

# Guernsey

## Fifth Round Mutual Evaluation Report

### Executive Summary

## EXECUTIVE SUMMARY

1. This report provides a summary of the anti-money laundering and combating financing of terrorism (AML/CFT) measures in place in Guernsey as at the date of the onsite visit (15 to 26 April 2024). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Guernsey's AML/CFT system and provides recommendations on how the system could be strengthened.

### Key Findings

- a) Guernsey adopted a multi-agency approach during the NRA1 and NRA2 processes, which were conducted in close collaboration and involvement of all relevant authorities and other stakeholders, supported by top-level political commitment. However, more direct reference to concrete data used to draw the conclusions of the NRA would be beneficial, and some areas which would benefit from more in-depth analysis (VAs, TF risks or some sectorial specific areas). A commendable range of measures have been implemented to address the risks identified in the NRAs, however a significant number of the actions of the NRA Action Plan were implemented towards the end of the review period and some high priority actions (e.g. the increase of staff of the EFCB and LOC's ECU) are yet to be completed. The objectives and activities of competent authorities are consistent with the national AML/CFT policies and the ML/TF risks identified, however, the alignment is not fully demonstrated when considering the limited number of referrals for potential criminal proceedings/civil forfeiture, ML investigations and prosecutions or confiscations. The competent authorities of Guernsey extensively cooperate and coordinate the development and implementation of policies and activities.
- b) The FIU and other competent authorities have access to a wide range financial intelligence and other information. The FIU produces high-quality analytical products and intelligence reports, however they are used to a limited extent to initiate ML and predicate offences investigations and some LEAs (especially EFCB) seek FIU's assistance to a limited extent. Most SARs come from the eGambling sector with generally limited intelligence value and the reporting from some high-risk and material sectors remains limited. The FIU has recently launched a feedback mechanism at the submission stage to improve SAR quality, which has shown initial positive results, but their

impact is to be expected, given that the quality and relevance of SARs remained a concern (due to the effect caused by the abundance of SARs from the eGambling sector, the reactive nature and triggers for the identification of suspicions in other sectors; and the lower incidence of corruption-related SARs). The FIU also regularly produces strategic analysis in line with the main identified risks and relevant emerging trends; however, no specific procedures or guidelines were developed for producing and disseminating such analysis. The competent authorities cooperate extensively in the context of the various mechanisms set up to share financial intelligence but with limited impact on increasing the effectiveness of some AML/CFT key areas, such as investigation and prosecution of ML/TF and associated predicate offences.

- c) The establishment of the EFCB as a dedicated and powerful LEA indicates a strategic shift towards pursuing ML activities more aligned with the jurisdiction's risks, but this objective has only to a limited extent been achieved mainly because of insufficient human resources. As a result, the number of ML investigations and prosecutions is generally low and declining.
- d) The types of ML investigated and prosecuted in the assessment period, with the dominance of proceeds from domestic predicate offending and the under-representation of sectors with a higher level of risk, have only to some extent been in line with the risk profile of the Bailiwick, mainly due to the previous, less risk-based approach of the authorities.
- e) There were very few ML prosecutions and convictions in the period under review and, with the exception of one case, they mostly concerned unsophisticated ML conducts related to low-level domestic predicates. Despite the low numbers, however, all types of ML have occurred in the cases prosecuted and tried including stand-alone ML cases. Despite the country risks, no legal persons have been investigated or prosecuted for ML.
- f) The confiscation of proceeds is pursued as a policy objective, as demonstrated by the commitment in allocating resources and providing guidance to the competent authorities albeit with limited results in obtaining sufficient human resources for the LEA.
- g) Proceedings for conviction-based confiscation as well as civil forfeiture have been routinely launched as result of financial investigations pursued alongside investigations into ML and predicate crimes. The results of the application of the two regimes have however remained rather moderate throughout the assessment period considering the context of the jurisdiction.
- h) The cross-border cash control regime is characterised by a robust legal framework and dedicated and well-resourced authorities. Undeclared cash is routinely detected and confiscated and violations are prosecuted, in which context the authorities' actions are aligned with the country's risk profile. As demonstrated by case studies, the authorities also demonstrated their capacity to detect and to restrain ML related cash and to successfully pursue ML in such cases.
- i) The authorities acknowledge that, as an international financial centre, the Bailiwick has exposure to being used in the movement, storage or administration of funds linked to foreign terrorist activity through its formal financial system. In addition, TF may arise as a secondary activity to money laundering, i.e. where the proceeds of foreign criminality are laundered in the jurisdiction and then used to fund terrorism abroad.

- j) All forms of TF activity are criminalised under the Bailiwick's legal framework. To date, there have been no TF investigations, prosecutions or convictions. Following discussions with the authorities, including the presentation of the (sanitised) cases, the AT takes comfort in that the financial aspect of the files has been thoroughly considered and that the authorities have the skills and the knowledge to successfully detect and prosecute TF cases, should they arise.
- k) Most material sectors show a strong understanding of their specific ML risks and regularly conduct and update business and customer risk assessments. The investment sector needs to improve its understanding of ML risks. TF risk understanding is generally less nuanced. The application of AML/CFT measures is proportionate to risks across all sectors, with a stable or decreasing risk appetite, particularly in banks and TCSPs. Most REs implement effective ML/TF preventive measures, risk-based CDD, EDD and record keeping. There remain concerns with the mitigation of risks associated with complex corporate structures in the TCSP and investment sectors, and the application of countermeasures in respect of tax-related ML. The investment sector needs to improve its understanding of control through other means and the application of SDD for financial intermediaries. The type of SARs align somewhat (and are largely aligned in case of non-gaming material sectors) with the jurisdiction's risk profile. Concerns exist about the overall number of SARs (excluding TCSPs), and the decline in reporting from key sectors like banks, TCSPs, and investment firms. Recent guidance from the FIU has improved reporting procedures, but further efforts are needed to enhance the quality and types of SARs related to tax evasion and corruption.
- l) The Bailiwick has a robust market entry framework for all categories of REs. In case of lower materiality DNFBPs, the Administrator's framework needs to mature further, while all DPMSs need to be covered. The GFSC and AGCC have a very good understanding of risks, with room for improvement in risk data for TCSPs and a reconsideration of risk-categorisation. The GFSC has been implementing a risk-based supervisory model for several years, conducting thorough on-site examinations, supplemented by thematic reviews aligned with national ML/TF risks. The frequency of full-scope examinations for medium-high risk entities, and their extent in terms of client file sampling needs adjustment. The AGCC's supervision is likewise risk-based but needs strengthening when testing the ability to detect and scrutinise unusual transactions. The GFSC actively exercises its enforcement powers, including against senior officers. Issues were noted with the lengthiness of enforcement actions and the low number of pecuniary fines in high-risk sectors. While the AT found evidence of some administrative actions taken by the GFSC in respect of failures to report suspicions, no criminal sanctions were ever imposed for SAR reporting failures (considering that such failures are exclusively sanctioned criminally). The AGCC overly focuses on remedial actions and has legal impediments in sanctioning entities that withdraw their licenses.
- m) Guernsey automatically applies relevant UK sanctions regimes implementing UNSCRs establishing TF-related TFS. The P&R Committee is the competent authority for designations, asset freezing, listing/de-listing proposals, granting access to frozen funds and unfreezing, while the Sanctions Committee is tasked with coordinating and ensuring compliance with TFS. Mechanisms to inform about designations and de-listings are in place, but could benefit from further automation. There have not been cases of implementation of TFS under TF-related sanctions regimes, but have been abundant cases under other international sanctions regimes,

whose application has been, on average, timely. Monitoring and oversight of NPOs has been in place throughout the assessed period, albeit in a less detailed, risk-based and formal manner until 2022. Since 2022/2023, the framework has been significantly enhanced and is assessed as robust. There is room for further use of the Registry oversight (specially in relation to onsite activities) and sanctioning powers, while offsite actions have been more abundant. The GFSC has also conducted risk assessment and supervision of the sector through the TCSPs that administer NPOs, although the review of NPO customer files and enforcement actions derived from them have been, so far, on the low end (except for 2022). NPOs demonstrated a good level of awareness of their obligations and TF risks, as a result of significant outreach and awareness actions from authorities, most notably the Registry.

- n) Guernsey has put in place a framework for the automatic application of PF TFS, including procedures for designation, asset-freezing, de-listing, un-freezing, granting access to frozen assets and liaising with domestic and international authorities for such purposes. To date, no assets have been frozen under UNSCRs relating to PF, however, there have been abundant cases of asset-freezing in relation to other international sanctions regimes, whose implementation has been, on average, timely, and have triggered multiple follow-up actions from the P&R Committee. Authorities (most notably, the FIU and the Customs Service) have also demonstrated the capacity to identify assets/goods that could potentially have had PF links. REs generally have a very good understanding of their TFS obligations and their implementation under other, non-PF related, international sanctions has generally been robust, with some concerns in the investment sector (see IO.4). Supervision of compliance with TFS obligations by the GFSC has been commendable and focused on the effectiveness of the firms screening systems, as well broader aspects of TFS obligations, but there is room for deeper consideration of the latter in future thematic and targeted exercises, with a view to improve results of breaches detected, remedial and enforcement actions and sanctions imposed, which have remained on the low end for both the GFSC, and specially the AGCC. Significant cases of prompt action have occurred in relation to entities with exposure to a non-PF (or TF)-related sanctions regime.
- o) The Bailiwick has comprehensive measures to prevent the misuse of legal persons and arrangements for ML/TF, and to ensure BO transparency for legal persons. There is a good and adequate understanding of ML and TF risks respectively, requiring some enhancements. Transparency measures for legal persons include public access to basic information, company and BO registers with ongoing checks, involvement of resident agents and REs in the formation and management of legal entities, and the supervisory roles of the Registries, the GFSC, and the Revenue Service. Implementation of CDD is good across material REs dealing with entities and arrangements, and resident agents. Registries perform effective checks at registration and upon changes to ensure data accuracy and that BOs are free from adverse information. On-site examinations by the GFSC, Revenue Service, and Registries are of good quality, but need to be more extensive (larger file sampling) and sustained in Guernsey Registry's case. BO information is readily accessible to competent authorities, with no reported issues. For legal arrangements the main source of information are banks and TCSPs, and while the GFSC carries out a series of inspections on both banks and TCSPs, the coverage of administered Guernsey trusts (throughout such inspections) remains somewhat limited. Overall while there were no indications of notable non-compliance with BO requirements, the enforcement actions are limited and impacted by the

recent launch of on-site examinations by the Guernsey Registry, and gaps in extent of supervision by the authorities. The Registries take effective action to strike off defaulting companies.

- p) LEAs seek and provide international cooperation through various formal and informal channels, but these possibilities appear to be far from being exhausted (such as the use of CARIN network by the EFCB). Other competent authorities of the Bailiwick, notably the supervisory authorities and the Revenue Service, actively seek and provide other forms of international cooperation either to pursue domestic ML or other crimes, or for regulatory objectives.
- q) The FIU cooperates regularly and effectively with its foreign counterparts (mainly the UK) actively seeking and providing information in a timely way and good quality, both spontaneously and upon request. However, the number of requests to foreign counterparts appears not to be in line with the country's risk profile as an IFC.

## Risks and General Situation

2. The primary money laundering risks for Guernsey arise from foreign criminality, including bribery, corruption, fraud, tax evasion, and drug trafficking. Criminal proceeds are most likely to originate from the UK, USA, and other major European countries. Criminal proceeds originating from other countries may also pass through international financial centres before reaching the Bailiwick. Foreign proceeds generally transit through the jurisdiction rather than remaining there long-term. The Bailiwick experiences low domestic crime rates, with most crimes being minor and unlikely to generate relevant proceeds for money laundering.

3. The Bailiwick faces a significantly lower threat of terrorist financing compared to money laundering. As an international financial centre, the Bailiwick is exposed to TF risks through the cross-border movement or storage of funds. This could involve sophisticated terrorist groups using the jurisdiction as a transit point for financing activities in other countries or for managing assets through structures that obscure beneficial ownership. It is also possible for funds raised in or sent from the jurisdiction in good faith to be used to support terrorism elsewhere. Despite these risks, the proportion of financial flows and business links with high-risk countries for terrorism or TF is extremely low. Most such relationships involve low-risk activities, such as wealth management for high-net-worth clients.

## Overall Level of Compliance and Effectiveness

4. Since its last evaluation, Guernsey made significant efforts to strengthen its legal and regulatory AML/CFT framework. These include amongst others; the publishing of its first National Risk Assessments in 2020 and 2023, and a specific legal persons and arrangements risk assessment in 2024; the setting up of the Economic and Financial Crime Bureau (EFCB) in 2021 to detect and investigate financial crime, and the introduction of beneficial ownership registers (in 2018) and ancillary supervisory powers to the Guernsey Registry (in 2023) to ensure compliance by legal persons with BO obligations.

5. The fundamental components of an effective AML/CFT system are largely in place, with a substantial level of compliance achieved in six out of the eleven immediate outcomes assessed. Improvements are needed in certain areas to achieve substantial compliance. Fundamental improvements are necessary to ensure the effective investigation, prosecution and conviction of ML cases in line with the country's risk profile. Other key areas requiring attention include AML/CFT supervision, RE's compliance

with preventive measures and in particular improvements in the numbers and quality of SARs, use of FIU financial intelligence, and confiscation of proceeds of crime.

6. **Guernsey** has a robust AML/CFT legal framework for technical compliance, which is rated as either compliant or largely compliant with all the 40 technical recommendations. The outstanding deficiencies are deemed to be minor.

*Assessment of risk, coordination, and policy setting (Chapter 2; 10.1, R.1, 2, 33 & 34)*

7. Guernsey completed its first formal and comprehensive NRA in 2020 (NRA1), followed by the second NRA adopted in 2023 (NRA2) which was supplemented by a separate legal persons and arrangements risk assessment in April 2024. Both NRAs, informed by a variety of sources, reached similar conclusions in terms of ML/TF risks and are of high quality. However, more direct reference to concrete data (investigations, TF pre-investigations, prosecutions, SARs, MLAs, supervisory enforcement actions, etc.) used to draw these conclusions would be beneficial for both ML and TF risk understanding. Some sector-specific (i.e. legal and TCSPs sectors) aspects don't seem to be fully explored. Additionally, considerable work has been done to understand the TF risks emanating from countries with which Guernsey has financial flows, nevertheless, since the main TF risks lie within it being used as a transit jurisdiction, more analysis is needed to fully grasp the level of TF risk in that regard.

8. All competent authorities demonstrated a strong and well-developed understanding of the extent to which ML/TF risks can materialise and awareness of the main ML risks and methods identified in the NRAs, due to their close involvement and collaboration in both processes, which included the private sector, mainly through data and feedback provision. This notwithstanding, this understanding might be restricted by some limitations such as those resulting from the difficulty of detecting links between the assets and the underlying criminality, lack of in-depth analysis for ML/TF risks stemming from virtual assets (VA) and the lack of cases (i.e. investigations, case studies or relevant scenarios, etc.) related to TF.

9. Guernsey implemented a commendable range of measures targeted at the jurisdiction's risks. This implementation was monitored by the Strategic Coordination Forum and the Anti-Financial Crime Delivery Group (and the AFAC<sup>1</sup> pre-2022) and prioritised through an action tracker (from Q1 2023), but there was no formalized NRA1 action plan. In response to NRA2, Guernsey either adopted or updated several AML/CFT-related strategies<sup>2</sup>, most notably the National Strategy for Combatting ML/TF/PF in October 2023. A formal Action Plan was adopted in March 2024, mirroring the structure of the National Strategy and containing actions and milestones, with different degrees of concreteness and measurability. A significant number of the actions of the NRA Action Plan were implemented towards the end of the review period and some high priority actions which might have an impact on the implementation of measures to manage and mitigate the risks (e.g. the increase staff complement of the EFCB and LOC's ECU) are yet to be completed. A more standardised and interconnected monitoring of the NRA Action Plan items, the objectives of the multiple strategies and other relevant projects and workstreams, as well their implementation and adherence to the national risks, will have to be pursued and sustained over time.

10. The objectives and activities of competent authorities are consistent with the national AML/CFT policies and with the ML/TF risks identified, which were reflected in their respective risk-based policies and operational procedures, generally formalised after NRA1 and more recently updated after NRA2. Other measures such as staff increases and restructurings, enhancements of IT systems or tailored trainings have also been common across all authorities and in line with risks. However, this alignment is not fully

<sup>1</sup> AML/CFT Advisory Committee.

<sup>2</sup> Including an updated AML/CFT Strategy, and updated Anti-Bribery and Corruption Strategy, Tax Strategy, Counter Terrorism Strategy, Statement on an Overarching Approach to Guernsey and Alderney NPOs and Statement of Support for International Cooperation.

demonstrated when taking into account the limited number referrals for potential criminal proceedings/civil forfeiture, ML investigations and prosecutions, confiscations, etc. throughout the whole period under review.

11. The competent authorities of Guernsey extensively cooperate and coordinate the development and implementation of policies and activities. Such cooperation and coordination are ensured by The Anti-Financial Crime Advisory Committee (AFCAC), which reports regularly to “The Five Committees<sup>3</sup>”. The strategic direction and objectives for AML/CFT/CFP is set by The Strategic Coordination Forum and delivered by the Anti-Financial Crime Delivery Group. These and other relevant committees meet regularly, maintaining a strong level of coordination and cooperation.

12. The risk assessments findings were widely disseminated to the private sector through presentations, outreach events and online publications. The private sector demonstrated a high level of awareness of the risk assessments findings.

*Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; 10.6, 7, 8; R.1, 3, 4, 29–32)*

13. Financial intelligence and relevant information are regularly accessed by the FIU and other competent authorities through a variety of databases and sources, facilitated by online tools and close international cooperation with the UK. The FIU is a key source of financial intelligence; yet some LEAs do not seem to seek its assistance to the full extent during their investigations.

14. Although all relevant authorities confirmed the close collaboration with the FIU and its ability to support their operational needs, FIU’s intelligence reports and other products resulted in a limited number of referrals for possible criminal proceedings or civil forfeiture, which were used to initiate an even lower number of ML and predicate offences investigations; and none triggered TF investigations giving the lower risk.

15. The FIU receives approximately 2600 reports of SARs annually, predominantly from the e-gambling sector, but most of these reports are of limited monetary and intelligence value, which is not in line with the risk profile of Guernsey. Reports from other sectors, especially high-risk and material sectors, remain limited (with the exception of TCSPs) and slightly declining which may impact the provision of financial intelligence in relation to those sectors. The FIU has launched commendable measures to improve the quality of SARs through feedback at the submission stage and extensive outreach, with initial positive results, however their impact is yet to be expected, considering that the quality and relevance of SARs remained a concern throughout the review period (due to the effect caused by the abundance of SARs from the eGambling sector, the reactive nature and triggers for identification of suspicions in other sectors; and the lower incidence of corruption-related SARs).

16. The prioritization of SARs appears to be risk-based and the FIU produces high-quality analytical products and intelligence reports for dissemination, however the length of its operational analysis and the timeliness of its disseminations raise some concerns, especially in complex ML cases and when there was reliance on information from international partners.

17. Guernsey has made significant improvements since the last evaluation regarding the FIU’s operational independence and resources. Since 2022, the FIU operates as an independent and autonomous law enforcement style FIU under the umbrella of the EFCB. The FIU has also increased its resources in both operational and strategic areas, reinforced its technical resources (including IT and analytical tools) and has

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<sup>3</sup> The Policy & Resources Committee, the Committee for Home Affairs, and the Committee for Economic Development of the States of Guernsey, the Policy & Finance Committee of the States of Alderney and the Policy & Finance Committee of the Chief Pleas of Sark.

appropriate arrangements to protect the confidentiality of its information. There is also engagement with the Egmont Group, internal and external training providers.

18. The FIU's dedicated analysts have developed several strategic analysis reports, mostly in line with the findings of Bailiwick's NRAs findings and emerging trends, which have been widely disseminated to domestic and international partners. Positive feedback from competent authorities met during onsite indicate the usefulness of such products to support their operational needs. However, the FIU didn't develop any specific procedures or guidelines for producing and disseminating such analysis.

19. The Bailiwick consent regime has regularly been used by the FIU to prevent the dissipation of funds, some cases resulting in the return of large amounts to international partners, but with very limited outcomes domestically.

20. Guernsey has robust cooperation mechanisms among competent authorities, ensuring regular and secure information exchange, including through bilateral and multilateral initiatives and meetings, including via a recently formed Public Private Partnership (the GIMLIT) and membership to several AML/CFT committees, to foster cooperation, coordination and intelligence sharing. However, with limited impact on increasing the effectiveness of some AML/CFT key areas, such as investigation and prosecution of ML/TF and associated predicate offences.

21. Whereas the legal framework provides for the effective identification and investigation of ML and the establishment of the EFCB as a dedicated and powerful new LEA in 2021 indicates a strategic shift towards pursuing ML activities in line with the country risks, this objective has only to a limited extent been achieved mainly because of lack of human resources. As a result, the number of ML investigations and prosecutions is generally low and declining.

22. The main source to identify ML cases are financial intelligence referrals from the FIU or other authorities, and parallel financial investigations. The types of ML investigated and prosecuted can be characterized by the dominance of proceeds from domestic predicates and the under-representation of sectors with a higher level of risk and hence they are only to some extent in line with the risk profile of the jurisdiction, mainly due to the previous, less risk-based approach of the LEA involved.

23. The very few ML prosecutions and convictions in the assessment period mostly concerned unsophisticated ML conducts related to low-level domestic predicates, even though all types of ML have occurred in the few cases prosecuted and tried including stand-alone ML. No legal persons have been investigated or prosecuted for ML. The results of the remarkably lenient sentencing policy in ML cases is that criminal sanctions against natural persons are not dissuasive and only to some extent proportionate.

24. The Bailiwick comprehensive and robust regime of confiscation and provisional measures provides the necessary powers for the identification, restraint, and confiscation of criminal proceeds and instrumentalities. While it is indeed pursued as a policy objective and proceedings for conviction-based and civil forfeiture have routinely been conducted, the results of the application of the two regimes have remained rather moderate in light of the context of the jurisdiction.

25. The confiscation and forfeiture results so far achieved, both in terms of the number and nature of the cases and the volume of assets involved, only to a certain extent reflects the assessment of ML/TF risks and the national AML/CFT policies and priorities. Criminal confiscation is restricted to the property that is actually realisable which often results in undervalued or nominal value confiscation orders and necessitates subsequent revision and recalculation.



26. The cross-border cash control is carried out in a robust mechanism implemented by dedicated and well-resourced authorities, which demonstrated their capacity to detect and to restrain also ML related cash and to successfully pursue ML in such cases.

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

27. Largely in line with the jurisdiction's risk profile, to date there have been no TF investigations, prosecutions or convictions. There have been 10 cases where intelligence suggested possible TF links but those were all closed at the pre-investigative stage as no evidence of TF was identified. The competent authorities are generally aware of the TF threat and risks, with moderate improvements needed in certain areas.

28. All TF activities are criminalised under the Bailiwick's legal framework. Guernsey has a dedicated system in place for the identification and investigation of TF which involves a special intelligence management unit within BLE responsible with the investigative work. More focus should be put on the verifying the adequacy of TF SAR reporting. The division of responsibilities between BLE and EFCB when it comes to TF potential investigations remains informal.

29. As there have been no TF convictions to date, no sanctions or other measures have been applied against any natural or legal persons for TF offences. However, effective, proportionate and dissuasive sanctions are available, complemented by a robust confiscation regime.

30. Guernsey automatically applies relevant UK sanctions regimes implementing TF and PF-related UNSCRs through the Sanctions Implementation Regulations. The P&R Committee is the body responsible for making autonomous designations, making and receiving asset-freezing requests, making listing and de-listing proposals to the UN (through a MoU with the UK FCDO), granting licenses to access frozen assets and handling unfreezing requests. The Sanctions Committee, with representation of all the relevant AML/CFT competent authorities, is tasked with coordinating and ensuring effective compliance with international TFS. New designations, changes in designations and de-listings related to TF and PF TFS are notified to the private sector through "sanctions notices" that are circulated (typically on the same day, according to authorities) by the FIU through the THEMIS system and published in the GFSC website.

31. Guernsey has had measures in place for the oversight and monitoring of NPOs throughout the assessed period (albeit in a less detailed, risk-based and formal manner until 2022). In 2022 (quite recent in the period under assessment), the Charities Ordinance and the Charities Regulations were enacted (preceded by a guidance paper from 2018), which introduced multiple new governance and risk mitigation obligations for internationally active NPOs and brought TCSP-administered NPOs under registration. Monitoring and oversight by the Guernsey Registry (on the basis of the risk ratings it assigns to NPOs) has been frequent and detailed (specially in relation to offsite monitoring), but there is room for further use of onsite oversight and sanctioning powers. In the case of TCSP-administered NPOs, there is additional supervision by the GFSC, which, however, have not been driven by NPO risk and have only led to one enforcement case involving an NPO customer.

32. Authorities, most notably the Registry, have been particularly active throughout the assessed period in terms of trainings and outreach events aimed at the NPO sector and there is abundant guidance in this regard in the Registry website, which has led to NPOs exhibiting a good level of awareness of their obligations and potential TF risks and having anti-financial crime and CFT-specific policies and procedures in place.

33. To date there have been no instances where it has been necessary to apply measures to deprive terrorists, terrorist organisations and terrorist financiers of assets and instrumentalities related to TF, which

is in line with the jurisdiction's TF risks (although the assessment of TF risks may have been limited due to the lack of TF investigations and limited use of incoming cooperation requests, SARs and TF pre-investigations (see IO.9)). Measures in place, focusing on international aspects (implementation of international TFS, focus on NPOs that are internationally active), are largely in line with the TF risks of a transit jurisdiction with and "IFC" status.

34. Guernsey has been given weight to countering the proliferation of WMDs and PF throughout the assessed period, most notably since the implementation of "Project Dragonfly" in 2021, an initiative that resulted in several measures, such strategic analysis reports, guidance, determining list of jurisdictions deemed as "PF hubs" or legislative amendments (in February 2024) to broaden the scope of the AML/CFT obligations applicable to FIs, DNFBPs and VASPs to also incorporate CPF.

35. Guernsey has established systems that could identify assets belonging to designated persons under PF sanctions regimes, should the case occur, mostly concerning information from the private sector and the Customs Service import and export licensing regime (using an electronic manifesting system (GEMS) to detect factors relevant to proliferation), with additional revision and checks by the FIU. The AT was presented with some cases of dual-use goods that could have proliferation implications, but, after liaising with domestic and international authorities, these were discarded.

36. Both the competent authorities and the private sector have had ample experience with asset freezing and associated procedures under other, not TF or PF-related, international sanctions regimes. The private sector demonstrated an overall very good understanding and application of TFS obligations, although some challenges were detected in the investment sector (see IO.4). Authorities provided abundant and remarkable outreach and guidance in relation to TFS compliance, including training and outreach events, public guidance and engagement with individual firms.

37. The GFSC and AGCC have monitored compliance of REs with TFS obligations throughout the assessed period. The risk scoring methodology of the GFSC takes into account several TFS-relevant factors, but the system does not allow to immediately have a view of the sanctions risks of particular entities or sectors, nor sanctions risks (exclusively) drive supervision. A remarkable effort has been the sanctions thematic review of 2021, which showed an overall good level of compliance by the involved REs (mostly banks) and whose results were disseminated to the public. GFSC's supervision has considered both the effectiveness of the firms' screening systems and wider aspects of TFS compliance (understanding of PF and TFS risks, CDD, ongoing and transaction monitoring, etc.), but the results in terms of breaches detected, remedial and enforcement actions and sanctions imposed have remained low (specially concerning findings not related to screening systems). Results of the AGCC inspections have been less significant, but eCasinos' exposure to sanctions and PF risks is lower than in other, more material, sectors. There have also been significant cases of prompt action (short-notice inspections, imposition of license conditions, etc.) in relation to entities with exposure to a non-PF (or TF)-related sanctions regime.

#### *Preventive measures (Chapter 5; IO.4; R.9-23)*

38. Majority of material sectors (i.e. banks, TCSPs and eCasinos) demonstrated a good understanding of their specific ML risks and systemically undertake and update risk assessments. The understanding of specific ML risks and typologies within the investment sector needs some improvement. TF risk understanding is generally less nuanced and concentrated mostly on high-risk countries and identification of persons designated by the targeted financial sanctions. AML/CFT obligations are generally well understood across all sectors, though concerns with the interpretation of AML/CFT obligations for financial intermediaries were noted in the case of investment firms.

39. Application of AML/CFT measures is overall commensurate to risks across all sectors. Risk appetite is stable and even decreasing across various sectors, including Banks and TCSPs. Overall REs have effective measures to prevent their services from being misused for the type of ML to which the country is exposed. All REs seek to understand the rationale of complex corporate structures and apply sufficient mitigating measures. Some concerns with the appreciation and mitigation of risks associated with complex structures were noted with TCSPs and investment firms. All relevant REs apply tax-evasion targeted countermeasures, however the AT is unconvinced that these are applied effectively.

40. All REs demonstrated good knowledge and implementation of risk based CDD and record keeping requirements. CDD information is kept up to date and there are periodic risk-based reviews of customers risk profiles, CDD information and transactions/activities. The proper appreciation of the concept of control through other means and application of SDD within the investment sector is an area for improvement.

41. Overall, the specific measures applied to PEPs, new technologies, wire transfers, TF TFS and higher-risk countries, are robust. The concerns with the proper application of BO measures within the investment sector may impact the application of robust TFS measures. No entity is providing corresponding banking services. PEPs, their family members or close associates are identified and subject to appropriate risk-based EDD measures across all sectors.

42. The type of SARs are to some extent aligned with the Bailiwick's risk profile, and largely aligned when taking into account material non-gaming sectors. Concerns remain on the overall number and quality of SARs, with a decline in number across most material sectors (i.e. banks, TCSPs and investment firms). The majority of SARs originated from a single eCasino, however the number of SARs submitted by TCSPs are notable compared to other countries. SARs are mostly triggered due to adverse information, reluctance by clients to provide CDD information, retrospective activity reviews, or requests for information by authorities. This puts the quality of SARs into question. Recent FIU guidance is having a positive impact, however further efforts are needed to improve SARs linked to tax evasion and corruption and improve the detection of attempted suspicious transactions/activities. The prohibition of tipping-off is well-understood and communicated to staff via various forms of training.

43. REs have robust internal controls and procedures in place, commensurate to their size, complexity and risk profile. FIs and larger DNFBPs typically apply three lines of defence approach. Most REs belonging to international groups are also subjected to audit at a group level and group policies enhance their procedures. AML/CFT compliance functions are properly structured and resourced and adequate training tailored to specific roles is provided.

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

44. The Bailiwick has robust market entry frameworks for all REs. Each authority has the necessary powers and tools to screen all relevant individuals and entities, including on an on-going basis. Authorities liaise and exchange information with other domestic authorities, and, where applicable foreign counterparts. The AGCC does not undertake any proactive market surveillance for unlicensed eCasinos but relies exclusively on external sources. For less material sectors, market entry requirements have only recently been introduced (i.e. for VASPs and registered directors), while not all DPMSs are subject to market entry requirements. Moreover, the Administrator's market entry framework has to further mature.

45. The GFSC and AGCC have a very good understanding of the ML/TF threats and vulnerabilities to which the supervised sectors are exposed. The two authorities also have commensurate processes to understand the risks of specific REs, with some room for additional improvements and granularity. The AT is not fully convinced about the suitability of risk categorisation of individual REs in some material sectors

(i.e. investment firms and TCSPs), and the extensiveness of risk data collected for TCSPs which may hamper supervisory plans.

46. The GFSC has been implementing a risk-based supervision for several years and conducts good quality and thorough on-site examinations. These are complemented by other supervisory tools, including thematic examinations whose themes are well aligned to national ML/TF risks and vulnerabilities. The extent of examinations in terms of client file sampling, and the frequency in case of medium-high risk entities, needs to be re-visited to ensure that it is risk-based. The AGCC's overall supervisory model may provide for the identification of AML/CFT issues before they become too serious but there is room to strengthen the same especially when it comes to testing the ability to detect and scrutinise unusual transactions.

47. The GFSC and AGCC have wide ranging remediation and enforcement powers to deal with AML/CFT breaches. The GFSC has been exercising its remediation powers to a significant extent and maintains an effective stance of taking enforcement action not only on REs but also their senior officers. The sometimes-lengthy enforcement actions however may detract from the effectiveness of the sanctioning measures taken. Moreover, the number of pecuniary fines taken is quite low considering the number of supervisory engagements, especially with regards to the higher-risk sectors. Failure to report SARs is subject to a criminal sanction, and while the AT found evidence of some administrative actions taken by the GFSC in this respect, no criminal sanction was ever imposed. The AGCC relies exclusively on remedial actions and during the review period it has never exercised its enforcement powers.

48. Both the GFSC and AGCC undertake a series of training and outreach initiatives to ensure that REs apply AML/CFT obligations in a commensurate manner. This has helped in improving the overall compliance levels of REs. Their actions are complemented by the publication of guidance documents and detailed handbooks that assist REs in complying with their obligations.

#### *Transparency and beneficial ownership (Chapter 7; 10.5; R.24, 25)*

49. Information on the types and process of creation of legal persons and arrangements is publicly accessible. Bailiwick authorities have demonstrated a good understanding of how legal persons and arrangements can be used for ML purposes. The 2024 sectorial risk assessment presents a detailed and significant improvement on the analysis contained in the NRA1. The TF risk understanding is adequate but less developed. There remain aspects of the ML/TF risk analysis and understanding that need to be further enhanced.

50. There are various effective measures to prevent the misuse of legal persons and arrangements and to ensure the availability of adequate, accurate and up-to-date basic and BO information for legal persons. These include: (i) public availability of basic information (ii) company registers and fully populated BO registers with corresponding checks at registration and on an ongoing basis, (ii) the use of resident agents for legal persons, (iii) the involvement of REs in the creation and running of legal persons and (iv) the supervisory functions of the Registries, the GFSC and the Revenue Service. There is a good level of compliance with CDD obligations by material REs serving legal persons/arrangements, and resident agents.

51. The checks carried out by the Registries at registration and upon change notifications ensure that registered basic and BO data is adequate and accurate, and that BOs are not subject to adverse information. On-site examinations carried out by the GFSC and Revenue Service are of good quality, and in 2023 started being complemented by the Guernsey Registry's on-site inspections which need to be sustained. On-site examinations would also benefit from a more extensive coverage of file samples. The Registries moreover undertake data analysis and thematic exercises to enhance compliance by resident agents with their BO

disclosure obligations. Accuracy of the Registry information is confirmed annually by legal persons through provision of an annual validations.

52. BO information is accessible to competent authorities through various means. This include BO Registers that are directly accessible to the GFSC, the FIU, the EFCB and the Revenue Service. The authorities presented no issues with accessing BO data and effectively do so regularly on request of foreign counterparts.

53. In the case of trusts, the main source for basic and BO information are the REs. Overall, findings on the ID&V requirements applied by REs, especially banks and TCSP, are of a good quality. The GFSC carries out a series of inspections on both banks and TCSPs to assess the level of BO controls applied but the coverage of Guernsey trusts administered by its licensees is somewhat limited. These are complemented by the supervisory initiatives of the Revenue Service, although in view of data limitations the AT could not verify their effectiveness.

54. There are various sanctions and measures available to deal with breaches of basic and BO related obligations. While the GFSC did impose administrative sanctions for breaches of BO obligations, it mainly focuses on the imposition and monitoring of remedial actions. The penalties imposed by the Registries and the Revenue Service were not always deemed to be proportionate, effective, and dissuasive, and there were no pecuniary fines for breaches of BO obligations. While there is no indication of notable non-compliance with BO requirements, the limited enforcement action is also impacted by the recent launch of on-site examinations by the Guernsey Registry, and the gaps in extent of supervision by the authorities. The Registries take effective action to strike off companies that do not adhere basic information obligations.

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

55. The Bailiwick of Guernsey has the legal and institutional framework in place so that it can provide the widest possible range of MLA. The Law Officers' Chambers (through the person of the Attorney General) are the competent central authority for responding to requests for MLA and extradition which are dealt with by a dedicated MLA Team within the Economic Crime Unit (ECU) of the LOC Criminal Directorate. The MLA Team comprises a full-time Lawyer and Senior Officer, supported by a paralegal, and executive legal assistants (ELAs) who also assist other teams in the ECU. The authorities advised that both the ECU and its MLA Team are well-resourced to make and coordinate requests for MLA and extradition.

56. In the assessed period, requests for assistance have been made in relation to both criminal investigations and in investigations for the purposes of possible civil forfeiture. In most cases the suspected criminality was ML, fraud, or drug trafficking, which range of offences is in line with the jurisdiction's risks. The majority were for the purposes of evidence gathering (primarily bank records), but requests were also made for the restraint or freezing and confiscation of assets.

57. In addition to making Egmont requests, the FIU seeks assistance internationally from other agencies such as LEAs and tax authorities, via cooperation agreements<sup>4</sup>, and through the FIU membership to several international/regional joint initiatives, networks and forums such as the IACC, JIMLIT, CARIN and the Quad Island Forum of FIUs (QIFF)<sup>5</sup> which helps fostering collaborative working and the sharing of intelligence, operational, and tactical objectives in the global fight against ML/FT/PF.

<sup>4</sup> For example, a Letter of Understanding signed in 2018 allows the FIU to seek assistance directly from the HMRC in the UK.

<sup>5</sup> A forum composed by FIUs from Gibraltar, Isle of Man, Jersey, and Guernsey, with sub-forums focused on TF, strategic analysis and tax evasion.

## Priority Actions

- a) The Bailiwick should increase their efforts to obtain the necessary resources particularly in terms of well-trained and skilled investigative specialists for the EFCB to the extent it is required for pursuing complex, transnational ML investigations and investigations against legal persons, in line with the jurisdiction's risk profile.
- b) The authorities should continue to provide the necessary trainings for practitioners at the LEAs, the prosecutors, and the judiciary so as to maintain and develop sufficient knowledge of the country-specific ML risks and particularly how entities from high-risk sectors and complex corporate structures can be used as vehicles for laundering foreign criminal proceeds.
- c) The EFCB should revisit the time required for case development, identify potential factors of delay and exploit the possibilities provided by the case management system applied so as to achieve a more timely pursuit of ML activities and the opening of more ML investigations in line with the country risks.
- d) The FIU should reduce the length of its operational analysis, and increase the number (in line with the identified risks of the jurisdiction as an IFC) and improve the timeliness of its referrals for possible criminal proceedings or civil forfeiture to the EFCB, especially in complex ML cases.
- e) The FIU and the GFSC should continue and intensify their actions to address underreporting and improve the quality and relevance (in accordance with the main identified risks) of SARs, and monitoring thereof, especially for high-risk and material sectors. In particular such authorities should: (i) conduct further guidance and awareness raising initiatives focusing on the prevention and detection of tax and corruption-related suspicions and reporting of attempted transactions, (ii) providing clear guidance around the suspicion threshold required for the submission of tax-related SARs; and (iii) complementing guidance and outreach efforts with AML/CFT supervisory and enforcement initiatives.
- f) The GFSC should further enhance its AML/CFT/CPF and TFS supervisory process by: (i) recalibrating its risk categorisation process for investment firms and TCSPs, and (ii) revisiting the extent (in terms of client file sample size) of examinations, and frequency for medium-high risk entities to ensure these are adapted to size and risks. The AGCC should further enhance, with more effective testing, its monitoring of e-Casinos' procedures and systems particularly when it comes to the detection and scrutiny of unusual transactions, and it should rethink and clarify the circumstances under which it takes enforcement action.
- g) Competent authorities should effectively implement and exploit the new powers for civil confiscation granted in the recently adopted legislation (FOAL) as well as the recently issued policies and mechanisms relating to the confiscation of criminal proceeds.
- h) The equally recently introduced systematic mechanism for revisiting undervalued (particularly nominal value) confiscation orders by means of identifying subsequent increases in the defendants' property and wealth needs to be effectively implemented.

- i) The GFSC, Registries and the Revenue Service should continue and increase their supervisory activities to ensure that REs, legal persons and resident agents are complying with their basic and BO information obligations. The authorities should widen the sample of corporate files reviewed at on-site inspections, while the GFSC should consider extending cross-checks against BO information held in the Registries for all legal persons' files sampled during inspections, and not a selection thereof.
- j) The authorities should revisit the TF risk assessment to: i) make fuller use of the incoming cooperation requests, the SARs and the TF pre-investigations; ii) further analyse the risk related to Guernsey being used as a transit jurisdiction; iii) further look into TF risks related to legal persons and arrangements.
- k) The LOC and other competent authorities should continue their efforts in implementing the recently adopted set of guidance documents in the field of MLA and extradition so as to ensure that the current, smooth processes will remain as effective for handling an increased number of incoming and outgoing requests.

## Effectiveness & Technical Compliance Ratings

### Effectiveness Ratings<sup>6</sup>

<b>IO.1 – Risk, policy and coordination</b>	<b>IO.2 – International cooperation SE</b>	<b>IO.3 – Supervision</b>	<b>IO.4 – Preventive measures</b>	<b>IO.5 – Legal persons and arrangements</b>	<b>IO.6 – Financial intelligence</b>
SE	SE	ME	ME	SE	ME
<b>IO.7 – ML investigation &amp; prosecution</b>	<b>IO.8 – Confiscation</b>	<b>IO.9 – TF investigation &amp; prosecution</b>	<b>IO.10 – TF preventive measures &amp; financial sanctions</b>	<b>IO.11 – PF financial sanctions</b>	
LE	ME	SE	HE	HE	

### Technical Compliance Ratings<sup>7</sup>


<b>R.1 - assessing risk &amp; applying risk-based approach</b>	<b>R.2 - national cooperation and coordination</b>	<b>R.3 - money laundering offence</b>	<b>R.4 - confiscation &amp; provisional measures</b>	<b>R.5 - terrorist financing offence</b>	<b>R.6 - targeted financial sanctions – terrorism &amp; terrorist financing</b>
LC	C	C	C	C	LC
<b>R.7 - targeted financial sanctions – proliferation</b>	<b>R.8 - non-profit organisations</b>	<b>R.9 – financial institution secrecy laws</b>	<b>R.10 – Customer due diligence</b>	<b>R.11 – Record keeping</b>	<b>R.12 – Politically exposed persons</b>
LC	LC	C	LC	C	LC
<b>R.13 – Correspondent banking</b>	<b>R.14 – Money or value transfer services</b>	<b>R.15 – New technologies</b>	<b>R.16 – Wire transfers</b>	<b>R.17 – Reliance on third parties</b>	<b>R.18 – Internal controls and foreign branches and subsidiaries</b>
C	C	LC	C	LC	LC
<b>R.19 – Higher-risk countries</b>	<b>R.20 – Reporting of suspicious transactions</b>	<b>R.21 – Tipping-off and confidentiality</b>	<b>R.22 – DNFBPs: Customer due diligence</b>	<b>R.23 – DNFBPs: Other measures</b>	<b>R.24 – Transparency &amp; BO of legal persons</b>
C	C	C	LC	LC	LC
<b>R.25 - Transparency &amp; BO of legal arrangements</b>	<b>R.26 – Regulation and supervision of financial institutions</b>	<b>R.27 – Powers of supervision</b>	<b>R.28 – Regulation and supervision of DNFBPs</b>	<b>R.29 – Financial intelligence units</b>	<b>R.30 – Responsibilities of law enforcement and investigative authorities</b>
C	LC	C	LC	C	C
<b>R.31 – Powers of law enforcement and investigative authorities</b>	<b>R.32 – Cash couriers</b>	<b>R.33 – Statistics</b>	<b>R.34 – Guidance and feedback</b>	<b>R.35 – Sanctions</b>	<b>R.36 – International instruments</b>
C	C	C	C	LC	C
<b>R.37 – Mutual legal assistance</b>	<b>R.38 – Mutual legal assistance: freezing and confiscation</b>	<b>R.39 – Extradition</b>	<b>R.40 – Other forms of international cooperation</b>		
C	C	C	C		

<sup>6</sup> Effectiveness ratings can be either a High - HE, Substantial - SE, Moderate - ME, or Low - LE, level of effectiveness.

<sup>7</sup> Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – noncompliant.



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