inferred the possibility of ML and/or TF. The factors which supported this inference were the frequency and short intervals within which the funds were sent, the absence of employment records to support the source of funds and the unlikelihood that a receptionist would have the means to send those sums of cash as frequently as recorded by the subject.

In furtherance of the analysis, the FIU immediately submitted requests for information to several scheduled entities to ascertain the subject's financial and employment status. The information received and collated showed that the subject's financial activities were suspicious as there were no records to support her disclosure that the funds were intended for family members.

The FIU prepared and submitted an analytical report with recommendations for further investigations on the individual. The resulting analysis did not rise to the level that would have allowed for the dissemination of the resulting case file to the Investigations Department of the FIU for investigation and possible prosecution. Additionally, the MSBs were informed of the findings and were advised to adopt enhanced due diligence on the subject.

Source: Dominican Authorities

272. In reviewing the seven cases, the assessment team observed that these cases were represented as being "TF-related" based on TF-factors identified within each case. These factors included links to known TF jurisdictions, links to known terrorist groups and requests from foreign CAs relating to TF matters. All of these cases demonstrate the capacity of the FIU to identify and investigate TF-related cases. Relative to the three ESW requests and the spontaneous disclosure, the FIU conducted checks locally and determined that there was no nexus to Dominica. The case presented in box 4.3 below highlights the TF-related investigation that originated from local intelligence analysis and provided by the NJIC.

Box 4.3. Identification and investigation of a suspected possible TF-related case from an intelligence disclosure from a local LEA.

In 2018, the FIU received an intelligence report from the National Joint Intelligence Centre (NJIC). The report identified subjects who were deemed to be involved in questionable commercial activities. In furtherance of the intelligence report, Cash Transaction Reports (CTRs) were lodged with the FIU by the subjects. Additionally, STRs were received on the subjects. One of the recipients of funds wired by the subjects was located in a high-risk country for TF and the recipient's name had a similar name to an individual linked to a terrorist organization. Based on analysis of the subjects' travel patterns, information was shared with a foreign counterpart which resulted in the seizure of funds in that jurisdiction.

No nexus to TF was identified and the case is being pursued with the aim of developing a prosecutable ML case.

Source: Dominican Authorities

273. The case studies and other information provided by authorities during the onsite visit demonstrate that overall, Dominica has effective systems for identifying TF. Nevertheless, there is scope for improved outreach to all interest parties, in particular the provision of typologies relating to TF.
274. During the review period, three TF-related STRs were submitted to the FIU. Of the 853 STRs submitted to the FIU, during the review period, only three (0.003%) were related to TF. The proportionality of TF-related STRs is consistent with the identified TF risk of the jurisdiction. The TF-related STRs were analysed and submitted for investigation. The analytical department within the FIU, upon the receipt of an STR has a procedure based on the Analytical Department's Policy to include the red flag indicators. There was one STR rated as high which was handed over to the Investigation Department within one week of the completed analysis. A complete investigation was subsequently conducted (see case details in box 4.2). Based on the investigations conducted by the FIU, the TF-related STRs were eventually assigned low risk as no links to TF were discovered. The FIU Investigation Department's SOP states that TF reports should be prioritized. The SOP further states that in determining the priority of cases, the Director of the FIU will consider, *inter alia*, whether the matter has any links to, or is indicative of TF. However, no clear indication of the nature of this prioritization is included in the SOP and detailed timelines were only presented for the case presented in box 4.1 above. In the investigation of TF cases, the FIU may request information pursuant to the MLPA and the SFTA, Both the FIU and CDPF have access to and can obtain information from the data sources and databases of public sector entities. As discussed in IO. 6, the response to Director's Letters issued by the FIU, is expedited in matters of urgency. However, pertinent details regarding the dates involved in the investigations and case examples were not provided to the AT and a full demonstration of prioritisation cannot be shown.
275. As no TF investigations have been completed that met the threshold for prosecution, the DPP has not initiated prosecutions and, consequently, no convictions have been achieved. Authorities suggested that TF investigations are undertaken in an expeditious and diligent manner, with investigations being initiated within 24 hours and given urgent consideration. In addition, authorities also indicated that they attach priority to the investigation of suspected TF cases since the global implication and transnational nature of such offences are considered

top priority by the FIU. Additionally, the National Prosecution Policy provides for the prioritisation of investigations and prosecutions of suspected TF-related matters. The assessors are of the view that the FIU possesses the willingness and ability to identify, analyse and investigate TF matters. However, the assessors could not verify whether TF investigations are indeed expedited. The assessors also note that the lack of personnel within the FIU's investigations department affects its ability to undertake TF investigations.

276. Considering international cooperation relative to TF investigations, Dominica has not received or submitted MLA requests. However, the FIU has requested information from international counterparts via the ESW in relation to two TF-related investigations, which were finally dismissed. In one of them, the information obtained through the ESW revealed that the individuals under investigation were known to be associated with a terrorist organization; notwithstanding, they spent a short period of time in Dominica and there was no evidence that they had performed any relevant terrorist or TF-related activity whilst in the country.
277. To augment the work of the FIU, the CDPF is in the process of formulating and establishing a counter-terrorism unit comprising officers from various departments within the CDPF; including NJIC, Immigration, CID and the Special Branch. During the period of review, 30 police officers received training in counterterrorism and countering TF. These trainings were facilitated by ILEA, RSS, US-sponsored training through the Caribbean Basin Security Initiative, CARICOM IMPACS and the Inter American Counter Terrorism Network of the OAS. During the period of review, no investigations relating to terrorism were undertaken by the CDPF and as such, authorities could not demonstrate that financial investigations are conducted in support of counter-terrorism investigations.

4.2.3. TF investigation integrated with –and supportive of– national strategies

278. Dominica in general, and the CDPF and FIU specifically, do not have a single written counter terrorism or TF strategy. Whilst there exists an overall National AML/CFT/CPF Strategy, policies and procedures which speak specifically to TF are not reflected. Dominica has utilized the NIAP to develop strategies and enhance investigations by the FIU, the lead agency in regards to TF investigations. The jurisdiction has indicated that they are in the process of developing a comprehensive overall National CFT Strategy in keeping with the NIAP. With the absence of a strategic approach to TF related investigations, the assessors cannot deduce that the TF investigations are integrated with and used to support national CFT strategies.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

279. Dominica's legal framework and potential sanctions for TF are in line with international standards. As there has been no TF prosecutions and convictions, no conclusion could be made on proportionality and dissuasiveness of sanctions applied. However, sanctions, as envisaged by the legal framework for TF offence, are proportionate and dissuasive (see R.5).

4.2.5. Alternative measures used where TF conviction is not possible (e.g. disruption)

280. The authorities have not applied alternative measures in lieu of proceedings with TF charges. Consequently, the effectiveness of alternative measures has not been assessed. Notwithstanding, Dominica's legal framework for TF allows for the use of alternative measures where a TF conviction is not possible. Authorities are able to apply measures such as asset freezing, non-admission, deportation and revocation of NPO licenses, to mitigate TF risks. These measures are provided within the SFTA.
281. Dominica has indicated that alternative measures have been utilised in cases where it was not possible to determine a TF offence. Authorities provided details of these measures to the assessors; the details of which are not contained within the text of this report for reasons of national security.

Overall conclusions on IO.9

282. In Dominica, there has been no prosecution or conviction for TF offences. However, there were seven TF-related investigations conducted, during the review period. These results correspond to the jurisdiction's identified low TF risk, but there are deficiencies in the assessment and understanding of TF risk as described under IO.1 which hinders the overall suppression of TF.
283. Competent Authorities are able to identify TF activities through intelligence analysis, domestic and international cooperation framework and STR submissions. The Investigations Department of the FIU has the technical competence to investigate TF, but the lack of sufficient human resources within the department affects the overall capacity to investigate TF. Prosecutors are trained in TF and possess moderate competencies in prosecuting TF cases.
284. TF investigations are not integrated into any national strategy. During the review period, no investigations relating to terrorism were undertaken and as such, authorities could not demonstrate that the investigation of TF is integrated with or used to support national counter-terrorism strategies and investigations. Whilst no criminal sanctions have been applied, there are provisions in the legal framework for the execution of such sanctions, should the need arise. There are a number of alternative measures that can be applied in Dominica when TF conviction is not possible; some of which have been applied in practice.
285. IO 9 is being achieved to some extent, with major improvements needed.

Dominica is rated as having a moderate level of effectiveness for IO.9.

4.3. Immediate Outcome 10 (TF preventive measures and financial sanctions)

4.3.1. *Implementation of targeted financial sanctions for TF without delay*

286. Dominica has elements in its legal framework to implement targeted financial sanctions. Although Dominica has made strides through recent amendments to the SFTA, there are still legislative deficiencies and gaps for improvement. Technical deficiencies in some of these measures are analysed in Recommendation 6 of the TC annex of this report. Competent authorities in Dominica have the legal authority pursuant to the SFTA to implement TFS as required by UNSCR 1267 and 1373. Dominica has also developed Central Authority Procedures which supports the general framework set out in the legislation; however, these procedures do not accurately reflect what is required under the UNSCR 1267 and 1373 resolutions. The national mechanism to designate natural or legal persons is coordinated by the AG and the Minister of National Security who upon receipt of the information by the UN may issue a designation order.
287. The SFTA makes provision for the AG to issue an order in writing to an FI or scheduled business to freeze without delay and without prior notice the funds or other assets of a designated entity. However, the freeze without delay mechanism is still deficient as this order can take up to three days to be issued.
288. The recent amendments to the SFTA in August 2022, have attempted to remedy this defect. Pursuant to Section 13, designations by the UNSC are automatically incorporated into the domestic law. It is noted however that this immediate freeze is only valid for seven days unless extended by an order of the court. Additionally, there are no clear procedures to facilitate the dissemination of this information to FIs and DNFBPs within 24 hours of designation. As there have been no designations by the UNSC since the legislation's entry into force, the assessment team is not able to assess the effectiveness of this amendment. Further, the assessors noted that no orders were issued under the SFTA over the assessment period in respect of UNSC 1267 designations.
289. The FSU is responsible for the updates of listings and the publication of listings in Dominica. The FSU is required as a matter of policy to maintain an up-to-date listing and timely publications. The UN Security Council sanctions list is publicly available on the website of the Financial Services Unit. The Unit also ensures that a physical correspondence is communicated to all scheduled entities in relation to natural or legal persons who are subject to targeted financial sanctions under UNSCR 1267 and its successor resolutions. To date, there has not been a national listing or designation.
290. The FSU has implemented measures to ensure that scheduled entities comply with the TFS requirements as provided in the AML/CFT Code and the SFTA. These measures included the implementation of a digital publication on the FSU website, communication of both CFATF and FATF public statements, development and implementation of training to targeted scheduled entities and the development of a clear communication mechanism with the FIU. In addition, regulated entities interviewed demonstrated an awareness of targeted financial sanctions and the internal operational procedures for placing a hold on customer assets, although a number of REs were unaware that a court order was required in order to freeze an account. Nonetheless, FIs in Dominica use screening systems which assist them in the CDD processing of business relationships and transactions, these screening tools have decreased

the risk of being misused by terrorist and terrorist organisation. Both automated and manual screening tools are utilised to conduct checks on customers against the sanctions list. However, there have been no guidance notes issued on TFS provided to FIs or DNFBPs on their obligations. Nonetheless, the FSU has implemented targeted training to regulated entities on TFS requirements. The assessors were unable to effectively assess this as the training conducted was recent.

291. During the period under review, no orders were issued under the SFTA in respect of the UNSC 1267 designations, prior to the amendment of the law. The AT concluded therefore that Dominica did not have an effective system to give effect to these designations. The FSU however required supervised entities to file quarterly reports on whether they held assets of an entity on a UNSC sanctions lists. No entity reported holding or dealing with such assets. There were also no designations under UNSCR 1373, which is consistent with Dominica's risk profile.

4.3.2. Targeted approach, outreach and oversight of at-risk non-profit organisations

292. The TF risks associated with NPOs were not assessed as part of Dominica's NRA. The country has not undertaken a sectoral review to identify the NPOs most vulnerable to TF abuse for legislative purposes or implementation of a risk-based approach; and, due to the limited resources of the NPO supervisor, the FSU, the sector has not been subject to risk-based AML/CFT supervision which guides a targeted approach, outreach and oversight of NPOs.
293. Dominica has, however, established within the Trust and Non-Profit Organisation subsidiary legislation of the POCA, registration procedures to identify NPOs for oversight and enforcement activities for which the FSU is empowered. As a result, in 2021, the FSU initiated contact with NPOs, commenced a registration exercise and provided registration information to the sector on its website.
294. An NPO registry maintained by the FSU and NPO information held by the CIPO, as part of incorporation, is readily accessible to the supervisor. As noted in Chap. 2, controls are in place at inception with NPOs with review by CIPO at incorporation following the approval of the Minister of National Security, who forwards relevant NPO information to the CDPF for the conduct of due diligence, criminal records checks and general verification of the identity of all applicants. The information provided by NPOs is reviewed by the Minister to ensure conduct of only the restrictive business activity under the Companies Act.
295. In 2018, the FIU conducted a preliminary analysis which informed the country's understanding and low risk profiling of the NPO sector. The NPO sector's size and participants were identified, which include church/religious organisations, charity, youth, agriculture, clubs, foundations, associations, child welfare, social and recreational and fraternal societies. This analysis also revealed that most NPOs do not have a global reach nor transact with jurisdictions with known TF activities or active TF threats. Accordingly, the initial analysis identified cross border transactions amongst NPOs in Dominica, the Caribbean and North America. Donor agencies include United Nations Educational, Scientific and Cultural Organization (UNESCO), Federation Internationale de Football Association (FIFA),

United Nations International Children's Emergency Fund (UNICEF) and International Olympic Committee (IOC).

296. Interviews with three NPOs onsite, from the faith-based and club-based perspective, indicated that their activities are mainly domestic. Further, the NPO's membership and community are the primary beneficiaries of funds raised and/or supplies received from reputable donors. Additionally, two NPOs that engage in cross-border transactions, indicated that the receipt and repatriation of funds with the parent and/or affiliate NPOs are through regulatory channels.
297. All NPOs interviewed expressed that the likelihood of TF abuse in Dominica's NPO sector to be low and equally viewed the overall TF risk as low. One NPO demonstrated knowledge of TF and the initial stages of implementing AML/CFT measures and streamlined procedures to mitigate risk. Another NPO showed some knowledge about the documents required by FIs to obtain international donations from US donors. However, their overall knowledge level was little to none about TF risk, TF abuse in NPOs and risk mitigating measures which coincided with the lack of interaction with the FSU. This demonstrated the possible unawareness in most of the sector for good governance practices and TF risk mitigating measures of maintaining records, having internal and financial controls and executing due diligence on people and organisations associated with the NPO, particularly in the 58 per cent of NPOs that conduct cross border transactions.
298. The AT determined substantial work remains to be completed, specifically in the conduct of a full NPO sector review and outreach to increase awareness about TF vulnerabilities and risk mitigation measures, for Dominica to demonstrate effectiveness in mitigating TF risk in NPOs and implementing a targeted approach.

4.3.3. Deprivation of TF assets and instrumentalities

299. Dominica has not identified terrorism-related sanction hits and has therefore not had an opportunity to apply in practice the mechanisms for freezing assets related to the UNSCRs. The REs and competent authorities have at their disposal legal mechanisms and instruments for applying freezing measures as described under the SFTA.
300. REs demonstrates an awareness of the procedures in place to identify and freeze any assets without delay as part of the implementation of targeted TF sanctions. Entities interviewed confirmed regular screening against sanction lists and where partial matches were identified, more-detailed examination determined these to be false positives. In one case, a positive match was identified by a reporting entity when processing an incoming wire transfer for a CBI applicant (*See case details in box 4.1*).
301. There has been no criminal freezing or confiscation orders in relation to terrorists, terrorist organizations or terrorist financiers. However, there has been reported possible TF activities that were investigated but those investigations found that there were no grounds for prosecutions; in keeping with the TF risk-profile for Dominica.

4.3.4. Consistency of measures with overall TF risk profile

302. Based on the results of the NRA, the risk profile related to TF and its TF activities indicated that the TF threat in Dominica was low as there have been no terrorist attacks in Dominica or in any regional countries to which Dominica has cultural, economic or social links. As previously mentioned, the AT concluded that the TF assessment done was not a fully comprehensive assessment of TF risks in the country. Nonetheless, the jurisdiction has a legal framework and mechanisms to prevent terrorists, terrorist organisations and terrorist financiers from raising, moving, using funds or misusing funds. Competent authorities such as LEAs can take the necessary actions including investigations, prosecutions and other relevant law enforcement actions to combat TF and TF activities. Additionally, Dominica has had several investigations relating to TF, none of which resulted in any prosecution, the details of which are outlined in IO9, which is consistent with Dominica's TF risk profile. The assessment team concludes that the legislation and mechanisms in place provide for a reasonable platform for authorities to combat TF. However, there are still several shortcomings that remain outstanding, which include the implementation of a TFS-TF mechanism.

Overall conclusions on IO.10

303. Although Dominica has developed the legislative and administrative framework to implement UNSCRs 1267 and 1373, it is not effective. The legislation does not allow for TFS for TF to be implemented without delay as the process may legally take up to three days in the case of an order. Additionally, the Central Authority procedures do not distinguish between what is required under the two UNSCR resolutions.
304. No freezing measures occurred in accordance with UNSCRs 1267 and 1373, and no TF funds have been restrained, which is consistent with the overall TF risk profile of the country.
305. Despite the preliminary analysis of NPOs in 2018, Dominica has not conducted a thorough assessment on the TF risks associated with NPOs and there has been no targeted approach, outreach and oversight of NPOs. Additionally, NPOs interviewed varied in their knowledge about TF risk and TF abuse in NPOs and corresponding risk mitigation measures. This knowledge demonstrated a possible lack of awareness for TF preventive measures to be implemented in the sector.
306. Considering the foregoing, the AT has concluded that IO 10 is only achieved to a negligible extent and fundamental changes are required. Legislatively and procedurally, steps need to be taken to efficiently and effectively freeze assets related to UNSCRs without delay. At a national level, further work is needed on central policies and procedures, along with more comprehensive TF and NPO risk assessments, and an investigation into the nexus between NPOs and TF. On the supervisory side, supervision of NPOs as well as further training and guidance are required.
307. Considering the above-mentioned factors, the AT concluded that IO.10 is achieved to a negligible extent, with fundamental improvements needed.

Dominica is rated as having a low level of effectiveness for IO.10.

4.4. Immediate Outcome 11 (PF financial sanctions)

4.4.1. Implementation of targeted financial sanctions related to proliferation financing without delay

308. Dominica does not have a legal framework or processes for implementing UNSCRs 1718 and 1737 and has not implemented measures against PF.

4.4.2. Identification of assets and funds held by designated persons/entities and prohibitions

309. During the period under review, Dominica has not identified any funds or other assets of designated individuals and entities designated by the United Nations Security Council in relation to PF.

4.4.3. FIs, DNFBPs and VASPs' understanding of and compliance with obligations

310. Dominica has no legislative regime to treat with TFS relative to PF. FIs, VASPs and DNFBPs are not subject to comply with obligations regarding TFS relative to PF. Therefore, the AT concluded that a gap exists in FIs (with the exception of domestic and offshore banks' limited understanding of PF obligations and risks), VASPs and DNFBPs for their understanding and compliance with obligations to implement UN TFS for PF. However, there was an outreach session held in 2019 on PF, one session held for FIs, and three sessions held for DNFBPs by the FSU. The purpose was to raise awareness on the potential implications for non-implementation of TFS related to TF and PF and to further educate the entities on the associated obligations. The ECCB, as regulator of the domestic banks, published "Proliferation Financing Red Flags" in its quarterly newsletter of December 2021. These quarterly newsletters serve as useful information to industry on topical AML/CFT/CPF issues, FATF recommendations and industry red flags.
311. Accordingly, domestic and offshore banks indicated the use of automated software to screen customers and transactions against the prescribed UN lists. Further, one domestic bank indicated staff has been trained regarding PF risks and the capabilities of the automated monitoring systems used to screen transactions also incorporate PF lists to mitigate such risks. As VASPs are an emerging sector with products and services being offered by offshore banks, the AT viewed the sector's awareness in this context to be limited.
312. In practice, FIs and DNFBPs undertook sanction screening, as part of their CDD processes. However, in the absence of a legal framework with prescribed TFS for PF obligations, the AT concluded that FIs and VASPs have a limited understanding, while DNFBPs have a low level of awareness in combatting PF.

4.4.4. Competent authorities ensuring and monitoring compliance

313. Due to the absence of a legislative regime that addresses TF in relation to PFS, there is no obligation for CAs to monitor and ensure compliance with TFS in relation to PF requirements. However, the country has taken steps to establish legislation for PF. The NIAP has included enhancement of domestic legislation to adequately address proliferation financing, including a review of the SFTA and any provisions that capture the UNSCRs on PF. Additionally, in February 2022, the Hon. Prime Minister indicated that Dominica will join the Comprehensive Nuclear Test-Ban Treaty. In terms of mitigation measures, the CBI programme also has controls to refuse citizenship to any individual from a sanctioned nation and/or jurisdiction that promotes nuclear proliferation.

314. In terms of awareness raising measures, the FSU held outreach sessions for FIs and DNFBPs in 2019 and 2020 on the potential implications for non-implementation of TFS-related to TF and PF. Additionally, the FSU and FIU provided TFS training to the FIs, MSBs and DNFBPs in early 2020 in which UNSCRs, trends and typologies and development of screening mechanisms by the entities were discussed. Supervisory monitoring for compliance with TFS relating to PF has not been part of the FSU's and ECCB's onsite process until recently. In 2022, the risk-based supervisory framework and prudential returns of the ECCB and the FSU were expanded to capture the risks and controls of PF. In January 2022, the ECCB increased its focus on PF risk and expanded its examination scope to include the assessment of entities' PF risk management framework, requiring domestic banks to take measures to identify, understand and assess their PF risks and implement adequate controls to mitigate those risks. The ECCB's revised framework is guided by the FATF Guidance on Proliferation Financing Risk Assessment and Mitigation and sets the foundation to assess the adequacy of applied systems of domestic banks for the identification, assessment and reporting of PF risks. However, while regulated entities are being asked to identify and control their risks for TFS-PF, in the absence of legislation, there are no obligations in relation to proliferation for competent authorities to monitor.

Overall conclusion on IO.11

315. Dominica currently has no legal framework or policies in place to address targeted financial sanctions related to PF. While preliminary steps have been taken to address Dominica's legislative gaps and train regulated entities on PF, the lack of policies, legislation and monitoring related to the implementation of PF TFS are fundamental deficiencies.
316. Considering the above-mentioned factors, the AT concluded that IO.11 is achieved to a negligible extent, with fundamental improvements needed.

Dominica is rated as having a low level of effectiveness for IO.11.

Chapter 5. PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

- a) FIs and VASPs generally have a good understanding of their ML/TF risks and AML/CFT obligations, particularly Compliance Officers from FIs who participated in the Technical Working Group of the NRA. In contrast, DNFBPs understanding of ML/TF risk and AML/CFT obligations is minimal, which is largely attributed to the nascent stage of the FSU's risk-based supervision of the sector. DNFBPs, to a significantly lesser extent than FIs, conduct institutional ML/TF risk assessments to understand the sector's ML/TF risks.
- b) FIs and VASPs demonstrated a sound awareness of risk mitigating measures, with robust AML/CFT procedures in relation to onboarding, monitoring, and AML/CFT training for compliance, management, staff and the board. The majority of FIs interviewed used the results of the NRA to re-evaluate their institutional ML/TF risk assessments with insurance, credit unions and offshore banking sectors strengthening their AML/CFT units over the last few years. All DNFBPs, including higher risk sectors such as registered agents, attorneys and real estate, have not instituted AML/CFT policies and procedures, designated a Compliance Officer or conducted AML/CFT training commensurate with institutional risks. DNFBP sectors have not received adequate guidance and feedback from the supervisor regarding the application of AML/CFT preventive measures.
- c) FIs (including VASPs) are generally compliant with CDD and BO obligations, except for domestic banks which had some deficiencies related to the inconsistent application of CDD, beneficial ownership and customer risk ratings. Monitoring is generally compliant for offshore banks, but domestic banks needed to improve their ongoing monitoring systems, including the monitoring of CBI agents. Higher risk Class A MSBs generally relied on real-time monitoring systems conducted by their international affiliates, while most credit unions and Class E MSBs had less sophisticated systems and used manual monitoring processes. All FIs and VASPs indicated that they would refuse business if CDD was incomplete.

- d) The supervisor has not assessed how well CDD and record keeping measures are implemented in all DNFBPs. However, some DNFBPs apply these measures in their operations. The larger jeweller and real estate sectors have demonstrated a risk-based approach to implementing CDD, particularly during customer onboarding, when risk factors are identified. As it relates to BO information, a multi-pronged approach was indicated by attorneys and real estate sectors. All DNFBPs indicated records are maintained for periods exceeding the seven years stipulated in legislation. The AT determined smaller jewellers do not maintain adequate records for AML/CFT purposes.
- e) The majority of FIs and VASPs apply enhanced due diligence measures for PEPs, and apply specific measures for wire transfers, new technologies, TFS-TF and higher risk geographies consistent with the risks of their business models. Nevertheless, EDD was an area for improvement for domestic banks which had deficiencies in monitoring for low and medium accounts and inadequate EDD procedures related to the review and monitoring of CBI applications, transactions and CBI Agents. For DNFBPs, while representatives from the real estate, attorney and jewellery sectors are aware of their EDD obligations and apply these to PEPs and higher risk countries, the extent of compliance and proportionality of EDD measures implemented cannot be fully corroborated or assessed.
- f) Many FIs and VASPs have automated monitoring mechanisms with trend analysis and have demonstrated good STR reporting processes. The quality and timeliness of STR reporting is of a high standard and has improved over time through training and interaction with the FIU and the regulators. However, a few institutions, including offshore banks, have reported low or negligible STR statistics which were not in alignment with their size of business, nor their ML/TF risk profile. Improvements are required in ongoing transaction monitoring and the identification and detection of STRs for those institutions. For DNFBPs, while one SAR was filed by a jeweller and registered agent respectively, a wide range of factors contribute to low STR reporting in the sector. These include manual procedures, transaction monitoring systems and limited awareness of the AML/CFT obligations.
- g) For regulated entities, TF risk and TF financing generally receives less emphasis in AML/CFT programmes in keeping with the perceived lower risk of TF nationally. FIs and VASPs had an adequate appreciation of TF risks, with their understanding focused on sanction lists and TFS screening. Institutions were aware of their quarterly Terrorist Property Reporting obligations and had high levels of compliance with that obligation, however not all institutions were aware that a court order was required before freezing a customer's account. Some DNFBP sectors (attorneys or registered agents) have reasonable knowledge about TF risks in the context of the services they provided. DNFBPs are aware of TFS screening requirements. Real

estate, jewellers and attorneys conduct sanction screening using commercial databases. However, TFS screening is conducted primarily at onboarding and not on an ongoing basis. Prior to the SFTA amendment in 2022, DNFBPs were not obligated to file Terrorist Property Reports.

- h) FIs and VASPs interviewed tended to have appropriate internal controls and risk frameworks. FIs mentioned that their risk and compliance systems have been strengthened over time through their interaction with the FIU on STR filings and with the regulators during examinations and AML/CFT training sessions. Supervisors corroborated these statements in relation to the regulated FIs that they supervise. DNFBPs, including higher risk sectors such as registered agents, attorneys and real estate, have not instituted AML/CFT internal controls.

Recommended Actions

Dominica should:

- a) Ensure that the FSU provides all DNFBPs with further guidance and training on their sectoral ML/TF risks and Dominica's AML/CFT obligations, in order to improve their AML/CFT policies, ML/TF risk assessments and overall compliance levels. Supervisors should ensure that regulated entities (FIs, VASPs and DNFBPs) continue to strengthen internal controls, ongoing monitoring and transaction monitoring systems. In particular, focus should be on higher risk DNFBPs (attorneys, registered agent and real estate agents) which have not conducted ML/TF risk assessments, instituted AML/CFT policies and procedures, internal controls and other preventative measures. For FIs, focus should be on strengthening internal controls within the higher risk domestic banking sector and further training on ML/TF risk assessments and independent AML/CFT audit requirements for the building and loans and insurance sectors.
- b) Ensure the FSU increases supervision and guidance to DNFBPs to improve their procedures, controls and compliance with CDD and EDD requirements, BO obligations, ML/TF risk assessment, AML/CFT compliance oversight and AML/CFT audit requirements. Likewise, the ECCB should continue to monitor and provide guidance on CDD, EDD and BO requirements to the domestic banks which service the CBI programme and cash-intensive businesses.
- c) Ensure domestic banks and DNFBPs continue to develop and implement robust EDD measures and specific preventative measures relating to PEPs, new technologies, TFS-TF requirements and the ML/TF risks associated with higher risk countries, consistent with their ML/TF risk profiles.
- d) Ensure that the FIU continues to provide guidance and feedback on ML/TF red flags, transaction monitoring and STR reporting obligations and disseminate trend/typology analysis to regulated entities to ensure the effective reporting of STRs. In particular, the focus should be on FIs and DNFBPs which have a record of historically low or negligible STR reporting, which is not in keeping with their risk exposure.
- e) Ensure that supervisors train regulated entities, particularly DNFBPs, on TF risks and ensure that the TFS regime is appropriately understood. Ensure DNFBPs have adequate compliance staff and conduct AML/CFT training for the implementation of internal controls and completion of AML/CFT audits.
- f) Ensure legislation requires regulated entities to keep their AML/CFT independent audits up-to-date and use the audit findings and onsite/offsite examination results to improve their AML/CFT programmes.

317. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

5.2. Immediate Outcome 4 (Preventive Measures)

318. As noted in Chapter 1, Dominica is not considered to be a regional or global financial centre. Financial services represent 14.51 per cent of GDP. Based on their relative materiality and risk in the Dominica context, the sectors were weighted as follows: Greater importance was placed on FIs, in which the MSB (Class A - money transmission), offshore and domestic banks, and credit unions were weighed **highly important** in terms of risk and materiality. In the NRA, Class A MSBs were rated high risk, and banking and credit unions were rated medium risk, contributing 8.57 per cent to GDP.

319. The VASP sector was weighted **moderately important**. This emerging sector is small but inherently higher risk, due to factors such as cross-border activity, non-face-to-face interaction, potential anonymity and the absence of a ML/TF risk assessment. As noted in paragraph 73, a provisional registration of VASP business has taken place, following which the FSU granted three offshore banks full licensing approval. The recent enactment of the Virtual Asset Business Act 2022 and the provisional registration and licensing mechanism for VASPs is at a nascent stage, while a supervisory regime is still in development. The insurance sector, MSB (Class E - pay day advance), the development bank, building and loans and trust sectors were weighted **least important** based on their relative materiality, risk and importance to the economy. As noted in paragraph 77, Dominica's development bank is a non-deposit taking institution with the sole purpose of providing credit for productive and social sectors of the economy with salary deductions as the only repayment method. The activities under the bank are not significant and its product/service mix has a low risk for ML/TF, differentiating it from the rest of the banking sector. There are no corporate service providers on the island, however attorneys acting as registered agents manage legal persons, including NPOs.

320. As it relates to DNFBPs, attorneys were weighted **moderately important** for their interdisciplinary services, particularly as Registered Agents with a nexus to international clients, non-client facing transactions and as noted in the NRA operational linkages to unscrupulous acts which pose higher ML/TF risks in Dominica. The real estate sector contributes 1.93 per cent to GDP, this coupled with the sector's regional and international transactions, inadequate knowledge of their AML/CFT obligations and lack of supervision and oversight activities resulted in an overall rating of **moderately important**. Accountants and auditors were weighted **least important**. These sectors conduct accounting, financial, tax and auditing (including AML audit) services offerings to domestic and international financial clients. Jewellers were also weighted **least important** due to their risk, materiality and contribution to GDP.

321. The findings for IO.4 are based on interviews with a range of private sector representatives, input from supervisors on sectoral compliance, a review of AML/CFT policies, ML/TF risk

assessments, onsite/offsite reports and data from the NRA. Relative sector weights are shown in the tables below:

Table 5.1. Financial Sector Type, Number of Entities and Weight

Financial Sector	Number of Entities	Sector Weight
Money Service Business	3	Highly Important
Domestic banks	3	Highly Important
Offshore Banks	19	Highly Important
Credit Unions	6	Highly important
Standalone VASPs and Banks offering VASP services	3	Moderately Important
Development Bank	1	Least Important
Building and Loans	1	Least important
Payday Advances	6	Least important
Insurance ²⁴	22	Least important
Trust	0	N/A
Securities	0	N/A

Table 5.2. DNFBP Sector Type, Number of Entities and Weight

DNFBP Sector Type	Number of Entities	Sector Weight
Registered Agents	12	Moderately Important
Attorneys	24	Moderately Important
Real Estate Agents	11	Moderately Important
Accountants and Auditors	5	Least Important
Dealers in Precious Metal and Stones	5	Least Important

5.2.1. Understanding of ML/TF risks and AML/CFT obligations

322. FIs and VASPs generally have a reasonable level of understanding of their ML/TF risks and AML/CFT obligations in Dominica. Participation in the NRA appeared to improve the FIs' understanding of their ML/TF threats and sectoral vulnerabilities and aided in the refinement of their AML/CFT programmes. Compliance Officers from higher risk FI sectors including representatives from MSBs, domestic banks, offshore banks, and credit unions participated in NAMLAC's technical working group, along with participation by some accountants, auditors and jewellers from the DNFBP sectors. Larger banks, insurers and MTBs which were part of, or affiliated with, larger financial groups demonstrated a sound knowledge of ML/TF risks, AML/CFT obligations and compliance frameworks. The assessors' conclusions are supported by the FSU's assessment which rated all FIs largely compliant with the ML/TF risk assessment obligation, save for the insurance and building and loans sectors which were rated partially compliant.

²⁴ Life insurance (5), General insurance (12), Agents & brokers (5)

323. While some DNFBPs participated in the NRA, the level of understanding of the ML/TF risks and AML/CFT obligations varied by subsector. Resultantly, attorneys showed a better understanding of ML/TF risk due to increased supervisory scrutiny of registered agents, compared to the basic knowledge of accountants, auditors, real estate, and jewellers of their sectors' vulnerabilities which can be exploited. Smaller DNFBPs (sole proprietors) demonstrated less awareness of their AML/CFT obligations and the NRA findings.
324. As the NRA was shared with stakeholders in April 2022, a couple of licensees that had not participated in the NRA were still incorporating the relevant sectoral findings into their AML/CFT framework. Additionally, most DNFBPs' AML/CFT programmes have not incorporated the findings of the NRA.

Financial Institutions

325. Interviews confirmed that in most instances, FIs could identify the inherent ML/TF risks specific to the characteristics of their business model as well as the sectoral risks highlighted in the NRA. Licensees identified: (i) customer risks (e.g. PEPs, cash-intensive businesses, non-residents) (ii) product/service risk (e.g. wire transfers, credit/debit cards, annuities), (iii) transaction risks (e.g. large incoming Euro, unusual patterns and FX transactions), (iv) geographic risks (transactions with high-risk jurisdictions or citizens) and (v) delivery channel risks (e.g. remote clients, third party payments).
326. **Banks:** The Banking sector includes three domestic banks consisting of one indigenous bank and two branches of foreign-owned banks, one development bank and 19 offshore banks offering a wide range of financial services to local and international businesses and clients. All Banks interviewed had conducted an ML/TF risk assessment. Interviews determined that domestic banks have a good understanding of their AML/CFT obligations and which customers, products, geographies and distribution channels present higher risk. Included in that higher risk list were PEPs, car dealerships, restaurants and financial intermediaries. The ECCB noted that domestic banking transactions including cross-border flows showed an indirect exposure to ML/TF risk emanating from these other sectors. For the development bank, which takes no deposits and provides loans for productive and social sectors of the economy representatives had a good understanding of their AML/CFT obligations and their higher ML/TF risk customers, products/services, transactions and connected predicate offences e.g. PEPs, loans to the housing and tourism sector, and offences like drug smuggling and false invoicing. The offshore banking sector also understood their AML/CFT obligations and their larger ML/TF risks (e.g., clients from higher risk regions, PEPs and debit card transactions) and had preventive measures in place to mitigate them. Overall banks with regional or overseas parents had stronger AML/CFT frameworks and a more mature understanding of ML/TF risks, AML/CFT obligations and preventative measures.
327. **VASPs:** As noted in paragraph 73, this is an emerging sector with an ongoing provisional registration and licensing process for VASPs. Interviews confirmed that compliance and senior management had a sound understanding of ML/TF risk, AML/CFT compliance obligations and internal controls. Prior to licensing, each of the three offshore banks with a full VASP licence completed a ML/TF risk assessment that considered the ML/TF risks of their VASP business. A full assessment of this sector could not be conducted given that the FSU had only approved three VASPs for full registration by the end of the onsite. The remaining registered VASPs had

not commenced their offering or operating of VA business and were not granted licensing approval.

328. **Money Service Business (MSBs):** There are three Class A MSBs conducting money transmission services and six Class E MSBs conducting pay day advance business. MSBs were identified as having a high ML risk in the NRA. All MSBs have compliant AML/CFT policies and procedures and have submitted their AML/CFT programmes to the FSU. MSBs interviewed were versed on their primary ML risks (e.g., PEPs, large incoming Euro wires and unusual transaction patterns) and demonstrated good understanding of their AML/CFT obligations. Most MSBs interviewed have revised their ML/TF risk assessments since the NRA, with one licensee initiating the process in October 2021 using the NRA findings and incorporating the results of their recent independent AML/CFT audit.
329. **Credit Unions:** Six institutions comprise the credit union sector. The NRA did not risk rate the sector separately, grouping it with banks and other deposit-taking entities as medium risk. Interviews indicated that credit union Compliance Officers have a fair understanding of their ML/TF risks and AML/CFT obligations. Since the NRA, this higher risk sector was identified as having a lack of appreciation for ML/TF business risk assessments, but has implemented corrective actions following onsite, with Compliance Officers and compliance staff completing AML/CFT certifications, and most institutional ML/TF risk assessments being updated annually or biennially.
330. **Insurance:** For insurance 22 entities and agents/brokers comprise the sector. There are 12 general insurers, five long-term insurers and five agents/brokers. Insurers showed a strong awareness of risk and compliance frameworks, indicating that they have integrated the results of the NRA with their ML/TF risk assessments, used a customer ML/TF tool and reviewed ML/TF risks annually. Insurers interviewed demonstrated their knowledge of higher risk insurance products (e.g. annuities, unregistered savings plans, whole life, marine insurance) and customers (PEPs, sanctioned persons), distinguishing higher risk industry products/services from their business offerings and rating their businesses medium-low to low ML risk.

DNFBPs

331. Overall, there is a low level of understanding of the ML/TF risks and AML/CFT obligations amongst the DNFBPs. This is largely attributed to the nascent stage of FSU's risk-based supervisory oversight of the DNFBP sector, which has resulted in limited supervisory activities being conducted (refer to Chapter 6: Supervision). Therefore, DNFBPs understanding of ML/TF risks and risk mitigating measures at the institution level is equally nascent. Notably, only three DNFBPs have completed risk assessments which excludes sectors facing higher ML/TF risks such as some attorneys, registered agents and real estate entities.
332. Attorneys, accountants, auditors, jewellers and real estate agents have been subject to legislative obligations to carry out ML/TF risk assessments and comply with the AML/CFT obligations. However, both the understanding of ML/TF risks and AML/CFT obligations varied across all subsectors. Accountants, auditors, real estate, and jewellers have basic knowledge of their sectors' threats and vulnerabilities.

333. During the onsite, DNFBPs, with the exception of auditors, indicated participation in the NRA by providing personnel to be a part of the DNFBP working group, along with providing relevant information and statistics. However, as the findings were received in April 2022, conveying the ML/TF risks posed to the sector was primarily based on the working knowledge of those DNFBPs involved in the process and Dominica's sensitisations and outreach efforts in preparation for the onsite visit.
334. **Attorneys:** The attorneys interviewed conduct real estate transactions and function as Authorised Agents for the CBI programme and microfinance institutions. One attorney performs services related to large CBI development projects and property purchases in Dominica. There is moderate knowledge of the risks associated with the CBI program, complex structures and a reasonable understanding of ML/TF risks and AML/CFT obligations due to participation in the NRA. Overall, only four attorneys (registered agents) have been subject to an onsite by the FSU, and the three attorneys interviewed were amongst those examined. However, all, with the exception of one interviewee, have not developed AML/CFT policies and procedures and are yet to complete ML/TF risk assessments.
335. **Registered Agents:** Attorneys conduct the role of registered agents in Dominica. A reasonable understanding of ML/TF risks was demonstrated due to the sector's high ML/TF risk rating in the NRA, as a nexus to IBCs, greater supervisory oversight by the FSU when compared to other DNFBPs (refer to table 6.6) and their participation in the NRA process. However, despite the acknowledgment during interviews of heightened ML/TF risks posed by international factors, which included the management of IBCs (refer to Chapter 5); some registered agents have not complied with AML/CFT obligations to facilitate an assessment of their ML/TF threats and vulnerabilities.
336. **Accountants and Auditors:** Accountants and auditors' knowledge of ML/TF risks and AML/CFT obligations was low and premised on client service interactions with AML requirements. During the interviews, only one accountant completed AML/CFT policies and procedures, conducted an ML/TF risk assessment and participated in the NRA. Unique to one auditor interviewed, was the provision of services to clients within CARICOM, US, UK and Canada. However, the AT concluded that these sectors were of low ML/TF risk, based on the nature of their services which involves bookkeeping, preparation of financial statements, tax services and audits (including AML audits). These services are outside the scope of the FATF requirements.
337. **Real Estate:** The real estate sector conducts transactions with international clients (UK, US, and Canada) and, on a lesser scale, domestic and regional clients. The services include sale, rental or leasing of properties and property management. Of the two entities interviewed, both were aware of the NRA's findings on the real estate sector, have existing AML/CFT policies and procedures and completed ML/TF risk assessments which are updated annually. The entities demonstrated a general understanding of the inherent ML risks associated with the sector and a basic understanding of AML/CFT obligations as it pertains to FIs, when processing financial transactions.
338. **DPMS:** The jewellery sector comprises five entities. It has a predominantly domestic clientele, characterised by one-off transactions from local and international customers (cruise ship passengers). Whilst this presents a lesser level of ML/TF risks, interviews revealed that

transactions, including those of high value, were conducted as usual business activities with limited ML/TF considerations in the absence of a reporting threshold prior to the onsite. Compounding this issue, there was limited understanding of AML/CFT obligations and none of the entities had conducted ML/TF risk assessments which should inform their knowledge of institutional risks.

5.2.2. Application of risk mitigating measures

Financial Institutions & VASPs

339. In general, most FIs interviewed demonstrated effective implementation of risk mitigation measures commensurate with their risk profiles, with the strength of internal controls varying slightly between institutions. The majority of FIs interviewed used the results of the NRA to re-evaluate their institutional ML/TF risk assessments. All FIs interviewed indicated they have dedicated Compliance staff, use Board-approved AML/CFT policies and procedures, report regularly to the Board on AML/CFT matters and conduct regular AML/CFT training. However, this was not the position for the whole period under review. Interviews with the FSU confirmed that marked improvement in the compliance function, was seen over the last few years, in the insurance, credit union and offshore banking sectors, with room for improvement in the building and loans, insurance and domestic banking sectors in relation to ML/TF risk assessments and AML/CFT audits.
340. **Banks:** Banks generally demonstrated strong risk mitigating measures, with compliance departments, Board-approved AML/CFT policies and procedures, monitoring controls, ML/TF risk assessments for new and existing products/services and training for emerging ML/TF risks. Further, a review of the supervisor's compliance assessment confirmed that offshore banks had robust risk mitigation measures including detailed AML/CFT procedures, mechanisms for internal controls, ML/TF risk assessments, independent ML/TF audits and carried out their ML/TF obligations satisfactorily. In the domestic banking sector, the Supervisor's onsite examinations determined that banks had established mitigating measures, although there was room for improvement based on AML/CFT deficiencies including lack of comprehensive ML/TF/PF risk assessments and monitoring controls. Additionally, the emerging risk of VASPs and VASP activity has been recognized by banks, and they have put in place advanced monitoring systems to detect key VASP distributors and mitigate these risks. Mitigating controls included policies to monitor and/or prohibit VASPs, transaction monitoring and collaboration with the FIU and training on VASP and VA activity.
341. **VASPs:** VASPs interviewed included three licensed offshore banks in Dominica offering VASP products and services. In addition to their banking licence, all had received full approval from the FSU to conduct VASP business. Licensees discussed their controls which were commensurate with their risks including: advanced onboarding techniques for non-face-to-face business, ML/TF risk assessments, sanctions screening, and manual and automated screening tools to monitor VASP trading activity, including monitoring transactions to external wallets, debit cards and blockchain activity.
342. **MSBs:** All MSBs except for one have a customer risk rating system in place and have completed ML/TF risk assessments and independent audits. MSBs are taking steps to address the shortcomings identified from those assessments. Interviews confirmed that institutions

acting as agents for international parent groups with real time risk-assessment and monitoring systems tend to have more robust monitoring systems and controls.

343. **Credit Unions:** In the credit union sector, the risk mitigating measures in the sector varied as some licensees indicated that they had ML/TF risk assessments and AML/CFT independent audits, while for others the ML/TF risk assessment was still ongoing, following an onsite examination and/or participation in ML/TF risk assessment training. From interviews with the supervisors all credit unions have developed and issued comprehensive AML/CFT policies and procedures, established sector-wide compliance programmes and policies, have systems of internal controls and conduct independent audits. Additionally, the credit union sector has established a compliance officer's committee which meets monthly to deal with AML/CFT compliance issues and provides sector-wide AML/CFT training for new and existing staff on an annual basis.
344. **Insurance:** The Insurance sector demonstrated good risk management policies and procedures, including robust risk mitigation measures. Insurance practitioners discussed the use of their customer ML/TF risk tool at onboarding and their internal control procedures including transaction review processes, EDD and screening processes for high-risk clients.

DNFBPs

345. DNFBPs interviewed have demonstrated limited knowledge of risk mitigation measures and, in some subsectors, the implementation of internal policies and procedures commensurate with their risk and ML/TF risk assessments have not been completed. As indicated, the NRA Executive Summary was not disseminated until April 2022, and 30 per cent of DNFBPs interviewed with existing risk assessments, were not informed by such findings. DNFBPs should conduct ML/TF risk assessments and update risk mitigation measures in existing ML/TF risk assessments not based on the NRA results.
346. Furthermore, in the most vulnerable sectors for ML/TF risks, such as attorneys or registered agents, the results of the supervisor's onsite examinations identified low compliance in the conduct of AML/CFT risk assessments. During the onsite, interviewees indicated that their implementation of risk mitigation measures were either recent or a work in progress. The majority of DNFBPs had a reasonable understanding of their CDD obligations based on the measures outlined in practice. Interviewees indicated record-keeping for AML/CFT exceeded the stipulated seven years retention period.
347. Some DNFBPs' understanding of ML/TF risks associated with customers, high risk jurisdictions and product/services resulted in the implementation of a risk-based approach to execute CDD and EDD measures, which include obtaining source of funds and source of wealth from clients. An interviewee from the real estate sector indicated that there is a third-party reliance on the "checks and balances" of other regulated entities such as FIs and attorneys as a risk mitigating measure.

5.2.3. Application of CDD and record-keeping requirements

Financial Institutions & VASPs

348. An analysis of compliance ratings and reports based on supervisory onsite and interviews conducted, determined that FIs (including VASPs) are compliant with CDD and BO obligations to varying degrees. Customer onboarding procedures involved risk-based CDD measures, including verification of the nature and anticipated level of business, reference letters, AML/CFT customer risk rating tools, sanctions and adverse media screening, senior management approvals and identification and verification of beneficial owners. In the VASP and offshore banking sectors which are purely digital or non-face-to-face, in addition to certified proof of address and government ID, some institutions used enhanced due diligence methods for onboarding. For BO, identification and verification requirements relate to individuals owning or controlling 10 per cent or more of the shares of legal persons or arrangements. All FIs and VASPs interviewed indicated that if CDD could not be completed, the transaction and business relationship would be discontinued. For credit unions, the application of CDD measures varied across the sector. Credit unions collect and conduct CDD (identification and verification) for customers and beneficial owners at onboarding, verifying the nature and anticipated level of business, and conducting reference checks, sanctions and adverse media screening and requiring senior management approvals. Enhanced due diligence is applied to customers that present a higher ML/TF risk, while non-residents and non-nationals require enhanced identification and verification. Onsite and offsite examinations conducted by the FSU during the period 2017-2021 determined that all FIs under its remit were compliant with their CDD and reporting obligations. For domestic banks, supervisory examinations conducted for the same period determined that all domestic banks had instituted systems and controls to facilitate due diligence of new and existing customers, however deficiencies were noted in relation to the inconsistent application of CDD, beneficial ownership and customer risk ratings.
349. In terms of monitoring, interviews and reports from supervisors based on onsite and offsite examinations determined that risk and compliance standards and tools varied by sector and institution. Most high risk FIs and VASPs described a wide range of monitoring tools including compliance and sanctions screening software, transaction and virtual asset monitoring systems and biometric tools. In the domestic banking subsector, a review of supervisory reports determined that the banks had inadequate ongoing monitoring for medium and low risk accounts and an inadequate framework for monitoring CBI agents.
350. Higher risk Class A MSBs, mainly relied on systems run by their global affiliates which used real-time systems to monitor transactions. For some, this system was supplemented with back-end monitoring done locally, along with automated transaction monitoring with multiple parameters and alerts which triggered investigations. For other Class A MSBs, real-time monitoring was complemented by manual monitoring which appeared onerous for their high-volume money transmission business. Class E MSBs offering pay day advances and loans tended to use manual monitoring, which was in keeping with their low institutional risk profiles.
351. Based on interviews with the credit union sector, the majority of the credit unions are using monitoring systems that are less sophisticated, with monitoring performed manually. The FSU has indicated that monitoring and alert software is needed in this sector to enhance the alerting and analysis of transactions. At the time of the onsite one credit union was in the process of switching to an automated system to improve its transaction monitoring, alerts and

analysis. Although credit unions reported that they were regularly filing SARs, manual transaction monitoring was occurring for some institutions serving local cash-intensive businesses.

352. **Record-keeping:** The FIs and VASPs demonstrated a high-level of understanding and application of the record-keeping requirements. All reporting institutions have stated that CDD identification, transaction and correspondence records obtained during the course of business are retained for a minimum of seven years from the end of the relationship, with the majority of FIs retaining records beyond the required minimum period. This was consistent with the FSU's supervisory interviews which found FIs and VASPs to be compliant with their record-keeping obligations.

DNFBPs

353. DNFBPs such as attorneys, real estate and a large jeweller, have demonstrated reasonable knowledge of their CDD obligations. The application of CDD measures varied across sectors based on the outlined customer identification, beneficial ownership measures implemented and the types and period for which records are retained in practice. However, due to the limited conduct of AML/CFT examinations (refer to Supervision – table: 6.6), assessments on how well CDD measures are being applied in all DNFBP sectors could not be provided by the FSU. Further, the deficiencies identified during the FSU's onsite of registered agents regarding CDD obligations (refer to Supervision - table: 6.7), remained throughout the supervisor's follow-up examinations in the sector. The AT concluded that while there are CDD measures being applied, the extent of compliance by DNFBPs could not be fully assessed given the limited supervisory oversight and low understanding of ML/TF risks.
354. Attorneys and real estate sectors indicated improvements in CDD information collected and the KYC form was amended to capture source of funds as a result of the NRA process. Additionally, all information on party(s) to a transaction must be obtained such as, in the case of real estate transactions, a certified identification, certificate of title, notarised letter from attorney and bank account transaction history to verify source of income are requested. Accountants, auditors and jewellers conduct CDD, however, the implementation in jewellers varied. A small jeweller interviewed indicated challenges faced in introducing CDD resulting from the minimum information obtained from clients since commencing operations, while a larger jeweller identified several measures to capture CDD, such as use of a KYC Form and screening databases. Noteworthy, all sectors interviewed indicated that if CDD could not be completed, the transaction and business relationship would be discontinued.
355. As it relates to BO information, a multi-pronged approach is adopted by attorneys and real estate sectors. Interviewees indicated that CDD measures would be completed to identify the beneficial owner and the information held by the Registrar (CIPO) is utilised for both identification and verification purposes. The real estate sector also indicated third-party reliance on other institutions such as banks to identify BOs while processing their transactions.
356. **Record-keeping:** DNFBPs demonstrated knowledge of the record-keeping obligations. Sectors interviewed indicated that all records are maintained beyond the stipulated seven years minimum retention period. Therefore, information required by the relevant CAs can be accessed upon request. However, in a smaller jeweller, there was a lack of understanding of

AML/CFT obligations and difficulties experienced in obtaining CDD information, which impacts records maintained for AML/CFT purposes.

5.2.4. Application of EDD measures

Financial Institutions & VASPs

357. **Politically Exposed Persons (PEPs):** Interviews determined that FIs and VASPs understand their EDD obligations. It is the policy of FIs and VASPs to apply EDD measures to PEPs, their family members and close associates, non face-to-face customers, customers from higher risk jurisdictions, and in other higher risk scenarios including large wire transactions. FIs described EDD as a multi-tiered process. PEPs are screened at onboarding, using internal PEP lists and are required to complete source of funds and source of wealth verification forms. Applications are also subject to senior/executive management approval and monitoring. Enhanced ongoing monitoring is applied to PEP accounts and transactions involving government entities as well as higher risk accounts, e.g., cash-intensive businesses. Supervisory reports on the domestic banking sector determined that in practice, EDD was a notable area for improvement including ineffective EDD processes/procedures to facilitate the review of CBI applications and the ongoing monitoring of CBI Agent accounts and transactions.
358. For VASPs, EDD methods for onboarding and monitoring were used. Some of these enhanced methods include the use of the latest technology and CDD practices for non-face-to-face customer onboarding such as optical character recognition, biometric verification and live-testing of passports and using Chainalysis to monitor transactions.
359. **Correspondent banking:** The domestic and international Banks interviewed do not provide correspondent services. As respondent banks, all banks described their compliance with wire transfer regulations and sanctions screening procedures, noting that they work closely with their correspondent banks when performing wire transactions and mitigation measures.
360. **Wire transfers:** Banks highlighted that they use a two-tiered approach to wires. First, the wire and financial details are verified, including whether the amount and destination is acceptable given the client's nature of business/purpose of the account. Wires are then migrated through transaction monitoring systems which screen payers and payees against UN, EU, OFAC, UK and other sanctions lists. A few FIs discussed their automated transaction monitoring systems in relation to wires which had the capability of raising alerts on unusual patterns in wire transfers falling outside the customers' risk profiles. Where wire transactions fell outside customer risk profiles, they underwent extra scrutiny.
361. **New Technologies:** Most FIs and VASPs were aware of the requirements to conduct due diligence and risk assessments prior to the roll out of any new products and services. Smaller FIs indicated that they were not in the market to launch any new products/services, while others had a limited risk appetite for VASPs/VAs and related new technologies. Larger FIs with more mature risk and compliance frameworks described their ML/TF risk assessment process for reviewing new products/services as one which involves a tiered approval process, beginning at the enterprise/committee level, then to the Board of Directors, before obtaining regulatory approval.

362. **Higher risk countries:** At onboarding, most FIs indicated that they risk rate customers and institutions using a risk rating tool that accounts for the FATF's high risk and other monitored jurisdictions lists. For wire transfers and money transmissions, most banks and MSBs indicated that high-risk FATF jurisdictions lists are revised in their systems when changes are made internationally. Institutions that are part of financial groups or with international MSB affiliates have FATF-compliant country requirements which are monitored globally. Smaller FIs rely on manual monitoring of FATF public statements which are published on the FSU's website. One VASP has a system that alerts them to any customer being onboarded from a higher risk jurisdiction. Overall, the majority of FIs interviewed incorporated higher risk countries in their geographic risk analysis and AML/CFT risk frameworks as well as procedurally during onboarding, and when processing transactions and wire transfers.
363. **Other Measures - Targeted Financial Sanctions, Terrorist Property Reports and TF:** The Assessors determined that TF risk and TF financing generally receive less emphasis in AML/CFT programmes as a result of the perceived lower risk of TF nationally. Generally, FIs understand their TF risk and could identify products/services that are higher risk for TF in their respective industries. FIs are also aware of their TFS reporting obligations and have implemented internal systems to meet the sanctions screening requirements against the UN, UK, EU, OFAC and other sanctions lists. While FIs understood the internal freezing and reporting requirements, a few FIs were not aware that a court order was required before freezing a customer's account.
364. FIs are also required to file Terrorist Property Reports quarterly to the supervisory authority under section 36(2) of the SFTA. During interviews, the FSU indicated compliance with TPR reporting requirements was very high in the financial sector, and that the FI's systems to manage TF risk were adequate.

DNFBPs

365. **PEPs:** DNFBPs namely, real estate, attorneys and a larger jeweller, are aware of the need to conduct Enhanced Due Diligence (EDD) in scenarios which present higher risk. In this context, PEPs, which are identified during the KYC process at onboarding, are treated as high-risk customers. A large jeweller and one real estate entity interviewed indicated that due diligence forms specifically ask whether an individual is a PEP for self-declaration purposes. An awareness of the requirements to obtain senior management approval and identify the source of wealth and source of funds was also demonstrated. In practice, one real estate entity indicated that PEP transactions are referred to the Compliance Officer for guidance on how to proceed. Periodic screening is also conducted by real estate, attorneys and a large jeweller on all customers using an internal PEP list, the FIU portal²⁵, due diligence agencies, world check and a variety of media searches for adverse reports.
366. However, in keeping with paragraph 353-356, while EDD measures are implemented by real estate, attorneys and a large jeweller, the extent of compliance and proportionality of EDD measures applied by these DNFBPs cannot be fully assessed. This further concretises the

²⁵ Without filing an STR, a regulated entity with access can visit the FIU's e-filing portal and manually screen the name of any person or company against the OFAC and UN Sanctions List.

necessity for increased supervisory activities in DNFBPs by the FSU (refer to Chapter 6: Supervision).

367. Other DNFBPs interviewed, including accountants, auditors and a small jeweller, had no EDD measures in place for PEPs. Assessors determined that due to the nature of client services offered by accountants and auditors, EDD measures are not applicable and, for the smaller jeweller, a low level of implementation of EDD measures is due to low AML/CFT knowledge.
368. **New Technologies:** DNFBPs in Dominica have not demonstrated that they have identified, understood and assessed the ML/TF risks relative to the development of new products, new business practices, and the use of new or developing technologies for both new and pre-existing products.
369. **Higher risk countries:** DNFBPs interviewed during the onsite were knowledgeable about high-risk jurisdictions. Real estate, a large jeweller and attorneys who are registered agents, CBI agents and real estate agents undertake EDD measures for potential customers or transactions involving individuals from high-risk jurisdictions. A large jeweller indicated sanction screening via the FIU portal is conducted while processing transactions for customers from high-risk jurisdictions.
370. **Other Measures - Targeted Financial Sanctions, Terrorist Property Reports and TF:** DNFBPs interviewed, particularly attorneys in their capacity as registered agents, CBI agents, real estate agents and a large jeweller had some TFs awareness and explained TFS measures implemented. Overall, tools such as commercial databases (World Check, Google), OFAC list and the FIU portal are utilised for screening against the UN list. However, screening is primarily conducted at onboarding and not on an ongoing basis. Assessors noted a knowledge gap with one real estate entity interviewed regarding the need for ongoing monitoring of their customers given that their services entail one-off transactions. This indicated that ongoing monitoring was not understood in the context of a client being designated after a transaction occurred, therefore, making the acquired asset terrorist property.

5.2.5. Reporting obligations and tipping off

Financial Institutions & VASPs

371. FIs and VASPs have developed internal systems to detect and report suspicious activities and demonstrated an understanding of their reporting obligations. The FSU indicated that licensees were compliant or largely compliant with reporting obligations, except for two institutions in the banking sector which were rated partially compliant. FIs and VASPs interviewed were aware of the offence of tipping off. Employee training included the topic of tipping off, stressing the penalties for non-compliance. Many firms required employees to sign off on the AML/CFT policies, including the procedures for tipping off.
372. In the FI sector, assessors noted some STR reporting differences between institutions and sectors. During the period under review, the FIU noted that STRs filed by domestic banks were comprehensive, containing sufficient evidence for a report and filed in a timely manner in keeping with the legislation. STR deficiencies and quality issues were observed by the FIU in the MSB, credit union and offshore banking sectors. The respective FIs were informed and were given training in better filing and narration of STRs as well as using the FIU secure platform. As a result of the training, the FIU observed better STR filing. In terms of quantity,

a few institutions including an offshore and domestic bank had nil or negligible annual filings, which did not coincide with their ML/TF risk and business profile. For other entities that have not filed STRs, the FIU has attributed a lack of STR filings to their smaller and limited AML/CFT capacity. Although overall SAR numbers declined in 2020-2021, the decline can be partly explained by the Covid-19 pandemic and the subsequent economic slowdown as lockdowns occurred and general economic activity slowed during this period.

Table 5.3. No. of STRs Received by the FIU per sector

Sectors	2017	2018	2019	2020	2021
Domestic banks	54	24	32	45	14
Credit Unions	11	7	19	18	8
Money service Business (MSBs)	118	93	137	76	133
Offshore Banks	1	23	2	22	13
Registered Agents	1	0	0	0	0
Jewellers	1	0	0	0	0
Total	186	147	190	161	168

DNFBPs

373. All DNFBPs are required to report a suspicious activity or transaction to the FIU in accordance with section 20 AML/STF Code of Practice, however, the majority of DNFBPs are non-compliant in this regard. The AT's analysis of statistical data indicated that the number of SAR filings to the FIU by DNFBPs is very low. Accordingly, as seen in table 5.3, only one SAR was filed by a jeweller and registered agent, respectively.
374. During the onsite, DNFBPs interviewed informed the AT that they have had no reason to file a SAR. This reinforced the AT's analysis that the sector has a low level of knowledge of its ML/TF risks and AML/CFT obligations, resulting from the low supervisory impact on DNFBPs (refer to Chapter 6: Supervision). Additionally, onsite interviews with the FIU revealed that the SAR filing of the jeweller was of low quality and required training for improvement. Further, DNFBPs still employ manual transaction monitoring procedures to identify unusual transactions and some sectors are in the initial phase of implementing the required preventive measures, therefore, reducing the likelihood of detecting unusual transactions that may lead to a SAR filing.
375. No SARs have been reported by DNFBPs in relation to TF activities. DNFBPs interviewed linked the filing of SARs associated with TF to positive matches with the UNSC designations and customers from high-risk jurisdictions with known TF activities. Prior to the amendment of Section 36 of the SFTA in 2022, which now requires scheduled businesses to file TPRs quarterly, all DNFBPs interviewed believed that the obligation to submit TPRs to the FIU applied to their sector. Nonetheless, analysis of TPR statistics for DNFBPs indicated low reporting numbers as only four institutions of two DNFBP sectors (real estate and attorneys) filed TPRs preceding 2022. Additionally, during the onsite interviews, all other DNFBP sectors could provide no justifiable rationale for not filing. The AT concluded that there was

deliberate nil reporting by the sector due to inadequate understanding of their TF vulnerabilities and reporting obligations.

376. In the context of tipping off, there have been no identified instances in DNFBPs. Sectors interviewed demonstrated their awareness of the legal prohibition and included tipping off guidance and/or obligations in AML/CFT policies and staff training. Internal processes and procedures adopted have also limited the knowledge of internal SAR filings to prevent tipping off amongst staff and clients.

5.2.6. Internal controls and legal/regulatory requirements impending implementation

Financial Institutions & VASPs

377. The FSU provided non-compliance ratings on internal controls by FI the sector including compliance with AML/CFT obligations, policies and procedures, AML/CFT risk assessments, and independent audit requirements. However, those ratings reflected the level of compliance by sector at the time of the onsite. Specific compliance ratings by regulatory finding and sector over the 2017-2021 period were unavailable.
378. FIs (including VASPs) interviewed implemented internal control mechanisms to mitigate ML/TF risk, however effectiveness varied by sector and institution. FIs advised that AML/CFT policies and procedures manuals are Board-approved and are available to management and staff for reference. FIs advised that they provided the required AML/CFT/CPF training to all staff and Board members, tailoring training to the various roles, with Compliance Officers afforded advanced training and certifications. In addition, FIs conduct customer ML/TF risk assessments at onboarding, and business ML/TF risk assessments on a regular basis. Larger FIs, and those entities that are agents and branches of regional or international parent groups tend to have stronger risk and compliance frameworks with solid internal controls including shared technology software, risk-based policies and training resources. Many of the larger FIs and those with global affiliates including banks, insurers and MSBs demonstrated a strong culture of compliance and a mature risk and compliance framework. Many FIs issued quarterly Compliance reports to the Board, and all have the requirement to conduct independent AML/CFT audits.
379. The FSU found that FIs, including the higher risk Credit Unions, MSB Class A and Offshore Banks were compliant or largely compliant with their internal control obligations (including AML/CFT Policies and Procedures, CDD, SAR/STR Reporting, AML Unit Compliance functions and AML/ATF training.) According to FSU compliance reporting, deficiencies were noted in the Building and Loan Sector which was partially compliant with most of its AML/CFT obligations, and in the Insurance and Class E MSB sectors which were partially compliant with their AML/CFT audit requirements.

380. For VASPs, the ML/TF risk of products and services varied. The monitoring systems and controls were commensurate with their VA/VASP activity, with one bank using Chainalysis²⁶ to investigate transactions and make compliance decisions.
381. Overall, FIs interviewed tended to have appropriate internal controls and risk frameworks. FIs mentioned that their risk and compliance systems have been strengthened over time through their interaction with the FIU on STR filings and with the regulators during examinations and AML/CFT training sessions. During interviews, the FSU corroborated these statements in relation to the regulated FIs that it supervises.

DNFBPs

382. The FSU generally rated compliance with internal controls in DNFBPs as non-compliant. This coincided with interviews of DNFBP sectors at the onsite, given their limited supervision, level of maturity, size and knowledge of AML/CFT obligations. The vast majority of DNFBPs, inclusive of higher risk sectors such as attorneys, registered agents and real estate sectors, have not fully adopted and implemented AML/CFT internal control mechanisms, which increases the sector's ML/TF vulnerability.
383. Amongst the entities interviewed only 50 per cent of DNFBPs have developed a compliance programme. Sectors such as real estate, one attorney, a large jeweller and one accountant have a dedicated Compliance Officer. However, implementation of this requirement was within the period of review, particularly in attorneys with this function being fulfilled as a dual role. Further, only 50 per cent of DNFBPs interviewed have documented AML/CFT Policies and Procedures and the AT observed that attorneys and registered agents are amongst those entities without such policies.
384. While AML/CFT staff training is provided internally, AML/CFT training has also been sought from the FSU and FIU or an external professional. DNFBPs have indicated their inability to conduct training on an annual basis due to several factors, including the COVID 19 pandemic. However, the AT's analysis indicated instances where the most recent AML/CFT training was conducted in 2017 and 2018. With the exception of one real estate, other interviewed DNFBPs' compliance programmes were not subject to an independent audit per legislative requirements in section 12(4) of the Code.

²⁶ Chainalysis is an industry leader in blockchain analytics solutions and a software service provider that that helps government and private sectors detect and prevent the illicit use of cryptocurrency. With a presence across 60 countries, the US-based company delivers services ranging from data management, software services, and research to government agencies, exchanges, financial institutions, and insurance and cybersecurity companies.

Overall conclusions on IO.4

385. The majority of higher risk FIs demonstrated an appropriate level of ML/TF risk understanding of their institutions and implementation of AML/CFT obligations, with some variation across institutions. Banks, Insurers and MSBs that were part of financial groups or with global affiliates tended to have stronger ML/TF awareness and stronger compliance and AML/CFT frameworks. Compliance Officers from FIs and some DNFBP sectors participated in the NRA working groups and were able to leverage that experience and the results of supervisory examinations and independent audits to improve their ML/TF risk assessments and AML/CFT programmes.
386. FIs were able to demonstrate the implementation of key AML/CFT obligations around CDD, record keeping, sanctions screening, monitoring, and reporting. This was not the position for the whole period under review, as improvements in compliance function, reporting and ML/TF risk assessments were strengthened in the last few years particularly for the insurance, credit union and offshore banking sectors.
387. Internal systems and controls were generally commensurate with the risks identified for the majority of FIs, while a couple institutions from the credit union and offshore banking sectors were lagging in relation to the updating of their ML/TF risk assessment and incorporating the NRA results into their AML/CFT frameworks. Domestic banks had some room for improvement in relation to ML/TF/PF risk assessments, implementing CDD and BO requirements, and ongoing monitoring.
388. Most FIs apply EDD measures commensurate with their risk profiles in relation to PEPs, correspondent banking, new technologies, wire transfers, TFS relating to TF and high-risk country risks. DNFBPs, particularly attorneys that are registered agents, CBI agents and real estate agents, have EDD measures in place for addressing TFS. Transaction monitoring, systems development and STR reporting are areas for improvement, particularly for those institutions in the MSB and credit union sectors that use manual monitoring or have not integrated their CDD files with their transaction monitoring systems. DNFBPs and some FIs with negligible STR reporting numbers, require improvement with their ongoing transaction monitoring systems in order to identify and detect unusual or suspicious activity.
389. DNFBPs have minimal understanding of their ML/TF risks and AML/CFT obligations with awareness levels varying between sectors. A low number of DNFBPs have implemented AML/CFT obligations, particularly in the conduct of an assessment of their ML/TF risk. Sectors with multiple roles and businesses, such as attorneys, have a more developed level of ML/TF risk and AML/CFT obligations due to increased supervisory oversight of their function as Registered Agents.
390. Noteworthy in some DNFBPs, was the approach and application of CDD and record keeping measures. The application of EDD varies across the DNFBP spectrum with real

estate, attorneys and the larger jeweller aware of the need to apply EDD for PEPs and higher risk countries. Accountants, auditors and a smaller jeweller have no EDD processes.

391. Overall, while a large percentage of FIs understand their ML/TF risks and AML/CFT obligations, DNFBPs are underdeveloped in this regard.

392. Considering the above-mentioned factors, the country has achieved IO.4 to some extent, with major improvements needed.

Dominica is rated as having a moderate level of effectiveness for IO.4.

Chapter 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

- a) Dominica has robust controls for licensing that prevent criminals, their partners and associates from owning or controlling FIs. However, the controls for DNFBPs are only conducted during registration requirements with the FSU and entities are not subjected to ongoing fit and proper tests to prevent criminals, their partners and associates from owning or having a controlling interest in the sector.
- b) Supervisors within the FSU, ECCB and ECSRC are adequately trained and have appropriate ML/TF knowledge of the higher risk FIs. The ECCB has made a demonstrable effort to supervise the domestic banking sector since it took over supervision of that sector in 2020. Likewise, the FSU developed risk-based tools, data collection and a risk-based framework to enhance its risk-based supervisory programme from 2020 onwards.
- c) Although AML/CFT supervision by the FSU is being carried out in the FI sector, risk-based supervision is quite recent. The frequency and intensity of the onsite is limited and is not in accordance with the examination schedule in the risk-based framework. The recent development of the risk-based framework has impeded the FSU's ability to effectively measure ML/TF risk, monitor AML/CFT compliance and demonstrate effective supervision across all sectors. In particular, the FSU's supervision of VASPs has not commenced.
- d) For DNFBPs, the FSU is in the nascent stage of its supervisory approach due to the insufficient number of onsite and offsite examinations conducted in the sector. Onsite inspections for DNFBPs have only taken place for accountants and attorneys (registered agents), however, these supervisory activities did not occur in all entities within each of the named sub-sectors.
- e) The FSU's organisational structure, as a sub-unit of the Ministry of Finance, currently hinders the supervisor from executing its full regulatory mandate. The FSU's human and financial resource constraints have substantially curtailed the unit's execution of its risk-

based supervisory programme. Dominica is only able to fulfil its regulatory mandate to a limited extent, given the FSU's prudential and AML/CFT responsibilities and the broad base of sectors that it regulates.

- f) The supervisor's sanctions framework is only partly effective for FIs and DNFBPs. While the FSU employs some enforcement measures, the sanctions are not dissuasive nor effective. Repeat infractions have been noted in the credit union sector where a fine was imposed and then deferred. For DNFBPs, the FSU did not apply enforcement measures to identified breaches. There have been no instances of sanctions being issued to individuals within a RE.
- g) Assessors noted specific cases of improved compliance by most FIs supervised by the FSU and the ECCB, but that the FSU had limited or negligible impact on compliance with respect to DNFBPs.
- h) The ECCB and the FSU have provided numerous AML/CFT training opportunities to REs to promote a clear understanding of the AML/CFT obligations and applicable ML/TF risks. However, there still are opportunities for more frequent training and outreach to the private sector, including further updates to the AML/CFT General Guidance Notes (2013).

Recommended Actions

Dominica should:

- a) Review the current organisational structure of the FSU. Increasing the FSU's resources (financial and human) to enable it to fully execute its AML/CFT supervisory mandate.
- b) Develop a mechanism to ensure DNFBPs are subjected to ongoing monitoring to prevent criminals, their partners and associates from owning or having a controlling interest in the sector.
- c) Ensure that the FSU continues to implement a risk-based supervisory approach, update the risk-based supervision data, meanwhile enhancing AML/CFT manuals and deepening knowledge of sectoral and institutional risks.
- d) Ensure that the FSU increase the frequency and intensity of AML/CFT supervisory onsite, particularly for higher risk FIs such as offshore banks, MSBs, VASPs and DNFBP sectors. The onsite supervision cycle should be aligned with the risk-ratings allocated to regulated entities.
- e) Ensure that the FSU develops and implements a follow-up mechanism to detect inadequacies, or no actions taken by regulated entities.
- f) Ensure that supervisors provide timely feedback on onsite and offsite to enhance FIs and DNFBPs understanding of the AML/CFT obligations and their level of compliance.
- g) Ensure that supervisors effectively implement the range of enforcement measures available and apply more frequent, effective, proportionate, and dissuasive sanctions for failure to comply with the AML/CFT legislation.
- h) Increase outreach activities, particularly to those DNFBPs that require significant improvement to meet their AML/CFT obligations. Update General AML/CFT Guidance Notes (2013) to reflect updates to the legislation and emerging risks and hold an outreach to the private sector.

393. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14, 15, 26-28, 34, 35 and elements of R.1 and 40.

6.2. Immediate Outcome 3 (Supervision)

394. AML/CFT supervision and monitoring functions are carried out by three supervisory authorities in Dominica. The FSU is the primary FI regulator and supervisor for: MSBs, offshore and development banks, building and loan institutions, credit unions, trusts, insurance

companies, agents and brokers. The FSU is also the designated supervisor of DNFBPs including jewellers, attorneys, auditors and accountants, registered agents and real estate. All DNFBPs are required to register with the FSU, except for registered agents which are licensed by the CIPO. The FSU's supervision also extends to VASPs which are required to be registered with the FSU under the Virtual Asset Business Act (VABA) 2022.

395. Domestic banks are licensed and regulated by the ECCB who is the prudential and supervisory authority for other Eastern Caribbean countries. The ECSRC is the designated supervisor for the securities sector. No security business existed in Dominica at the time of the onsite visit, and four public companies were responsible for reporting to the ECSRC quarterly.
396. The assessors took into consideration the ML/TF risks, importance of the sectors, interviews held with the supervisors (see Chapter 1 for further information) and the materiality of the different sectors (FIs, DNFBPs and VASPs) in drafting and assigning a rating to the Immediate Outcome. As a result, the assessors considered the materiality of FIs to be more important due to their higher risk and overall importance to the Dominica's economy, and so, the supervision of FIs was weighted more significantly than DNFBPs. The licensing and registration measures on banks, MSBs, credit unions, attorneys and registered agents were given more scrutiny by the assessors than the other sectors, as a result of the factors identified in previous chapters of the report. (See Chapter 1 and 5 for further information).

6.2.1. Licensing, registration and controls preventing criminals and associates from entering the market

Financial Institutions

397. The ECCB has a robust licensing framework. Licence applications for domestic banks must be submitted along with the application fee and all relevant documents and information as outlined in the licensing requirements in the Banking Act. Applications must include detailed information on each significant shareholder, director and officer who must meet the fit and proper requirements and pass due diligence checks before the application can be approved. As well as personal details, the applicant must provide his/her qualifications and experience, financial position, business interest and performance of the business concerns under their control and management and all other relevant information outlined in the application requirements (see the Banking Act 2015).
398. The ECCB also completes post-licensing checks and monitoring. Licensed FIs must notify the ECCB in writing when they have had changes in their shareholders, directors and/or senior management. A due diligence questionnaire and due diligence checks must be completed for all new appointments to senior management and the Board. Additionally, all licensed FIs must complete an annual due diligence questionnaire in relation to their shareholders, directors and senior management. Currently, there are three domestic banks operating in Dominica which fall under the supervision of the ECCB.
399. Further, review of the ECSRC's licensing policies and procedures (including fit and proper requirements, due diligence and vetting processes) found that the supervisor has a robust licensing process, similar to that of the ECCB and the FSU. Additionally, all potential licensees are required to undertake the Eastern Caribbean Securities Market Certification Programme

and Examination (ECPE) which is a legal requirement mandated in the Securities Act. During the period under review, three licence applications were approved and two were declined in connection with the fitness and propriety of the companies' principals.

400. In terms of fit and proper approvals, the ECSRC identified that there was a minor gap in the legislative framework which did not permit the ECSRC to approve or deny shareholders, directors and/or senior management changes. At the time of the onsite, the ECSRC noted that new securities legislation designed to address the legislative deficiencies was at bill stage. There are currently no securities firms licensed in Dominica.
401. The FSU is the licensing and registration authority in Dominica for FIs, VASPs and DNFBPs under its remit. The FSU seeks to prevent criminals and their associates from holding or being beneficial owners of a significant or controlling interest or holding a management function in FIs through its licence and registration process. As part of licensing and supervision of regulated entities in Dominica, the FSU conducts fit and proper tests on new directors, senior officers and shareholders as well as due diligence on foreign nationals. A face-to-face interview is conducted with all applicants and beneficial owners upon application for financial services licences. In the case of complex legal structures, the FSU conducts enhanced due diligence on the natural person owning or controlling 10 per cent or more of the entity. In addition to criminal records, fit and proper questionnaires are collected. The FSU conducts further background checks and communicates with the IRD, LEAs, CIPO and other regulatory authorities when screening owners and/or controllers of entities of licensing applications.
402. In the case of offshore banks, a third-party due diligence company (external agency) is used to carry out due diligence on the beneficial owners, directors and shareholders. In cases where an offshore banking applicant owns an existing offshore bank in another jurisdiction, the regulatory authority in that jurisdiction is contacted to provide information on the bank's licence and incorporation, adverse media, and any regulatory breaches by the bank or related individuals.
403. During the annual licensing retention exercise for REs, the FSU sends a fit and proper questionnaire to REs for completion by the FIs' directors, shareholders, and persons with significant controlling interest. FSU approval has to be sought prior to changing any director, shareholder, and management staff in order for fit and proper checks to be conducted.
404. Please see case study 6.1 below for the period 2017 to 2021 for an application that was rejected at the licence stage. The case study below demonstrates that the controls are in place to reject directors and senior management if they are found to be unsuitable for the role.

Case Study 6.1. Application for Independent Insurance Broker licence rejected

In December 2021, an individual applied for an independent insurance broker licence. Through due diligence checks, the FSU determined that the primary contact and proposed Director was a former Director of a failed insurance firm. The licence application was immediately rejected based on this historic non-compliance. In February 2022, the FSU rejected the application and informed the individual that the application should be withdrawn.

405. The FSU continuously applies monitoring and spot checks on all entities to identify any breaches. This is done from six months to a year after the licence is issued and places an obligation on licensees to commence operation. Any breach identified during this process is subject to licence revocation or similar sanctions.
406. From 2017 to 2021, the FSU processed and approved 544 fit and proper checks in relation to FIs licensing, with one rejection. The ECCB approved 35 fit and proper checks with no rejections for the same period, while the ECSRC conducted five fit and proper checks, rejecting two in 2018 for fitness and proprietary issues connected to the companies' principals.
407. The table below notes the number of licensing applications approved, denied, revoked and withdrawn by the FSU. Based on these statistics, the number of licences denied and withdrawn demonstrates a framework that limits the possibility of criminals and associates from entering or remaining in the financial sector.

Table 6.1. No of Applications and licences by sector by the FSU for the period 2017 to 2021

For the Period 2017 to 2021				
Type of entity	Approved	Denied	Revoked	Withdrawn
Money Transmission Business (MSB Class A)	1	2	0	1
Pay Day Advances (MSB Class E)	0	1	0	0
Offshore Banks	6	11	5	0
Insurance	2	0	1	2
Total	10	14	6	3

408. For the emerging VASP sector, the FSU has embarked on a provisional registration process, followed by a full licensing regime for all eligible entities as noted in paragraph 73. The FSU sent a notice to the public sector, informing them of the enactment of the VABA 2022 and requiring any entity which is already engaged in VASP activities without a licence, to cease activity and contact the FSU to ensure registration under Section 6 of the Act. Part of the registration process involves the FSU conducting fit and proper checks on all directors and officers of VASP businesses, reviewing documents including the institution's business risk profile, ML/TF business risk assessment (inclusive of VA and VASP business), detailed business plans, corporate governance framework, and internal controls. The VASP licensing regime was as rigorous as the licensing process for banks. The FSU was able to subsequently grant a full licence to three offshore banks offering VASP products and services. Interviews with the three offshore banks that received VASP licence and discussions with the FSU determined that the VASPs approach to ML/TF risk assessment, their obligations and the licensing process is robust.
409. For DNFBPs, attorneys, auditors, accountants, real estate brokers and jewellers are required to be incorporated with CIPO and the FSU has authorisation to access such records. Additionally, DNFBPs must be registered with the FSU prior to operation. The registration process entails the evaluation of pertinent documents as it relates to the company, its directors and shareholders.

Documents include company records and/or business plan, police records and bank references. Sectors are approved by the supervisor, if deemed satisfactory, and added to the FSU's registry.

410. Registered agents are required to be licensed with CIPO prior to commencing operations. Such agents are attorneys who are further subjected to AML/CFT supervisory requirements by the FSU.
411. Attorneys are members of the Dominica Bar Association which is a professional body for matters of ethics and discipline. As it relates to activities under the MLPA, attorneys are to register with the FSU when they prepare for or carry out transactions on behalf of a client under the FATF list of activities for DNFBPs. The FSU ensures that the Dominica Bar Association is adequately sensitised regarding matters of AML/CFT through information sharing on AML/CFT guidance, updates on AML/CFT matters and training.
412. Principally, accountants are registered with the FSU because of their association with the FIs. In Dominica, accountants and auditors are grouped for the similar functions or activities conducted such as taxation, audits and accounting services. The activities of the auditors are controlled based on the International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS). Accountants are associated with several accounting bodies such as ACCA-Association of Chartered Certified Accountants, CAT-Certified Accounting Technician and CGA-Certified General Accountant.
413. There are no legislative measures which require fit and proper tests for attorneys (inclusive of registered agents), accountants, real estate brokers and dealers in precious metals and precious stones. In practice, fit and proper tests are conducted on DNFBPs which are subjected to the FSU's registration requirements. As indicated above, all DNFBPs are required to be registered with the FSU. However, Dominica indicated fit and proper tests are only conducted on attorneys and accountants and are non-existent for other DNFBPs, namely real estate brokers and jewellers. For the period 2017 to 2021, the FSU processed and approved 107 fit and proper checks which comprised attorneys (29), registered agents (73) and accountants (5) sectors.
414. During the onsite, the AT concluded that fit and proper tests are only based on the FSU's requirements at registration, as there is no re-registration or fit and proper checks conducted for DNFBPs on an annual basis. In addition, due to the limited supervisory activities conducted by the FSU, DNFBPs are not subjected to ongoing monitoring.
415. There were no cases of registration rejections involving any DNFBP based on fit and proper checks. The FSU's registration requirement for DNFBPs is in line with the FATF's minimum standard in this regard.

6.2.2. Supervisors' understanding and identification of ML/TF risks

416. In assessing this core issue, the AT considered the supervisors' activities, risk models and risk-based supervisory procedures used to assess ML/TF risk.
417. The ECCB commenced AML/CFT supervision of domestic banks in Dominica in 2020 and was not integral to the first NRA exercise. The ECCB noted that the NRA's assessment of the banking sector was neither comprehensive, nor did it include data from the supervisory authority over the review period. No onsite examinations by the ECCB had been conducted for the domestic banking sector over the review period, so limited sectoral data was available at the

time of the NRA. To compensate for the gap, the ECCB conducted a detailed sectoral assessment on the domestic banking sector in Dominica in 2021, to identify the sector's ML/TF risks and vulnerabilities. The risk assessment reviewed inherent ML/TF risk factors, customers' and entity profiles, products and services, geographies, the CBI-related wire transfers, and analysed the effectiveness of risk management and controls and residual risks. ECCB determined that the overall ML/TF risk of the banking sector was medium-high.

418. The ECCB has demonstrated a high level of understanding of the ML/TF risk and vulnerabilities in the banking sector in Dominica and is currently seeking to use its sectoral assessment as an addendum to Dominica's NRA report. The ECCB applies its risk-based supervisory framework to monitor compliance in the banking sector at an institutional level. In this regard, examinations are conducted using a risk matrix to determine prioritisation for inspections, as follows: high risk institutions (12 months), above average risk (18 months), moderate risk (24 months) and low risk (36 months). As part of the ECCB ongoing monitoring of ML/TF risk profiles for domestic banks, quarterly offsite monitoring reports are completed for the banks, taking into consideration information from the quarterly AML/CFT-prudential returns, risk-based institution risk assessments, updates on remedial action items and new or emerging ML/TF risk based on jurisdictional and regional surveillance. To further enhance the risk-based approach, the ECCB administers an annual self-assessment questionnaire to all domestic banks. The supervisor's risk-based supervisory onsite schedule is shown below with the frequency of onsites adjusted for institutional risk:

Table 6.2. ECCB – Cycle of Onsite Examinations for the period under review

Licensed Financial Institution	ML/TF Risk Rating	Date of Examination	Next Scheduled examination
Bank A	Above Average	July 2021	2022/23
Bank B	Moderate	October 2021	2023
Bank C	Low	November 2021	2024

419. The ECSRC, as the supervisor for the securities sector, has no licensees currently under its remit.

420. For the FSU, the table below summarizes the FIs and DNFBPs by sector and risk rating:

Table 6.3 FSU - Financial and DNFBPs risk rating as of the NRA for the review period

Sector	No. of Entities as at YE 2021	Sector Risk Ratings as at NRA 2017 to 2020
Financial Institutions		
Money Transmission Business (MSB Class A)	3	High
Domestic Banks	3	Medium
Offshore Banks	20	Medium
Credit Unions	6	Medium
Development Bank	1	Low
Banking offering Digital Crypto services	3	-
Building and Loans	1	-
Pay Day Advances (MSB Class E)	7	Low
Insurance	22	Low
Total no. of FIs	66	
Designated Non-Financial Business and Professions		
Registered Agents	12	High
Attorneys	24	Medium-high
Real Estate Agents	11	Medium-low
Auditors and Accountants	5	Medium-low
Dealers in Precious Metal & Stones	5	Medium
Total no. of DNFBPs	57	

421. The FSU has a reasonable understanding of the ML/TF inherent risks facing the sectors that it supervises and played an integral role in the conduct of the NRA exercise. The FSU's understanding of the ML/TF risks has been informed through its prudential supervision, data submissions, and more recently NRA and institutional ML/TF risk assessments. Prior to 2020, the FSU's risk-based supervisory framework was prudential-based, capturing AML/CFT elements when assessing the compliance function. The previous approach relied on quarterly prudential PR-14 returns, annual licence retention and offsite data, and intelligence received from other government authorities.
422. Following the World Bank training in May 2020, the FSU started prioritising AML/CFT supervision. In October 2021, the FSU took steps to deepen its knowledge of institutional risk, issuing a questionnaire to offshore banks, insurance, credit unions and MSBs. The review improved the FSU's understanding of risk across the sectors by evaluating inherent risk data, organisation charts, ML/TF risk assessments, AML/CFT policies manuals and AML/CFT training rosters.
423. Following the adoption of the World Bank tool, the FSU began to formally assess institutional risk ratings. Classification of the respective sectors according to AML/CFT risk was conducted from December 2021 to January 2022, resulting in the implementation of the FSU's risk-based approach from February 2022 to present. FSU took into account the WB

tool's built-in assumptions which measure inherent risk factors including the size and location of the institution, products and services offered, as well as risk mitigation and corporate governance risks as determined by offsite examinations. The FSU has been working to refine its approach to risk-based supervision, reviewing and updating institutional risk profiles subject to changes in the entity's risk profile, with reviews done annually at minimum during the licence renewal process.

424. The FSU has made efforts toward fully understanding the ML/TF sectoral risks in Dominica supported by a risk-based framework and the robust methodology of the World Bank risk tool. The FSU's risk assessment tool includes an analysis of inherent, corporate governance and compliance risks through offsites; however, measuring the effectiveness of mitigating controls such as CDD, monitoring, record-keeping, internal audit, training and reporting, requires an onsite inspection. In practice, while a risk-based framework has been established that prioritises resources on higher-risk FIs, the FSU's current human resources and capacity have been insufficient to execute its AML/CFT supervisory activities.
425. VASPs are an emerging sector in Dominica, following the recent enactment of the VABA. In the VASP sector, currently, only three offshore banks licenced by the FSU offer virtual asset business services. The FSU is still at the nascent stage of developing and implementing an AML/CFT supervisory framework for the virtual assets business services offered by these offshore banks. From interviews during the onsite, the assessors noted that the authorities are aware of the potential ML/TF risk posed by virtual asset business services. Nevertheless, the FSU began registering these entities as mandated by legislation, and in addition to this, the country is in the process of collecting and collating information to begin the conduct of an ML/TF risk assessment of the VASPs in Dominica. As such, due to the lack of an ML/TF risk assessment and the nascent stages of the supervisory remit of the VASP in Dominica, the assessors were unable to assess the supervisor's understanding and identification of ML/TF risks posed by this sector.
426. With regard to DNFBPs, the assessors found that the FSU's understanding of the ML/TF risks vary within the sector. The risk-based supervisory framework and the schedule of supervisory examination for DNFBPs were recently implemented in October 2021. This mechanism represents an outcome of the country's NRA and the AT determined that it will provide the FSU with a guided approach to continually identify and understand the ML/TF risks faced by DNFBPs.
427. For the review period, the FSU's understanding and identification of ML/TF risk involved the conduct of onsite examinations and the issuance of questionnaires to the sector as part of the unit's offsite reviews. During 2017 to 2020, only 14 offsite reviews were completed and seven onsite examinations. The offsite sector reviews conducted included attorneys, accountants and jewellers, while the onsites consisted of accountants and registered agents. These supervisory activities represented less than 50 per cent of the total number of entities in the named sectors and did not account for supervisory activities in all DNFBPs at the time.
428. In 2021, the FSU conducted no onsites. For offsite review purposes, 33 questionnaires were issued to DNFBP sectors in October 2021 but only five entities responded by the deadline of February 2022. At the time of the onsite, the said responses were still pending review by the FSU and there was no immediate prioritisation of any category of DNFBP. Additionally, examination of the implemented risk matrix (World Bank tool) was not being utilised for

DNFBPs based on a challenged supervisory programme (refer to paragraph 468). Therefore, the AT concluded that DNFBP supervision is not performed on a risk-sensitive basis.

429. The FSU has a limited understanding of the inherent ML/TF risks in DNFBPs. This is primarily attributed to only conducting offsite reviews of some entities in the sector (refer to table: 6.6). Therefore, the AT concluded that the supervisor requires deeper knowledge of the ML/TF risks at the sectoral and institutional level to identify and maintain an understanding of the sector's ML/TF risks. Further, the FSU should conduct onsite examinations to assess the adequacy of existing risk mitigation measures within DNFBPs (refer to Preventive Measures: Chapter 5).

6.2.3. Risk-based supervision of compliance with AML/CFT requirements

430. In assessing risk -based supervisory effectiveness, the AT reviewed the supervisors' onsite work plans, ML/TF risk assessment tools, supervisory activities and risk-based supervisory frameworks, focusing on the FSU as primary regulator. The AT took into consideration the NRA risk ratings and each sector's contribution to GDP when determining the sector weight. The AT also considered Dominica's NRA ratings when analysing the frequency and intensity of onsite and offsite examinations according to the supervisor's risk-based frameworks.
431. The ECCB has a robust risk-based approach to supervision, consisting of offsite surveillance and onsite examinations to ensure compliance with AML/CFT requirements. All FIs under the Banking Act are subject to the tenants of the governing framework including: a) Completion of the Annual ML/TF Compliance Self-Assessment Questionnaire; b) Quarterly completion and submission of a ML/TF Prudential Return; c) Review of risk focus information and d) Monitoring of remedial action items. Quarterly offsite monitoring reports are completed for licensees, taking into account risk management frameworks including institutional risk assessments, prudential returns, AML/CFT policies and procedures, updates on remedial action and data on new and emerging risks. Quantitative factors are measured using the risk rating tool. Qualitative factors considered include the FI's risk-based framework, compliance programme, internal controls, AML/CFT training and independent AML/CFT audit. Based on these results, the frequency and scope of onsite examinations is determined.
432. The ECCB is the prudential regulator for domestic banks in Dominica and its risk-based prudential framework includes elements of AML/CFT, in the assessment of corporate governance, systems and internal controls. In 2020, the ECCB was designated as the AML/CFT supervisor of domestic banks and the ECCB has since developed a firm knowledge of the ML/TF risks and compliance of the domestic banks under its remit in Dominica. The ECCB risk rated the three domestic banks and during 2021, completed offsite and onsite inspections, with follow-up onsite examinations planned within the next few years in keeping with each institution's ML/TF risk level.
433. The ECCB's financial sector supervision department is staffed with 35 examiners, with seven team members assigned to the AML supervisory unit with oversight by a deputy director. All staff within the AML supervisory unit are AML/CFT specialists. The frequency

and scope of the ECCB's onsite inspection schedule is based on its ML/TF institutional risk levels and risk-based framework with continued follow-up monitoring (refer to paragraph 420 and table: 6.2). Based on a review of the ECCB's risk-based framework, supervisory results, manuals and interviews, the supervisor has demonstrated that it has a robust risk-based supervisory framework in keeping with the risk profile of the domestic banks under its remit.

434. As primary regulator in Dominica, the FSU was involved in a range of supervisory activities from 2017-2021, including onsite and offsite examinations, issuing AML/CFT guidance, requesting AML/CFT questionnaires, reviewing prudential (PR-14) returns and conducting training and sensitization workshops. In 2019, the FSU leveraged its World Bank training and began implementing the risk-based approach to supervision. The FSU installed the World Bank tool and inputted risk data into the system based on ML/TF risk assessments, AML/CFT questionnaires, PR-14 returns and other information.
435. During the review period, the FSU's FIs offsites focused on the offshore bank, MSB, credit union and insurance sectors. Upon review, offsite examinations were full scope and comprehensive, covering corporate governance, ML/TF risk management, the compliance function and AML/CFT resources, CDD, record-keeping policies and procedures, monitoring, reporting procedures and training and awareness. The supervision plan driving onsites and offsites for the period under review was not risk-based, although the sector risk did play a role in the sectors selected for onsites.
436. From 2017-2022, the FSU conducted 28 onsites, focusing on offshore banks (43 per cent), credit unions (14 per cent) and MSBs (11 per cent), with the remaining 25 per cent of onsites focusing on accountants and registered agents servicing international business companies. Onsites performed covered the entity's risk management framework, AML/CFT policies and procedures, KYC/onboarding, record-keeping, transaction monitoring, reporting of STRs/SARs, employee AML/CFT training and the independent audit function.
437. By 2020, the FSU had made strides in the implementation of its risk-based approach to supervision, using its risk-based AML/CFT framework and the WB tool to inform the frequency and scope of its supervision activities. Offsites were used to inform onsite interventions. Information from the ML/TF questionnaires and ML/TF risk assessments was fed into the WB's risk-based tool. The tool produces a risk profile of each institution along with a sectoral risk map showing the risk of individual institutions in relation to each other for the sector, indicating the higher risk institutions and where to focus onsites.
438. The AT's review of the FSU's onsite and offsite work programme (2017-2021) called for 51 onsites, 51 offsites and 51 follow-up examinations and was not driven by the risk-based approach but rather by prioritisation of entities. The assessors found the supervisory work programme to be unrealistic considering the number of examination staff (refer to paragraph 468) in relation to the number of planned reviews and examinations.

439. According to the FSU's risk-based supervisory framework, the frequency of onsite should be driven by the following schedule:

Table 6.4. FSU's Risk-based Supervision & Examination Schedule

	High	Above Average	Moderate	Low
Nature of Supervision	Onsite/offsite	Onsite/offsite	Onsite/offsite	Onsite/offsite
Onsite Frequency	Ongoing - Data collection from quarterly and annual submissions	Ongoing - Data collection from quarterly and annual submissions	Ongoing - Data collection from quarterly and annual submissions	Ongoing - Data collection from quarterly and annual submissions
Minimum onsite examination frequency	Once every 12 months	Once every 18 months	Once every 24 months	Once every 36 months

440. Actual onsite and offsite activity for the period is noted below:

Table 6.5. Onsite and Offsite Supervisory Activity for the FSU: FIs

Onsite Conducted	2017	2018	2019	2020	2021	2022
Credit Unions	2	0	1	0	0	1
Money Service Business (MSBs)	0	1	2	Planned onsite cancelled due to Covid	Planned onsite cancelled due to Covid	
Offshore banks	9	1	2	0	0	0
Insurance	0	0	0	0	0	0
Totals	11	2	5	0	0	1
Offsite Conducted	2017	2018	2019	2020	2021	2022
Credit Unions	6	4	6	4	6	0
Money Service Business (MSBs)	5	6	6	6	7	0
Offshore banks	6	9	12	13	15	0
Insurance	13	10	16	17	17	0
Development Bank	1	0	1	0	0	0
Totals	31	29	41	40	45	0

441. The risk-based framework was only implemented by the FSU in 2020. A lack of systemic application of the risk-based approach, limited staff capacity and the impact Covid-19 pandemic on operations, led to a reduction in the number of onsite during the period as noted in table 6.5 above. The FSU was unable to produce trend analysis on licensee compliance over time, nor did it have the capacity to increase the frequency or intensity of its onsite. While the Covid pandemic impacted the FSU's onsite schedule, offsites were conducted from 2020-

2021. For FIs, no follow-up onsite were conducted during the period (Refer to table 5.1 for the size of the FI sector.)
442. The AT's review of the FSU's onsite and offsite examination reports included the comprehensiveness, scope and depth of materials, the team found that the reports were thorough and of good quality. However, while offsites were more frequent, the number of onsites for FIs during 2017-2021 was low, relative to the size and materiality of some sectors.
443. From interviews, the AT confirmed that the FSU has strong knowledge of the higher risk MSBs, noting that it has a know-your-practitioner culture. The FSU team also has appropriate knowledge of the insurance, offshore banking and credit union sectors including the risks and compliance of those sectors, along with the compliance levels of higher risk entities within those sectors. Onsite interviews determined that the FSU works together with individual entities where guidance and support is required.
444. During the period under review, the FSU conducted a series of onsites in the MSB, offshore banking and credit union sectors. In the MSB sector, three onsites identified eight breaches relating to a lack of internal AML/CFT risk assessments, inadequate internal controls, poor record-keeping, failure to conduct annual training, failure to appoint a deputy CO and failure to conduct an independent AML/CFT audit. In the offshore banking sector, out of 12 onsites, the FSU identified 13 breaches in relation to a lack of AML/CFT training for senior management, breaches in the approval of CO and failure to update policies and manuals. In the credit union sector, one onsite was conducted that identified six breaches in relation to the unsatisfactory implementation of AML/CFT policies and procedures, inadequate and inconsistent KYC, poor record-keeping, inadequate allocation of resources to risk management, and failure to implement training notes.
445. The FSU has the power to undertake a range of follow-up activities including: issuance of warning letters; meeting with management; issuance of directives; requiring submission of action plan by FI outlining timeframe by which all identified deficiencies will be rectified; ongoing monitoring and administrative fines and penalties. Although there have not been follow-up onsites to address the breaches identified, the FSU has taken other follow up action. For instance, in the case of offshore banks that had not commenced operations within the stipulated time frame, follow-up action included the issue of warning letters, virtual meetings and an offsite review of policy and procedure documents.
446. While full-scope onsite inspections allowed the FSU to develop a view of some sectoral and institutional risk and non-compliance over the period, the assessors found that the risk-based approach to supervision was not fully implemented.
447. The FSU is the main competent supervisory authority in Dominica, with the responsibility for supervising and monitoring AML/CFT compliance of approximately 64 FIs and 57 DNFBPs. As of June 2022, the FSU was designated as the Trust and NPO supervisor.
448. The current FSUs human resource capacity is of concern to the assessors. This deficiency was raised throughout this chapter and other related chapters in this report. At the time of the onsite, the FSU's current human resource capacity totalled a seven-member team inclusive of the Director, responsible for the prudential and AML/CFT supervision of 121 regulated entities. This staff complement was deemed to be inadequate based on the number of sectors and

institutions under the FSU's remit. During the onsite, the AT noted several factors hampering the risk-based supervisory oversight for compliance of its supervised sectors including:

- a) **Organisational Structure:** The FSU is a sub-unit within the Ministry of Finance, and as such, the organisational structure hinders the full execution of the unit's overall supervisory framework. Approvals for staff recruitment must be channeled through the line ministry, and the selection process is outside FSU's purview. This hinders the allocation of additional human and financial resources in a timely manner and further affects the execution of a comprehensive supervisory risk-based approach of all sectors under FSU's remit.
- b) The FSU reviews of the ML/TF risk assessments of FIs are conducted at a minimum on a needs-arise basis.
- c) The recent application of the risk-based approach has limited the capability of FSU to accurately analyse the sectoral and institutional risk assessments of its supervised entities.

VASPs

449. In 2022, the FSU developed a registration form and checklist to facilitate the licensing and supervision of VASPs business. In its supervisory role, the FSU has worked closely with the industry, meeting with the few identified (licensed) offshore banks that offer VASP services. During those meetings, the FSU has discussed ML/TF risks with the VASP entities and, following the approval of their revised institutional ML/TF risk assessments, provided retroactive approval for three offshore banks to continue with their VASP business lines. At the time of the onsite, the FSU had received VA/VASP training from CFATF and attended a workshop by the World Bank on VA/Bitcoin. However, the risk-based AML/CFT supervision of VASPs had not commenced, thus the AT was not able to assess this sector under this core issue.

DNFBPs

450. The FSU's supervisory activities for DNFBPs require a combination of onsites and offsites reviews. This in conjunction with the Unit's risk-based supervisory framework and the schedule of supervisory examination is premised on the risks posed by each entity at the institution level.

Table 6.6. Onsite and Offsite Supervisory Activity for the FSU: DNFBPs

Onsite Conducted	2017	2018	2019	2020	2021	2022
Registered Agents	4	0	0	0	0	0
Accountants	3	0	0	0	0	0

Total	7	0	0	0	0	0
Offsite Conducted	2017	2018	2019	2020	2021	2022
Attorneys and Accountants	6	0	6	0	0	0
Jewellers	0	2	0	0	0	0
Total	6	2	6	0	0	0

451. The AT's analysis of the frequency, intensity and scope of such onsite and desk reviews concluded that the FSU is in the nascent stage of its supervisory risk-based approach for DNFBPs. The assessors found that the FSU's supervisory actions have been very limited (refer to table: 6.6) in this sector.

Table 6.7. Supervisory Deficiencies Identified 2017: DNFBPs

Registered Agents	Accountants
Lack of available Beneficial Ownership information	Lack of understanding of ML/TF responsibilities
Lack of Proof of Address	No proof of ML/TF training was identified
Information not readily available to supervisor	No ML/TF policy document and manuals
Inadequate/ Lack of AML/CFT Policy \training	Lack of ML/TF risk assessment

452. Further, the onsite of accountants and registered agents identified fundamental AML/CFT deficiencies (outlined in table: 6.7) and the FSU implemented the entity risk tool for regulated entities to be adequately risk-rated for compliance with AML/CFT requirements. The tool has not been populated with information and used to inform impending supervisory activities regarding any DNFBP sectors, which is due to the challenges and findings indicated by the AT in paragraph 468. Consequently DNFBPs, including riskier sectors such as attorneys, registered agents and real estate have not been subject to risk-based supervision.

6.2.4. Remedial actions and effective, proportionate, and dissuasive sanctions

453. Under the AML/CFT legislation, supervisors have the appropriate powers to issue a range of administrative, supervisory and enforcement penalties following onsite and offsite examinations. These penalties can be applied to reporting entities and/or their directors, managers and senior officers or any other individuals who manage or control financial institutions. The powers for the imposition of penalties are enshrined in legislation and include the ability to issue a warning or reprimand, give directives, impose administrative and pecuniary penalties to corporate bodies or individuals, suspend any or all FI/DNFBP activities, or revoke a licence.

454. The ECCB uses a ladder of enforcement that guides the supervisor's enforcement activity for FIs' non-compliance. From letters of commitment or memorandum of understanding for minor breaches, to written warnings, directives, fines and licence revocations, the ECCB has a range of enforcement tools at its disposal. If an examination report issued by the ECCB concludes

that a FI is non-compliant with a requirement in the AML/CFT legislation and makes recommendations for remedial measures, depending on the severity of the breach, the ECCB issues a written agreement to the LFI, giving it the opportunity to provide feedback and agree on the timelines in addressing the identified deficiencies.

455. Based on the area of non-compliance and potential risk to the financial system, the ECCB may apply a sanction at any stage of the continuum and can impose sanctions proportionate to the nature of the breach. To date, the ECCB has executed two remedial action documents based on deficiencies identified following its onsite inspections of the domestic banks in Dominica. The ECCB did not need to apply any sanctions on domestic banks in Dominica as the FIs examined met the requirements and deadlines outlined in the remedial actions document. The assessors found that the ECCB sanctions and measures in place are effective.
456. Following an offsite, the FSU issues a letter describing the high-level deficiencies, compliance ratings, a summary of factors underlying the ratings and the recommended actions. The FSU provides recommendations to correct breaches with estimated completion dates. Remedial actions taken to date include issuance of written letters of findings to inspected FIs, requesting corrective actions to be taken. For the FSU, compliance breaches have primarily related to failure to seek approval for the Compliance Officer or their alternate, lack of AML/CFT training for senior management, outdated AML/CFT manuals and poor record keeping.
457. In the case of more serious AML/CFT breaches, institutions are informed of the breach, and a warning letter is issued by the FSU instructing the licensee to comply or to cease and desist from the action. The institution is given an opportunity to respond to the warning letter and take appropriate action.
458. For the period 2017-2021, the FSU used remediation letters and warning letters as mechanisms to impose compliance following offsite and onsite examinations. The types of measures, breaches detected, and enforcement results are noted below:

Table 6.8. Enforcement activity on Financial Institutions by FSU

Year	Sector	No of Breaches	Types of Measure	Breach Detected	Amount XCD	Results
2017	Offshore Bank	2	Warning Letter	Failure to commence operations		Licence Revocation
	Credit Unions	6		Failure to conduct a risk assessment		
2018	Credit Unions	6		Failure to conduct a risk assessment		
2019	Credit Union	1	Warning Letter	Failure to conduct a risk assessment	\$75,000	Deferred
	Offshore Bank	4	Warning Letter	Failure to commence operations		
2020	Insurance Business	4		Failure to conduct a risk assessment		
2021	Credit Union	1	Warning Letter	Failure to appoint a compliance officer		Credit Union agreed to establish a compliance department along with the requisite risk and compliance.

459. Two cases where the FSU has applied enforcement measures are evidenced below:

Case Study 6.2. Revocation of a Licence

As part of the FSU Annual License Renewal process, the Unit regularly conducts desk reviews to determine compliance. During this process, a retention checklist is issued to ensure that entities meet stipulated requirements. In August 2017, it was identified that Bank D did not have any physical presence in the jurisdiction. That is, there was no evidence of AML/CFT policies and procedures, senior management did not include a Compliance Officer or Compliance Department, and there were no banking operations. The FSU issued a letter of recommendation to Bank D with guidelines to comply for immediate action. No remedial action was taken by the company within the stipulated time frame. As a result, the FSU issued shareholders of the Bank of D with a warning letter for being in breach of section 13 (6) (c) of the Offshore Banking Act of 1996. No response was received. Following which, on January 18, 2018, the Offshore Banking Licence of the Bank of D was revoked for non-compliance.

Case Study 6.3. Deregistered Agent and Struck Off IBCs

During the first half of 2017, the FSU conducted onsite examinations of all registered agents. As a result of these examinations, it was identified that a registered agent of six IBCs, a PEP, was non-compliant with AML/CFT obligations. The FSU, therefore, issued a directive indicating the areas of non-compliance to the agent and requested remedial action within three (3) months. However, no response was received and after several failed follow up attempts to make contact, the FSU deregistered the agent and proceeded to strike off the six associated IBCs.

460. The FSU does not have a written sanctions policy describing the sanctions and corrective measures to be taken for specific deficiencies identified, however an enforcement strategy and guide is being developed.
461. Upon review, the FSU has performed a number of enforcement-like activities, and actions imposed appear to be proportionate to the size of the breaches. However, the number and size of the penalties is very low and not dissuasive in relation to the size of the FI sector. Between 2017-2021, where breaches were found, warning letters were not always issued. The largest financial penalty proposed XCD75,000/ USD27,604 in a warning letter to a credit union was deferred.
462. Despite the FSU's efforts, the effectiveness of its sanctioning framework has not been demonstrated over time.
463. There have been no enforcement actions applied to VASP registrants to date. The FSU issued a notice in July 2022 to the sector informing them of the enactment of the VABA, and the need to be registered if engaged in this business activity. The directive mandates entities to cease from conducting these activities without the requisite registration and to contact the FSU for anyone who wishes to be registered. The AT was not advised of any additional measures taken by the FSU for detecting unregistered VASPs activities. However, the VABA provides for sanctions of any offence liable within the context of the VASP activities.
464. The FSU's supervision of DNFBPs has been very limited (refer to analysis under 6.2.2 and 6.2.3). Accordingly, only limited remedial actions in select DNFBP sectors have been issued by the supervisor and there have been no sanctions for AML/CFT non-compliance.
465. An assessment of the remedial actions revealed that administrative directives (warning letters) were imposed after regulatory breaches in seven institutions, three accountants and four attorneys (registered agents with a nexus to the IBC sector), which were examined in 2017. Foundational breaches of concern were identified including lack of available beneficial ownership information, inadequate and/or lack of AML/CFT Policies, no AML/CFT risk assessments and evidence of AML/CFT staff training conducted (refer to table: 6.7).
466. The FSU indicated that the issued warnings to the respective institutions demanded resolution of the AML/CFT deficiencies, however, follow up onsites in 2019 and 2021 conducted in the seven institutions revealed remedial measures were not addressed, particularly in registered agents. Accordingly, in 2021, the FSU sent correspondence and held discussions with registered agents to remind the sector of their responsibilities as a registered IBC agent.

467. During the onsite interviews, the AT identified that the deficiencies cited by the FSU in 2017 for accountants, registered agents and attorneys had yet to be remedied in 2022. This indicated that the FSU's limited supervision directly correlates to the ineffectiveness of the applied sanctions, which impeded a gradual and effective application of the range of sufficiently dissuasive sanctions (warning letter to striking off or winding up) available to the FSU.
468. Additionally, due to the limited supervision of DNFBPs by the FSU, which resulted in limited sector coverage and the failure to utilise remedial actions and/or sanctioning measures; the effectiveness, proportionality and adequacy of the sanctioning regimes could not be determined in DNFBPs.

6.2.5. Impact of supervisory actions on compliance

ECCB

469. The ECCB utilises a dynamic and effective process to guide its AML/CFT supervisory work on an ongoing basis. The ECCB commenced its risk-based supervision of domestic banks in 2020. The ECCB's risk-based AML/CFT supervision process constitutes the following elements: offsite surveillance (ML/TF risk assessments), planning and scoping of examination based on ML/TF risk profile, onsite examinations, post examination assessment and revision of ML/TF risk profile and monitoring and follow-up of remedial actions and supervisory action plans.
470. The ECCB has conducted onsite inspections on all of the domestic banks in Dominica, and the banks have put in place remediation programmes to correct the deficiencies identified from those onsite inspections. During interviews with the domestic banks, the assessors found that there has been a high level of supervisory impact on the banks in Dominica as some of the deficiencies identified in the banks were assessed and then remediated. In addition, as a part of the ongoing assessment of the domestic banking sector, a relationship manager is assigned to Dominica's domestic banks. These further aids the ongoing monitoring of the FIs in the sector in keeping with their AML/CFT requirements and remedying the deficiencies in the time allotted. Following the completion of the examinations, the ECCB executed one MoU with 29 remedial action items in May 2022. An LoC with ten remedial action items was executed in June 2022 with another bank.

FSU

471. A positive impact from the FSU's AML/CFT supervisory actions can be seen in specific cases in relation to supervisory activity. In particular, there is generally a high-level understanding of what the AML/CFT requirements are amongst the mature licenced FIs that are part of financial groups.
472. The FSU has worked with several institutions following onsites to provide guidance and support, resulting in improved compliance over time as noted in the case studies below:

Case Study 6.4. Remediation of Risk Assessment Deficiency and Regular Monitoring

In April 2017, the FSU found that MSB A had failed to perform a ML/TF risk assessment. The FSU issued a warning letter and an action plan for the licensee to follow. Subsequently, the FSU conducted a walkthrough to verify that the action plan had been followed. Once the FSU's examiners were satisfied that the action plan had been executed appropriately, the licensee was removed from enhanced supervision and placed on regular follow-up.

Case Study 6.5. Transformation of Company after Compliance Officer Breach

In November 2017, the FSU conducted an offsite and onsite at MSB B. At that time, the regulator identified that the company did not have an appointed Compliance Officer. An onsite report was sent warning of the deficiency. The Company responded by appointing a seasoned financial professional into the Compliance Officer post. Through guidance, sensitization workshops and working one-on-one meetings with the Company, the MSB's Compliance function and culture, regulatory reporting and AML/CFT training improved significantly. In the last four years, the FSU's work with the institution and hiring the right Compliance Officer transformed compliance at the company.

473. At the onsite the assessors noted specific cases of improved compliance, by most FIs. However, the AT also noted instances where the FSU feedback mechanism following an onsite inspection takes longer than three months. During the period under review, the main feedback licensees received from the FSU was in relation to the results of the NRA in April 2022. The assessors identified that there is a gap in the supervisor (FSU) feedback mechanism which is affected by the human resources issue at the FSU.
474. In DNFBPs, the FSU's assessment of its supervisory actions in the sector indicated that the supervisor yielded positive results towards improved AML/CFT compliance.
475. To give credence to whether the FSU's supervisory activities have improved compliance in DNFBPs, the AT analysed several factors such as (i) the FSU's risk-based approach to supervision of DNFBPs framework was developed in 2021, (ii) the supervisory activities consisted of a low number of onsite examinations and a low number of desk reviews in only some DNFBP sectors, (iii) the inadequate remedial measures for breaches of AML/CFT obligations have been applied in only select cases identified, with follow ups conducted in 2019 and 2021 yielding little to no improvements (iv) no application of sanctions to increase the overall AML/CFT compliance culture in the sector and (v) interviews with the DNFBP sectors informed that the implementation of AML/CFT preventive measures is a work in progress. These findings include higher risk sectors and maintains with the updated 2021 sector compliance ratings provided to the AT.

476. Resultantly, the level of oversight, supervisory activities conducted and the lack of evidence on the implementation of effective measures in some sectors, the AT concluded that the FSU's supervision has resulted in limited to no impact on AML/CFT compliance for DNFBPs.

6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks ***ECCB***

477. There is a high level of understanding of the AML/CFT obligations and ML/TF risks requirements amongst the domestic banks. This is evidenced by controls and practices implemented. The ECCB has also embarked on a number of training sensitization initiatives aimed at raising awareness in the domestic banking sector and supporting their training requirements. These include:

- Issuance of a quarterly AML/CFT newsletter;
- Training on completion of the AML/CFT prudential return and its role in the conduct of ML/TF risk assessments.
- Application of a webinar series on topical AML/CFT issues;
- Implementation of the ECCB/ACAMS enterprise membership programme which provides access to an online AML/CFT training library.

FSU

478. As part of their roles to provide ongoing capacity building and training to licenced FIs, the FSU and ECCB held 17 training and sensitization workshops with the FI and DNFBP sectors from 2017-2022. The training was provided to all FIs to include insurers, credit unions and offshore banks. Training covered a variety of topics including discussion on the ML/TF NRA, AML/CFT requirements, compliance with AML/CFT policies and procedures, and legislative changes as well as specific topics including STR reporting, AML risk models, trade-based ML, correspondent banking, PEPs and ML/TF risk assessment requirements. On some occasions, the FIU has provided training to FIs and DNFBPs or acted collaboratively with the FSU to provide joint training workshops. In addition to general sessions for FIs and DNFBPs, sector-specific sessions were held for the insurance, offshore, domestic and development banks, credit union and DNFBP (accountants and real estate) sectors.

479. The FSU also issued guidelines to the FIs and DNFBPs concerning AML/CFT obligations specifically; the terrorism property report (TPR) and fit and proper guidelines which resulted in FIs ensuring that they submit the particulars of new directors and senior officers to the Unit and an increase in TPR submissions. General AML/CFT guidelines were also issued in 2013 by the FSU but have not been updated to reflect the amendments to the legislation or to deal with emerging risks, e.g., VA and VASP business. While in DNFBPs, all guidelines and training served as awareness-raising tools for AML/CFT obligations and the implementation of controls in the sector.

480. The AT recognises the efforts of the FSU to educate, guide and provide regulatory updates to licensed institutions. Through interviews, it was determined that the private sector has a cordial, professional relationship with the FSU and can engage directly with the supervisor on matters of concern. During the period, the FSU conducted supervisory activities with industry including sensitization workshops, issuing questionnaires and sector-specific guidance notes as noted below:

Table 6.9. Other Supervisory Activity of the FSU: FIs and DNFBPs

	2017	2018	2019	2020	2021	2022	Total
Sector Training/ Sensitization Workshops	0	1	1	3	2		7
AML/CFT Questionnaires	0	0	8		81	8	97
Guidance Notes	0	0	0	3	3	2	8

481. While these seminars were received well by the private sector, interviews with credit unions noted that the frequency of the FSU's AML/CFT training and guidance could be improved.

482. Although the CAs have industry outreach mechanisms in place, the assessors noted that there are still several FIs and DNFBPs that require the need for more supervisory outreach in order to increase their understanding of ML/TF risks and implementation of AML/CFT preventive obligations.

Overall conclusion on IO.3

483. Overall, there is a moderate level of effective AML/CFT supervision in place for FIs and DNFBPs, based on the level of ML/TF vulnerabilities and threats posed. AML/CFT supervision is recent across the DNFBP sector and far less coverage is provided when compared to the FIs. However, the assessors gave more weight to the supervision of FIs, in light of its significance to the economy. The ECCB has demonstrated an appropriate level of effectiveness in its supervision of the three domestic banks. The FSU has demonstrated a strong commitment to risk-based supervision, however AML/CFT supervision requires major improvement.

484. The FSU, ECCB and ECSRC demonstrated robust licensing procedures and the data on licence denials, revocations and withdrawn applications which indicated to the assessment team that their vetting and control mechanisms are working appropriately. Since 2020, the FSU and the ECCB have developed solid risk-based AML/CFT frameworks and tools to guide and inform their risk-based supervisory programmes.

485. However, the implementation of the risk-based approach to supervision in Dominica has only been recent. Critical supervisory resource issues and multiple supervisory responsibilities within the FSU has led to a low level of onsite examinations, particularly across the DNFBP sector. This has inhibited the execution of a comprehensive risk-based supervisory approach.

486. Major deficiencies remain in relation to the supervision of DNFBPs. This is evidenced by no fit and proper tests in most sectors to prevent criminals, their partners and associates from owning or controlling DNFBPs, limited supervisory activities, and gaps in knowledge and understanding about the population.

487. The ECCB has a range of enforcement and sanctions measures and has applied remediation measures in practice. The FSU has the ability to apply a range of enforcement measures and sanctions, however the supervisor utilised its enforcement powers to a limited extent, with no

finances imposed for the period under review. Current enforcement actions have focused on remediation and licence revocation where banks have not commenced operations in time.

488. While FI and DNFBP supervisors have been engaged in outreach and training, the extent of this feedback has been limited in the case of the FSU due to resource challenges.

489. Considering the above-mentioned factors, the country has achieved IO.3 to some extent, with major improvements needed.

Dominica is rated as having a moderate level of effectiveness for IO.3.

Chapter 7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

- a) Information on the creation and types of different legal persons and arrangements is publicly available and can be readily accessed. CIPO maintains basic information in respect of legal persons and this information is readily accessible to competent authorities and LEAs. BO information is not always available to competent authorities from CIPO as there is no general requirement for legal persons to provide adequate, accurate and up-to-date BO information to CIPO. Where information is provided, CIPO confirms the accuracy of information provided to it in relation to previous filings, inquiries by the Registrar and by confirming compliance with the Companies Act; however, the use of other mechanisms to consistently verify shareholder information is limited.
- b) FIs have demonstrated mechanisms for obtaining adequate, accurate and current BO information on legal persons through existing information sources in commercial databases collected as part of their CDD/KYC requirements and take reasonable measures to obtain up-to-date information. However, some DNFBPs have not demonstrated that there are adequate CDD mechanisms in place to mitigate against the misuse of legal persons and arrangements.
- c) CAs can obtain adequate and accurate BO information in a timely manner from tax authorities as well as from registered agents and other DNFBPs by means of interviews, requests for information, FIU directives and production and monitoring orders.
- d) Unless exempted pursuant to the legislation, all trusts created or operating in Dominica or in respect of property situated in Dominica must be registered. The FSU has been designated by law as the supervisor for trusts, however, there are no registered trusts in the jurisdiction.
- e) Dominica has not undertaken a comprehensive assessment of all legal persons and arrangements that may be created in the jurisdiction. Assessments have been conducted by the FSU and FIU in respect of IBC agents and NPOs. While authorities have a general appreciation of the risks associated with legal persons and arrangements, Dominica has not

adequately demonstrated that it has assessed and understood the vulnerabilities of all types of legal persons and arrangements and the extent to which they can be misused for ML/TF in its jurisdiction.

- f) The ML vulnerability arising from an assessment of IBC agents led to the repeal of the IBC Act which was a significant measure taken to address the particular risk posed to Dominica by IBCs. The repeal of the IBC Act has the effect of closing the IBC sector in Dominica as existing IBCs were required to convert to a domestic company, an external company, transfer to another jurisdiction or be dissolved.

Recommended Actions

Dominica should:

- a) Develop and implement measures that ensure the availability of accurate, up-to-date and verified BO information on legal persons in the country, including by requiring timely disclosure of changes in BO information of Dominican legal persons to the relevant authorities.
- b) Conduct a comprehensive assessment to identify, assess and understand the vulnerabilities and the extent to which all types of legal persons created in the country can be, or are being misused for ML/TF.
- c) Bolster the technical and human resources at CIPO to ensure that CIPO can effectively carry out the duties assigned to them, including taking steps to ensure that the Compliance Unit has the requisite expertise and resources to carry out its functions.
- d) Ensure that proportionate and dissuasive sanctions are available and enforced for breaches of basic and BO information requirements.

490. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25, and elements of R.1, 10, 37 and 40.

7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

7.2.1. Public availability of information on the creation and types of legal persons and arrangements

491. The Companies and Intellectual Property Office (CIPO) is the Companies Registry for Dominica. The process of establishing a legal person in Dominica is regulated by the Companies Act and the Regulations thereunder. The types of legal persons which may be established in Dominica are: Private Limited Liability Companies, Public Limited Liability Companies, Non-Profit Companies, and External Companies.
492. Information on the creation and types of legal persons is publicly accessible in Dominica. This information is available on the CIPO's website at <https://cipo.gov.dm/>. The website includes guidance on all the types of legal persons that can be created in Dominica; guidance on the process of establishing a legal person; and information on obligations of legal persons. All information filed at CIPO is available to the public upon payment of a nominal fee of XCD5.00, which may be waived by the Registrar of Companies.

Table 7.1. Number of Legal Persons registered in Dominica for the period 2017 to 2021

Type of Legal Person	YEARS				
	2017	2018	2019	2020	2021
Companies (Private Limited Liability, Public Limited Liability, NPOs & External Companies)	3855	4012	4196	4349	4545
International Business Companies	19,950	20,113	20,243	20,358	20,410

493. Information on legal arrangement is publicly available through legislation and other guidance documents across various different departments/CAs websites. Some of the relevant laws which contain some of the requirements for the operation of trusts in Dominica may be found on the website of the FSU which is designated by law as the Trusts and NPO Supervisor. The FSU is required to establish a register of trusts and NPOs. Although three offshore banks are licenced to provide trust services, none offered the service during the assessment period. The authorities have indicated therefore that there are no registered trusts in Dominica.

7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

494. For the period under review, Dominica did not conduct a comprehensive assessment of the ML/TF risk and vulnerabilities of all types of legal persons which operate in the jurisdiction. Notwithstanding, Dominica conducted an assessment of all 17 IBC agents in 2017. Dominica commissioned an assessment of the IBC sector arising from the outcome of Dominica's Phase one peer-review report under the auspices of the Organisation for Economic Co-operation and Development (OECD). In that report, the IBC sector was cited as a high-risk sector in relation to tax transparency. The results of that assessment also concluded that the IBCs were high-risk for ML/TF abuse. From the identified outcomes of both assessments, Dominica

concluded that the jurisdiction no longer had the risk appetite for IBCs and, as such, the sector was closed effective January 2022 by virtue of the IBC Repeal Act. The IBC Repeal Act included measures to allow IBCs to convert, voluntarily dissolve or be continued elsewhere. The majority of IBCs did not elect any of the aforementioned options and were subsequently dissolved by operation of the Act.

495. At the end of 2021, immediately prior to the permanent closure of the IBC sector pursuant to the Repeal Act, IBCs accounted for approximately 82 per cent of legal persons registered in Dominica with 20,410 of the 24,955 companies registered with CIPO being IBCs. The assessment team concluded that arising from the review of IBCs, Dominica had a good appreciation of the risks associated with this type of legal person.
496. A risk assessment was not conducted on NPOs. However, in 2018, a preliminary assessment was conducted and identified the NPO's sector size and participants (please refer to paragraph 297). Additionally, the results of the assessment identified that most NPOs in Dominica do not have a global reach. However, at the time of the onsite, Dominica had not completed the assessment of the NPOs.
497. The AT concluded that Dominica has demonstrated a reasonable understanding and knowledge of the nexus of ML risks associated with legal persons. However, the country does not have a comprehensive understanding of the ML/TF risk associated with all types of legal entities that continue to operate within the jurisdiction.
498. The ML risk posed by legal arrangements has not been assessed by the country. Although the FSU has been designated by law as supervisor for trusts, there were no registered trusts during the assessment period.

7.2.3. Mitigating measures to prevent the misuse of legal persons and arrangements

499. Dominica has implemented some measures to mitigate the misuse of legal persons and arrangements for ML/TF purposes to some extent, and in particular for the higher-risk IBC sector. However, in the absence of a comprehensive risk assessment of legal persons, the assessment team was unable to determine overall if the measures taken were risk-based and commensurate with the ML/TF risks and vulnerabilities presented. However, to some extent, Dominica has effective mitigating measures in preventing the misuse of legal entities for ML/TF purposes.
500. In 2021, the IBC Act 1996 was repealed (please refer to paragraph 91). As such, IBCs are no longer recognised as legal persons in Dominica as of January 31st, 2022. Prior to the repeal of the IBC Act, 3581 IBCs were struck off by the Registrar for non-compliance with information requirements. The assessment team concluded that IBCs accounted for a significant percentage of legal persons (82 per cent). The assessment team therefore gave significant weight to the decision of the jurisdiction following its review to close the IBC sector as a means of mitigating the risk associated with this type of legal person.
501. After the passage of the repeal Act, all IBCs had the opportunity to convert to a domestic company, continue elsewhere or voluntarily dissolve. Once this transitory period had elapsed, all IBCs which had not elected one of the aforementioned options were automatically dissolved. Only eight IBCs were converted to domestic companies and there are no IBCs that are external companies in Dominica.

502. General measures have also been established as it relates to basic information in respect of the other forms of legal persons. These measures include company registration and basic information being made available publicly via CIPO. Pursuant to sections 177 and 359A of the Companies Act, companies are mandated to maintain relevant and up-to-date basic information. CIPO currently maintains a record of each legal person in the relevant Register, including basic shareholding and directors' information. All natural persons involved in incorporating a legal person are required to provide national identification to CIPO as part of the incorporation process. Identification information is also captured in respect of directors and secretaries of companies. All companies are required to file incorporation documents and annual returns with CIPO. The legislation also places an obligation on companies to promptly notify CIPO of changes in its directors and registered address. While all transfers of shares are required to be registered with the company in order to have effect, there is no obligation on companies to promptly notify CIPO of such changes. Rather, such changes are notified to CIPO as part of the process of filing annual returns. The shareholder information held by CIPO may therefore not always be current.
503. CIPO has demonstrated an awareness of the need to improve compliance. To this end, CIPO has established a Compliance Unit. The Unit is in a nascent stage of operation, having been established in June 2021. CIPO has a staff complement of eight persons, half of whom are assigned to the Compliance Unit. During the onsite, the AT noted that CIPO is in the process of expanding its office space and human resources. The staff also benefited from training in ML compliance with the Companies Act and procedures for companies.
504. While the legislation includes provisions and safeguards regarding basic information, there is no general requirement for companies to obtain or provide BO information. The assessment team also noted that Dominica had not identified a central registry or CA to hold or maintain BO information. Rather FIs' and DNFBPs' AML/CFT obligations help to mitigate the misuse of legal persons and arrangements in Dominica. The legislation imposes CDD requirements which mandate FIs and DNFBPs to obtain BO information when establishing relationships or conducting certain transactions with legal persons and arrangements. Section 28 (2) of the Code mandates that FIs and DNFBPs must take reasonable measures to verify the beneficial owners or controllers of a legal person and update information on any changes to the beneficial ownership or control. Section 25A of the MLPA requires FIs and DNFBPs to keep documents and information collected under the regulations up to date and relevant by undertaking reviews of existing records. The POCA was amended in 2021 to bring the definition in line with the FATF standard.
505. Pursuant to section 10(13) of the VATA, legal persons who earn, or are likely to earn more than XCD250,000/USD92,016 per annum are required to register with the Comptroller of Tax (IRD). Section 12(12) mandates a registered person to notify the Comptroller in writing within 21 days of any change in the name, address, composition or nature of the taxable activity of the legal person.
506. In Dominica, all domestic legal persons must utilize the services of an Attorney-at-Law for incorporation (sections 4 and 5 of the Companies Act). All companies are also required to use the services of a registered accountant to file their annual accounts or declaration of solvency (sections 149, 154 (1) and 155 (1) of the Companies Act). External companies are also required to utilise the services of an attorney at law in order to be incorporated and a natural

person in Dominica for the purpose of receiving notices under section 346 of the Companies Act. This natural person must be registered with CIPO (section 4 of the RBNA). For the duration of its existence therefore, all legal persons, whether domestic or foreign, must maintain a business relationship with Attorneys-at-Law and accountants who are under an obligation pursuant to the MLPA and the Code to obtain and maintain up-to date BO information.

507. Dominica permits nominee shareholders. The Companies Act regulates nominees in the context of substantial shareholders. Pursuant to section 181, a person has a substantial shareholding in a company if he holds, by himself or by his nominee, shares in the company which entitle him to exercise at least ten per centum of the unrestricted voting rights at any general meeting of shareholders. Under section 183 of the Companies Act, a substantial shareholder is required to provide the requisite CDD documents in respect of a nominee. Section 4 of the RBNA mandates individuals, firms and partnerships in Dominica that carry on business solely or mainly as a nominee for another person or acts as a general agent to a foreign company to register under the Act and to provide the name of its partners, address and identification as well as the name of the person on whose behalf it acts.
508. Dominica prohibits the use of bearer shares by domestic companies under section 29 of the Companies Act. However, pursuant to section 359A (1) of the Companies Act, external companies are allowed to keep bearer shares on their registers. There are also no requirements for “external companies” to immobilise bearer shares or convert bearer shares and share warrants into registered shares to mitigate this risk, where an external company has bearer share certificates, the company must identify the number of the certificate, the number of each class or series of shares issued to the bearer and the date of issue of the certificate. The assessment team noted however that, no external company registered with CIPO has issued bearer shares. Additionally, with no more than five external companies being registered each year during the assessment period, thus accounting for one percent of all new company registrations with CIPO annually, the AT noted that checks are conducted to verify that new companies that apply for registration do not have bearer shares.
509. As stated in paragraph 94 the FSU is designated as the NPO supervisor to act as the registration, supervision and enforcement authority for trusts and non-profit organisations and to monitor compliance. The Companies Act also provides for a registration mechanism for non-profit companies, which includes an application to the CIPO and the granting of a licence by the Minister of National Security. Additional measures are also in place for foreigners their IDs are checked against the UN sanctions list and three directors must sign and be natural persons; restrictions apply to the activities within the confines of the law as registration requirements. During the onsite, the AT concluded that NPO supervision is not being done as, owing to inadequate resources, the NPO supervisor was not able to adequately carry out its functions in respect of NPOs. Notwithstanding, the AT noted that the legislation also provides for the maintenance of an NPO register which was being maintained by the FSU at the time of the onsite.
510. A registration regime exists for trusts and due diligence requirements are in place for regulated entities to prevent the misuse of trusts for ML/TF purposes. As it relates to registration, section 7 (1) of the TNPOR requires every trust that is not an exempt trust to be registered in the Trusts Register if it is incorporated, formed or otherwise established in

Dominica or administered in or from within Dominica. Entities and professionals who are involved in the creation, operation or management of legal persons or arrangements must, under Section 30 of the Code of Practice, verify basic and BO information in respect of that Trust.

511. Overall, Dominica has several measures implemented to prevent the misuse of legal persons and arrangements for ML/TF purposes.

7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

512. Competent authorities can access basic information on legal persons from a variety of sources, including the various registers of legal persons held by CIPO, from regulated entities, from legal persons directly and from other CAs. CAs can access BO information from regulated entities, directly from legal persons themselves, if available, or from other CAs. The FSU maintains a register with BO information received from regulated entities it supervises.
513. Basic information on legal persons can be accessed immediately via the CIPO website, which hosts a search engine via which searches of the registry may be conducted. LEAs can also obtain information from CIPO by written requests for information and can also make in-person visits to obtain information from CIPO. The AT noted the excellent coordination and cooperation between the FIU and CIPO in this regard. Pursuant to Regulation 26A of the regulations under the Companies Act, CIPO also allows the IRD to access information held by them via a secure portal.
514. The average time for accessing the various types of information held at CIPO by CAs is within 48 hours of the request being made. The assessment team noted that in most instances, the information is instantly provided to the investigators, regulators and other personnel of the requesting CAs. For the period under review, there have not been any impediments to obtaining basic information from CIPO.
515. Basic and BO information can be accessed from regulated entities. In Dominica, all legal persons must have a business relationship with an Attorney-at-Law and or accountant throughout the entity's existence. The MLPA, which applies to FIs and DNFBPs, requires regulated entities to conduct CDD on their customers. This includes an obligation to obtain and maintain up-to-date basic and BO information.
516. Basic and BO information may also be obtained by LEAs through the use of provisional measures i.e. director's letter of request, production orders, or monitoring orders. The information obtained from regulated entities is accurate and current and is submitted in a timely manner between one to two weeks based on the requests. Based on the urgency of the request, production orders may be granted by the Court requiring an FI or DNFBP to provide information in as little time as possible. For the review period, the FIU obtained two production orders and executed 124 requests for information through the Director's letters of request and informal requests in relation to current basic and beneficial ownership information of legal persons.
517. Regarding IBCs for the period 2017- 2020, the FIU was generally able to obtain adequate and accurate beneficial ownership information in a timely manner from registered agents. For the period 2017 to 2021, 49 requests for information were made to registered agents. Information

was obtained in a timely manner by means of interviews, requests for information and production orders in most instances. See table 7.2 below which provides the number of information requests to CIPO from the FIU for the period under review.

Table 7.2. No. of information requests to the CIPO from the FIU for the period 2017 to 2021

Type of Request	2017	2018	2019	2020	2021
Request for beneficial ownership information	9	18	26	15	28
Request for basic information	1	3	5	5	7

518. The CDPF has also received basic and BO information from various FIs during the investigation of predicate offences. The CDPF submitted a number of requests during the period under review. A total of 30 requests for information were submitted to FIs and the information requested was provided in a timely manner between one to five days of the submission by the CDPF.
519. The Registrar enforces the rules relating to the filing period for annual returns. CIPO monitors all annual returns filed to ensure that anomalies and inconsistencies are rectified. CIPO utilises an E-Registry which allows CIPO to review documents, monitor filings, place comparative checks and conduct effective compliance of all documents in the E-Registry. Outside of the filing period, companies are only required to notify CIPO of changes in directors and its registered address. Shareholder information housed within CIPO is therefore not always guaranteed to be current.
520. While basic shareholding information can be obtained from the Register of Companies, BO information is not maintained at CIPO since it is not a requirement at the time of registration nor thereafter as part of periodic annual return filings. Where requests are made by the FIU to CIPO for BO information, the basic information is provided to the FIU which in turn extracts BO information using interviews, production orders and other methods.
521. The legislation relating to transparency and BO of legal persons varies. If provided by the company, BO information may be extracted from the annual returns, which all companies other than non-profit companies are mandated to file yearly with CIPO. The annual return captures the identity of shareholders and their type and number of shares however, BO information may not necessarily be captured as shareholder information and BO are not always the same. The verification mechanism employed by FIs, DNFBPs and CAs vary, as such BO information may not always be accurate or up to date. FIs have established that they have a good understanding of their CDD obligations, and their supervision is adequate. However, while CAs are able to obtain accurate BO information in a timely manner from DNFBPs, particularly registered agents, deficiencies regarding CDD obligations have been identified (See analysis in Chapters 5 and 6). In light of the size the jurisdiction, the number of domestic companies, case examples of seeking BO information (please refer to IO 2), feedback from the global network (See IO2), and risk mitigation measures such as the repeal of the IBC Act, the assessment team concludes that Dominica is able to obtain BO information of legal persons.

7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

522. Dominica has some measures in place to facilitate timely access to basic and BO information on legal arrangements. The Trusts and Non-Profit Organisations Regulations provide for the supervision and registration of trusts by the FSU. Every trust other than an exempted trust is required to be registered under the TPNOR and the regulations apply to all trusts other than exempt trusts. An exempt trust is defined by the regulations as having gross annual income not exceeding five thousand dollars or assets not exceeding ten thousand dollars in value. Section 7 (1) of the Regulations impose a registration requirement on all trusts that are “incorporated, formed or otherwise established in Dominica or administered in or from within Dominica”. Although a trustee is not expressly obligated to disclose his status as a trustee, it is an offence for a person, with the intent to deceive or to do anything for any purpose under the TPNOR, to deliberately or recklessly provide any materially misleading or false information or make a misleading or false representation. Registered trusts are required to maintain records of the identities of the beneficiaries, trustees and all persons who are relevant to the functioning of the trust. Also, all international exempt trusts must register with the FSU, which is designated as the Trusts and Non-Profit Supervisor.
523. There are no registered trusts in Dominica. There are also only three companies which are licensed to provide trust services under the International Exempt Trust Act and Offshore Banking Act. None of the three companies are providing such services. During the onsite, the AT noted that for the review period, no requests were made by LEAs or received from their foreign counterparts in relation to legal arrangements. The AT was, therefore, unable to assess the effectiveness of the measures.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

524. Dominica has a range of sanctions which are applicable to violations of information requirements. However, not all the sanctioning powers have been exercised during the period under review.
525. The Companies Act provides a number of powers of enforcement to the Registrar and imposes sanctions for persons who do not comply with requirements under the law. The sanctions include the power to strike-off companies for non-compliance which the AT considers to be dissuasive. Section 511 (2) of the Companies Act empowers the Registrar to send a notice to a company that fails to comply with a reporting obligation and the company must comply within 30 days of that notice otherwise further sanctions may be imposed, including striking off. Section 512 of the Act also indicates that notwithstanding striking off, the liability of the company and its directors, officer or shareholder continues and may be enforced as if the company was not struck off. Section 524 of the Companies Act also empowers the Registrar to inquire into the ownership of any share in a company and failure to comply with any notice or directive is punishable by way of a fine of five thousand dollars or imprisonment for a term of six months. Sections 530 to 533 of the Companies Act outline criminal sanctions for various information violations. Both natural and legal persons are liable to a fine of five thousand dollars or, in the case of natural persons, imprisonment for a term of six months. For the review period, no criminal proceedings were instituted since most companies

complied or responded to notices by the Registrar. During the review period, over 3000 IBCs were struck off for non-compliance with information requirements.

526. The FSU has a wide range of sanctions for breaches related to non-compliance with information requirements by legal persons. Section 11 of the MLPA sets out a list of administrative sanctions available to the FSU which includes warning letters, suspension of licenses and striking off, winding up or revocation of licenses of regulated entities. In 2019, the FSU wrote warning letters to ‘cease and desist’ to three offshore banks. Also, during the period six offshore banks’ licences were revoked. AML/CFT sanctions letters were also given to the two Credit Unions in 2019.

527. The FIU pursuant to section 22 of the MLPA provides for penalties liable on conviction to a fine of two hundred and fifty thousand dollars or to imprisonment for a term of three years. For the review period, no such measures were taken since all information required were submitted to the FIU in a timely manner. The information submitted was accurate and adequate based on the requests submitted to the regulated entities.

Table 7.3. No. of Legal Persons struck off for the period 2017 to 2021, excluding IBCs

Type of Legal Persons	YEARS				
	2017	2018	2019	2020	2021
Private Limited Liability Companies	0	2	1	0	0
Public limited liability companies	0	0	0	0	0
Non-profit Companies	0	0	0	0	0
External Companies	0	0	1	0	0

528. As can be seen from the information above, the AT concluded that a varying range of sanctions have been applied in Dominica.

Overall conclusion on IO.5

529. There is publicly available information on the creation and types of legal persons and arrangements. The CIPO website host information on the relevant legislation and provide guidance on the process of establishing legal persons.
530. Dominica conducted an assessment on IBCs which accounted for 82 per cent of all legal persons in the jurisdiction. However, Dominica does not have a comprehensive understanding of the risks of misuse of all types of legal persons and legal arrangements. In the absence of a comprehensive risk assessment to identify, assess, and mitigate the specific ML/TF risks associated with each type of legal person and possible arrangement created in Dominica, the AT was not able to determine whether the current measures adequately address the specific areas of ML/TF risk. Notwithstanding, Dominica has implemented a wide range of mitigating measures which were effective to some extent in preventing misuse of legal persons.
531. Dominica can obtain basic and BO information from several different sources. However, not all legal persons are subject to requirements to maintain BO information and compliance with the requirements varies.
532. Considering the above mentioned factors, the country has achieved IO 5 to some extent, with major improvements needed.

Dominica is rated as having a moderate level of effectiveness for IO.5.

Chapter 8. INTERNATIONAL COOPERATION

8.1. Key Findings and Recommended Actions

Key Findings

- a) Dominica has many of the characteristics of an effective system for international co-operation and is able to render MLA, cooperate in extradition and exchange information in a timely and constructive manner.
- b) Dominica has provided timely and constructive MLA across a range of international requests during the period under review. The assistance provided included serving of documents, providing information on and /or criminal records of subjects under investigation and their associates, conducting witness interviews, and providing documents relating to companies. On occasion, lengthy processing times were mainly due to the lack of sufficient information provided by the requesting jurisdiction,
- c) Dominica provides international cooperation through (i) formal requests under the MACMA, or in the absence of a treaty via Letters Rogatory, or the Extradition Act and/or (ii) informal sharing of information by CAs with their regional and international counterparts. There has been no refusal by Dominica for MLA requests made by foreign countries in relation to ML/TF.
- d) Dominica facilitates extradition requests from commonwealth countries and non-commonwealth countries with which there is treaty basis for cooperation. Dominica currently only has an extradition treaty with a non-commonwealth country which limits their ability to provide assistance to non- commonwealth states as extradition requests have been denied in respect of non-commonwealth jurisdictions owing to the absence of a treaty basis to facilitate extradition.
- e) Dominica has sought MLA from several international partners. Dominica's use of outgoing formal MLA requests is appropriate in light of the nature of investigations and types of assistance required by the jurisdiction. Dominica seeks cooperation through formal channels with non-traditional partners however encounters challenges namely lack of timely responses. Consequently, Dominica's CAs and LEAs place greater reliance on informal cooperation to support domestic ML investigations and prosecutions.

- f) Dominica has adequate mechanisms in place to respond to the limited number of foreign requests for co-operation in identifying and exchanging basic and BO information of legal persons. Although there is no obligation on legal persons to maintain BO information, CDD requirements imposed on FIs and DNFBPs provide CAs with access to the relevant information. CAs also utilise a range of methods including interviews and production orders to ensure the quality of the information.

Recommended Actions

Dominica should:

- a) Consider taking appropriate steps to allow for extradition in relation to the specified offences under the Conventions identified in R. 36 in respect of non-commonwealth countries.
- b) Make more outgoing formal requests for MLA as necessary to support the investigation and prosecution of ML and associated predicate offences.
- c) Develop within the office of the Central Authority, measures to obtain formal feedback from requesting states which can be used to improve the quality of MLA provided.
- d) Establish comprehensive statistical mechanisms or, where they exist, enhance mechanisms in place to enable maintenance of complete statistics on both MLA and other forms of international co-operation.

533. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

8.2. Immediate Outcome 2 (International Cooperation)

8.2.1. Providing constructive and timely MLA and extradition

534. The MACMA governs the provision of MLA in Dominica. Pursuant to an Order issued under the MACMA, the AG is designated as the Central Authority for these purposes. Mutual legal assistance falls under the purview of the Central Authority which is responsible for the receipt, coordination and management of the dissemination of incoming and outgoing mutual legal assistance requests. The jurisdiction has signed the following MLA treaties: Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters in 2017. Dominica has a Mutual Legal Assistance in Criminal Matters Treaty with the USA, signed in October 1996 and signed the

CARICOM Arrest Warrant Treaty on 5th July 2017 and is in the stages of ratification of the latter Treaty.

535. The Chambers of the AG is housed within the Ministry of National Security and Home Affairs. For the period 2017 to 2021, the Chambers of the AG was staffed with an average of ten persons, which includes the AG, Solicitor General and a senior state attorney, two drafting attorneys, three state attorneys and two administrative staff. The AT noted that during this period there were fluctuations in the staffing due to the exigencies of other departments in the public service. There is one state attorney who is responsible for international cooperation matters including MLA and extradition. The assessment team considered that this was adequate relative to the numbers of requests and the systems in place. At the time of the onsite, the Ministry of National Security was in the process of filling the vacant state attorney positions to adequately resource the Chambers of the AG. For the period under review Dominica received requests which were usually for serving of documents, forwarding criminal records for investigations related to predicate offences such as fraud, drug trafficking, ML and documents relating to companies.
536. Dominica has published its Central Authority Procedures which outlines the steps to be followed when dealing with MLA requests. Dominica provides MLA to the United States of America (USA), with which it has a bilateral treaty, as well as to commonwealth states in accordance with the provisions of the MACMA. It can also provide some assistance to other states which do not fall in the aforementioned categories by way of Letters Rogatory. During the assessment period, seven requests were received by way of Letters Rogatory.
537. In accordance with the Central Authority Procedures, MLA requests via letters rogatory are received by the Central Authority via diplomatic channels through the Ministry of Foreign Affairs. All other requests are sent via courier service directly to the office of the Central Authority. The assessors noted that to allow for expeditious assistance, some requests and letters rogatory were received and accepted by the Central Authority via email, which is then followed up by the official hard copy. Once received, the assigned attorney oversees the execution of the request or the preparation of a response to the requesting state as appropriate.
538. The assessors noted that the Central Authority Procedures provide a clear guidance on steps to be taken in providing various types of assistance. The procedures do not outline the steps involved in making an outgoing request however, it contains a detailed checklist which provides adequate guidance to ensure that outgoing requests are complete. It was also noted that, procedures in relation to freezing orders in respect of TFS are not clearly set out.
539. The Central Authority uses a database known as Case Gennix which captures all the relevant information on the requests received. At the time of the onsite, the CA was in the process of upgrading its database system to a more sophisticated version of Case Gennix which will provide advanced functions including notifications. The assessors noted that the system has been procured and is currently in the testing stages. Currently, where a requesting state requests and receives information from Dominica, feedback on the requested assistance is ordinarily communicated informally via email correspondence. Feedback includes comments on the usefulness of the information or assistance, or an identification of any challenges encountered during the process. Where the FIU is involved in fulfilling the request, its feedback form accompanies the response however the Central Authority does not have a separate form for a systematic feedback mechanism.

Table 8.1. Mutual Assistance in Criminal Matters requests from foreign jurisdictions for the period 2017 to 2021

Year	Request Received	Request Processed	Suspected Criminal Activity	Assistance Requested	Outcome of request
2017	12	12	Fraud, ML, Theft	Service of Court documents on Respondents, Request for financial information, employment history of persons suspected of illegal activity' investigation into the source of funds seized and detained by the Authorities in foreign jurisdiction, to record affidavits and other statements from witnesses.	Eight (8) requests were fulfilled; Two (2) requests were partially fulfilled and requests for further information were submitted to the foreign countries; Two (2) requests were refused/ returned with instructions as the requests were not compliant with domestic legal requirements.
2018	14	14	ML, Fraud, Forgery, Tax offences, Murder, Possession of Controlled Drugs, Conspiracy to engage in ML, unlawful trading, Corruption, Abduction	Request for information on and /or criminal records of subjects under investigation and their associates, affidavits from police officers in relation to investigations conducted, service of court documents on Respondents, requests for interviews to be conducted with witnesses, requests for information and / or documents, enforcement of Search warrant, seizure of items	Twelve (12) requests were fulfilled; One (1) request was returned as proper service was not possible; and One (1) request was partially fulfilled as the suspect subsequently died and further execution of the request was not possible.
2019	14	14	ML, Fraud, Forgery, Tax offences, Murder, Possession of Controlled Drugs, Conspiracy to engage in Money Laundering, unlawful trading, Corruption, Abduction	Request for information on and /or criminal records of subjects under investigation and their associates, affidavits from police officers in relation to investigations conducted, service of court documents on Respondents, requests for interviews to be conducted with witnesses, requests for information and / or documents identifying companies.	Thirteen (13) requests were fulfilled, and One (1) request was returned due to the absence of a legal request that the Central Authority could consider.
2020	13	13	Fraud, Drug trafficking, possession and importation of narcotics, participation in criminal association, illegal sale of pharmaceuticals, kidnapping, rape	Service of documents, production of police reports, company records and financial records, request for conviction records of subjects under investigation by the foreign jurisdiction, interview of witnesses, hearing of witness via video conference.	Nine (9) requests were fulfilled; Three (3) requests were returned with instructions; One (1) was recalled by the foreign country and in relation to the third, the subject could not be located
2021	13	13	Fraud, Bribery, Forgery, Money Laundering, assassination,	Service of documents, witness interview, production of company and financial records, police report, information on subjects under investigation.	Nine (9) requests were fulfilled, one (1) fulfilled in 2022);

			gang murder, murder, trafficking of weapons, drug trafficking, kidnapping, rape		Two (2) requests were returned with instructions. One (1) request was partially fulfilled.
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540. Dominica has received no more than 14 MLA requests per year. The table 8.1 above breaks down the requests received and shows the suspected criminal activity of those requests, the assistance requested and the outcome of the requests. The assessors, from the information provided, identified a total of six requests from foreign countries related to ML from 2017 to 2021. During the period Dominica fulfilled approximately 50 requests and the time taken for the response is determined by the complexity, nature and deadline given by the requesting country. During the same period, no TF-related request was received. For the review period, Dominica did not refuse any MLA request by foreign territories in relation to ML/TF.

541. On timeliness, the assessors found that the Central Authority has provided timely and constructive assistance to requesting states. Generally, the Central Authority acknowledges receipt within two days of receipt of the request. The execution time of the assistance provided for the review period ranges from six days to one year. Approximately 60 per cent of the requests were completed in less than two months. This range was influenced by the nature of the assistance requested which would involve the conduct of investigations, the identification and location of witnesses and applications to the High Court for production orders and other related orders. The assessors noted that the long processing time in some cases was mainly due to the lack of sufficient information provided by the requesting jurisdiction, waiting for further clear instructions on the assistance requested and ascertaining and locating the subjects of an investigation and or witnesses for interviews. During the period under review, Dominica provided periodic feedback to requesting states on the outcome of requests.

542. Feedback from the FATF Global Network on the quality and comprehensiveness of MLA provided by Dominica confirms that Dominica provides constructive and timely assistance to requests. Challenges identified in providing information were related to the nature of the information being requested; however, the feedback indicated that Dominica is responsive and provides updates throughout the execution of requests. The case examples below show evidence of the quality of the information provided by Dominica.

Box 8.1. Drug Trafficking and ML request for information

The case concerned an investigation into a drug trafficking ring where two Dominican nationals were arrested in a foreign jurisdiction having been intercepted at sea with over 300 Kilograms of Cocaine. Based on the investigations, the mastermind of the drug shipment was identified through intelligence gathering techniques. A request was made to the authorities in Dominica to conduct investigations using both provisional measures and other investigative techniques. This resulted in the identification of cogent evidence to implicate an evasive individual to law enforcement authorities in the Commonwealth of Dominica with linkages to the foreign jurisdiction. Due to the mutual assistance provided, an individual was arrested in a third country and extradited to face various counts of drug trafficking and money laundering charges in the requesting state. The individual has been incarcerated and faces up to six (6) years.

Box 8.2. MLA Request on ML, Forgery, Embezzlement, Fraud and Participating in a Criminal Organisation

The case indicates the effectiveness of international cooperation. The Central Authority received a request for mutual assistance from a European country. In the request, the authorities of that country were investigating an individual who was a well-connected banker who had defrauded account holders of the bank and laundered criminal proceeds on behalf of organised crime groups, drug traffickers. The individual utilised both complex and elaborate schemes of international business companies in multiple jurisdictions.

LEAs in Dominica and the European jurisdiction conducted a joint operation resulting in a successful search of properties where items of evidential value were extracted. The individual was arrested through the assistance of another State. Based on the request for assistance several searches were conducted, witnesses interviewed and other provisional measures undertaken to fulfil this complex request. The execution of all aspects of the request took a period of three (3) years.

As a result of the cooperation, the accused was arrested and prosecuted. In 2021, the accused was convicted and sentenced to a prison term of eight (8) years for habitual money laundering, embezzlement and forgery. In 2022, the Commonwealth of Dominica filed a property freezing order against properties connected to the accused with an estimated value of XCD5,225,000/USD1,935,186. The property includes real estate and luxury vehicles.

Extradition

543. Under its Extradition Act, Dominica can execute requests received from Commonwealth States. This gives effect to the London Scheme for Extradition within the Commonwealth which covers over 50 jurisdictions. Dominica can also process requests from foreign states in respect of which there is an extradition treaty in force. Dominica has one bilateral extradition treaty in effect. This treaty is with the USA. Although most of Dominica's usual international partners are covered under either of the two categories, the limited number of bilateral treaties impacts their ability to provide assistance in respect of extraditions to non-commonwealth jurisdictions.
544. For the review period, Dominica received five extradition requests. The offences related to the requests included murder, sexual assault, bank fraud, and kidnapping. Of the five requests, one

case is currently before the Magistrate's Court, three cases are currently under review by the CDPF and the DPP. The extradition request relating to bank fraud was not granted as there is no extradition treaty between the two countries and no alternative legal basis upon which to execute the request. In this instance Dominica initiated discussions with the requesting state concerning a bilateral treaty however, negotiations did not lead to the conclusion of an agreement.

545. For incoming extradition requests, the Central Authority is guided by the Central Authority procedures for the legal and administrative procedures that should be adopted. This allows for prompt attention to the request, acknowledging receipt of the request and provides guidelines on a timeline in relation to the execution of the request, taking into consideration whether the request is in order and that there is sufficient information to justify an arrest warrant. Requests relating to TF are to be given priority over all other requests for extradition and are to be dealt with at the highest level of urgency. The Central Authority is also guided by Section 44 of the MLPA which requires that extradition requests relating to ML are executed without undue delay.
546. The AT noted that while Dominica have had extradition requests Dominica currently only has an extradition treaty with the USA and no other non-commonwealth countries.

8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

547. The MACMA governs incoming and outgoing MLA requests. MLA falls solely under the purview of the Central Authority in Dominica. Dominican authorities request MLAs where information is required to further pursue cases. Outgoing MLA requests are prepared and handled by the Central Authority using very similar procedures as the incoming request. Under the Central Authority procedures, the state attorney is guided by the checklist for requesting MLAs from foreign authorities.
548. The majority of the outgoing MLA requests originate from the FIU. During the period under review, the Central Authority, on behalf of the FIU, made over ten requests to jurisdictions to obtain information of evidential value. The requests sought information on the identity of the accused, property of the accused, known business associates, source of income, tracing of assets, taking of witness statements and obtaining criminal records. The information provided by the foreign states has enabled the FIU to conclude its investigations into potential ML matters and predicate offences. For the review period three matters have been prosecuted with evidence obtained from the responses to the MLA requests. The AT noted that the LEAs are aware of the process when seeking MLA through formal channels.

Table 8.2. Mutual Legal Assistance request made by Dominica

Year	Number of Request Made	Suspected Criminal Activity	Assistance Sought
2017	3	ML/Drug Trafficking	Financial information on requested individuals
2018	5	ML and Drug Trafficking	Financial information on individuals
2019	2	Libel/ML	Interviews of (1) individual and digital search of equipment and mobile devices
2020	0	-	-
2021	3	ML and Drug trafficking	Information on two (2) individuals charged with ML and respondents to civil asset recovery matter.

549. As shown in table 8.2, Dominica is seeking assistance from jurisdictions to pursue cases locally. Dominica's use of formal MLA requests to seek assistance is appropriate. In instances where Dominica has made use of MLA requests to which they received good quality responses, there have been successful investigations and asset recovery. Dominica has identified challenges with formal MLA requests including no or untimely responses. This has resulted in CAs and LEAs relying on informal cooperation. It is noted that informal cooperation can expedite obtaining information, however there are instances where formal co-operation is required to meet the evidentiary standards under the law. The challenges associated with the use of formal channels are in large part addressed through informal cooperation which results in Dominican authorities receiving assistance that facilitates or otherwise supports domestic law enforcement operations. As discussed below, LEAs have been able to successfully utilise other forms of international cooperation to obtain information to further investigations and prosecutions of domestic ML, associated predicate offences and TF cases which have transnational elements. Dominica should however seek to increase its use of formal MLA requests where appropriate. The assessors noted that the average timeframe within which the foreign assistance was received was between 10-35 days. At the time of the onsite, two requests sent out in 2021 were still pending and the third was fulfilled in segments in periods ranging from two to eight months. Case box 8.3 shows the utilisation of ARIN-CARIB for requests of other forms of International Co-operation.

Extradition

550. Dominica has not made any extradition requests to a foreign state during the review period, as one has not been necessary. However, Dominica has mechanisms and measures in place to make an extradition request to a foreign jurisdiction when needed. Extradition requests are handled by the Central Authority. The central authority procedures outline a checklist approach that is to be followed when processing the extradition request. The procedures outlined are very similar to that of MLA requests.

8.2.3. Seeking other forms of international cooperation for AML/CFT purposes

551. The CAs in Dominica have sought other forms of international cooperation to exchange financial intelligence. CAs regularly seek forms of international co-operation, other than MLA or extradition. CAs utilise informal channels to seek and exchange relevant information in an appropriate and timely manner with other foreign counterparts. Informal co-operation has been largely effective in exchanging information, advancing investigations related to ML and supporting operational activities with other foreign agencies.
552. The FIU has agreements relating to the exchange of information and co-operation with certain foreign agencies. The FIU has the independence to exchange information and execute MOUs with local and international AML/CFT authorities. The FIU has signed MOUs with Guernsey, Jamaica, Regional Security Systems (RSS), Trinidad and Tobago FIU, Barbados FIU, National Crime Agency (NCA) in the UK, FINCEN, Royal Canadian Mounted Police and the ECCB.
553. The FIU utilises the Egmont Secure Web (ESW) to request and share information with its counterparts. As shown in table 8.3 during the period 2017 to 2021 a total of 13 requests for assistance were disseminated by the FIU to its foreign counterparts to aid in fulfilling its function as an analytical and investigative body. The limited number of requests made for assistance was impacted by external factors (Hurricane Maria in 2017 and the Covid-19 pandemic from 2020). The assessors deemed the level of FIU exchanges for other forms of cooperation in the context of Dominica was appropriate although during the period it was impacted by external factors. It is noted that despite the partial destruction of its building, the requests for MLA during the period primarily originated from the FIU.

Table 8.3. Number of requests for information sent by the FIU

Year	Number of Request Made	Suspected Criminal Activity
2017	0	N/A
2018	0	N/A
2019	2	Civil cash forfeiture application and ML investigation
2020	1	ML prosecutions
2021	10	ML investigations

554. Informal channels of communication were utilised during the period by the FIU to request assistance from its foreign counterparts for the conduct of investigations during the period. The FIU is a member of the ARIN-CARIB, which aids in facilitating the exchange of information among LEAs throughout the Caribbean region and with other asset recovery Inter-agency networks in other regions of the world. During the period under review, Dominica submitted three requests to ARIN-CARIB for assistance in investigating matters.

Box 8.3. The Utilisation of ARIN -Carib for other forms of International Co-operation

During a major intelligence driven operation, one individual was intercepted with approximately US\$650,000.00 equivalent in cash. Having intercepted the cash, information obtained suggested that this individual was linked to a criminal associate in a particular jurisdiction. An official correspondence for information was sent using the ARIN-CARIB platform to assess accurate and reliable information. The use of the platform was the quickest means of obtaining the information within the seventy-two (72) hours period of making an application before the court. The partner agency provided detailed information which was utilised in the civil asset recovery application.

555. The CDPF collaborates with several local, regional and international partners in the investigation of predicate offences namely drug trafficking, fraud, human smuggling, robbery and firearm trafficking. The RSS, CARICOM regional police forces, forensics laboratories in Barbados and Jamaica and INTERPOL are some of the agencies utilised by the CDPF for furthering of information and investigations. During the period under review, the AT noted that the CDPF has made requests and received assistance from various agencies to further investigations. Table 8.4 shows the range of assistance sought by the CDPF from the period 2017 to 2021. The offences include ML predicate offences. It is noted that in 2020 and 2021, the assistance sought were directly connected to ML prosecutions and investigations.

Table 8.4. Assistance sought by the CDPF from foreign agencies for the period 2017 to 2021

Year	Number of Requests	Nature of request	Suspected Criminal Activity
2017	7	Forensic	Murder Shooting Incident Drugs
2018	8	Forensic	Murder Fraud Missing persons
2019	6	Logistic Forensic Forensic Forensic Data Analysis Forensic	Shooting Incident Murder Shooting Incident Drugs Libel Shooting Incident
2020	3	Firearm analysis	ML prosecutions
2021	3	Forensic	ML investigations

556. Dominica is a part of the Caribbean Customs Law Enforcement Council (CCLEC) MOU through which information can be requested by customs and excise agencies throughout the region. The CED is permitted by the CCLEC MOU to submit a formal request for information through the CCLEC Office. The CCLEC can be used to exchange information and assist other member countries in furthering information and investigations.

557. The CED has sought other forms of international co-operation from regional and international partners for the period under review. The assessors noted that the CED has made numerous requests to regional counterparts in regards to matters under investigation as demonstrated in case examples box 8.4. However, there was no information provided on the number of formal requests sent or received by the CED.

Box 8.4. CED seeking request for information from foreign counterpart during the period 2017 to 2021

Customs Intelligence and Customs Investigations received information from a regional counterpart in relation to undeclared and concealed high value goods found on a vessel. Fines were levied and the vessel continued to several ports of entries throughout the region. On arrival in Dominica, a thorough search and inspection were conducted of the vessel. Information as to quantity and type of goods were shared to the other port of call.

On each stop, information was continuously shared until the vessel arrived at its final destination. The investigation carried out by Customs authority at the final destination identified several customs breaches and the consignee company was fined over US\$15,000.

558. From interviews and information provided that the requests for information from the Customs intelligence, investigations and cargo units are very dynamic and are often requested “on the spot” using informal means through various messaging apps such as WhatsApp or emails. The type of information normally requested are background checks, passenger information including biographical information, intelligence notes, cargo control deliveries, intelligence sharing and profiling.

559. The IRD can conduct an exchange of information with numerous tax treaty partners pursuant to Section 50 of the Income Tax Act. Presently, Dominica has signed and ratified nine double taxation treaties with Antigua and Barbuda, Belize, Grenada, Guyana, Jamaica, St. Kitts & Nevis, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago. The IRD has not made any request for assistance or otherwise sought international cooperation for AML/CFT purposes. For the period under review requests received for assistance were solely based on tax-related matters.

8.2.4. Providing other forms international cooperation for AML/CFT purposes

560. The FIU is mandated to provide information and ensure proper prioritisation and the timely processing of all requests as well as the monitoring of the requests processing stages. The FIU has made a policy decision to treat all RFAs as a top priority and to respond to them in a timely and formal manner. As a general rule requests for assistance should be finalized and responded to within 35 days of receipt. If this time is to be exceeded, an interim reply to the requesting FIU is to be drafted.

561. For the period under review, the FIU has provided financial intelligence and other forms of information to foreign agencies using the Egmont Group of FIU information exchange platform. Table 8.5 shows the financial intelligence and other information provided by the FIU to other foreign agencies during 2017 to 2021.

Table 8.5. Financial intelligence and other relevant information provided by the FIU to foreign counterparts for the period 2017 to 2021

Year	Number of Requests	Type of Offence	Number of Request fulfilled
2017	15	Fraud, Burglary, ML	15
2018	26	Fraud, Drug trafficking and ML	26
2019	17	ML, Corruption, Drug Trafficking	17
2020	10	ML, Drug Trafficking	9
2021	22	ML, Tax Fraud	18

562. Although the FIU has provided information to other foreign counterparts for the period under review, as shown in the table above, a small number of those requested were not fulfilled. The AT was not provided with any additional information as to the reason for this.

563. In addition to requests for assistance being provided through the Egmont platform, the FIU also provided financial intelligence and other information to foreign counterparts using the ARIN-CARIB network. During the period under review, the FIU provided information on three requests received and all three requests were provided in a timely and efficient manner. The type of information provided related to money remittance information, biographical information, beneficial ownership information, and financial and company records information. The underlying criminal activities for these requests were ML, fraud, online scams using cryptocurrency and theft. The timelines within which the three requests through ARIN-CARIB were processed in a matter of two to three weeks. The FIU also shared information on the basis of FIU-to-FIU exchange of information or LEA to LEA exchange of information through informal channels. Table 8.6 below shows the volume of assistance provided to FIU and non-counterparts (non-Egmont platform).

Table 8.6. Exchange of information by the FIU to foreign agencies (non-Egmont platform) for the period 2017 to 2020

Number of FIU to FIU exchange of information	Number of spontaneous disclosures	Number of exchanges of information to non-FIU counterparts
9	1	6

564. The Egmont principle of the exchange of information is used by the FIU as a guide when handling spontaneous requests. The assessors noted that there was only one spontaneous disclosure made by the FIU during the period 2017 to 2021. The AT was not provided with any additional information on the related matters or information for the information exchange in the table 8.6 above. From the FIU SOPs, there is a feedback mechanism for information shared which accompanies completed requests. However, feedback through this formal

channel is often not provided. The FIU receives informal feedback on the exchange of information provided to the foreign counterparts.

565. During the period under review, the CDPF provided international cooperation to international agencies utilising a number of mechanisms. Majority of the information shared by the CDPF was shared or exchanged based on requests received from foreign agencies. The nature of the requests to the CDPF were primarily background checks by various regional police forces and embassies, assistance with repatriation and mutual assistance in criminal matters. Table 8.7 shows the type of assistance provided and the requesting agency to which the information was provided by the CDPF.

Table 8.7. Information provided by the CDPF to foreign agencies for the period 2017 to 2020

Type of Assistance	Requesting Agency
Background check	Police Force
Background check	US Embassy
Welfare of Citizens	Foreign Embassies
Wanted person	Embassies
Background check	ECCB
Assistance with repatriation	Foreign Embassies
Wanted person/inquiries/background check	INTERPOL
Mutual Legal Assistance	Various Embassies

566. On timelines taken for the CDPF to provide information, the CDPF timeliness for processing various types of requests is based on the nature of the report and the urgency of the information requested by the requesting agency. The CDPF does not have a formal mechanism in place for processing requests as some requests are processed and fulfilled immediately while others are done within several months. The delay was due to complexity, judicial and investigative processes.
567. During the period under review, the CED provided information and made requests utilising informal channels such as emails and telephone communications. The majority of the information request by the CED is normally spontaneously requested. Matters to which the CED provided information are in response to cargo-related requests, passenger checks and individual profiling. There is no formal mechanism in place when providing information to their regional and international counterparts. However, it must be noted that the informal modes of communication afford an immediate response in most instances and renders successful and effective results. For example, in 2019, the customs intelligence of Dominica communicated with country X via telephone in relation to seven foreign nationals who were suspected to have arrived from country x and entered Dominica with undeclared cash. As a result, the CED was able to move quickly and spontaneously which resulted in the sum of USD200,600 being seized.

Box 8.5. CED providing information to foreign counterpart during the period 2017 to 2021

Customs intelligence received a request for assistance from a regional partner in the surveillance of a yacht moving through the territorial waters of Dominica. Customs immediately operationalised personnel and conducted the necessary operational and tactical measures which resulted in the interception of the yacht in international waters with smuggled migrants and illegal drugs. The yacht was seized and several individuals charged for drug trafficking and other charges by the foreign jurisdiction.

568. During the period under review, the FSU provided information to foreign regulatory authorities in relation to fit and proper and due diligence information. The FSU received and fulfilled ten requests from: the ECCB, the ECSRC, the Bank of Mauritius, the Financial Services Regulatory Authority of St. Lucia, Financial Services Regulatory Commission of Antigua, the Financial Services Regulatory Commission St. Kitts & Nevis, the Financial Services Authority of St. Vincent and the Grenadines and the Financial Services Commission of Jamaica. There is no formal feedback mechanism included in the FSU procedures however requesting entities may make follow up requests where additional information is required. One of the ten requests received by the FSU was a follow up request based on further investigations conducted by the requesting foreign counterpart arising from the assistance provided previously by the FSU.
569. The IRD can exchange information with tax treaty partners pursuant to section 50 of the Income Tax Act. However, for the period under review requests received for assistance were solely based on tax-related matters. As it relates to the ECCB, Section 35 (4)(a) of the ECCB agreement empowers the ECCB to provide cooperation to international financial institutions, foreign banking supervisors and any other local or foreign authorities responsible for the supervision or regulation of a licensed financial institution, or for maintaining the integrity of the financial system. During the review period, the ECCB has provided international cooperation to foreign regulatory authorities in response to requests received concerning Dominica or Dominican nationals including legal persons.
570. The ECSRC is the main point of contact for international securities regulators who are seeking information and assistance in prosecuting allegations of ML in international markets. Although there are no licensed securities intermediaries operating in Dominica, between 2020 and 2022, the ECSRC in collaboration with other CAs, fulfilled six requests for information on behalf of international regulators.

8.2.5. International exchange of basic and beneficial ownership information of legal persons and arrangements

571. Dominica shares basic and BO information of legal persons with international counterparts. The Registrar of Companies i.e. CIPO holds all the records of basic information which are public and are searchable and can be copied upon payment of the prescribed fee. Basic information and related documents can be obtained in a timely manner; in some instances, immediately or within 72 hours. Dominica does not have a central repository for beneficial ownership information. CAs can however obtain BO information from CIPO where available as well as from regulated entities and from the legal persons directly. LEAs are able to obtain information from CIPO utilising written requests for information and can also make in-person

visits to obtain information from CIPO. The assessment team noted that there is good coordination and cooperation between the FIU and CIPO regarding obtaining and sharing information. The IRD has access to CIPO's E-Registry which gives IRD access to all documents filed at CIPO in respect of basic and beneficial ownership information.

572. For the period under review, the FIU sent 103 requests to CIPO for information regarding legal persons including ownership information. These requests included 90 requests received from foreign counterpart agencies. Three case examples below demonstrate the ability of the FIU in providing and responding to foreign requests for cooperation in identifying and exchanging basic and beneficial ownership information.

Box 8.6. Request for BO information from a Registered Agent to fulfil request from a foreign Counterpart

The FIU received a request for information from a foreign FIU in regards to the ultimate beneficiary of the company which was involved in illegal schemes and fraudulent activities. This company was being investigated by the regulatory commission and the prosecutorial office of the requesting country. The assistance sought was relative to the retrieval of financial and beneficial ownership information on named entities, as well as the interview of personnel from the office of the registering agent. The information requested was provided within five days. The information assisted the jurisdiction in the identification of the owners and directors of the entities and the pursuit of its judicial proceedings.

Box 8.7. Request for BO information from the Registrar of Companies/CIPO to fulfil request from the Asset Recovery Interagency Network of the Caribbean (ARIN-CARIB)

The ARIN-CARIB representative is a member of the FIU and received a request from a sister asset recovery interagency network namely CARIN, in regards to an investigation being conducted in that jurisdiction related to an online fraud with a nexus to a cryptocurrency platform. Several individuals were defrauded of significant funds in the hundreds of thousands. The platform was registered by an international business company registered in Dominica. The request sought to obtain information on the nature of the business, jurisdiction of operation and the BO information. All information requested was provided within fourteen (14) days. The information provided assisted the investigative team in that jurisdiction to link the company to three other jurisdictions and provided the names of individuals within the jurisdiction to be investigated.

Box 8.8. Request for BO information from a Registered Agent and the Registrar of Companies/CIPO pursuant to a Mutual Assistance in Criminal Matter request

The FIU received a request for information from the Central Authority of a foreign state with regards to the ultimate beneficiary of several companies who were involved in fraudulent activities and other corrupt practices. The company was being investigated by the regulatory commission and a report was initiated with the District Attorney within the state. The assistance requested of the FIU was to, (1) interview personnel within company as well as the Registered Agent and to retrieve financial and beneficial ownership information at financial institutions and CIPO. The information provided was essential in the criminal proceedings against the owners and directors of the companies. The information obtained was also used by the regulatory commission to take action against the company and its directors.

573. For the period under review, the FIU has also responded to foreign requests from non-FIU agencies and has identified and exchanged basic and beneficial information on legal persons with these authorities. For example, in 2021, the FIU received a request for assistance from the ECSRC in identifying an internal business company registered in Dominica that was allegedly involved in a fraudulent scheme within a European country. The ECSRC requested information on the company to include the ultimate beneficial owner. The FIU was able to source and provide all the information requested within one week of the request. The average time between the receipt of a foreign request by the FIU and the provisions of the BO information on legal persons is between five to nine days. For the period under review the longest time taken to process a request was 36 days and the shortest time a request has been processed was two days.
574. At least on one occasion Dominica was not able to fulfil a request as the registered agent did not hold the information as required by law. The reliance placed on FIs and DNFBPs for CDD by Dominica limited its ability to respond to that request. However, generally the response to requests for information is timely by the FIU.
575. The CDPF has not received any request to provide basic and BO information to foreign counterparts. However, based on the legislative framework and cooperation mechanism with the Registrar of Companies, there are no impediments in the provision of such information were this to be requested. The CED received only one request to provide basic and BO to foreign counterparts. The CED was unable to access the information for the financial institution and utilised the FIU to fulfil the request. The CED was able to provide a response to the foreign requests and the information provided was sufficient in the prosecution of the individual for various offences.
576. In respect of the FSU, ten requests for information and assistance were received during the period 2017 to 2021. Three of these requests were from the ECSRC relating to specific international business enterprises registered in Dominica. An example of information from a foreign request. In 2020, the FSU received a request from a country in the Middle East in relation to fraudulent activities by an international business company registered in Dominica. The entity requested information on the beneficial owner of the company and the activities of the IBC. In furtherance of the request, the FSU contacted the FIU who sought and provided to the FSU, up-to-date and relevant information obtained from the registered agent. The information obtained was transmitted to the entity and assisted in the investigation of the

fraudulent activity in that jurisdiction. Additionally, there were five requests for basic and BO information on IBCs registered in Dominica.

577. The FIU, CIPO, FSU, CED and CDPF, have adequate mechanisms in place to respond to and make requests to foreign counterparts for co-operation in identifying and exchanging basic and BO information of legal persons. Although there is no obligation on legal persons to maintain BO information, CDD requirements imposed on FIs and DNFBPs provide CAs with timely access to the relevant information. CAs also utilise a range of methods including interviews and production orders to ensure the quality of the information. Informal feedback from international partners as well as notifications on the outcome of cases involving the information provided, support the assessor's conclusion that the quality of the information is adequate. At the time of the onsite, there were no legal arrangements in the jurisdiction.

Overall conclusions on IO.2

578. Overall, Dominica has many of the characteristics of an effective system in the area of international co-operation. Dominica has provided timely MLA during the period under review. The AG is the central authority for the purposes of MLA and extradition. In Dominica, there are a few MLA requests being made yearly to the Central Authority. MLA requests are sent directly to the central authority or through diplomatic channels.
579. During the review period Dominica fulfilled approximately 50 MLA requests and the time taken for the response is determined by the complexity, nature and deadline given by the requesting country. During the same period, no TF-related request was received.
580. Dominica received five extradition requests and has not made any extradition requests to a foreign state during the review period, as this has not been necessary. Dominica can process requests from over 50 Commonwealth countries under the London Scheme on Extradition within the Commonwealth as well as from non-Commonwealth countries pursuant to treaties in force. Currently Dominica has an extradition treaty with the USA. This limits their ability to assist non- commonwealth jurisdictions in extradition matters.
581. The Central Authority has provided timely and constructive assistance to requesting states. Generally, the Central Authority responds to requesting states within two days of receipt of the request. The execution time of the assistance provided for the review period ranges from six days to one year.
582. The CAs in Dominica seek international cooperation to pursue ML cases and associated predicate offences. During the period the FIU made over ten requests to jurisdictions to obtain information of evidential value. The information provided by the foreign counterparts has enabled the FIU to conclude its investigations into potential ML matters and predicate offences. When receiving information from foreign agencies the average timeframe within which the foreign assistance was received was between 10-35 days.
583. Dominican authorities have sought other forms of international co-operation to exchange financial intelligence, law enforcement and other information with their foreign counterparts for AML/CFT purposes. Some CAs are also empowered to exchange basic and BO information with foreign counterparts without the execution of an MOU. The FSU received 8 requests from foreign counterparts which were also submitted timely.
584. Improvements are needed which includes ensuring proper statistics are kept by some CAs regarding requests for MLA or other forms of international cooperation, taking appropriate measures to facilitate extradition requests for non-commonwealth jurisdictions, and implementing measures to increase the number of formal outgoing requests. Dominica should also increase the use of MLA to pursue ML and predicate offences with a transnational element.
585. Considering the above-mentioned factors, the AT concluded that IO.2 is achieved to a large extent, with moderate improvements needed.

Dominica is rated as having a substantial level of effectiveness for IO.2.

Annex A. TECHNICAL COMPLIANCE

1. This section provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.
2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in [date]. This report is available from [link].

Recommendation 1 – Assessing risks and applying a risk-based approach

This Recommendation was issued in February 2012 and is being evaluated for the first time during this mutual evaluation.

Criterion 1.1 - Dominica undertook a national risk assessment (NRA) using the World Bank tool. The NRA analysed the country's ML/TF risks and included modules for assessing national ML/TF threats, vulnerabilities and sectoral risks. The NRA identified areas of strengths and weaknesses in the AML/CFT/CPF framework through the use of quantitative and qualitative data. The NRA further identified and assessed key risks, such as gaps in the legislative framework, weaknesses in the supervisory framework for FIs and DNFBPs, and identified human resource capacity and technical training needs. Dominica also produced a National Strategy, National Policy and NIAP as a result of the NRA. While the NRA looked at a variety of threats and sectoral vulnerabilities, the ML/TF risk analysis did not include a risk assessment of VASPs, NPOs or the CBI programme and some sectoral ML/TF risk data was unavailable.

Criterion 1.2 - The NAMLAC was established under s. 60A (1) of the POCA and included provisions pursuant to s. 15 (1) of the MLPA and s. 9A of the SFTA. The responsibilities of the NAMLAC are set out in s. 15(2) of the MLPA, sub-ss. 60A (2) (3) of POCA as amended and s. 9A (2) of the SFTA for the general oversight of the AML policy of the government. Sec 60A (2) gives NAMLAC the responsibility of advising the Minister on the development of policies to combat ML/TF/PF and coordinating actions to assess national ML/TF/PF risks.

Criterion 1.3 - The national AML/CFT policy will be reviewed, and amended as the national risk situation changes, but in any event at least every 1-3 years. Additionally, the policy indicates that a national AML/CFT/CPF NRA is to be updated annually.

Criterion 1.4 - Dominica has mechanisms to provide information on NRAs to all relevant competent authorities, public authorities and reporting entities, in accordance with ss. 52(4) and 53(2) of the Code.

The results of the NRA 2020 have been published on the website of the FSU for scheduled entities, as at April 22, 2022. Dominica has made available to all key CAs the relevant contents of the NRA report, inclusive of the Executive Summary, the narrative specific to that CA, as well as the specific sections of the NIAP, for consideration and implementation of the identified deficiencies. The FIU and FSU included the findings of the NRA within sensitization workshops and CAs also received the NRA results from the participation within the NAMLAC.

Criterion 1.5 - Dominica developed an NIAP as a result of the NRA. The country developed an action plan as a result of the NRA findings. The NIAP consisted of ML/TF risks, outputs, priority areas and a detailed action plan which has been largely executed. However, the NIAP inadequately addressed the risk-based allocation of resources and measures to prevent or mitigate ML/TF risk as identified in the NRA.

Criterion 1.6 - This is not applicable. All FIs/DNFBPs and CA are required to adhere to and implement the FATF Recommendations.

Criterion 1.7 - **(a)** Under s.22 of the Code FIs/DNFBPs are required to have ML/TF risk assessments and perform enhanced due diligence where there is higher risk in their dealings with customers, businesses or transactions which is determined to be a higher risk (s.22 of the Code). **(b)** In accordance with s.14(2)(a) of the Code, as amended in 2022, FIs and DNFBPs are required to consider all relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied in the conduct of their risk assessment.

Criterion 1.8 - Dominica has appropriate measures in place to meet criteria 1.7. Thus, in the conduct of their risk assessment, FIs and DNFBPs must consider all relevant risk factors in determining overall risk and the appropriate mitigation measures to be applied. Further, s.21(8) of the Code, as amended 2022, provides for the simplified CDD measures to be commensurate with the lower risk factors.

Criterion 1.9 - Sec 10 of the Code mandates that the FSU, as part of its prudential inspection of a FI or DNFBP that it regulates, is expected to review the entity's ML/TF risk assessments, including the entity's policies, processes, procedures and control systems in order to make an objective assessment of the risk profile of the entity, the adequacy or otherwise of the entity's mitigation measures; the entity's compliance with the requirements of the Act, the MLPA and Regulations made thereunder, the SFTA, this Code and any other code, guideline, guidance note, direction or directive practice that the FSU issues, including any other enactment that applies to such an entity. Pursuant to s. 10(2), this duty of the FSU extends to an entity that is not regulated by the FSU but to which, and a professional to whom, this Code applies. The above measures require the FSU to ensure that FIs and DNFBPs are implementing their obligations under Recommendation 1.

Criterion 1.10 - **(a)** Sec 10(1) of the Code requires the FSU to review FIs/DNFBPs ML/TF risk assessments as part of its prudential inspection. Sec 14 of the Code requires an entity and a professional, in addition to establishing a written system of internal controls, to carry out ML/TF risk assessments in relation to each customer, business relationship or one-off transaction. Sec 14(2) (b) and (c) of the Code, as amended in 2022 provides that an entity or professional shall ensure that appropriate mechanisms are in place to provide risk assessment information to competent authorities and to document risk assessments. **(b)** Sec 14 of the Code provides that an entity and a professional shall carry out ML/TF risk assessments in relation to each customer, business relationship or one-off transaction in order - (a) to determine the existence of any risks; (b) to determine how best to manage and mitigate any identified risks; (c) to develop, establish and maintain appropriate AML/CFT systems and controls

to effectively respond to the identified risks; and (d) to ensure that at all times there is full compliance with the requirements of the MLPA, MLPR and STFA and other enactments, policies, codes, directions and directives in place, in relation to AML/CFT activities. **(c)** Sec 12 (3)(b) of the Code requires FIs/DNFBPs' internal control systems to include regular reviews of the risk assessment. **(d)** Sec 10(1) of the Code requires the FSU to review FIs/DNFBPs ML/TF risk assessment(s) as part of its prudential inspection. While the above measures impose a mechanism to review risk assessments, s. 21(2) (d) of the FSUA provides the FSU with the authority to request oral or written information from licensees or any officer of the licensees.

Criterion 1.11 - (a) Sec 12 (2) of the Code requires that a FI/DNFBP's written system of internal controls include that the FI/DNFBP carry out ML/TF risk assessments of business relationships and one-off transactions. Sec 14 of the Code requires FIs/DNFBPs to carry out ML and TF risk assessments in relation to each customer, business relationship or one-off transaction, to determine the existence of any risks, how best to manage and mitigate an identified risk, and to develop, establish and maintain appropriate AML and CFT systems and controls to effectively respond to the identified risks. Sub-sec 16(2)(a) of the Code requires senior management to adopt such documented policies, consistent with the requirements of the Code and the MLPA, MLPR, SFTA and related ML/TF enactments. The above provisions require a system of controls which mandates determining risks and how to manage and mitigate the identified risks. This system would be subject to approval of senior management under sub-s.16(2)(a) of the Code.

(b) Sec 12(4) of the Code requires FIs/DNFBPs to establish and maintain an independent audit function that is adequately resourced to test compliance, including sample testing, with its written system of internal controls and the other provisions of the MLPA or the Regulations made thereunder, and the SFTA and the Code. Sec 12(3)(b) of the Code provides for the regular reviews of the risk assessment and management policies, processes and procedures, taking into account the entity's or professional's circumstances and environment and the activities relative to its or his business. Sec 16(2)(c) of the Code requires senior management to ensure that the established policies to prevent ML/TF and the risk assessments that are carried out are reviewed from time to time at appropriate levels and kept up-to-date as necessary.

(c) Sec 22(2) and (3) of the Code details the obligations for EDD that FIs and DNFBPs must implement in relation to higher risk applicants for business, customer or transaction. Sec 22 (4) of the Code sets out details in instances where enhanced due diligence should be considered. These provisions provide the legislative measures required to ensure that enhanced due diligence is applied in situations involving transactions and individuals considered to be of higher risk.

Criterion 1.12 - Sec 21(6) of the Code allows for an FI or DNFBP in adopting the RBA, to determine customers or transactions that it considers low risk in terms of the business relationship. Where such a determination has been made, the FI or DNFBP, pursuant to s. 21(8) (as amended), may reduce or simplify the customer due diligence measures as required under sub-s. (2), (3) and (4)(b), but the simplified CDD measures must be commensurate with lower risk factors. While there is no specific reference to the prohibition on the use of simplified due diligence (SDD) when there is a suspicion of ML/TF, s. 21 (4)(c) of the Code states that an entity shall undertake CDD where there is a suspicion of ML/TF, irrespective of any exemption or threshold including where an applicant for business or a customer is considered by an entity or a professional as posing a low risk.

Weighting and Conclusion

Dominica has substantially addressed the requirements of the criterion. While most of the NIAP has been executed, the prioritized activities could better align with the country's ML/TF risks and threats identified in the NRA to inform a risk-based approach and use of resources.

Recommendation 1 is rated Largely Compliant.

Recommendation 2 - National Cooperation and Coordination

The Recommendation formerly R. 31 was rated PC in the 3rd MER due to no joint meetings for developing policies and strategies relating to AML/CFT and no measures for the authorities to coordinate the development and implementation of policies and activities to combat ML and FT. The deficiencies were addressed by the appointment and functioning of the National Anti-Money Laundering Advisory Committee (NAMLAC) and the AML/CFT Technical Working Committee as reported in the 8th FUR dated November 2014.

Criterion 2.1 - A national AML/CFT policy for the period 2019 – 2024 based on the findings of the NRA has been developed. No date for the finalisation of the policy has been given, however the document is dated February 2022 on the last page. The first goal identified under the objective of “defining the culture of AML/CFT/CPF at the national level” of the national AML/CFT policy is the continuous update of the policy. The above measure complies with the requirements of the criterion.

Criterion 2.2 - Dominica has designated the NAMLAC as the authority responsible for the general oversight of Dominica's AML/CFT policy. NAMLAC is supported by a technical working group consisting of technical officers from the various CAs. NAMLAC comprises the AG (Chair), the DPP, the Financial Secretary, the Director of the FIU, the Chief of Police, the Comptroller of Customs, the Comptroller of Inland Revenue and a representative from the ECCB and the ECSRC.

Criterion 2.3 - Policymaking level - The NAMLAC is the main body responsible for the oversight of AML/CFT policies, carrying out the functions assigned to it by s. 15(2) of the MLPA and s. 9A (2) of the SFTA. NAMLAC serves as the primary coordination forum and mechanism for the formulation of national AML/CFT policies, strategies and action plans.

- **Operational level** - Rule 52 of the AML/STF Code of Practice provides the legal basis for the FIU and the FSU to cooperate, coordinate and exchange information with relevant CAs. Additionally, members of the NAMLAC have entered into various MOUs to facilitate the strengthening of operational cooperation and coordination in the implementation of AML/CFT policies and activities. The FIU has MOUs in place with the CED, CDPF, FSU and IRD. Additionally, the FSU has established MOUs with the ECCB and the IRD. These MOUs deal with cooperation for legislative initiatives, development of AML/CFT strategies and exchange of information.

Criterion 2.4 - There are no provisions for the requirement for co-operation and, where appropriate, coordination mechanisms among CAs to combat the PF of weapons of mass destruction.

Criterion 2.5 - Under s. 40 of the Public Service Act all public officers have a duty of secrecy and under the Police Act Chapter, 14:01(Police Regulations), Police officers are mandated by law to

maintain secrecy. In addition, the authorities have indicated that pursuant to bi-lateral MOUs and the relevant authorities' internal policies and procedure, the AML/CFT requirements with data protection and privacy rules and other similar provisions are maintained. There are provisions within the MOUs for breaches of confidentiality and data protection. Within the Domestic MOUs, provisions are made for secure channels of communication and the prevention of the unauthorised disclosure of information. Additionally, in regards to the CED, s. 9 of the Customs Act Chapter 69:01 provides the mechanisms for the duty of secrecy and sharing of information by customs officials. In regard to the IRD, s. 6 of the Income Tax Act 67:01 provides the mechanisms for the duty of secrecy and the sharing of information by employees of the IRD. The FSU pursuant to s.32 of the FSUA 63:03 may seek assistance, share or request information from the ECCB subject to a confidentiality agreement and a memorandum of understanding; or (b) seek assistance, share or request information, from other regulatory authorities including a foreign regulatory authority. There are strict provisions for data security and protection within the MOUs between ECSRC and the FIU and ECCB and FIU.

Weighting and Conclusion

Dominica has developed national AML/CFT policies and designated NAMLAC as the responsible authority for such policies. However, there are no co-operation and coordination mechanisms among CAs to combat the financing of proliferation of weapons of mass destruction.

Recommendation 2 is rated Largely Compliant.

Recommendation 3 - Money laundering offence

Recommendation 3 (formally R. 1 and R. 2) were previously rated PC and LC in Dominica's 3rd round MER. Deficiencies included (i) the absence of conversion or transfer as an element of the ML offence, (ii) Piracy (Pirates at Sea) and Extortion not being criminalized, and inter alia (iii) the lack of administrative proceedings that may be employed in dealing with legal persons who have been found criminally liable. Dominica fully rectified all gaps during the follow-up process.

Criterion 3.1 - ML is criminalized on the basis of the Vienna Convention and the Palermo Convention. All the necessary physical and material elements of the ML offence are contained in s. 3(1) of the MLPA.

Criterion 3.2 - Dominica applies an all-offences approach whereby all offences are predicate offences for Money Laundering. Pursuant to s.2 of the MLPA, proceeds of crime mean any property derived directly or indirectly from conduct which constitutes an offence or would constitute an offence if it had occurred in Dominica. The MLPA at s.3 creates the offence of ML which entails dealing with the proceeds of crime. The offence of ML therefore applies to proceeds of any offence, including a range of offences in each of the FATF designated categories of offences.

Criterion 3.3 - Dominica does not apply a threshold approach as the underlying predicate offences for ML are determined by reference to all offences.

Criterion 3.4 - Sec 2 of the MLPA and the POCA defines the word "property" in wide terms without reference to any value. The MLPA and the POCA define proceeds of crime as property derived from or obtained directly or indirectly from criminal conduct. ML offences under the MLPA and the POCA

refer to dealings with the proceeds of crime which includes property that directly or indirectly represents the proceeds of crime.

Criterion 3.5 - ML offences in Dominica are established pursuant to the MLPA. It does not require a person to be convicted of a predicate offence when proving that property is the proceeds of crime.

Criterion 3.6 - Under the MLPA, predicate offences for ML are defined by reference to “criminal conduct”. As noted in criterion 3.2 above, “criminal conduct” means conduct which constitutes an offence or would constitute an offence if it had occurred in Dominica. This definition thus extends to conduct that occurred in another country.

Criterion 3.7 - The offence of ML applies to persons who commit the predicate offence. This is captured in the definition of proceeds of crime and the ML offence pursuant to ss 2 & 3 of the MLPA, respectively. A person commits ML if they engage in any of the activities under s.3 which involve proceeds of crime. Proceeds of crime are defined as property derived from or obtained directly or indirectly from criminal conduct.

Criterion 3.8 - Sec 2(3) of the MLPA provides for inferring from objective factual circumstances “knowledge, intent, purpose, belief or suspicion required as an element of any offence under this Act.

Criterion 3.9 - Sec 3(3) of the MLPA, as amended by s. 4 of the MLP(A)A, 2022 provides that a person who is guilty of an offence under ss. (1) or (2) is liable - (a) on summary conviction to (i) a fine not exceeding five hundred thousand dollars, and to imprisonment for a term not exceeding 7 years if he is a natural person; (ii) a fine not exceeding five million dollars, if it is a body corporate; (b) on conviction on indictment, to (i) a fine not exceeding five million dollars (USD1,850,105) and to imprisonment for a term not exceeding 15 years, if he is a natural person; (ii) a fine not exceeding fifteen million dollars (USD5,550,313), if it is a body corporate. The amount of the fine is proportionate to an indictable offence, while the lengthy period of incarceration is sufficiently dissuasive.

Criterion 3.10 - The definition of “person” under s. 2 of the MLPA includes a legal person. The penalties for ML offences have been outlined in criterion 3.9 and apply to legal persons. Parallel sanctions are also available against legal persons. Sec 46 of the MLPA provides that the Court may, in addition to any other penalty, order the suspension or revocation of the licence of an FI or person in charge of a scheduled business who has been convicted of an offence under the Act. Under s.45 of MLPA a person convicted of a ML offence is not eligible to be licensed to carry on the business of an FI or in any manner whatsoever participate in the ownership, management or control of a financial institution or scheduled business.

Criterion 3.11 - The ancillary offences to ML: attempt of, aiding and abetting, counselling and conspiring are covered by s.3(2) of the MLPA. Sec 2 of POCA defines a “scheduled offence” as an offence specified in Schedule I and includes at (b) being in any way knowingly concerned in, the commission of any of those offences. This covers the ancillary offences of participation and facilitating.

Weighting and Conclusion

Recommendation 3 is rated Compliant.

Recommendation 4 - Confiscation and provisional measures

Dominica was rated PC for R.4 (formerly R.3) in its 3rd round MER. The deficiencies included: (i) the law and measures that were available did not allow for ex-parte applications, (ii) absence of measures to take steps to prevent or void actions that will prejudice the ability of the authorities to recover property subject to confiscation and (iii) lack of adequate powers to identify and trace property that was, or may become subject to confiscation. Dominica fully addressed the deficiencies in its 8th FUR of November 2014.

Criterion 4.1 - (a) Dominica has measures in place that enables the authorities to confiscate and forfeit property laundered (*s. 4 (1) (a) (b) of the POCA and 31 of the MLPA*), whether held by criminal defendants or third parties. **(b)** The foregoing sections apply to proceeds (income or other benefits derived from such proceeds) and instrumentalities used or intended to be used in ML and predicate offences. In accordance with s.19 of the POCA, the DPP in his application for confiscation following conviction of the individual has to be satisfied that the defendant has benefited from a scheduled offence or a criminal conduct. Sec 31 of the MLPA authorises the court to forfeit property, proceeds, instrumentalities derived from, connected to or related to the offence. **(c)** Sec 4 (1) of the POCA is applicable to property used in or intended or allocated for use in TF, terrorist acts or terrorist organisations as terrorist and TF offences are listed in Schedule I of the POCA as designated categories of offences. **(d)** The court is authorised to confiscate property of corresponding value (ss. 32 and 33 of the MLPA and s. 22 (4) of the POCA). The provisions cited in sub-criteria a, b, c and d are applicable to properties etc. held in the name of the defendant and also third parties which are covered throughout the legislation, including the protection of rights available to such persons.

Criterion 4.2 - (a) CAs have measures in place to identify, trace and evaluate properties subject to confiscation. These measures reside in search warrants, property tracking orders, monitoring orders, production orders, disclosure for tax information orders and disclosure of information and documents held by Government departments (ss. 24, 25 and 26 of the MLPA and ss. 41,47 and 59 of POCA). **(b)** The freezing and restraint mechanisms that exist in the MLPA and the POCA are provisions that prevent the dealing, transfer and disposal of property subject to confiscation (*s. 29 of the MLPA and s. 27 and 30 of POCA*). The application for a restraint order to the Court under S.30 of POCA is an *ex-parte* application. Under s. 29 (2) of the MLPA, an application made pursuant to s. 29 (1) shall be made without notice. **(c)** Sec 11 of the MLPA, s. 28 of the POCA and s. 38A of the SFTA allows for the Court to set aside any conveyance or transfer of the property that occurred after the seizure of the property or the service of a restraint or freezing order, unless the conveyance or transfer was made for valuable consideration to a person acting in good faith. **(d)** The investigative measures referenced in R.31 including search warrants and production orders are available as investigative measures and satisfy this sub-criterion. The FIUA also makes provision for the FIU to instruct FIs and persons carrying out a scheduled business to take steps that are appropriate to facilitate any investigations anticipated by the FIU (*s. (1) (g) of the FIUA*).

Criterion 4.3 - The protection of third parties' rights is adequately addressed in the legislative regime (*s. 35 of the MLPA and 12 of the POCA*). Section 12 of the POCA allows a person to apply to the Courts if that person asserts any interest in property that is subject to confiscation. The Court is then

required to make an order declaring the nature, extent and value of such a person's interest. Section 35 of the MLPA also allows for the protection of third-party interests in respect of property seizures. Pursuant to s. 35(2) of the MLPA, where the DPP makes an application for an order regarding properties it has identified to satisfy a freezing order or confiscation order against a person, the DPP is required to publish the order in a weekly newspaper so that all those claiming legal interests in the property may appear in support of their claims.

Criterion 4.4 - There are mechanisms in place for the management of funds and when possible, disposal of property seized, frozen or confiscated. Sec 36 (1) of the MLPA established the Asset Forfeiture Fund (AFF) and along with ss.36A, 36B and 36C, contain mechanisms for the management of property, proceeds and instrumentalities forfeited under s. 31(1). Sec 28 (record of property seized) and 40 (disposal of property seized or dealt with) contains measures for management and disposal of property by the police and court, respectively. The POCA also makes provision for the appointment of management receiver, interim receiver and enforcement receiver (ss. 59Q, 59T and 59NNC), all of which address the requirements of the criterion.

Weighting and Conclusion

Recommendation 4 is rated Compliant.

Recommendation 5 - Terrorist financing offence

The CFATF rated this Recommendation (previously SR II) as PC with the requirements relative to the criminalisation of TF in its 3rd Round Mutual Evaluation. The rating was based on deficiencies found in the SFTA relative to, *inter alia*, the application of Dominica's criminal law to TF committed abroad, the proof of the offense according to objective factual circumstances, the initiation of parallel criminal, civil or administrative proceedings where more than one form of liability is available, and the definition of terrorist, terrorist act and terrorist organization. Dominica addressed these deficiencies with amendments to the SFTA in 2013.

Criterion 5.1 - Dominica implements paras 1(a), 2, 3 and 4 of Article 2 of the TF Convention in virtue of s.4 of the SFTA, which sets out the TF offence, and s.2 of the same Act, which defines "terrorists act". Sec 4 of the SFTA provides that a person commits an offence within the meaning of the TF Convention if the person by any means unlawfully and wilfully provides or collects funds with the intention or knowledge it will be used to carry out a terrorist act or by a terrorist group, or a by a terrorist. Sec 2 of the SFTA also defines a "terrorist act" to include the elements identified in Article 2 of the TF Convention. Dominica's Interpretation Act defines person to include legal persons.

Criterion 5.2 - According to s. 4(1) of the SFTA, Dominica extends the TF offences to any person who wilfully provides or collects funds or other assets by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part: (a) to carry out a terrorist act(s) and (b) by a terrorist organisation or by an individual terrorist (even in the absence of a link to a specific terrorist act or acts).

Criterion 5.2^{bis} - Sec 4(3)(e) of the SFTA as inserted by s. 4 of the SFT(A)A, 2022, provides for the offence of financing the travel for the purpose of committing, planning, preparation of, or participation in a TF act or providing or receiving TF training.

Criterion 5.3 - Sec 2 of the SFTA extends TF offences to any funds as per the Terrorism Financing Convention. The Act defines “funds” as assets of every kind however acquired. It, therefore, includes both legitimate and illegitimate sources.

Criterion 5.4 - Sec 4(2) of the SFTA sets out that the TF offences do not require that the funds or other assets: (a) were actually used to carry out or attempt a terrorist act(s); or (b) be linked to a specific terrorist act(s).

Criterion 5.5 - Sec 2(3) of the SFTA provides that the knowledge, intent and purpose required as an element of any offence under the Act may be inferred from objective, factual circumstances.

Criterion 5.6 - The sanctions for TF offences in Dominica are effective, proportionate and sufficiently dissuasive. Pursuant s. 5(1) of the SFTA, as amended by s. 5 of the SFT(A)A, 2022, a person who is guilty of TF is liable on conviction in the case of an individual to a fine of XCD500,000/USD184,033 or imprisonment for a term of 25 years or to both.

Criterion 5.7 - While the relevant offence creating section of the SFTA (section 4) uses the general term ‘person’, the SFTA uses the term ‘entity’ in Section 5 to differentiate between the sanctions applicable to natural versus legal persons. Sec 2 of the SFTA defines an *entity* as a partnership, joint venture, association, corporation, network, group or sub-group or any form of business collaboration. Pursuant to s. 5(1)(b) as amended by s. 5 of the SFT(A)A, an entity guilty of TF is liable on conviction to a fine of XCD2,000,000/USD736,133. Sec 5(1)(b) of the SFTA does not affect the criminal liability of natural persons. The penalties are sufficiently proportionate and dissuasive.

Criterion 5.8 - (a) According to s. 4(3) of the SFTA, it is an offence to attempt to commit the TF offence (s. 4(3)(a)). (b) participate as an accomplice in a TF offence (s. 4(3)(b) of the SFTA). (c) organise or direct others to commit a TF offence (s. 4(3) (c) of the SFTA). (d) contribute to the commission of one or more TF offence(s) or attempted offence(s) by a group of persons acting with a common purpose (ss. 4 (3) (d) and (4) of the SFTA).

Criterion 5.9 - Dominica has adopted an all-offences approach in regard to predicate offences; therefore, the offence of terrorist financing is covered. Please see the analysis of criteria 3.2 and 3.3 for more information.

Criterion 5.10 - Sec 10 of the SFTA sets out the High Court of the Commonwealth of Dominica has jurisdiction to try TF offences; furthermore, s. 2 of the SFTA defines *terrorist act*, in part, as an act or omission, whether committed in or outside Dominica, which constitutes an offence within the scope of a counter-terrorism convention.

Weighting and Conclusion

Recommendation 5 is Compliant

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

This Recommendation (formerly SR. III) was rated PC in the 3rd MER because Dominica had no measures to examine and give effect to actions initiated under the freezing mechanisms of other jurisdictions, no effective system for communicating actions taken under the freezing mechanisms, no appropriate procedures for authorizing access to funds or other assets frozen pursuant to S/RES/1267(1999) and no guidance. These deficiencies were addressed by amendments to the SFTA

and issuance of the Central Authority Procedures as indicated in the 3rd FUR in May 2012 and the 6th FUR of November 2013.

Criterion 6.1 - (a) Sec 10A (1) of the SFTA as amended by s. 7 of the SFT(A) Act, 2022 establishes the AG as the competent authority for proposing persons for designations to the UNSCR Committee. Sec 2 of the SFTA, as amended by s. 3 of the SFT(A) Act, 2022 defines “UNSCR Committee” to include a Committee established by UNSCR1267/1999 and its successor resolutions, or 1988/2011 and its successor resolutions.

6.1 (b) Under ss. 13F and 13G of the SFTA as amended by the SFT(A)A, 2022, Dominica has a mechanism for identifying targets for designation based on the designation criteria set out in the relevant UNSCRs. Sec 10A (4) of the SFTA provides that the AG shall employ procedures and mechanisms to collect or solicit as much information as possible to identify persons that would meet the relevant criteria for designation to the relevant UNSCR Committee. Sec 13F of the SFTA as amended by s.13 of the SFT(A)A, 2022 also provides for the establishment of a Sanctions Committee which is responsible for, among other functions, identifying persons who satisfy the criteria for designation. This Sanctions Committee, pursuant to s. 13G (1) of the SFTA, reports to the competent authority under ss. 10A and 11.

6.1 (c) Sec 10A (2) of the SFTA as amended by s. 7 of the SFT(A)A, 2022 provides that the AG must consider the criteria for designation to the relevant UNSCR Committee and make proposals for designation under sub-s (1) when he is satisfied after consideration of the criteria, notification and any other relevant information that there is a reasonable basis for proposing the designation of the person to the relevant UNSCR Committee. The law does not require that such proposals be conditional upon the existence of a criminal proceeding.

6.1 (d) Sub-sec 10A(3)(d) of the SFTA as amended by the SFT(A)A, 2022, provides that the AG, when making a proposal for designation of a person under sub-s (2), shall follow the procedures and standard forms for listing as adopted by the relevant UNSCR Committee.

6.1(e) Sub-sec 10A(3) of the SFTA as amended by the SFT(A)A, 2022, provides that the AG, when making a proposal for designation of a person under sub-s(2), shall (a) provide as much information as possible on the person proposed to be designated; (b) ensure that the proposal includes a statement of case which contains as much detail on the basis of the listing; and (c) where the proposal for designation is made to the 1267/1989 UNSCR Committee, specify whether the status of the person proposed to be designated may be made known.

Criterion 6.2 - (a) In relation to UNSCR 1373, under s. 11 (1) of the SFTA as amended by s.8 of the SFT(A)A, 2022, the Minister responsible for national security is appointed as the competent authority with responsibility to designate a person as a terrorist, terrorist group or terrorist organisation if they meet the specific criteria for designation, as set forth in UNSCR 1373. This section does not prevent the Minister from making such designations on the basis of information received from a foreign state. Further, s. 12C of the SFTA, provides for the Court or competent authority to receive a request from the Court of another State to freeze the accounts, funds or property connected to a terrorist, terrorist act or group, that was the subject of the freezing mechanism of the requesting state.

6.2 (b) Sec 13F of the SFTA as amended by SFT(A)A, 2022 provides for the establishment of a Sanctions Committee which is responsible for, among other functions, identifying persons who satisfy

the criteria for designation. This Sanctions Committee, pursuant to s. 13G (1) of the SFTA, reports to the competent authority under s. 10A or s.11.

6.2 (c) Sec 36A (1) of the SFTA empowers the Court or the CA to receive requests from foreign jurisdictions to identify, freeze, seize, confiscate or forfeit property or proceeds connected to offences under that Act and to take appropriate actions under the SFTA. The CA is also not precluded from designating a person as a terrorist on the basis of a foreign request under s.11 of the SFTA. However, there are no guidelines or procedures in place in this regard, including measures to guarantee prompt consideration of the request.

6.2 (d) Under s.11(1), the standard applied by the Minister in making designations is “reasonable grounds”. There is no requirement in law that these proposals are conditional upon the existence of criminal proceedings.

6.2 (e) Dominica does not have any provisions when requesting another country to give effect to the actions initiated under the freezing mechanisms, to provide as much identifying information, and specific information supporting the designation, as possible.

Criterion 6.3 - (a) Sec 10A (4) of the SFTA provides that the AG shall employ procedures and mechanisms to collect or solicit as much information as possible to identify persons that would meet the relevant criteria for designation to the relevant UNSCR Committee. This is supported by s. 13F of the SFTA, as amended by s. 13 of the SFT(A) Act, 2022 which provides for the establishment of a Sanctions Committee which comprises of representatives from several agencies including the CDPF, FIU and FSU, which is responsible for, among other functions, identifying persons who satisfy the criteria for designation, coordinating and conducting the necessary investigations for the purposes of identifying persons who satisfy the criteria for designation. This Sanctions committee, pursuant to s.13G(1) of the SFTA, as amended by s. 13 of the SFT(A) Act 2022, reports to and has to notify the competent authority in s. 10A (the AG) or s. 11 (the Minister). Under s. 13G (2), the notice must be supported by as much information as possible on the person identified, the designation criteria that the person is believed to have satisfied and the grounds for believing that the person satisfied the designation criteria. **(b)** Pursuant to s.11, there is no prior notification of the person who is being designated. The authorities are therefore able to act *ex parte*.

6.4 - UNSC designations pursuant to UNSCR 1267 are automatically incorporated into the domestic law of Dominica but there are no clear mechanisms to ensure that assets are frozen within 24 hours and remain subject to a freeze for the duration of the period of designation by the UNSC. As it relates to UNSCR 1267, the legal requirement to freeze property takes effect at the earlier of two events: (i) making of a designation order by the Minister of national security and publishing of the said designation Order by the AG or (ii) prior to the designation order being made, or an order being obtained by the AG, a person becomes aware that a person has been designated by the UNSC. Sec 2 of the SFT(A) Act 2022, defines a “designated entity” as an individual or entity and their associates designated under s. 11 or designated as a terrorist or terrorist group by the Security Council of the United Nations. Once a designation order is made by the Minister responsible for national security, s. 12 (1) of the SFTA authorises the AG to issue an order in writing to the FI or DNFBP requiring it to freeze any account, funds or property held by that FI or DNFBP on behalf of a person or terrorist group which is the subject of a designation order. More generally, s. 13B (1) of the SFTA applies to all natural and legal persons in Dominica and requires a person to freeze without delay and without prior notice the funds or other assets of a designated entity. Sec 11A (3) of the SFTA obliges the FSU to circulate to all FIs and listed

businesses, any additions to that list or a new list immediately by facsimile and any other electronic transmission when new information has been obtained. The Central Authority Procedures requires the Ministry of Foreign Affairs immediately upon receipt of the names of persons designated by the UN as terrorists or terrorist organisations to forward such names to the FIU and FSU who are required to cooperate with each other in order to verify the information so as to initiate Dominica's designation process. Following the verification process, the FIU forwards the names to the Ministry of National Security (MNS), the AG and the FSU. The MNS upon the receipt of the names immediately begin the preparation of a designation order for the names. As soon as the designation process begins the FSU is required to immediately forward via email, facsimile, post or hand delivery, the UN designated names to all FIs and DNFBPs for their urgent and immediate action. Although the legislation imposes an obligation to freeze assets immediately, this asset freeze lasts for seven days unless the AG obtains an order from the court. In respect of UNSC 1373 designations, s. 12 (1) of the SFTA makes provision for the AG to issue an order in writing to the FI or DNFBP requiring it to freeze any account, funds or property held by that FI or DNFBP on behalf of a person who is designated as a terrorist or terrorist group which is the subject of a designation order. The requirement to freeze takes effect immediately.

Criterion 6.5 - (a) Sec 13 of the SFT(A)A 2022 makes provision for a person to freeze without delay and without prior notice the funds or other assets of a designated entity. Sec 2 of the SFTA as amended by s. 3 of the SFT(A) 2022, provides for the definition of "designated entity" which means an individual or entity and their associates designated under s. 11 or designated as a terrorist or terrorist group by the Security Council of the United Nations. Sec 12(1) of the SFTA, was amended by s. 12 of the SFT(A)A, 2022 to include scheduled businesses which would thus allow for the dissemination to FIs and scheduled businesses.

6.5 (b) Sec 13B (2) provides that for the purposes of sub-s (1), a person shall freeze the funds or other assets (a) that are owned or controlled by the designated entity and it is not necessary that those funds or assets are tied to a particular terrorist act, plot or threat; (b) that are wholly or jointly owned or controlled, directly or indirectly, by the designated entity; (c) derived or generated from funds or other assets owned or controlled directly or indirectly by a designated entity; and (d) of person and entities acting on behalf of, or at the direction of designated entities.

6.5 (c) Sec 13C of the SFTA as amended by s. 13 of the SFT(A)A 2022 makes provision for the prohibition of a person to make available any funds or other assets, economic resources, or financial or other resources directly or indirectly, wholly or jointly, for the benefit of a designated entity or to any persons acting on behalf of a designated person. Sec 2 of the SFTA as amended by s. 3 of the SFT(A) 2022, provides for the definition of "designated entity" which means an individual or entity and their associates designated under s. 11 or designated as a terrorist or terrorist group by the Security Council of the United Nations. Additionally, s. 14 of the SFTA, as amended by s. 14 of the SFT(A)A, 2022 makes provision for "a person designated under section 11", which cures the deficiency of the inapplicability to all persons and entities contemplated. However, this does not take into account entities owned or controlled, directly or indirectly, by a designated person or entity.

6.5 (d) Sub-sec 11A(2)(c) of the SFTA requires the Supervisory Authority to circulate the list of designated entities immediately to FIs and scheduled businesses requesting information on whether these designated entities have funds in Dominica. Sec 47(1) of the SFTA places an obligation for the FSU to issue guidelines to entities or professionals or persons in possession of funds related to a terrorist or terrorist group, including funds which are the subject of a freezing order.

6.5 (e) Sec 13D (1) of the SFTA as amended by s. 13 of the SFT(A)A 2022 requires all FIs and DNFBPs, to notify the AG, the FIU and the FSU of the action taken to prohibit the dealing in funds, assets or other economic resources of designated terrorists. This includes any attempted transactions. The supervisory authority for TF was extended to the ECSRC for the supervision of Securities exchange as well as to the ECCB for supervision of the banks. As such, s. 2 of the Act was amended to include the definition of Supervisory Authority to now include the FSU, the ECCB and the ECSRC.

6.5 (f) There are no provisions to adopt measures which protect the rights of bona fide third parties acting in good faith when implementing the obligations under Rec 6.

Criterion 6.6 - (a) There are no mechanism to address this sub-criterion.

6.6 (b) Sec.13 and 11(6) – (7) of the SFTA empowers the AG to review designation orders and also empowers the Minister, acting on the advice of the AG to amend or revoke orders. Additionally, while the underlying designation order may be challenged, the legislation does not clearly outline the unfreezing procedure in respect of freezing orders issued by the AG. Other than publication in the legislation, the process for de-listing and unfreezing following a change in circumstances is not publicly known.

6.6 (c) Sec 13A of the SFTA as amended by s. 13 of the SFT(A)A 2022 makes provision for an application for review of an order made pursuant to Dominica’s obligations under UNSCR 1373. This allows a person who is likely to be affected by the designation order or the freezing order to be served a copy of the order and may apply to a judge for review of the order. A person likely to be affected by an order may include a person with the same or similar name to a person named in a designation order. A designated entity may however make an application for review by the Court only within the first 30 days. The law provides that the AG will cause guidelines on delisting to be published but none have been published to date. Other than publication in the legislation, the process for challenging a designation is not publicly known.

6.6 (d) and (e) Sec 13E (4) provides that where a person has been placed on a UN Sanctions List maintained by the UNSCR Committee 1267/1989, 1988 or 2253 the AG shall, as far as practicable, inform the person of the availability of the UN office of the Ombudsperson or focal point for de-listing, as appropriate for petitioning the removal from a UN Sanctions List. Other than publication in the legislation, the authorities have not published guidance on the process for application for review.

6.6 (f) As it relates to designations pursuant to UNSCR 1267, s. 13A of the SFTA as amended by the SFT(A)A 2022 allows a person who is likely to be affected by the designation order or the freezing order to be served a copy of the order and to apply to a judge for review of the order. A person likely to be affected by an order may include a person with the same or similar name to a person named in a designation order. However, there is no equivalent for UNSCR 1373. Other than publication in the legislation, the authorities have not published guidance on delisting and unfreezing in respect of false positives.

6.6 (g) Sec 13E (2) makes provision for the AG to cause a notice of the delisting to be given to FIs and DNFBPs, to indicate that the person named in the notice is no longer a person to whom ss. 13B, 13C and 13D apply. While these procedures exist for UNSCR 1267, there is no equivalent for UNSCR

1373. Other than publication in the legislation, the authorities have not published guidance on delisting and unfreezing in respect of false positives.

Criterion 6.7 - For persons designated pursuant to UNSCR 1373, s. 12 B of the SFTA authorises access to frozen accounts, funds or property. This provision allows the Court, on an application of a person who is the subject of a freezing order or in making an order for extension of time for a freezing order, to give directions with regard to the disposal of the accounts, funds or property in respect of **(a)** determining any dispute as to the ownership of the accounts, or property or any part thereof; **(b)** its proper administration during the period of freezing; **(c)** the payment of debts due to creditors prior to the order; and **(d)** the payment of money to a person for the reasonable subsistence of that person and his family. As it relates to designations pursuant to UNSCR 1267, s. 12(5) of the SFTA as amended by s. 12 of the SFT(A) Act, 2022 provides for access which may be authorised to funds or other assets determined in accordance with UNSCR 1452 and its successor resolutions to be necessary for basic expenses, the payment of certain types of fees and service charges or extraordinary expenses.

Weighting and Conclusion

Dominica has some measures for the local designation of terrorists and terrorist groups and requirements for persons to implement targeted financial sanctions for UN designated persons and entities. Under the SFTA, the obligation to freeze assets in respect of UNSC designations arises immediately upon designation by the UNSC Committees as the definition of a designated entity automatically incorporates the UNSC 1267/1989 list into Dominica's domestic law but there are no clear mechanisms to ensure that assets are frozen within 24 hours and remain subject to a freeze for the duration of the period of designation by the UNSC. While the asset freeze expires after seven days, FIs and DNFBPs remain under an obligation to refrain from entering into or continuing a business relationship with the listed entities. The measures for delisting and unfreezing are not publicly known. Dominica also has no measures in place to protect bona fide third parties in the implementation of TFS. **Recommendation 6 is rated Partially Compliant.**

Recommendation 7 – Targeted financial sanctions related to proliferation

Recommendation 7 is a new recommendation, there is therefore no previous rating or country information.

Criterion 7.1 - 7.5 - There are no mechanisms to address these criteria.

Weighting and Conclusion

Dominica has no mechanism in place to address the requirements of recommendation 7.

Recommendation 7 is rated Non-Compliant

Recommendation 8 – Non-profit organisations

This Recommendation, formerly SR. VIII, was rated 'NC' in the 3rd MER due to deficiencies such the lack of measures to identify NPOs at risk of being misused for TF; no requirements for NGOs to report unusual donations; no sanctions in place for non-compliance with reporting requirements. Dominica's 8th FUR 2014, reflects that the jurisdiction had taken sufficient action to address identified deficiencies.

Criterion 8.1 - (a) Dominica did not provide to the AT, by the end of the onsite the types of NPOs which make up the subset, that is, NPOs which raise or disburse funds in accordance with the FATF definition of NPOs and NPOs which by virtue of their activities or characteristics are likely to be at risk of terrorist abuse. **(b)** There are no mechanisms to address this sub-criterion. **(c)** Regulation 4(1)(c) of the TNPOR, provides for the NPO Supervisor, FSU, to monitor the effectiveness of the NPO legislation in protecting NPOs from being used for the financing of terrorism. Dominica has amended the TNPOR to extend sanctions to those who control and/or operate on behalf of NPOs and provide for further record keeping obligations by NPOs. However, the FSU has not exercised this function to review the adequacy of measures, including laws and regulations, given that the subset of NPOs have not yet been identified. **(d)** There are no measures to implement this sub-criterion.

Criterion 8.2 - (a) Reg. 4 of the TNPOR provides for the FSU to promote accountability, integrity and public confidence in the administration and management of NPOs. The FSU has established an NPO registry and information regarding the registration process of NPOs has been uploaded to the FSU's website. The FSU has also collaborated with both CIPO and the IRD to maintain comprehensive information on the NPO sector. **(b)** Reg. 4(1) (e) of the TNPOR provides for the Trusts and NPO supervisor to undertake outreach to trust and non-profit organisations. Further, reg. 4(2) of the TNPOR provides for outreach activities to include (a) raising awareness of trusts and non-profit organisations concerning the risks of terrorism and financing of terrorism abuse and the measures available to protect against such abuse; and (b) promoting transparency, accountability, integrity and public confidence in the administration and management of trusts and non-profit organisations. However, Dominica has not conducted outreach and educational programmes to raise and deepen awareness among NPOs. **(c- d)** There are no measures to address these sub-criteria.

Criterion 8.3 - Dominica has established a legal framework (TNPOR) for the AML/CFT supervision and monitoring of NPOs. Reg. 4(1)(b) of the TNPOR empowers the FSU's authority to monitor NPOs for compliance under the applicable NPO legislations and the analysis of deficiencies in criterion 8.1 applies here. The country has provided no measures whereby it has taken required steps to promote the effective supervision or monitoring as the subset of NPOs at risk of TF abuse has not been identified.

Criterion 8.4 - (a) Reg 4 of the TNPOR provides for the Trust and NPO Supervisor to monitor compliance of NPOs with the requirements of this recommendation. However, there have been no risk-based measures to monitor compliance in NPOs and the analysis of deficiencies in criterion 8.3a applies here. **(b)** There are proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of NPOs. Sanctions for NPOs include a fine of XCD20,000/USD7,400 for failure to maintain records (r.14(3) TNPOR) and a fine of XCD50,000/USD18,403 for failing to register (r. 7 (3) TNPOR) and providing false and misleading information (r.16 of the TNPOR). Reg14 (3A) TNPOR, as amended, 2022 provides for the sanction of a fine of XCD50,000/USD18,403 on summary conviction for a controller of an NPO who knowingly and without reasonable cause contravenes the TNPOR 14(1) or (2). Further, amendment to the TNPOR, r 15A of the TNPOR, 2022, provides for the disqualification of the controller of an NPO under a series of circumstances which includes conviction for an offence under the POCA, MLPA or the SFTA, a conviction in Dominica or elsewhere for an offence involving fraud or dishonesty and designated as an individual or entity under the SFTA.

Criterion 8.5 - (a) There are signed MOUs for effective cooperation, coordination and information sharing among the relevant authorities i.e. FSU, FIU, CDPF, IRD and CIPO. Further, pursuant to s. 328(4) of the Companies Act, the Registrar shall forward a copy of the articles of incorporation of an

NPO to the FSU immediately after these are accepted for filing. Additionally, Companies registered at CIPO automatically feed directly into a shared IT System between the IRD and CIPO. **(b)** The FIU and CDPF staff have received AML/CFT training, possess investigative expertise and are capable of examining those NPOs suspected of either being exploited by or actively supporting the terrorist activity or terrorist organizations. **(c)** Pursuant to r. 3 (a-b), the FSU can investigate and take action that it considers necessary when NPOs are suspected of, or implicated in, TF and other forms of terrorist activities. Reg 5(c) of the TNPOR provides for the Trust and NPO Supervisor, FSU, to examine and make copies of documents belonging to or in the possession or control of a non-profit organisation. Under r. 6 of the TNPOR the FSU maintains a broad range of relevant information obtained at registration and through NPO filings. Reg 15 of the TNPOR empowers the FSU to require a registered NPO to produce any record deemed necessary. Additionally, analysis in criterion 8.5(a) applies here to ensure access to information on the administration and management of NPOs for investigative purposes. **(d)** There are no measures to address this sub-criterion.

Criteria 8.6 - The central authority for transmitting and receiving formal requests for assistance is the AG of Dominica appointed under s. 4 of MACMA. Sec. 20 of the MACMA makes provision for the receipt of requests for obtaining evidence or information relating to any criminal matter, which, by interpretation, includes requests for information regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support. Additionally, the SFTA is applicable to NPOs according to r 2(1) “NPO legislation” TNPOR. Under s. 34 of the SFTA, the AG can disclose to an appropriate authority any information in its possession on actions or movements of terrorists or persons suspected of involvement in the commission of terrorist acts. Further, s. 36(B) of the SFTA provides for informal sharing of information by the FIU and FSA with international counterparts relating to matters on terrorism and terrorist financing.

Weighting and Conclusion

The NPO Supervisor, FSU, has not identified the NPOs which fall within the FATF definition of NPOs and the subset of most vulnerable NPOs to TF abuse. Additionally, threats posed by terrorist entities to NPOs have not been identified, nor has there been any review of the current laws and regulations in order to take proportionate measures. The FSU has the function to promote accountability, integrity and public confidence in the administration and management of NPOs. There is currently a Trust and NPO supervisor with the function to supervise and monitor NPOs, however, these measures have not been undertaken by the FSU, particularly in accordance with a risk-based approach. Effective information sharing is facilitated via MOUs signed between the FSU, IRD, FIU and CIPO and formal requests for assistance.

Recommendation 8 is rated Partially Compliant.

Recommendation 9 – Financial institution secrecy laws

In the 3rd round MER, Dominica was rated partially compliant with these requirements. The summary of factors underlying the rating related to the lack of enactment of provisions allowing the ECCB, FSU, the MLSA and registered agents to share information with other competent authorities as well as the inability of the competent authorities to share information without an MOU or court order.

Criterion 9.1 - Sec32 of the FSUA allows the Director of the FSU to share information with the ECCB, subject to a confidentiality agreement and an MOU; or seek assistance, share or request information from other regulatory authorities, including a foreign regulatory authority. Sec 48 of the MLPA

overrides the secrecy obligations and provides that subject to the Constitution, the provisions of the Act have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information. Sec 47(10) of the POCA provides that a monitoring order shall have effect notwithstanding any obligation to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise. Sec 9(5) of the Customs Act contains provisions allowing the Comptroller to disclose or authorise the disclosure of any document or information in accordance with any law, treaty, agreement or arrangement concluded by Dominica, for the overriding of secrecy provisions of other legislation. Additionally, the MOU between Customs and the FIU provides a mechanism whereby customs officers can obtain information using the provisional measures of the FIU.

Pursuant Article 18(8) of the TOCPCA, requests for information from the banks must be fulfilled notwithstanding any obligation to bank secrecy and parties shall not decline to render mutual legal assistance on the grounds of bank secrecy. Sec 35(2) of the SFTA provides that requests for information must be fulfilled notwithstanding any obligation to secrecy, confidentiality or any other legal restriction except in the case of legal professional privilege. Sec 5(2) of the TIEA provides that the duty of secrecy in s.5(1) should not be construed to prevent the disclosure of any confidential information to individuals or authorities in relation to tax matters.

Weighting and Conclusion

Recommendation 9 is rated Compliant.

Recommendation 10 – Customer due diligence

The Recommendation formerly R. 5 was rated NC in the 3rd MER due to some requirements not being enforceable, lack of EDD measures for high-risk customers, FI's inadequate CDD measures on existing customers with anonymous accounts and the lack of guidance for insurance companies on their CDD obligations to identify and verify clients. To address these issues, Dominica amended its AML/CFT legislation in 2013 to close these gaps. The deficiencies were considered rectified; however, since that time the FATF requirements for CDD have substantially changed.

Criterion 10.1 - Sec 36 (1) (b) of the Code states that an “entity shall not, keep or maintain an anonymous account or an account in a fictitious name, whether or not on its own behalf or on behalf of a customer or otherwise.” An entity as defined in s. 2 of the Code is (a) a person or institution that is engaged in a relevant business within the meaning of r. 2(1) of the MLPR; or (b) a person that is engaged in a relevant non-financial business activity listed in Part 11 of Schedule II to the POCA. Relevant business, as defined in the MLPR, includes all types of financial activities conducted by FIs in Dominica in accordance with FATF standards and DNFBP activities. Consequently, “entity” would include both FIs and DNFBPs. The above measure fully complies with the requirement of the criterion.

Criterion 10.2 - (a) Sec 21(4) of the Code requires entities or professionals to undertake CDD:

- (a) when establishing a business relationship
- (b) when effecting a one-off transaction (including a wire transfer) which involves funds of or above XCD10,000 /USD3,700 or such lower threshold as the entity may establish
- (c) when there is a suspicion of money laundering or terrorist financing, irrespective of any exemption or threshold that may be referred to in the Code

(d) when there are doubts about the veracity or adequacy of previously obtained customer identification data

Additionally, r. 9 of the MLPR requires FIs to establish and verify the identity of a customer in the circumstances described above and for transactions of an amount of at least XCD10,000/USD3,700 whether conducted as a single transaction or several transactions that appear to be linked. The above provisions fully comply with the requirements of sub-criteria of the FATF methodology **(b)**, **(d)** and **(e)**. **(c)** With regard to the sub-criterion (c) of the FATF methodology concerning wire transfers, in accordance with s. 39 and s. 41(1) of the Code, as amended 2022, FIs are required to undertake CDD measures to obtain full originator and beneficiary information in the circumstances covered by recommendation 16 and its Interpretive Note.

Criterion 10.3 - Reg 9(1)(a) of the MLPR requires FIs to establish and verify the identity of a customer by requiring the customer to produce an identification record or other reliable and independent source document when establishing business relations. Additionally, specifics for the verification by FIs of natural persons, legal persons and trusts are set out in ss. 26, 27 and 30 of the Code, respectively.

Criterion 10.4 - Sec 21(2) and (3) of the Code require FIs to conduct CDD with all applicants and customers. This includes inquiring into and identifying the identity of persons who purport to act on behalf of an applicant for business or has been authorised by a customer.

Criterion 10.5 - Sec 21(3)(c) of the Code requires FIs to conduct CDD using reliable evidence through such inquiry as is necessary to verify the identity of the applicant for business or intended customer. Sec 26(1)(b) of the Code requires FIs, with respect to an individual, to undertake identification and verification measures where the individual is the beneficial owner or controller of an applicant for business. Sec 28(2) of the Code requires FIs to take reasonable measures to verify the beneficial owners or controllers of a legal person and update information on any changes to the beneficial ownership or control. Beneficial owner as defined in s. 2 of the Code means the natural person who ultimately owns or controls an applicant for business or customer or on whose behalf a transaction or activity is being conducted which includes a natural person who ultimately owns or controls, whether directly or indirectly, ten or more per cent of the shares or voting rights in the legal person; a natural person who otherwise exercises control over the management of the legal person; or in the case of a legal arrangement the (i) the partner or partners who control the partnership, (ii) the trustee or other person who controls the applicant and (iii) the settlor or other person by whom the legal arrangement is made.

Criterion 10.6 - Sec 21 (2) and (3) (b) of the Code requires FIs to obtain information on the purpose and intended nature of the business relationship. The section dictates that CDD must be conducted to ensure that the nature and purpose of the business be obtained when carrying out a transaction. Additionally, s.21(3)(d) of the Code requires FIs to understand the circumstances and business of the applicant for business or the intended customer. Similar provisions are in r. 10 (1)(a) of the MLPR requiring FIs to, when establishing a business relationship, obtain information on the purpose and nature of the business relationship. The above provisions fully comply with the requirements of the criterion.

Criterion 10.7 - **(a)** Sec 21 (3) (e) of the Code requires FIs “to conduct, where a business relationship exists, ongoing monitoring of that relationship and the transactions undertaken for purposes of making an assessment regarding consistency between the transactions undertaken by the customer and the

circumstances and business of the customer.” Additionally, r. 11 of the MLPR requires FIs to use ongoing CDD measures with every business relationship and closely examine all transactions to determine whether they are consistent with their knowledge of the relevant customer, his commercial activities, if any, risk profile and, where required, the source of funds. **(b)** Sec 22 (3) (d) of the Code, with respect to higher risk business relationships, requires customers or transactions to be subject to an increased level of ongoing controls and frequency of reviews for established business relationships. Sec 22(4) of the Code outlines the types of businesses relationships which should be considered by FIs as high risk and require the application of enhanced due diligence. Accordingly, under s. 23(1) of the Code, the CDD information for a business relationship that presents a higher risk shall be reviewed and kept up to date at least once every year. Sec 23(2) of the Code requires FIs to continually review business relationships assessed to present normal or low risk and keep up-to-date the customer due diligence information in respect of that customer at least once every three years. Further, where FIs form the opinion that an existing customer presents a high risk or engages in transactions that are of such a material nature as to pose a high risk, it shall apply customer due diligence or, where necessary, enhance customer due diligence, measures and review and keep up to date the existing customer's due diligence information (s. 23(4) Code) irrespective of the periods stated in s. 23 (1) Code.

Criterion 10.8 - Sec 21 (5) (b), (c) and (d) of the Code requires entities or professionals as it pertains to legal persons and trustee of a trust to determine: **(a)** The type of trust or legal person; **(b)** the nature of the activities of the trust or legal person and the place where its activities are carried out; **(c)** in the case of a trust, i) where the trust forms part of a more complex structure, details of the structure, including any underlying companies; and ii) classes of beneficiaries, charitable objects and related matters; **(d)** in the case of a legal person, the ownership of the legal person and, where the legal person is a company, details of any group of which the company is a part, including details of the ownership of the group; and **(e)** whether the trust or trustee or the legal person is subject to regulation and, if so, details of the regulator; s. 21(3)(f) of the Code requires an entity or a professional conducting CDD to inquire into and identify a person who purports to act on behalf of an applicant for business or a customer, which is a legal person or a partnership, trust or other legal arrangement, is so authorised and to verify the person’s identity.

Criterion 10.9 - Sec 27(2) of the Code requires FIs to identify and verify a legal person and obtain full identification and verification information which includes, but is not limited to obtaining (a) the full name of the legal person; (b) the official registration or other identification number of the legal person; (c) the date and place of incorporation, registration or formation of the legal person; (d) the address of the registered office in the country of incorporation of the legal person and its mailing address, if different. These measures fully comply with the requirements of sub-criteria **(a)**, and **(c)** for legal persons. Sec. 27(4) of the Code requires verification of the powers that regulate and bind, and a. 27(2)(g) requires the identity of each director of the legal person, including each individual who owns at least ten or more per cent of the legal person. Sec 28(2) and 25(9) guide the entity or professional to take reasonable measures to verify the beneficial owners or controllers of a legal person. Verification may be conducted on the senior members of a family, the principal shareholders or the main directors of a company. Sec 27(6) and 27(8) of the Code makes provision for obtaining additional information which includes senior management. Regarding legal arrangements, s.30 (1) of the Code requires FIs to verify legal arrangements satisfying identifying: (a) the name of the trust; however, the other aspects (b) and (c) of the criteria are not satisfied, i.e. to verify the legal form, proof of existence, powers that regulate and bind, and the address of the registered office, or if different, the principal place of business.

Criterion 10.10 - Sec 29(4) of the Code defines "principal" to include a BO, settlor, controlling shareholder, director or a beneficiary (not being a controlling shareholder) who is entitled to ten or more per cent interest in the legal person. Sec 29(1) of the Code requires FIs to verify the underlying principal of a legal person and establish the true nature of the relationship between the principal and the legal person's account signatory. Sec 29(2) and 29(3) of the Code require FIs to make appropriate inquiries on the principal and ensure that a change in an underlying principal, BO or controller of the underlying principal is properly recorded; and the identity of the new underlying principal, the beneficial owner or controller of the principal is appropriately verified. **(a)** The above measures require FIs to obtain information on the identity of the natural persons who ultimately have a controlling ownership in a legal person as required. **(b)** Sec 29(4A) and (4B) of the Code (as amended in 2022) provides that where there is doubt as to whether the person with controlling interest is the BO or where no natural person exerts control through ownership in the principal, the entity or professional shall identify the natural person exercising control of the legal person or arrangement through other means and **(c)** Where no natural person is identified under (a) or (b) above, s.29(4B) of the Code (as amended in 2022) provides for the identification of the relevant natural person who holds the position of senior managing official where an entity is unable to identify a natural person under s. 29(4A).

Criterion 10.11 - Sec30 (1) of the Code requires FIs to undertake reasonable measures to identify and verify legal arrangements. By definition in s. 2, the Code (as amended in 2021) defines beneficial owners in the case of legal arrangements as "(i) the partner or partners and any other natural person exercising control over the partnership; (ii) the settlor, the trustees, the protector, the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over a trust, including through a chain of control. These measures satisfy sub-criteria **(a)**. Sec 2 of the Code also defines beneficial owners as (iii) any person holding a position that is equivalent or similar to the positions referred to in sub-para (i) or (ii) for other types of legal arrangements. This legislation satisfies sub-criteria **(b)**.

Criterion 10.12 - **(a)** With respect to beneficiaries of life insurance policies and other investment related insurance policies, s. 24A(1) of the Code (as amended) requires an entity or professional to: (a) undertake identification and verification as soon as the beneficiary is identified or designated, and in all cases at or before the payout or the time when the beneficiary intends to exercise vested rights under the policy; **(b)** where a beneficiary is designated by characteristics or by class or by other means, obtain sufficient concerning the beneficiary to satisfy the entity or professional that it will be able to establish the identity of the beneficiary at the time of the payout. As noted, sub-criteria **(c)** met by the above measures.

Criterion 10.13 - Sec 24A(2) of the Code (as amended in 2022) requires an entity or professional to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced customer due diligence measures are applicable. Sec 24A(3) of the Code (as amended in 2022), provides for enhanced measures, including reasonable measures to identify and verify the identity of the BO, to be taken if a beneficiary of a life insurance policy who is a legal person or legal arrangement presents a higher risk. This is done at the time of payout.

Criterion 10.14 - Sec 25(1)(b) of the Code requires FIs to establish the identity of the applicant for business or the customer by carrying out the verification before or during the course of establishing a business relationship or engaging in a transaction. Pursuant to s. 25 (2) of the Code where it becomes

necessary not to disrupt the normal conduct of business, an FI may complete verification after the establishment of a business relationship on the conditions that:

- (a) the verification is completed within a reasonable period not exceeding thirty days from the date of the establishment of the business relationship.
- (b) prior to the establishment of the business relationship, the entity or professional adopts appropriate risk management processes and procedures, having regard to the context and circumstances in which the business relationship is being developed; and
- (c) following the establishment of the business relationship, the ML or TF risks that may be associated with the business relationship are properly and effectively monitored and managed.

These measures meet sub-criteria (a), (b) and (c) respectively. (c) Pursuant to s. 15(1) and 15(2)(g) of the Code, an entity or a professional shall exercise constant vigilance in its dealings with an applicant for business or with a customer which includes ensuring that the business or professional has in place a system of regularly monitoring and testing the implementation of its or his vigilance systems to detect any activity that point to ML/TF.

Criterion 10.15 - Pursuant to s. 25(2)(b) of the Code, where it becomes necessary, in order not to disrupt the normal conduct of business, for an FI to complete verification after the establishment of a business relationship, it may do so on the conditions that—prior to the establishment of the business relationship, the FI adopts appropriate risk management processes and procedures, having regard to the context and circumstances in which the business relationship is being developed. Additionally, according to s. 25(4)(a) of the Code, risk management processes may include measures which place a limitation on the number, types and amount of transactions that the entity or professional may permit with respect to the business relationship, requiring management approval before the business relationship is established and measures which require the monitoring of a large, complex or unusual transaction which the entity or professional considers not to be normal for the business relationship. The above provisions fully comply with the requirements of the criterion.

Criterion 10.16 - Sec 11 of the MLPR requires that entities employ ongoing CDD measures in respect to every business relationship and closely examine the transactions conducted in the course of a business relationship to determine whether the transactions are consistent with its knowledge of the relevant customer, his commercial activities if any and risk profile and where required, the source of funds. Sec 23(1) and 23(2) of the Code require entities to review and update CDD for higher-risk customers at least annually and normal or low-risk accounts at least once every three years. Sec 21(3)(e) of the Code requires entities to conduct ongoing monitoring on existing relationships and assess the consistency of transactions undertaken by the customer with the customer profile. There are no provisions in the Code or MLPR that consider materiality in relation to this criterion.

Criterion 10.17 - Reg 12 of the MLPR requires FIs conducting ongoing monitoring to apply enhanced due diligence on a risk-sensitive basis in any situation which, by its nature, presents a higher risk of ML. Additionally, under ss. 22 (2) (3) & (4) of the Code are required to conduct EDD with respect to higher risk business relationships, customers and transactions for ML/TF.

Criterion 10.18 - Sec 21(8) of the Code (as amended in 2022) requires where a FI determines that a customer poses low risk, the entity may reduce or simplify the CDD measures; but the simplified customer due diligence measures must be commensurate with the lower risk factors. Under s. 21(4)(c),

CDD is applicable whenever there is a suspicion of ML/TF or specific high-risk scenarios. Under s. 21(8), once an entity makes a determination that a customer poses a low risk, it may reduce or simplify the customer due diligence measures as required.

Criterion 10.19 - Reg 8(1) of the MLPR requires FIs to obtain as soon as it is reasonably practicable after first contact with an applicant for business, concerning any particular business relationship or transaction the production by the applicant for business of satisfactory evidence of identity; or take measures that will produce evidence of identity and where that evidence is not obtained, the business in question shall not proceed. Sec 25 (5) of the Code also stipulates that where an FI establishes a business relationship pursuant to subsection (2) and **(a)** discovers or suspects, upon subsequent verification, that the applicant for business or customer is or may be involved in ML/TF and; **(b)** fails to secure the full cooperation of the applicant for business or customer in carrying out or completing verification of the applicant for business or customer; or **(c)** is unable to carry out the required customer due diligence or enhanced customer due diligence requirements in respect of the applicant for business, the FI must: **(i)** terminate the business relationship. **(ii)** submit a report to the FIU outlining its discovery or suspicion; and **(iii)** submit a report to the FIU if it forms the opinion that the conduct of the applicant for business or customer raises concerns regarding money laundering or terrorist financing.

Criterion 10.20 - When FIs form a suspicion of ML/TF and they reasonably believe that performing CDD will tip-off the customer, Sec 34A of the Code (as amended in 2022) requires the entity not to perform CDD and instead file a STR.

Weighting and Conclusion

Dominica's CDD procedures meet the majority of the criteria, with minor shortfalls. Regarding legal arrangements, s. 30 (1) of the Code requires FIs to verify legal arrangements satisfying the requirement of identifying the name of the trust; however, the other aspect of the criterion is not satisfied, i.e. to verify the legal form, proof of existence, powers that regulate and bind, and the address of the registered office, or if different, the principal place of business.

Recommendation 10 is rated Largely Compliant.

Recommendation 11 – Record-keeping

Dominica was rated compliant with the former R.10 in the 2009 3rd Round Mutual Evaluation.

Criterion 11.1 - Sec 16(1) of the MLPA requires reporting entities to keep business transaction records (including all transaction details) for a period of seven years after the termination of the business. Sec 47(1) of the Code also meets the provisions. Sec 47(6) of the Code record keeping requirements also apply when an applicant for business or customer terminates at any time, or for any reason.

Criterion 11.2 - Sec 45 of the POCA requires an entity or professional to keep identity documents including CDD and EDD. Sec 46 of POCA requires an entity or professional to keep transaction records including, among other things, the name and address of the customer, account identifier, account files and business correspondence, sufficient details about the transaction for it to be properly understood (date, originator, currency, beneficiary name and address) etc. Sec 47 of POCA requires such records to be kept for a period of at least seven years. Under s.16(1) of the MLPA, reporting entities are required to maintain all business transaction records for a period of seven years after the termination of the

business relationship. Sec 24(1) of the MLPR requires the maintenance of all CDD and transaction record evidence related to all business transacted in the course of the business relationship. Sec 24 and 24(1) MLPR prescribes that where there have been no formalities to end a business relationship, records should be kept six years after the date of the last transaction. Sec 15(2) of the Code requires FIs to keep findings of examinations/records/analysis of unusual transactions and make them available to the FIU for a period of 7 years.

Criterion 11.3 - Sec 46 (a) to (i) of the Code requires the retention of specific details related to each transaction, including, but not limited to, details on the remitting and beneficiary customers and sufficient details on the transaction for it to be properly understood. Sec 47(1) of the Code requires record keeping requirements to be applied, among other items, customer due diligence, records required by law enforcement and compliance auditing, account files and transaction-related business correspondences and activities related to complex, unusually large or unusual patterns of transactions.

Criterion 11.4 - Sec 44(2) of the Code provides that a record of a business relationship or transaction or any other matter required to be maintained under the MLPR and this Code shall, unless otherwise prescribed, be maintained in a form that it can be easily retrievable. Reg 25 (1) of the MLPR states that a person carrying on a relevant business shall ensure that any records required to be maintained under the Act and these regulations are capable of retrieval in legible form without undue delay.

Weighting and Conclusion

Recommendation 11 is rated Compliant.

Recommendation 12 – Politically exposed persons

Dominica was rated ‘NC’ for R.12, formerly R.6, in its 3rd MER due to the requirement for financial institutions to apply enhanced and ongoing due diligence on their PEPs being outlined in the Guidance Notes, which were determined to be unenforceable. Since then, Dominica addressed this deficiency by capturing the obligation at Regulation 19(2)(d) of the MLPR 2013. However, the FATF requirements for this recommendation have changed.

Criterion 12.1 - Dominica’s legislative framework distinguishes between domestic and foreign PEPs as per the definition in s. 2(1) of the Code, as amended by s. 3 of the (Amendment) Code of Practice, 2022.

- (a) Sec. 24(1)(a) of the Code mandates FIs to have, as part of internal control systems, appropriate risk-based policies, processes and procedures for determining whether an applicant for business or a customer is a PEP. This obligation is also required when it is determined that a beneficial owner is a PEP in accordance with r.19(1) of the MLPR.
- (b) Sec. 24(1)(c) of the Code mandates FIs to obtain senior management approval before establishing or maintaining a business relationship with a PEP.
- (c) Sec. 24(1)(b) of the Code requires FIs, in dealings with customers that are PEPs, to take such reasonable measures as necessary to establish source of funds and the source of wealth respecting such person. This obligation does not, however, apply reasonable measures to establish the source of wealth and the source of funds when BOs are PEPs.
- (d) Reg 19(2)(d) of the MLPR requires FIs to conduct enhanced ongoing monitoring on that relationship.

Criterion 12.2 - (a) Sec. 24(1A)(a) of the Code (as amended 2022) in relation to a domestic PEP or a person who has been entrusted with a prominent function by an international organisation, requires FIs take reasonable steps to determine whether a customer or beneficial owner is a politically exposed person. **(b)** when there is a higher risk business relationship with such a person, FIs are to adopt the measures in criterion 12.1 (b) to (d) (s. 24(1A)(b) of the Code (as amended 2022)). The deficiency identified in Criterion 12.1(c) also applies.

Criterion 12.3 - The definition of a PEP under r2 of the MLPR (as amended 2022) includes family members or close associates of a PEP. The requirements of criteria 12.1(c) and 12.2 applies to this criterion, as the deficiencies identified also apply to family members and close associates of all types of PEPs.

Criterion 12.4 - Sec. 24A(4) of the Code (as amended 2022) requires FIs at the time of payout, to take reasonable measures to determine whether the beneficiaries and/or, where required, the BO of the beneficiary of life insurance policies are PEPs. When higher risks are identified, FIs are required to inform senior management before the payout of the policy proceeds, to conduct enhanced scrutiny on the whole business relationship with the policyholder, and to consider making a suspicious transaction report.

Weighting and Conclusion

While Dominica's legislative framework has measures for PEPs, a deficiency exists for FIs to apply reasonable measures to establish the source of wealth and the source of funds when BOs are PEPs.

Recommendation 12 is rated Largely Compliant.

Recommendation 13 – Correspondent banking

Dominica was rated non-compliant in the 3rd MER as the Guidance Notes and AML legislation did not specifically address correspondent banking and the requirements to properly assess the correspondent, its AML/CFT controls, its reliability regarding CDD and understanding the respective AML/CFT responsibilities of each institution. In the 8th FUR, updates to Regulation 20 of the MLPR addressed the gaps noted by assessors.

Criterion 13.1 - (a) Reg 20(1) (a) to (e) of the MLPR and the Code and s.20 (a) to (c) of the MLPA requires identifying and verifying the respondent institution, the nature of the respondent's business and determining from publicly available information the reputation of the person or entity and the quality of supervision and whether it has been subject to any ML or regulatory action. Sec. 37(1)(b)(i) of the Code provides provisions to fully and properly understand the nature of the respondent banks' business. Secs. 37(1)(b)(iii), 37(1)(c) and 37(1)(f) of the Code requires banks entering or proposing to enter into a corresponding bank relationship to establish whether the respondent bank is, or has been, the subject of a regulatory enforcement action or any ML, TF or other financial crime investigation. **(b)** Sec. 37(1)(c) of the Code requires for correspondent banking relationships, a correspondent bank to assess the respondent bank's AML/CFT systems and controls to satisfy itself that they are adequate and effective. **(c)** Sec. 20 (e) of the MLPA requires the FI to obtain senior management approval for the correspondent banking relationship. Sec 20 (f) of the MLPA requires FIs to document the responsibilities of the FI and the person. **(d)** Sec. 20 (d) and (f) of the MLPR requires a bank in relation to its cross-border correspondent banking and other relationships to assess the persons or entities AML

controls and ascertain that they are adequate and effective and document the responsibilities of the FI and the person. In addition, s.37(1)(f) of the Code requires FIs to ensure that the respective AML/CFT measures of each party to a correspondent banking relationship are fully understood and properly recorded.

Criterion 13.2 - Sec. 38 of the Code meets the requirement for cross-border correspondent banking relationships involving payable-through accounts. Sec. 38 of the Code states that where a correspondent bank provides customer of a respondent bank with direct access to its services, whether by way of payable through accounts or by other means, it shall ensure that it is satisfied that the respondent bank (a) has undertaken appropriate CDD and, where applicable, EDD in respect of the customers that have direct access to the correspondent bank's services; and (b) is able to provide relevant CDD information and verification evidence to the correspondent bank upon request.

Criterion 13.3 - Sec.36(1)(a) of the Code contains a prohibition on shell banks specific to correspondent banking relationships. Sec. 36(1)(a) stipulates that "an entity shall not enter into or maintain a correspondent relationship with a shell bank or any other bank unless the entity is satisfied that the shell bank or other bank is subject to an appropriate level of regulation." Sec. 37(1)(a) prohibits correspondent banks from forming relationships with a respondent bank that provides correspondent banking services to a shell bank. For domestic banks supervised by the ECCB, the ECCB's Administrative Guidelines Governing Establishment and Maintenance of Relationships by a Licensed FI with shell banks prohibits banks from establishing or maintaining any relationship with a foreign bank without a physical presence. These guidelines prevent domestic banks from directly or indirectly establishing or maintaining relationships with shell banks.

Weighting and Conclusion

Recommendation 13 is rated Compliant.

Recommendation 14 – Money or value transfer services

The Recommendation formerly SR. VI was rated NC in the 3rd MER due to the lack of an effective supervisory or regulatory regime and no requirements for licensing and registration by the authorities. These deficiencies were addressed by the enactment of the MSBA and amendments of the MLPA and the FSU Act as indicated in the 8th FUR of November 2014 and were considered fully rectified. The FATF requirements for MVTs have changed.

Criterion 14.1 - Under the MLPA, ss. 4 (1) prohibits a person from carrying on MSB in Dominica unless that person holds a licence. Under s.5 of MSBA the Minister of Finance may exempt persons from the licence requirement if: (i) that person is a local government body or agency; or (ii) the Minister thinks that the exemption would be beneficial to the economic needs of Dominica. In relation to exempt entities, s. 10(1) of the Code stipulates that as part of its prudential inspection, the FSU is expected to review the entity's risk assessments on ML/TF, including the entity's policies, processes, procedures and control systems in order to make an objective assessment of (a) the risk profile of the entity; (b) the adequacy or otherwise of the entity's mitigation measures; (c) the entity's compliance with the requirements of the Act, the MLPA, the regulations and related legislation and guidance notes. In relation to an entity that is not regulated by the FSU but to which, and a professional to whom this Code

applies, the FSU shall perform proportionate inspection actions in relation to such an entity or a professional the duty as noted in s. 10(1).

Criterion 14.2 - Sec. 9(1)(c) of the FSU Act requires the Director to monitor FIs and take actions against persons (individuals and legal persons) carrying on unlicensed financial services business. In the case of a FI, s. 11(3) of the FSU Act stipulates that any person who fails to obtain a licence before conducting business is liable on summary conviction to a fine of XCD500,000/USD185,500, and a further penalty of XCD5,000/USD1,850 for each day that the offence continues after a conviction. Under s. 11(3)(b) of the FSUA, a director or manager guilty of carrying on financial service business without a licence is subject to a fine of XCD250,000/USD92,016 or to imprisonment for a term not exceeding three years or to both; and in the case of a continuing offence, to a further penalty of XCD2,500/USD920 for each day on which the offence is continued after conviction thereof. Sec.4(4) of the MSBA stipulates that a person who conducts MSB without a licence in Dominica is liable on summary conviction to a fine of XCD50,000/USD18,403 or to imprisonment for a term of 2 years or both. The above sanctions, while dissuasive for natural persons and small businesses, would not be proportionate and dissuasive for large businesses.

Criterion 14.3 - Sec. 7,8 & 40 of the MLPA and s.9(1) of the FSUA establishes the FSU as the ML Supervisory Authority for MSBs and is required to supervise and monitor regulated persons for compliance with the AML/CFT legislation and take action against persons carrying on unlicensed financial services business.

Criterion 14.4 - Sec.6 of the MSBA and s.6 of the MSBA Schedule 2 (7)(c) and Schedule 2(8) details of the licensing mechanism for applicants wishing to engage in MSB and the detailed information required on individual directors, owners, controllers, agents and significant shareholders. Agents of the MSBs are not required to apply for a separate licence with the FSU, however there is a registration process that requires agents to produce the same information that a licensee is required to produce for a licence.

Criterion 14.5 - The AML/CFT Guidelines for the MSB sector issued pursuant to s. 25(1)(c) of the FSU Act require that the MSB's internal control framework provides for adequate management and oversight of agents, including execution of initial agent due diligence, AML/CFT training, and ongoing risk-based monitoring. The guidelines also require that all appropriate AML/CFT compliance, regulatory record keeping and reporting requirements are met and provide for timely updates in response to changes in laws and guidelines. Sec. 12(3)(p) of the Code provides for a common control framework in the case of group entities. Sec. 34B of the Code of Practice 2022 (as amended) provides for the implementation of group wide programmes against ML/TF and handling of proceeds of crime which are applicable to all members of the group. These programmes include the policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management, the provision of group level compliance, audit and AML/TF functions of customer, transaction and account information from branches and subsidiaries when necessary.

Weighting and Conclusion

The sanctions for carrying out MSB business without a licence or registration, while dissuasive for small businesses, would not be proportionate and dissuasive for medium to large businesses.

Recommendation 14 is rated Largely Compliant.

Recommendation 15 – New technologies

Recommendation 15 (formerly R. 8) was rated NC in the 3rd MER due to no provisions which require the financial institutions to have measures aimed at preventing misuse of technology developments in money laundering and terrorist financing. Dominica amended the Code to address the deficiencies identified by the 8th follow-up report; this recommendation was fully rectified. The FATF requirements on new technologies have also changed.

Criterion 15.1 - Dominica has completed its NRA. However, the NRA has not identified and assessed the ML/TF risks associated with new technologies at the country level. Therefore, the country did not sufficiently address the existing or emerging ML/TF risks for FIs to consider and/or tailor their internal policy(s) and transaction monitoring programmes to mitigate the risks posed. Sec. 12 (3) (e) of the Code provides obligations for FIs to ensure that the ML/TF risks are assessed and mitigated before new products are offered and Sec. 13 of the Code requires entities to maintain an AML/CFT programme which includes policies, procedures and other measures considered appropriate to prevent the misuse of technological developments for purposes of ML/TF. Further, under r. 23 (1)(b) MLPR, there are also requirements to have policies in place to specifically address risks associated with non-face-to-face business relationships or transactions. However, these measures do not require FIs to assess the ML/TF risks in the development of new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

Criterion 15.2 - (a) Sec. 12 (3) (e) of the Code requires FIs to ensure that the ML/TF risks are assessed and mitigated before new products are offered. However, there is no obligation to conduct an assessment of risks related to new practices and technologies. **(b)** Sec. 14(b) of the Code mandates entities to carry out an ML/ TF risk assessment to determine how to best manage and mitigate any identified risks. The analysis and deficiency at criterion 15.2(a) also apply here.

Criterion 15.3 - (a) Dominica has no measures to identify and assess the ML/TF risks emerging from virtual asset activities and the activities or operations of VASPs. **(b)** There is no application of a risk-based approach to ensure that measures to prevent or mitigate ML/TF are commensurate with the risks. **(c)** Schedule businesses listed in the MLPA cover the activities of virtual asset business (s. 8 of the MLPA, as amended 2022). Accordingly, virtual asset businesses, as defined in s. 2 of the Virtual Asset Business Act (VABA) in keeping with FATF standards, are subject to Dominica's AML/CFT regime, and so, the provisions of the MLPA, MLPR and the Code are applicable to such entities. Sec. 12(8) of the VABA requires a virtual asset business to comply with AML/CFT legislation and institute procedures to ensure that accounting records and business operations comply with the AML/CFT legislation. Therefore, VASPs are required to take appropriate steps to identify, assess, manage and mitigate their ML/TF risks, as required by criteria 1.10 and 1.11.

Criterion 15.4 - (a) (i) A person, as defined in s. 2 of the MLPA, includes an entity, natural or juridical, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, capable of acquiring rights or entering into obligations. Sec.4(1) of the VABA states that a person shall not offer or operate in or from Dominica virtual asset business without being registered under this act. This therefore would include legal persons. **(a)(ii)** The registration requirement under s. 4(1) of the VABA extends to when the VASP is a natural person, in the jurisdiction where its place of business is located. **(b)** Sec. 6(1) of the VABA requires any person who wishes to be registered to offer or operate a virtual asset business shall apply to the FSU for registration. Pursuant to s. 7(2)(a) of the VABA, the FSU shall not grant registration unless satisfied

that the applicant person is a fit and proper person to be engaged in virtual asset business. Accordingly, the FSU shall have regard to fit and proper measures of the person, or any officer, executive, principal representative, beneficial owner, significant shareholder, director or management outlined in s. 7 (5-6) of the VABA to grant or refuse application. Sec. 11(3) of the VABA requires measures, subject to the requirements of s. 6, for the approval of any changes in the business which includes any director, officer, principal representative or significant shareholder to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in a VASP.

Criterion 15.5 - There are no measures to take action to identify natural or legal persons that carry out VASP activities without the requisite licence or registration. Sec.19 of the VABA outlines the offences and penalties that can be applied, which includes an offence if a person offers or operates virtual asset business in or from Dominica without being registered under the VABA (s. 19(1)(c)). Additionally, the penalty for offering to or operating a virtual asset business without registration on summary conviction is a fine of XCD150,000/USD55,209 and imprisonment for three years.

Criterion 15.6 - **(a)** The FSU is the Money Laundering Supervisory Authority pursuant to ss. 2 and 7 of the MLPA. Sec. 2 of the VABA establishes the FSU as the Authority for VASPs. Sec. 2 of the VABA states that “AML/CFT legislation” means the MLPA, the SFTA, and any other enactment concerning AML/CFT. Therefore, the AML/CFT obligations of the FSU under the Code, MLPA and the SFTA in relation to regulation, supervision and monitoring extend to the providers of virtual asset business. **(b)** Sec. 16(1) and (2) of the VABA empowers the FSU to compel information to be provided, examined or cause an examination of a registrant for the purposes of determining if a registrant is complying with the Act. Sec. 18 of the VABA revoke or suspend the registration of virtual asset businesses for breach of the Act. However, there is no range of disciplinary and financial sanctions to be imposed, as per the requirements.

Criterion 15.7 - Pursuant to s. 9(3) of the Code, the FSU shall develop a system of education for practitioners in financial services business, which will include money laundering and terrorist financing as part of the programme in order to sensitise persons on the dangers posed by such activities. Pursuant to s. 23(2)(d) of the VABA, the Authority may issue guidelines to give effect to the provisions of the VABA, to include compliance with AML/CFT legislation. Additionally, s. 58(1) of the Code provides guidance on types of suspicious activities or transactions. However, the FSU has not issued guidelines and provided feedback for VASPs to assist the sector in the application of ML/TF measures, particularly in detecting and reporting suspicious transactions.

Criterion 15.8 - **(a)** The sanctions available for FIs are applicable to VASPs (see C.35.1). Additionally, s. 19 of the VABA provides for the penalty of XCD150,000/USD55,209 and imprisonment for three years for contravention of a provision under the Act. **(b)** Sec. 2 of the VABA defines a registrant as a person registered under s. 7 of VABA and the holder of a certificate of registration, as such sanctions are applicable not only to VASPs, but also to their directors and senior management (see C.35.2). Further, administrative penalties of XCD5,000/USD1,850 under s. 11(8) of the VABA apply to the registrants who fail to comply with the requirements under ss. 11(3) and 11(4) of the VABA. The analysis outlined in recommendation 35 applies here (see: R.35.2).

Criterion 15.9 - **(a)** There are no measures to address these criteria. **(b)(i-iv)** Schedule businesses listed in the MLPA cover the activities of virtual asset business (s. 8 of the MLPA, as amended 2022). VASPs are subject to Dominica’s AML/CFT regime, and so, the provisions of the MLPA, MLPR and the Code are applicable. Accordingly, the analysis outlined in recommendation 16 applies here (see: R.16).

Criterion 15.10 - With respect to targeted financial sanctions, Dominica's communication mechanisms, reporting obligations and monitoring referred to in criteria 6.5(d), 6.5(e), 6.6(g), 7.2(d), 7.2(e), 7.3 and 7.4(d) apply to VASPs (Schedule 2 of the SFTA, as amended 2022). Accordingly, the deficiencies in criteria 6.6(g), 7.2(d), 7.2(e), 7.3 and 7.4(d) also apply here.

Criterion 15.11 - Sec. 16(4) of the VABA provides for the FSU to cooperate with any local or foreign authority as necessary for the performance of duties and the exercise of its powers. Further, the FSU shall provide assistance to foreign regulatory authority in accordance with s. 16 of the FSUA. Analysis at criteria 40.12 - 40.14 is applicable to this criterion.

Weighting and Conclusion

Dominica has no provision for an assessment to be conducted of the ML/TF risks for transactions involving new types, patterns and nature of transactions or other transactions using new or emerging technologies. Dominica has no measures to identify, assess and understand the ML and TF risks emerging from VA activities and the activities or operations of VASPs; nor has the country applied a risk-based approach to ensuring that the measures to prevent or mitigate ML and TF are commensurate with the identified risks. However, the newly enacted VABA of 2022 provides for the registration and supervision of virtual asset business from Dominica and with persons in Dominica and established the FSU as the ML Supervisory Authority for virtual asset business. The amendment of scheduled businesses listed in the MLPA subjects VASPs to Dominica's AML/CFT regime, and so, the preventive measures of the MLPA, MLPR and the Code apply.

Recommendation 15 is rated Partially Compliant.

Recommendation 16 – Wire transfers

The Recommendation formerly SR. VII was rated NC in the 3rd MER since there were no measures to cover domestic, cross-border and nonroutine wire transfers, no requirements for intermediary and beneficial financial institutions and no measures to effectively monitor compliance with SR VII. These deficiencies were addressed by enactment of Part V of the Code of Practice in 2014 which included relevant provisions as noted in the 8th FUR dated November 2014 and the Recommendation was considered fully rectified. The FATF requirements on wire transfers have also changed.

Criterion 16.1 - (a) Required and accurate originator information. Sec. 41(1) of the Code (as amended in 2022) requires that subject to s. 40, the payment service provider of the payer (the ordering FI) shall ensure that every transfer of funds is accompanied by the full originator information and required beneficiary information. "Full originator information" is defined in s. 39(1) of the Code as "the name and account number of the payer" together with: i) the payer's address; ii) the payer's date and place of birth or iii) the customer identification number or national identity number of the payer or, where the payer does not have an account, a unique identifier that allows the transaction to be traced back to that payer." **(b) Required beneficiary information.** Sec.41(1) of the Code (as amended in 2022) requires the ordering FI shall ensure that every transfer of funds is accompanied by required beneficiary information. "Required beneficiary information" is defined in s. 39(1) of the Code (as amended in 2022) to mean: i) the name of the beneficiary ii) the beneficiary account number where such an account is used to process the transaction or, in the absence of an account, a unique transaction reference number which permits traceability of the transaction or required beneficiary information.

Criterion 16.2 - As indicated in s. 41(1) of the Code (as amended in 2022) an ordering FI in Dominica is required to ensure that every transfer of funds is accompanied by the full originator and required beneficiary information, as defined above, which permits traceability of the transaction. In Dominica, this requirement is also applicable to all cross-border transfers *except* in the case of batch file transfers from a single-payer, where some or all the payment service providers of the payees are situated outside Dominica, if: **(a)** the batch file contains the complete information on the payer, and **(b)** the individual transfers bundled together in the batch file carry the account number of the payer or a unique identifier. The exception in s.41(2) of the Code (as amended in 2022) does not satisfy the criterion to include full beneficiary information which is fully traceable within the beneficiary country.

Criterion 16.3 - Sec. 41(1) of the Code (as amended in 2022) requires that subject to s. 40, the ordering FI shall ensure that every transfer of funds is accompanied by the full originator information and required beneficiary information. The country does not apply a *de minimis* threshold for requirements of criterion 16.1 and requires full originator and beneficiary information for every wire, except for some batch transfers.

Criterion 16.4 - Secs. 21(4)(c) and (d) of the Code (as amended in 2022) mandates that CDD measures be taken when there is a suspicion of ML/TF, irrespective of any exemption or threshold that may be referred to in the Code including where an applicant for business or a customer is considered by an entity or a professional as posing a low risk and where a business relationship or transaction presents any specific higher risk scenario. CDD measures as defined in s. 21(3)(a) of the Code would include identifying and verifying the identity of a customer. The above measures are applicable to all transactions and would include wire transfers in accordance with criterion 16.4.

Criterion 16.5 - For domestic wires, s. 41 (8) of the Code (as amended in 2022) places an obligation on the ordering FI to make available to the beneficiary FI the full originator information relating to the wire when requested. The above measure allows for full originator information to be made available to the beneficiary FI. This information is available to appropriate authorities pursuant to court orders under the POCA or MLPA, or a letter of request pursuant to s. 17 of the MLPA.

Criterion 16.6 - For domestic wires, s. 41 (7) of the Code provides that domestic wire transfers need only be accompanied by the account number of the payee, or a unique identifier that allows the transaction to be traced back to the payer where the payer does not have an account number. This requirement is together with the obligation in s. 41(8) of the Code which requires the ordering FI to provide the full originator information to the beneficiary FI when requested, within three working days. This information is available to appropriate authorities pursuant to court orders under the POCA or MLPA, or a letter of request pursuant to s. 17 of the MLPA. With regard to LEAs ability to compel immediate production of similar information, s.17 of the MLPA allows the Director of the FIU to access all information held by FIs and DNFBPs. Sec. 25(1) (b) of the MLPA provides for the FIU to obtain a production order to be issued to persons carrying on a scheduled business in identifying or locating any document necessary for the transfer of any property. Sec 41(8) requires escalation to the FSU and immediate production of the information if the payer's payment service provider does not comply within three days, excluding the day the request was made.

Criterion 16.7 - Pursuant to s. 41(6) of the Code, the ordering FI shall keep records of full originator information for a period of seven years. Sec. 39(1) of the Code defines "full originator information" as "with respect to a payee, means the name and account number of the payer, together with— (a) the payer's address; (b) the payer's date and place of birth; or (c) the customer identification number or national identity number of the payer or, where the payer does not have an account, a unique identifier

that allows the transaction to be traced back to that payer” s. 46 of the Code (as amended in 2022) specifies that the payment service provider of a payee must verify the identity of the beneficiary, and maintain a record of that information in accordance with the record keeping requirements of the relevant laws. In addition, under s. 16(1) of the MLPA requires reporting entities to keep business transaction records (including all transaction details) for a period of seven years after the termination of the business.

Criterion 16.8 - Dominica has measures in place to allow a payment service provider of a payee to reject future transfers if the originator is not provided (s. 41(11)(c) of the Code) and allow FIs to terminate a customer relationship where the entity or profession fails to secure full cooperation of the customer in carrying out verification (s. 25(5)(b)(i) of the Code). Sec. 41(12) of the Code (as amended in 2022), requires that where the payment service provider of the payer does not comply with the requirements of this section, the payment service provider shall not execute a wire transfer.

Criterion 16.9 - Pursuant to s. 43(2) of the Code (as amended 2022) an intermediary FI shall ensure that the full originator and required beneficiary information that accompanies the transfer of funds is kept with the transfer.

Criterion 16.10 - Pursuant to s. 43(6) of the Code (as amended 2022) an intermediary FI that uses a system with technical limitations which prevents the information on the payer from accompanying the transfer of funds shall keep records of all the information on the payer and beneficiary information that it has received for a period of at least seven years.

Criterion 16.11 - An intermediary FI shall take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack required originator information or required beneficiary information (s. 43(7) of the Code, as amended 2022).

Criterion 16.12 - Pursuant to s. 43(8) of the Code (as amended 2022) an intermediary FIs shall have risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.

Criterion 16.13 - Pursuant to s. 42(1) of the Code, the beneficiary FI shall verify that fields within the messaging or payment and settlement system used to effect the transfer in respect of the full originator information on the payer have been completed in accordance with the characters or inputs admissible within the conventions of that messaging or payment and settlement system. Pursuant to s. 42(2), the beneficiary FI shall put in place effective procedures for the detection of any missing or incomplete originator information. Further, s.42(8) of the Code, as amended 2022, requires a payment service provider of a payee to verify the identity of the beneficiary, if the identity has not been previously identified.

Criterion 16.14 - Pursuant to s. 42(8) of the Code (as amended 2022), a payment service provider of a payee shall verify the identity of the beneficiary, if the identity has not been previously identified, and maintain a record of that information in accordance with the record keeping requirements of the relevant laws. In Dominica records shall be maintained for a period of seven (7) years as stated in R.11.

Criterion 16.15 - In accordance with s. 43B of the Code (as amended 2022) payment service providers shall have risk-based policies and procedures for determining: **(a)** when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and **(b)** the appropriate follow-up action.

Criterion 16.16 - Obligations as stated in the Code regarding wire transfers are imposed on payment service providers. A payment service provider is defined in s.39(1) of the Code as a person whose business includes the provision of transfer of funds services and person in the Interpretation and General Clauses Act Chap: 3.01 of the Laws of Dominica, 2017 defines person as, "person" includes a public body, company, partnership, trust, association or body of persons whether corporate or unincorporate".

Criterion 16.17 - Sec. 43A of the Code (as amended 2022) requires where a payment service provider controls both the payee and the payer side of a transfer of funds, the payment service provider shall (a) take into account all the information from both the payee's and payer's sides in order to determine whether to make a suspicious transaction report to the FIU; and (b) where a determination is made that a suspicious transaction report should be made to the FIU about a transfer of funds, also make a disclosure to the relevant financial intelligence unit in any country affected by that transfer of funds, and make relevant transaction information available to the FIU.

Criterion 16.18 - Sec. 12(1) of the SFTA requires FIs to freeze any account, funds or property held by that financial institution on behalf of a person who is designated a terrorist or terrorist group which is the subject of a designation order. Sec. 15 of the SFTA prohibits FIs from transacting with designated entities. Funds defined under s. 2 of the SFTA include wire transfers. Further, s. 13B(1) of the SFTA (as amended 2022) makes provision for a person to freeze without delay and without prior notice the funds or other assets of a designated entity as per the obligations set out in relevant UNSCRs relating to the prevention and suppression of terrorism and terrorist financing, such as UNSCRs 1267 and 1373, and their successor resolutions.

Weighting and Conclusion

There is no provision to include full beneficiary details which are fully traceable within the beneficiary country.

Recommendation 16 is rated Largely Compliant

Recommendation 17 – Reliance on third parties

This Recommendation (formerly R.9) was rated partially compliant in the 3rd MER. There was no requirement for financial institutions to immediately obtain from all third parties necessary information concerning certain elements of the CDD process. The requirement that financial service providers be ultimately responsible for obtaining documentary evidence of identity of all clients was not enforceable and there were no requirements for competent authorities to give guidance with regards to countries in which the third party can be based. The deficiencies were addressed by the 8th FUR by amending the MLPR. The FATF requirements on reliance have also changed.

Criterion 17.1 - Pursuant to r. 13 (a) of the MLPR which states when a person carrying on a relevant business relies on an intermediary or third party to undertake its obligations under r. 8, 9, 10 or 19 (CDD measures) or to introduce business to it:

- (a) FIs are required to immediately request from the third party the evidence, documents and information required under r.8,9,10 and 19:

(b) FIs are required to satisfy themselves that the third party is able to provide copies of identification data and other documents relating to the obligation of due diligence under r. 8,9,10 or 19 without delay.

(c) FIs are required to satisfy themselves that the third party or intermediary is regulated and supervised and has measures in place to comply with the requirements set out in r. 8,9,10,19, 20 and 24.

Criterion 17.2 - The FSU is mandated to issue advisory warnings to entities and professionals, advising them about weaknesses in the AML/CFT of other jurisdictions. Sec.54(1) of the Code requires every entity and professional to pay special attention to a business relationship and transaction that relates to a person from a jurisdiction which the FSU considers does not apply or insufficiently applies the FATF Recommendations with respect to ML/TF. Sec.33(4A) of the Code (as amended in 2022) outlines the requirements for introductions and reliance, requiring an entity or professional which relies on a third party or an introduced business to obtain and evaluate information concerning the level of country risk in which the third party is domiciled before engaging the third party.

Criterion 17.3 - **(a)** Sec. 12 (3) (p) of the Code mandates that entities or a professional's written system of internal controls which they are required to establish and maintain shall include providing for a common control framework in the case of group entities. Sec. 21 (6) (i) of the Code provides that in the case of a body corporate that is part of a group, the body corporate is subject to and properly and adequately supervised for compliance with AML/CFT requirements that are consistent with the FATF Recommendations. **(b)** For FIs that rely on a third party that is part of the same financial group, s. 33(4B) (1)(b) of the Code (as amended in 2022) requires that an FI satisfy itself that the implementation of CDD, record-keeping requirements and programmes to counter ML/TF is supervised at a group level by a competent authority. **(c)** Sec.33(4B) (1)(c) of the Code, (as amended in 2022) requires an entity relying on a third party or an introduced business which is part of the same group to satisfy itself that any higher national risk is adequately mitigated by the group's AML/CFT policies.

Weighting and Conclusion

Recommendation 17 is rated Compliant.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

Recommendation 18 is a combination of the former Recommendations R.15 and R.22. Dominica was rated PC for R.15 in the 3rd MER as FIs did not maintain an independent audit function to test compliance with policies, procedures and controls; and internal procedures did not include terrorist financing. The deficiencies were addressed by the 8th FUR by amending the MLPR 2013 and the development of the CFT regulations. R.22 was rated PC in the 3rd MER as there was no requirement for FIs to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures due to prohibition of local laws, regulations or other measures. The deficiencies were addressed in the Proceeds of Crime (Code) in the 8th FUR. Since then, the FATF requirements on this recommendation have also changed.

Criterion 18.1 - Sec.12 (1) of the Code requires an entity or a professional to establish and maintain a written and effective system of internal controls which provides appropriate policies, processes and procedures for detecting and preventing activities of ML/TF. Additionally, s. 12 (2) and (3) of the Code

sets out the requirements for internal controls against ML/TF that entities or professionals must comply with, including but not limited to the following: **(a)** Sec. 12 (3) (c) requires that entities designate an individual at the level of the entities or professional's senior management who is responsible for managing AML/CFT compliance. In addition, s.18 (1) of the Code further requires that an entity shall appoint a compliance officer with sufficient seniority in accordance with r. 5 of the MLPR. **(b)** Reg 3 (1) (a) (vi) of the MLPR requires the maintenance of screening procedures to ensure high standards when hiring employees. **(c)** Reg 3 (1) (c) (i) and (ii) of the MLPR requires that entities should provide employees from time to time with training- in the recognition and handling of transactions carried out by or on behalf of, any person who is, or appears to be, engaged in ML; and in dealing with customers where such transactions have been reported to the unit in accordance with the MLPA. **(d)** Sec. 12 (4) of the Code requires that every entity and professional shall establish and maintain an independent function that is adequately resourced to test compliance, including sample testing, with its or his written system of internal controls and the other provisions of the MLPA or the MLPR made thereunder, and the SFTA. Further r. 3 (1) (a) (v) of the MLPR requires a person carrying on a relevant business to maintain an audit function to test compliance with its AML procedures, policies and controls.

Criterion 18.2 - (a) Sec. 12 (3) (p) of the Code makes provision for providing for a common framework in the case of group entities. Sec. 34B(1)(b) of the Code (as amended in 2022) requires an entity to implement group wide programmes which are applicable to all members of the group, including policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management, including information on transactions which appear unusual and have generated a suspicious transaction report. **(b)** Per s. 34B(1)(b) of the Code (as amended in 2022), entities must implement group wide programmes which are applicable to all members of the group which include the provision of group level compliance, audit and AML/CFT functions, of customer, transaction and account information from branches and subsidiaries when necessary for AML/CFT purposes. **(c)** Sec.5 (1) and (2) of the MPLA states that “**(1)** A person who has reasonable grounds to believe that an investigation into a ML offence has been, is being or is about to be made shall not prejudice the investigation by divulging the fact to another person. **(2)** a person who contravenes sub-s. (1) is guilty of an offence and is liable on conviction to a fine not exceeding XCD500,000/USD184,033 and to imprisonment for a term not exceeding 5 years. **(3)** A Court may, on conviction of a person under subs. (1), order the suspension of the licence of the person.”

Criterion 18.3 - Sec. 55 (1) of the Code places an obligation on foreign branches, subsidiaries or representative offices of an entity that is regulated in Dominica to ensure that those branches, subsidiaries or representative offices operating in those other jurisdictions observe standards that are at least equivalent to the MLPR, and the Code. Further, where the established standards of compliance under Dominica's laws, rules or policies differ from those of the jurisdiction in which the entity's branches, subsidiaries or representative offices operate, s. 55(3) of the Code requires reporting entities to ensure that the branches, subsidiaries or representative offices observe the higher standards established in their jurisdiction of operation.

Further, s. 55(5) of the Code mandates any entity that has branches subsidiaries or representative offices operating in foreign jurisdictions to notify the FIU and FSU in writing if any of its branch's subsidiaries or representative offices is unable to observe appropriate AML/CFT measures on account of the fact that such observance is prohibited by the laws, policies or other measures of the foreign jurisdiction in which it operates. Sec.55(6) of the Code provides for the entity that reported at s. 55(5) to consider the desirability of continuing the operation of the branch subsidiary or representative office and mandates the FIU and FSU to liaise and consider the further steps that may be necessary to effectively address

the notification. If any of an entity's branches, subsidiaries or representative offices is unable to observe appropriate AML/CFT measures on account of the fact that such observance is prohibited by the laws, policies or other measures of the foreign jurisdiction in which it operates, s. 55(4A) of the Code (as amended in 2022) requires the entity apply appropriate additional measures to manage the ML/TF risk."

Weighting and Conclusion

Recommendation 18 is rated Compliant.

Recommendation 19 – Higher-risk countries

Recommendation 19 (formerly R.21) was rated NC in the 3rd MER as there were no measures that require competent authorities to ensure that financial institutions are notified about AML/CFT weaknesses in other countries and there were no provisions that allowed competent authorities to apply countermeasures to countries that do not or insufficiently apply the FATF Recommendations. As indicated in the 8th FUR, all deficiencies were addressed by amendments to the Code. In Dominica's 8th FUR in 2013, this recommendation was fully rectified. Since then, the FATF requirements on this recommendation have also changed.

Criterion 19.1 - Sec. 22 of the Code requires entities and professionals to apply EDD to business relationships, customers and transactions from a person in a country that has been either identified as a high-risk country or that have international sanctions, embargos or other restrictions imposed on it. Sec. 22(4) (c) of the Code specifically indicates enhanced measures for an applicant for business or customer located in a country considered or identified as high risk. Further, s 56 (1) of the Code expresses considerations for the application of countermeasures, which includes for a country that **(a)** does not apply or insufficiently applies the FATF Recommendations, **(b)** has received an unsatisfactory or poor rating from FATF, CFATF and any other similar organisation reviewing the jurisdictions AML/CFT regime and **(c)** has no specific regulatory body or agency corresponding to the FSU or FIU which renders AML/CFT assistance on request to authorities in Dominica.

Criterion 19.2 - **(a)** There are no provisions to require Dominica to apply countermeasures proportionate to the risks when called upon to do so by the FATF. **(b)** Sec. 56 (2) of the Code provides the countermeasures to be applied such as issuing advisories in order to promote best practices, applying stringent requirements for the identification and verification of applicants including requirements for the beneficial owners, requiring enhanced reporting mechanisms or systematic reporting; limiting business relationships or financial transactions; and prohibiting business relationships.

Criterion 19.3 - Sec. 54 (5) of the Code mandates the FSU from time to time to issue advisory warnings to entities and professionals pursuant to this Code, advising entities and professionals of weaknesses in the AML/CFT systems of other jurisdictions; and amend the list of jurisdictions published pursuant to this section.

Weighting and Conclusion

There are no provisions to require Dominica to apply countermeasures proportionate to the risks when called upon to do so by the FATF.

Recommendation 19 is rated Largely Compliant.

Recommendation 20 – Reporting of suspicious transaction

Recommendation 20 is a combination of the former R. 13 and SR.IV. Dominica was rated NC with these requirements in the 3rd Round MER. The main technical deficiencies included the absence of a requirement to report attempted transactions, absence of legislation which mandated that STRs be reported to the FIU, the reporting of STRs did not include transactions linked to TF, terrorism, terrorism acts and terrorist organisations and the requirement to report suspicious transactions was linked to complex, large and unusual transactions only; not to all transactions. In the 8th FUR, updates to the MLPA and the SFTA rectified these deficiencies.

Criterion 20.1 - Sec 19 (2) of the MLPA mandates FIs or persons carrying on a scheduled business to report suspicious transactions promptly to the FIU where there are reasonable grounds to suspect that a transaction, proposed or attempted transaction is related to ML or where funds involved are the proceeds of crime. The term “proceeds of crime” means any property derived from or obtained directly or indirectly from criminal conduct, with “criminal conduct” being defined as conduct which constitutes an offence or would constitute an offence if it had occurred in Dominica. For TF, s.19A (2) of the SFTA places an obligation on FIs to report suspicious transactions to the FIU where there are reasonable grounds to suspect that a transaction, proposed transaction or attempted transaction is related to offences of TF and where these funds are linked to, or to be used for terrorism, terrorist acts or by terrorist groups.

Criterion 20.2 - Sec. 20(2) of the Code stipulates that the requirements to report suspicious activity or transaction under ss. (1) includes reporting of any attempted activity or transaction that the entity or professional has turned away. Sec 19 of the MLPA states that FIs or persons carrying on a scheduled business shall pay special attention to all complex, unusual or large business transactions whether completed or not; all unusual patterns of transactions, whether completed or not, insignificant but periodic transactions that have no apparent or visible economic or lawful purpose. The STR filing obligations are provided for in s.19(2) of the MLPA and s.19A of the SFTA.

Weighting and Conclusion

Recommendation 20 is rated Compliant.

Recommendation 21 – Tipping-off and confidentiality

In the 3rd Round MER, Dominica was rated LC with former R.14. A deficiency was identified with regard to the prohibition against tipping-off which did not extend to the directors, officers and employees of financial institutions. The MLPA and SFTA were amended to address this deficiency.

Criterion 21.1 - Sec. 23 of the MLPA and s. 19E of the SFTA provide for protection against criminal, civil and any professional sanction, when a STR is made in good faith. This protection is conferred to the FI, its employees, staff directors, owners or other authorised representatives or a person carrying on scheduled business. Reporting to the FIU is based upon reasonable suspicion (see criterion 20.1) that the transaction could constitute or be related to ML/TF or proceeds of criminal conduct and

therefore, the person does not require knowledge of whether the act occurred and neither do they need to know the specified offence.

Criterion 21.2 - Under s. 21(1) of the MLPA it is an offence for a director, officer or employee of a FI or person carrying on a scheduled business who has made a STR to disclose that fact or any information regarding the contents of a STR to any other person. Additionally, s. 5 of the MLPA creates an offence whereby a person who has reasonable grounds to believe that an investigation into a ML offence has been, is being or is about to be made, prejudices the investigation by divulging that fact to another person. Further, s. 19 (D) (1) of the SFTA imposes criminal liability on a director, officer or employee of a FI who has made a STR and discloses that fact or any information regarding the contents of a STR to any other person.

Weighting and Conclusion

Recommendation 21 is rated Compliant.

Recommendation 22 – DNFBPs: Customer due diligence

Recommendation 22, formerly R.12, received an “NC” rating in the 3rd MER due to the requirements of R.5, R.6, R.8, R.11 not being adequately enforced on DNFBPs. Since then, the country has made significant improvements by putting in place a legislative and supervisory infrastructure prior to its 8th FUR. However, a minor shortcoming remained as it relates to the monitoring of Registered Agents and, the FATF requirements on DNFBPs: CDD, have changed.

Criterion 22.1 - Schedule businesses listed in Part II of the MLPA cover all the activities for DNFBPs. Accordingly, DNFBPs are subject to Dominica’s AML/CFT regime, and so, the CDD provisions of the MLPA, MLPR and the Code are applicable to such entities. CDD requirements are applicable for Trusts Service Providers, who are listed as FI activities, as per Part I of the MLPA. Sec. 21 (2) of the Code requires all entities and professionals to engage in CDD in their dealings with an applicant for business or a customer, irrespective of the nature or form of the business. Consequently, the analysis for R.10 is applicable for DNFBPs and the deficiency identified (Criterion 10.16) has a cascading effect on this criterion.

Criterion 22.2 - DNFBPs are subject to the same record-keeping requirements as FIs. Therefore, the analysis and conclusion set out in R.11 apply. Additionally, the deficiency in Criterion 22.1 is also applicable.

Criterion 22.3 - DNFBPs are subject to the same PEP requirements as FIs. Therefore, the analysis and deficiencies at Criteria 12.1 apply. Additionally, the deficiency in Criterion 22.1 is also applicable.

Criterion 22.4 - DNFBPs are subject to the same new technologies requirements as FIs. Therefore, the analysis and deficiencies set out in R.15.1 apply. Additionally, the deficiency Criterion 22.1 is also applicable.

Criterion 22.5 - DNFBPs are subject to the same reliance on third-parties’ requirements as FIs. Therefore, the analysis and conclusion set out in R.17 apply. Additionally, the deficiency in Criterion 22.1 is also applicable.

Weighting and Conclusion

Dominica's legislative framework subjects DNFBPs to CDD, record keeping, PEP, new technologies and reliance on third party requirements. The deficiencies of R.10 and R.15 are applicable to DNFBPs.

Recommendation 22 is rated Partially Compliant.

Recommendation 23 – DNFBPs: Other measures

In the country's 3rd MER, a rating of "NC" in R.23 (formerly R.16) was received for not effectively applying R.13-15 and R.21 and having no competent body to impose sanctions or fines. Dominica's 8th FUR addressed these deficiencies by strengthening the AML/CFT legislative and supervisory framework which, by extension, increased the functions of the FSU where DNFBPs are concerned. Since then, the FATF requirements for R.23 have changed.

Criterion 23.1 - The analysis of the suspicious transaction reporting requirements of R.20 for FIs (Trust Service Providers are FIs as listed in Part I of the MLPA) is also applicable to DNFBPs such as attorneys, notaries, other independent legal professionals and accountants. Part II of the Schedule of the MLPA (as amended 2022) requires dealers in precious metals or stones (jewellery businesses) to report suspicious transactions when they engage in a cash transaction with a customer equal to or above USD/EUR 15,000.

Criterion 23.2 - DNFBPs are subject to the same internal control requirements as FIs. Therefore, the analysis and conclusion set out in R.18 apply.

Criterion 23.3 - DNFBPs are subject to the same requirements for higher-risk countries as FIs. Therefore, the analysis and deficiency set out in R.19 apply.

Criterion 23.4 - DNFBPs are subject to the same tipping-off requirements as FIs. Therefore, the analysis and conclusion set out in R.21 apply.

Weighting and Conclusion

The analysis of FIs compliance with the requirements of R.18, R.19, R.20 and R.21 are also applicable for DNFBPs in Dominica. However, as these requirements are the same as FIs, the shortcoming identified under R.19 applies.

Recommendation 23 is rated Largely Compliant.

Recommendation 24 – Transparency and beneficial ownership of legal persons

This recommendation (formerly R. 33) was rated PC in the 3rd MER due to a lack of ongoing monitoring and supervision of licenced agents who were responsible for holding beneficial ownership (BO) information for offshore banks and the now dissolved IBC sector. There were also no measures in place to ensure that bearer shares were not being used for ML. In the 8th FUR, updates to the FSU's 2013 guidelines satisfied some of the deficiencies mentioned above. Some of the deficiencies remained

outstanding at the end of the 3rd Round follow-up process. The FATF requirements for this recommendation have significantly changed.

Criterion 24.1 - (a) The Companies Act under s.3 provides that no association, partnership, society, body or other group consisting of more than 20 persons may be formed for the purpose of carrying on any trade or business unless it is incorporated under the Companies Act or some other Act. Groups of less than 20 persons are not required to be incorporated. The Companies Act provides for the incorporation of four types of legal persons: Private Limited Liability Companies; Public Limited Liability Companies; Non-Profit Companies; and External Companies. The IBC Chap. 78:01 has been repealed. Legislatively, legal entities can only be formed through incorporation by Companies Act.

(b) Dominica has mechanisms that identify and describe the processes for the creation of legal persons, and for obtaining and recording basic information. There is no general requirement for companies to obtain BO information, however, FIs and DNFBPs must obtain and record BO information on legal persons with whom they have a business relationship. Pursuant to s.4 of the Companies Act, a person who is not “over the age of 18 years of age, of sound mind and not have the status of bankrupt” may not form or join in the formation of a company under the Companies Act. Pursuant to s. 5 of the Companies Act, companies must file articles of incorporation in the prescribed form identifying the restrictions on the business, the business activity, the registered office, the number of directors, the class, and the maximum number of shares authorised to be issued. The approval of the Minister is mandatory for the incorporation of the non-profit company. Pursuant to s. 344 of the Companies Act, external companies must file the declaration of incorporation in prescribed form 21, which includes information such as the particulars of the incorporated instruments, the extent of the liability of the shareholders, the business the company shall carry on, the authorised subscribed and paid up or stated capital of the company and the shares authorised to be issued. An external company is also mandated to file a fully executed power of Attorney (s. 346 of the Companies Act). An external company is defined by s. 338 as one which carries on business in Dominica. A company carries on business in Dominica if business of the company is regularly transacted from an office in Dominica established or used for that purpose, if the company establishes or uses a share transfer of registration office in Dominica or if, *inter alia*, the company owns or uses assets situated in Dominica for the purpose of carrying on or pursuing its business, if it obtains or seeks to obtain profit from those assets. All information filed at the Companies and Intellectual Property Office (CIPO) is available to the public upon payment of a fee of XCD5.00 (which may be waived by the Registrar of Companies).

Criterion 24.2 - While Dominica has conducted some assessment of the ML/TF risks associated with the IBC sector, a comprehensive assessment of the ML/TF risk associated with all types of legal persons in Dominica has not been completed by the authorities.

Criterion 24.3 - Sec. 3 of the Companies Act requires that all associations, partnerships, societies, bodies or other groups consisting of more than twenty persons must be incorporated under the Companies Act in order to carry on trade or business for gain. The Registrar of Companies maintains the company registry. Pursuant to s. 4 the Companies Act, *inter alia*, articles of incorporation must be filed with the Registrar of Companies and must set out the proposed name, classes and number of shareholders, and directors, the number of designation of shares, the number of directors and any restrictions on the business that the company may carry on. As it relates to basic regulating powers, s. 5(2) of the Companies Act further indicates that articles may set out provisions permitted by this Act or by law permitted to be set out in the By-Laws of the company. Companies are also required to

provide the names of the directors (s. 69(1) of the Companies Act), and the address of the registered office of the company (s. 176 of the Companies Act).

Pursuant to s. 175 of the Companies Act, a company must have a registered office in Dominica at all times. The notice of the registered office's address must be filed with the Registrar and also any change of address (s. 176 Companies Act).

S. 340 of the Companies Act also requires that "external companies, as defined in s. 338 of the Companies Act, be registered under the Act in order to do business in Dominica". In order to register under the Companies Act, the external company must file a statement which includes, the name of the company, the jurisdiction within which the company was incorporated, the date of incorporation, the manner in which it was incorporated, the particulars of its corporate instruments, its principal address in Dominica, and the full registered address of the Company. The corporate instruments include the directors of the company.

S. 326 of the Companies Act defines a "non-profit company as a company without share capital". Articles of incorporation cannot be accepted without the prior approval of the Minister (s. 328 of the Companies Act). The form of the articles (s. 329 of the Companies Act) includes the company name and registered address and restrictions on the business of the company. The director's powers and responsibilities are laid down in s. 336 of the Companies Act. All records held at the Companies Registry are publicly available by virtue of s.495 of the Companies Act.

Criterion 24.4 - Pursuant to s. 177 of the Companies Act, a company is required to prepare and maintain records at its registered office (which must be in Dominica per s. 175 of the Companies Act) containing: the articles of incorporation, by-laws and any unanimous shareholder agreement. Additionally, the company must maintain a register of members showing the name and address of the member as well as the shares held by each member, and the date the person became a member and ceased to be a member (s.177(2) of the Companies Act). The shareholders list of a public company is publicly available to anyone upon application and payment of a reasonable fee, which will include the name of the members, the number of shares held, and address (secs191-2 of the Companies Act).

Pursuant to s. 359A (1) of the Companies Act, External Companies are required to keep at least one share register. The information that is to be contained in the share register includes the names and addresses of the persons who hold shares in the company; the number of each class and series of registered shares held by each person; the date on which the name of each person was entered in the share register; and the date on which any person ceased to be a member. This information shall be kept at the principal office of the company in Dominica.

As non-profit companies do not have shareholders, s. 326 of the Companies Act provides for the shareholder lists and other records to be applied to members of these types of companies with the necessary modifications.

Criterion 24.5 - Sec 194 of the Companies Act, requires the annual filing of returns with the Registrar on the first date of April of each year. Secs 176, 177 and 178 of the Companies Act impose certain requirements on the company to keep the basic information accurate and updated on a timely basis. These sections require, *inter alia*, that the Company notify the Registrar of changes in its registered address (within 15 days) or directors (one month). Substantial shareholders must notify the company within 15 days when they become or cease to be substantial shareholders. As it relates to shareholders generally, the Companies Act requires companies to maintain records of the names and latest known addresses of shareholders. In accordance with s. 195 of that Act, where shares are transferred,

companies are not entitled to treat the transferee as the owner of them until the transfer has been registered with the company.

As it relates to non-profit companies, s. 335 of the Companies Act provides that unless the articles of the company otherwise provide, the interest of a member is non-transferrable. If the by-laws allow transfers, it shall provide for the method of transfer. Additionally, members are required to be approved by directors unless the by-laws provide otherwise.

Criterion 24.6 - Dominica has some mechanisms in place to ensure that information on the beneficial ownership of a company can be obtained by competent authorities.

Pursuant to s. 177 of the Companies Act, a company is required to prepare and maintain at its registered office - which must be in Dominica - records containing a register of members showing the name and address of the member as well as the shares held by each member, and the date the person became a member and ceased to be a member. However, the Companies Act neither requires companies to obtain nor file BO information in respect of that Company with the Registrar of Companies.

Sec. 27 (1) of the Code requires FIs and DNFBPs to undertake identification and verification measures where the legal person **(a)** is an applicant for business in its own right; **(b)** is a BO or controller of an applicant for business, or **(c)** is a third party (underlying customer) on whose behalf an applicant for business is acting. Under s. 27 of the Code, if there is a decision to engage in business with the legal person then the reason must be recorded, and it must be made available for inspection by the FSU and FIU.

Sec. 29 of the Code provides that where there is an underlying principal with respect to a legal person, an FI or DNFBP shall, in establishing a business relationship, verify the underlying principal and establish the true nature of the relationship between the principal and the legal person's account signatory: "principal" includes a beneficial owner, settlor, controlling shareholder, director or a beneficiary (not being a controlling shareholder) who is entitled to ten or more per cent interest in the legal person. Similarly, reg. 10 of the MLPR requires that persons conducting a relevant business verify the identity of a customer when establishing a relationship or processing certain transactions. In relation to a legal person, relevant businesses are required to obtain BO information. There is however no requirement in law for all types of legal persons to maintain a business relationship with an FI. Legal persons however are required to maintain a business relationship with Attorneys-at-Law and Accountants in keeping with Sections 4, 5, 149, 154 (1) and 155 (1) of the Companies Act.

Criterion 24.7 - Pursuant to reg.25A of the MLPR, a person (natural or legal) carrying on a relevant business [defined in reg. 2 and covers all essential sectors] is required to keep documents, data or information collected under these Regulations up-to-date and relevant by undertaking reviews of existing records. S. 28 (2) of the Code mandates that, where the legal person is assessed as low risk, entities or professionals must take reasonable measures to verify the BOs or controllers of a legal person and update information on any changes to the BO or control. Sc. 27 of the Code provides for enhanced due diligence for high-risk companies and s. 29 (1) of the Code mandates FIs and DNFBPs to verify the underlying principal or BO of a legal person and record any change in an underlying principal.

Dominica's only source of BO information, however, is through FIs and DNFBPs and while legal persons must maintain a business relationship with Attorneys-at-Law- and Accountants which have CDD obligations under the MLPA and Code, there is no general requirement for legal persons to obtain and maintain up to date BO information. The framework therefore does not ensure that BO information on all legal persons is accurate and up to date.

Criterion 24.8 - In relation to External Companies and Non-Profit Companies, Dominica requires that a natural person resident in the country is authorised by the company and is accountable to CAs for providing all basic information. Under the Companies Act, companies are required to file annual reports and this information may include BO information. While s. 194 (2) of the Companies Act places an obligation on a director or officer of the company to certify the annual reports for submission to the Registrar, there is no indication that this director or officer is required to be resident in Dominica. This notwithstanding, companies are required to identify an officer who is responsible for ML matters.

Sec. 17 of the MLPA provides for cooperation with the FIU by FIs of DNFBPs. Reg. 25A of the MLPR requires a person (natural or legal) carrying on a relevant business as defined in reg. 2 to keep documents, data or information collected under those Regulations up to date and relevant by undertaking reviews of existing records. Reg. 16 of the MLPR also place an obligation on a person carrying on a relevant business to ascertain BO information if it appears that a person requesting it to enter into any business relationship or transaction is acting on behalf of another person.

Criterion 24.9 - Sec. 359B of the Companies Act mandates that external companies preserve all books and records, and accounting information, for a period of seven years after the business period to which the books of accounts or records relate. Sec. 477(2) of the Companies Act, with respect to other companies, for a period of up to five years after the dissolution of the company, places responsibility for producing books and papers of the company, upon the company, the liquidator or any person to whom the custody of the books and papers have been committed which does not fully comply with the requirement of retaining records for “at least five years” after dissolution.

Sec. 47 of the Code, requires entities and professionals to maintain for a period of seven years records, including but not limited to, the records required by the MLPR, and this Code for purposes of establishing customer due diligence, compliance auditing, law enforcement, facilitating the strengthening of the entity’s or professional’s systems of internal control and facilitating responses to requests for information pursuant to the provisions of the Regulations, this Code or any other enactment or for regulatory or investigative purposes.

Sec. 16 (1) of the MLPA requires that an FI or person carrying on a scheduled business shall keep business transaction records of all business transactions for a period of seven years after the termination of the business transaction recorded. Additionally, Regs. 24 and 24 (1) of the MLPR state where there have been no formalities to end a business relationship, records should be kept six years after the date of the last transaction.

Criterion 24.10 - CAs have powers under the law to obtain timely access to basic and BO information where available. Pursuant to s. 17 (1) of the MLPA, the FIU, or a person authorised by the FIU, has the power to enter financial institutions or scheduled businesses, during business hours, to examine records, take notes or copies of records, or ask questions of these entities in order to obtain basic and BO information held by those entities. Sec. 17(2) requires the FIs, or scheduled businesses are obligated to allow that access and to answer the questions.

Pursuant to s. 10 of the FIUA, the Director has the power to require any person who is carrying on a financial services business in Dominica to produce such documents as are required to enable the Director to satisfy himself that the business is not acting in contravention of any conditions under which a licence is issued. The Director has the power to conduct inspections of supervised entities to ensure compliance with the FSUA. Pursuant to s. 526 of the Companies Act, the Registrar may make inquiries

of any person that relates to compliance with the CA by any person. Company regulation allows the IRD to access information held by CIPO via a secure portal.

Criterion 24.11 - Pursuant to s. 29 (2) of the Companies Act, no company may issue bearer shares or bearer shares certificates in the Commonwealth of Dominica. However, pursuant to s. 359A (1) of the Companies Act, “External Companies” are allowed to keep bearer shares on their registers. With respect to bearer share certificates, External Companies must identify the number of the certificate, the number of each class or series of shares issued to the bearer and the date of issue of the certificate. There are no requirements for “External Companies” to immobilise bearer shares or convert bearer shares and share warrants into registered shares.

Criterion 24.12 - Dominica requires shareholders to disclose their identity as well as that of their nominee. The Companies Act regulated nominees in the context of substantial shareholders. Pursuant to s. 181 a person has a substantial shareholding in a company if he holds, by himself or by his nominee, shares in the company which entitle him to exercise at least ten per centum of the unrestricted voting rights at any general meeting of shareholders. The substantial shareholder to give notice to the company in writing (s. 182) stating his name and address and giving full particulars of the shares held by him or his nominee (naming the nominee) by virtue of which he is a substantial shareholder. A person required to give notice must do so within fourteen days after that person becomes aware that he is a substantial shareholder (s. 182(2) and also when he ceases to be a substantial shareholder (s. 182(3)). The company must keep a register of the information obtained by this notice (s. 183). The Registrar may at any time in writing require the company to furnish him with a copy of the substantial shareholder register (s. 184). The Companies Act does not permit the use of nominee directors. Reg. 16 of the MLPR provides that if it appears to a person carrying on a relevant business that a person requesting it to enter into any business relationship or transaction, whether or not in the course of a continuing business relationship, is acting on behalf of another person, the person carrying on the relevant business shall establish the true identity of any person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction, whether as a trustee, nominee, agent or otherwise. Nominees are therefore required to identify their nominator in order to conduct business with an FI or DNFBP.

Criterion 24.13 - Sec. 530 of the Companies Act provides that any person who makes a false statement in any report, return, or any document required to be submitted to the Registrar commits an offence subject to summary (criminal) conviction with a penalty of six months imprisonment or a fine XCD5,000/USD1,850. Where the offence is committed by a body corporate, the director or officer who enabled the act can be personally liable for the offence at the stated penalty (s. 530 (3) of the Companies Act).

Sec. 531 of the Companies Act provides that a breach of, *inter alia*, sections 189, 193 and 524 will result in an offence subject to summary conviction with a penalty of six months imprisonment or a fine of XCD5,000/USD1,850. These sections deal with the duty to keep records and the restricted use of shareholder lists. Where the offence is committed by a body corporate, the director or officer who enabled the act can be personally liable for the offence at the stated penalty. Pursuant to s. 533 of Companies Act where no specific offence is named then the general penalty for a breach of the Companies Act is a fine of XCD5,000/USD1,850.

Pursuant to s. 536 of Companies Act provides that there is a limitation of actions period of two years for all offences under the Companies Act.

Pursuant to s. 21(1)(b) of the Code requires that entities and or professionals undertake identification and verification measures where the individual is the beneficial owner or controller of an applicant for business. Sec. 26 (7) of the Code creates an offence and makes the entity or professional liable to be proceeded against under s. 60 (5) of the POCA. Sec. 60 (5) to (7) of the POCA states that where a person fails to comply with or contravenes a provision of a Code of Practice, the person is guilty of an offence and is liable on summary conviction to a fine not exceeding XCD150,000/USD55,209 or to a term of imprisonment not exceeding 2 years or both.

Pursuant to s. 60(6) of the POCA states that where a body corporate is guilty of an offence under s. 60(5), every director, partner or other senior officer of the body corporate is personally liable for the offence and is liable on summary conviction to the penalty prescribed. These sanctions are not proportionate and dissuasive for larger companies.

Criterion 24.14 - Dominica has a wide range of legislation which allows various competent authorities to cooperate in sharing BO information. The legislation, however, does not have provisions which facilitate providing rapid responses to international cooperation requests for basic and BO information. The deficiencies in R. 37 and R. 40 will also be applicable for the criterion.

Pursuant to s. 16 of the FSUA, where a foreign regulatory authority requests the Director, in writing, to provide it with assistance in connection with the exercise of its regulatory functions, the Director may disclose information, or provide documentation, in his possession to the foreign regulatory authority, if satisfied that the information is required for the performance of its regulatory function. The FIU, empowered under s. 4 of the FIUA and s. 17 of the MLPA, can also use its investigative powers and other enforceable means to obtain BO information on behalf of foreign counterparts. However, the FSU and FIU need to make requests to Attorneys-at-Law and registered agents in order to retrieve BO information. While the Attorneys-at-Law and registered agents are obligated under the law to provide BO information to the FSU/FIU, these mechanisms do not guarantee that the information will be shared without delay. The TIEA empowers the Comptroller of Inland Revenue to exchange information with its foreign counterparts for tax purposes.

Sections 20 to 23 of the MACMA allow Dominica to provide assistance to Commonwealth countries through the sharing of information. S. 30 of the MACMA allows for similar assistance to be provided to non-Commonwealth countries who have specific bilateral treaties with Dominica or who are party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

Assistance may also be provided pursuant to s.71 of the Offshore Banking Act.

Criterion 24.15 - The FIU SOPs contains a feedback form which is used to monitor the quality of the assistance received from other jurisdictions. Other CAs are in the process of developing a feedback mechanism for monitoring the quality of assistance received from other countries in response to requests for basic and BO information. There is a Central Authority Procedure that governs the monitoring of the quality of the assistance provided to other jurisdictions in relation to MLA and extradition. However, there are no other documented procedures or mechanisms for the CAs except for the FIU to monitor the quality of assistance they have received from other countries.

Weighting and Conclusion

Dominica has not designated a CA to oversee the maintenance and/or administration of BO information, nor has it completed an ML/TF risk assessment for legal persons. The legislation relating to transparency and beneficial ownership of legal persons varies. There is no general requirement for Companies to obtain BO information. There is also no reference in the Companies Act regarding the requirement to keep the basic information held with CIPO on shareholders accurate and updated on a timely basis. The Companies Act gives the Registrar information gathering powers requiring companies to respond with their share registers within fourteen days after being notified. However, this does not correspond to the requirement for providing the information in a “timely” manner. The Companies Act prohibits companies from issuing bearer shares or bearer share certificates; however, “external companies” are allowed to keep bearer shares on their registers without many of the requisite controls, in non-compliance with the standard. Sanctions for failing to comply with requirements may always be sufficiently dissuasive for larger companies.

Recommendation 24 is rated Partially Compliant.

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

In the 3rd round of MERs, Dominica was rated “NC” for R.25, formerly R.34. The deficiencies identified were due to the need for the Authorities to include current and accurate beneficial ownership information and control as part of the register information on international trusts, information on the settler and other parties to a Trust were not captured at registration and Competent Authorities did not have access to information on the settler, trustees or beneficiaries of a Trust. In the 8th FUR, Dominica indicated the actions taken by the country to address the aforementioned deficiencies, which were deemed fully rectified.

Criterion 25.1 - (a) Pursuant to r. 7(1) of the TNPOR, all trusts that are incorporated, formed or otherwise established in Dominica or administered in or from Dominica are required to be registered unless it is an exempt trust. An exempt trust is one whose gross annual income does not exceed XCD5,000/USD1,850 or whose assets do not exceed XCD10,000/ USD3,700 in value. These exemptions are consistent with criterion 1.6. Pursuant to r. 14(1) of the TNPOR, a registered trust shall keep records of its purposes, objectives and activities; and the identity of the persons who control or direct its activities, including trustees and the identity of the beneficiaries of the trust and all persons who are relevant to the functioning of the trust. Pursuant to r. 3 of the TNPOR, the supervisor of trusts is the FSU. Reg. 3 of the TPNOR imposes an obligation on the trust to notify the FSU in writing of any change in the information it has provided to the FSU, irrespective of whether this was provided at the time of registration or afterwards. Pursuant to r. 6, the supervisor must establish and keep a register of trusts, which must contain the name and address of the trust; the nature, purpose and activities of the trust; the identity of person (s) who own, control and direct the trust; the date of registration of the trust; and any other information the supervisor considers appropriate. **(b)** Reg. 14(1)A (iii) of the TNPOR requires a registered trust to keep information on the identity of the beneficiaries of the trust and all persons who are relevant to the functioning of the trust. **(c)** Reg. 14 (2) of the TNPOR, requires that a registered trust shall keep records for a period of at least seven (7) years. Additionally, r. 24(2) (a) and 3(a) of the MLPA require that persons who carry on a relevant business are required to maintain records for a period of seven years after the termination of a business relationship.

Criterion 25.2 - Sec. 23 of the AML/CFT Code of Practice provides for customer due diligence when

entering into a transaction. These provisions place an obligation on trustees to keep the prescribed information accurate and as up to date as possible and updated on a timely basis. The requirement to keep information current is also broadly captured where there is a change in any information for a registered Trust under r. 13(1) TNPOR, Sec. 2 - definition of "beneficial owner", subparagraph b(ii) of the AML/CFT Code of Practice as amended by the (Amendment) Code 2021. The definition specifically includes, in the case of a legal arrangement, the settlor, the trustees, the protector, the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over a trust, including through a chain of control. Reg. 14(2A) of the TNPOR, as amended by the TNPO(A)R, 2022 provides that a registered trust or NPO shall keep the records specified in sub-r. (1) as up to date as possible and on a timely basis.

Criterion 25.3 - Pursuant to s.21(2) of the Code, every FI and DNFBP is required to engage in CDD in its or his dealings with an applicant for business or a customer, irrespective of the nature or form of the business. This invokes the usual CDD obligations when dealing with trusts. In circumstances where an applicant for business or customer is the trustee of a trust or a legal person, additional customer due diligence measures to be undertaken shall include determining the following: **(a)** the type of trust or legal person; **(b)** the nature of the activities of the trust or legal person and the place where its activities are carried out; **(c)** in the case of a trust- **(i)** where the trust forms part of a more complex structure, details of the structure, including any underlying companies; and **(ii)** classes of beneficiaries, charitable objects and related matters s.21(5) and s. 21(5)(e) of the Code whether the trust or trustee or the legal person is subject to regulation and, if so, details of the regulator.

Pursuant to s.30 (1) of the Code, an FI and DNFBP shall, with respect to a trust, undertake identification and verification measures by obtaining the following information: **(a)** the name of the trust; **(b)** the date and country of establishment of the trust; **(c)** where there is an agent acting for the trust, the name and address of the agent; **(d)** the nature and purpose of the trust; **(e)** identifying information in relation to any person appointed as trustee, settlor or protector of the trust. Additionally, s.30(2) of the Code states where the FI assesses the risk of that relationship to be normal or high level then they must perform CDD or EDD; as well as obtain and verify the identities of all the beneficiaries with a vested right in the trust at the time of or before distribution of any trust property or income and such other additional information as the entity or professional considers relevant. Although FIs and DNFBPs are required to obtain CDD information there are no measures that place a positive obligation on trustees to disclose their status to FIs and DNFBPs when forming business relationships or carrying out an occasional transaction above threshold. However, reg. 16 of the TNPOR makes it an offence for a person to provide or recklessly provide any information, or to make any representation or submit any document that he knows to be false or materially misleading or does not believe to be true if he does so with intent to deceive or to comply with any purpose under the TNPOR including establishing a business relationship.

Criterion 25.4 - Pursuant to r. 15(1) the TNPOR, the supervisor may require a registered trust to produce any record that the trust is required to keep under r. 14 (*inter alia*, beneficiary information and financial records). The supervisor also may compel the trustee to provide an explanation of the records. In accordance with r. 15(6) a trustee is under an obligation to provide the requested information to the FSU. There are no laws or enforceable means which prevent trustees from providing competent authorities with any information relating to a trust. Pursuant to r.15(4) disclosure of records under this regulation shall not be treated as a breach of any enactment, rule of law or agreement restricting the disclosure of information and protects the trustee for any civil proceedings as a result of such disclosure.

Pursuant to r.15(4) of the TNPOR disclosure to competent authorities and international partners is permitted.

Criterion 25.5 - CA, and in particular LEAs, can obtain timely access to information held by trustees, other parties and, in particular information held by FIs and DNFBPs, on the beneficial ownership and control of the trust using the powers described in analysis at Recommendation 31. Further: **(a)** Reg. 15(6) of the MLPR mandates FIs to establish the true identity of each account holder, in the case of a trusts, to obtain sufficient evidence of the true identity of the beneficial interest in the account and verify the source of the funds of the account holder and beneficiaries (r.15(6) (a-b) MLPR). The TNPOR pursuant to r. 6 mandates the FSU to keep a register of trusts which includes information on the beneficial owner captured at r.6(2)(c) of the TNPOR which is accessible during working hours (reg. 6(4) TPNOR). Information on trustees, settlors, protectors and beneficiaries can also be accessed under (Article 5 (4)(a)(d) TIEA). All information can be accessed by the FIU pursuant to s. 17(1) of the MLPA which can then be shared with other LEA, CDPF, via existing MOU. **(b)** Sec. 30(1) requires FI/DNFBPs to undertake identification and verification measures by obtaining information listed at s. 30(1)(a-e) where (c) specifies where there is an agent acting for the trust, the name and address of the agent and (e) identifying information in relation to any person appointed as trustee. All information can be accessed by the FIU pursuant to s. 17(1) of the MLPA which can then be shared with other LEA, CDPF, via existing MOU. **(c)** Analysis at Criterion 25.3 is applicable for the disclosure of any assets held or managed by trustees to the FI/DNFBP, with a business relationship, or an occasional transaction. Additionally, upon request from the IRD, information on trustees (Article 5(4)(a) TIEA) can be accessed by the FIU pursuant to s.17(1) of the MLPA which can be shared with other LEAs, and the CDPF, via existing MOU.

Criterion 25.6 - **(a)** Dominica has measures to provide international cooperation in relation to Trusts, including BO information, and other legal arrangements through MLA, bilateral agreements, MOUs, or other arrangements with foreign CAs, as described in analysis at R.37 and R.40. **(b)** Information can be exchanged domestically amongst public authorities pursuant to s.52 of the Code and the MOUs between law enforcement and other competent authorities and shared with international partners in accordance with applicable laws including MOUs and Agreements. Additionally, as the FSU is mandated to maintain a Register of Trusts (reg.6(1) TNPOR), trust information can be accessed during normal business hours (reg.6 (4)) using established measures. **(c)** The FIU, empowered under s.4 of the FIU Act and s.17 of the MLPA, can use its investigative powers and other enforceable means to obtain beneficial ownership information on behalf of foreign counterparts. The FIU policy mandates that all international requests for information are given the highest priority and processed within a reasonable timeframe. The Egmont Principles provides for the exchange and sharing of information rapidly. The Central Authority for MLA can also use powers under the MACMA to obtain BO information.

Criterion 25.7 - **(a)** Dominica's legislation allows for sanctions which can be imposed on Trustees; Reg. 14 of the TNPOR, as amended by reg.4 (d) of the TNPO(Amendment)R, 2022 provides for the offence where a controller of a non-profit organisation who knowingly and without reasonable cause contravenes ss. (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of fifty thousand dollars. Additionally, reg. 15A(1) of the TNPOR, as amended/ inserted by reg. 5 of the TNPO(Amendment)R, 2022 provides for a range of instances where a controller may be disqualified. This includes a conviction of an offence under the POCA, MLPA, SFTA, the TNPOR. Thus, failure to adhere to the obligation under the Code and the TNPOR to obtain BO is an offence and thus punishable

under this regulation. Under reg. 14 (2) of the TNPOR and s.16(2) of the MLPA are the requirements for record keeping by a Trust and contravention of such requirements is an offence resulting in the Trust being liable, on summary conviction, to a fine not exceeding XCD20,000/USD7,400. Schedule 3 (s.59(1)) of the Code levies a fine XCD75,000/USD27,604 for failure to comply with CDD measures under sections 21(2), (4) and (5) in the Code of a trustee of a trust (See Criterion 25.3). Trusts can be de-registered pursuant to reg. 12(1)(a-c) of the TNPOR for conviction of an offence under applicable legislations and being served with a civil or cash forfeiture order. **(b)** These administrative penalties may be proportionate and dissuasive, particularly, for Trustees which are not an FI/DNFBPs.

Reg. 14 of the TNPOR imposes the duties on trustees relevant to keeping the BO information and basic information and for the information to be kept for at least seven years. This section also imposes a fine for a “registered non-profit organisation” of XCD20,000/USD7,361 on summary conviction for contravening the regulations. It can be inferred that the penalty also applies to trusts, but it may be useful for the country to indicate this specifically.

Reg. 12 of the TNPOR also provides that the trust supervisor has the authority to deregister trusts for certain breaches and also the obligation to deregister trusts for certain other kinds of breaches. The mandatory deregistration applies where a trust is convicted of a breach of the TNPOR, the POCA or the SFTA; or if there is a forfeiture order against the trust. The supervisor may deregister for a breach of the TNPOR, or any Code of Practice made under s. 60 of POCA. S.12(1)(c) POCA provides that there is also a discretion for the supervisor to deregister a trust if it is deemed to be in the public interest to do so.

Reg. 15(6) of the TNPOR provides that a person required to provide an explanation of any records produced and fails to do so is liable on summary (criminal) conviction, to a fine not exceeding XCD50,000/USD18,403.

Trust businesses are scheduled businesses under the MLPA (Part 1 of the Schedule to the Act) and therefore the provisions of the Act apply. Sec. 27 of the MLPA allows for a High Court judge to grant a mandatory injunction where the trust business fails, without reasonable excuse to comply in whole or in part with the obligations under sections 16 (Record keeping), 17 (written request for information), 18 (compliance with instructions) and 19 (Reporting suspicious transactions). This injunction can be against a person carrying on the trust business and failure to comply will result in a fine of XCD50,000/USD18,403 and an additional XCD10,000/USD3,700 per day for as long as the non-compliance with the injunction continues (s. 27(2) of the MLPA).

Criterion 25.8 - Sanctions provided within Dominica’s framework, are applicable for failing to grant CAs timely access to trust information, provided that this information is available at criterion 25.1. Pursuant to r.15(1) of the TNPOR, the supervisor may require the production of records by a written notice to the trustee. The notice will include the period within which the records shall be produced (r. 15(2)(a) (iii)). Under r.12(5) of the TNPOR “registered non-profit organisation” that fails to comply with a notice issued under sub-regulation (1) commits an offence and is liable, on summary conviction, to a fine not exceeding XCD50,000/USD18,403.

Accordingly, in the r.15(5) of the TNPOR, it is an offence for a registered Trust not to comply with an issued notice to produce records and, on summary conviction, a Trust would be liable to a fine not exceeding XCD50,000/USD18,403. Further, a person required to provide an explanation of any records

produced under r.15 5) TNPOR, is guilty of an offence and is liable on summary conviction, to a fine not exceeding XCD50,000/USD18,403; if failure to provide the explanation, is without reasonable excuse (r. (6) TNPOR). Additionally, under s. 45(a-b) of the POCA, failing to comply with a production order which allows the police to access information held by a person, is an offence punishable on summary conviction by a fine of XCD10,000/USD3,700 and imprisonment of two years (natural person) or a fine of XCD50,000/USD18,403 (body corporate). Failing, without reasonable excuse, to comply in whole or in part with the record keeping, FIU requests for information, compliance instructions and reporting obligations (secs. 16,17,18 and 19 of the POCA) in all or any of the provisions for in an injunction is an offence; and a FI, officer or employee or person carrying on a scheduled business shall pay a penalty of XCD50,000/USD18,403; and pay, in a manner directed by the Court, an additional XCD10,000/USD3,700 for every other day that compliance with the Court order is not met. These sanctions are applicable to the criterion requirements.

Weighting and Conclusion

There are no measures to ensure that trustees disclose their status to FIs and DNFBPs when forming business relationships or carrying out an occasional transaction above threshold.

Recommendation 25 is rated Largely Compliant.

Recommendation 26 – Regulation and supervision of financial institutions

This Recommendation (formerly R. 23) was rated NC in the 3rd MER since no competent authority was assigned the responsibility of monitoring and ensuring compliance with AML/CFT requirements and there was no specific body entrusted with the responsibility for conducting onsite examinations and regular offsite monitoring. The deficiencies were addressed by amendments to the FSU Act and implementation of appropriate work programme by the FSU as reported in the 3rd, 4th, 5th and 6th FUR, the last dated November 2013. Since then, the FATF requirements on this recommendation have changed.

Criterion 26.1 - Sec. 7(1) of the MLPA establishes the FSU as the ML Supervisory Authority of all FIs and persons carrying on a scheduled business (except domestic banks and securities), and s. 9(1) of the Code establishes the duties of the FSU to monitor FIs and DNFBPs for ML/TF compliance with the Code and any other enactment relating to ML/TF. Sec. 7(2) of the MLPA establishes the ECCB as the ML Supervisory Authority of domestic banks. Sec.7 (3) of the MLPA establishes the ECSRC as the supervisory authority of securities exchange. Additionally, the MMOU between the ECCB and the FSU et al, refers to the ECCB as the Central Bank regulator of FIs and provides a framework for mutual cooperation in the supervision of compliance under the AML/CFT legal frameworks between the ECCB and FSU.

Criterion 26.2 - Sec. 11(2) of the FSU Act requires a person who intends to conduct a financial services business in Dominica, to obtain a licence before commencing business. Financial services business as defined in s. 2 of the FSU Act includes operation of a business or activity set out in Schedule III. Domestic banks in Dominica regulated by the ECCB fall under the Banking Act. Sec. 3(1) of the Banking Act requires persons to have a licence granted by the ECCB before conducting banking business or purporting to carry on banking business in the Currency Union. Additionally, the ECCB's Administrative Guidelines Governing Establishment and Maintenance of Relationships by a licensed FI with shell banks" prohibit banks from establishing or maintaining any relationship with a foreign bank without a physical presence. For those FIs falling under the ambit of the FSU, s. 4(1) of the MSBA

prohibits “entities from carrying on MSB business in Dominica without a licence.” Sec. 36(1)(a) of the Code prohibits an entity from entering into or maintaining a correspondent relationship with a shell bank or any other bank unless the entity is satisfied that the shell bank or other bank is subject to an appropriate level of regulation. Sec. 20(3) of the MLPR prohibits banking relationships with banks that do not maintain a physical presence but makes an exception for banks that are part of a financial group. Offshore banks in Dominica are supervised under the Offshore Banking Act. The aforementioned Act and MLPR do not contain provisions for prohibiting shell bank relationships outright which is a gap in the current domestic legislation.

Criterion 26.3 - Sec. 27 (1) of the FSU Act requires every person who is, or is likely to be, a director, controlling shareholder, or manager of a licensed financial institution to be a fit and proper person. Secs. 27(2) and (3) of the FSU Act describe the factors considered during the FSU’s fit and proper assessment. These factors include probity, competence, diligence, no evidence of criminal history, contravention of any legislative provision designed to protect depositors against loss due to dishonesty, incompetence, malpractice or contravention of the MLPA, SFTA, Regulations, Code and related guidance. FIs as defined in s. 2 of the FSU Act include institutions set out in Schedule II which covers all FIs except securities FIs. While the above provisions in the FSUA provide some measures for preventing criminals or their associates from holding interest, ownership or a management function in a FI, the fit and proper criteria in the FSUA are limited to technical qualifications, criminal history and ML/TF violations, and do not include past association with regulatory actions.

Sec. 8(2)(e) of the Banking Act stipulates that the criteria for approval of an application for a banking licence includes a fit and proper assessment of directors, officers and significant shareholders in accordance with s. 97 of the Banking Act. Significant shareholders are defined as holding more than 10% of the shares or owning or controlling more 10% per cent of the voting rights of the licensed FI or its subsidiary. Sec. 97 is extensive and includes personal and professional expertise, competency, integrity, criminal history, personal business history including associations and any involvement with regulatory actions regarding any FI.

Sec. 20 of the Banking Act requires the written approval of the ECCB for any person acting directly or indirectly, alone or together with one or more persons to hold or acquire shares that exceed supervisory thresholds of 10, 20 or 50 per cent of the share capital or voting rights of FIs without share capital. Secs. 22(f), (g) and (h) of the Banking Act require the ECCB to investigate whether a shareholder or proposed shareholder, the board of directors of a shareholder or proposed shareholder, or the ultimate beneficial owner of shares is fit and proper in accordance with ss. 97 and 98 of the Banking Act. Sec. 24 of the Banking Act requires persons approved by the ECCB as fit and proper, to continue to be fit and proper. Sec. 25 gives the ECCB power to disapprove a proposed transfer of shares to a person who is not fit and proper. Sec. 28 of the Banking Act requires banks to submit quarterly reports to the ECCB with the names and addresses of persons who own 5 per cent or more of voting rights, the names and addresses of the ultimate beneficial owner of nominees, the names and addresses of persons that control, acting directly or indirectly, individually, or jointly the bank. The fit and proper criteria detailed in Secs. 97 and 98 of the Banking Act are comprehensive and provide for a satisfactory fit and proper assessment.

Criterion 26.4 - (a) There are no provisions provided regarding regulation and supervision of the FSU in line with the core principles, where relevant for AML/CFT, including the application of consolidated group supervision for AML/CFT purposes. However, information about the ECCB supervision of domestic banks has been provided in the relevant Basel Committee on Banking Supervision (BCBS)

Principles 1-3, 5-9, 11-15, 26, and 29 referencing appropriate citations of the Banking Act. The cited provisions comply with the listed principles. **(b)** Sec. 9(1) of the Code mandates the FSU to monitor compliance by its licensees and other persons who are subject to compliance measures, with the Code and any other enactment (including any other code, guidance notes and any guidelines) relating to money laundering or terrorist financing as may be prescribed by the Code or any other enactment. Licensees of the FSU would cover all FIs including those other than the core principles institutions. The above provision fully complies with the requirements of sub-criterion **(b)**.

Criterion 26.5 - The FSU and the ECCB both use a risk-based approach in their AML/CFT supervision of their respective licensees with details of the methods for assessing an institution's risks and systems being provided. The FSU risk-based supervisory approach links the intensity and frequency of supervision to an institution's overall risk profile and is documented in its FSU's Risk-based Supervisory Framework. Dominica's NRA guides the FSU in understanding the overall country's ML/TF risk and specific sectoral risks which help to inform the FSU's risk assessment of FIs/DNFBPs. The FSU's risk-rating tool analyses the characteristics of institutions or groups, and this analysis drives the supervisor's risk-based supervisory approach, including the ability to alter the scope of onsite at its discretion depending on the risk of the regulated entity.

The ECCB's risk-based supervisory approach links the intensity and frequency of supervision to an institution's overall risk profile and is documented in its "Risk-based Supervision Framework." The examination scope is guided by the ML/TF/PF profile and the risks of the specific FI, with extra resources dedicated to high-risk entities or where risk management processes exhibit significant control gaps. Dominica's NRA guides the FSU and ECCB in understanding the overall country ML/TF risk and specific FIs and DNFBP risks which helps inform supervisors risk assessment of specific institutions and sectors. The FSU, the ECCB's risk-rating tools analyses the characteristics of institutions or groups, and this analysis drives the supervisor's risk-based supervisory approach.

Criterion 26.6 - Sec.10 (1) of the Code requires the FSU as part of the prudential inspection of a FI to review the FI's ML/TF risk assessments including the FI's policies, processes, procedures, and control systems in order to assess the FI's risk profile and adequacy of its mitigation measures. Secs. 10 (3) and (4) of the Code require the FSU after every risk review of a FI's ML/TF risks to prepare a report outlining the weaknesses identified and recommending necessary remedial action within a specific period and to transmit the report to the relevant FI. The criterion requires that the ML/TF risk profile is reviewed periodically and when there are major events. The FSU conducts regular reviews of FIs' risk assessment every year or upon request. Updating the ML/TF/PF risk assessment for an entity is a continuous process and results in the ML/TF/PF profiles being updated quarterly at a minimum. However, the frequency of review and the basis for such reviews is not stated as required in the Code. The ECCB's offsite supervision requires the conduct of the ML/TF risk assessments and results in the risk rating of banks. The ECCB has implemented a quarterly prudential return for completion and submission by banks which gathers quantitative information and statistics necessary for ML/TF analysis and the conduct of ML/TF risk assessment. The ECCB has also implemented an annual AML/CFT self-assessment questionnaire to be completed by banks. The assessment provides qualitative information of the AML/CFT compliance programmes instituted at licensed entities, including submission of any ML/TF risk assessment conducted at the respective entity.

Weighting and Conclusion

While the Banking Act, the FSU Act and the ECCB guidelines prohibit dealing with shell banks, there are no provisions in the Offshore Banking Act prohibiting offshore banks supervised by the FSU from carrying on business with a shell bank. The fit and proper provisions of the FSU Act do not require information on past association with regulatory actions. The frequency of ML/TF risk assessments and the basis for such reviews is not stated in the Code.

Recommendation 26 is rated Largely Compliant.

Recommendation 27 – Powers of supervisors

This Recommendation (formerly R. 29) was rated PC in the 3rd MER since the FSU did not have the authority to conduct inspections of financial institutions, including onsite inspections to ensure effective monitoring and compliance. The deficiency was addressed by an amendment to the FSU Act as reported in the 5th FUR dated May 2013. Since then, the FATF requirements on this recommendation have changed.

Criterion 27.1 - Sec. 7(1) of the MLPA establishes the FSU as the ML supervisory authority of all FIs and persons carrying on a scheduled business and the authority responsible for TF pursuant to s. 9(1) of the Code. Sec. 7(2) of the MLPA established the ECCB as the ML Supervisory Authority of (domestic) banks and Sec. 7(3) of the MLP(A)A of 2022 established the ECSRC as the Supervisory Authority of securities exchange. The Securities Act empowers the ECSRC to supervise and monitor the securities sector for AML/CFT requirements. Sec. 8 of the MLPA empowers each supervisory authority to supervise the respective FIs and DNFBPs in Dominica. This includes the functions of supervision, including conducting inspections to determine compliance, providing training, reporting any unusual ML/TF activities to the FIU and making recommendations to the Minister regarding ML/TF. Sec. 10 of the FSU Act describes the FSU's supervisory powers. Additionally, s. 9(1) of the Code mandates the FSU to monitor compliance by its licensees and other persons who are subject to compliance measures, with the Code and any other enactment (including any other code, guidance notes and any guidelines) relating to ML/TF as may be prescribed by the Code or any other enactment.

Criterion 27.2 - The FSU has the authority to conduct onsite/offsite inspections of FI. Sec. 10(b) of the FSU Act authorizes the FSU to inspect any business during normal working hours for the purpose of supervising the operation of the financial services business to ensure compliance with the FSU Act and the relevant financial services enactments. Sec. 8(e) of the MLPA also empowers the FSU to conduct inspections of any FI or DNFBP to determine compliance with the requirements of the MLPA, Regulations made under the MLPA or any instructions relating to ML given by the Authority. While the provisions of the MLPA does not include TF, the FSU is the Authority responsible for TF under s. 9(1) of the Code, and the FSU Act provision referencing all relevant financial services enactments includes the requirements of the SFTA and TF.

Regarding the ECCB, the authorities have cited s. 8(e) of the MLPA as being applicable to the ECCB's designation as the ML Supervisory Authority for banks. Secs. 74(1) and (2) of the Banking Act make provision for the production for the inspection of any examiner appointed by the Central Bank at the time the examiner specifies all books, minutes, accounts, cash, securities, documents and vouchers relating to its business as requested by the examiner for the purposes of this Act.

Criterion 27.3 - Secs. 13(2) and 13(3) of the FSU Act enables the Director of the FSU in carrying out his functions in supervising licensees under the FSU Act and any other Act to request any necessary information or documents from licensees or persons connected with licensees. These provisions would allow for the FSU to compel the production of any information relevant to monitoring compliance with the AML/CFT requirements. Sec. 74 of the Banking Act provides for the disclosure and access to books and records by a Central Bank Examiner for inspection and investigation for the purposes stated therein. This provision allows access to information only during onsite inspection by the ECCB. Sec. 90 of the Banking Act empowers the ECCB to request information and data relating to the matters described in s. 89(3) of the Banking Act. The ECCB may request any other required information for the purposes of its supervisory role under the Act from any licensed FI about its operations and those of its affiliates in the Currency Union or from a local licensed FI about its operations and those of its affiliates abroad. Any further information and data must be submitted within the period and in the manner as the ECCB may require.

Criterion 27.4 - Secs. 10(1) and 10(2) of the MLPA empower the ML Supervisory Authority in situations where FIs or DNFBPs contravene the MLPA or Regulations to give appropriate directives to the relevant FIs or DNFBPs and directions within such period to cease engaging in any activity, behaviour or practice or to take remedial measures or action necessary for compliance with the MLPA. In this case, s. 10 also applies to the ECCB as supervisory authority for domestic banks. By s. 10 of the MLPA, the ECCB is empowered to impose a range of penalties for breaches in ML/TF legislation from the power to issue directives to cease and desist to revocation of licence under s. 10 and s. 11 of the MLPA. Additionally, secs. 11(1) and (2) of the MLPA provides for the ML Supervisory Authority in situations where FIs or DNFBPs fail to comply with or contravene ML guidelines, directives or contravene the MLPA to issue a warning or reprimand, give directives, impose pecuniary penalties in accordance with s. 13 of the MLPA, suspend any or all FI/DNFBP activities and suspend or revoke a licence. In accordance with s. 7 of the MLPA (Amendment) Act, the above provisions are applicable to the ECCB in its functions as the ML Supervisory Authority for banks. The pecuniary penalty stipulated in s. 13 of the MLPA is XCD5,000/USD1,850 and an XCD500/USD185 daily penalty for every day or part of a day of non-compliance. Additionally, s. 60 (5) of the POCA states that where FIs or DNFBPs are in non-compliance with the Code, they are liable on summary conviction to a fine not exceeding XCD150,000/USD55,209, or to a term of imprisonment not exceeding 2 years or both. While the above measures provide for a range of sanctions, the pecuniary sanctions are not dissuasive.

Weighting and Conclusion

The measures include a range of disciplinary and financial sanctions; however, the pecuniary sanctions are not dissuasive.

Recommendation 27 is rated Largely Compliant.

Recommendation 28 – Regulation and supervision of DNFBPs

In its 3rd MER, Dominica was rated “NC” for Recommendation 28 (formerly R.24) because there were no regulatory or supervisory measures in place to ascertain compliance with AML/CFT laws and guidelines or the FSU’s responsibility to monitor and ensure compliance with AML/CFT requirements. By its 8th FUR, the country addressed this deficiency by establishing the FSU as the Money Laundering Supervisor and empowering the FSU to monitor and ensure the compliance of regulated persons with the provisions of Dominica’s AML/CFT legislative regime. However, the FATF requirements on this

recommendation have changed.

Criterion 28.1 - (a)(b)(c) There are no casinos in Dominica.

Criterion 28.2 - Sec. 7 of the MLPA established the FSU as the Supervisory Authority responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements.

Criterion 28.3 - Further to the analysis of criterion 28.2, other categories of DNFBPs are subject to systems for monitoring compliance with AML/CFT requirements. All DNFBPs are identified as scheduled businesses under Part II of the MLPA.

Criterion 28.4 - (a) Under s. 7 of the MLPA, the FSU is designated as the ML Supervisory Authority. FSU is granted with the powers to perform its functions pursuant to s. 10 (a)-(g) of the FSU Act. Additionally, s. 9 (1) of the Code gives the FSU the power to monitor compliance by its licensees and other persons who are subjected to compliance measures, with the Code and any other enactment (including any other code, guidance notes and any guidelines) relating to ML/TF as may be prescribed by the Code or any other enactment. **(b)** There are no fit and proper measures to prevent criminals or their associates from being professionally accredited or holding (or being the beneficial owner of) a significant or controlling interest or holding a management function in attorneys, accountants, real estate brokers and dealers in precious metals and precious stones. **(c)** The analysis in criterion 27.4 is applicable regarding supervisors being authorised to impose sanctions in line with R. 35.

Criterion 28.5 - The analysis for Criterion 26.5 which deals with the FSU supervision of FIs is applicable for the supervision of DNFBPs as per the FSUA, MLPA, MLPR and the Code.

Weighting and Conclusion

There are no fit and proper measures applicable to attorneys, accountants, real estate brokers and dealers in precious metals and precious stones. The FSU is the designated supervisory authority responsible for monitoring and ensuring compliance of all DNFBPs with AML/CFT requirements. The FSU has relevant supervisory sanctioning powers; however, they are not dissuasive.

Recommendation 28 is rated Partially Compliant.

Recommendation 29 - Financial intelligence units

Dominica was rated PC for Recommendation 29 (formerly R.26) in its 3rd round MER. The deficiencies underlying the ratings were that the FIU was not the central authority for the receipt of STRs and the FIU did not have total control of STRs. Other deficiencies concerned the impediment to the FIU's operational independence by virtue of the Ministry controlling its budget and the annual report of the FIU not being made publicly available. Dominica fully addressed all the deficiencies in its 8th FUR. The main revision to Recommendation 29 was the explicit requirement to conduct strategic analysis.

Criterion 29.1 - Dominica's FIU was established, pursuant to s. 3 of the FIUA, as a hybrid-type FIU within the Ministry of National Security and Home Affairs. The FIU serves as the central national agency for receiving, analysing, investigating and disseminating information concerning all suspected proceeds of crime and suspicious transactions and information relating to the property of terrorist groups and terrorist financing (s. 4(1)(a) of the FIUA).

Criterion 29.2 - (a) The FIU serves as the central agency for the receipt of STRs filed by reporting entities, pursuant to s. 19(2) of the MLPA and s. 19 of the SFTA. **(b)** The FIU also receives reports in relation to cross border transactions if their value exceeds XCD10,000/ USD3,700; referred to as Cash Transportation Reports (CTRs), pursuant to s. 28 of the MLPA.

Criterion 29.3 - (a) The FIU has the ability to obtain and additional information from reporting entities as needed to perform its analysis properly (s. 17 of the MLPA). The FIU has direct and indirect access to information held by REs. Sec. 17(1) of the MLPA allows the FIU to request information from FIs and DNFBPs. This information includes details of the identification of all persons that are party to a transaction, description of the transaction, details of any account used for the transactions and total value of the transaction. **(b)** The FIU has access to the widest possible range of databases including financial, administrative, law enforcement, open source and public information. Additionally, the FIU has direct access to databases of several government departments and other CAs. Where the FIU does not have direct access, it will make a request to the government authority for specified information. Memoranda from the Director of the FIU to governmental departments are used to access information held by all government entities. Sec. 4(1)(i) of the FIUA permits the FIU to consult with any person, institution or organization within or outside Dominica for the purposes of the exercise of its powers and duties under this Act. The FIU has MOUs in place with the CED, CDPF, FSU and IRD which allow for the sharing of information.

Criterion 29.4 - One of the core functions of the FIU is to conduct analysis. Sec. 4(1)(a) of the FIUA allows for the FIU to conduct analysis. There is no distinction in the law on the type of analysis (operational or strategic) that the FIU is required to conduct (*see analysis 29.1*). Further, the FIU's SOP at pages 13 and 15 provides the requirement for the conduct of operational and strategic analysis, respectively. The FIU's Operational Manual mandates that the Analysis Department of the FIU is responsible for conducting operational and strategic analyses.

Criterion 29.5 - Sec. 4 of the FIU Act allows the FIU to disseminate information (does not limit same to only analysis) concerning all proceeds of crimes and suspicious transaction and information relating to property of terrorist groups and TF. The requirement of the law is sufficiently broad to address the requirement of the criterion. Dissemination of information between the FIU and FSU is also covered in accordance with Sec.52(1)(2) of the Code. There are secure mechanisms and procedures adopted by the FIU to protect the disseminated information.

Criterion 29.6 - The FIU protects its information in the following ways:

(a) Sec. 8(1) of the FIUA stipulates that information obtained by the FIU employees shall not be disclosed to any person, except for provisions prescribed under the Act. The penalty for disclosing such information is a fine not exceeding XCD10,000/USD3,700, a term of imprisonment not exceeding one year or both. Additionally, the FIU has in place a security policy which contains, *inter alia*, rules governing the security and confidentiality of its information, including specific policies for information technology. This security policy was made available to the assessors during the onsite.

(b) FIU employees are subject to vetting checks on employment and are subject to the appropriate security clearance. As part of the recruitment to become a member of the FIU, all staff members undergo polygraph testing, complete an oath of secrecy and are trained on their responsibilities in handling and disseminating sensitive and confidential information. The FIU's security policy mandates that all staff receive an annual awareness training and an education/information session on the security features and protocols of the FIU.

(c) There are multiple security measures in place that limit access to the FIU facilities and information. These measures are detailed in the FIU's security policy document. The assessment team took the decision not to mention these measures in the report due to their sensitive nature and the report being a public document.

Criterion 29.7 - (a) Sec. 5(1) of the FIUA stipulates that the Director of the FIU is the CEO of the unit and is responsible for managing the day-to-day affairs of the FIU; including having the authority to make independent decisions on analysis and disseminations. Sec. 4(1)(a) of the FIUA designates the FIU as the central authority for receiving, requesting, analysing, investigating and disseminating information concerning all suspected proceeds of crime and suspicious transactions, as provided for under the FIUA, and information relating to the property of terrorist groups and TF. There are no legal provisions or otherwise preventing the FIU from carrying out its functions freely.

(b) The FIU can independently enter into agreements with foreign counterparts and with domestic CAs to facilitate the exchange of information. Sec. 52 of the Code allows the FIU to establish a system of dialogues with key public authorities within Dominica as a means of, *inter alia*, promoting information exchange. The FIU has MOUs in place with the CED, CDPF, FSU and IRD. Sec. 4(d) of the FIUA allows the FIU to liaise with ML and TF intelligence agencies outside of Dominica. The FIU has MOUs in place with foreign counterparts such as FinCEN, FINTRAC, the RSS, Royal Canadian Mounted Police (RCMP) and FIUs in Guernsey, Jamaica and Barbados,

(c) The FIU, whilst being a unit of the Ministry of National Security and Home Affairs, has its distinct core functions, as specified in s. 4(1) of the FIUA. The role of the Minister (National Security and Home Affairs) pertaining to the FIU is limited and only involves the Director advising the Minister on particular matters that can affect public policies and the priorities to be set by the FIU.

(d) The FIU is responsible at the end of each financial year to prepare a budget of revenue and expenditure which is required to be submitted to the Minister to be taken to Parliament (which is acceptable practice) (s. 10 of the FIU Act). Additionally, the Director is responsible for deploying and managing the resources of the FIU in an independent manner.

Criterion 29.8 -The FIU became a member of the Egmont Group in 2003.

Weighting and Conclusion

Recommendation 29 is rated Compliant.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

Dominica was rated 'PC' for R. 31 (formerly R. 27). Deficiencies included the absence of any consideration of taking measures providing for the postponement or waiving of the arrest of suspects or seizure of money for the purpose of identifying suspects or for evidence gathering and the lack of a group specialized in investigating the proceeds of crime. These deficiencies were fully rectified during the follow-up process.

Criterion 30.1 - The CDPF and the FIU (which is also staffed with police officers) are the law enforcement authorities that are tasked with the responsibility of properly investigating ML, associated predicate offences and TF in accordance with the framework of national AML/CFT policies of Dominica (s.12 of the Police Act, s.20 of the STFA and s.4 of the FIU Act). Further, the CED and the IRD are responsible for investigating predicate offences including tax offences under the legislation

that they are responsible for enforcing (Part III of Customs Act and s. 117 of the ITA and 68 of the VATA).

Criterion 30.2 - The CDPF has the authority to conduct parallel financial investigation with the assistance of the FIU to identify potential ML/TF offences, assets etc (CDPF Force Order 44/2021). The Force Order also mandates that all criminal offences with an equivalent value of XCD10,000 /USD3,700 be referred by Divisional Commanders and Heads of Department of the CDPF to the FIU to facilitate parallel financial investigations.

Criterion 30.3 - The FIU, CDPF, AG and DPP are responsible for expeditiously tracing, identifying and seizing property that can become subject to confiscation via civil and criminal proceedings (see analysis in R.4). The CED also has similar powers in accordance with various provisions in the Customs Act including secs. 45, 137 and 154-158.

Criterion 30.4 - All CAs with the responsibility for pursuing financial investigations of predicate offences are LEAs; namely the CDPF, CED, IRD and the FIU. The FIU has MOUs in place with the CDPF, CED and IRD. There are no non-LEAs designated to pursue financial investigations into predicate offences. Additionally, s. 10 of the Customs Act gives every customs officer the same powers, authorities and privileges as are given by law to a police officer.

Criterion 30.5 - There is no separate designated anti-corruption agency responsible for the investigation of ML/TF arising from corruption. The investigation of corruption and related ML/TF offences falls under the purview of the CDPF and the FIU. Reports of breaches of the Code of Conduct under the IPOA are forwarded to the DPP and the CDPF for investigation by the Integrity Commission.

Weighting and Conclusion

Recommendation 30 is rated Compliant.

Recommendation 31 - Powers of law enforcement and investigative authorities

Dominica was rated 'PC' for R. 31 (formerly R. 28). Deficiencies identified related to the lack of any explicit legal provision for predicate offences investigators to obtain search warrants to seize and obtain business transaction and the absence of provisions within the SFTA which afforded the FIU or the Commissioner of Police the ability to compel the production of business transaction records, in pursuit of TF investigations. Amendments were subsequently made to the POCA and fully addressed these shortcomings.

Criterion 31.1 - (a) Pursuant to POCA (s. 41), the CDPF and the FIU can compel the production of records held by FIs, DNFBPs and other persons for investigation of ML, associated predicate offences and TF. Production orders are used to access information from FIs, DNFBPs and other natural and legal persons.

(b) Police Officers including FIU officers have measures in place to obtain search warrants for persons and properties when conducting ML, associated predicate offences and TF offences under different pieces of legislation (s. 11 of the Police Act, secs. 17, 24 and 64 of the MLPA and s. 24 of the POCA). Customs authorities in conducting investigations under Customs Act can conduct searches on persons and properties (secs. 129-131 and secs. 123-126 of the Customs Act).

(c) LEAs charged with the responsibility of the investigation of ML, TF and underlying predicate

offences do have the power to take witness statements from prospective witnesses in the matters they investigate. There are rules that govern the taking of accused statements (i.e., Judges Rules). The same set of Judges' rules also provides certificates that should be appended to these accused statements including witness statements. The giving of statements by witnesses in criminal actions is voluntary.

(d) CED is authorised to seize and obtain evidence pursuant to s. 132 of the Customs Act. A proper officer may seize any substance, item, article or device found on or about a person when carrying out a search under s. 130. Police officers are authorised to seize tainted property or anything that the officer believes will afford evidence as to the commission of a criminal offence during the course of a search under warrant (s. 27 POCA). This applies to ML, associated offences or TF. Customs officers also have the same powers as police officers. Sec. 71(1)(b) of the ITA and s. 65(1)(b) also allow for the seizing and obtaining of evidence.

Criterion 31.2 - (a) In the MOUs signed amongst the LEAs, there are mechanisms for joint operations to include undercover operations. However, there are no guidelines to the conduct of such operations in the operational manuals of LEAs. In Dominica, there are no legal provisions or other enforceable obligations which allow for the conducting of undercover operations.

(b) There is no provision in Dominica for the interception of communications.

(c) LEAs and Investigative agencies can access computer systems when investigating ML, associated predicate offences and TF based various provisions of the different legislation (s. 41 of the POCA, s. 4A (9) of the TIEA and s. 66 of the VATA).

(d) Controlled delivery is permitted in Dominica based on the provision of s. 31A of the Criminal Law and Procedure (Amendment) Act, No.13 of 2014.

Criterion 31.3 - (a) There are mechanisms in place authorising the FIU and the CDPF to identify whether natural or legal persons hold accounts (s. 17 of the MLPA, s. 41 of the POCA and s. 4 of the FIUA). However, there are no mechanisms or specific legislation to provide for the timely execution of such requests **(b)** Identification of assets without prior notification of the owner is permissible as a result of ex-parte requirement that is contained in the law (secs. 47(1), 54 and 24 of the POCA).

Criterion 31.4 -The CED is able to request all relevant information held by the FIU pursuant to an MOU between CED & FIU. The MOU signed by the IRD, CDPF, CED, and FSU with the FIU provides a basis for requesting all relevant information.

Weighting and Conclusion

The competent authorities have a number of investigative and prosecution powers. However, minor deficiencies exist with the absence of measures to intercept communication and existing mechanisms for the identification of holders or controllers of bank accounts does not ensure a timely performance.

Recommendation 31 is rated Largely Compliant.

Recommendation 32 – Cash Couriers

The Recommendation formerly SR. IX was rated PC in the 3rd MER since there were no authority to conduct further investigations of false declarations and an absence of dissuasive sanctions for false declarations or cross border transportation currency or bearer negotiable instruments. Additionally, the declaration system did not allow for the detention of currency or bearer negotiable instruments and there were no formal arrangements for the sharing of information with international counterparts. As

indicated in the 8th FUR dated November 2014, at the end of the follow-up process most deficiencies remained outstanding.

Criterion 32.1 - Dominica has implemented a declaration system for incoming and outgoing cross-border transportation of currency and BNIs including via mail, cargo and by travellers (s. 28 of the MLPA and secs. 38, 46 50 and 40 of the Customs Act). The importation and exportation of goods under the Customs Act was interpreted by the assessors to include BNI, although not explicitly specified in the legislation. Goods are defined in the Customs Act to include any personal property, baggage, currency, conveyance, stores and livestock. The use of the word "include" in the definition is sufficiently broad to capture any items that are not mentioned in the legislation.

Criterion 32.2 - Dominica has adopted a declaration system which in accordance with secs. 28(1), 28(7) and 31 of the MLPA which requires a written report from all travellers carrying amounts above the threshold of XCD10,000/USD3,700 to be submitted to the Comptroller of Customs. Further, s. 186 of the Customs Act makes it an offence to provide false declarations.

Criterion 32.3 - Dominica has implemented a declaration system.

Criterion 32.4 - Sec. 19 (2) and (4) of the Customs Act authorizes Custom officers to request and obtain further information from the carrier with regard to the origin of the currency or BNIs, and their intended use.

Criterion 32.5 - The maximum penalties for providing false declarations are the greater of XCD100,000/USD37,000 or three times the value of the cash/BNI or 5 years imprisonment (Sec. 186 of the Customs Act). These penalties are considered to be proportionate and dissuasive.

Criterion 32.6 - In accordance with the 2021 MOU between the CED and the FIU, the Dominica E-Filing System (DEFS) links the airports and seaports to the FIU via a secure filing platform. CTRs are received by the FIU through its secure online filing platform and physical hard copies submitted by personnel of the CED from travellers leaving the State and by personal submission of hard copies directly to the FIU.

Criterion 32.7 - The 2021 MOU between the CED and the FIU provides for adequate coordination on issues regarding cash couriers. A similar MOU dated 21.02.2022 was signed between the CED and the CDPF and implemented. The Immigration Department is within the Police Force; therefore, all provisions of the MOU are applicable.

Criterion 32.8 - **(a)** Sec. 63A (1) of the POCA empowers a customs officer or a police officer to seize and detain cash which is being imported into or exported from Dominica if the amount is not less than XCD10,000/USD3,700 and there are reasonable grounds to suspect that the cash is recoverable. Additionally, s. 65 of the POCA allows for the seizure of cash by a law enforcement officer who finds property and there are reasonable grounds to suspect that the cash is recoverable. The cash can be initially detained for a period of 72 hours and can thereafter be detained for up to 3 months at a time, up to a maximum of 2 years, pursuant to an order of a Magistrate. The definition of cash in the POCA includes BNIs and recoverable cash refers to cash which is recoverable property or is intended by any person for use in unlawful conduct. **(b)** Sec. 63A (3) of the POCA provides for a magistrate to accept a false declaration signed by a person importing or exporting money as prima facie evidence for the detention of the cash.

Criterion 32.9 - In Dominica, there exists the sharing of intelligence between the CED and members of the World Customs Organisation (WCO) and regional law enforcement organisations namely,

Caribbean Community Implementation Agency for Crime and Security (IMPACS) and Caribbean Customs Law Enforcement Council (CCLEC). The information regarding threshold declarations at the airport and seaports are forwarded to the FIU, as described in criterion 32.6. The FIU has the power to exchange information and co-operate with foreign counterparts as described in R. 40. Secs.101 and 159 of the Customs Act facilitates the retention of information and sufficiently covers information relating to (a) declarations or disclosure which exceed the prescribed threshold, (b) false declarations or false disclosures, or (c) when there is a suspicion of ML/TF.

Criterion 32.10 - Sec.9 (2) of the Customs Act imposes an obligation on persons having an official duty or being employed in the administration of the Act to not disclose to any unauthorised person, directly or indirectly, any information or document obtained in the exercise of any power under the Act, which is a criminal offence. This sufficiently covers the security of all information collected. There are no indications or documented provisions suggesting that the declaration system may impede either the trade payments or the freedom of capital movement.

Criterion 32.11 - Persons who are carrying out a physical cross-border transportation of currency or BNI that are related to ML/TF or predicate offence are subject to convictions for ML/TF. The sanction regime that is available is proportionate and dissuasive, as described in criterion 3.9 and criterion 5.6. If the currency or BNI is the proceeds of ML/TF, then the funds can be restrained and forfeited pursuant to the POCA and MLPA (refer R. 4).

Weighting and Conclusion

Recommendation 32 is rated Compliant.

Recommendation 33 – Statistics

This Recommendation was rated as NC in its 3rd MER due to competent authorities maintaining limited statistics relative to ML and TF investigations, prosecutions and convictions; property frozen, seized and confiscated; interagency cooperation, supervision and sanctions. By the end of the 3rd Round of Mutual Evaluations, the country had not fully addressed these deficiencies.

Criterion 33.1 - Dominica maintains statistics on:

STRs, received and disseminated - Sec. 4(h) of the FIUA mandates the FIU to compile statistics and records relating to ML. The FIU is not mandated to maintain statistics relating to TF. However, the FIU maintains statistics on STRs received, analysed reports and disseminated intelligences, in accordance with procedures within the FIU's SOP. The STRs are categorised as per the predicate offences and as per the general types of REs such as banking, MSBs and DNFBPs.

ML/TF investigations, prosecutions and convictions - The FIU maintains statistics on ML/TF investigations, prosecutions and convictions. Additionally, the ODPP and the judiciary maintain statistics relating to ML prosecutions and convictions. However, there is no authority to maintain these statistics. Whilst these systems are promising, there is a disparity in the statistics held by the various CAs and there was disparate information indicating the genesis and type of predicate offences to which the total number of ML investigations and prosecutions relate (see details under I.O. 7). The absence of comprehensive and detailed statistics posed an unsurmountable impediment to assessing the performance and effectiveness of the ML investigations regime.

Property frozen; seized and confiscated - The FIU databases are also designed to store, keep and maintain data on properties seized, frozen or confiscated. The Enforcement Unit of the CED also maintains comprehensive statistics as it relates to property detained, seized, forfeited and condemned, pursuant to the Customs laws and regulations.

MLA or other international requests for cooperation made and received - The Central Authority has a system that allows for the capture of all incoming and outgoing requests. It tracks all information pertaining to the requests including the date the request was received, the actions taken, the date the action was taken and the status of the matter. However, there is no authority to maintain these statistics. The FIU databases are also designed to store, keep and maintain data on mutual and international requests.

Weighting and Conclusion

Significant steps have been undertaken by CAs in Dominica to improve statistics. Whilst there is a provision in the FIUA for the FIU to compile statistics relating to ML matters, there is no explicit provision for TF. Additionally, the legal provision only speaks to the compiling of statistics and does not address the need to have these statistics maintained. There are no legal obligations or other explicit provisions for the judiciary to maintain statistics regarding ML prosecutions and convictions. The statistics kept on ML investigations are not comprehensive.

Recommendation 33 is rated Largely Compliant.

Recommendation 34 – Guidance and feedback

Recommendation 34 (formerly R.25) was rated NC in the 3rd MER as there were no specific guidelines issued to assist DNFBPs and other financial institutions with implementing the requirements of the AML/CFT regime; Non-issuance of guidelines by SROs and other competent authority (FSU) for DNFBPs; and the authority has not provided the financial sector with adequate and appropriate feedback on the STRs. As indicated in the 8th FUR, all deficiencies were addressed by amendments to the Code. In Dominica's 8th FUR in 2013, this recommendation was fully rectified.

Criterion 34.1 - Sec. 31 of the FSU Act gives the Director authority with the approval of the Minister to issue guidelines with respect to the procedures to be followed by and the conduct expected of licensees in the operation of their licensed businesses. The FSUA, MLPA, STFA and FIUA provide the legislative basis for this requirement, permitting the respective supervisory and investigative authorities to issue guidelines or guidance notes, and provide direction to FIs and DNFBPs. The FIU's SOP requires the FIU to provide feedback on information submitted by competent authorities. Schedule 2 of the Code provides red flag sectoral ML/TF guidance. From 2020-2021, the FSU also issued a series of guidance including: General AML/CFT Guidance Notes, CFT Guidelines, Fit and Proper Guidelines, Compliance Officer Guidance and Sector specific guidance notes for Attorneys at Law, the Real Estate Sector, Accountants, Car Dealers and MSBs. A joint FIU/FSU outreach on legislative guidance to regulated entities scheduled for Q1 2020 was cancelled due to the coronavirus pandemic.

Weighting and Conclusion

Recommendation 34 is rated Compliant.

Recommendation 35 – Sanctions

Recommendation 35 (formerly R.17) was rated NC in the 3rd MER as there was a lack of a designated regulatory body to apply sanctions/fines and the absence of a clearly defined process in the law or guidance notes. As indicated in the 8th FUR, all deficiencies were addressed by amendments to the MLPA, SFTA and FSUA; this recommendation was fully rectified.

Criterion 35.1 - A range of proportionate and dissuasive criminal, civil and administrative sanctions are available as follows:

(a) Sanction for targeted financial sanctions (R. 6): Sec. 19 of the SFTA states that any person who contravenes secs. 14,15,16,17 or 18 is guilty of an offence and is liable on conviction on indictment to a fine of one hundred thousand dollars or imprisonment for a term of twenty-five years or to both such fine and imprisonment. Additionally, s. 45 of the act speaks to the general penalty that a person who contravenes or fails to comply with any other provisions of the SFTA, where the provision does not expressly create any offence or provide a penalty is guilty of an offence and is liable on conviction. Sec. 5(1) of the SFTA as amended by s. 5 of the SFT(A)A provides for an increase in the sanctions in s5(1)(a) in the case of an individual, from a fine of two hundred thousand dollars to a fine of five hundred thousand dollars and in s5(1)(b), in the case of an entity, from a fine of one million dollars to a fine of two million dollars.

(b) Sanctions of NPOs (R.8): Regs. 12 and 16 of the TNPOR only states of the deregistration of NPOs and the provisions of false and misleading information where a person is guilty of an offence and is liable, on summary conviction, to a fine not exceeding XCD50,000/USD18,403 of the person. Reg. 14 of the TNPOR, as amended by r. 4(d) of the TNPO(A)R, 2022 provides for the offence where a controller of a non-profit organisation who knowingly and without reasonable cause contravenes ss. (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of fifty thousand dollars. Additionally, r. 15A(1) of the TNPOR, as amended by reg. 5 of the TNPO(A)R, 2022 provides for a range of instances where a controller may be disqualified. This includes a conviction of an offence under the POCA, MLPA, SFTA, the TNPOR.

Sanctions for Preventive Measures and Reporting (R.9 - 23): Sec. 60 (5) of the POCA states that where a person fails to comply with or contravenes a provision of a Code of Practice, the person is guilty of an offence and is liable on summary conviction to a fine not exceeding XCD150,000/USD55,209 or to a term of imprisonment not exceeding two years or both. Further, s. 22 of the MLPA imposes penalty for contravention of s. 16 (R.11) and 19 (R.20) of the MLPA which states that without prejudice to any other liability, criminal or civil, in relation to a ML offence, a FI, its employees, directors, owners or other authorised representative or a person carrying on a scheduled business is liable on conviction to a fine of XCD250,000/USD92,017 or to imprisonment for a term of three years. Sec. 22 (ii) of the FSU Act outlines the enforcement acts to be taken by the director on an FI if there is a contravention of the MLPA or any regulation made or any guidelines or guidance notes or Codes prescribed by the MPLA or the SFTA. Additionally, schedule 3 of the Code outlines all the general offences and administrative penalties for failure to comply with AML/CFT requirements. While the administrative penalties outlined although they are proportionate and dissuasive for individuals, they are not for a corporate body.

The ECCB and ECSRC have powers to withdraw, restrict or suspend an FI's licence, impose civil penalties and prohibit individuals from managing a relevant FI.

Criterion 35.2 - A range of proportionate and dissuasive criminal, civil and administrative sanctions are also applicable to directors and senior management as follows:

Administrative Sanctions, Suspension and Revocation, and Pecuniary Penalties: Under s. 11 to 13 of the MLPA, where a director, manager or senior officer of an FI/DNFBP is not fit and proper, fails to comply with or contravenes a guideline, fails to comply with a directive or otherwise contravenes the MLPA, the supervisory authority, can issue directives, issue pecuniary penalties of XCD5,000/USD1,840 and an additional XCD500/USD184 for up to thirty days for failure to take certain measures or actions or cease a particular action or behaviour.

Financial sanctions for Breaches of Preventative Measures: Under s. 59 of the Code, individuals, including legal persons who contravene the Code's AML/ATF requirements are subject to penalties listed in Schedule 3. The maximum penalties are specified in Schedule 3, Columns 3 and 4, range from XCD50,000 - 75,000/USD18,403 – 27,604 for corporates and individuals per regulation. These fines generally cover FATF Recommendations 6 and 8-23, except there are no offences specific to Recommendations 6, 8, 12 or 18 dealing with TFS, NPOs, PEPs and foreign branches and subsidiaries. Under s. 60(5) of POCA, a person who fails to comply with or contravenes a provision of the Code is guilty of an offence and is liable on summary conviction to a fine not exceeding XCD150,000/USD55,209 or to a term of imprisonment not exceeding two years or both. Where a corporate body is guilty of an offence under s. 60(5), every director, partner or other senior officer shall, subject to Sec. (7), be proceeded against as if they committed the offence and is liable on summary conviction to a fine not exceeding XCD150,000/USD55,209 or to a term of imprisonment not exceeding 2 years or both.

Financial and Criminal Sanctions: Directors, Officers and employees who breach s. 21 of the MLPA on non-disclosure are subject to a penalty of XCD500,000/USD184,030 and a term of up to 5 years imprisonment. FIs, employees, Directors, Officers, authorised representatives or persons carrying on scheduled business who breach s. 22 of the MLPA (s. 16,17 or 19) on record-keeping, requests for information and reporting STRs, are subject to a fine of XCD250,000/USD92,016 or a term of imprisonment of three years. An individual who is guilty of an offence of terrorist financing under s. 4 of the SFTA Act is liable on conviction to a fine of XCD200,000/USD73,613 or imprisonment for 25 years or both. Under s. 19C of the SFTA, FIs, employees, staff, directors, owners or authorised representatives who contravene S. 19A on suspicious transaction reporting are liable on conviction to a fine of XCD250,000/USD92,017 or to imprisonment to a term of 5 years. Offences in the FSU Act are directed at individuals related to prudential non-compliant activity and not to non-compliance with the AML/CFT obligations.

Weighting and Conclusion

The pecuniary penalty of XCD5,000/USD1,840 is low and equivalent to 13.5 per cent-19 per cent of annual salaries for Managers, Directors and Executive Directors and as such are not considered proportionate and dissuasive. Offences in the FSU Act are directed at individuals related to prudential non-compliant activity and not to non-compliance with the AML/CFT obligations. While the

administrative penalties outlined are proportionate and dissuasive for individuals, they are not for a corporate body.

Recommendation 35 is rated Largely Compliant.

Recommendation 36 – International Instruments

Dominica was rated ‘PC’ for this Recommendation (formerly R. 35) in its 3rd MER. Deficiencies included: Dominica was not a party to the 2000 Convention Against Transnational Organized Crime – (The Palermo Convention); many but not all of the following articles of the Vienna Convention (Articles 3-11, 15, 17 and 19) have been fully implemented; not all aspects of Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention were implemented; and many but not all of the Articles 2- 18 of the Terrorist Financing Convention were fully implemented; S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001) were not fully implemented. By the time of its 8th FUR to its 3rd MER Dominica had fully rectified these deficiencies.

Criterion 36.1 - Dominica acceded to the Vienna Convention on June 30, 1993; the Palermo Convention on May 17, 2013; the Merida Convention on May 28, 2010; and the Terrorist Financing Convention on September 24, 2004.

Criterion 36.2 - Dominica has implemented the relevant articles of the Vienna Convention, the Palermo Convention, the Merida Convention and the Terrorist Financing Convention.

Weighting and Conclusion

Recommendation 36 is rated as Compliant.

Recommendation 37 - Mutual legal assistance

In its 3rd round MER, Dominica was rated LC for the former R.36 and PC for SR V.

Criterion 37.1 - The MACMA allows Dominica to provide and receive mutual legal assistance in Commonwealth as well as non - commonwealth states. Secs. 20-28 set out the forms of the widest possible range of MLAs. The MACMA also incorporates bilateral and multilateral treaties into the mutual assistance regime thus expanding the list of states and areas of cooperation. The central authority procedures outline steps to be followed in processing a request. The ML/TF requests are treated as priority items.

Criterion 37.2 - The AG has been designated as the central authority for mutual assistance under the MACMA. This designation is consistent across relevant legislation including the MLPA and the SFTA. The AG has published the Central Authority Procedures which include guidance on the prioritisation of matters. Dominica has a case management system CaseGenixx to monitor progress on request.

Criterion 37.3 - The restrictions to mutual legal assistance enumerated in s.19 of the MACMA are not unreasonable or unduly restrictive as they are of the type ordinarily found in constitutional democracies. Additionally, s. 6 of the MACMA does not preclude other forms of legal assistance, whether formal or informal.

Criterion 37.4 (a) Pursuant to the MACMA, mutual legal assistance cannot be refused on the grounds that the offence involves fiscal matters. **(b)** Pursuant to s.48 of the MLPA, secrecy obligations in respect of FIs and DNFBs are overridden. As such these are not grounds for refusal. A notable exception

relates to legal professional privilege. Dominica may refuse assistance under secs. 19 and 20 of the MACMA if the requested individual does not wish to cooperate and cannot be compelled under law to do so or the request would infringe a privilege recognised under the law.

Criterion 37.5 - Sec. 13 of MACMA mandates the restriction on the use of evidence only for the purpose of the criminal proceedings to which the request is related or as the case may be, any criminal proceedings consequent on the investigation to which the request related. In addition, the CAs are required to comply with the Public Secrecy Act Chapter 23:01 which prohibits the unauthorised disclosure of information obtained in the course of employment.

Criterion 37.6 - Pursuant to s. 19 (2) (d) of MACMA, dual criminality is a mandatory basis for refusal of a request from a Commonwealth country or a non-Commonwealth treaty country. However, under s. 19 (5) of the MACMA where any of the grounds referred to in secs. (2) or (3) apply in relation to some, but not all, of the matters in respect of which a request for assistance under this Act is made, nothing in this section operates to prevent the request being accepted to the extent that no such ground applies in addition, under s.s 6 (1) of MACMA Nothing in this Act derogates from existing forms or prevents the development of other forms of cooperation (whether formal or informal) in respect of criminal matters between Dominica and any Commonwealth country, or between Dominica, or any enforcement agencies or prosecuting authorities in Dominica, and the International Criminal Police Organisation or any such agencies or authorities outside Dominica. The Act does not distinguish between coercive and non-coercive forms of assistance in this regard.

Criterion 37.7 - The requirement for dual criminality does not impose any requirement other than the existence of a similar offence in Dominica at the time of the act or omission in question.

Criterion 37.8 - (a) The techniques available under Recommendation 31 criterion 31.1 are available pursuant to the MACMA, read together with the MLPA and POCA. (b) While investigative powers of some CAs in respect of the requirements under this Recommendation appear limited, Dominica can conduct investigations through the utilisation of police powers in accordance with any applicable law.

Weighting and Conclusion

Dual criminality is a mandatory basis for refusal of a request from a Commonwealth country or a non-Commonwealth treaty country.

Recommendation 37 is rated Largely Compliant.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In the 3rd Round MER, Dominica was rated partially compliant with R. 38. Deficiencies were noted regarding the absence of an asset forfeiture fund, no consideration of authorising the sharing of assets confiscated when confiscation is directly or indirectly a result of the actions of law-enforcement coordination and unclear legislation regarding the property of corresponding value and arrangements for coordinating seizure and confiscation actions with other countries. The follow-up process concluded legislative amendments were enacted to remedy these deficiencies. The new FATF requirements are 38.2, 38.3 (b) and 38.4. The analysis of 38.4 is required in so far as this criterion is now a direct obligation whereas in the previous methodology the obligation was only due for consideration.

Criterion 38.1 - (a-e) Dominica has the authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize or confiscate property, including laundered property,

proceeds, instrumentalities and property of corresponding values as listed in (a) - (e) of this criterion, pursuant to s. 39 of the MLPA, secs. 9, 26, 27 and 28 of the MACMA and s. 12C of the SFTA (See R.4 and R.37 as the same domestic powers are available for international requests). Sec. 66 of the Interpretation and General Clauses Act (ICGA) prescribes that where no time is specified or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the occasion arises.

Criterion 38.2 - There is no limitation in the laws of Dominica on extending MLA to non-conviction-based proceedings. Sec. 59B (1)(a) of the POCA enables the AG to recover in civil proceedings before the Court, a property which is, or represents property - (i) obtained through unlawful conduct; or (ii) that has been used in, or in connection with, or is intended to be used in, or in connection with, unlawful conduct. Additionally, s. 59B(1)(b) ensures that the powers conferred by this Part which are exercisable in relation to any property, including cash, are exercisable whether or not any proceedings have been brought for an offence in connection with the property. The interaction of these laws with s. 39 of the MLPA would allow for the provision of MLA in non-conviction-based matters.

Criterion 38.3 - (a) There are adequate statutory and practical arrangements in place which ensure that the execution of seizure and confiscation orders are adequately co-ordinated with foreign authorities. Sec. 26 of the MACMA provides for international cooperation by the Central Authority. The Central Authority Procedures set out the general procedure to be followed in respect of requests received for the seizure of assets. **(b)** The mechanisms described under c.4.4 applies, pursuant to the application of s. 39 of the MLPA.

Criterion 38.4 - Dominican authorities are empowered, pursuant to secs. 36(3)(b) and (c) as well as s. 37 of the MLPA, to share confiscated property with other countries.

Weighting and Conclusion

Recommendation 38 is rated Compliant.

Recommendation 39 – Extradition

Dominica was rated ‘LC’ for R. 39 in its 3rd Round MER. The deficiency was related to the lack of specific measures or procedures (other than the ordinary extradition procedures) adopted that will allow extradition requests and proceedings relating to terrorist acts and the financing of terrorism related offences to be handled without undue delay. The revised FATF Standards require an adequate legal framework for extradition with no unreasonable or unduly restrictive conditions when assessing and rendering extradition requests. Also, there should be a clear and efficient process to facilitate the execution of extradition requests, and the progress should be monitored by a case management system.

Criterion 39.1 - (a) A ML offence is for the purposes of the Extradition Act an extraditable offence and this section applies whether there is an extradition treaty or not with the requesting state (s. 43 MLPA). The Schedule to the Extradition Act sets out extraditable offences includes offences against the law relating to the suppression of financing of terrorism. Additionally, s. 26 of the SFTA provides for the use of counter-terrorism convention to be used as a basis for extradition of TF matters.

(b) The Central Authority Procedures adequately outline the procedure which must be undertaken to deal with extradition requests. These procedures aim to ensure that requests are handled without undue delay. Time limits for every step of the process have been instituted

which ensure that the requests are handled efficiently and treated with priority. The procedures give explicit priority to the extradition of persons in relation to terrorism offences. Sec. 10 of the EA gives authority for the arrest of a fugitive on a foreign warrant which also allows for timely execution of extradition requests. The said procedures including expressly stated time frames can be found in Part B of the document. The procedures require that once a request is received it is entered into the appropriate database. The database upon which the extradition request information is stored is *de facto* a case management system as it allows for the record of the actions taken and progress of the execution of the Request.

(c) Secs. 7 and 9 of the Extradition Act grants authority to the AG to refuse extradition if the provisions of these sections are not met. These sections contain bars to extradition which reflect common international standards for extradition and are not unreasonable or unduly restrictive.

Criterion 39.2 - The laws do not specifically prohibit the extradition of nationals. Provisions within the Extradition Act allow for the extradition of the citizens of the Commonwealth of Dominica. Sec. 6 (Power to apprehend and surrender fugitive) and s. 7 of the Extradition Act (Power circumscribed) make provision for any person to be extradited once the crime is an extraditable offence as described in criterion 39.1.

Criterion 39.3 - Sec. 4 of the Extradition Act states that an “extradition crime” means an offence, however, described that, if committed in Dominica (a) would be a crime described in the Schedule; or (b) would be a crime that would be so described were the description to contain a reference to any intent or state of mind on the part of the person committing the offence or to any circumstance of aggravation, necessary to constitute the offence, and for which the maximum penalty in that other country or state is death or imprisonment for a term of twelve months or more. There is no legal or practical impediment to rendering assistance for extradition where both countries criminalise the conduct underlying the offence.

Criterion 39.4 - A magistrate may, on a foreign warrant of arrest or on an information or complaint laid before him, issue a warrant for the arrest of a fugitive (s. 10, Extradition Act). However, there is no further simplified extradition mechanism for consenting persons who waive formal extradition proceedings. Fugitives must be brought before a magistrate who shall then determine whether the fugitive should be committed for surrender or be discharged. This requires that the magistrate hears the case in the same manner, as nearly as may be as if the fugitive had been brought before the magistrate and charged with an offence committed in Dominica that is triable on indictment (s. 13, Extradition Act). The fugitive is detained in custody (s. 14 of the Extradition Act) pending the determination pursuant to s. 13 of Extradition Act. Where a fugitive is committed to prison, he shall remain there until he is surrendered to the state seeking his surrender. When committed to prison, fugitives will not be surrendered until after the expiration of fifteen days and, within that time, fugitives may, under the law, apply for leave to appeal or apply for a writ of habeas corpus (s. 19(a) Extradition Act).

Weighting and Conclusion

There is no additional simplified extradition mechanism for consenting persons who waive formal extradition proceedings.

Recommendation 39 is rated as Largely Compliant.

Recommendation 40 – Other forms of international cooperation

Dominica was rated largely compliant in the 3rd MER. The assessors recommended that Dominica make clear that requests for cooperation would not be refused on the sole grounds that the request was also considered to involve fiscal matters. In February 2013, the FATF aligned the standards between R. 37 and R. 40 by inserting a reference that DNFBP secrecy or confidentiality laws should not affect the provision of mutual legal assistance, except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies.

Criterion 40.1 - The Exchange of Information (EOI) Unit is responsible for carrying out exchanges of information with other tax administrations in accordance with the exchange of information provisions in the relevant international legal instruments to which Dominica is party. Dominica is a party to the CARICOM Double Taxation Agreement (DTA) and to 9 other DTAs with foreign countries. It also has obligations pursuant to bilateral Tax Information Exchange Agreements (TIEAs) and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Tax information can be shared by the EOI Unit with countries with which Dominica entered into agreements. The FIU under s.40 of the MLPA may request, share information relating to the commission of a ML offence with a foreign counterpart agency, subject to reciprocity, and any conditions as may be considered appropriate by the Director, but the FIU shall not refuse a request on the ground that it involves matters of a fiscal nature. Sec. 4 of the FIUA empowers the FIU to cooperate with and share information with entities inside and outside of Dominica. The FIU, as an Egmont Group member, observes the principles of information exchange. Sec. 16 of the FSUA makes provisions for the FSU to share information with foreign regulatory authorities. The CED is a signatory to an MOU with CCLEC which consists of approximately 38 countries, which allows Dominica to provide and have access to broad international cooperation in Customs matters, including information in respect of ML/TF and predicate offences. The CDPF may cooperate under the provisions of ACCP Agreement, RSS Treaty and Interpol. Sec. 35 (4)(a) of the ECCB Agreement which states that the ECCB shall: (i) provide international financial institutions, foreign banking supervisors and any other local or foreign authorities responsible for the supervision or regulation of a licensed financial institution, or for maintaining the integrity of the financial system with such statements, returns, data and information; and (ii) provide access, to any officer of a foreign authority responsible for the supervision or regulation of licensed financial institutions in order to assess the safety and soundness of a foreign financial institution; on a reciprocal basis and subject to an agreement for confidentiality and a MOU. Further, an MMOU was executed among the ECCB and National Regulators within the ECCU, to include Dominica, in the context of AML/CFT. The MMOU has provisions for cooperation in relation to AML/CFT matters as follows: (i). The Authorities intend to provide one another with assistance or information under this MMOU to the extent permitted by law. (ii). The Authorities agree to consult, cooperate and exchange information relevant to the maintenance of the integrity and soundness of the AML/CFT systems of financial institutions and will use reasonable efforts to provide each other, as permitted by law, with any information that they may have which relates to AML/CFT compliance. (iii). To facilitate cooperation and exchange of information under this MMOU, the Authorities hereby designate contact persons as set forth in the Appendix. No information was provided in respect of the ECSRC.

Criterion 40.2 - (a) The Comptroller of Inland Revenue can share tax information with other countries by virtue of s. 4 of the TIEA. Sec. 16 of the FSUA allows the Director of the FSU to cooperate with foreign regulatory authorities by providing requested information and documents in accordance with the provisions of the FSUA. Sec. 4 of the FIUA authorizes the FIU to *inter alia*, liaise with ML and TF

intelligence agencies outside of Dominica and disseminate information concerning suspected proceeds of crime, suspicious transactions and information related to the property of terrorist groups and terrorist financiers. Further, secs. 40 and 41 of the MLPA provide for information sharing by the FIU with foreign counterpart agencies, subject to reciprocity and the entering into an agreement. The CED is a signatory of a MOU with CCLEC which consists of approximately 38 countries, which allows Dominica to provide and have access to broad international cooperation in Customs matters. Both the FSU and FIU are signatories to a MMOU with the ECCB and other territories which promotes mutual assistance and exchange of information.

(b) CAs may cooperate directly with their counterparts, and there are no legal impediments to using the most effective means to cooperate.

(c) The FIU has established clear and secure gateways to facilitate and allow for the transmission and execution of requests (see analysis for Recommendation 29, criterion 29.5 and 29.6). Secure procedures have also been established for the ECCB. Likewise, the IRD's Procedures Manual for Exchange of Information under the TIEA establishes procedures and mechanisms that allows for the transmission of information.

(d) The FIU's SOPs set out that prioritisation is based on urgency and the timeframe set out in the request. Likewise, the Central Authority has procedures that set out prioritisation of requests. The IRD, pursuant to the Exchange of Information Procedure Manual responses also has measures which allow for matters to be treated urgently. There is no indication that there are similar provisions provided for the CED, and CDPF.

(e) The FIU has rules in place governing the security and confidentiality of information (see analysis for criterion 29.6). Likewise, the IRD's Exchange of Information Procedure Manual includes measures for confidentiality. With regard to other competent authorities, there are instruments (laws and agreements) that allow for information sharing and the requirement for confidentiality.

Criterion 40.3 - Dominica has executed several agreements, with a wide range of foreign counterparts, that allow for the sharing of information which can be used in the investigation of criminal activity (including ML and TF).

Criterion 40.4 - The FIU's SOPs include a requirement for the FIU to provide feedback, in a timely manner, to CAs from which they received assistance, on the use and usefulness of the information obtained. For the police the INTERPOL Treaty provides for feedback. For the other CAs namely the FSU, IRD and CED provide feedback through emails, letter correspondents and by way of informal means however, there are no formal procedures to provide feedback in a timely manner when the CAs received assistance on the use and usefulness of the information obtained. The ECCBs SOP for information sharing is encapsulated within s. 8.0 of its offsite procedures. As part of its procedures the ECCB has implemented timelines for providing responses based on the nature of the request. The ECCB has also implemented a feedback mechanism as part of its procedures to ensure efficient and effective cooperation is maintained. No information was provided in respect to ESCRC.

Criterion 40.5 - (a) Pursuant to the MLPA, there is a clear mandate that requests are not to be refused on the basis that they involve fiscal matters. The conditions for sharing information pursuant to secs. 40 to 42 of the MLPA are not deemed restrictive or unreasonable. Sec. 16 of the FSUA sets out the matters to be considered by the Director when providing assistance to a foreign regulatory authority. Those conditions are not deemed restrictive or unreasonable. Sec. 35 of the ECCB Agreement stipulates

conditions which are not deemed restrictive or unreasonable. For the IRD under s. 8(2) of the VAT Act permits the Comptroller to disclose any documents or information to a person where the disclosure is necessary for the purposes of this Act or any other fiscal law. For the CED under s. 9(5) (6) of the Customs Act the Comptroller may disclose or authorise the disclosure of any document or information in accordance with any law, treaty, agreement or arrangement concluded by Dominica which includes currency and documents relating to other relevant financial transactions, including ML. The provisions of ACCP agreement, RSS Treaty, Interpol constitution allow the CDPF to render assistance and exchange information and do not impose restrictive conditions.

(b) Sec. 48 of the MLPA stipulates that subject to the Constitution, the provisions of the MLPA override secrecy obligations or other restrictions imposed by any law or otherwise with regard to the disclosure of information.

(c) There is no mechanism or legislative requirement for any of the competent authorities to prohibit the exchange of information on the grounds that an inquiry, investigation or proceedings is underway in the requesting country.

(d) There is no requirement for Dominica to refuse a request for assistance on the grounds that the nature or status of the requesting counterpart authority is different from that of its foreign counterpart.

Criterion 40.6 - Secs. 16 (2), (3) and (6) of the FSUA stipulate the relevant controls and safeguards that must be established, prior to responding to a request for information, to ensure that information is exchanged by competent authorities is used only for the purpose for, and by the authorities, for which the information was sought or provided. Clause 15 of the MMOU with the ECCB requires that a written request for information must include, *inter alia*, the purpose for which the information is being sought with the further conditions that the information supplied is to be used solely for the purpose of taking regulatory action or imposing regulatory requirements. The IRD manual requires incoming requests to indicate the purpose for which the request is being sought and requesting states cannot disclose the information without the consent of the IRD. The treatment of information provided by FIU to domestic and international entities is guided by the FIU SOPs and s. 8 of the FIUA which applies safeguards for the dissemination of shared information.

Criterion 40.7 - Sec. 16(6)(c) of the FSUA restricts the provision of information by the Director unless he is satisfied that the foreign regulatory authority has adequate legal restrictions on further disclosure of the information and documents. It is a criminal offence for someone who obtains information as a result of his connection with the FIU, to disclose that information to any person, except so far as it is required under the FIUA or any other written law (See s. 8 of the FIUA). To complement this provision, the FIU has developed SOPs for the handling of information. Sharing of information by the FIU is also governed by the Egmont Principles re the Exchange of Information. Clauses 23, 25 and 26 of the MMOU with the ECCB are specific to the scope of the confidentiality requirements.

In respect of the police force, international and regional treaties and arrangements including the Interpol Treaty and the RSS include sufficient safeguards. For the IRD, s. 6(4) of the Income Tax Act places an obligation on every person to whom confidential information is disclosed to take an oath of secrecy. Pursuant to s. 8(3) of the VAT Act, a person receiving documents and information under ss. (2) is required to keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purpose for which the disclosure was made. For CED, confidentiality provisions are established under s. 9 of the Customs Act. There is no indication that there is a similar

provision provided for the CED. Additionally, Dominica is a signatory to the CCLEC MOU which provides for the confidentiality, privacy and data protection of Customs agencies within the Caribbean region.

Criterion 40.8 - CAs are able to conduct inquiries on behalf of foreign counterparts and share the information received. Secs. 13 and 16 of the FSUA allow the FSU to gather information and share same with a foreign regulatory authority. By virtue of s.4 of the FIUA and s. 40 of the MLPA, the FIU can receive, request, analyse and disseminate information; liaise with ML/TF intelligence agencies outside of Dominica; and share information with a foreign counterpart agency. The IRD may also obtain information on behalf and at the request of foreign CAs. The manual on exchange of information outlines internal procedures for requesting information from FIs on behalf of foreign CAs and also speaks to the deposition of witnesses.

Criterion 40.9 - The FIUA at secs. 4(d) and 4(d)(i) is the legal basis upon which the FIU can provide co-operation on ML-associated predicate offences and TF.

Criterion 40.10 - The FIU can provide feedback to their foreign counterparts, upon request and whenever possible, on the use of the information provided, as well as on the outcome of the analysis conducted, based on the information provided.

Criterion 40.11 - **(a)** The FIU is allowed to consult and liaise with domestic and international law enforcement agencies in responding to requests for assistance. The functions of the FIU pursuant to s. 4(1) of the FIUA establishes that the FIU can seek and exchange all the available information accessible and obtainable under Recommendation. 29 pertaining to ML, associated offences and TF with foreign counterparts. **(b)** Pursuant to s. 4(1)(d) of the FIU Act, the Unit shall liaise with money laundering and terrorist financing agencies outside of Dominica. In accordance with s. 4 of the FIUA, the Investigations Department SOPs allows the dissemination and information sharing of all suspected proceeds of crime and suspicious transactions as well as information relating to terrorist groups and terrorist financing with any law enforcement agency in Dominica and any overseas FIU with the consent of the Director.

Criterion 40.12 - Sec. 32 of the FSUA, gives the director the authority to seek assistance, share or request information from the central bank subject to a confidentiality agreement and an MOU and further seek assistance, share or request information, from other regulatory authorities, including a foreign regulatory authority. Sec. 16 of the FSUA, further gives assistance to a foreign regulatory authority where a foreign regulatory authority requests the Director, in writing to provide it with assistance in connection with the exercise of its regulatory functions, the Director may disclose information, or provide documentation, in his possession to the foreign regulatory authority. In addition, s. 94 of the Banking Act, provides for the Agreement or arrangement with foreign supervisory authorities. The MMOU between the ECCB and Regional Financial Authorities also provides the framework for the exchange of supervisory information related to or relevant to AML/CFT purposes.

Criterion 40.13 - Under s. 16 of the FSUA the Director may disclose information in his possession to a foreign regulator following a written request from that authority if it is reasonably required for its regulatory function. There is an MMOU between the ECCB, the FSU and FIU in Dominica, and other supervisory and competent authorities in the Eastern Caribbean. The ECCB is a party to this along with the regional regulatory authorities for the Exchange of Information and Co-operation and Consultation. The MMOU establishes a framework for the exchange of information among the authorities to enforce

or secure compliance with any laws, regulations or rules relating to the functions and duties of the authorities in their respective jurisdictions.

Criterion 40.14 - As mentioned above, under s. 16 of the FSUA, the Director may disclose or provide documentation in his possession to a foreign regulatory authority following a written request. The FSUA does not limit the type of information which the foreign counterpart can request and thus can share a) regulatory, b) prudential and c) AML/CFT information as required under the criterion. Sec. 89(5) of the Banking Act permits the ECCB to provide foreign financial institutions (FFIs), foreign banking supervisors and any other local/foreign supervisory authorities with statements, returns, data and information which satisfies parts (a), (b) and (c) of the criterion. The Banking Act also permits access to any officer of a foreign authority responsible for the supervision/regulation of a FFI in order to assess the safety and soundness of a FFI, on a reciprocal basis, subject to an agreement for confidentiality and an MOU.

Criterion 40.15 - Sec. 32(1)(b) of the FSUA makes provision for the FSU to seek assistance, share or request information from the ECCB, subject to a confidentiality agreement and an MOU and permits the FSU to seek assistance, share or request information from another regulatory authority, including a foreign supervisory authority. Sec. 35(4)(a)(ii) of the ECCB Agreement Act permits the ECCB to provide access to any officer of a foreign authority responsible for the supervision or regulation of licensed financial institutions in order to assess the safety and soundness of a foreign financial institution. This is allowed on a reciprocal basis and subject to an agreement for confidentiality and an MOU. However, there are no specific provisions for counterpart authorities to conduct inquiries themselves in Dominica in order to facilitate effective group supervision.

Criterion 40.16 - The MLPA allows the FSU to share information relating to a commission of an ML offence with a foreign counterpart agency and use any information provided to it for the purposes of combating money laundering, with the consent of the foreign counterpart agency (Sec. 41 of the MLPA). Likewise, Sec. 36(4) of the SFTA requires that the FIU or FSU (with the FIU Director's approval) disclose to the FIU (or appropriate foreign authority) any information in their possession relating to property owned or controlled by, or on behalf of, a terrorist group. The MMOU between the ECCB and the Regional EC Financial Authorities requires that the requesting authority obtain prior written consent before using the information furnished for any other purpose, other than the purpose for which it was intended (Sec. 19 of the ECCB MMOU). The FSU Act prevents the release of "protected information," except in certain circumstances. One of those exceptions is the release of protected information (which includes information obtained from a foreign regulatory or other LEA) by the Director to a foreign regulatory authority upon the written request of that authority (Sec. 17(3)(h) FSUA).

Criterion 40.17 - Sec. 4 of the FIUA authorises the FIU to exchange all obtainable information with foreign counterparts for intelligence or investigative purposes. Cooperation within the framework of the RSS and INTERPOL allows for the exchange of domestically available information by the CDPF with foreign counterparts. Such information includes information accessible under production orders and extends to, *inter alia*, the identification and tracing of the proceeds and instrumentalities of crime. The CED's MOU with CCLEC allows Dominica to provide and have access to broad international cooperation in respect of Customs matters. In June of 2021, in furtherance of recommendations made by the Global Forum Secretariat of the OECD, a Cabinet decision was made that called for the establishment of the International Tax Affairs Unit (ITAU) at IRD. The main responsibilities of the

ITAU include the management of all international tax-related matters under the global forum standards, inclusive of requests for assistance received by or disseminated to other foreign law enforcement counterparts.

Criterion 40.18 - Agreements signed with the ESW, together with MOUs signed with foreign FIUs and the RSS, govern the sharing of information by the FIU. The CDPF as a member of INTERPOL can use its powers, and its investigative techniques, to assist its counterparts. Such engagements utilize the cooperation mechanisms permitted under the relevant agreement. Additionally, the CED, as a member of CCLEC, can provide assistance and exchange information internationally with the Customs Departments in the Caribbean. However, the deficiencies noted in Recommendation 31 as it pertains to the powers of the various LEAs cascade to this requirement. Sec. 69 (1) (a) of the Income Tax Act, allows the Comptroller of Inland Revenue, in the administration or enforcement of the Act, to require any person to furnish to the Comptroller at such time as may be specified in a notice, such other information as may be required by him. Information obtained pursuant to s. 69 can be used to respond to requests received from any requesting state pursuant to the Tax Information Exchange Act.

Criterion 40.19 - LEAs in Dominica have no legal impediment for the forming of special law enforcement task forces in relation to ML, TF and predicate crimes. On March 15, 2021, Dominica entered into MOUs with the RSS, CARICOM Implementation Agency for Crime and Security (IMPACS), to provide investigative services to Dominica. The agreement at s.10 provides for the establishment of joint investigative teams between RSS, CARICOM IMPACS and Dominica. The CDPF is a member of the ACCP and regularly shares information with these counterparts. Provisions are made for cooperative investigations. Additionally, the CDPF has participated in the CARICOM Joint Investigative Team.

Criterion 40.20 - The LEAs by virtue of being members of ARIN-CARIB, CCLEC and INTERPOL can utilise the information sharing gateways of these entities to exchange information indirectly with non-counterparts. Sec. 4 of the FIUA authorises the FIU to liaise with foreign ML/TF intelligence agencies and consult with any person, institution or organisation within or outside of Dominica. Additionally, the FIU by being a member of the Egmont Group can exchange information indirectly with non-counterparts when information is requested by a foreign FIU, on behalf of that agency. An MMOU among the ECCB and Regional Financial Services Units and Financial Intelligence Units provides for the exchange of information among the mentioned non-counterpart entities. Clauses 24 and 25 restrict disclosure to third parties any information or details of the nature of assistance obtained, except with prior written consent and a prior undertaking from the recipient that confidentiality shall be maintained. Article 5 of the TIEA allows for the exchange of information upon requests, with foreign CAs.

Weighting and Conclusion

There are no provisions for the CED and CDPF to have clear processes for the prioritisation and timely execution of requests. There are no provisions for foreign counterparts to conduct inquiries themselves in Dominica in order to facilitate effective group supervision. However, the deficiencies noted in Recommendation 31 as it pertains to the powers of the various LEAs cascade to this requirement. **Recommendation 40 is rated as Largely Compliant.**

Summary of Technical Compliance – Key Deficiencies

Annex Table 2. Compliance with FATF Recommendations

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	LC	• The NRA did not include a complete TF risk assessment of cross-border transactions, and did not risk assess legal persons, VASPs, NPOs or the CBI programme. • The NIAP inadequately addressed the risk-based allocation of resources and measures to prevent or mitigate ML/TF risk as identified in the NRA.
2. National cooperation and coordination	LC	• There are no provisions for the requirement of co-operation and, where appropriate, coordination mechanisms among CAs to combat the PF of weapons of mass destruction.
3. Money laundering offences	C	• The recommendation is fully met.
4. Confiscation and provisional measures	C	• The recommendation is fully met.
5. Terrorist financing offence	C	• The recommendation is fully met.
6. Targeted financial sanctions related to terrorism & TF	PC	• There are no guidelines or procedures under s.11 of the SFTA, including measures to guarantee prompt consideration of a request from another country. • There are no provisions when requesting another country to give effect to the actions initiated under the freezing mechanisms, to provide as much identifying information, and specific information supporting the designation, as possible. • There are no clear mechanisms to ensure that assets are frozen within 24 hours and remain subject to a freeze for the duration of the period of designation by the UNSC. • There are no provisions to prohibit nationals or any persons and entities within the country from making any funds or other assets, economic resources or financial or other related services from entities owned or controlled, directly or indirectly, by a designated person or entity. • There are no provisions for Dominica to adopt measures which protect the rights of bona fide third parties acting in good faith when implementing the obligations under Rec 6.

Recommendations	Rating	Factor(s) underlying the rating
		• There are no procedures to submit de-listing requests to the relevant UN sanctions Committee in the case of persons and entities designated pursuant to the UN Sanctions Regimes, in the view of the country, do not or no longer meet the criteria for designation. Such procedures and criteria should be in accordance with procedures adopted by the 1267/1989 Committee or the 1988 Committee, as appropriate. • The legislation does not clearly outline the unfreezing procedure in respect of freezing orders issued by the AG. Other than publication in the legislation, the process for de-listing and unfreezing following a change in circumstances is not publicly known. • There has been no delisting published by the AG and other than publication in the legislation, the process for challenging a designation is not publicly known. • Other than publication in the legislation, the authorities have not published guidance on the process for application for review. • Other than publication in the legislation, the authorities have not published guidance on delisting and unfreezing in respect of false positives. • There are no provisions for communicating de-listings and unfreezings to the financial sector and DNFBPs for UNSCR 1373, other than publication in the legislation, the authorities have not published guidance on delisting and unfreezing in respect of false positives.
7. Targeted financial sanctions related to proliferation	NC	• No mechanisms are in place to address the requirements of Recommendation 7.
8. Non-profit organisations	PC	• Dominica has not identified the organizations which fall within the FATF definition of NPOs and the types of NPOs by virtue of their activities or characteristics which constitute the subset most vulnerable to terrorist financing abuse. • Dominica has not identified the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs; • Dominica has not reviewed the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector that may be abused for terrorism financing support in order to be able to take

Recommendations	Rating	Factor(s) underlying the rating
		proportionate and effective actions to address the risks identified; and • Dominica has not periodically assessed the sector by reviewing new information on the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures. • Dominica has not encouraged encourage and undertake outreach and educational programmes to raise and deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse; • There are no provisions work with NPOs to develop and refine best practices to address terrorist financing risk and vulnerabilities and thus protect them from terrorist financing abuse; and • There are no provisions encouraging NPOs to conduct transactions via regulated financial channels, wherever feasible, keeping in mind the varying capacities of financial sectors in different countries and in different areas of urgent charitable and humanitarian concerns. • There have been no risk-based measures to monitor compliance in NPOs and the analysis of deficiencies in criterion 8.3a applies. • There are no provisions to establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO: (1) is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; (2) is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or (3) is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations, that this information is promptly shared with competent authorities, in order to take preventive or investigative action.
9. Financial institution secrecy laws	C	• The recommendation is fully met.
10. Customer due diligence	LC	• There are no provisions in the Code or MLPR that consider materiality in relation to FIs being required to apply CDD requirements to existing customers.

Recommendations	Rating	Factor(s) underlying the rating
		For legal arrangements, there are no provisions to verify the legal form, proof of existence, powers that regulate and bind, and the address of the registered office, or if different, the principal place of business for legal arrangements.
11. Record keeping	C	The recommendation is fully met.
12. Politically exposed persons	LC	- There is no obligation to apply reasonable measures to establish the source of wealth and the source of funds when BOs are PEPs. - In cases when there is higher risk business relationship with such a person, adopt the measures in criterion 12.1 (b) to (d). the deficiencies in sub-criterion c applies.
13. Correspondent banking	C	The recommendation is fully met.
14. Money or value transfer services	LC	The sanctions are not proportionate and dissuasive for large businesses.
15. New technologies	PC	- There are no measures which require FIs to assess the ML/TF risks in the development of new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products. - There is no obligation to conduct an assessment of risks related to new practices and technologies. - There are provisions to carry out an ML/ TF risk assessment to determine how to best manage and mitigate any identified risks. The analysis and deficiency at criterion 15. 2(a) also apply here. - There are no measures to identify and assess the money laundering and terrorist financing risks emerging from virtual asset activities and the activities or operations of VASPs; - There is no application of a risk-based approach to ensure that measures to prevent or mitigate ML/TF are commensurate with the risks. - There are no measures to take action to identify natural or legal persons that carry out VASP activities without the requisite licence or registration. - The FSU has not issued guidelines and provided feedback for VASPs to assist the sector in the application of ML/TF measures, particularly in detecting and reporting suspicious transactions.

Recommendations	Rating	Factor(s) underlying the rating
		• There is a range of proportionate and dissuasive sanctions, whether criminal, civil or administrative, available to deal with VASPs that fail to comply with AML/CFT requirements; however, the analysis at R. 35 applies here. • Sanctions are applicable not only to VASPs, but also to their directors and senior management, however, the analysis at R. 35 applies here. • There are no provisions for R.10 – The occasional transactions designated threshold above which VASPs are required to conduct CDD is USD/EUR 1 000. • The communication mechanisms, reporting obligations and monitoring referred to in criteria 6.5(d), 6.5(e), 6.6(g), 7.2(d), 7.2(e), 7.3 and 7.4(d) apply to VASPs. However, deficiencies in the criteria apply here.
16. Wire transfers	LC	• There are no provisions for where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file should contain full beneficiary information, that is fully traceable within the beneficiary country;
17. Reliance on third parties	C	• The recommendation is fully met.
18. Internal controls and foreign branches and subsidiaries	C	• The recommendation is fully met.
19. Higher-risk countries	LC	• There are no provisions to require Dominica to apply countermeasures proportionate to the risks when called upon to do so by the FATF.
20. Reporting of suspicious transaction	C	• The recommendation is fully met.
21. Tipping-off and confidentiality	C	• The recommendation is fully met.
22. DNFBPs: Customer due diligence	PC	• Dominica's legislative framework subjects DNFBPs to CDD, record keeping, PEP, new technologies and reliance on third party requirements. The deficiencies of R.10 and R.15 are applicable to DNFBPs.
23. DNFBPs: Other measures	LC	• The analysis of FIs compliance with the requirements of R.18, R.19, R.20 and R.21 are also applicable for DNFBPs in Dominica. However, as these requirements are the same as FIs, the shortcoming identified under R.19 applies.

Recommendations	Rating	Factor(s) underlying the rating
24. Transparency and beneficial ownership of legal persons	PC	• Dominica has not designated a CA to oversee the maintenance and/or administration of BO information. • Dominica has not completed an ML/TF risk assessment for legal persons. • There is no general requirement for Companies to obtain or maintain up-to-date BO information. • There is also no reference in the Companies Act regarding the requirement to keep the basic information held with CIPO on shareholders accurate and updated on a timely basis. • The framework therefore does not ensure that BO information on all legal persons is accurate and up to date. • The Companies Act gives the registrar information gathering powers requiring companies to respond with their share registers within fourteen days after being notified. However, this does not correspond to the requirement for providing the information in a “timely” manner. • The Companies Act prohibits companies from issuing bearer shares or bearer share certificates. However, “external companies” are allowed to keep bearer shares on their registers as there are no requirements for “external companies” to immobilise bearer shares or convert bearer shares and share warrants into registered shares. • Sanctions for failing to comply with requirements may also not be sufficiently dissuasive for larger companies. • The Companies Act however does not have provisions which facilitate providing rapid responses to international cooperation requests for basic and BO information. The deficiencies in R. 37 and R. 40 will also be applicable for the criterion. • There are no other documented procedures or mechanisms for the CAs except for the FIU to monitor the quality of assistance they have received from other countries.
25. Transparency and beneficial ownership of legal arrangements	LC	• There are no measures to expressly require that trustees disclose their status to FIs and DNFBPs when forming business relationships or carrying out an occasional transaction above threshold.

Recommendations	Rating	Factor(s) underlying the rating
26. Regulation and supervision of financial institutions	LC	• The Offshore Banking Act and MLPR do not contain provisions for prohibiting shell bank relationships outright which is a gap in the current domestic legislation. • The fit and proper criteria in the FSUA are limited to technical qualifications, criminal history and ML/TF violations, and do not include past association with regulatory actions. • There are no provisions provided regarding regulation and supervision of the FSU in line with the core principles, where relevant for AML/CFT, including the application of consolidated group supervision for AML/CFT purposes. • There are no provisions for the frequency of review and the basis for such reviews. • There are no provisions in the Offshore Banking Act prohibiting offshore banks supervised by the FSU from carrying on business with a shell bank.
27. Powers of supervisors	LC	• The measures include a range of disciplinary and financial sanctions; however, the pecuniary sanctions are not dissuasive.
28. Regulation and supervision of DNFBPs	PC	• There are no fit and proper measures to prevent criminals or their associates from being professionally accredited or holding (or being the beneficial owner of) a significant or controlling interest or holding a management function in attorneys, accountants, real estate brokers and dealers in precious metals and precious stones. • The analysis in criterion 27.4 is applicable regarding supervisors being authorised to impose sanctions in line with R. 35. The FSU has relevant supervisory sanctioning powers, however, they are not dissuasive.
29. Financial intelligence units	C	• The recommendation is fully met.
30. Responsibilities of law enforcement and investigative authorities	C	• The recommendation is fully met.
31. Powers of law enforcement and investigative authorities	LC	• There are no guidelines to the conduct of such operations in the operational manuals of LEAs. In Dominica, there are no legal provisions or other enforceable obligations which allow for the conducting of undercover operations.

Recommendations	Rating	Factor(s) underlying the rating
		• There is no provision in Dominica for the interception of communications. • There are no mechanisms or specific legislation to provide for the timely execution of such requests
32. Cash couriers	C	• The recommendation is fully met.
33. Statistics	LC	• Significant steps have been undertaken by CAs in Dominica to improve statistics. Whilst there is a provision in the FIUA for the FIU to compile statistics relating to ML matters, there is no explicit provision for TF. • The legal provision only speaks to the compiling of statistics and does not address the need to have these statistics maintained. • There are no legal obligations or other explicit provisions for the judiciary to maintain statistics regarding ML prosecutions and convictions. • The statistics kept on ML investigations are not comprehensive.
34. Guidance and feedback	C	• This recommendation is fully met.
35. Sanctions	LC	• The low pecuniary penalties are considered not proportionate and dissuasive for Directors and senior management. • There are no provisions in the FSU Act directed at individuals for non-compliance with the AML/CFT obligations. • While the administrative penalties outlined are proportionate and dissuasive for individuals, they are not for a corporate body.
36. International instruments	C	• This recommendation is fully met.
37. Mutual legal assistance	LC	• Dual criminality is a mandatory basis for refusal of a request from a Commonwealth country or a non-Commonwealth treaty country.
38. Mutual legal assistance: freezing and confiscation	C	• This recommendation is fully met.
39. Extradition	LC	• There is no additional simplified extradition mechanism for consenting persons who waive formal extradition proceedings.

Recommendations	Rating	Factor(s) underlying the rating
40. Other forms of international cooperation	LC	• There are no provisions for the CED, and CDPF to have clear processes for the prioritisation and timely execution of requests. • There are no provisions for foreign counterparts to conduct inquiries themselves in Dominica in order to facilitate effective group supervision. • The deficiencies noted in R.31 as it pertains to the powers of the various LEAs cascade to this requirement.

Glossary of Acronyms

	DEFINITION
ACCP	Association of Caribbean Commissioners of Police
ACAMS	Association of Certified Anti-Money Laundering Specialists
AG	Attorney General
ARIN-CARIB	Asset Recovery Interagency Network of the Caribbean
AT	Assessment team
BO	Beneficial Ownership
CAs	Competent Authorities
CBI	Citizenship by Investment
CBIU	Citizenship by Investment Unit
CCLEC	Caribbean Customs Law Enforcement Council
CDPF	The Commonwealth of Dominica Police Force
CED	Customs and Excise Division
CIA	Central Intelligence Agency
CIPO	Companies and Intellectual Property Office
CPF	Countering Proliferation Financing
CTRs	Cash Transaction Reports
CTA	Collection of Tax Act
DNFBPs	Designated Non-Financial Business & Professions
DPMS	Dealers in precious metal and stones
DPP	Office of Director of Public Prosecutions
ECCB	Eastern Caribbean Central Bank
ECCU	ECCU- Eastern Caribbean Currency Union
ECSRC	Eastern Caribbean Securities Regulatory Commission
EDD	Enhanced Due Diligence
FIs	Financial Institutions
FIUA	Financial Intelligence Unit Act
FSU	Financial Services Unit
FSUA	Financial Services Unit Act
IBC	International Business Companies
IPO	Integrity in Public Office
IRD	Inland Revenue Department
LoC	Letters of Commitment
MACMA	Mutual Assistance on Criminal Matters Act
MLPA	Money Laundering Prevention Act
MLPR	Money Laundering Prevention Regulations

MNS	Ministry of National Security
MSB	Money Services Business
MTB	Money Transmission Services.
MOU	Memorandum of Understanding
MMOU	Multi-lateral Memorandum of Understanding
NAMLAC	The National Anti-money laundering and Suppression of Terrorist Financing Advisory Committee
NIAP	National Implementation Action Plan
NJIC	National Joint Intelligence Centre
NPOs	Non-profit organisations
NPS	National Prosecution Services
NRA	National Risk Assessment
OECD	Organisation for Economic Co-operation and Development
POCA	Proceeds of Crime Act
PF	Proliferation Financing
RBNA Act	Registration of Business Names Act
SOPs	Standard Operating Procedures
SFTA	Suppression of the financing of Terrorism Act Chapter 73:04
TF	Terrorist Financing
TIEA	Tax Information Exchange Act
TNPOR	Trust and Non-Profit Organisation Regulations
TOCPCA	Transnational Organised Crime (Prevention and Control) Act
TWG	Technical Working Group
UNODC	United Nations Office on Drugs and Crime
VAs	Virtual Assets
VASPs	Virtual Asset Service Providers
VATA	Value Added Tax Act



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Anti-money laundering and counter-terrorist financing measures – The Commonwealth of Dominica *Mutual Evaluation Report*

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in The Commonwealth of Dominica as at the date of the on-site visit August 15th – 26th 2022. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of The Commonwealth of Dominica's AML/CTF system and provides recommendations on how the system could be strengthened.