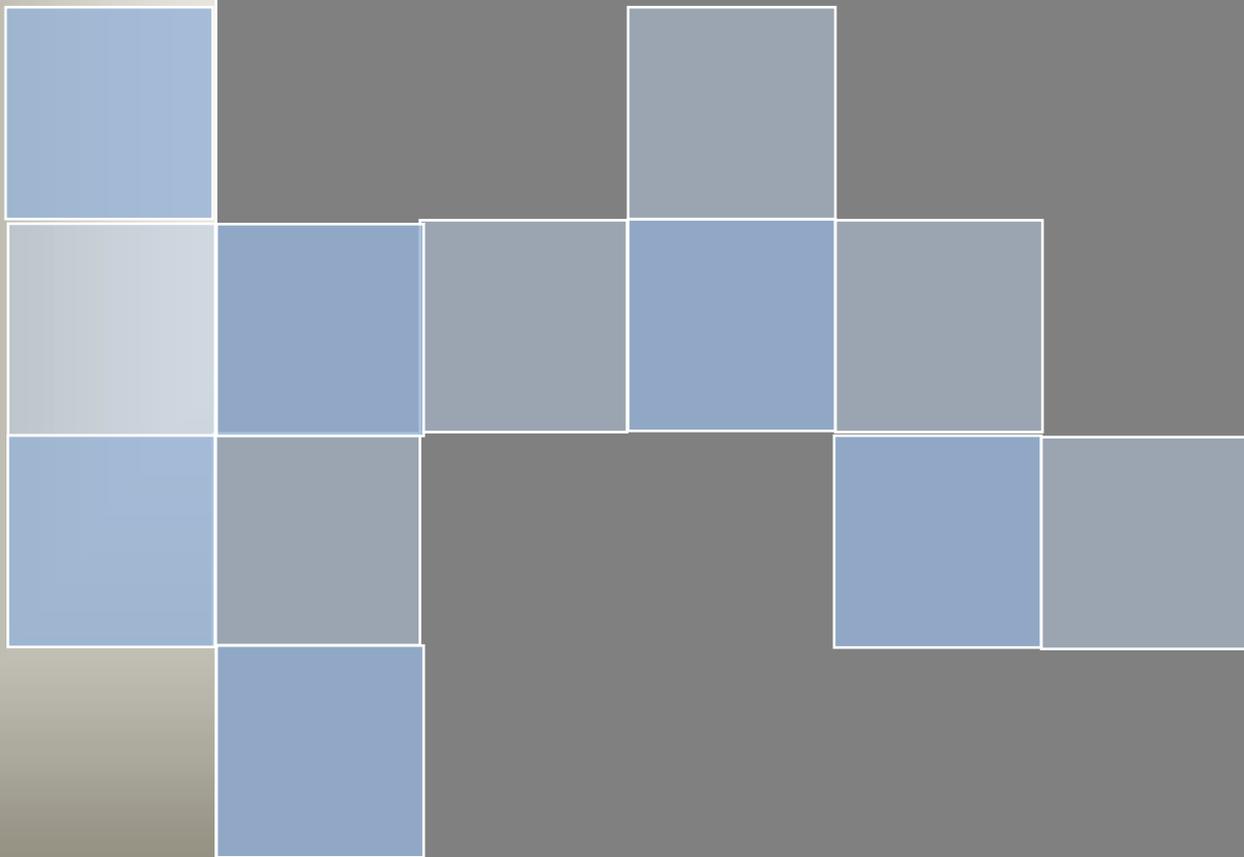


2016



**CARIBBEAN FINANCIAL  
ACTION TASK FORCE**



**CFATF – RISKS TRENDS & METHODS GROUP**

**ILLEGAL LOTTERIES SCHEME - TYPOLOGY PROJECT REPORT**  
June 2016



© 2016 CFATF. All rights reserved.

No reproduction or translation of this publication may be made without prior written permission. Requests for permission to further disseminate reproduce or translate all or part of this publication should be obtained from the CFATF Secretariat at [cfatf@cfatf.org](mailto:cfatf@cfatf.org)



# **Caribbean Financial Action Task Force Risks, Trends and Methods Group**

## **Illegal Lotteries Typology Project Report**



## Table of Contents

ABBREVIATIONS .....	4
EXECUTIVE SUMMARY .....	5
<b>1. INTRODUCTION .....</b>	<b>8</b>
<b>2. PURPOSE OF THE STUDY .....</b>	<b>8</b>
<b>2.1 General Objectives .....</b>	<b>8</b>
<b>2.2 Specific Objectives.....</b>	<b>9</b>
<b>2.3 Products .....</b>	<b>9</b>
<b>2.4 Project Team .....</b>	<b>9</b>
<b>3. LIMITATIONS TO CONDUCTING THE STUDY .....</b>	<b>9</b>
<b>4. DATA COLLECTION .....</b>	<b>10</b>
SECTION 1 - DEFINITION OF 'ILLEGAL LOTTERY' SCHEME.....	10
SECTION 2 - ANALYSIS OF RESPONSES TO QUESTIONNAIRE.....	12
<b>6. LEGISLATION .....</b>	<b>15</b>
<b>7. FINANCIAL INFORMATION .....</b>	<b>17</b>
<b>8. INVESTIGATION .....</b>	<b>22</b>
<b>9. INFORMATION SHARING.....</b>	<b>31</b>
<b>10. JURISDICTION'S ANALYSIS.....</b>	<b>37</b>
SECTION 3 – OBJECTIVES .....	42
CONCLUSION.....	47
ADDITIONAL REFERENCE MATERIAL .....	51



## **ABBREVIATIONS**

AML	Anti-Money Laundering
CFATF	Caribbean Financial Action Task Force
CFT	Counter Financing of Terrorism
CRTMG	CFATF Risks Trends and Methods Group
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
IMMFWG	International Mass-Marketing Fraud Working Group
MCTN	Money Control Transfer Number
MEVAL	Mutual Evaluation
ML	Money laundering
MLAT	Mutual Legal Assistance Treaty
MOU	Memorandum of Understanding
MSB	Money Services Business
MVTS	Money Value Transfer Service
ONDCP	Office of National Drug Control Policy
POCA	Proceeds of Crime Act
SAR	Suspicious Activity Report
SNP	Spanish National Police
STR	Suspicious Transaction Report
TF	Terrorist Financing
USA	United States of America
USD	United States Dollar



## EXECUTIVE SUMMARY

News reports and police information indicate the presence of Illegal Lottery schemes within the Caribbean region.

For the purpose of this project an “ILLEGAL LOTTERY” scheme is identified as follows:

*“Victims are notified that they have won a lottery. However, in order to receive the prize, they have to pay transfer fees, taxes or provide proof of their identity and/or details of their bank accounts and/or credit cards.”*

The main aims of this typology exercise is to counter the threat of Illegal Lottery schemes and related money laundering and terrorist financing activities effectively by providing a regional overview, warning signs, and the modus used by perpetrators.

The exact number of victims of these schemes is unknown. It is believed that many victims do not report this crime because they are either ashamed, embarrassed, or perceive law enforcement as being inactive towards these issues. Additionally, it is also unknown whether some jurisdictions in the region are being used as countries of operation or targeted countries, or both, due to the non-reporting by victims; incorrect categorization; and improper recording of data by the authorities which receive these reports.

The Caribbean Financial Action Task Force (CFATF) is conducting this study pursuant to the mandate of its *Risks Trends and Methods Group* (CRTMG). The CRTMG indicates that it will complete typological studies of the following areas:

- (1) Human Trafficking;
- (2) Ponzi/Pyramid/Lottery Schemes;
- (3) Movement of Cash and Negotiable Instruments;
- (4) Proliferation of Small Arms and Ammunition

A study has been undertaken by the International Mass-Marketing Fraud Working Group (IMMFWG) in June 2010 – [“Mass-Marketing Fraud: A Threat Assessment”](#). The IMMFWG’s assessment covered a wide range of “Advance Fee Fraud” activities including some aspects of the *Illegal Lottery scheme*. However, while the IMMFWG’s work hinted on similar *Illegal Lottery scheme* operations within the Caribbean region, the findings were mainly compiled on the basis of data sources outside of the CFATF region including the United States of America, Australia, Belgium, Canada, the Netherlands, Nigeria and the United Kingdom.



The objectives of this study are as follows:

- i. Determine the crime reporting level for *Illegal Lottery scheme*;
- ii. Ascertain the adequacy of legislation relating to the criminalization of Illegal Lottery Schemes;
- iii. Ascertain the efficiency of investigations and / or judgments related to the schemes;
- iv. Establish the degree of cooperation at the regional and international levels;
- v. Identify the warning signs related to Illegal Lottery Schemes;
- vi. Categorize the financial products and types of Illegal Lottery Schemes used in ML and TF;  
and
- vii. Collect and analyze cases of Illegal Lottery schemes at a regional level.

A questionnaire was prepared and circulated to CFATF member countries in order to collect data for the period 2009 to 2014. This report reflects the responses received from 19 countries, 16 of which were English-Speaking, and one (1) each from French-Speaking, Dutch-Speaking and Spanish-Speaking.

The responses reveal that some parts of the conduct of Illegal Lottery scheme is criminalized in most countries. However, there is no specific offence defined as “Illegal Lottery”. The types of conduct associated with this activity are captured within the provisions of various pieces of existing legislation, such as the Penal Code; Criminal Code; Larceny Act; and Theft Act. One jurisdiction (Jamaica) recently enacted bespoke legislation, “The Law Reform (Fraudulent Transactions) Special Provisions Act 2013” (the Lotto Act), in an attempt to place all activities associated with the “Advance Fee Fraud” category into one piece of legislation.

The respondents stated that the main challenges/obstacles faced when conducting “Illegal Lottery Schemes” and related ML investigations are:

- i. Delayed reporting or no reporting of the activity by victims;
- ii. Un-cooperative victims;
- iii. Victims are located outside the jurisdiction;
- iv. Non-existent or weak legislation;
- v. Activity is internet based;
- vi. Difficulties retrieving data from foreign jurisdiction;
- vii. Difficulties identifying and locating perpetrator(s);
- viii. Lack of awareness.

These can be addressed by enhancing the legislative framework; and capacity building.

One of the many difficulties faced by law enforcement and reporting authorities is quantifying the number of victims and the attendant financial loss owing to this scheme. The respondents indicated that victims are sometimes:



- i. Too embarrassed to report the crimes;
- ii. In a state of denial and refuse to accept that they have been the victim of a crime; and
- iii. Unaware of to which law enforcement authority should report the crime (because they would have sent money to persons who were located outside of their home country).

Of the 19 respondents only eight (8) countries identified victims. A total of 677,675 victims were recorded with 99% being attributed to one (1) jurisdiction – Jamaica.

A major challenge to law enforcement, when faced with this type of crime (and thus a difficulty faced when conducting investigations and attempting to collate data on the perpetrators) is the fact that acquiring the evidence necessary for bringing offenders to justice is very problematic. Money value transfer services (MVTs) are listed as one of two ways in which funds related to this activity was transferred. The MVTs might have provided the perpetrators with some level of anonymity according to the manner in which the MVTs' operations are allowed to be conducted. In some foreign jurisdictions, if the amount of funds that a receiver has to collect falls below a certain threshold, that receiver only has to disclose the name of the sender and the money control transfer number (MCTN) for the particular transaction in order to collect the funds. Thus, the name of the receiver is not captured.

These challenges/obstacles can be addressed by enhancing the legislative framework relating to the customer due diligence obligations of MVTs providers.



## 1. INTRODUCTION

An 'Illegal Lottery' scam is a type of 'advance-fee' fraud which begins with an unexpected email notification, phone call, text message or letter, claiming that the recipient has won a large sum of money in a lottery.

The recipient of the message, the target of the scam, is usually told to keep the notification secret and to contact a "claims agent". After contacting the agent, the target of the scam will be asked to pay "processing fees" or "transfer charges" so that the winnings can be distributed, but will never receive any lottery payment.

Many email lottery scams use the names of legitimate lottery organizations or other legitimate corporations/companies, but in fact the persons behind the emails are organised criminal gangs.

The majority of the criminal gangs involved in this type of activity originate from West Africa (mainly Ghana and Nigeria). However, whilst the criminals may originate from West Africa, they are often located elsewhere. For instance, such crime gangs have been detected in Canada and Spain.

By way of an example, in July 2005 Spanish National Police (SNP) launched an operation against West African fraudsters, based in Spain, running an 'Illegal Lottery' scam that tried to convince victims they had won a prize in the Spanish 'El Gordo' Lottery.

The operation resulted in 300 arrests, 150 searches, and the seizures of nearly 2,000 cell phones, hundreds of computers and fax machines, fake documents, and \$265,000<sup>1</sup> in cash. In addition, some 800 U.S. phone numbers were uncovered during the searches. Each number represented a possible U.S. victim.

According to the IMMFWG report, the term "Advance Fee Fraud" is one of "a variety of names" used by law enforcement and regulatory authorities to refer to the fraudulent schemes. Other referenced identifications are "Internet Fraud", "telemarketing fraud" and "419 frauds". The scale of the loss from these types of fraud (is estimated to be in the order of "*tens of billions of dollars per year*"). (IMMFWG)

## 2. PURPOSE OF THE STUDY

This typology exercise is being pursued with the aim of countering the threat of Illegal Lottery Schemes and related ML and TF activities by effectively providing a regional overview, warning signs, and the modus of the perpetrators.

### 2.1 General Objectives

Develop a Regional report on typologies related to Illegal Lottery schemes and the effects that these activities have on Money Laundering and Terrorist Financing within the Caribbean Region, if any.

---

<sup>1</sup> The dollar value throughout this report is in United States Currency unless otherwise stated.



## 2.2 Specific Objectives

- i. Determine the crime reporting level for illegal lotteries;
- ii. Identify the legislation relating to the criminalization of Illegal Lottery Schemes;
- iii. Ascertain the efficiency of investigations and / or judgments related to the schemes;
- iv. Establish the degree of cooperation at the regional and international levels;
- v. Identify the warning signs related to Illegal Lottery schemes;
- vi. Categorize the financial products and types of Illegal Lottery schemes used in ML and TF; and
- vii. Collect and analyze cases of Illegal Lottery Schemes at a regional level.

## 2.3 Products

- i. A Project Report outlining the following:
  - The scope of ML & TF related to Illegal Lottery schemes, including key techniques, methods and representative case studies;
  - Consideration of summary papers, presentations and expert practitioner discussions;
  - Sources of guidance and best practice for anti-money laundering regulation and enforcement to counter this issue;
  - Specific indicators ('red flags') to assist the private sector and regulators in detecting money laundering associated with Illegal Lottery Schemes;
  - An analysis of key findings;
  - Identify areas for further research on this issue by CRTMG, regional private sector or academia.
- ii. A collection of background and reference material to be made available to CFATF members, including:
  - National studies on Illegal Lottery schemes and associated ML;
  - Case studies;
  - Good Practice examples of awareness raising measures and regulatory/guidance materials.

## 2.4 Project Team

The project is co-chaired by the Financial Intelligence Units of St. Kitts-Nevis, Turks and Caicos Islands, and Haiti. The project team was comprised of members from the FIUs of the Virgin Islands, Antigua and Barbuda, Trinidad and Tobago, The Bahamas, Dominican Republic, Guatemala, Guyana, Jamaica, St. Lucia, Turks and Caicos Islands, Venezuela, and Anguilla. Assistance was rendered to the team by the CFATF Secretariat.

## 3. LIMITATIONS TO CONDUCTING THE STUDY

There were several challenges faced by the Project Team in compiling this report:

- **Small sample size** – Out of the 27 CFATF member countries, 19 submitted completed questionnaires (i.e. 70%). Out of the 19 respondents submitting completed questionnaires, 13 provided some data. Of the 13 respondents providing data, two (2) provided the bulk of the data on "*Illegal Lottery Schemes*";



- **Delayed responses** - There were delayed submittals of completed questionnaires resulting in deadline for submittal having to be extended several times. The countries with data provided responses seven (7) months after the initial due date. The extensions were entertained because the Project Team felt that, in light of the public information available on the illegal lotteries activities taking place in those countries, the data they could provide would add value to the report;
- Loss of two (2) project Team Leaders;
- Limited /no participation by team members.

#### **4. DATA COLLECTION**

The primary method of data collection was through the use of a questionnaire which was developed for self-administered collection of primary and secondary data, for the six (6) year period 2009 to 2014. The questionnaire was circulated to all CFATF Members via email.

This report reflects the responses received from 19 Members, in addition to a review of published reports from other organisations on related topics.

#### **5. REPORT STRUCTURE**

This report will be presented in three (3) sections. Section 1 will define “Illegal Lottery” scheme and an overview of other “Advance Fee Fraud” operations within the context of the matter under review. In Section 2, the responses to the questionnaire will be analyzed; and Section 3 will provide the findings of the study.

The conclusion will highlight the issues for consideration to effectively counter the threat of Illegal Lottery schemes and related ML and TF activities within the Caribbean region.

#### **SECTION 1 - DEFINITION OF ‘ILLEGAL LOTTERY’ SCHEME**

An ‘Illegal Lottery’ scheme is a type of ‘Advance Fee Fraud’. In these schemes, individuals are notified of an issue that would require them to transmit funds. These funds are identified as being necessary either as to assist with meeting a pre-payment fee in order to receive lottery winnings or to cover the financial expenses of someone who is purportedly experiencing difficulties resulting from financial/medical/death situation. It would later be discovered that there were neither any lottery winnings to be received nor anyone in financial constraints but only persons fraudulently in receipt of funds that were sent as requested.

For the purpose of this project an “Illegal Lottery” scheme is identified as follows:

*“Victims are notified that they have won a lottery. However, in order to receive the prize, they have to pay transfer fees, taxes or provide proof of their identity and/or details of their bank accounts and/or credit cards.”*



Over time it would appear that the regionally known traditional '419' frauds/'Advance Fee' frauds referencing "Inheritance Schemes" have simply evolved into different methodologies.

Examples of current 'Advance fee' fraud typologies include:

- a. Cheque overpayment fraud;
- b. Dating or romance scams;
- c. Recovery/Emergency frauds;
- d. Conference fee frauds.



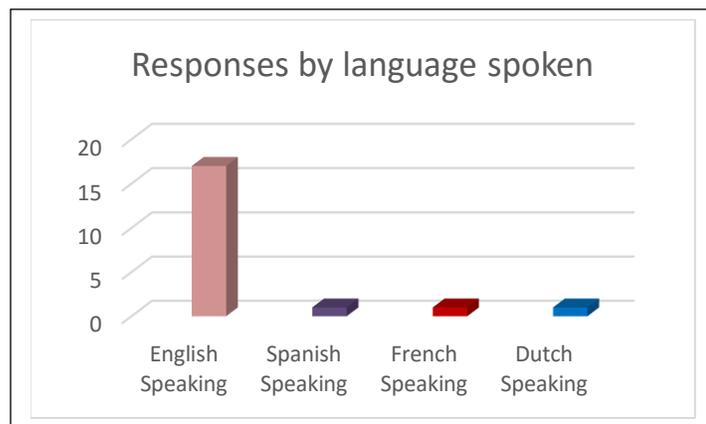
## SECTION 2 - ANALYSIS OF RESPONSES TO QUESTIONNAIRE

A questionnaire was prepared and circulated to CFATF Members.

It was designed to collect data for the six (6) year period 2009 to 2014. This section reflects the responses received from the 19 CFATF Members listed below, 16 of which were English-Speaking, and one (1) each from Dutch-Speaking, Spanish-Speaking; and French-Speaking:

1. Anguilla;
2. Antigua & Barbuda;
3. Aruba;
4. The Bahamas;
5. Bermuda;
6. British Virgin Islands;
7. Cayman Islands;
8. Curacao;
9. Dominica;
10. Grenada;
11. Guatemala;
12. Guyana;
13. Haiti;
14. Jamaica;
15. Montserrat;
16. St. Kitts & Nevis;
17. St. Lucia;
18. Trinidad & Tobago;
19. Turks & Caicos Islands.

Chart 1:

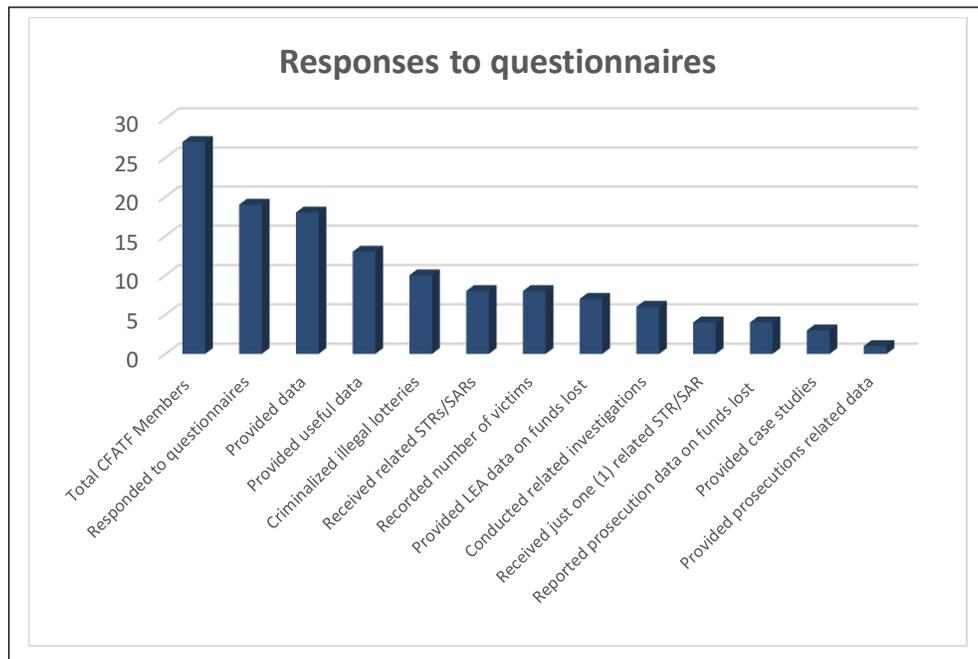




Of the 19 responses:

- 18 Members provided some data. Of the 18 jurisdictions 13 provided some data in relation to the Illegal Lottery Schemes;
- 10 Members stated that Illegal Lottery scheme is criminalized in their jurisdiction;
- Eight (8) Members recorded receipt of suspicious activity/suspicious transactions reports (SAR/STR) related to the scheme. Four (4) of these Members each received one (1) SAR/STR;
- Eight (8) Members recorded the number of victims of Illegal lottery scheme;
- Seven (7) Members reported the estimated value of funds lost to Illegal Lottery scheme activities, based on reports to law enforcement agencies and the FIU;
- Six (6) Members reported having conducted investigations related to Illegal Lottery scheme and ML investigations. One (1) Member provided prosecution and conviction data for offences related to these schemes;
- Two (2) Members provided case studies;
- Four (4) Members reported on the assessed value of funds lost to Illegal Lottery scheme activities, based on investigations/prosecutions/convictions.

Chart 2





The following Members reported *some* data in relation to the 'Illegal Lottery' scheme:

1. Anguilla
2. Antigua & Barbuda
3. Aruba
4. The Bahamas
5. Bermuda
6. Cayman Islands
7. Dominica
8. Grenada
9. Guatemala
10. Guyana
11. Haiti
12. Jamaica
13. Trinidad & Tobago



## 6. LEGISLATION

### **Question 1: Is Illegal Lottery Scheme a crime in your jurisdiction?**

Ten (10) Members stated that Illegal Lottery scheme is criminalized in their jurisdiction.

The following observations were made on the responses to this question:

The response from one Member (Haiti) was not applicable. While this jurisdiction responded in the affirmative, it did not specifically address the definition of illegal lottery as defined in this study. The legislation cited (National Lottery Act of September 4, 1958) criminalizes lottery operations if a licence to operate is not obtained from relevant licensing authority.

In eight (8) jurisdictions, the activity is captured as an offence under existing legislation dealing with fraud including: by false pretense, conversion, swindling, theft etc.

Within the seven (7) jurisdictions that indicated the activity is “not criminalized” through illegal lottery specific legislation, elements of the activity could be captured under another offence as is the case with those that indicated it is criminalised. Overall, the data and accompanying notes revealed, in the absence of specific legislation, that there is an avenue within existing legal framework to combat this activity. Jurisdictions stated that the criminal elements of Illegal Lottery scheme are incorporated to some extent within such laws as the Penal Code, Criminal Code; Larceny Act; Theft Ordinance/Act.

Antigua and Barbuda stated that *“An illegal lottery scheme is an advanced fee fraud. It would therefore be a form of common law fraud or the offence of Conversion under section 21(1)(d) of the Larceny Act, Cap. 241; or the offence of False Pretences under section 27(a) of the Larceny Act, Cap. 241.”*

In Grenada, section 279 of the Criminal Code provides the legal authority for this jurisdiction to pursue this offence. This jurisdiction, like most other jurisdictions, relies on the fraud section. Section 279 of Grenada’s Criminal Code states: *“Whoever defrauds any person by false pretense shall be liable ...”*. Bermuda’s *Criminal Code 1907* (Section 345) makes it an offence to obtain property by deception and section 346 criminalizes obtaining a money transfer by deception.

Guatemala and Aruba are two (2) of the Members which stated Illegal Lottery scheme is not criminalized. However, the activity is considered a fraud offence under another law. In Guatemala, this is covered by Article 263 of the Penal Code whilst in Aruba it is considered a modus operandi to commit swindle as outlined in the ‘New Criminal Code’ No. 24 of 2012.

Six (6) Members cited “Lack of; and improper legislation” as a challenge/obstacle to conducting Illegal Lottery scheme and related ML investigations. Of these six (6) Members, four (4) i.e. Grenada, Trinidad and Tobago, Cayman Islands and Guatemala had cause to conduct related investigations whilst two i.e. The Bahamas and Guyana had not conducted related investigations.

One (1) jurisdiction (Jamaica) explained that it enacted legislation in 2013 - the Law Reform (Fraudulent Transactions) Special Provisions Act 2013 (Lotto Scam Act)- and whilst that law does not provide a



definition for Illegal Lottery scheme, it criminalizes several types of conduct that are parts of Advance Fee Fraud. Jamaica also explained that prior to the passage of this legislation there was reliance on the Larceny Act and the Proceeds of Crime Act (POCA) to criminalize this offence. However, there was limited success when dealing with the Illegal Lottery scheme matters. For example, the issue of “irresistible inference” where the court was asked to infer from such evidence: as sudden accretion of wealth from no known source and the presence of lottery scam paraphernalia, were not easily accepted by judicial authorities. It was stated that since the passage of the Lotto Scam Act in Jamaica these issues have become less challenging as they are now adequately dealt with.

While the majority of Members have enacted legislation, and there is common law which speaks to obtaining property by deceptive means, to combat Illegal Lottery schemes, additional legislation is required. Given that the elements associated with Illegal Lottery schemes include cross-border issues; internet-based activities; and the use of financial institutions, countries should consider enhancing existing laws or enacting new ones to effectively combat Illegal Lottery schemes and related ML offences.



## 7. FINANCIAL INFORMATION

### **Question 2: What was the estimated value of funds lost to “Illegal Lottery Scheme” during the reportable period?**

The reported monetary losses to victims for the period 2009 to 2014, was almost \$11million. The respondent jurisdictions disclosed the following:

**Table 1: Total funds lost to illegal lotteries**

	<b>COUNTRY</b>	<b>LOSS (\$) (approx.)</b>
<b>1</b>	The Bahamas	6,500
<b>2</b>	Aruba	19,110
<b>3</b>	Dominica	32,000
<b>4</b>	Cayman Islands	35,000
<b>5</b>	Trinidad & Tobago	355,000
<b>6</b>	Grenada	736,000
<b>7</b>	Jamaica	10,000,000

The recorded losses by Jamaica and the Cayman Islands were extracted from “Reports to Law Enforcement Agencies” while the losses attributed to the other jurisdictions were based on reports to the FIUs.

The disclosure of the reasons for remittance of funds can aid in preventing loss of funds and protecting individuals from becoming victims of Illegal Lottery schemes and other forms of the “Advance Fee Fraud”. One (1) jurisdiction (Antigua & Barbuda), reported that in 2010 it received a SAR related to the Illegal Lottery scheme from a bank. In this matter a customer went to withdraw US\$1,200 with the intention to have it remitted via a money services business to someone described as a “lottery agent”. The reason for the remittance was “to pay for the license”. The customer explained that he was in receipt of an email stating that he had won a lottery (large sum of money) and was required to send funds in order for the lottery agent to acquire a license to send his winnings. The bank informed him that he was likely the target of an attempt to defraud him of funds. The customer declined the withdrawal transaction. Upon receipt of this SAR, the Office of National Drug Control Policy (ONDCP) which is Antigua and Barbuda’s FIU, issued a notice advising financial institutions to be aware of similar types of fraudulent transactions.

There are also indications that the Illegal Lottery schemes and other forms of the “Advance Fee Frauds” schemes might not have been reported to law enforcement agencies and FIUs.



The respondents stated that the main challenges/obstacles to conducting “Illegal Lottery Scheme” and related ML investigations were the non-reporting by victims.

The respondents indicated that victims are sometimes too embarrassed to report the crimes and in a state of denial and refuse to accept they have been victim of a crime.

Antigua and Barbuda noted that there was a report in one of that jurisdiction’s newspapers that someone lost \$80,000 to a lottery scam. The jurisdiction advised that no statistics have been obtained on this incident. This seems to suggest that the matter was either not reported to law enforcement or if the matter were reported it might have been categorized as a fraud under the umbrella of theft/ larceny offence. The miscategorization could have arisen due to the criminal elements or the unawareness of law enforcement personnel as to what appears to be a new trend in criminal offences.

**Question 3: What was the assessed value of funds related to Illegal Lottery Scheme based on investigations/prosecutions/convictions?**

*Four jurisdictions provided data indicating a combined total of almost \$11million.*

**Table 2: Funds lost (based on investigations, prosecutions and convictions)**

	COUNTRY	LOSS (\$approx.)
1	Guyana	3,000
2	Cayman Islands	35,000
3	Grenada	736,000
4	Jamaica	10,000,000

Jamaica indicated that the investigations/prosecutions/convictions within that jurisdiction included individuals who were charged with “Possession of Identity Information” offences under the Law Reform (Fraudulent Transactions) Special Provisions Act 2013. Hence there was a mixture of “Illegal Lottery” charges and related offences. It should be noted that there is no specific charge described as lottery scam, but rather offences that are within the general definition of fraud.

Trinidad & Tobago indicated there were two (2) investigations. However, the victims did not disclose the amount of funds lost to the scheme.

**Question 4: Has your FIU received any SARs/STRs related to “Illegal Lottery Schemes”?**

Eight (8) Members indicated that their FIU received SARs/STRs totaling 462,141.

There is likely to be some under-reporting of the Illegal Lottery scheme and other “Advance Fee Fraud” schemes. It is noted that these type of crimes are conducted in the absence of face-to-face contact with



perpetrators mainly due to use of internet and telephones services. These communication channels present anonymity. Victims are also embarrassed and would not have matter reported.

**Table 3: SARs/STRs related to “Illegal Lottery Schemes”**

<b>COUNTRY</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>TOTAL</b>
Antigua & Barbuda	0	1	0	0	0	0	<b>1</b>
Aruba	1	0	0	0	0	0	<b>1</b>
The Bahamas	1	0	0	0	0	0	<b>1</b>
Bermuda	1	0	0	0	0	0	<b>1</b>
Grenada	2	6	10	1	1	5	<b>25</b>
Guatemala	1	7	1	0	2	3	<b>14</b>
Jamaica	13,367	86,338	110,037	132,743	59,362	60,236 S	<b>462,083</b>
Trinidad & Tobago	0	0	0	0	7	8	<b>15</b>
<b>Total</b>	<b>13,373</b>	<b>86,352</b>	<b>110,048</b>	<b>132,744</b>	<b>59,372</b>	<b>60,252</b>	<b>462,141</b>



**Question 5: Which institutions were used to launder funds obtained through “Illegal Lottery scheme”?**

Six (6) Members identified the banks and Money Services Businesses (MSBs) as the institutions used to launder funds obtained through this fraudulent scheme.

An analysis of the responses highlighted the use of the banks in five (5) jurisdiction i.e. Aruba, Guatemala, Commonwealth of The Bahamas, Grenada and Trinidad and Tobago; and the use of MSBs in three (3) i.e. Grenada, Jamaica and Trinidad & Tobago. Both types of institutions were used to facilitate this activity in three (3) of the six (6) jurisdictions i.e. Grenada, Jamaica and Trinidad & Tobago. While Guatemala and Aruba recorded activities at the bank, they did not disclose the amount of funds involved in the scheme. However, under another section of the questionnaire, it is observed that Aruba quoted \$19,110 as the estimated value of funds lost to this scheme in a report to the FIU that came from a bank. This can be interpreted as funds used at the bank. The activities at the bank involved approximately \$282,484 (this amount includes \$19,110 that was reported in an SAR in Aruba) and those conducted at the MSBs were approximately \$329mil.

Jamaica indicated that approximately 95% of funds were conducted at the MSBs and thus this country recorded most of the funds \$328mil; followed by Grenada (\$552,100) and then Trinidad and Tobago (\$282,037).

In total, Jamaica’s recorded loss of funds to Illegal Lottery Scheme is approximately \$338mil. - \$328 recorded in STRs/SARs; and \$10mil from reports to LEA and Investigations.

The scammers use cross border transactions facilities to exploit the technical and legal difficulties in tracing the destination of funds and ultimate beneficiaries. MSBs are mostly used, based on the responses to the questionnaires. MSBs appear to be more vulnerable to conduct these activities. This may be attributed to the higher standard of customer due diligence being applied at banks. With the application of these measures it would be more difficult for scammers to successfully use MSBs.

According to Jamaica the following indicators have been observed with the Illegal Lottery schemes:

- Multiple transfers within the same month;
- MSBs transfer amounts are typically within the band of \$300 to \$1,000;
- Banks (wire transfers) are typically within the band of \$5,000 to \$10,000;
- Multiple senders to one recipient or One sender to multiple recipients (smurfing);
- Use of multiple addresses.

Jamaica suggested the introduction of a cash limit threshold at the MSBs. It was explained that this would force an automatic report to be submitted to the FIU thereby causing the identity of the scammers subjected to scrutiny. This initiative has the potential to deter scammers from using these facilities in the schemes.



### ***Identify the activity noted in the SAR/STR that involved funds related to “Illegal Lottery scheme”***

Seven (7) English-speaking jurisdictions and one (1) Spanish-speaking jurisdiction identified “Funds Transfer” as the activity most associated with illegal lottery schemes. Only two (2) jurisdictions noted the “Deposit Taking” activity.

The “Funds Transfer” activity is more reflective of a jurisdiction that is within the “Targeted” category. The victims are contacted and funds are transferred out of the jurisdiction. The layering stage of the money laundering process is suspected to take place at this juncture.

Institutions need to apply anti-money laundering and counter financing of terrorism (AML/CFT) measures to aid in deterring and detecting these activities. The business places need to be aware of these activities and identify relevant warning signs. Information gathered when seeking purpose of the transfer could assist not only in detecting this fraud but ultimately safe-guarding individuals from being defrauded.

One (1) Member (Antigua & Barbuda), reported an attempted withdrawal of funds intended for subsequent transmittal via MSB. In 2010 the ONDCP received a SAR related to the Illegal Lottery scheme from a bank. In this matter a customer went to withdraw US\$1,200 with the intention to remit said funds via MSB to someone described as a “lottery agent”. The customer informed the bank that the withdrawal was to facilitate a remittance “to pay for” a license. The customer explained that an email was received stating that customer was winner of a lottery (large sum of money). The customer was required to send funds to the lottery agent for the said to acquire a license in order to send the winnings to customer. The bank informed customer that it appeared to be an attempt to defraud customer of funds. The customer acted upon this advice and declined to withdraw the funds.

It is suspected that the countries quoting “Deposit taking” would be identified as “Source countries” and the deposits are the proceeds of illegal lotteries via “Fund Transfer” mostly through the MSBs.

### ***Identify the jurisdictions where funds were received from***

Four (4) members provided data:

Trinidad identified funds came from Jamaica; whilst Jamaica identified the USA and Canada.

Both Guyana and Guatemala identified internal transfers. This would suggest that individuals within those two jurisdictions are either perpetuating the scheme or obtaining the funds for overseas transmission to the perpetrator. The individuals in these jurisdictions conduct this activity either knowing or unaware of a scheme. If they are unaware it might be possible that they are also victims of another scheme such as the “Fictitious Employment scheme.”

### ***Identify the jurisdictions where funds were sent to***



Eight (8) respondents provided data here. Some jurisdictions remitted funds to the same countries. Four jurisdictions sent funds to the United Kingdom (UK); four to Nigeria; and two sent to Spain.

Grenada noted that funds were sent to Estonia, USA and the UK.

Trinidad and Tobago was the jurisdiction which reported sending funds to the most countries. Those countries were the UK; Ghana; Senegal; South Africa; Nigeria; Uganda; Jamaica and Spain.

Aruba, Guyana and Commonwealth of Dominica (Dominica) sent funds to Nigeria. Dominica also recorded funds being sent to Spain.

Commonwealth of The Bahamas (Bahamas) and Cayman Islands are recorded sending funds to the UK.

Guyana is again featured with activities being conducted within its jurisdiction. Funds were sent within the territory.

## 8. INVESTIGATION

### ***Question 8: Is there a special investigative unit responsible for investigating “Illegal Lottery” schemes?***

Seven (7) Members indicated that there is a special unit within the jurisdiction for investigating illegal lottery schemes.

All seven (7) countries referenced their national police force. Four (4) of them named the specific section of their national police which is responsible for investigating this offence. The following are the named police sections responsible for investigating illegal lottery schemes:

- Cayman Islands: Financial Crime Unit
- Jamaica: Lotto Scam Task Force, Major Organized Crime Agency
- Haiti: BAFE of National Police Force
- Bermuda: Financial Crime Unit

It was noted that in addition to the police force, one of the jurisdictions (British Virgin Islands (VI)) indicated the FIU also.

### ***Question 9: Are there other agencies/departments responsible for investigating “Illegal Lottery Scheme”?***

There were 16 responses to this question.

Aruba, Trinidad and Tobago, Jamaica, The Bahamas and St. Kitts-Nevis indicated that there are also other agencies/departments responsible for investigating a type of conduct that is a part of the illegal lottery scheme. Trinidad and Tobago and Jamaica both stated that the police was the other entity responsible. Aruba, The Bahamas and St. Kitts and Nevis did not provide an answer. It is believed that the general police force would take conduct of these matters with regards to the other three (3) jurisdictions that did not disclose. This conclusion is arrived at due to the fact that Aruba, Trinidad and



Tobago and The Bahamas indicated that a type of conduct that is a part of the Illegal Lottery scheme is captured under other pieces of legislation such as the Criminal Code, Larceny Act, and Penal Code, that speaks to fraud by false pretense that the police would be responsible for such investigations.

There were 11 Members that said there is 'no other agencies/departments responsible for investigating Illegal Lottery schemes'. They are: Antigua and Barbuda, Curacao, Grenada, Bermuda, British Virgin Islands, Cayman Islands, Dominica, Guyana, Haiti, Guatemala and St. Lucia.

Of these 11 countries, it was earlier recorded that six (6) of them: Antigua and Barbuda, Curacao, Grenada, Dominica, Guyana, and Guatemala, also indicated that there were no special units to investigate Illegal Lottery offences. Therefore, based upon the responses there would be no recording of matters investigated due to the non-identification of an investigative body. It is noted, however, that two of these countries have conducted investigations related to Illegal Lottery schemes i.e. Grenada and Guatemala. Therefore, it can be concluded that the general police force would be responsible for conducting these and related investigations.

If the activity were captured under an existing offence, care would need to be taken to have the matter properly recorded as either a type of conduct that is a part of the Illegal lottery. This would enhance the data capturing ability of jurisdictions to eventually be used to assist in the detection of this and similar activities flowing from Advance Fee Fraud.

It was stated earlier in this report that in St. Kitts and Nevis the activity is neither criminalized through bespoke nor captured under another piece of legislation. Given that other commonwealth jurisdictions in the region, such as Grenada and Antigua and Barbuda have looked towards existing legislation as an attempt to criminalize and combat this activity i.e. Criminal Code, Larceny Act, this avenue might also be applicable to St. Kitts and Nevis which is also a commonwealth jurisdiction and which also has a Larceny Act in force.

The SAR/STRs and investigative counts in jurisdictions other than Jamaica; Grenada and Trinidad and Tobago might be low on account of matters of this nature and others related thereto are not properly recorded to reflect the Illegal Lottery scheme but is recorded as fraud by false pretense as stated in the Criminal Code or Larceny Act.

There might be legislating provisions within existing legislation to render the necessary investigative powers to the police pending enhancement of legislative framework. Countries should consider a revision of existing legislation to enhance the legal framework.

There also appears to be some lack of knowledge in the identification and operations of the activities. In this respect capacity building will further assist relevant authority in the effective implementation of appropriate laws. *Capacity building initiatives include:*

- *Awareness raising to ensure staff in relevant agencies (police force/investigative units; FIUs; and reporting entities) have ability, knowledge and skills to identify Illegal lottery and other Advance Fee Fraud; ML risks associated to the scheme; and conduct fraud investigations.*

- *To encourage the filing of STRs/SARs to assist the investigation of Illegal Lottery Scheme and seizure and confiscation of procedures*
- *To identify the ML risks associated with the scheme and formulate mitigating factors*

**Question 10: What is the total number of illegal lottery scheme investigations/prosecutions/convictions?**

Five (5) Members, Jamaica, Grenada, Cayman Islands, Trinidad and Tobago and Guyana have all conducted investigations but only one (1), Jamaica, recorded prosecutions and convictions.

Most of the investigations were conducted by Jamaica (1,041). However, the recorded data for this jurisdiction covered the period January 2009 to September 2014.

**Table 4: Illegal lotteries investigations, prosecutions and convictions (by countries)**

COUNTRY	INVESTIGATIONS	PROSECUTIONS	CONVICTIONS
Cayman Islands	1	0	0
Grenada	25	0	0
Guyana	1	0	0
Jamaica	1,041	347	25
Trinidad and Tobago	2	0	0
<b>Total</b>	<b>1,070</b>	<b>347</b>	<b>25</b>

The earliest illegal lottery investigations were conducted by Grenada. This jurisdiction is captured conducting investigations pertaining to some aspects of Illegal Lottery scheme from 2009 and each year thereafter, totaling 25 matters. Guyana and the Cayman Islands are each featured having conducted one (1) investigation in 2010. In 2014 Trinidad and Tobago recorded two (2) investigations of conduct associated to Illegal Lottery Scheme.

There was no recorded activity for Jamaica prior to 2012.

The jurisdictions indicated that in these matters persons were charged with offences related to Illegal Lottery scheme. As earlier indicated there is no specific definition of Illegal Lottery outlined in law. To



aid in combating this activity, jurisdictions looked towards the types of conduct that are parts of this activity which are already criminalized.

Grenada identified the utilization of the offence of fraud, as outlined in Section 279 of the Criminal Code, and the POCA. Cayman Islands looked towards Section 90 of the ICTA law that deals with victims being defrauded by individuals using emails or text messages and Guyana employed the Criminal Law Offences Act, Cap. 8:01, Section 194 that speaks to obtaining property by false pretense. Trinidad and Tobago would have utilized Section 9 of the Summary Offence Act 11:02 that established the offence of “trickery” and or Section 34 of the Larceny Act 11:12 that addresses “*obtaining property by false pretences*”.

Jamaica also utilized the provisions in existing legislation, such as the Larceny Act and POCA, to conduct investigations, in addition to new provisions in the Lotto Scam Act.

The statistics revealed that there were no investigations recorded for Jamaica prior to 2012. It was also noted that while investigations (353) were conducted in 2012, there were neither prosecutions nor convictions for that year. While the jurisdiction recorded a decrease in investigations (201) in 2013, that year the authorities conducted 103 prosecutions and obtained one (1) conviction. The following year, 2014, the jurisdiction continued to be successful with 488 investigations; 244 prosecutions; and 24 convictions.

**Table 5: Total investigations, prosecutions and convictions (by years)**

ACTIVITY	2009	2010	2011	2012	2013	2014	TOTAL
Investigations	2	8	10	354	201	495	<b>1070</b>
Prosecutions	0	0	0	0	103	244	<b>347</b>
Convictions	0	0	0	0	1	24	<b>25</b>

There were no recorded prosecutions/convictions in Jamaica in 2012. It can be concluded that the Larceny Act and POCA were ineffective at generating prosecutions/convictions in 2012. The 2013 and 2014 successes can be attributed to the implementation of a more appropriate Lotto Scam Act. It is noted that persons were charged with “*Possession of Identity Information*” offences under the 2013 Lotto Scam Act.

Only one responding jurisdiction reported any convictions or prosecutions for “types of conduct that are parts of “Advance Fee Fraud” and thereby also capturing activities within the “Illegal Lottery” scheme.



Of the 1,070 investigations only 32% (347) reached to the prosecution stage; and of the 347 prosecutions there was a conviction rate of 7%. Thus of the 1,070 investigations only 2% of these matters resulted in a conviction.

This lack of conviction/prosecutions highlights major challenges in dealing with this type of transnational/internet-based criminal activity. There appears to be a need for appropriate legislative action in order to properly capture this type of criminal activity.

**Question 11: What is the total number of Money Laundering investigations/prosecutions/convictions related to “Illegal Lottery Scheme”?**

Three (3) Members provided data to this question: Grenada, Guatemala and Jamaica.

Only one respondent (Jamaica) reported prosecutions and convictions. However, Grenada provided the same statistics as for conducting investigations into Illegal Lottery schemes. Grenada reported the receipt of 25 STRs/SARs. This is the same count for Illegal Lottery investigations, and ML related investigations as previously noted for this jurisdiction. It was explained that all offences were also investigated for related ML. Guatemala is also featured as receiving nine (9) STRs/SARs during the period 2010 to 2014, and conducted the same number of ML investigations.

**Table 6: ML investigations, prosecutions and convictions (by countries)**

COUNTRY	INVESTIGATIONS	PROSECUTIONS	CONVICTIONS
Grenada	25	0	0
Guatemala	9	0	0
Jamaica	105	51	3
<b>TOTAL</b>	<b>139</b>	<b>51</b>	<b>3</b>

A 2% conviction rate is also highlighted for ML investigations related to Illegal Lottery Schemes.

**Table 7: ML investigations, prosecutions and convictions (by years)**

ACTIVITY	2009	2010	2011	2012	2013	2014	TOTAL
Investigations	9	16	32	22	36	24	<b>139</b>
Prosecutions	6	1	16	13	11	4	<b>51</b>



Convictions	0	1	0	1	1	0	3
-------------	---	---	---	---	---	---	---

Jamaica’s data shows ML investigations (105) being conducted from 2009 and every year thereafter. During this same period, the jurisdiction received over 200,000 STRs/SARs filings. It should however be noted that multiple reports are received for many persons on whom a disclosure is made.

All CFATF Members had relevant laws enacted by 2009 to combat ML activities. The legislative response was a part of the Members’ compliance with the FATF’s then 40+9 Recommendations and preparation for the CFATF mutual evaluation of their AML/CFT infrastructure.

Three (3) Members: Grenada, Jamaica and Guatemala, recorded ML investigations linked to Illegal Lottery scheme. However, Jamaica is the only jurisdiction that has successfully recorded any prosecutions and convictions related to this type of crime.

Jamaica’s success could be attributed to the strengthening of that jurisdiction’s legal framework and investigative assistance from foreign jurisdictions.

Jamaica is recorded as receiving funds linked to Illegal Lottery scheme from North America. News reports indicate that persons in the USA have fallen prey to these activities. This resulted in much attention directed to Jamaica by the USA’s law enforcement authorities, thereby strengthening the jurisdiction’s related investigative capacity. The enactment of the lotto Scam Act in 2013 that fully captures the elements of this modern day crime provided additional enforcement.

Grenada and Guatemala recorded 25 and nine (9) ML investigations respectively.

**Question 12: In the convictions obtained, if any, what was the estimated value of funds recovered; what other property was recovered; and was the recovery enabled via forfeiture or confiscation?**

Only one (1) Member (Jamaica) recorded any convictions.

Jamaica indicated that \$240,000 was recovered from the persons involved in the illegal lottery scam. The funds were obtained using the cash forfeiture provision of the POCA (Sec. 5) and the Constabulary Force Act.

The jurisdiction also shared that there are post-conviction proceedings that involved \$490,000 that are currently before the courts.

In addition to the recovery of funds, Jamaica also reported having recovered other property i.e. motor vehicles.

**Question 13: What is the estimated number of persons identified as victims of “Illegal Lottery” schemes?**

The responses from eight (8) Members identified a total of 677,675 victims.

Only five (5) Members responded accounting for a total of 677,659 victims. Most of the victims (99%) were identified by Jamaica. This is attributed to the fact that this jurisdiction conducted most



investigations/prosecutions/convictions related to these activities. Grenada recorded 47 victims and Anguilla had two (2) victims.

Three (3) other jurisdictions provided demographics for victims in a subsequent section of the questionnaire and disclosed an additional 18 victims – Guyana one (1), Cayman Islands one (1), Trinidad and Tobago (12), Dominica two (2) and The Bahamas two (2).

This brought the overall count of victims identified to 677,675.

**Question 14: What are the main sources of detecting ML arising as a result of Illegal Lottery Schemes?**

Four (4) Members responded to this question: Grenada, Jamaica, Trinidad and Tobago and Antigua and Barbuda.

All indicated the “Reports to law enforcement agencies” as the main sources of detecting ML arising as a result of Illegal Lottery schemes.

Grenada, Trinidad and Tobago and Jamaica’s responses also highlighted SARs/STRs filings as a detection source.

Grenada also reflected proactive inquiries/investigations.

Eight (8) Members recorded receiving STRs/SARs but only three (3) of these jurisdictions indicated this report as the main sources of detecting ML arising as a result of Illegal Lottery schemes. Antigua and Barbuda recorded receipt of one (1) SAR/STR whilst Jamaica recorded 462,083, Grenada recorded 25 and Guatemala recorded 14.

The other jurisdictions reporting the receipt of one (1) SAR/STR each were Bermuda, Aruba, and The Bahamas. Whilst there was an SAR/STR filing in these jurisdictions, there was no recorded reported scam to law enforcement agencies and attendant investigations conducted.

In the case of Antigua and Barbuda, while only one SAR/STR was submitted, the reports to law enforcement agencies appear to provide sufficient data for that jurisdiction to respond accordingly.

The ONDCP in Antigua and Barbuda issued a Press Release in 2012 titled “*Recent Trends in Online/Electronic Fraud*”. This release sought to advise the general public of the “Alarming increase of reported fraudulent financial scams” in that jurisdiction “within the past 18-24 months” preceding the issuing of the release. The release advised the public about various fraud types and how persons could avoid becoming a victim. (See Appendix I).

Antigua and Barbuda is one of the jurisdictions that did not indicate any monetary losses to Illegal Lottery schemes based upon reports to the law enforcement agencies/FIU and investigations. Based upon the disclosure made in the press release pertaining to reports received and the country’s response with no identification of funds, either the reported activities identified by this jurisdiction were not



within the definition of the Illegal Lottery scheme, or if there were any reports, the data type might not have been captured.

Bermuda and Guatemala both indicated the receipt of one (1) and 14 STRs/SARS respectively. While the activities noted in the STRs/SARS were “Deposit Taking” and “Funds Transfer”, there were no recorded monetary losses within these reports to the FIU. Guatemala noted the pursuit of nine (9) ML investigation related to Illegal Lottery scheme. It is believed that the jurisdictions either inadvertently omitted the amount in their responses or the jurisdictions did not capture the data type. This seems to suggest that this data type is not captured within those jurisdictions neither by the authorities receiving the reports nor the reporting entity submitting the SAR/STR.

Countries should ensure that the data necessary to identify all transactions (attempted and conducted) associated with this activity is captured. This would aid in ensuring that funds lost as a result of this activity and funds prevented from being lost due to detection are identified.

Given the difficulties in investigating offences within this category once they have occurred, the best approach to tackling this crime type is a vigorous public awareness campaign.

***Of the number of victims identified, if available, provide age and gender***

The responses indicated most of the victims were within the age range of 66yrs (80%) category. The age ranges of “46-55yrs”; and “56-65yrs” collectively accounted for 19.5%); and “36-45yrs” and “26-35yrs” when combined was 0.5%.

The targets of these offences are mostly over 60 years. A similar finding was revealed in a report that was produced by Canada’s FIU the Financial Transactions and Reports Analysis Centre (FINTRAC) entitled “*Mass Marketing Fraud: Money Laundering Methods and Techniques*” of 2015. While the FINTRAC report only focused on advance fee fraud activities pertaining to Canada, it indicated that “*victims of the ‘tax on lottery winnings<sup>2</sup>’ appear to be mostly seniors*”.

The gender of the victims varied by jurisdiction. Grenada’s and Trinidad and Tobago’s statistics revealed the majority of victims were males whilst Jamaica highlighted most victims fell within the female category (406,565). In the case of Dominica there were 2 male victims. The Commonwealth of The Bahamas recorded a male and female victim while the victim in Guyana was listed as a female.

While the data from Jamaica involved a large number of victims i.e. 677,608, it would not be a true reflection of this data type within the region if this were to be used as a measurement of persons negatively affected.

---

<sup>2</sup> The “tax on lottery winnings” is a sub category of the “Prize” category of mass marketing fraud that consists of sending fraudulent mass mailings that target consumers stating that the recipient must pay a sum of money to collect a prize.



There was insufficient activity and demographic data captured within the CFATF community's responses and available in the completed questionnaires to accurately reflect the age ranges and gender of the victims. The small sample size created a challenge in conducting the study.

**Question 16: How victims were notified that they had won a lottery?**

Eleven (11) Members responded to this question. Notification via email and telephone were identified as the channels mostly used to contact potential victims.

Eight (8) of the 11 responses indicated individuals were contacted via email i.e.: Antigua and Barbuda, Grenada, Haiti, Trinidad and Tobago, Jamaica, The Bahamas, Cayman Islands, and Dominica.

Five (5) jurisdictions including one (1) Spanish-Speaking country noted that notification was received via telephone i.e. Jamaica, Guatemala, Bermuda, Cayman Islands, and Dominica. Five (5) respondents identified text messages i.e.: Jamaica, Guatemala, Bermuda, Cayman Islands, and Guyana.

Three (3) respondents i.e. Jamaica, Bermuda and Cayman Islands recorded the use of "air mail"; and one respondent, Trinidad and Tobago noted that persons were also contacted via Facebook.

Victims in Jamaica were contacted using a variety of methods including email, telephone, air mail, and text messaging.

Although the British Virgin Islands had no recorded SAR/STR filings, investigations or reports to law enforcement agencies it reported that based on publicly available information in that jurisdiction, victims were contacted via email, air mail and telephone.

According to the responses, notification via the internet was the mode of communication mostly used by perpetrators. This was also the findings of the IMMFWG study that stated "*Internet-based solicitations are among the most common*" form of communication used to target potential victims.

According to the IMMFWG in the "*United States, web sites and emails accounted for 60 percent of reported contacts in 2009, and Canada noted a 46 percent spike in Internet-related complaints from 2008 to 2009. Nearly 70 percent of Australian victims reported fraudulent contact via the Internet.*"



## 9. INFORMATION SHARING

***Question 17: What information sharing mechanisms domestic and international do you have in place to facilitate the sharing of information when conducting “Illegal Lottery” scheme investigations/prosecutions?***

There were 14 Members responding to this question i.e. Antigua and Barbuda, Aruba, Curacao, Trinidad and Tobago, Dominica, Bermuda, Grenada, Jamaica, The Bahamas, British Virgin Islands, Turks and Caicos Islands, Guyana, Guatemala and Cayman Islands.

All jurisdictions have mechanisms available to facilitate domestic and international sharing of information. These mechanisms include MLATs, MOUs, Law Enforcement to Law Enforcement and FIU to FIU. These are the same mechanisms that would be employed when conducting any type of ML or related predicate offences investigation.

Of the 14 respondents only four (4) conducted investigations related to the Illegal Lottery crime type.

***Question 18: Has your country shared information or cooperated with any other jurisdictions(s) when conducting “Illegal Lottery” scheme investigations/prosecutions?***

Cayman Islands, Grenada and Jamaica responded that they had, in the past, shared information on illegal lotteries.

Jamaica and Grenada were identified as sharing information with other jurisdictions from as far back as 2009. Both jurisdictions are also recorded as having conducted investigations from 2009. Therefore, the exchange of information on illegal lotteries has been ongoing for many years.

Jamaica recorded having shared information with the USA and Canada when conducting Illegal Lottery investigations/prosecutions. These are the only jurisdictions captured in the fund transfer schemes involving Jamaica. Funds were sent from those jurisdictions to Jamaica. During the period under review, Jamaica recorded approximately \$339 million lost to Illegal Lottery Scheme.

Grenada shared information with Estonia, USA and the UK which are jurisdictions where funds were transferred from Grenada. Grenada also shared information with Nigeria and Russia. It was observed that these jurisdictions were not captured in the fund transfers pertaining to Grenada. It was summarized that the sharing of data was probably prompted by a request for assistance from those jurisdictions and/or spontaneously by Grenada.

**Table: 8 Information sharing (by years)**

COUNTRY	2009	2010	2011	2012	2013	2014
<b>Cayman Islands</b>		INTERPOL				
<b>Grenada</b>	USA Nigeria	Russia Nigeria	UK Estonia	USA Nigeria	USA Nigeria	USA Nigeria
<b>Jamaica</b>	USA	USA	USA	USA Canada	USA Canada	USA Canada (Jan- Sept2014)

Guyana is one (1) of the four (4) jurisdictions that conducted investigations related to the Illegal Lottery crime type. This jurisdiction conducted one (1) investigation and declared that funds were transferred within the jurisdiction; and also sent to Nigeria.

It was observed that Guyana did not share information with Nigeria while conducting the investigation. Given that these types of offences are conducted with some level of anonymity via the communication channels used e.g. internet, airmail, and the layers created with the fund transfers (one victim instructed to deposit funds to an account and another victim who is the recipient of deposited funds would immediately withdraw for onward transmission via MSBs) there would be difficulty in the identification of the perpetrator. Thus, the non-identification of perpetrator could prevent the submittal of a request for assistance. Additionally, if Guyana do not have any required information sharing mechanisms in place with Nigeria it would also be a challenge to obtain requisite data.

Trinidad and Tobago disclosed that its FIU shared information with Jamaica’s FIU but this was in relation to suspected Illegal Lottery scheme from information contained in STRs; and not pursuant to an investigation.

***Question 19: Was any of the shared information when conducting “Illegal Lottery” scheme investigations/prosecutions related to ML activities; for instance, was information shared in respect of any parallel ML investigations?***

Two (2) Members i.e. Grenada and Jamaica, indicated the exchange of information was also related to parallel ML investigations.

***Question 20: Are there any available case studies on ML linked to Illegal Lottery scheme in your jurisdiction?***

Two (2) Members, Jamaica and Guatemala, produced case studies.

Jamaica’s case studies revealed:



- The use of information contained in the STRs/SARs in combating the Illegal Lottery schemes and similar types of crime;
- The use of MSBs;
- Challenges faced when conducting investigations;
- The importance of having up to date legislation.

Jamaica is recorded as receiving funds linked to Illegal Lottery scheme from the USA and Canada. News reports indicate victims in USA have fallen prey to these activities. This resulted in much attention directed to Jamaica by USA's law enforcement authorities, thereby strengthening the jurisdiction's capacity to conduct this investigation type. The enactment of the lottery Act in 2013 that fully captures the elements of this modern day crime aided additional enforcement.

Guatemala's case study featured a vehicle as the winnings:

- Use of the bank - Cash deposits (delivery charges) to savings account followed by immediate withdrawal by perpetrator
- Notification of winnings sent via telephone (call and text message)

***Question 21: Has your jurisdiction detected any ML indicators and/or trends associated with Illegal Lottery schemes?***

Five (5) Members provided data related to trends i.e. Antigua and Barbuda, Grenada; Trinidad and Tobago, Guatemala, and Jamaica.

Guatemala stated that *"2010 begins with the trend of ML associated with the Illegal Lottery Scheme through cellular communication in which it is stated a prize has been won and certain amount of money in a bank account must be deposited in order to claim the prize. The jurisdiction further indicated that "To date, nine such cases are under investigation."*

Grenada reported that around 2009 it observed the trend where victims were contacted via telephone, email, traditional mail and internet popups.

Trinidad & Tobago reported that in 2014 the FIU discerned a trend in its STRs/SARs filings which showed persons were wire transferring and remitting funds, for unknown reasons, to persons in various jurisdictions including Senegal, Nigeria, Uganda, South Africa, Cambodia, UK, Germany and Jamaica. Another trend was that persons were receiving deposits into their bank account from persons they met on social media, including Face book and LinkedIn, keeping a small commission and then withdrawing the remainder which they then remitted to the countries mentioned above. Both trends can be a form of layering, the 2<sup>nd</sup> stage in the ML process.

Jamaica reported that *"Perpetrators in some cases are engaged in the purchase of real estate and other assets gained from their illicit activities. These properties are sometimes placed in the names of older friends and family members"*. Jamaica did not provide the year when it began observing this trend.



Antigua and Barbuda reported that the trends associated with Illegal Lottery schemes were part of what prompted the ONDCP to issue a press release on 1st June 2012, even though a reference to illegal lottery schemes was not explicitly made in that release. Instead there was reference to “Advance Fee Schemes” and “Wire Transfer Schemes”.

Antigua and Barbuda’s press release recommended the adoption of the following measures to avoid becoming a victim of a “*fraud scheme*”:

- *Know who you are dealing with. If you have not heard of a person or company that you intend to do business with, learn more about them. Consult with your bank, an attorney, or law-enforcement;*
- *Be wary of persons who provide extravagant stories followed with a mutually beneficial offer;*
- *Make sure you fully understand any business agreement that you enter into;*
- *Be wary of businesses that operate out of post office boxes or do not have a street address;*
- *Be suspicious when dealing with persons who do not have a direct telephone line and who are never in when you call, but always return your call later;*
- *Be wary of business deals that require your banking or other personal data.*

**Question 22: In your view, what are the main obstacles or challenges to conducting Illegal Lottery scheme investigations/prosecutions/convictions?**

Nine (9) Members provided data i.e. Trinidad and Tobago, Antigua and Barbuda, Grenada, Jamaica, The Bahamas, Guyana, Guatemala, British Virgin Islands, and Dominica.

Five (5) Members, Trinidad and Tobago, Cayman Islands, Grenada, Jamaica and Guatemala reported having conducted investigations. Four (4) of these five (5) jurisdictions, Trinidad and Tobago, Grenada, Jamaica and Cayman Islands, pursued investigations for conduct associated with Illegal Lottery schemes whilst three (3) jurisdictions, Grenada, Jamaica and Guatemala are also highlighted as having conducted ML investigations related to Illegal Lottery schemes.

Of all the investigations conducted by these five (5) Members only one jurisdiction recorded prosecutions and convictions (Jamaica) during the period under review.

The responses received from the nine (9) Members identified challenges/obstacles in conducting these types of investigations/prosecutions.

The countries that conducted investigations were the ones which noted most of the challenges/obstacles including:

- i. Use of the internet to commit the offence;
- ii. Difficulties locating perpetrators based on the modus operandi of the scheme e.g. internet, telephone;



- iii. Either no knowledge or insufficient knowledge of the scheme;
- iv. Lack of or inadequate legislation;
- v. The length of time taken to obtain information on the recipients/perpetrators;
- vi. Lack of evidence to prosecute e.g. un co-operative victims and difficulties in obtaining information from overseas;
- vii. Victims of the scam not making a report;
- viii. Lack of training in identifying occurrences of the crime;
- ix. Difficulty in identifying the location of perpetrator(s) when contact was made via.

***Question 23: In your view, what are the main obstacles or challenges to conducting MI investigations/prosecutions/convictions arising from “Illegal Lottery” scheme?***

There were nine (9) Members, Grenada, Jamaica, The Bahamas, Guyana, Guatemala, British Virgin Islands, Dominica, Trinidad & Tobago, and Cayman Islands provided some data.

The jurisdictions echoed all of the challenges /obstacles featured when conducting the Illegal Lotteries investigations/prosecutions/convictions. Seven (7) of the respondents were featured in the responses pertaining to the illegal lotteries investigations at question 21, hence the similarity to some of the responses. Those responses are as follows:

- i. Use of the internet to commit the offence;
- ii. Difficulties locating perpetrators based on the modus operandi of the scheme e.g. internet, telephone;
- iii. Either no knowledge or insufficient knowledge of the scheme;
- iv. Lack of or inadequate legislation;
- v. The length of time taken to obtain information on the recipients/perpetrators;
- vi. Lack of evidence to prosecute e.g. un co-operative victims and difficulties in obtaining information from overseas;
- vii. Victims of the scam do not make a report;
- viii. Delayed reporting by victims/denial of crime;
- ix. Lapse in time in commission of offence and report to law enforcement agency;
- x. Victims not aware of which jurisdiction they are to file a report;
- xi. Victims become co-conspirators;
- xii. Offence transcends borders;
- xiii. No biographical data due to low monetary threshold requirement;
- xiv. Lack of training in identifying occurrences of the crime;
- xv. Difficulty in identifying the location of perpetrator(s) when contact was made via;



- xvi. Haste of victims to conduct transactions without first verifying the veracity of the claims made by perpetrators;
- xvii. The use of individuals (runners), who are paid by the masterminds of the scam to collect funds on their behalf;
- xviii. Overseas law enforcement authority reluctance to pursue these matter if it does not meet a specific monetary threshold.

Of the responses noted above, the majority of respondents cited either Lack of or inadequate legislation; Lack of evidence to prosecute e.g. un-cooperative victims and difficulties in obtaining information from overseas; and Victims of the scam do not make a report.

Strengthening the legislative framework and capacity building would aid in dealing with these issues.



## 10. JURISDICTION'S ANALYSIS

**Question 24: During the Illegal Lottery scheme investigations/prosecutions conducted in your jurisdiction was your country identified as a Target, Source, or as a Target and Source country?**

Eleven Members responded to this question, .i.e. Grenada, Jamaica, The Bahamas, Guyana, Guatemala, British Virgin Islands, Dominica, Trinidad & Tobago, Antigua and Barbuda, Aruba and Cayman Islands.

Only five (5) of the 11 respondents recorded investigations – Grenada, Jamaica, Trinidad and Tobago, Cayman Islands and Guatemala.

Nine (9) of the 11 respondents i.e. Grenada, The Bahamas, Guyana, British Virgin Islands, Dominica, Trinidad & Tobago, Antigua and Barbuda, Aruba and Cayman Islands identified their jurisdiction as being a target country for illegal lottery schemes.

**Table 9: TARGET COUNTRIES**

TARGET COUNTRY	SOURCE COUNTRY	TARGET & SOURCE COUNTRY
Cayman Islands, Aruba	Jamaica	Guatemala
Grenada, Dominica		
Guyana Antigua and Barbuda British Virgin Islands		
Jamaica		
Trinidad and Tobago		
The Bahamas Cayman Islands		

Guatemala stated that that jurisdiction was both a target and source for illegal lottery schemes. The monetary flows that were recorded in Guatemala showed funds being transferred within the jurisdiction. This signifies that perpetrators are within that jurisdiction (source) targeting victims within same country.

Jamaica is listed as a source country. Individuals in Jamaica have been convicted under the Lotto Scam Act. According to Jamaica, *“Criminalizing of possession of identity information in circumstances which it*



*can reasonably be inferred that it was used or will be used in scamming is particularly widely used to effectively prosecute lottery scammers”.*

Another interesting aspect of Jamaica’s Lotto Scam Act is that there is no need for the virtual complainant/victim to put the case before the Court. This can be done by the Commissioner of Police thus eliminating the problem faced when there are un-cooperative victims who would not wish to pursue court proceedings.

Six (6) of the 11 respondents did not record any investigations. These jurisdictions recorded receipt of STR/SAR; and recorded victim. The jurisdiction’s identification might have been formulated based on information obtained from the recording - Bahamas; Aruba; and Antigua and Barbuda from STR/SAR; and Dominica and Guyana registered recorded victims.

The Virgin Islands stated “based on public information” individuals were notified of potential lottery winnings via email, mail and telephone, as that jurisdiction neither received any STR/SAR nor conducted any investigations. It is surmised that the “Target” identification was also concluded via this avenue.

The majority of Members providing data for this study stated that they are target countries. The money flow features funds being sent from these Members to countries in North America, Africa; and Europe.

Funds were sent from victims in the following “Target” Countries:

- Grenada recorded sending funds to Estonia; USA; and UK
- Cayman Islands and Bahamas transferred funds to the UK;
- Aruba, Guyana and Dominica sent funds to Nigeria
- Dominica remitted to Spain
- Trinidad and Tobago transmitted funds to Ghana, Senegal, South Africa, Nigeria, Uganda, UK, Jamaica, Spain

However, following the implementation of the new law in Jamaica, new challenges have emerged. Perpetrators are now changing the modus operandi in collecting illicit funds; and also securing the tools required to perpetuate the Illegal Lottery scheme.

***Question 25: During the “Illegal Lottery” scheme investigations/prosecutions conducted in your jurisdiction, if other jurisdictions were involved in these schemes were they identified as a Target, Source, or as a Target and Source country?***

Only three (3) Members provided data to this question.

Grenada identified Nigeria and the USA as the countries involved. These countries were also listed by Grenada as being target countries. Based on the monetary flows involving Grenada, funds were sent from Grenada to Nigeria and the USA. Therefore, these would be better captured under the “Source” country label.



Nigeria was listed as a “Target and Source” country by Trinidad & Tobago. The USA, Canada and UK were also placed in this category by Jamaica.

***Question 26: What were the victims required to do in order to receive their prize?***

11 Members responded to this question i.e. Grenada, Jamaica, The Bahamas, Guyana, Guatemala, Dominica, Trinidad & Tobago, Antigua and Barbuda, Aruba, Bermuda and Cayman Islands.

All respondents noted that victims were required to “Pay transfer fee and taxes”.

Five of the jurisdictions also noted instructions to “Provide identity details” and “Provide financial data” (Grenada, Jamaica, Bermuda, Guyana; and Dominica).

The Cayman Islands was also listed as required to “Provide financial data”.

***Question 26(b): Of the number of investigations/prosecutions/convictions conducted how many perpetrators were identified?***

Five (5) Members identified approximately 1065 perpetrators - Grenada (10), Jamaica (1,041), Guyana one (1), Guatemala nine (9), and Dominica four (4).

In the case of Jamaica, the jurisdiction did not provide a specific number. It stated that “*at least one perpetrator per investigation with as many as 10 in some instances*”. Jamaica recorded 1,041 investigations. Therefore, for the purposes of this study the count of one perpetrator per investigation was applied, for an identification of 1,041 perpetrators.

Dominica recorded victims and perpetrators of the Illegal Lottery scheme crime type, but the jurisdiction neither recorded any investigations nor receipt of SAR/STRs. The jurisdiction indicated that approximately \$32,000 was the estimated value of funds lost to Illegal Lottery scheme, based on reports to the FIU. This is a hybrid model FIU in that it is Administrative/Law Enforcement. It is believed that the report in question, although received by the FIU was recorded as a “Report to the police” that was made by an individual (victim).

It is believed that Guatemala’s response is in relation to the ML investigations related to the scheme, as this country did not record any Illegal Lottery scheme investigations.

***Of the number of perpetrators identified, if any, provide age and gender***

Of the five (5) Members that identified perpetrators, only three (3) jurisdictions provided data i.e. Jamaica, Grenada and Guatemala.

Jamaica reported the identification of at least 1,041 (if one were to calculate the jurisdiction’s response in accordance with the number of investigations conducted). It was noted that the age ranges of 15-25



years and 26-35 years each recorded 40% of the individuals whilst the age range 36-45 years recorded 20%. It was also disclosed that 70% of the illegal activities were conducted by the males.

While, Jamaica experienced challenges in conducting investigations it most likely would have been easier for that jurisdiction, when compared with target countries, to conduct its investigations. Jamaica is described as a source country this might account for the high number of investigations conducted in that jurisdiction. This is partly on account of the perpetrators residing within its jurisdiction. Jamaica reported that based on its investigations the perpetrators reside in that country and are Jamaican nationals who are predominantly unemployed.

Grenada and Guatemala only provided the gender of the perpetrators. This seems to suggest that this data type was not captured.

Grenada reported that the individuals were all males. Guatemala reported that of the nine (9) perpetrators the majority were females (6).

***Question 26 (d): During the “Illegal Lottery” scheme investigations/prosecutions, how was the information obtained and used by perpetrators to target victims?***

Five Members (5) responded to this question i.e. Grenada, Trinidad & Tobago, Guatemala, Cayman Islands and Guyana.

Most of the respondents (Grenada, Trinidad & Tobago, Guatemala and Cayman Islands) declared that the information was obtained from “Publicly available information e.g. telephone directory”.

Grenada, Cayman Islands and Guyana also indicated “*Private information obtained unlawfully and/or in an unauthorized manner*”.

Jamaica which recorded most investigations and obtained successful prosecutions/convictions reported that it was unknown how data is obtained. The jurisdiction indicated that “*It is believed that persons overseas sell the lead sheets i.e. sheets containing bio-data of victims to scammers. Usually the sheets are priced at \$500 per 100. These are then resold by the scammers to other scammers; hence you will find a multiplicity of persons calling the same set of victims as they are using the same sheets.*”

***Question 26 (e) In your jurisdiction, is Illegal Lottery scheme a predicate offense to money laundering and terrorist financing?***

Thirteen (13) Members responded to this question.

Seven (7) respondents indicated that Illegal lottery conduct is a predicate offense to money laundering and terrorist financing i.e. Antigua and Barbuda, Grenada, Trinidad & Tobago, Jamaica, Guatemala, British Virgin Islands and Cayman Islands.

Six (6) respondents indicated that this is not captured as a predicate offence i.e. Aruba, Haiti, The Bahamas, Dominica, Guyana and St. Lucia.



Most jurisdictions have reported that several types of conduct, which are parts of “Advance Fee Fraud”, that is inclusive of Illegal Lottery scheme, are criminalized under various pieces of existing legislation, e.g. the Larceny Act, Theft Act, Criminal and Penal Codes. The events are criminalized within the common law context of fraud, deception and theft such as obtaining property by deception and dishonest appropriation of property. Therefore, as these offences are predicate offences to ML, the Illegal Lottery scheme crime type activities are included.

The legislative framework could be enhanced to explicitly criminalize the activities associated with illegal lotteries as was done in Jamaica. While the traditional laws provided some mechanism to this jurisdiction in combating this phenomenon, it was only after the bespoke legislation was enacted were there prosecutions and successful convictions.

***Question 26 (f): Of the number of investigations/prosecutions conducted, what is the average time taken (days, months, years) to complete?***

When combined, the responses from Grenada and Jamaica reveal the average time taken to complete an investigation was six (6) to 18 months.

Jamaica indicated that the average time taken to prosecute an illegal lottery case was 2 to 4 years. Should the noted challenges/obstacles be addressed, this could possibly bring about a reduction in time taken to complete matters.



### **SECTION 3 – OBJECTIVES**

This typology exercise is being pursued to counter the threat of Illegal Lottery schemes and related ML and TF activities effectively by providing a regional overview, warning signs, and types used by perpetrators.

The main objective is to develop a Regional Report on Typologies related to Illegal Lottery schemes and the effects that these activities have on Money Laundering and Terrorist Financing within the Caribbean Region, if any.

The questionnaire was developed to capture data to address the objectives outlined below:

#### **1. Identify crime reporting level.**

The responses indicate a low-level reporting. This may be due to: (1) Activities might have been captured under another reporting category e.g. fraud; theft (2) non-reporting by victims; (3) not much activity pertaining to this crime type.

The 'Advance Fee Frauds' have simply evolved into different methodologies. Anecdotal evidence indicates that scam emails are still circulating trying to inveigle potential victims into parting with their money.

Thus there might not be much type of conduct that are parts of the Illegal Lottery scheme. This scheme may have been overtaken by other more current 'Advance fee fraud' schemes such as:

- a. Cheque overpayment fraud
- b. Dating or romance scams
- c. Emergency Fraud/ recovery fraud
- d. Conference fee fraud

When capturing data countries would need to ensure that all agencies are familiar with the methodology; and use the same name when referencing particular activities. In this way there would be harmonized recording of data throughout the jurisdiction and by extension the region.

#### **2. Identify the legislation in relation to the criminalization of Illegal Lottery Schemes at a regional level.**

Overall, the data and accompanying notes revealed that in the absence of specific legislation there are avenues within the existing legal framework to combat this activity. Jurisdictions stated that the criminal elements of Illegal Lottery scheme are incorporated to some extent within such laws as the Penal Code, Criminal Code; Larceny Act; Theft Ordinance/Act.



Antigua and Barbuda stated that *“An illegal lottery scheme is an advanced fee fraud. It would therefore be a form of common law fraud or the offence of Conversion under section 21(1)(d) of the Larceny Act, Cap. 241; or the offence of False Pretences under section 27(a) of the Larceny Act, Cap. 241.*

One (1) jurisdiction (Jamaica) explained that it enacted legislation in 2013; while it does not define Illegal Lottery scheme, “it criminalizes several types of conduct that are parts of advance fee fraud”. The jurisdiction explained that prior to the passage of this legislation there was reliance on the Larceny Act and the POCA. However, in dealing with the Illegal Lottery scheme matters these were used with limited success. For example, the issue of “irresistible inference” where one was asked to draw an inference from such evidence as: sudden accretion of wealth from no known source, the presence of lottery scam paraphernalia were not easily accepted by judicial authorities. It was stated that since the passage of the 2013 legislation in Jamaica these issues have become less challenging.

While the majority of respondents have existing laws and common law which speak to obtaining property by deceptive means, to combat Illegal Lottery scheme, bespoke legislation is required. Given the elements that are associated to Illegal Lottery schemes such as the trans-national element of the crime; the fact that it is often internet-based; and the use of financial institutions, countries should consider enhancing existing laws or enacting new ones to effectively combat Illegal Lottery scheme; and ML offences.

### **3. Identify the efficiency of investigations and / or judgments related to crimes of Illegal Lottery Schemes in the region.**

The data from most jurisdictions indicate difficulty in pursuing the offenders involved in this type of crime, or recovering the proceeds of this type of criminal activity. The difficulties arise largely due to the fact that the offenders are invariably based outside of the jurisdiction where the offence occurred. This is compounded by the fact that monies are sent in the form of cash via MSBs.

In a large number of cases the monies are sent to offenders based in West Africa.

Given the difficulties in reactively investigating offences, a possible best approach to tackling this crime type is through a proactive public awareness campaign.

An example of good practice in this area is the Press Release from the ONDCP of Antigua & Barbuda. This Press Release is shown at Appendix I.

The responses received from the eight (8) Members identified challenges/obstacles in conducting these types of investigation/prosecution.

The countries that conducted investigations noted most of the challenges/obstacles. This is understandable considering the experiences



- i. Use of the internet to commit the offence;
- ii. Difficulties locating perpetrators based on the modus operandi of the scheme e.g. internet, telephone;
- iii. Either no knowledge or insufficient knowledge of the scheme;
- iv. Lack of or inadequate legislation;
- v. The length of time taken to obtain information on the recipients/perpetrators;
- vi. Lack of evidence to prosecute e.g. un co-operative victims and difficulties in obtaining information from overseas;
- vii. Victims of the scam not making a report;
- viii. Lack of training in identifying occurrences of the crime;
- ix. Difficulty in identifying the location of perpetrator(s) when contact was made via.

The statistics reveal there were no investigations recorded for Jamaica prior to 2012 for any conduct pertaining to Illegal lottery scheme. It was also noted that while investigations (353) were conducted in 2012, there were neither prosecutions nor convictions for that year. The jurisdiction recorded a decrease in investigations (201) in 2013, that year the authorities conducted its first prosecution. The records indicated there were 103 prosecutions and one (1) conviction. The following year, 2014, Jamaica continued to be successful with its court proceedings. There were 488 investigations that resulted into 244 prosecutions and 24 convictions.

Jamaica stated that individuals were charged with “*Possession of Identity Information*” offences under the Lotto Scam Act. Thus, the jurisdiction’s successful investigation/prosecution/ conviction can be attributed to a strengthened legal framework. Should other jurisdictions make provisions for the necessary legislation, whether through the enactment of new legislation or amendments to existing laws, this would render some assistance in fighting this modern day crime conducted by non-face-to-face channels.

#### **4. Identify the degree of international cooperation in cases of Illegal Lottery Schemes at a regional level.**

It is noted that all jurisdictions have mechanisms available to facilitate both domestic and international sharing of information. These mechanisms include provisions for MLATs, MOUs, Law Enforcement to Law Enforcement and FIU to FIU. These are the same mechanisms that would be employed when conducting any type of ML or related predicate offences investigation.

Only five (5) Members conducted investigations related to the Illegal Lottery crime type. Jurisdictions exhibit the exchange of data.

One of the challenges/obstacles cited was obtaining evidence/assistance from overseas. It was noted that if the monetary loss is not of a significant amount, the authorities in foreign



jurisdictions may not be inclined to assist. Considering most jurisdictions are identified as target countries this could severely impact the quality and quantity of investigations being conducted within the region.

With regards to obtaining evidence from victims in overseas jurisdictions, if not already pursued, countries should consider the introduction of measures to allow the taking of evidence remotely by video cameras. This would address victims who are being threatened by perpetrators/accused; unwilling to cover own airfare; embarrassed about falling prey to this activity and declaring same in public; and senior citizens.

#### **5. Identify the warning signs related to Illegal Lottery Schemes to advise financial sector and general public.**

There are a number of 'Red Flags' that potential victims should be aware of and these should be highlighted in any public awareness campaign;

1. **Lack of personal information:** The criminals randomly send out multiple emails to email addresses. This is why many emails will just address the potential victim as 'Sir' or not at all.
2. **The promised funds:** Nearly all the emails promise large amounts of money, and nearly all measure the money in USD (United States Dollars). Typical amounts range from 300,000 USD to 5 million USD.
3. **Money transfer:** Whatever the initial story (whether it be 'Lottery winnings'; 'Inheritance'; or a 'Dating' scam, eventually the criminals will request payment through Western Union or MoneyGram.
4. **Country of Origin:** Members of the public should be extremely skeptical of emails that are from Nigeria or other African nations; they should also be wary of any requests to wire cash to African nations.
5. **Grammar:** Emails that are not legitimate will typically have very bad grammar and spelling mistakes.
6. **Web Based Emails:** Many of these fraud typologies, despite supposedly originating from medium to large businesses, will use free web-based email addresses. This is something that should raise suspicions since legitimate businesses will use their own web domain after the '@' symbol instead of using web-based email service, such as 'yahoo', 'Gmail' or 'Hotmail'.
7. **Government Officials from Africa:** Many of the templates used by this type of criminal will include them impersonating government or banking officials. The term "barrister" is used quite often.
8. **Sense of Urgency:** This is used to discourage potential victims from doing research into the information contained in the initial email. The fraudsters will try to encourage the potential victims to act quickly by claiming that their 'offer' is time sensitive; for instance, by claiming government agency is seeking to recover the money that is to be transferred into the victim's bank account.



## **6. Identify the financial products and types of Illegal Lottery schemes used in money laundering and terrorist financing.**

The banks and money remitters are the major institutions used in these activities i.e. Funds Transfer and Deposit taking.

The “Funds Transfer” activity is more reflective of a jurisdiction that is within the “Targeted” category. The victims are contacted and funds transferred out of the jurisdiction. The layering stage of the money laundering process is suspected to take place at this juncture.

Institutions need to apply anti-money laundering and counter financing of terrorism measures to aid in deterring and detecting these activities. Financial Institutions need to be aware of these activities and staff should be trained to identify relevant warning signs. Information gathered when seeking the purpose of the transfer could assist not only in detecting this fraud but ultimately in safe-guarding individuals from being defrauded. Antigua and Barbuda shared that a potential fraud was disrupted by the bank. In this matter a customer went to withdraw funds to remit via an MSB. The reason for the remittance was to pay for a licence so that his lottery winnings could be forwarded to him.

It is suspected that the countries quoting “Deposit taking” would be identified as “Source countries” and the deposits are the proceeds of the crime upon receipt of these monies via Fund Transfer mostly through the MSBs.

## **7. Collect and analyze cases of Illegal Lottery Schemes at a regional level.**

Two jurisdictions provided some data – Guatemala and Jamaica. (See Appendix III)



## CONCLUSION

The responses highlighted a number of victims (677,675); and funds (approximately \$339 mil) lost to the types of conduct associated with the Illegal Lottery Scheme within the CFATF community.

There is low-level reporting; and low prosecution/conviction rate.

The findings of the study revealed the need to:

- a. Enhance the legislative framework
- b. Undertake capacity building
- c. Increase awareness of Illegal Lottery schemes and all Advance Fee Fraud
- d. Strengthen international cooperation
- e. Improve/Harmonize Recording of Data

### **Enhance the legislative framework**

Countries should consider enhancing existing laws or enacting new ones to effectively combat Illegal Lottery schemes and related ML offences.

- The responses reveal that some parts of the conduct of Illegal Lottery scheme is criminalized in most countries. The types of conduct associated with this activity are captured within the provisions of various pieces of existing legislation, such as the Penal Code; Criminal Code; Larceny Act; and Theft Act.

A total of 1,070 “Illegal Lottery” related investigations were conducted by five (5) jurisdictions resulting in only 25 convictions during the period under review. The respondents cited a number of challenges/obstacles faced when conducting “Illegal Lottery Schemes” and related ML investigations.

Only one jurisdiction (Jamaica) recorded prosecutions/convictions. Jamaica recently enacted bespoke legislation, “The Law Reform (Fraudulent Transactions) Special Provisions Act 2013”, in an attempt to place all activities associated with the “Advance Fee Fraud” category into one piece of legislation. The jurisdiction stated that individuals were charged with “*Possession of Identity Information*” offences under this new Act. It was noted that the successful investigations were recorded after the enactment of the new legislation.

Given that the elements associated with Illegal Lottery schemes include cross-border issues; internet- based activities; and the use of financial institutions, jurisdictions should make provisions for the necessary legislation to be available, whether the enactment of new



legislation or amendments to existing laws, this would render some assistance in fighting this modern day crime conducted by non-face-to-face channels.

- A major challenge to law enforcement, when faced with this type of crime (and thus a difficulty faced when conducting investigations and attempting to collate data on the perpetrators) is the fact that acquiring the evidence necessary for bringing offenders to justice is very problematic. Money value transfer services (MVTs) are listed as one of two ways in which funds related to this activity was transferred. The MVTs might have provided the perpetrators with some level of anonymity according to the manner in which the MVTs' operations are allowed to be conducted. In some foreign jurisdictions, if the amount of funds that a receiver has to collect falls below a certain threshold, that receiver only has to disclose the name of the sender and the money control transfer number (MCTN) for the particular transaction in order to collect the funds. Thus, the name of the receiver is not captured.

These challenges/obstacles can be addressed by enhancing the legislative framework relating to the customer due diligence obligations of MVTs providers.

- With regards to obtaining evidence from victims in overseas jurisdictions, if not already pursued, countries should consider the introduction of measures to allow the taking of evidence remotely by video cameras. This would address victims who are being threatened by perpetrators/accused; unwilling to cover own airfare; embarrassed about falling prey to this activity and declaring same in public; and senior citizens.

The "Advance Fee Fraud" crime type is dynamic and the relevant mitigating measures would be required if countries are to successfully combat this phenomenon.

Jamaica indicated that while the 2013 enactment of the Lotto Scam Act made it less challenging to conduct Illegal Lottery investigations, new challenges became apparent. Perpetrators are now changing the modus operandi in collecting illicit funds and also securing the tools required to perpetuate the Illegal Lottery scheme.

The new challenges are identified as follows:

- i. The difficulty in locating hard copy identity information: If such is located it is usually outside of a residence such as in nearby bushes; and thus the possession charges would be unlikely;
- ii. Overburdened Cybercrime Unit: The identity information is now being stored in electronic format. To retrieve same would require the services of the Cybercrimes Division to aid with the investigation. The unit needs additional resources to meet the demands;
- iii. Corrupt police officers: The Illegal Lottery schemes is a lucrative criminal enterprise. The investigations are stymied because the offenders are tipped off by the police of pending search operations. This results in the destruction of evidence;
- iv. New fund collection mechanism: The perpetrators employ runners who collect cash for them overseas and smuggle same into the jurisdiction. The use of family members and friends in foreign jurisdictions to route the money through. It is noted that the funds are sent through several persons (layering) in the overseas jurisdiction before remitted to Jamaica. This routing makes it more difficult to identify linkages between victim and recipient in Jamaica. The use of



preloaded cash cards in addition to debit and credit cards. The use of the cards presents a problem in revealing the identity of the perpetrator as the cards are usually in the name of the victim; and

- v. Proceeds of crime in names of third parties - Scammers are recording their illicit proceeds in the names of “law abiding citizens” in an attempt to evade the forfeiture provisions of POCA. Thereby making the post-conviction forfeiture investigations lengthy. Jamaica stated this has prompted the *“use of Section 101A amendment to cases where cash purchases exceed One Million Dollars to discourage otherwise law abiding citizens from intentionally or unintentionally assisting the scammers in retaining their ill-gotten gains.”*

#### **Undertake Capacity Building initiative to:**

- Encourage the filing of STRs/SARs to assist the investigation of Illegal Lottery Scheme and seizure and confiscation of procedures
- Identify the ML risks associated with the scheme and formulate mitigating factors
- Institutions, especially the banks and MSBs, need to vigorously apply AML/CFT measures to aid in deterring and detecting Illegal Lottery activities
- There should be training sessions for law enforcement and FIU personnel on the elements of this crime type to enhance investigative and anti-money laundering skills. Similar sessions to be conducted for staff of reporting entities especially the financial institutions – banks and MSBs.

#### **Increase awareness of Illegal Lottery schemes and all Advance Fee Fraud**

- Countries should consider a heightened public awareness campaign to alert the general public of these schemes. There should be effective and efficient communication channels to disseminate the information. Raise awareness to ensure staff in relevant agencies (police force/investigative units; FIUs; and reporting entities) have ability, knowledge and skills to identify Illegal lottery and other Advance Fee Fraud; ML risks associated to the scheme; and conduct fraud investigations.

#### **Strengthen International cooperation**

- Government needs to hold discussions with overseas authorities to consider all matters from the region irrespective of monetary losses involved. If this is not successfully pursued, the CFATF community jurisdictions risk being unable to obtain required assistance to record any prosecutions/convictions.

#### **Improve/Harmonize Recording of Data**



- The SAR/STRs and investigative counts in jurisdictions other than Jamaica; Grenada and Trinidad and Tobago might be low on account of matters of this nature and others related thereto are not properly recorded to reflect the Illegal Lottery scheme. These might be recorded as fraud by false pretense as stated in the Criminal Code or Larceny Act.
- Countries should ensure that the data necessary to identify all transactions (attempted and conducted) associated with Illegal Lottery scheme is captured. This would aid in ensuring that funds lost as a result of this activity and funds prevented from being lost due to detection are identified.
- Countries should consider a harmonize approach in capturing data for all “Advance Fee Fraud”. This would ensure that the recordings in relevant national agencies are properly reflected; and avoidance of miscategorizations. Thus, personnel in all agencies are to be able to identify various “Advance Fee Fraud” schemes.
- One of the many difficulties faced by law enforcement and reporting authorities is quantifying the number of victims and the attendant financial loss owing to this scheme. Because of the embarrassment experienced by victims, “Target” countries should develop appropriate reporting mechanisms that would encourage victims to report these activities. If the jurisdiction is a “Source” country, there should also be proper reporting mechanisms to entertain overseas victims.



## **ADDITIONAL REFERENCE MATERIAL**

Other studies and reports have been conducted into this crime type.

FINTRAC produced a report in January 2015 - *'Mass Marketing Fraud: Money Laundering Methods and Techniques'*

International Mass-Marketing Fraud Working Group produced a report in June 2010 – *'Mass-Marketing Fraud: A Threat Assessment'*

Jenna Burrell, Assistant Professor from the School of Information at the University of California – Berkeley, produced a research article in in 2008 – *'Problematic Empowerment: West African Internet Scams as Strategic Misrepresentation'*

This reference material is shown at Appendix III