



Anti-money laundering
and counter-terrorist
financing measures

Solomon Islands

Mutual Evaluation Report

October 2019





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This mutual evaluation report was adopted by the APG at its annual meeting in August 2019.

Citing reference:

APG (2019), <i>Anti-money laundering and counter-terrorist financing measures – Solomon Islands</i> , Third Round Mutual Evaluation Report, APG, Sydney http://www.apgml.org/includes/handlers/get-document.ashx?d=f68137ac-8095-4d52-ad9e-793107436bf6
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EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in Solomon Islands as at the date of the on-site visit (22 October to 2 November 2018). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Solomon Islands' AML/CFT system, and provides recommendations on how the system could be strengthened.

A. Key Findings

- 1) Solomon Islands has a broad understanding of its money laundering (ML) and terrorism financing (TF) risks, but overall, the competent authorities as well as the private sector have a variable understanding of ML and TF risks. Solomon Islands main ML risks have been identified and assessed as bribery/corruption, fraud, illegal logging, revenue/tax evasion, illegal gold export and illegal fishing. Solomon Islands has a limited understanding of its TF risks. Solomon Islands has not yet developed and adopted policies informed by the identified risk.
- 2) There is a fair degree of co-operation amongst the Anti-Money Laundering Technical Expert Group (AMLTEG), through the various domestic MoUs, information sharing agreements and inter-agency co-operation initiatives.
- 3) There is good use of financial intelligence in criminal investigations by Royal Solomon Islands Police Force (RSIPF), but use of financial intelligence by the other law enforcement agencies (LEAs) is negligible. The focus of investigations is on pursuing and prosecuting predicate offences rather than ML. Of the ML cases investigated, most are self-laundering undertaken by an individual within the Solomon Islands. Solomon Islands has had one successful ML conviction case between 2014 and 2018. This case was generated from a Suspicious Transaction Report (STR) referred to RSIPF by the Financial Intelligence Unit (SIFIU). A number of factors contribute to the limited ML convictions, including a lack of focus on pursuing ML, insufficient resources, limited understanding of financial evidence, limited capability to investigate financial crime and a lack of appropriate evidence gathered. In addition, the Court has quashed some ML convictions on the grounds of the ML offence overlapping facts with the predicate offence.
- 4) The legal framework for confiscation is generally sound, but the level of confiscation is low and is not aligned with Solomon Islands' ML risk profile. Solomon Islands does not have a policy or strategy to pursue the proceeds of crime and confiscate criminal proceeds or property. The current approaches used for confiscation are onerous and LEAs do not focus on pursuing the confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective.

- 5) There have been no investigations or prosecutions of TF, which is consistent with the Solomon Islands risk profile. Solomon Islands does not have a national strategy or policy to deal with TF. There are no guidelines on how to identify TF cases or on the conduct of TF investigations.
- 6) Solomon Islands lacks a legal framework with regards to targeted financial sanctions (TFS) for TF, and has limited capability to identify terrorist organisations and terrorist networks. Solomon Islands does not have a process to implement TFS relating to proliferation of weapons of mass destruction. Solomon Islands began to disseminate UN notices just prior to the onsite visit. Solomon Islands does not have links with DPRK and Iran.
- 7) Banking and insurance sectors and one finance company have been subjected to limited on-site supervision, however other financial institutions (FIs), non-bank financial institutions (NBFIs) and designated non-financial businesses and professions (DNFBPs) have not been subjected to any form of AML/CFT supervision by SIFIU (the AML/CFT supervisor). The Non-profit Organisations (NPO) sector is unsupervised and is considered high risk for ML/TF in Solomon Islands. No operational monitoring of activities of the NPO sector occurs. In addition, market entry controls in the FIs and DNFBP sectors are weak and lack adequate fit and proper and EDD practices on persons and body corporates, including criminal and beneficial ownership checks.
- 8) Customer due diligence (CDD) measures have significant technical deficiencies, which need to be addressed urgently. The absence of regulations further undermines the implementation of preventive measures.
- 9) There is a rudimentary company registration system. Existing mechanisms for maintaining beneficial ownership (BO) information beyond legal owners of shares and directors are inadequate. Identification of beneficial owners is absent across the reporting entities except banks. As the company registry does not maintain full beneficial ownership information, banks rely on the customers' declaration.
- 10) Solomon Islands has a reasonable legal framework for international co-operation for MLA, including extradition, but there are no policies and procedures on how MLA and extradition will be sought and requests responded to. Solomon Islands has not received or made any requests for MLA or extradition since the last MER.

B. Risks and General Situation

2. Solomon Islands' NRA identifies six categories of predicate offences that make up Solomon Islands' key ML threats: (i) bribery/corruption, (ii) fraud, (iii) illegal logging, (iv) revenue/tax evasion; (v) illegal gold export; and (vi) illegal fishing. The financial sector is considered high risk and is vulnerable, given the limited understanding of the inherent ML/TF risks in the sector. Solomon Islands' cash based economy, limited AML/CFT supervision of FIs and lack of AML/CFT supervision of DNFBPs heighten these risks.
3. Solomon Islands has assessed the risk for TF as very high to high - this view does not appear to consider prior evidence of TF in the Pacific, regional risks and context. Authorities agree that the risk is low despite the findings in the NRA, and open source material considered by the assessment team suggest that the TF risk is low which is consistent with other Pacific Island jurisdictions. There are no links in Solomon Islands with foreign terrorist groups and no indication of terrorist organisations using the Solomon Islands financial system to channel funds for terrorist activities.

C. Overall Level of Effectiveness and Technical Compliance

Assessment of Risks, co-ordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

4. Solomon Islands has a broad understanding of its ML and TF risks as it completed its second formal assessment of ML/TF risk through the undertaking of its 2017 NRA. The major findings of the NRA are reasonable in Solomon Islands' context.
5. Whilst the process to prepare the recent NRA was comprehensive, with coverage of all relevant sectors including the public and private sectors, it is apparent that overall, the competent authorities as well as the private sector have a variable understanding of ML and TF risks. The NRA was formally endorsed by the chairman of the AMLC during the on-site visit. Although the SIFIU indicated that the final version of the NRA had been discussed and disseminated to all stakeholders, at the time of the onsite visit key AML/CFT stakeholders had no recollection of viewing the draft NRA.
6. Solomon Islands has not yet developed and adopted national AML/CFT policies which are informed by the identified risks. However, Solomon Islands has introduced initiatives aimed at mitigating high risk predicate offences such as bribery/corruption through the establishment of Task Force Janus which is investigating fraud, bribery and corruption in the public sector.
7. Solomon Islands is yet to adopt a risk based approach for exemptions from AML/CFT requirements. There is no application of enhanced or simplified preventive measures.
8. There is a fair degree of co-operation and co-ordination amongst the AMLTEG, through the various domestic MoUs, information sharing agreements and inter-agency co-operation initiatives. This is evident in the various inter-agency operations/investigations between the LEAs as well as through quarterly meetings.
9. Comprehensive statistics are not fully maintained relevant to the effectiveness and efficiency of Solomon Islands' AML/CFT systems.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

10. Financial intelligence is primarily developed by SIFIU, with the Ministry of Finance (Inland Revenue Department), RSIPF and Customs having also developed financial intelligence products in relation to the investigation of predicate and money laundering offences, to a limited extent. SIFIU utilises financial transaction reports in its database to undertake operational analysis and disseminate intelligence reports to LEAs. Some limited strategic analysis has been undertaken by SIFIU.
11. There is good use of financial intelligence in criminal investigations by RSIPF but use of financial intelligence by the other LEA's is negligible. RSIPF regularly makes requests to SIFIU for information to support its investigations, and there is a good level of collaboration and co-operation between RSIPF and SIFIU. LEA operational strategy does not include the use of financial intelligence to guide parallel or standalone money laundering investigations. There is a reasonably effective level of multi-agency collaboration within Solomon Islands. There have been multiple financial crime investigations with the focus on the predicate offending and not ML. Multi-agency groups such as Task Force Janus would benefit from closer pro-active working with SIFIU.
12. Solomon Islands has some deficiencies in its financial intelligence regime. The operational independence and autonomy of SIFIU remains as a technical deficiency, as identified in the 2010 MER,

although the team identified no evidence that in practice SIFIU operational independence and autonomy is in anyway fettered by the AMLC.

13. Since 2013, Solomon Islands has achieved one conviction for ML which is a notable achievement in light of Solomon Islands context, although these convictions are not consistent with Solomon Islands' higher risk predicate offences. RSIPF focuses on predicate offences and has no policy to follow the money and pursue ML. Other LEAs (Customs, Immigration and IRD) have powers to support RSIPF with related investigations.

14. The Court has quashed some ML convictions on the grounds of the ML offence overlapping facts with the predicate offence, under S2 of the Penal Code, where if a person does an act which is punishable under the Penal Code and is also punishable under another Act, the criminal shall not be punished for that act both under the Act and the Penal Code.

15. Although Solomon Islands' legal framework for confiscation is generally sound, Solomon Islands does not have a policy or strategy to pursue the proceeds of crime and confiscate criminal proceeds or property based on identified ML/TF risks. Due to insufficient evidence, lengthy and onerous processes and a limited focus by LEAs and intelligence agencies to pursue confiscation, the level of confiscation activity is low and the limited confiscation results achieved are not consistent with Solomon Islands' ML risk.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)

16. Solomon Islands has a low risk for TF. There has been no evidence of the financing of terrorism in Solomon Islands. There have been no investigations or prosecutions of TF in the Solomon Islands which is consistent with its risk. The Counter Terrorism Act (2009) provides a legal framework for prosecuting TF and RSIPF has sufficient powers to investigate TF offences.

17. While it is recognised the risk of TF is low, Solomon Islands did not demonstrate it has any strategies or policies in place to support effective investigations and prosecutions of TF activities.

18. Solomon Islands has no legal framework with regards to TFS, and there has been no supervision of FIs and DNFBPs implementation of TFS requirements. TFS implementation is generally strong in the international banks and the international remittance service provider, through automated screening software which monitors customers and transactions. The local banks, credit unions and DNFBPs had limited understanding of TFS although they do not undertake international fund transfers.

19. The NPO sector is considered high risk for ML/TF in Solomon Islands and is unregulated. No strategic and operational monitoring of activities of the NPO sector occurs. FIs' awareness of the risks presented by NPOs is negligible.

20. Shortcomings with the regulation of NPOs are mitigated in some part through the role of the Development Services Exchange (DSE), the voluntary national NGO umbrella body. The DSE seeks strengthen NPO co-ordination through sharing relevant information, developing a code of conduct and providing training and education materials. Risk-based measures have not been applied.

21. Solomon Islands has no legal framework or policies in place to deal with PF and SIFIU only commenced disseminations of UN notices related to TF and PF prior to the onsite visit. While international financial institutions are undertaking automated screening to identify assets and funds of designated persons and entities, smaller financial institutions and DNFBs have not put any measures in place to give effect to TFS for PF.

Preventive Measures (Chapter 5 - IO4; R.9-23)

22. CDD obligations are sets out in several provisions of MLPCAA 2010 but section 12B (a) to (c) of the MLPCAA 2010 appears to exclude all reporting entities in Solomon Islands from being required to apply CDD [12(1) and (2) and 12A(1)(a)], which is a significant deficiency. Moreover Solomon Islands did not issue the MLPC Regulations to implement preventive measures.

23. Understanding of ML and TF risks is variable across the financial sector. Foreign banks have some understanding of their ML/TF risks and obligations due to their parent company's policies and other financial institutions have very limited understanding of ML/TF risks and obligations. The understanding of ML /TF risk in the DNFBP sector is negligible.

24. The banks, money changers and money remittance service providers are applying some mitigating measures commensurate with their institutional risks to a large extent. The absence of verification tools undermines the effectiveness of CDD measures. Implementation of mitigating measures is almost absent in the other FI's including insurance, micro finance and credit unions. Casinos are not fully verifying customer identity and they are not applying other preventive measures including STRs, PEPs and sanction screening. Other DNFBPs are not implementing mitigating or preventive measures at all.

25. Identification of beneficial owners appear absent across the reporting entities except banks. Casinos and other DNFBPs, including accountants and lawyers, appear to lack a clear understanding of requirements to identify and verify beneficial ownership information and control of customers and transactions for AML/CFT purposes.

26. Reporting of suspicious transactions or activities is limited mainly to banks and money service businesses and is not commensurate with their risk profile.

Supervision (Chapter 6 - IO3; R.26-28, R.34-35)

27. Licensing frameworks for FIs as in place through the various legislations for FIs administered by CBSI. DNFBPs are subject to licencing under various sectoral legislation. Market entry controls in the FI and DNFBP sectors are weak and there is a lack adequate fit and proper and enhanced due diligence measures on persons and body corporates, including criminal checks and beneficial ownership arrangements. The FIs and the cash dealers have a limited and variable understanding of the ML/TF risks inherent to the sectors in which they exist.

28. SIFIU and its peer regulators have a moderate understanding of ML/TF risks and a limited understanding of the sectoral ML/TF risks that are inherent to the FIs and cash dealers (including DNFBPs). The CBSI is the prudential supervisor for regulated FIs. Both the CBSI and SIFIU conduct joint FI on-site inspections with a prudential and AML/CFT focus respectively on a periodic basis. SIFIU's approach to supervision is not risk-based nor is it informed by any risk assessment. NBFIs (finance companies, credit unions, money changers, money remitters, insurance firms and the superannuation fund) and DNFBPs have never been subjected to any form of AML/CFT supervision. Solomon Islands has produced minimal guidance in relation to AML/CFT measures and the only formal feedback activity is the quarterly AMLRO meetings.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R.24-25)

29. There are major shortcomings with the legal framework on legal persons and arrangements. Substantial changes are required to allow it to prevent the misuse of legal persons and arrangements for ML and TF.

30. Whilst Solomon Islands has identified and assessed some legal persons in its NRA, not all forms of legal persons and arrangements have been considered in the NRA. Competent authorities do not appear to have a sound understanding of the risks associated with different types of legal persons.

31. Limited information on the creation and types of legal persons is available to the public via the Company Haus website. Company Haus maintains basic information on companies registered by them, but this information is not adequately verified or updated.

32. The legal framework only provides for voluntary registration of companies, cooperatives and charities. Trustees are not regulated under the legal framework and do not have to disclose their status to financial institutions.

33. Due to the deficiencies in the legal framework and the obtaining and updating of information Solomon Islands is impaired in its ability to find and provide current beneficial ownership information.

International Co-operation (Chapter 8 - IO2; R.36-40)

34. Solomon Islands can provide a wide range of assistance under its MACMA and its Extradition Act. No requests have been made since the last MER. As there have been no extradition or MLA requests received, it is not possible to assess whether Solomon Islands is able to process the requests in a timely and constructive manner. One MLA request by RSIPF was not considered in the centralised statistics provided. There are no SOPs or guidelines in place that dictate the procedures to be used in executing and making requests.

35. Solomon Islands has received and acted on informal international requests through FIU, AGO, Customs, CBSI and DPP however none have them have been related to ML and TF. SIFIU has also entered into MOUs with other FIUs.

36. Solomon Islands did not demonstrate cases of sharing beneficial ownership information.

37. Solomon Islands authorities are not using formal channels where informal requests have been met with failure.

D. Priority Actions

- a) Urgently address the technical compliance gaps, including the issuance of both FI and DNFBP regulations.
- b) Develop and enact legislation to provide full powers to implement Targeted Financial Sanctions for both terrorism and proliferation of WMD. In addition, it should implement procedures and measures to give effect to TFS obligations without delay.
- c) SIFIU should enter into more active information sharing with domestic agencies to facilitate increased spontaneous dissemination of financial intelligence to LEAs. SIFIU should build and

develop access to financial intelligence by LEAs, including closer collaboration with foreign counterparts and more proactive sharing of financial intelligence.

- d) SIFIU should conduct outreach and develop sector specific guidance to all reporting entities on ML/TF risks, AML/CFT obligations (including enhanced measures, STR reporting, implementation of TFS and obligations related to PEPs) and the required reporting (STRs, CTRs etc.) and should meet regularly with reporting entities and provide feedback on reports received.
- e) Prioritise ML investigations, and strengthen the institutional frameworks required to support effective systems that address Solomon Islands' ML risk profile. This should include development of internal policies, procedures and mechanisms for more effective resource allocation (including recruitment) and to ensure a focus on both high risk predicate offences and ML investigations.
- f) Develop a policy, procedures and strategy on confiscation of criminal proceeds, which considers Solomon Islands' ML/TF risks. LEAs should have a policy directive to confiscate criminal proceeds where appropriate in the course of their investigations.
- g) Develop policies, procedures and mechanisms for handling and identifying TF offences commensurate with the low risk and size of Solomon Islands.
- h) Solomon Islands should undertake a risk assessment of the NPO sector focusing on identifying the features and types of NPOs which are likely to be at risk of TF abuse. Based on this review, authorities should provide appropriate outreach and apply appropriate risk-based measures based on the identified vulnerabilities and risks.
- i) Solomon Islands should consider making registration of beneficial ownership and control of legal persons and arrangements mandatory and ensure that the companies registry verifies the information it receives and has processes in place to ensure information is up to date.
- j) Solomon Islands should consider making SOP and guidelines clearly setting out the processes and procedures for MLA and extradition requests and consider making formal MLA requests when informal methods fail.
- k) Solomon Islands should implement a supervisory strategy that includes risk-based supervision and ensures that all reporting entities, including DNFBPs, are supervised based on risk.

EXECUTIVE SUMMARY

E. Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

IO.1 - Risk, policy and coordination	IO.2 - International cooperation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
Moderate	Moderate	Low	Low	Low	Moderate
IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
Low	Low	Low	Low	Low	

Technical Compliance Ratings (*C – compliant, LC – largely compliant, PC – partially compliant, NC – non-compliant*)

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

MUTUAL EVALUATION REPORT OF SOLOMON ISLANDS

Preface

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

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by Solomon Islands, and information obtained by the evaluation team during its on-site visit to Solomon Islands from 22 October to 2 November 2018.

The evaluation was conducted by an assessment team consisting of:

- Ms Lauren Kleiman, Australian Transaction Reports and Analysis Centre (AUSTRAC), Australia (legal expert)
- Ms Jayneeta Prasad, Office of the Director of Public Prosecutions, Fiji (legal expert)
- Mr Kamal Hossain, Financial Intelligence Unit, Bangladesh (financial expert)
- Mr Wilson Onea, Bank of Papua New Guinea, Papua New Guinea (financial expert)
- Mr Phil Hunkin, Financial Supervisory Commission, Cook Islands (FIU expert)
- Ms Noriko Ikemoto, Japan Financial Intelligence Center, Japan (law enforcement expert)

The assessment process was supported by Mr David Becker and Ms Marnie Campbell of the APG secretariat.

The report was reviewed by Ms Charlotte Ebert, Ministry of Justice, New Zealand; Mr Ramu Paudel, Financial Information Unit, Nepal and the FATF Secretariat.

Solomon Islands previously underwent a Mutual Evaluation in 2010, conducted by the World Bank with the participation of the APG according to the 2004 FATF Methodology. The 2010 evaluation has been published and is available at www.apgml.org.

Solomon Islands' 2010 Mutual Evaluation concluded that the country was compliant with 6 Recommendations; largely compliant with 10; partially compliant with 13; and non-compliant with 10. One Recommendation was rated not applicable. Solomon Islands was rated compliant or largely compliant with 9 of the 16 Core and Key Recommendations.

Solomon Islands entered the APG's regular follow-up process as compliance with seven of the Core/Key Recommendations remained at the non-compliant/partially compliant level. Solomon Islands exited the APG's 2nd round follow-up process in 2014¹ with six Core/Key Recommendations (R.5, R.10, R.23, R.26, R.35, SR.I and SR.III) remaining at the non-compliant/partially compliant level.

Throughout this report Solomon Island dollars (SBD) are shown with approximate USD conversions using the exchange rate prevailing at the time of the on-site visit: USD 1 = SBD 8.

¹ In accordance with members' decision at the 2013 APG Annual Meeting, all members on regular follow-up were phased out of the APG's 2nd round follow-up process in 2014.

CHAPTER 1. ML/TF RISKS AND CONTEXT

1. Solomon Islands is a country in the region of Melanesia (Southwest Pacific) east of Papua New Guinea, and northeast of Australia. Solomon Islands consists of six major islands and over 900 smaller islands, stretching southeast from Papua New Guinea across the Coral Sea to Vanuatu in a 1,450 kilometre chain. The land area totals about 28 400 square kilometres. Honiara is the capital and is located on the most populous island of Guadalcanal.
2. Solomon Islands has a population of 642 000 (2015 government statistics), with approximately 85% of the population outside of Honiara. Solomon Islands comprises diverse cultures, dialects, and customs. 95.3% of the population are Melanesian, 3.1% Polynesian and 1.2% Micronesian. In addition, small numbers of Europeans and Chinese are present. The official language of Solomon Islands is English. Pidgin is the most widely spoken language, and about 120 indigenous languages are spoken.
3. Solomon Islands has a principally a cash-based economy reliant predominantly on agriculture, forestry and fisheries, which together account for around 40% of GDP. The 2017 GDP of Solomon Islands was USD 1 303 billion². World Bank figures put the GNI per capita in 2017 at USD 1 920. Generating sustainable economic growth remains a key challenge for Solomon Islands as it has low levels of human development³, a small domestic market and a narrow economic base.
4. A British Protectorate since 1893, Solomon Islands achieved self-government in 1975, with independence following in 1978. Solomon Islands is a parliamentary democracy, with Queen Elizabeth II the Head of State, represented by the Governor General.
5. Solomon Islands has a unicameral parliament with 50 elected members and a parliamentary term of four years. The head of government is the Prime Minister, elected by the Parliament.
6. The judiciary of Solomon Islands is a branch of the Government of Solomon Islands that interprets and applies the laws of Solomon Islands, to ensure equal justice under law, and to provide a mechanism for dispute resolution. The court system is under the responsibility of the Minister for Justice and Legal Affairs. As in most Pacific island countries, Solomon Islands' court system relies partly on foreign judges from other common law countries. The judges of the Court of Appeal include senior judges from Australia, New Zealand and Papua New Guinea. The court system includes local courts, customary land appeal court, magistrates' courts, high court and the court of appeal.

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

7. Solomon Islands is exposed to a range of ML threats and vulnerabilities. Solomon Islands' first ML/TF risk assessment was conducted in 2009. The second NRA was completed in May 2017, and was signed by the Attorney General and Chairperson of the Anti-Money Laundering Commission (AMLC) in November 2018.

² <https://data.worldbank.org/country/solomon-islands>

³ The UNDP 2017 human development index for Solomon Islands was 0.55, ranking it at 152 out of 189 countries/territories (http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/SLB.pdf)

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8. Solomon Islands has some high and moderate risks within its context that require due consideration. The NRA identifies six categories of predicate offences that make up Solomon Islands key ML threats including (i) bribery/corruption (ii) fraud (iii) illegal logging (iv) revenue/tax evasion (v) illegal gold export and (vi) illegal fishing.

9. The assessment team considers bribery/corruption, illegal logging and fraud to be the most significant crimes generating funds which may be involved in ML/TF. This is consistent with Solomon Islands NRA.

10. The financial sector is considered high risk and is vulnerable, given the limited understanding of the inherent ML/TF risks in this sector. The NRA identified the following vulnerability ratings for FIs and DNFBPs (Table 1.1).

Table 1.1: Solomon Island's NRA rated vulnerability of sectors to ML/TF risk

Financial Institutions	Vulnerability rating
Banks	High
Money Transfer Services	High
Money Exchange	High
Cross Border Currency	High
Finance Companies	High
Superannuation/Provident Funds	Medium
Trust and company service providers	Medium
Credit Unions	Low
DNFBPs	Vulnerability rating
Casinos	High
Dealers in precious metals	High/Medium
Real estate agents	Medium
Dealers in high value assets	Medium
Lawyers/other legal profession	Medium
Insurers	Medium
Accountants	Medium
Dealers in motor vehicles	Medium

Source: Solomon Islands: Money Laundering and Financing of Terrorism National Risk Assessment Framework

11. The assessment team considered Solomon Islands' TF risk to be low, in line with the 2009 NRA and a 2014 US Department of State assessment. The 2017 NRA found the TF risk to be high, despite finding no evidence of TF. This appears to be an academic assessment without consideration of the context of Solomon Islands.

Country's risk assessment & Scoping of Higher Risk Issues

12. Solomon Islands 2017 NRA was overseen by the AMLC and signed in November 2018. The ML/TF NRA approach was to identify the highest ML/TF risks requiring the most immediate mitigating strategies. The major ML threats in and through Solomon Islands, were identified

through the amounts of funds derived from predicate crimes, and therefore available for ML/TF. There was little or no statistical information captured on the level of funds involved in most of the predicate crimes. Expert opinion gathered through questionnaires and interviews with Solomon Islands' government agencies and the private sector was used as the basis to determine the possible threats and vulnerabilities which could result in ML/TF. A range of data sources including open sources were also used in the development of the NRA.

13. The NRA was completed in May 2017 but the findings were not widely considered with the relevant key stakeholders (government and private) by the time of the on-site. The NRA was formally endorsed by the chairman of the AMLC in November 2018, but was yet to be disseminated to its stakeholders.

14. The mutual evaluation onsite visit focussed on the following high-risk issues, based on the then draft NRA, open source information and material provided by Solomon Islands:

- *Systemic issues:* This includes the capacity, capability, suitability and number of resources in key government agencies.
- *Supervisory framework:* The quality and regularity of AML/CFT supervision is unclear. As the 2009 MER identified supervision as a significant vulnerability, the effectiveness and suitability of supervision in the context of Solomon Islands required consideration.
- *Bribery / Corruption:* Bribery and corruption have been evident in Solomon Islands over a long period, allegedly involving politicians, government employees, private companies and individuals. The impact of corruption on the operation of regulatory and criminal justice systems, including on the effectiveness of Solomon Islands' response to ML associated with the proceeds of corruption, was evident based on the 2009 MER, the 2017 NRA and online research.
- *Illegal logging:* The logging industry is exploited due to weak forestry management and poor regulation and monitoring. Consequently, Solomon Islands has not realised the full potential economic value of logging resulting in a significant loss in value from its forestry resources due to the manipulation of transactions by the forestry industry players or loggers.
- *Fraud:* Respondents to the 2014 APG Fraud survey noted widespread misuse of officials' funds for private financial gain with millions of dollars lost through fraud by government employees. Fraud is considered a high threat with regard to the potential for associated funds to be involved in ML/FT in Solomon Islands.
- *Terrorist financing:* No specific evidence of TF was found in the 2017 NRA, but the NRA accorded high risk to TF even though it had previously been found to be low risk. The risk of TF was considered in light of this discrepancy.

Materiality

15. Solomon Islands' largely cash-based economy is reliant on agriculture, forestry and fisheries, which provide employment for the majority of the population.⁴ Economic growth appears to rest on the private sector with ongoing development in mining, fishing and agriculture. Tourism is limited, although future growth in this sector is a key aim for the government.

⁴ <http://thecommonwealth.org/our-member-countries/solomon-islands/economy>
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16. According to the Asian Development Bank, between 2013 and 2018, GDP growth was approximately 2.9% per annum, rising to 3.4% in 2016. Solomon Islands GDP per capita is approximately USD 2 132 in 2017. The majority of the population are dependent on subsistence agriculture and fishing for at least part of their livelihood.

17. Agricultural resources are limited. The economy is relatively small and undiversified and very dependent on exports of timber and logs. Aid constituted 67% of GNI in 2010, 48% in 2011 and 34% in 2012, and logging has reportedly been pursued at an unsustainable rate.

18. The primary exports are timber, fish, copra, palm oil and cocoa, with 71% going to Asia, 12% to Europe and approximately 8% to Oceania. The primary imports are food, plant and equipment, manufactured goods, fuels and chemicals with 45% from Asia and 39% from Oceania.

Financial Institutions

19. Solomon Islands' small financial sector focuses on providing basic financial services to the population and to businesses operating in the country. The CBSI is the primary licensing authority for institutions that engage in banking activities. The banking sector has four banks; three of these are international banks and appear to have strong AML/CFT controls.

20. The NBFI sector consists of two finance companies, one superannuation company, 12 money changers, seven insurance agents and ten licensed credit unions.

21. All businesses operating in Solomon Islands must register the company with the Company Haus. Partly or wholly foreign-owned businesses are required to obtain a license from the Foreign Investment Department (FID) prior to registering with the Company Haus.

DNFBPs

22. DNFBP sectors are very small in Solomon Islands. Most DNFBPs are covered by the MLPCAA 2010 definition of 'cash dealers', which includes casinos, gambling house or lottery operators, real estate agents, dealers of precious metals and stones, accountants, trust and company service providers. Legal practitioners are also covered by the MLPCAA 2010 provisions.

23. Solomon Islands Gaming Board is the regulator for casinos. Accountants are regulated by the Institute of Solomon Islands Accountants. Lawyers are admitted to practice by the Chief Justice and regulated by Solomon Islands Bar Association. The Ministry of Mines regulates dealers in precious metals and stones. Real estate agents are not regulated. As at the onsite visit, Solomon Islands had 2 casinos, 11 accountancy firms, 29 legal practitioners, 8 gold and precious metal dealers and 3 real estate agencies.

24. Table 1.2 below, lists the reporting entities, the relevant regulators and the relative market share size of the sectors subjected to AML/CFT supervision.

Table 1.2: Reporting entities, regulators, supervisors and market share

Reporting Sector	Reporting Entities	Regulator / SRB	AML/CFT Supervisor	AML/CFT Supervision undertaken	Assets (millions SBD)	Market share (%)*
Banks	4	CBSI	SIFIU	SIFIU/CBSI	5,956	
Micro Banks		CBSI	SIFIU	None	*	

Finance (credit) Companies	2	CBSI	SIFIU	None	193	
Insurance	7	CBSI	SIFIU	SIFIU/CBSI	136	
Superannuation	1	CBSI	SIFIU	None	3,489	
Money Changers	12	CBSI	SIFIU	None	44,096	
Foreign Exchange Dealers/ Transfers	3	CBSI	SIFIU	None	258,757	
Credit Unions	10	CBSI	SIFIU	None	69	
Legal Practitioners	29	Lawyers Association Bar	SIFIU	None	*	
Accountants	11	Accountant Board	SIFIU	None	*	
Gold & precious metal dealers	8	Ministry of Mining	SIFIU	None	*	
Casinos	2	Gaming Board	SIFIU	None	*	
Real Estate	3	None	SIFIU	None	*	

* Solomon Islands did not supply data.

Source: Solomon Islands authorities

Structural Elements

25. The main structural elements required for an effective AML/CFT system are present in Solomon Islands; there is political stability, rule of law, stable and accountable institutions and an independent, efficient and capable judicial system. While high level political commitment exists, it appears variable regarding AML/CFT matters.

26. Solomon Islands has challenges shared by other Pacific Islands related to limited expertise and staffing capacity available for AML/CFT work. While the relationship with Australia and New Zealand has assisted to some extent with broad capacity challenges, this does not appear to have directly addressed AML/CFT capacity issues.

Background and other Contextual Factors

27. In 1998, Solomon Islands went through a civil war that affected the government's ability to operate effectively. In 2014, World Bank estimated the cost of the conflict to Solomon Islands at 134% of GDP. Post conflict, institutions and governance are still relatively weak. While the situation has improved since 2010, it was noted in the previous MER that "political instability, security issues, lack of infrastructure, and transportation limitations hamper growth" and these issues continue to be of concern.

28. The Wantok system is a pervasive feature of social organisation in Solomon Islands. Wantok is a network of relationships and obligations between people connected by common origin, geographic area, kinship and language. It is an extended family or clan, which can range in size from a few people to several hundred. In politics and the public service, Wantok can be a

factor in corrupt and unethical practices. Politicians and public servants are expected to disseminate funds to members of their Wantok. This can range from assistance in school fees to favours such as offering a job or contract to a person because the person is a Wantok.

29. While steps are being undertaken to address corruption, it still remains a significant risk in Solomon Islands.

AML/CFT strategy

30. There is no documented AML/CFT strategy or policy informed by risks, to address the ML/TF risks in Solomon Islands. Solomon Islands has undertaken limited measures to respond to risk including the creation of Task Force Janus to address corruption in the public service.

Legal & institutional framework

31. The legal framework for AML/CFT preventive measures is set out in the Money Laundering and Proceeds of Crime (Amendment) Act 2010 (MLPCAA 2010). Money laundering is criminalised under s.17 of the MLPCAA 2010 and TF is criminalised under s.6 of the Counter Terrorism Act 2009.

32. The institutional framework for AML/CFT is as follows:

Legal and Law Enforcement

- **Anti-Money Laundering Commission (AMLC)** provides oversight of Solomon Islands' AML/CFT program, including supervision of SIFIU. The AMLC comprises the Attorney-General (Chair), the Governor of the CBSI, the Commissioner of the RSIPF, the Permanent Secretary for Finance, and the Comptroller of Customs. The Director of SIFIU is the Secretary to the Commission. The AMLC meets quarterly.
- **Anti-Money Laundering Technical Expert Group (AMLTEG)** is a working group under the AMLC which comprises representatives from CBSI, RSIPF, Office of the DPP, Immigration, Customs and Excise, Inland Revenue Division, Foreign Affairs and SIFIU.
- **Solomon Islands Financial Intelligence Unit (SIFIU)** comprises the Head of SIFIU and three staff - a Compliance Officer, a Financial Analyst, and a Financial Analyst on part-time secondment from RSIPF. SIFIU is the lead agency and central focal point in preventing and detecting ML/FT. SIFIU is involved in AML/CFT policy development through AMLC and AMLTEG; is the primary agency for financial transaction analysis; and, is also Solomon Islands AML/CFT regulator. It works closely with government agencies in law enforcement and private sector supervision, and with the private sector reporting entities. SIFIU operates under the MLPCAA 2010.
- **Royal Solomon Islands Police Force (RSIPF)** is responsible for investigating money laundering; terrorism financing and other predicate offences in Solomon Islands. RSIPF has three separate units that deal with bribery, corruption and fraud. The *Task Force Janus Team* deals with high level public servants corruption. The *Corruption Targeting Team* deals with corruption by Members of the Parliament and Members of the Provincial Government, and money laundering and terrorism financing. The *Fraud Team* deals with fraud related crimes against low level public servants and the general public, including the private sector.

- **The Customs and Excise Division (Customs)** is the division of the Ministry of Finance and Treasury that is responsible for collecting revenues, managing the security and integrity of Solomon Islands' borders and the movement of people and goods. Customs investigates illegal transportation of currency/BNI at the border.
- **Immigration** is responsible for the enforcement of Solomon Islands' immigration laws.
- **Attorney General's Office (AGO)** is the competent authority for MLA and Extradition.
- **Office of the Director of Public Prosecutions (ODPP)** is the primary prosecutorial body and is responsible for prosecuting ML, TF and predicate offences. ODPP is also responsible for making confiscation and restraint applications.
- **Ministry of Foreign Affairs (MFA)** is primarily responsible for diplomatic liaison, including in relation to UN Conventions.
- **Solomon Islands Maritime Safety Administration (SIMSA)** operates a closed shipping registry, accepting registrations of local ships only. Foreign owned ships are required to operate through agents.
- The **Independent Commission Against Corruption (ICAC)** was established under the Anti-Corruption Act 2017. The statute is new and Solomon Islands is in the process of establishing an anti-corruption body which will focus on corruption cases in collaboration with RSIPF.

Financial Sector Bodies

- **Central Bank of Solomon Islands (CBSI)** is responsible for the prudential monitoring and supervising of financial institutions in Solomon Islands, which includes banks, credit unions, insurance companies, insurance brokers, credit institutions, money transfer service providers and foreign currency exchange service providers.
- **The Inland Revenue Department (IRD)** is the division of the Ministry of Finance and Treasury that administers tax legislation and collects tax revenue for Solomon Islands Government. The audit section detects and investigates tax evasion.
- **The Foreign Investment Division (FID)** of the Ministry of Finance and Treasury considers applications for investment by foreign individuals and corporations and grants foreign investors permission to invest in Solomon Islands.
- **AML Reporting Officers Group (AMLRO)** meets quarterly and comprises representatives of SIFIU, CBSI, banks, insurance businesses and one foreign currency dealer and money changer.
- **Company Haus** is the registry of companies for both domestic and overseas companies operating in Solomon Islands.

Other regulators / supervisors

- **Solomon Islands Gaming Board** is the regulator for casinos.
- **The Institute of Solomon Islands Accountants** regulates accountants.

- Solomon Islands **Bar Association** regulates lawyers. Lawyers are admitted to practice by the Chief Justice.
- The **Ministry of Mines** regulates dealers in precious metals and stones.

Financial sector and DNFBPs

33. The actual size of the financial and DNFBP sectors is unclear. The financial sector comprises 4 banks, 2 finance companies, 12 money changers, 3 foreign exchange dealers, 10 credit unions, 7 insurance companies and 1 superannuation provider.

34. The DNFBP sector includes 29 legal practitioners, 11 accountants, 8 gold and precious metal dealers, 3 real estate companies and 2 casinos.

35. While the banks have been supervised for AML/CFT to some extent by SIFIU, other sectors are not actively supervised. In many cases while sectors such as casinos, accountants, lawyers and dealers of precious metals and stones have registration requirements, they are not supervised for AML/CFT. The real estate sector does not have a professional body that regulates its overall process and is not supervised for AML/CFT. To become a dealer in precious metals and stones in Solomon Islands, application is made to the Director of Mines, who determines whether the dealer is issued an Alluvial Miners Permit which is subject to renewal each year.

36. Solomon Islands is not a regional financial centre or a centre of company formation.

37. When assessing the effectiveness of preventive measures and AML/CFT supervision, the assessment team gave the highest importance to banks, followed by money transfer services and money exchange businesses, then life insurance, credit unions and other FIs. Amongst DNFBPs, casinos are considered high risk, and accountants and lawyers were given particular importance. All these sectors warrant close consideration as DNFBPs are not supervised for AML/CFT compliance in Solomon Islands.

Preventive measures

38. Solomon Islands drafted Money Laundering and Proceeds of Crime Regulations (MLPC Regulations) in 2014 but these are not in force. The absence of regulations further undermines the implementation of CDD measures and broader preventive measures.

39. Solomon Islands' CDD measures are required by the MLPCAA 2010 but section 12B (a) to (c) of the MLPCAA 2010 appears to exclude all reporting entities in Solomon Islands from being required to apply CDD, which is a significant deficiency.

40. Foreign banks have a solid understanding of AML/CFT obligations due to parent company policies and practices, but the limited outreach and local regulations undermine the preventive measures effectiveness. The lack of supervision and focus on DNFBPs greatly diminishes the effectiveness of measures in Solomon Islands, particularly noting the risk in sectors including casinos, and the risks of corruption related to domestic and international politically exposed people (PEPs).

Legal persons and arrangements

41. The process for creation of legal persons and recording basic ownership information is set out in the Companies Act 2009 and Cooperatives Act 1969, although public information

supporting this is very limited. Solomon Islands has provided no information on legal arrangements and no information is available on domestic express or foreign trusts.

42. The legal system of Solomon Islands recognises and creates several types of legal persons. They are: (i) Companies created under the Companies Act Cap. 175; (ii) Cooperative Societies formed under the Cooperative Societies Act Cap 164; and (iii) Charitable Trusts incorporated under the Charitable Trusts Act Cap. 55. As a common law system, Solomon Islands allows for the creation and recognition of trusts. Trusts are common law arrangements and are not governed or registered under statute.

43. All foreign companies operating in Solomon Islands must be registered with the Foreign Investment Division - Ministry of Commerce (formerly the Foreign Investment Board) and can then register as a business or company. As at 2018, approximately 203 foreign businesses were registered with Company Haus. A large percentage were unincorporated businesses.

Supervisory arrangements

44. The responsibility of supervising financial institutions is jointly pursued by the CBSI and SIFIU. The CBSI focuses on the prudential aspects of supervision whilst SIFIU is responsible for AML/CFT supervision.

45. SIFIU has one staff member dedicated to conducting AML/CFT supervision, with joint on-site inspections on the FIs conducted with the CBSI prudential supervision staff. AML/CFT on-site supervision has occurred mainly in the banking and insurance sectors based on invitations by the CBSI to SIFIU to conduct joint on-site inspections. On occasion, SIFIU has conducted onsite visits on its own. SIFIU has supervision responsibilities for the DNFBP sectors, but no supervisory activities have occurred within those sectors.

Cooperative Societies

46. Cooperative societies are registered under the Cooperative Societies Act Cap. 164. The provisions of the Companies Act do not apply to cooperative societies.

Charitable trusts

47. The charitable trusts are regulated by statute. The trustees of a charitable trust or a society fulfilling the role of a board of a charitable trust may apply for incorporation under the Charitable Trusts Act.

Non-Profit Organisations

48. NPOs/NGOs in Solomon Islands are referred to as Civil Society Organisations (CSOs). CSOs objectives are either for public benefit or private membership benefit. The Charitable Trusts Act provides for the registration of an association whose objective is one of either a religious, educational, literary, scientific, social or charitable purpose. Companies are registered by Company Haus. Company Haus utilises online services to register and update company information. Companies are to use this online software to register and update their company information. Company Haus is responsible for supervising companies and their compliance with the Companies Act. Cooperatives are looked after by the Registrar of Cooperatives. There is no institutional framework for legal arrangements.

49. The DSE (voluntary national NGO umbrella body) has a membership of 70 CSOs, and is aware of at least 30 additional active CSOs which are not DSE members. However, the 2010 MER placed the number of NPOs at approximately 700. Around 10 local branches of International CSOs operating in Solomon Islands have strong AML/CFT systems in their home jurisdiction that influence the conduct of their programs/operations in Solomon Islands.

50. In addition to the international CSOs, there are smaller local CSOs operating in the country which mostly receive support or funding from the government or membership donations. These CSOs are either for public benefit or private membership benefit. Measures to address the risks of TF abuse by CSOs include local banks applying EDD measures to CSOs when opening new bank accounts or conducting businesses with them. Most of the banks ask CSOs questions in relation to their source of funds, copies of registration documents and identities of board members. These measures reflect the banks' awareness of the TF risk and their obligations to AML/CFT compliance.

51. CSOs are not included under the MLPCAA 2010 and therefore do not have a legal obligation within Solomon Islands AML/CFT program, but in practice they are included in AML activities organised by SIFIU. CSOs were included in the National Risk Assessment in 2017.

International Co-operation

52. The competent authority for MLA, including Extradition, is the AGO. Solomon Islands can provide a wide range of assistance under its MACMA and its Extradition Act. Solomon Islands does not appear to need an extradition treaty or MLA agreement to provide and receive assistance.

53. Apart from references to MLA and extradition in the legislation, there are no guidelines, directions or prioritisation policies for handling MLA and extradition matters. The legislation provides enough detail to cover this limited deficiency. There have been no MLA requests or extradition requests made or received by Solomon Islands since the previous MER in 2010, although the RSIPF did request MLA on one occasion.

54. Solomon Islands is a member of the Pacific Islands Chiefs of Police, the Pacific Islands Law Officers Network, the Pacific Transnational Crime Network, the Association for Supervisors of Pacific Countries, the Oceania Customs Organisation and the Egmont Group of Financial Intelligence Units and works with its regional colleagues to enhance political governance and security in the region.

Key Findings and Recommended Actions

Key Findings

Risk, Policy and Co-ordination (Immediate Outcome 1)

- 1) Solomon Islands has a broad understanding of its ML risks as it completed its second formal assessment of ML/TF risk through the undertaking of its 2017 NRA. The major findings of the NRA are reasonable in Solomon Islands' context.
- 2) While Solomon Islands has assessed the risk for TF as very high to high, further consultation during onsite visit with both public and private sectors and consideration of prior indications of TF in the Pacific more generally, suggest the risk for TF is in fact low.
- 3) Whilst the process to prepare the NRA was comprehensive, with coverage of all relevant sectors including the public and private sectors, it is apparent that overall, the competent authorities as well as the private sector have a variable understanding of ML and TF risks.
- 4) Solomon Islands has some high and moderate risks within its context that require consideration by authorities. The NRA identifies six categories of predicate offences that make up Solomon Islands' key ML threats: (i) bribery/corruption, (ii) fraud, (iii) illegal logging, (iv) revenue/tax evasion; (v) illegal gold export; and (vi) illegal fishing. The financial sector is considered high risk and is vulnerable, given the limited understanding of the inherent ML/TF risks in this sector.
- 5) Solomon Islands has not yet developed and adopted policies which are informed by the identified risks. Whilst there is no national strategy or policy, Solomon Islands has introduced initiatives aimed at mitigating high risk predicate offences such as bribery/corruption through the establishment of Task Force Janus which is investigating fraud, bribery and corruption in the public sector. The activities of competent authorities are overall not in line with the identified ML/TF risks.
- 6) Solomon Islands is yet to adopt a risk-based approach for exemptions from AML/CFT requirements. There is no application of simplified or enhanced preventive measures.
- 7) There is a fair degree of co-operation amongst the AMLTEG, through the various domestic MoUs, information sharing agreements and inter-agency co-operation initiatives. This is evident in the various inter-agency operations/investigations between the LEAs as well as through quarterly meetings. Solomon Islands has no co-operation or co-ordination on PF.

Recommended Actions

- a) Conduct sector-based risk assessments focussed on higher risk areas.
- b) When updating the TF risk assessment, ensure the robustness of the process, including by considering quantitative and qualitative data on TF risk and CFT policies, activities and measures; and the findings of various agency-level assessments on TF threat, vulnerability and consequence, and by consulting all relevant stakeholders.

- c) Develop national and sectoral AML/CFT policies based on risk with each relevant competent authority needing to develop its own internal policies, priorities, procedures and an action plan based on these policies.
- d) Develop and apply enhanced measures for higher risk scenarios and simplified measures for lower risk scenarios, based on the identified risks.
- e) Utilise risk to prioritise capacity building and allocate resources, in order to develop and implement measures to prevent and mitigate ML/TF, particularly in prioritising operational resources to address higher risk areas.
- f) Authorities should ensure that all industries (beyond the major banks) are aware of the country's ML/TF risks. This should include comprehensive dissemination of the NRA, and may include a programme of outreach activities to certain sectors where deemed necessary,

55. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1-2.

Immediate Outcome 1 (Risk, Policy and Co-ordination)

Background and Context

56. Solomon Islands first conducted an NRA in 2009, with a second NRA in 2017. Solomon Islands AMLC is responsible for the oversight of Solomon Islands' AML/CFT program and oversaw the 2017 NRA. The primary agencies responsible for the preparation of the NRA were members of the AMLC and its AML Technical Experts Group (AMLTEG). The AMLC includes Solomon Islands Attorney General as Chairperson, the Governor of the CBSI as Deputy Chairperson, Permanent Secretary MoF, Comptroller of Customs, Assistant Commissioner of Police Crime and Intelligence, Royal Solomon Islands Police Force (RSIPF), and the Director of SIFIU as the Secretary to the AMLC. AMLTEG comprises the Director of Public Prosecutions as Chairperson, Director of SIFIU as Secretary, and representatives from Immigration, Customs and Excise, Inland Revenue Division, RSIPF, Ministry of Foreign Affairs and CBSI.

57. The ML/FT NRA approach was to identify the highest ML/TF risks requiring the most immediate mitigating strategies. The approach taken in identifying the major ML threats in and through Solomon Islands was through the amounts of funds derived from predicate crimes and therefore available for ML/TF. As there was little or no statistical information captured on the level of funds involved in most of the predicate crimes, expert opinion gathered through questionnaires and interviews with Solomon Islands government agencies and the private sector was used as the basis to determine the possible threats and vulnerabilities which could result in ML/TF. A range of data sources including open sources were also used in the development of the NRA.

58. The NRA was completed in May 2017 but the final version had not been discussed with and disseminated to all the relevant key stakeholders (government and private) at the time of the on-site. Some of the larger financial institutions did receive a draft copy although recollection of the details was limited. The NRA was formally endorsed by the chairman of the AMLC during the on-site. Not all members of the AMLTEG had received a copy of the finalised NRA, but all members of the AMLC had received a copy.

59. The NRA applied a number of assumptions in determining the risk of ML/TF in Solomon Islands:

- The higher the value of funds laundered, the greater the threat for ML.
- For TF the value of funds derived from predicate offences were most likely to be at a much lower level for domestic TF, and TF in other countries involving citizens and expatriates of Solomon Islands.

Country's understanding of its ML/TF risks.

60. Solomon Islands has a solid understanding of its ML risks based on its 2017 NRA. The findings of the NRA have not however been adequately communicated among all government agencies and with reporting entities, resulting in a limited understanding of ML/TF risks by government agencies and a variable understanding by reporting entities.

61. Based on the NRA and confirmed during the on-site visit, the following six categories of predicate offences are Solomon Islands' key ML threats: (i) bribery/corruption, (ii) fraud, (iii) illegal logging, (iv) revenue/tax evasion; (v) illegal gold export; and (vi) illegal fishing. While NPOs are considered a high risk sector for ML and TF, a sectoral assessment is necessary to better understand the high risk NPOs, so appropriate mitigating strategies can be adopted.

62. The assessment team understands ML is predominantly through self-laundering, although significant vulnerabilities exist for laundering (and associated bribery/corruption) in the logging and mining industries. This understanding is shared by Solomon Islands. It is unclear what the proportion of illicit proceeds flowing out of Solomon Islands is, and whether authorities have adequate mechanisms to quantify, track and prosecute such instances.

63. Solomon Islands has a significant cash economy, with estimates of 30-40% of the whole economy provided to the assessment team by both competent authorities and representatives of the private sector. It is unclear what specific measures the government is undertaking to mitigate this vulnerability.

64. Solomon Islands has deficiencies in its AML/CFT regulation and supervision of NBF bank and DNFBPs sectors - in particular casinos, real estate, and dealers in precious metals and stones who have no supervision for AML/CFT. Other professions and businesses with ML/TF vulnerabilities and little to no AML/CFT oversight include lawyers, accountants, insurance, not-for-profit organisations, dealers in motor vehicles, dealers in war relics and superannuation/provident funds (2017 NRA). It appears that this lack of AML/CFT supervisory resources contributes to a limited understanding of the inherent ML/TF risks in these sectors.

65. The NRA notes that Solomon Islands has a moderate risk related to real estate where proceeds of crime from domestic and overseas offenders may be layered. This is of concern, noting no mitigating measures were evident.

66. Discussions with competent authorities suggest that Solomon Islands has a limited understanding of its TF risk. While TF risk was assessed as very high to high, this appears a more academic assessment with limited consideration of prior indications of TF in the Pacific, regional risks and context. Both interviews during the on-site visit where authorities agreed that the risk was low despite the findings in the NRA and open source material considered by the assessment team suggest that the TF risk is low which is consistent with other Pacific Island jurisdictions.

67. While the risk is considered by the team to be low, the understanding of TF among both the government and private sector is very limited, which restricts the opportunity to understand what is required and to implement measures commensurate with this risk.

National Polices to address identified ML/TF risks

68. While Solomon Islands completed its second NRA in May 2017, it is yet to develop national AML/CFT policies informed by ML/TF risks. There is no clear strategic direction informing the prioritisation of ML/TF risk mitigation by competent authorities.

69. In practice, Solomon Islands primarily focuses on the investigation and prosecution of its major predicate offences such as bribery and corruption, while the lack of capacity to investigate and prosecute financial crimes limits ML investigations.

70. The Solomon Islands has established Task Force Janus headed by RSIPF and the Ministry of Treasury to investigate fraud, bribery and corruption in the government and public service. The creation of Task Force Janus was an implicit policy response to high risk crime of corruption.

71. The ICAC is newly established. At the time of this report RSIPF handled corruption cases. Once ICAC is fully operational, RSIPF and ICAC will collaborate on corruption cases.

72. Solomon Islands does not appear to have the mechanisms to develop TF financial intelligence or to investigate TF even though the risk is low.

73. Despite the identified higher risk by Solomon Island authorities, Solomon Islands does not have a strategy to mitigate TF. With regard to terrorism, RSIPF as the lead agency is mandated to co-ordinate the implementation and monitoring of the Counter Terrorism Act. However, to date little co-ordination has occurred regarding terrorism. Similarly, while SIFIU is the co-ordination agency for TF, no co-ordination has occurred to date.

Exemptions, enhanced and simplified measures

74. Solomon Islands is yet to implement enhanced measures required in a risk-based approach, as the 2014 draft MLPC regulations are not yet in force. International banks have more rigid CDD and verification processes based on head office requirements although they are not required to apply enhanced measures.

75. Higher and lower risk sectors and entities have been identified in the NRA; however, a risk-based approach for AML/CFT has not been implemented by SIFIU.

Objectives and activities of competent authorities

76. No agencies have used risk to inform agency-based policies and activities, nor is there a risk-based approach for resource allocation and implementing measures and priorities.

77. Whilst there is no national strategy or policy, Solomon Islands has initiated Task Force Janus to combat bribery, corruption and fraud in the public service, which are high risks for ML/TF in the 2017 NRA. RSIPF has three separate Units that deal with bribery, corruption and fraud by parliamentarians, provincial officials and public servants, and fraud related crimes against low level public servants and the general public, including the private sector (see Case Study 3.2, Regina v Stephen Jude Oto, 2018 in IO.6).

National co-ordination and co-operation

78. The AMLC is the overall body responsible for oversight of the AML/CFT program in Solomon Islands through formulating, implementing, monitoring and reviewing AML/CFT policies in accordance with the AML/CFT Act.

79. The AMLTEG is the working group created in 2008 by the AMLC, comprising of technical officers from the various agencies that make up the AMLC. It is tasked by the AMLC to identify ML/TF issues and develop AML/CFT solutions in Solomon Islands.

80. There is a fair degree of co-operation between SIFIU, the CBSI, SRBs and the law enforcement bodies through the various domestic MoUs and information sharing agreements. This is evident through inter-agency operations/investigations between the LEAs (see IO.7) as well as quarterly meetings.

81. Solomon Islands does not have a clear co-ordination mechanism for terrorism, even though RSIPF is the designated agency for combatting terrorism and SIFIU for combatting TF. There is no co-ordination policy, designated co-ordination point or standard operating procedure for proliferation financing issues.

Private sector awareness of ML/TF risks

82. While the private sector stakeholders were engaged in the preparation of the NRA, there was limited recall of the process and variable understanding of the key risks facing Solomon Islands. The final NRA has been disseminated only to the larger financial institutions regulated by SIFIU. SIFIU has not conducted any outreach/workshop on the NRA to the smaller financial institutions, cash dealers and legal practitioners or the private sector in general

83. In the absence of a national public awareness raising strategy, the implementation of ML/TF risk awareness activities within the private sector is unclear.

84. The major banks recognised corruption, illegal logging, tax evasion, fraud and casinos as the major risks for ML/TF in Solomon Islands.

85. The cash economy, estimated by some reporting entities to be well over 30% in size, was recognised as a significant vulnerability.

Overall conclusion on Immediate Outcome 1

86. Solomon Islands has not developed national AML/CFT policies to address the ML/TF risks identified in the 2017 NRA. While it has a solid understanding of ML/TF risk, it has not demonstrated a strategic approach to allocating resources and developing mitigating strategies. Sector-specific policies should be developed based on the identified risks. Overall co-ordination among government agencies is good. No enhanced or simplified measures are undertaken based on risk and only limited risk mitigation strategies have been implemented such as Task Force Janus to mitigate high ML risks.

87. **Solomon Islands has a moderate level of effectiveness for Immediate Outcome 1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

3

Key findings

Use of financial intelligence (Immediate Outcome 6)

- 1) Financial intelligence is primarily developed by SIFIU. To a limited extent, the Inland Revenue Department, RSIPF and Customs have also developed financial intelligence products in relation to the investigation of predicate and ML offences. In line with the low risk of TF, no related financial intelligence has been developed.
- 2) There is good use of financial intelligence in criminal investigations by RSIPF, but use by the other LEAs is negligible. RSIPF regularly makes requests to SIFIU for information to support its predicate offence investigations, and there is a good level of collaboration and co-operation between RSIPF and SIFIU. This has resulted in multiple criminal investigations mainly involving corruption, fraud or misappropriation of funds.
- 3) LEAs operational strategy does not include the use of financial intelligence to guide parallel or standalone money laundering investigations, and the focus of investigations is on predicate offences rather than ML.
- 4) SIFIU utilises financial transaction reports (predominantly STRs) in its database to undertake operational analysis and to a limited extent strategic analysis and to disseminate intelligence reports to LEAs. These reports are well developed and are positively received by RSIPF. There is a reasonably effective level of multi-agency collaboration within Solomon Islands such as Task Force Janus.
- 5) Statistics and case examples demonstrating the use of financial intelligence were not comprehensive and extensive.
- 6) Whilst RSIPF is adequately resourced to investigate financial crime, other competent authorities including SIFIU, Customs and IRD do not appear to have the resources and capability to undertake comprehensive financial analysis and financial investigations.

ML Offence (Immediate Outcome 7)

- 1) Solomon Islands has had one successful ML conviction case. This case was an STR generated case referred to RSIPF by SIFIU. The penalty of 12 years' imprisonment was considered both proportionate and effective.
- 2) RSIPF is the primary authority to identify and investigate ML and has the power to investigate all predicate offences and conduct parallel investigations. Other LEAs (Customs, Immigration and IRD) have powers to investigate ML and to support RSIPF with its investigations but do not do so in practice. RSIPF prioritises the investigation of corruption and fraud (high ML risks), and pursues predicate offences. There is no policy to follow the money and pursue ML in RSIPF.
- 3) RSIPF and ODPP focus on self-laundering cases and have little understanding of other types of ML which require investigation on occasion.

- 4) The Court has quashed some ML convictions on the grounds of the ML offence overlapping facts with the predicate offence. Under S2 of the Penal Code, if a person commits an offence punishable both under the Penal Code and another Act, the person shall not be punished for that offence under both the Penal Code and the Act. This is a significant technical deficiency.
- 5) Insufficient resources, limited understanding of financial evidence, limited capability to investigate financial crime and lack of appropriate evidence gathered also contribute to the lack of ML convictions achieved.

Confiscation (Immediate Outcome 8)

- 1) Solomon Islands does not have a policy or strategy to pursue the proceeds of crime and confiscate criminal proceeds or property based on identified ML/TF risks.
- 2) Although Solomon Islands' legal framework for confiscation is generally sound, the low level of confiscation activity is not in line with the assessment of ML risk.
- 3) RSIPF seizes properties to prove evidence of an offence and does not pursue confiscation, but relies on ODPP to decide whether a confiscation order will be applied to the case.
- 4) ODPP is, in practice, the sole authority to apply for confiscation, pecuniary and restraining orders to the Courts, but limited success has been achieved due to insufficient evidence, lengthy and onerous processes and a limited focus by law enforcement and intelligence agencies (including Customs, NCID and Immigration) to pursue confiscation of proceeds, instrumentalities and property of equivalent value as a policy.
- 5) Customs do not focus on seizing falsely or undeclared currency and BNI and do not appear to have sufficient resources to detect cash smuggling or to monitor seaports.

Recommended Actions

Use of financial intelligence (Immediate Outcome 6)

- a) SIFIU should enter into more active information sharing with domestic agencies to facilitate the spontaneous dissemination of financial intelligence to LEAs, with mechanisms developed for improved two-way feedback between SIFIU and LEAs on the effectiveness of disseminations.
- b) LEAs should ensure they use financial intelligence, to guide parallel and standalone money laundering investigations and develop operational strategies supporting this.
- c) SIFIU should conduct outreach to all reporting entities on AML/CFT obligations and the required reporting (STRs, CTRs etc.) and should meet regularly with reporting entities and provide feedback on reports received and any resultant SIFIU or LEA responses.
- d) Conduct further operational and strategic analysis on identified ML/TF risks to enhance disseminated reports and better support LEA investigations with increased use of data from CTRs, EFTRs and BCRs recommended.

- e) Provide training to LEAs on the use and benefits of financial intelligence.
- f) Record and maintain comprehensive statistics. Improvement of IT systems and data collection to benefit resource utilisation and improve the analysis function in the FIU and other competent authorities including RSIPF, IRD and Customs.

ML Offence (Immediate Outcome 7)

- a) LEAs (particularly RSIPF) should prioritise ML investigations, and develop internal policies, procedures and mechanisms for more effective resource allocation (including recruitment) and to ensure a focus on both high risk predicate offences and ML investigations.
- b) RSIPF (and other LEAs where required) should develop policies and prioritise following the money and pursuing ML.
- c) Provide ongoing training to all LEA staff, prosecutors and judiciary to enhance understanding of investigating and prosecuting ML in Solomon Islands, as well as to increase the required technical skills.
- d) Recruit staff with specialised skills such as a financial crime investigators, financial analysts or forensic accountants in LEAs, which will provide dedicated resources to undertake and enhance financial investigations.
- e) ODPP should pursue stand-alone and third party ML convictions in co-operation with RSIPF to obtain ML convictions separately to a predicate offence as well as pursue ML convictions related to variety of predicate offences such as corruption, illegal logging, illegal gold export, etc.
- f) Amend s.2 of the Penal Code to ensure that a person can be convicted under both the Penal Code and other legislation.

Confiscation (Immediate Outcome 8)

- a) Develop and implement a policy, procedures and strategy on confiscation of criminal proceeds, which considers Solomon Islands' ML/TF risks.
- b) LEAs should proactively pursue the confiscation of proceeds of crime and make greater use of the full range of seizure and confiscation powers available to them. LEAs should have a policy directive to confiscate criminal proceeds where appropriate in the course of their investigations.
- c) Provide training to LEAs and prosecutors to allow for confiscation of criminal proceeds, instrumentalities and property of equivalent value.
- d) Customs should focus on seizing falsely or undeclared currency and BNI, and to have appropriate resources to detect cash smuggling and to monitor seaports.

88. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.3, R.4 & R.29-32.

Immediate Outcome 6 (Financial intelligence for ML/TF and predicates)*General framework*

89. SIFIU is a hybrid FIU which sits within the CBSI. SIFIU was re-established under section 11D of the MLPCAA 2010 and is the designated agency responsible for the implementation of the Act. It has four staff funded by the central government, RSIPF and CBSI.

Use of financial intelligence and other information

90. SIFIU intelligence is used routinely by RSIPF, to develop and identify potential evidence in its investigations into financial crime offences and to a lesser extent ML investigation, while the other LEAs rarely utilise financial intelligence. This is due to variable understanding of its use and benefits. This intelligence is predominantly STRs with negligible reference to cash transaction reports (CTRs, EFTRs and BCRs); or RSIPF requests for financial intelligence analysis to be conducted by SIFIU. SIFIU disseminations are also regularly made to IRD to support its investigation of tax crimes.

91. While some statistics and case examples were provided to the assessment team showing limited use of financial intelligence, Solomon Islands did not provide comprehensive and/or consistent examples and statistics.

92. Customs has developed its own financial intelligence products and has not requested any information from SIFIU from 2013 to 2018. SIFIU has only made one dissemination to Customs in this time period. SIFIU does not spontaneously disseminate its financial intelligence to foreign FIUs or to foreign LEAs.

Table 3.1: Disseminations by SIFIU to relevant authorities: 2013 – 2018

Receiving Authority	2013	2014	2015	2016	2017	2018 to 2 nd December
RSIPF	2	9	6	4	4	3
Customs	0	0	0	0	1	0
Tax	0	4	8	4	13	4
Foreign FIUs	0	0	0	0	0	0
Foreign LEA	0	0	0	0	0	0
Other	1	1	0	0	4	3
Total	3	14	14	8	22	10

Source: Solomon Islands authorities

93. SIFIU has a wide range of powers and access to multiple sources of financial and other information. LEAs do not have online access to other authorities' databases (including SIFIU). When further information is required from another government agency, this is normally done by letter, although in urgent cases information can be obtained by email or telephone. On average it usually takes 1-3 days to get a response from FIs/LEAs.

94. LEAs and SIFIU have powers to obtain a good range of financial and other information from reporting entities, which can be used in criminal investigations. Financial intelligence and information is used regularly by RSIPF and to a minimal extent by other LEAs in the investigations of predicate crimes and ML. It is not routine LEA practice to seek financial intelligence and other information from SIFIU. However, most LEAs do not appear able to effectively develop their own financial intelligence at this stage to further support investigations.

95. RSIPF use and develop financial intelligence disseminated to them, as evidenced by case studies in IO.7. Regular interactions between RSIPF with SIFIU and FIs has assisted in the development of the predicate financial crime cases that RSIPF investigate.

96. RSIPF has utilised information disseminated by SIFIU to assist in investigations. Cases that commenced through the dissemination of financial intelligence led to the following convictions (see table below).

Table 3.2: Predicate/ML investigations involving financial intelligence: 2013 - 2018*

Year	Matter	Predicates	Result	Agencies
2014	Regina v Iverlyn Diudi	Failing to declare currency and false declaration	Conviction – Paid fines	Customs, CBSI (SIFIU) and RSIPF
2014	DPP v Benebig	Failing to declare currency and false declaration	Conviction – Paid fines & forfeiture of €10,000	Customs, Immigration, CBSI (SIFIU) and ODPP
2015	Regina v Philip Bobongi	Larceny and embezzlement	Conviction – 12 Years Imprisonment (3 years imprisonment for 37 counts of ML to run concurrent to 9 years for larceny)	CBSI (SIFIU), RSIPF and ODPP
2018	Regina v Tommy Qazobatu	Larceny and embezzlement	Conviction – 5 Years Imprisonment	CBSI (SIFIU), RSIPF and ODPP

*Selected cases only

Source: Solomon Islands authorities

97. Customs focusses predominantly on revenue collection and related offences. Customs collects BCRs at the border and these are forwarded to SIFIU, although it is unclear how these reports are analysed and used to support Customs and other LEAs efforts. A good example of the effectiveness of the STR regime is outlined in the case study below (for further examples, see case studies in IO.7).

Case Study 3.1 Analysis by SIFIU for RSIPF for Prosecution

Person X, an accountant in the Ministry of Culture and Tourism, was part of Solomon Islands contingent that travelled to Papua New Guinea (PNG) for the Melanesian Festival of Arts in July 2014, with overall responsibility for team finances. On return to Honiara International Airport, Person X failed to declare to the customs authority the excess foreign currency (PGK 95 000 (USD 28 125) which is equivalent to SBD 225 000) in her possession.

Person X then went to one of the commercial banks in Honiara and decided to sell the PGK 95 000 in exchange for SBD currency. The bank was suspicious of the excess foreign currency and decided to check with the airport customs authority to see if the money was declared by Person X. Customs confirmed that the foreign currency was not declared and that Person X was likely to have breached the Customs Declaration Act.

The bank then made a STR to SIFIU, who after analysis and assessment disseminated the STR to the police, who successfully prosecuted the case in court.

Person X pleaded guilty to (i) Failing to declare foreign currency to Customs c/s 3(3) Declaration Act 2009; and (ii) False declaration c/c 212 (a) Customs and Excise Act 2009.

Person X was sentenced to SBD 5 000 (USD 625) fine or 18 months in imprisonment; SBD 1 000 (USD 125) fine or 2 months imprisonment; and Court orders that the money involved be returned to Solomon Islands Government Treasury.

(REGINA –v- IVERLYN DIUDI - Criminal Case No: CRC 683/2014 CMC)

98. LEAs operational strategy does not include financial investigations and does not use financial intelligence to guide parallel or standalone ML investigations.

99. Multi-agency collaboration is facilitated through regular quarterly meetings of AMLTEG and the AMLC, constituted of senior members of the key LEAs. Multi-agency use of financial intelligence is uneven, with 28 STR's disseminated to RSIPF in six years and 162 requests for information from RSIPF to SIFIU in the same period. This represents approximately 58% of all SIFIU disseminations domestically. There has only been one report disseminated to Customs and Customs has made no requests for information from SIFIU.

100. Further evidence of this unevenness can be demonstrated through Task Force Janus (joint RSIPF and Ministry of Finance and Treasury taskforce), a vehicle to identify and prevent public service corruption in Solomon Islands. Task Force Janus, an intelligence-led initiative, uses and seeks financial intelligence to assist its investigations. SIFIU contributes financial intelligence on requests however its general involvement with Task Force Janus is minimal. SIFIU provides financial STR intelligence to RSIPF who assesses its relevance to Task Force Janus. Task Force Janus staff members advise that financial intelligence obtained from SIFIU and through Court Orders, is appropriately used in every case when financial intelligence identifies information held by financial institutions.

101. There is a high level of financially motivated criminal offences prosecuted by the Solomon Island courts. These offences commonly relate to corruption or theft. The Courts have indicated that when a predicate offence is charged, there is no need for a ML charge (see also IO.7). This approach by the Courts has manifested itself in the focus of financial crime investigations being on the predicate offence as opposed to ML. This factor and the low priority given to confiscation of the proceeds of crime (IO 8) appears to inhibit the use of financial intelligence in financial crime investigations.

102. Through Task Force Janus, Solomon Islands has effectively investigated and prosecuted corruption which is a high risk predicate offences. SIFIU supports Task Force Janus investigations through the provision of financial intelligence. See case study 3.2, 3.3 and 3.4, noting that case study 3.2 was the first case involving a STR generated dissemination report from SIFIU that resulted in a conviction.

Case Study 3.2: Investigation of Corruption (high-risk predicate offence) 1

Corruption case investigated by Janus (R vs S.J.O, 2018)

Mr. S.J.O was employed as the Financial Controller in the Ministry of Police, National Security, and Correctional Services. He was charged with 11 counts of Official Corruption contrary to s.91(a) of the Penal Code in October 2016 for using his authority to approve payments totalling SBD 756 087 (USD 94 511) to J Enterprises which is his own company for services provided to the Ministry of Police. This case was dependant on FIU data and intelligence and involved both SIFIU and CBSI and took over 12 months for the investigation to be undertaken

Mr S.J.O was convicted on 16 May 2018 and sentenced to three years' imprisonment.

(REGINA -v- STEPHEN JUDE OTO, 2018 – Criminal Case No: CRC 714/2016)

Case Study 3.3: Investigation of Corruption (high-risk predicate offence) 2

Fraudulent falsification case investigated by Janus (R vs E.R, 2017)

Mr. E.R was employed as an Income Tax Assessor at Inland Revenue, Ministry of Finance and Treasury. On 30 November 2016, he was arrested and charged by Taskforce Janus with six counts of fraudulent falsification of accounts (s.306 of the Penal Code). Between 1 January 2015 and 1 July 2016, the accused entered into negotiations with personnel from D.T Limited in respect of the assessment of the company's tax liabilities. This case was a referral from the Ministry of Finance and Treasury and involved the Ministry of Police, National Security and Correctional Services. SIFIU supported the RSIPF in collecting financial information and intelligence from the commercial banks.

Between 2015 and 16 June 2016 the accused completed tax assessments in respect of a Honiara based company D.T Limited. Having made an assessment as to outstanding tax arrears the accused entered into negotiations with representatives of D.T Limited for the waiver of their tax liabilities. The accused then fraudulently falsified materials in respect of the tax liability of D.T Limited on the IRD System, reducing that liability for Turnover Tax to a nil balance.

The accused solicited a SBD 30 000 (USD 3 750) payment for reducing D.T Turnover Tax liability to a zero balance. On 30 September 2017, Mr E.R was convicted and sentenced to five years' imprisonment.

(REGINA -v- ELLISON RAOGA - Criminal Case No: CRC 904/2016)

Case Study 3.4: Investigation of Corruption (high-risk predicate offence) 3

Corruption involving MP investigated by RSIPF Anti-Corruption Team

On 31 October 2018, RSIPF arrested and charged a serving Member of Parliament under the Penal Code for the alleged conversion of a SBD 3 million (USD 375 000) grant from the National Transport Fund 2013.

One payment of SBD 2.8 million (USD 350 000) was purportedly for the purchase of a ship. It is alleged the ship was never received by the constituency and that the remaining funds of SBD 200 000 (USD 25 000) were used to purchase items not related to the purpose of the grant. The Court trial started in 21 January 2019.

Source: RSIPF

103. There have been no STRs disseminated to domestic LEAs relating to TF, which is consistent with the low risk for TF. One STR initially suspected to be TF was able to be discounted by SIFIU as not being TF related after further investigation.

STRs received and requested by competent authorities

104. Competent authorities in Solomon Islands displayed a general awareness of the financial intelligence they could request or receive from SIFIU. During the on-site meetings LEA's provided some positive feedback on the financial intelligence generated by SIFIU (Table 3.3). Customs and Immigration authorities did not request any financial information from SIFIU.

Table 3.3: LEAs / Competent Authorities requests for Information from SIFIU: 2014-2018

Year	RSIPF	Customs	Tax	Immigration	CBSI	Janus	Others	Total
2014	23	0	1	0	0	0	0	24
2015	46	0		0	0	0	0	46
2016	32	0	1	0	5	0	0	38
2017	26	0	6	0	0	0	19	51
2018	35	0	9	0	11	3	29	87

Source: SIFIU

105. SIFIU requests additional information from reporting entities to analyse STRs and perform other financial analysis (Table 3.4). Additional information typically requested includes related bank account opening documents and transaction histories.

Table 3.4: Number of requests from FIU to RIs for additional information: 2013 - 2018

Year	Queries to RIs for additional information
2013	52
2014	52
2015	22
2016	89
2017	60
2018 (up to 2 nd December)	58

Source: SIFIU

106. Most of the financial intelligence reports disseminated to RSIPF for further investigation are based on STRs developed through operational analysis by SIFIU. Some reports are disseminated to the other LEAs. The level of STR reporting (Table 3.5) is generally low and the vast majority of reports are provided by the banks. Reporting from the MSBs and the DNFBP sector is very low.

Table 3.5: STRs received by SIFIU from RIs: 2013 – 2018

Reporting Institutions	2013	2014	2015	2016	2017	2018 up to 2 nd December
Financial institutions	28	34	51	69	86	60
Money remitters	0	0	3	1	3	6
DNFBP's	0	0	0	0	0	0
Regulator	0	0	0	1	0	0
Voluntary	0	0	0	0	0	0
Other	0	0	2	1	0	0
Total	28	34	56	72	89	66

Source: SIFIU

107. There is a good level of reporting of financial transactions and other reports received by SIFIU (see Table 3.6). Reports are required to be entered manually and this presents a huge challenge with respect to analysing this information effectively.

Table 3.6: Number of Financial Transaction and other Reports Received by SIFIU: 2013- 2018

Transaction report type	2013	2014	2015	2016	2017	2018 up to 2 nd December
STR	28	34	56	72	89	66
Currency transaction	52,129	54,399	58,431	112,970	58,179	42,542
Electronic transaction	13,364	15,628	16,961	25,233	26,039	21,931
Border Currency	41	78	97	91	59	54
Other	0	0	0	0	0	0
Total	65,562	70,139	75,545	138,366	84,366	64,593
Monthly average	5,464	5,845	6,295	11,531	7,031	5,383

Source: SIFIU

108. In 2016 currency transaction reports increased on average by around 50 000 reports. The bank normally sends CTRs that are SBD 10 000 and above, SIFIU then extracts and records the data it requires (SBD 50 000 and above). During 2016, instead of extracting the prescribed amount of SBD 50 000 and above, the whole data set sent by the bank was recorded, therefore, the number of transactions shows an unusually large increase. This issue was addressed, and subsequent reporting volumes are more in line with pre-2016 levels.

109. RSIPF regularly seeks SIFIU assistance to support its investigations; other competent authorities seek assistance on a far less frequent basis and Customs and Immigration authorities not at all. The majority of serious cases are focussed on the predicate offence. There is limited evidence of financial intelligence supporting ML investigations. ML investigations are not routinely supported by prosecutors and the judiciary which further reinforces LEAs tendencies to focus on the predicate offence.

Operational needs supported by FIU analysis and dissemination

110. SIFIU undertakes operational analysis and a limited amount of strategic analysis and the product of this analysis has been used by other competent authorities. Examples of this are case study 3.5 and 3.6 below:

Case Study 3.5: Use of operational analysis 1

Case development through analysis by SIFIU in relation to a foreign resident in Solomon Islands.

A STR was submitted to SIFIU by Bank X on 2 February 2016 as a foreigner (Person Y) intended to wire transfer a large sum of money overseas using his personal bank account. In addition, Person Y was suspected of tax evasion.

SIFIU analysis confirmed Person Y was operating a business without a license. This was confirmed by the Company Haus registry and enquiries with IRD identified they had not paid any tax. The business involved goods being imported from a foreign country, the recipients of the imported goods would pay the required import duties at import and on receipt of the goods would also pay the importer directly in cash. This cash was deposited by Person Y into a Solomon Islands bank accounts and transmitted back to the foreign businessperson's home country. A multi-agency meeting comprising SIFIU, Inland Revenue Department (IRD) and the Office of the Director of Public Prosecutions (ODPP) resulted in implementation of a co-ordinated operational plan.

The matter was settled out of court in January 2017 and the Inland Revenue (IRD) applied its powers under section 85 of the Income Tax Act 123 and ordered Person Y to pay SBD 621 000 for outstanding taxes owed to the IRD over the years.

Source: SIFIU

Case Study 3.6: Use of operational analysis 2

Case development through analysis by SIFIU in relation to the use of fake or multiple passports to remit funds overseas

A STR was raised by Bank Z on 26 July 2017 and reported to SIFIU, regarding a foreign national based on a third-party transaction. An attempt was made to transmit funds using a third party's passport which had no immigration stamp in it when checked by the responsible bank officer. The person of interest (POI) is employed in a key business role in Solomon Islands.

Analysis of the STR and additional material from a Solomon Islands MSB identified that multiple people's passport details were being used as evidence of identity to remit funds to the overseas account previously identified as being used by the POI.

SIFIU used this analysis to provide a typology to the MSB and warned them to ensure effective passport verification going forward.

A verification request sent to the immigration department on the individuals revealed that there were no such individuals in their records, which lead to serious concerns regarding the use of fake, stolen or forged passports.

Additional information was received from FIs that identified bank accounts opened utilising these suspected fraudulent passports to create the bank account. This verified that a few of the individuals do exist and work in Solomon Islands, indicating a possible oversight by immigration. SIFIU has concluded that this is a case of using fake or multiple passports to remit funds overseas.

SIFIU issued an alert notice to all FIs and MSBs. An intelligence report was disseminated to the Immigration authorities.

As a result of the alert notice, one MSB reported to SIFIU on 08 October 2018 confirming that it has disallowed a transaction suspected of using a fake passport by one of the foreign nationals. The matter was also then reported to Immigration who were alerted about the passport concerned.

3

Source: SIFIU

111. SIFIU does not receive EFTR and CTR reports electronically and all reports are added to an Excel database manually. This results in a very high level of scrutiny of each report but is not an effective method for the collation of data for analysis. Once the reports are added to the database, analysis is performed using the tools of the Excel database.

112. Cases disseminated to RSIPF are mainly on predicate crimes or offences including corruption, fraud/bribery etc. SIFIU supports RSIPF with additional information from reporting entities in response to its requests on current cases, which include a few ML cases. SIFIU supports IRD and Janus with its investigation of tax crimes or public service corruption offences. Case Study 3.7 is an example of the effective use of SIFIU financial intelligence by RSIPF and ODPP.

113. The variable understanding of the use and benefits of financial intelligence by LEAs minimises the overall effectiveness of the use of financial intelligence in Solomon Islands. In the context of the size and geographical location of Solomon Islands there is a moderate level operational analysis conducted by SIFIU that supports the operational needs of LEAs. The collection of data from CTRs and EFTRs for analysis is not done effectively. SIFIU receives CTRs, EFTRs and BCRs but does not use these reports to generate strategic intelligence to achieve operational objectives. Some strategic analysis was previously conducted by SIFIU looking at emerging, continuing and declining trends with respect to ML and other predicate offences, but this is not occurring on an ongoing basis.

Co-operation and exchange of information/financial intelligence

114. SIFIU is the central AML/CFT co-ordinator, which allows for the open exchange of information and intelligence amongst key agencies. SIFIU has good working relationships with LEAs. Domestically, SIFIU has MOU arrangements with the IRD, RSIPF, AMLC, CBSI and Customs and Excise to facilitate exchange of information and intelligence. There is no formal MOU between SIFIU and Immigration, however AMLTEG facilitates the sharing of information between Immigration and SIFIU.

115. SIFIU engages with all the LEAs including other stakeholders that are covered under the AML/CFT framework. Quarterly meetings are held for all the working groups (AMLC, AMLTEG and AMLRO), and SIFIU also organises informal meetings with some agencies.

116. SIFIU has signed seven MOUs with international counterparts. SIFIU has been a member of the Egmont Group of Financial Intelligence Units since 2011. No evidence of international co-operation has been provided (see Table 8.2).

117. Reporting sectors indicated that they receive little or no feedback from SIFIU with respect to the reports submitted to SIFIU.

118. SIFIU ensures the protection of FIU intelligence by placing caveats on intelligence disseminations. This includes restricting the further sharing of any information in its reports to

third parties without first obtaining the permission of SIFIU. SIFIU intelligence is normally disseminated via email with encrypted attachments, SIFIU also on occasion hand delivers reports.

119. Competent authorities including SIFIU appear to protect the confidentiality of the information exchanged, with no breaches identified. The security of information policy and guidance is found in their SOP published in 2009. SIFIU has physical systems and processes in place for the recording and security of information within SIFIU. SIFIU information is also backed up to an off-site server.

Overall conclusions on Immediate Outcome 6

120. Solomon Islands has access to a wide variety of financial intelligence and other relevant information; however, this is not widely used by competent authorities. There are good examples of financial intelligence being used to support investigations into associated predicate offences although it is infrequently used in ML investigations. SIFIU has not identified intelligence that relates to TF which is in line with the low risk of TF in Solomon Islands. The reliability, accuracy and timeliness of information shared across all competent authorities is variable. Whilst RSIPF are adequately resourced, other competent authorities failed to demonstrate that they have the resources and skills to fully utilise the information to conduct their analysis and financial investigations to identify and trace the assets, and to develop operational analysis. Financial intelligence developed by SIFIU and RSIPF is not normally focussed on ML, but on predicate offences.

121. **Solomon Islands has a moderate level of effectiveness for Immediate Outcome 6.**

Immediate Outcome 7 (ML investigation and prosecution)

ML identification and investigation

122. RSIPF is the primary LEA for the investigation of ML offences in Solomon Islands with 152 criminal investigators. RSIPF is authorised to investigate all crimes including ML, TF and predicate offences, including parallel financial investigations. The National Criminal Investigation Division (NCID) is in charge of financial investigations and seven investigators pursue ML cases. Other LEAs and competent authorities including SIFIU, are expected to support RSIPF in its ML investigations by providing information on predicate offences within their mandates.

123. RSIPF maintains statistics on the number of ML investigations undertaken, but these have not been provided to the assessment team.

124. The Office of the Director of Public Prosecutor (ODPP) is engaged in prosecution only, and does not investigate crimes. There is a small team of public prosecutors in Solomon Islands and all prosecute criminal cases including ML. In 2010, ODPP established a special prosecution unit, consisting of four prosecutors, to target corruption, ML and transnational crime. Since its establishment, the ODPP has prosecuted a number of corruption related cases; however, there have been few ML prosecutions.

125. ODPP advised that it co-operates effectively with RSIPF and works towards prosecuting ML cases sent from RSIPF. Between 2013 and 2018, RSIPF investigated some ML cases and the ODPP prosecuted one ML case. The ML prosecution rate was low because of lack of evidence of ML due to the cash economy in Solomon Islands, where criminal proceeds are easily dissipated and unable to be traced. There is also a preference for predicate crime prosecutions. The authorities have more experience in the investigation and prosecution of predicate offences, and

the penalty for the conviction of the predicate offence is often considered as satisfactory punishment.

126. There was one successful ML investigation and prosecution in 2015, relating to larceny offences. The offender was sentenced to 12 years' imprisonment.

Table 3.7: ML predicate offences

Year of Conviction	Predicate Offences	Offence Risk (NRA)*	Value	Sentence
2015	Simple Larceny	Medium	SBD 20 000 (USD 2 500)	2 years imprisonment. Conviction and sentence for ML was over turned on appeal to SI COA.
2015	Larceny and embezzlement	Medium	SBD \$1.5M (USD 187 500)	12 years imprisonment

* The NRA references theft not larceny and does not provide a risk rating for embezzlement

Source: Solomon Islands authorities

127. ML is usually self-laundering conducted by an individual in Solomon Islands. One significant ML conviction involved larceny and embezzlement. In the case of R vs P.B (Case Study 3.7), the main local defendant pleaded guilty to larceny, embezzlement and ML, and was sentenced to 12 years' imprisonment in 2015. Upon conviction, no fine was imposed on the defendant, so ODPP applied for a confiscation order in the High Court which is yet to be finalised. In the case of R vs T.Q (Case Study Case Study 3.8), an officer of the Central Bank pleaded guilty to larceny, embezzlement and ML, and was sentenced to 5 years' imprisonment for larceny and embezzlement. The ML charge was unable to proceed due to insufficient evidence.

Case Study 3.7: ML conviction 1

ML conviction involving larceny and embezzlement (R vs P.B, 2015)

RSIPF investigated Mr. P.B, an officer of the Central Bank, based on a STR from SIFIU. Between February 2001 and April 2009, Mr. P.B stole and embezzled SBD 1.7 million (USD 212 500) from CBSI, and between March 2007 and March 2009, he made deposits of SBD 866 150 (USD 108 269) into his and his wife's bank accounts. He was charged under Solomon Islands Penal Code and MLPCA, convicted on 26 August 2015 and sentenced to 12 years' imprisonment.

The ODPP applied a confiscation order to the High Court and has been waiting for a hearing of the application.

(REGINA –v- PHILIP BOBONGI - Criminal Case No: CRC 519/2010)

Case Study 3.8: ML conviction 2

ML conviction involved larceny and embezzlement (R vs T.Q, 2018)

RSIPF received a STR report from SIFIU regarding Mr. T.Q, a Central Bank Payroll Officer suspected of embezzlement by manipulating the payroll. RSIPF with the assistance of SIFIU investigated the financial transaction and confirmed such activity. RSIPF advised CBSI of the finding, resulting in the termination of employment. Between February 2013 and March 2013, Mr. T.Q allegedly manipulated the CBSI payroll system to pay ghost salaries to the value of SBD 870 588 (USD 108 824) into eight separate bank accounts he created which were operated in his wife's and child's names. He was charged under Solomon Islands Penal Code and MLPCA,

and was convicted on 1 November 2018 and sentenced to 5 years' imprisonment for larceny and embezzlement. The money laundering charge was unable to proceed due to lack of evidence.

(REGINA –v- TOMMY QAZOBATU)

3

128. RSIPF pursues parallel investigations of predicate offences and identifies and investigates ML. Solomon Islands authorities advised that in cases where ML was linked to predicate offences investigated by other LEAs, these agencies referred them to RSIPF for the investigation of the ML charges. However, no ML cases have been referred to RSIPF from Customs, Immigration and IRD. This shows that the respective LEAs are not focused on targeting criminal proceeds with a view to pursue ML. While there are good relationships between LEAs, in terms of investigating ML, they conduct their work in isolation, within the context of their administered duties.

129. RSIPF advised that it has tried to pursue ML by conducting parallel investigations in the course of predicate offence investigations, however, the authorities did not provide details to confirm the frequency and effectiveness of parallel investigations. Due to insufficient resources, limited understanding of financial intelligence and lack of evidence to prove ML, very few ML convictions have been achieved. The ML conviction achieved confirms that parallel financial investigations have occurred in some fraud and larceny cases.

130. It is not evident that RSIPF routinely identifies and investigates ML, separate to predicate offences. The possible reasons for this are as follows:

- RSIPF lacks a policy to follow the money and pursue ML.
- RSIPF prioritises investigation of predicate offences such as corruption and fraud investigations but does not trace criminal proceeds derived from such offences.
- The NCID is responsible for ML investigation, but lacks resources and capability to identify and investigate ML.
- RSIPF does not have internal guidance or directives on ML investigations.
- RSIPF and ODPP do not have the technical skills to investigate and prosecute ML.
- RSIPF and ODPP face challenges to collect evidence of ML due to a large cash economy where criminal proceeds in Solomon Islands are easily dissipated and unable to be traced.
- RSIPF and ODPP consider the penalty for conviction of the predicate offence as satisfactory punishment.

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

131. Corruption, illegal logging, tax evasion, fraud, illegal fishing and illegal gold exports are assessed as high risk crimes. The following table represents those predicate offences prosecuted between 2013 and 2018.

Table 3.8: Number of prosecuted high-risk predicate offences: 2014 - 2018

Offence	2014	2015	2016	2017	2018
Corruption	2	2	12	18	12
Illegal logging	0	0	0	0	0
Tax evasion	0	1	0	1	0

Fraud	4	6	5	8	6
Illegal Fishing	0	1	1	0	0
Illegal Gold Export	0	1	0	0	1
Total	6	11	18	27	19

Source: Solomon Islands authorities

132. SIFIU advised that STRs disseminated to RSIPF from SIFIU were mainly related to corruption, fraud and tax evasion cases. The two ML conviction cases were initiated from intelligence reports based on STRs which were disseminated to LEAs by SIFIU (Case Study 3.7 and Case Study 3.8).

133. For the six high-risk predicate offences in the above table, no ML case was prosecuted. RSIPF advised that it has investigated over 100 corruption cases, more than 100 fraud cases, 18 cases of corruption (by Task Force Janus) and four illegal logging cases received last year (2018), although no details were provided. Most of these cases are yet to be completed and are yet to reach the DPP office for prosecution (specific details not provided).

134. RSIPF focuses on the investigation of corruption/bribery and fraud, which are noted to be high risks in the recently completed NRA. Task Force Janus was created as an initiative between RSIPF and the Ministry of Finance and Treasury in 2016 to investigate and prosecute corruption and bribery in the public sector. In 2018, RSIPF restructured the NCID and now has three separate Units that deal with corruption, ML/TF and fraud. The Task Force Janus Team (7 staff) deals with high level public servants' corruption. The Corruption and ML/TF Unit has two Teams; Corruption Team (7 staff) and ML/TF Team (7 staff). The Fraud Team (14 staff) has separated into two teams for investigating persons of Government and non-Government. In spite of RSIPF's efforts, and ODPP's measures with a special unit established in 2010 to target corruption, ML and transnational crime for prosecution, there are no ML convictions related to corruption and fraud. RSIPF focuses on and pursues predicate offences, and does not strategically prioritise "following the money".

135. Solomon Islands provided details of five cases that Task Force Janus has investigated, with one STR-generated case resulting in a conviction (Case Study 3.2). This included the investigation of five officials from government agencies (IRD, Ministry of Finance and Treasury, Ministry of Police, National Security and Correctional Services and Ministry of Infrastructure Development) on official corruption, fraudulent falsification and conversion charges. Solomon Islands provided 13 cases that RSIPF's Corruption Team has investigated, with a further 75 cases that are prioritised for investigation. It is unclear if ML is being considered in any of these cases.

136. A joint investigation ("Operation Blue Boat") included RSIPF, Immigration, Customs, Ministry of Fisheries, Ministry of Foreign Affairs and other related agencies who were tasked to locate and detain suspicious illegal fishing boats (see Case Study 8.1). The defendants were charged with illegal fishing and other offences in April 2017.

137. Solomon Islands provided some cases of domestic co-operation between RSIPF and other administrative authorities for investigating ML and other predicate offences (fraud, human trafficking, sexual exploitation, etc.).

Case Study 3.9: Domestic Co-operation*Co-operation among RSIPF and domestic administrative authorities*

The Internal Audit Department (IAD) and the Ministry of Finance and Treasury (MoFT) performed an internal audit of domestic shipping and freight services that identified a number of suspicious procurements. SBD 12 million (USD 1.5 million) of procurement transactions were identified as potentially fraudulent transactions. Ten officials from MoFT and the Ministry of Health & Medical Services (MoHMS) were suspected of involvement. IAD and RSIPF worked jointly in undertaking the investigation.

As a result of this investigation, seven persons were arrested and charged by the RSIPF Fraud Team with multiple counts of False Pretence, Official Corruption, ML and Proceeds of Crime. There are government officials yet to be arrested and charged with this matter.

The following agencies collaborated on this case: RSIPF, PPF (RAMSI), Australian Agency for International Development (AusAID), MOHMS, IAD, ODPP and IRD.

The following have been criminally charged and their cases is still before Court, except for one accused who has already been convicted and sentenced by the Court:

- Mr. W.P, was charged in 2013 with 2 x Counts of False Pretence and 2 x Counts of ML. He was convicted in 2014 and sentence to 2 years and 6 months imprisonment. Consequent to a plea bargain the count of ML was withdrawn.
- Five defendants were charged in 2016 with false pretence and corruption and their matter are still before High Court for plea to be entered.

Source: Solomon Islands authorities

138. There are a small number of cases provided by RSIPF on investigations which involve co-operation with foreign counterparts with one investigation awaiting extradition from Australia based on MLA requested from Vietnam (see paragraph 341, IO.2).

139. Although Task Force Janus and RSIPF have investigated many corruption related cases, there are no ML convictions related to corruption. This shows that Solomon Islands does not prioritise targeting ML investigations consistent with its risk profile.

140. IRD investigates tax evasion and “follows the money” to recover unpaid taxes although these cases do not relate to ML/TF. There are 180 officers in the IRD with 25 tax investigators. Between 2013 and 2018, there were 583 investigations of tax-related crimes which collected unpaid tax (see IO.6). However, there were no ML cases in relation to the predicate tax crime. The IRD addresses the predicate offences of tax crimes, and rarely refers cases to RSIPF for investigation of ML.

141. While casinos are considered high risk in the NRA, no related ML/TF cases have been investigated. The lack of supervision for ML/TF and associated reporting (no STRs) by the two casinos, makes it understandable that no cases have been identified.

Types of ML cases pursued

142. Solomon Islands has one ML conviction between 2013 and 2018. Solomon Islands lacks a clear strategy to focus on high risk predicate offences and lacks resources to investigate ML. ML is usually self-laundering conducted by an individual in Solomon Islands. RSIPF and ODPP focus on self-laundering cases and have little understanding of other types of ML. There have been no investigations of stand-alone ML, third party ML or ML related to foreign predicate offences.

Effectiveness, proportionality and dissuasiveness of sanctions

143. Regarding sentences imposed for ML, in the case of R vs P.B (Case Study 3.7), the defendant was sentenced to 12-year imprisonment which is considered dissuasive and proportionate.

144. Some convicted ML cases were withdrawn and dismissed in the Court of Appeal. S2 of the Penal Code does not allow “double punishment” stating that “if a person does an act which is punishable under the Penal Code and is also punishable under another Act, Statute or other law, the criminal shall not be punished for that act both under the Act, Statute or other law and also under the Penal Code.” If an individual is convicted of a predicate offence and ML, and appeals on the grounds of the ML offence having overlapping facts with the predicate offence, under S2 of the Penal Code, the Court may quash the conviction of ML and punish the offender for the predicate offence only. Solomon Islands provided six ML-related conviction cases between 2008 and 2018. Of these, four cases were quashed under s.2 of the Penal Code.

145. The Court has quashed two ML convictions related to fraud (false pretence) and theft. Another ML conviction case R vs T.Q (Case Study 3.8) was sentenced in October 2018, therefore it cannot yet be determined whether this case will be quashed. Due to limited ML cases, it is unclear how the Court would rule in cases of ML convictions related to other predicate offences such as corruption.

146. The following are examples of quashed cases:

Case Study 3.10: ML-related conviction 1*Quashed case of ML conviction related to fraud (false pretence) (R vs R.D)*

The defendant R.D, which is an employee of a Bank, fraudulently created an Ezy account with a fictitious name on 24 June 2009. Later, his accomplice withdrew SBD 83 000 (USD 9 960) from the account and gave the entire sum to the defendant, who then paid the accomplice SBD 17 000 (USD 2 125) as commission, and the defendant bought a car worth SBD 45 000 (USD 5 625).

The defendant was charged with fraud (false pretence) and sentenced to 3 years' imprisonment on 20 July 2010. He was committed to the High Court on the charge of ML on the 9 August 2010. He pleaded guilty to charge of ML and was convicted. However, on 9 May 2011 the High Court quashed the conviction for the offence of ML because of double punishment which is forbidden by s.2 of the Penal Code.

ODPP applied confiscation and pecuniary orders to the criminal proceeds and car obtained by the defendant. On 21 May 2014, the defendant was ordered to pay a penalty of SBD 1 000 (USD 125) and to sell the car by public auction with the proceeds to be paid the state.

(REGINA –v- ROY DAVIES - Criminal Case No: CRC 302/2012)

Case Study 3.11: ML-related conviction 2*Quashed case of ML conviction related to theft (R vs B.B)*

On 26 January 2015, the defendant B.B stole SBD 2 000 (USD 2 500) from a crashed car with two boxes of money worth SBD 4 million (USD 500 000) inside. Defendant B.B bought a car registration for SBD 15 000 (USD 1 875) in cash.

On 3 October 2017, he was charged with theft and ML and was sentenced to two years' imprisonment. The car was detained by Police.

The defendant appealed against this judgment. The Court referred to the Case of R vs R.D (See Case Study Case Study 3.10), as "Persons who obtain money or other property dishonestly usually do so in order to make use of it or its proceeds." The R vs R.D Case is an example similar to this one where a car was bought with money obtained by deception, and this Court said not to charge both matters when the factual circumstances of both charges substantially overlap.

On 11 May 2018, the sentence of imprisonment for two years for ML was quashed and no separate penalty was imposed.

(REGINA -v- BARTHOLOMEW BARA - Criminal Case No: CRC 516/2016)

147. As referred in Recommendation 3, s.17(2) and (5) of the MLPCAA 2010 allow Solomon Islands to convict for ML when the predicate offence (limited to serious offences) cannot be specified or cannot be convicted. However, no stand-alone ML case has been convicted in Solomon Islands.

148. No legal person has been charged with ML and therefore no sanctions applied to a legal person. It cannot be determined whether proportionate and dissuasiveness sanctions would be imposed against legal persons. As referred to in Recommendation 3, the sanctions for a legal person as per the legislation are not proportionate and dissuasive.

Other criminal justice measures

149. There is no indication of other criminal justice measures being applied to target ML, when it was not possible for justifiable reasons to secure a ML conviction.

Overall conclusions on Immediate Outcome 7

150. Since 2013, Solomon Islands has achieved one conviction for ML which is not in line with Solomon Islands context, and the conviction is not consistent with Solomon Islands' higher risk predicate offences. ML investigations have not been pursued as a policy priority in Solomon Islands while corruption which is one of the high risk predicate offences has been investigated. Solomon Islands pursues predicate offences and does not strategically prioritise "following the money". While the sanction imposed for the ML conviction is proportionate and dissuasive, other ML convictions have been quashed in light of s.2 of the Penal Code.

151. **Solomon Islands has a low level of effectiveness for Immediate Outcome 7.**

Immediate Outcome 8 (Confiscation)

Confiscation of proceeds, instrumentalities & property of equivalent value as a policy objective

152. As referred to in R.4, the MLPCA 2002 and MLPCAA 2010 empower RSIPF to seize tainted property or proceeds of crime and ODPP to apply to the Court for confiscation orders based on a conviction. ODPP is, in practice, the sole authority to apply confiscation, pecuniary penalty and restraining orders.

153. ODPP does not have an overarching focus or documented policy on deprivation of criminal proceeds. ODPP when prosecuting offences generating proceeds of crime, has applied to the Court for confiscation orders. However, limited success has been achieved due to insufficient

evidence to pursue confiscation of proceeds, instrumentalities and property of equivalent value. The following table shows the numbers and value of orders for confiscation since 2013. ODPP did not provide statistics on pecuniary penalty and restraining orders.

Table 3.9: Orders for Confiscation applied for by ODPP and granted by the Courts

Year	Confiscation Order		
	Applied	Granted	Value*
2013	0	0	
2014	1	1	SBD 123 000 (USD 15 375)
2015	0	0	
2016	1	1	SBD 57 000 (USD 7 125)
2017	1	1	SBD 118 ,000 (USD 14 750)
2018	1**		
Total	3	3	SBD 29 000 (USD 37 250)

* Not clear whether cash and or assets

** No details provided

Source: Solomon Islands authorities

154. The table above shows that there is limited confiscation pursued and ODPP appears reluctant to apply its powers to confiscate criminal proceeds. Principally, confiscation is pursued upon application to ODPP following a successful conviction. ODPP advised that it is encouraged to confiscate criminal proceeds within two years after conviction, but it took much longer to proceed with applying confiscation orders. The timing and processes appear onerous and do not encourage confiscation to be pursued.

155. In general, the confiscation process is as follows; RSIPF investigates a criminal, the DPP prosecutes, and the Court finds the criminal is guilty, and if the criminal appeals, the Court of appeal considers. Once a conviction has been achieved and the appeal has been considered, the ODPP initiates a confiscation order which delays the initial stages of any confiscation. It takes several years to achieve a successful confiscation after the criminal's conviction.

156. Examples of the very long delays with confiscation processes include a case of fraud (false pretence) convicted in November 2010 where confiscation and pecuniary orders were granted in May 2014. ODPP has also been waiting for a hearing of an application for a confiscation order in the High Court regarding a case of larceny and embezzlement and ML (Case Study 3.7 in IO.7) where the defendant was sentenced in August 2015.

157. In relation to property that is proceeds of crime in financing of terrorism, terrorist acts or terrorist organizations, a forfeiture order can be applied for by the Attorney General. There have been no forfeiture orders applied since no cases of financing of terrorism or terrorist acts have occurred in Solomon Islands which is in keeping with the risk profile of Solomon Islands.

158. RSIPF is authorised to seize tainted property or criminal proceeds in the course of investigations, however, it does not have a strategy to prioritise confiscation or processes to manage the confiscation. RSIPF seizes properties to prove evidence of an offence and does not pursue confiscation, but relies on ODPP to decide whether a confiscation order will be applied to the case. Solomon Islands does not have any asset management processes to manage property or assets to ensure that value is maintained while the legal process is underway. The lack of

appropriate management processes and the long delays associated with applying for confiscations significantly compromises the effectiveness of any confiscation measures.

159. When IRD deals with a tax evasion case and identifies unpaid tax as proceeds of a tax crime, it exercises its power to collect the proceeds or equivalent value to recover tax. Although IRD does not operate based on AML/CFT policies, proceeds of tax crimes have been pursued and offenders deprived of the proceeds. IRD has recovered SBD 368 451 138 (USD 46 056 392) in unpaid taxes between 2013 and 2018, but this has no direct relationship to AML/CFT.

160. As referred to in R.32, Customs and Immigration have the power to seize and detain cross-border currency or BNI and under the CDA 2009 are authorised to apply to the Court for its forfeiture. In practice, Customs deals with goods including currency or BNI, and Immigration deals with people at the border. Customs does not have a policy or strategy to focus on seizing falsely/undeclared currency and BNI, and focuses on “prohibited goods”.

161. LEAs do not pursue the deprivation of criminal proceeds as a policy objective for AML/CFT. Solomon Islands does not have AML/CFT policies, and each LEA operates consistent with its responsibilities and authorities. Solomon Islands has mechanisms and laws in place to confiscate criminal proceeds, instruments and property of equivalent value only based on conviction, and ODPP is authorised to apply confiscation orders to the Court. However, these mechanisms have not been well used due to a lack of resources and a lack of strategic direction to pursue confiscation.

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

162. Solomon Islands provided two case examples of successful confiscation of criminal proceeds in 2014. One case was related to a fraud / false pretence (Case Study Case Study 3.10 in IO.7), and one was related to falsely/not declared cross-border currency case (Case Study Case Study 3.12). ODPP has also applied for a confiscation order for an ML conviction case R vs P.B (Case Study 3.7 in IO.7) and has been awaiting a hearing in the High Court.

163. ODPP has not yet applied for confiscation, pecuniary penalty and restraining orders for any cases related to corruption, illegal logging, tax evasion, illegal fishing and illegal gold export, which are predicate offences assessed as high risk for ML.

164. RSIPF has power to seize tainted property or criminal proceeds in the course of investigations with warrants, or in certain conditions, without warrant to preserve evidence of crimes. However, RSIPF does not maintain statistics related to seizures. Solomon Islands provided a case where a car a criminal bought was detained by RSIPF (Case Study 3.11 in IO.7) and advised that the Crown has not applied for confiscation of the detained car because the criminal’s conviction of ML was quashed.

165. RSIPF does not have records on management and disposition of seized properties. RSIPF advised that some were confiscated as ordered by the Court, others were restituted to victims or returned to the defendant. The RSIPF is responsible for managing seized assets although it has no procedures or guidelines in relation to this.

166. SIFIU can ask a financial institution to freeze a bank account for maximum of five working days, as per Recommendation 4. SIFIU advised that it had asked some FIs to freeze accounts based on requests from RSIPF. However, SIFIU does not have statistics on account freezing. SIFIU demonstrated that the Director of SIFIU ordered a financial institution to freeze the accounts of a Singapore national after he attempted to remit funds on 2 February 2016. There

are no cases of confiscation of criminal proceeds resulting from foreign predicate offences. Solomon Islands can provide mutual legal assistance for issuing restraining orders on behalf of a foreign state against property located in Solomon Islands and for enforcing foreign restraining and confiscation orders, under the Mutual Assistance in Criminal Matters Act 2002, however, no requests have been made or received by the Attorney General. ODPP and AGO have never dealt with international co-operation on confiscation, repatriation, sharing and restitution of the proceeds and the instrumentalities of crime, and property of an equivalent value. This is not inconsistent with the size and context of Solomon Islands, although noting the higher risk logging and mining sectors suggests that some instances may have been evident.

167. Although RSIPF and Customs have mechanisms for international co-operation, they have never dealt with international co-operation on confiscation, but have co-operated both domestically and internationally on a case where a confiscation may be achieved. In September 2018, a joint narcotic investigation involving RSIPF with Australian Federal Police (AFP), the US Drug Enforcement Agency, the Australian Criminal Intelligence Commission, NSW Police Force and the Australian Border Force was conducted (see Case Study 8.2). During the investigation, RSIPF conducted a search of a yacht moored outside Honiara marina and found 500 kilograms of cocaine. The yacht and cocaine will be forfeited and lawfully disposed of in collaboration with RSIPF, Customs, ODPP and Ministry of Health.

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

168. Solomon Islands operates a currency declaration system for any person entering or leaving Solomon Islands. Customs can require a person to make a written declaration for any amount of currency in their custody or possession that is greater than SBD 50 000 (USD 6 250). Customs has the power to seize and detain currency or BNI that has been obtained through unlawful conduct or is to be used for unlawful conduct under the Currency Declaration Act 2009.

169. There are 80 officers in Customs and 8-10 officers are located at the international airport in Honiara. Only one officer is allocated to watch seaports. Customs identifies falsely or undeclared currency/bearer-negotiable instruments at the international airport by checking baggage through x-ray machines. Customs compares declaration cards with the result of baggage checks and makes further inquiries with the person if there are any inconsistencies. However, Customs does not have a policy or strategy to focus on seizing falsely or undeclared currency and BNI, nor does it have sufficient resources to detect cash smuggling both at the airports and seaports. Customs doesn't maintain statistics related to its seizures.

170. Based on MOU between Customs and SIFIU, Customs hand delivers all BCRs to SIFIU no later than three days after the discovery of the currency or the disclosure has been made. While SIFIU uses BCRs for analysis of STRs, SIFIU does not give feedback to Customs with a view to detect cash smuggling. Customs rarely uses information from SIFIU to identify and confiscate falsely or undeclared currency.

Table 3.10: BCR reporting to Customs: 2013 - 2018

Reports	2013	2014	2015	2016	2017	2018
Inward BCR	18	37	40	36	26	29
Total Value	1 224 399 (153 050 USD)	7 660 383 (957 548 USD)	26 055 392 (3 256 924 USD)	13 522 173 (1 690 272 USD)	10 168 026 (1 271 003 USD)	7 391 460 (923 933 USD)
Outward BCR	23	41	57	55	33	25
Total Value	3 234 103	10 450 163	20 957 467	20 073 965	25 406 360	13 500 766

	(404 263 USD)	(1 306 270 USD)	(2 619 683 USD)	(2 509 246 USD)	(3 175 795 USD)	(1 687 596 USD)
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Source: Solomon Islands authorities

171. Solomon Islands provided two conviction cases related to cross-border movement of currency. In the case of R vs I.D (see Case Study 3.1), the defendant pleaded guilty to failing to declare currency and false declaration, and was fined a total of SBD 6 000 (USD 750) in 2014. In the case of DPP vs J.J and R.B (Case Study Case Study 3.12), two defendants pleaded guilty to failing to declare currency and false declaration, and were fined a total of SBD 32 000 (USD 4 000), and EUR 10 000 was forfeited.

Case Study 3.12: Confiscation of criminal proceeds

Forfeiture case related failing to declare of foreign currency and false declaration (DPP vs J.J and R.B)

The defendants J.J and R.B arrived in Solomon Islands from Vanuatu on 18 February 2014 on tourist visas. They were in possession of EUR 10 000 which they did not declare. During an interview with officers of Immigration Department the defendants admitted that they had brought in EUR 10 000 with intention to buy local artefacts for sale in New Caledonia. Upon the defendants' admission, the Director of Immigration detained the money under s.7 of the Currency Declaration Act 2009.

The Magistrates Court judged that it is unlawful for a person who enters the country on tourist visa to carry on business in Solomon Islands. There was no dispute that the EUR 10 000 was undeclared currency which was intended for use in unlawful conduct.

The defendants were convicted on 3 March 2014 and fined a total of SBD 32 000 (USD 4 000). The defendants paid and left Solomon Islands. The EUR 10 000 was forfeited under s.10 of the Currency Declaration Act on 15 September 2014.

(REGINA -v- JACQUES R.M.J. BENEBIG & ROSE M.B.K.E. BENEBIG - Civil Case No: 50/2014)

172. The requirement to report currency movements (BCRs) into and out of Solomon Islands is only done at the airports where customs and immigration officials are on duty. According to Solomon Islands authorities, cross border movements of currency by cruise ship passengers, who generally only remain in port for relatively short periods of time, usually for less than one day, is not a major concern as the number of cruise ships visiting Solomon Islands is fairly low. The number of passengers on these vessels is not recorded by Solomon Islands authorities. There is no record of the number of passengers that disembark temporarily from the vessels while in port and re-embark prior to the vessels leaving port. The passengers on these vessels are treated as "transit" passengers and are not subjected to any customs or immigration requirements, including BCRs.

Table 3.11: Cruise Ship Visits to Solomon Islands: 2013-2018

	2013	2014	2015	2016	2017	2018
No. of Cruise Ships	-	-	12	14	21	11

Source: Solomon Islands authorities

173. Similarly, there are no records of the number of people who disembark from other vessels such as sailing boats, fishing vessels and other vessels. Customs advised that it has

maintained records of these vessels where they come into a port or wharf and records of currency held on the vessels. However, Customs cannot identify currency held by such people.

174. Customs has MOUs with RSIPF and IRD, and provides information in its possession to RSIPF and IRD based on their requests. RSIPF and IRD use Customs information for investigation of crimes within their responsibilities.

Consistency of confiscation results reflect ML/TF risks and national policy and priorities

175. Solomon Islands confiscated property with a total value of SBD 298 000 (USD 37 250) between 2013 and 2018 according to statistics provided. The results achieved by ODPP are limited when considered in the context of the economic size of Solomon Islands. No confiscations have been made related to corruption, illegal logging, illegal fishing and illegal gold export, which are predicate offences rated as high risk in the 2017 NRA. Solomon Islands has no national policy and strategy on confiscation based on identified ML/TF risks and the limited confiscation results achieved are not consistent with Solomon Islands' ML risk.

176. Solomon Islands has no convictions for any type of terrorism or TF activity and therefore no TF confiscations have occurred. This is consistent with Solomon Islands' TF risk.

Overall conclusions on Immediate Outcome 8

177. Confiscation of criminal proceeds, instrumentalities and property of equivalent value is not being pursued as a policy objective in Solomon Islands and the timing and processes appear onerous. Solomon Islands has few confiscations related to predicate offences assessed as high risk for ML and the limited confiscation results are not consistent with the identified ML risk. LEAs do not have policies and strategies for asset tracing or restraint related to ML/TF activities. Confiscation of falsely or not declared cross-border movement of currency and BNIs is not routinely applied as a sanction by Customs. There are no convictions or confiscations for TF or terrorism activity, which is consistent with Solomon Islands' TF risk.

178. **Solomon Islands has a low level of effectiveness for Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

TF offence (Immediate Outcome 9)

- 1) Solomon Islands has a low risk for TF. There has been no evidence of the financing of terrorism in Solomon Islands. There have been no investigations or prosecutions of TF in Solomon Islands which is consistent with its risk.
- 2) There is a strong legal framework in place and RSIPF has sufficient powers to investigate TF offences.
- 3) While noting the low risk of TF, Solomon Islands does not have clear mechanisms or an action plan to deal with TF risks should they arise. There are no guidelines for the conduct of TF investigations.
- 4) SIFIU has not provided the private sector with any procedures or guidelines on how to identify possible suspicion of TF. This lack of government guidance is somewhat mitigated by the actions the international financial institutions undertake, based on home country policies, to identify TF activities. DNFBPs do not take any measures to identify TF.
- 5) There have been no TF convictions. The fines for natural and legal persons convicted of TF are not considered to be sufficiently proportionate or dissuasive, unless imposed together with a term of imprisonment. The terms of imprisonment are considered to be proportionate and dissuasive.

Preventing terrorists from raising, moving and using funds (Immediate Outcome 10)

- 1) Solomon Islands has no legal framework with regards to targeted financial sanctions for TF, although it does have a Counter Terrorism Act, and has limited capability to identify terrorist organisations and terrorist networks.
- 2) There has been no supervision of FIs' and DNFBPs' implementation of TFS requirements. The larger financial institutions have automated screening of designated terrorists or prescribed entities and monitor the sending and receiving of funds to countries which the financial institutions have identified as high risk. DNFBPs do not have the required capabilities to identify the assets of designated persons/entities or do not know about the obligation to do so.
- 3) Authorities do not consistently share updated lists of designated persons or entities with reporting entities, with SIFIU sharing the lists for the first time just prior to the on-site visit.
- 4) No terrorist assets have been identified in connection with TFS, which is consistent with Solomon Islands' low TF risk.
- 5) TFS implementation is generally strong in the international banks and the international remittance service provider, through automated screening software which monitors customers and transactions. The local banks, credit unions and DNFBPs had limited

understanding of TFS although they do not undertake international fund transfers.

- 6) The NPO sector is considered high risk for TF (and ML) in Solomon Islands. The NPO sector is unsupervised and SIFIU has limited engagement with NPOs. This sector had no understanding of UN sanctions. No operational monitoring of activities of the NPO sector occurs.

Proliferation Financing (Immediate Outcome 11)

- 1) Solomon Islands does not have a legal framework or process to implement TFS relating to proliferation of WMD. Solomon Islands authorities disseminated UN notices related to PF on one occasion prior to the onsite visit.
- 2) Solomon Islands does not have links with DPRK and Iran. The authorities have not dedicated any resources to understanding and managing targeted financial sanctions and PF.
- 3) The international banks and the international remittance service provider rely on their own home supervisory policies, procedures and screening controls to identify assets and funds of designated persons and entities. Smaller FIs and DNFBPs do not undertake any measures in relation to TFS and PF.

Recommended Actions

TF offence (Immediate Outcome 9)

- a) Solomon Islands should develop clear mechanisms and guidelines for investigating and prosecuting TF offences commensurate with the low risk and size of Solomon Islands.
- b) SIFIU should engage with reporting institutions and provide guidance on identifying and reporting possible suspicion of TF (See RA3 - IO6).
- c) Provide outreach and training to LEAs, prosecutors and the judiciary on TF investigation and prosecution (See RA8 - IO7).
- d) Consider increasing the fines for natural and legal persons convicted of TF to ensure they are proportionate and dissuasive.

Preventing terrorists from raising, moving and using funds (Immediate Outcome 10)

- a) Enact legislation and develop procedures to implement TFS obligations without delay.
- b) Provide guidance and conduct outreach to support TFS implementation by FI and DNFBPs.
- c) Undertake a risk assessment of the NPO sector to identify the features and types of NPOs which are likely to be at risk of TF abuse. Based on this review, authorities should provide appropriate outreach and apply appropriate risk-based measures based on the identified vulnerabilities and risks.

Proliferation Financing (Immediate Outcome 11)

- a) Develop and implement a legal framework to implement TFS relating to proliferation of WMD.
- b) Develop comprehensive policies, procedures and guidance to give effect to TFS relating to proliferation of WMD.
- c) Authorities should take measures to raise awareness amongst government agencies and reporting entities of proliferation financing and the ability to detect funds or other assets of designated persons and entities, and supervise reporting entities for their compliance with their obligations.

4

179. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R.5-8.

*Immediate Outcome 9 (TF investigation and prosecution)**Prosecution/conviction of types of TF activity consistent with the country's risk-profile*

180. The risk of TF in Solomon Islands is considered low. While the NRA indicates that the likelihood of TF would be highly likely to medium and the consequences would be severe to major, resulting in an overall TF risk of very high to high, interviews during the on-site with both government and private sector stakeholders and open source material indicate that the risk of TF is low, which is consistent with other Pacific jurisdictions.

181. The NRA notes there has been little, if any, evidence of TF in Solomon Islands, and if TF is to occur, it would likely occur outside Solomon Islands. There are no links in Solomon Islands with foreign terrorist groups and no evidence of terrorist organisations using the Solomon Islands financial system to channel funds for terrorist activities.

182. The Counter Terrorism Act (2009) provides a strong legal framework for prosecuting TF as set out in Recommendation 5. Law enforcement and the ODPP have received foreign assistance to build up their resources and capability. There have been no prosecutions or convictions of TF in Solomon Islands which is consistent with the low risk of TF in Solomon Islands.

TF identification and investigation.

183. Solomon Islands has never identified TF and has not conducted a TF investigation, which is consistent with the low risk of TF.

184. RSIPF is the co-ordination point for terrorism investigations and is supported by SIFIU for TF investigations. Neither SIFIU nor RSIPF have policies or processes in place which set out how they would respond to the identification of possible TF activity or how they would conduct TF investigations.

185. RSIPF undertakes all terrorism and TF investigations. The National Criminal Investigation Division (NCID) within RSIPF has a ML/TF team comprising seven investigators. RSIPF and SIFIU indicated that they have a good working relationship. Selected officers from RSIPF and SIFIU have attended ML and TF related training. RSIPF has sufficient powers to

investigate TF offences as set out in Recommendation 31, although the understanding of TF and financial crime is limited.

186. RSIPF also has a strong international support network in place to investigate potential terrorist financing and can receive assistance from the Transnational Crime Unit (TCU) and INTERPOL. RSIPF has a MOU with the Australian Federal Police and the New Zealand Police which allows it to seek assistance for a range of predicate offences including terrorism and TF, if required. The Solomon Islands has not received any foreign requests regarding possible suspected TF.

187. SIFIU relies on alerts from reporting institutions to identify possible terrorist financing activities. SIFIU has not provided the private sector with any procedures or guidelines on how to identify and report possible suspicion of TF. This lack of guidance is somewhat mitigated by the actions the financial institutions undertake of their own accord to identify potential TF activities.

188. The four banks and an international remittance service provider advised the assessment team that they require staff to attend biannual or annual internal training programmes on ML and TF, which include how to identify TF. The banks also have online systems which identify designated terrorists or any prescribed entities. International remittances are on a small scale and the sending and receiving of funds to jurisdictions which the FIs have identified as high risk are monitored.

189. SIFIU has received one STR in relation to potential terrorist activity. Further enquiries revealed that the STR did not relate to TF. Although the risk of TF is low, with only one RE notifying SIFIU of potential TF activities, it is unclear if REs understand how to identify possible TF activities. A similar observation was made in relation to STRs and the identification of suspicious activity in Immediate Outcome 4.

190. As discussed for Immediate Outcome 10, the NPOs interviewed advised that there is limited fund-raising for charitable causes within Solomon Islands. Foreign aid is usually distributed through international charities for specific projects. DNFBPs do not take any measures to identify TF.

TF investigation integrated with -and supportive of- national strategies

191. The Anti-Money Laundering Commission (AMLC) is responsible for the oversight of the AML/CFT program. The Anti-Money Laundering Technical Experts Group (AMLTEG) is an operational working agency that co-ordinates AML/CFT activities in Solomon Islands. The NRA refers to AMLTEG being responsible for co-ordinating a work plan to combat terrorism and financing of terrorism financing programs. This is yet to be done.

192. Solomon Islands does not have a strategy in place to counter TF within a broader counter-terrorism strategy.

193. A National Security Working Group has been created to develop a National Security Policy that addresses all security issues of Solomon Islands. The first draft paper is to be completed in 2019.

Effectiveness, proportionality and dissuasiveness of sanctions

194. An individual convicted of a TF offence may be imprisoned for a term not exceeding 10 years and may be given a fine not exceeding 50 000 penalty units (SBD 50 000 ~ USD 6 250). An entity convicted of terrorism financing may be given a fine not exceeding 100 000 penalty units

(SBD 100 000 ~ USD 12 500). A person convicted of providing funds to a terrorist organisation may be imprisoned for a term not exceeding 20 years.

195. The fines are not considered proportionate and dissuasive although this may be mitigated by the ability of the courts to impose a combination of both fine and imprisonment in respect of a convicted offender. The term of imprisonment is considered to be sufficiently dissuasive.

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

196. As there have been no instances of terrorism financing within Solomon Islands, Solomon Islands has not undertaken any alternative measures to disrupt TF.

Overall conclusions on Immediate Outcome 9

197. There have been no TF investigations, prosecutions or convictions in the Solomon Islands which is consistent with the low level of risk for TF. The RSIPF and ODPP need to build up their capability to identify, investigate and prosecute potential TF activities should they arise. SIFIU and RSIPF have no policies or processes on responding to the identification of possible TF activity or conducting TF investigations. Solomon Islands also does not have any national strategies in place to co-ordinate the investigation and prosecution of TF offences. This is a significant deficiency which needs to be addressed.

198. **Solomon Islands has a low level of effectiveness for Immediate Outcome 9.**

Immediate Outcome 10 (TF preventive measures and targeted financial sanctions)

Implementation of targeted financial sanctions for TF without delay

199. Solomon Islands has not identified a competent authority to implement targeted financial sanctions related to terrorism and terrorism financing. There is no legislation with associated mechanisms, procedures or standards for freezing terrorist property without delay. In particular Solomon Islands does not have any procedures implementing the freezing requirements under UNSCR1267, its successor resolution and UNSCR1373. Recommendation 6, which considers targeted financial sanctions related to terrorism and terrorist financing, is rated non-compliant.

200. FIs with an international presence, which include a number of banks and two money remitters, have an awareness of the requirements of the sanctions regime and have automated screening systems to identify entities and individuals. These systems are based on home jurisdiction policies, procedures and technology. One bank was able to identify an incident where it identified a name match, although this was later discounted as a false positive. Other non-bank financial institutions depend on SIFIU to provide updated UN sanctions lists but the assessment team did not find any indication that they are conducting screening when on-boarding a customer or conducting any transaction with their customers. DNFBPs do not take any measures to identify TF and have limited understanding of TFS.

201. The local banks, credit unions and DNFBPs displayed a limited understanding of TFS. The nature of their businesses do not involve international fund transfers either into or out of the Solomon Islands. Such transfers are only undertaken by the international banks.

202. While international financial institutions have internal procedures that would allow them to internally freeze funds, Solomon Islands has not enacted any legislation that incorporates

freezing powers that would permit the implementation of the requirements and obligations associated with UN terrorism resolutions, and is it unclear how the freezing of funds could be justified without the associated TFS legislation.

203. SIFIU recently commenced circulating UN sanctions notices to reporting entities, although the awareness among reporting entities other than the international banks and money remittance services, was negligible. In addition, none of the NPO related bodies, DSE and the NPO Desk Office, had any awareness or understanding of TFS obligations. The authorities do not know how many NPOs are operating in the country. Furthermore, as the requirement to register is voluntary, it is unlikely an NPO would register if it was knowingly committing a TF offence.

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

204. NPOs in Solomon Islands are referred to as Civil Society Organisations (CSOs) who either provide public benefits or private membership benefits. The Charitable Trusts Act provides for the registration of an association whose objectives are religious, humanitarian, educational, literary, scientific, social or charitable. While NPOs are centrally registered, registration is voluntary and NPOs are not subject to monitoring or supervision.

205. Solomon Islands does not undertake a targeted approach to at-risk NPOs. While the NRA considered the risks of the NPO sector being subject to abuse with respect to TF as being high, no mitigating strategies have been applied by Solomon Islands to address this level of risk. No indication has been made that the NPO sector has been segmented based on risk, recognising most NPOs are not vulnerable to abuse related to terrorism and TF and could probably be considered low risk. A number of NPOs operating in Solomon Islands are well regarded internationally and regional bodies and the majority of other NPOs are very small. The small size of many NPOs and the lack of ongoing updates regarding NPO activities through initial registration and ongoing renewals of registration make it challenging to determine the operational scale of these NPOs.

206. The authority maintaining oversight of NPOs, including assessing and mitigating any risks and threats related to TF, is limited. The NGO Desk in the Ministry of Home Affairs has one dedicated person that interacts with the NPO sector and provides a single point of contact with government.

207. DSE is the national CSO/NPO umbrella body in Solomon Islands and is membership based. The DSE is seeking to strengthen NPO co-ordination through ongoing sharing of relevant information, developing a code of conduct for NPOs and the provision of training and education materials. Membership of the DSE is voluntary. While the DSE currently has approximately 70 members, Ministry of Home Affairs (MOHA) believes there are currently around 200 NPOs and the NRA suggests around 700 in total which indicates the challenges confronting Solomon Islands authorities. It is recognised most DSE members do not necessarily fund raise and distribute these funds but provide services. MOHA has actually very little involvement with the NPOs as the NGO desk relies on DSE supplied information for its reports, resulting in inadequate reporting and records being held by the Ministry.

208. The DSE displayed an awareness of the issues and recognised the need to ensure that NPOs were aware of the risks and obligations. DSE arranges monthly info sessions with members and recently invited SIFIU to a session.

209. The Charitable Trusts Act provides for the incorporation of the Trustees of charitable and other Trusts. A trustee of a NPO is required to apply to the Registrar of Companies in writing for a certificate of registration of the trustees. The application needs to include evidence of proof

of statements and details of a registered office, as any legal papers left at office are considered served on the board of trustees. All records held by the Registrar of Companies can be inspected by members of the public to ascertain who has been registered as a trustee and the address of the board of trustees. Solomon Islands has not undertaken a review of the relevant laws affecting NPOs or of the sector in general (regarding potential exploitation for TF). Voluntary registration occurs through Company Haus, and annual reporting is needed regarding any changes in ownership, shareholding, office bearers and address of the registered office although this does not include ongoing monitoring of its NPO activities related to AML/CFT.

210. There is good multi-agency co-operation through AMLTEG, AMLC and Operation Janus more generally, however, based on interviews at the onsite visit, there is minimal evidence of co-ordination and co-operation regarding NPOs.

Deprivation of TF assets and instrumentalities

211. Solomon Islands does not yet have in place procedures implementing the freezing requirements under Resolutions 1267 and 1373.

212. To date, no FIs and DNFBPs have had any positive matches against the UN consolidated lists, and no property has been frozen. While the risks are low in Solomon Islands, this may also be due in part to a lack of screening by NBFIs and DNFBPs. International financial institutions would apply an internal administrative freeze in any case where TF is suspected or where TFS are identified.

213. The CTA 2009 and the MLPCA provide for the criminal confiscation of proceeds after conviction for a serious offence, which includes TF assets and instrumentalities, although this has never been tested.

Consistency of measures with overall TF risk profile

214. While Solomon Islands TF risk profile is low, the lack of implementation of TFS is not consistent with the requirements of the FATF Standards.

Overall conclusions on Immediate Outcome 10

215. Solomon Islands has not established a legal or institutional framework to implement TFS related to terrorism and terrorism financing. Solomon Islands has not identified the subset of NPOs that, due to their characteristics, are likely to be at-risk of TF abuse and is not applying controls, outreach and monitoring to those NPOs. Solomon Islands has not conducted a full assessment of NPOs in terms of terrorist financing abuse, and effective oversight of NPOs is not occurring.

216. **Solomon Islands has a low level of effectiveness for Immediate Outcome 10.**

*Immediate Outcome 11 (PF financial sanctions)**Exposure to PF-related sanction evasion*

217. Solomon Islands does not have links with DPRK or Iran and as such exposure to PF-related sanction evasion appears low. Solomon Islands is a signatory of the Treaty on the Non-Proliferation of Nuclear Weapons.

218. Solomon Islands Maritime Safety Administration (SIMSA) operates a closed shipping registry and accepts registrations of locally owned ships only. The 290 ships that were registered at the time of the assessment only operate within Solomon Islands and require permission to sail outside Solomon Islands waters. Foreign owned ships are required to operate through agents. SIMSA advised that it is not aware of any ships which have connections with DPRK or Iran.

Implementation of targeted financial sanctions related to proliferation financing without delay

219. Solomon Islands has not implemented any measures against PF and does not have a legal framework or processes in place for implementing UNSCRs 1718, 1737 and 2231.

220. The four banks in Solomon Islands and an international remittance service provider advised that they have not received any guidance from SIFIU in relation to identifying and implementing PF-related TFS. SIFIU is limited to disseminating UN designated lists, although this appears to only have occurred recently. No notices or guidance have been provided specifically in relation to DPRK, Iran and PF, or regarding TFS.

221. The international banks and international remittance service providers have automated software that screens both customers and transactions against the proscribed UN lists. The credit unions have no measures in place in relation to PF. The nature of credit unions in Solomon Islands suggest they have no exposure to PF-related sanctions evasion as they have limited customers who are not well known to them and they do not have transactions from overseas. The exposure of DNFBPs to PF has not been considered.

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

222. The Foreign Investment Division of the Ministry of Commerce and Trade confirmed that there are no trade relations with DPRK and Iran. They indicated they had limited understanding of PF.

223. SIFIU has not provided any guidance on identifying assets and funds held by designated persons and entities to reporting institutions. The international banks and remittance service providers rely on their own home supervisory requirements and screening controls to identify assets and funds of designated persons. No such assets and funds have been identified.

224. Customs advised that it has an awareness of PF and any cargo/exports associated with DPRK and Iran would trigger further enquiries. Customs advised that no such incidents have occurred.

FIs and DNFBPs' understanding of and compliance with obligations

225. The international banks advised that while they have not received any guidance from SIFIU in relation to their obligations with PF, they have automatic screening procedures in accordance with their home supervisory legislation. There is reasonable awareness of their

obligations and any transactions with DPRK and Iran would be identified during these checks. The banks have had no positive matches.

226. All other FIs and DNFBPs did not demonstrate any understanding of PF and have no measures in place to address PF.

Competent authorities ensuring and monitoring compliance

227. Solomon Islands does not have any legislation in place to require reporting institutions to implement TFS related to PF. SIFIU does not monitor any reporting entities related to PF.

Overall conclusions on Immediate Outcome 11

228. Solomon Islands has no legal framework or policies in place to address targeted financial sanctions related to PF. While there are no trade relations with DPRK and Iran and international financial institutions are undertaking automated screening, the lack of a legal framework and any policies and guidance to give effect to TFS for PF is a fundamental deficiency.

229. **Solomon Islands has a low level of effectiveness for Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

Preventive measures (Immediate Outcome 4)

- 1) CDD measures (as per MLPCAA 2010) appear to exclude all reporting entities in Solomon Islands from being required to apply CDD (s. 12B (a) to (c) of the MLPCAA 2010), which is a significant technical deficiency. At this stage, REs are not aware of this deficiency, however it needs to be addressed urgently as it will begin to have a significant impact on the effectiveness of CDD.
- 2) Solomon Islands drafted MLPC Regulations in 2014 but the regulations are not in force. The absence of regulations undermines the implementation of preventive measures.
- 3) Understanding of ML and TF risks is variable across the financial sector; including among the four banks operating in Solomon Islands. Foreign banks have some understanding of their ML/TF risks and obligations due to their parent company's policies but are less clear on the expectations of domestic regulators due to limited outreach. Other financial institutions have very limited understanding of ML/TF risks and obligations and the understanding in the DNFBP sector is also negligible.
- 4) Banks, money changers and money remittance service providers are applying some mitigating measures commensurate with their institutional risks. Absence of verification tools undermines the effectiveness of CDD measures. Implementation of mitigating measures is almost absent in the other FIs including insurance, micro finance and credit unions.
- 5) Identification of beneficial owners is absent across the reporting entities except banks, which have to rely on the customers' declaration. Casinos and other DNFBPs including accountants have no clear understanding of beneficial ownership information and requirements for AML/CFT purposes.
- 6) Banks, money changers and money remittance service providers are applying EDD measures commensurate with their institutional risks to a large extent. Application of mitigating measures is almost absent in the other FI's including insurance, micro finance and credit unions. Casinos are not fully verifying customer identity or applying EDD measures including PEPs and sanction screening. Other DNFBPs are not implementing EDD measures at all.
- 7) The overall number of STRs reported by banks and money remitters is reasonable in the context of Solomon Islands. Other FIs and DNFBPs including casinos (which are higher risk) are not submitting STRs at all.
- 8) Foreign banks are implementing internal controls and procedures to comply with their parent company's AML/CFT requirements in areas such as foreign and domestic PEPs and the screening of sanctions lists. Other FIs, and DNFBPs, are not implementing internal controls and compliance.

Recommended Actions

- a) Urgently address the inadvertent exemption of all reporting entities from the CDD measures created by Section 12B of MLPCAA 2010.
- b) Finalise and implement the Money Laundering and Proceeds of Crime Regulations.
- c) Conduct outreach and develop sector-specific guidance for all REs on:
 - o ML/TF risks,
 - o AML/CFT obligations and the application of enhanced/specific and simplified measures commensurate with the risks, and
 - o STR reporting in line with identified Solomon Islands and reporting entity risks.
- d) Require reporting entities to strengthen their AML/CFT policies and monitoring systems and to strengthen internal control procedures and resources.
- e) Require banks and DNFBPs to identify and verify the identity of beneficial owners on an ongoing basis.

230. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23.

Immediate Outcome 4 (Preventive Measures)

231. As mentioned in chapter 1, when assessing the effectiveness of preventive measures and AML/CFT supervision, the assessment team gave the highest importance to banks, followed by money transfer services and money exchange businesses, then life insurance, credit unions and other FIs. Amongst DNFBPs, casinos are considered high risk, and accountants and lawyers were given particular importance. All these sectors warrant close consideration as DNFBPs are not supervised for AML/CFT compliance in Solomon Islands.

232. Preventive measures in Solomon Islands are based on the MLPCA and the MLPCAA. Solomon Islands drafted Money Laundering and Proceeds of Crime Regulations in 2014 but the regulations are not yet in force. The 2008 Guidelines for Financial Institutions and Cash Dealers includes some guidance on risk management for reporting entities, but reporting entities have limited awareness of these guidelines. Significant technical compliance deficiencies have been identified relating to preventive measures, which are then reflected in Solomon Islands' effectiveness with a particular reference to the exclusion of all reporting entities in Solomon Islands from being required to apply CDD, which is a significant technical deficiency.

Understanding ML/TF risks and AML/CFT obligations

233. Variable understanding of ML and TF risks and AML/CFT obligations across the financial sector, negligible understanding in the DNFBP sector and absence of proper regulation all contribute to weak implementation of preventive measures in Solomon Islands.

Financial Sector

234. The financial sector of Solomon Islands comprises four banks, two finance companies, seven insurance companies, one superannuation provider, twelve money changers and ten credit unions (for detail see Table 1.2 of chapter 1). Banks possess the largest market share.

235. Among the FIs, the four banks display a broad understanding of ML/TF risk. However, other small FIs like insurance companies and credit unions have very limited understanding of ML/TF risk. Despite some involvement in the NRA process, the findings of the NRA were not well communicated to banks and other FIs. The absence of sector specific or enterprise risk assessments contribute to the limited level of understanding.

236. FIs have received little input from regulatory authorities on the significant risks and the expectations of supervisors to address these risks. The understanding of ML/TF risks in Solomon Islands by the financial sector, excluding the banks, was minimal. The banks had a broader understanding of both regional and Solomon Islands specific risks resulting from the parent company and correspondent banking service providers' expectations, higher degrees of environmental awareness and sophisticated analytical tools, as well as targeted training arranged by the banks.

237. While insurance companies exhibited no understanding of ML/TF risk in Solomon Islands, authorities confirmed that only one insurance company sells life insurance products, and uptake is low. However, measures need to be considered to manage this potential risk. The NRA suggests that banks, credit unions, money transfer services, money changers and finance companies are highly vulnerable to ML/TF. Limited understanding of risk, the absence of regulatory expectation by each regulator and very little follow-up by regulators exacerbates these vulnerabilities.

238. In the absence of regulations, adequate guidance, regular supervision and follow up, FIs in Solomon Islands rely on the MLPCAA 2010 for AML/CFT obligations, and on internal policies and procedures of the parent company. Banks and foreign owned money remitters have demonstrated a basic understanding of AML/CFT obligations, with remaining FIs that met with assessment team exhibiting no understanding of AML/CFT obligations.

DNFBP Sector

239. The DNFBP sector is very small in Solomon Islands. The DNFBP sector consists of 30 legal practitioners, 11 accountants, 8 gold and precious metal dealers, 3 real estate agents and 2 casinos. Most DNFBPs are covered by the MLPCAA 2010 definition of 'cash dealers', which includes casinos, gambling house or lottery operators, real estate agents, dealers of precious metals and stones, accountants, trust and company service providers. Legal practitioners are also covered by the MLPCAA 2010 provisions.

240. The NRA mentioned a lack of government supervision of casinos, real estate agents, dealers in precious metals and stones as high risk, since these may potentially facilitate ML/TF. Solomon Islands' NRA consultation process did include DNFBPs, but during the assessment team's on-site visit most did not recall involvement in the process.

241. SIFIU is responsible for AML/CFT supervision of the DNFBP sector. DNFBPs have not been supervised for AML/CFT and have not been engaged by SIFIU. The DNFBPs displayed no understanding of Solomon Islands' overall ML/TF risks, and were not aware of their own sector

specific ML/TF risks. Solomon Islands' DNFBP sector demonstrates no understanding of their AML/CFT obligations, does not appreciate the ML/TF risks and applies no mitigating measures.

Application of risk mitigating measures

Financial Sector

242. Although FIs had some involvement in the NRA process, the findings of the NRA were not well communicated to banks and other FIs. The absence of sector specific or enterprise risk assessments contributes to the limited level of understanding and to the limited application of risk mitigating measures. SIFIU issued Guidelines for Financial Institutions and Cash Dealers in December 2008 under the provision of the MLPCA 2002 but the reporting entities have limited awareness of these guidelines. Banks and foreign owned money changers apply policies and procedures based on their head office practices as mitigating measures. FIs such as finance companies, insurance companies and credit unions are not implementing any mitigating measures.

DNFBP Sector

243. The 2008 Guidelines for Financial Institutions and Cash Dealers include specific requirements under part IV for casinos, trusts and dealers in precious metals but the DNFBP sector are not aware of the Guidelines. None of the DNFBPs in Solomon Islands are implementing any risk mitigating measures.

Application of enhanced or specific CDD and record keeping requirements

244. Banks in Solomon Islands rely on documents provided by customers in conducting CDD processes and do not verify that information using independent or reliable sources. Banks have measures in place to comply with CDD and record keeping requirements, including applying EDD on high risk customers. These measures arise from their home country requirements. Other FIs such as finance companies, credit unions and insurance companies are not implementing CDD requirements.

245. Sections 12(1) and 12A(1) of the MLPCAA, 2010 require financial institutions and cash dealers to identify and verify the identity of a person when the person opens an account or enters into a business relationship with the financial institution or cash dealer. Section 12B of the same Act states that CDD requirements mentioned under section 12(1) and section 12A do not apply to FIs or cash dealers that are subject to regulation and supervision of a supervisory authority. As FIs and cash dealers are not aware of section 12B of MLPCAA 2010, this significant technical gap does not have any effect on the implementation of CDD.

246. Identification of the beneficial owners of legal persons and natural persons acting on behalf of another natural person is limited in banks, as this information is not asked for and there are limited sources for identification, recognising the information held by the Company Haus is basic.

247. Other FIs have limited implementation of CDD measures including identification of the beneficial owners of legal persons and whether a natural person is acting on behalf of another natural person. This is due to the lack of overall understanding of the concept of beneficial ownership, and the available resources and systems to identify beneficial owners.

248. One insurance company in Solomon Islands sells life insurance policies. The insurance industry is not supervised for CDD and record keeping.

249. Banks appear to be refusing business due to incomplete CDD. Banks and other FIs are not applying simplified CDD procedures that are commensurate with risk factors. DNFBPs are not aware of CDD measures, and are not implementing ML/TF preventive measures including CDD and record keeping requirements. DNFBPs have not submitted STRs. There is no instance where any DNFBP has refused a business relationship due to incomplete CDD. There are two casinos operating in Solomon Islands without AML/CFT regulation. The casinos are collecting basic information on their customers but this is used only for personal identification, not for CDD purposes. Casinos are a high risk sector in Solomon Islands according to the NRA, and it appears that identification and verification procedures are not undertaken in line with AML/CFT requirements, which is not commensurate with this risk.

Application of EDD measures

Financial Sector

250. **PEPs:** SIFIU provided a list of domestic PEPs to banks and money remitters just before the on-site. SIFIU stated that lists have been disseminated since 2014, although no evidence was provided to support this. These FIs are aware of their obligations in relation to screening and carrying out EDD for local and foreign PEPs, with the banks relying on automated commercial databases. Some banks may not be implementing all PEP requirements, including seeking senior management approval before establishing a relationship with PEPs. No supervision has been undertaken in the financial sector to determine if and how effectively the list of domestic PEPs is being used.

251. Money changers and money remitters, which are considered high-risk in the NRA for being used for illicit funds transfer through Solomon Islands, are using automated systems for screening of sanctions lists as required by each parent company, but have little awareness of PEPs requirements.

252. Other FIs do not appear to be aware of the PEPs requirements.

253. **Correspondent Banking:** Foreign banks appear to have good measures to mitigate the risks of correspondent banking. Correspondent banking relationships are generally maintained with international banks based in countries with stringent AML/CFT requirements. One bank was struggling to establish a correspondent banking relationship⁵, after the previous overseas correspondent bank ceased operation. In the absence of a correspondent relationship, this bank is conducting its international transactions through CBSI on a limited scale.

254. **New Technology:** Banks operating in Solomon Islands have not had a need to conduct ML/TF risk assessments for new products as they have not introduced any new technology in Solomon Islands. All new products and the introduction of new technology such as mobile telephone banking are assessed and introduced by their head office, although no evidence was provided of Solomon Islands specific risk assessments being undertaken. Other FIs are not aware of this requirement.

255. **Wire Transfers:** Although there is no legal or regulatory obligation by Solomon Islands authority for wire transfers (except for the collection of some originator information), three foreign banks have a good understanding of wire transfer requirements as they follow the

⁵ This bank subsequent to the onsite visit has organised a correspondent banking relationship.
Anti-money laundering and counter-terrorist financing measures in Solomon Islands 2019 © APG 2019

requirements of their parent company and the expectations of correspondent banks. Currently there is no foreign wire transfer facility available in the other new bank. The two foreign money remitters are aware of the requirements, although they mostly rely on the systems introduced by their parent companies. Banks are not applying any *de minimis* threshold for cross-border wire transfers. No enhanced or specific measures in terms of wire transfers are implemented by FIs.

256. **Targeted Financial Sanctions related to TF:** Banks and two money remitters appear to be aware of the sanctions regime and operate automated screening mechanism for UN and sanctions lists. Other FIs depend on SIFIU to provide updated UN sanctions lists, but there are challenges in understanding of TFS, given the lack of requirements.

257. **Higher-risk countries identified by the FATF:** Banks and remitters demonstrated some understanding in relation to higher risk jurisdictions identified by the FATF, such as Iran and DPRK. However, apart from the EDD measures and automated screening of customers and transactions including requiring senior management approval for new account opening and requiring information on the source of funds; it is unclear if these FIs adopt any other specific countermeasures for customers from higher risk countries. Other FIs and DNFBPs do not adopt any specific countermeasures or EDD for customers from higher risks countries and do not have any understanding of what is required.

DNFBP Sector

258. The DNFBP sector is not undertaking enhanced or specific measures. The absence of required regulations to ensure they are applying EDD for high risk customers like PEPs and the fact that they are not applying countermeasures against customers from high risk countries is increasing the ML/TF risk of this sector.

Reporting obligations and tipping off

259. The number of STRs submitted by banks appears reasonable in the context of Solomon Islands, but the STRs submitted are not commensurate with its ML/TF risk profile. As an example, no STRs have been submitted related to the high-risk illegal logging and fishing industries. FIs have reported 328 STRs in the period from 2013 to 2 December 2018 and money remittance service providers have reported 13 STRs in the same period, which appears low (see Table 3.5 for a further breakdown of STR statistics). Other FIs are not submitting STRs. There have been no STRs related to TF which is consistent with Solomon Islands' TF risk.

260. DNFBPs, including the casinos, have not submitted any STRs to SIFIU. The two casinos operating in Solomon Islands have never reported any unusual activity or transactions to any government organisation. This is not commensurate with the higher risk that casinos have in Solomon Islands. Other DNFBPs like lawyers and accountants are providing company services and some are engaged in buying and selling real estate on behalf of their customers, yet they have never submitted STRs and are not supervised for AML/CFT.

261. There is also a poor understanding of ML/TF typologies and risk indicators relevant specifically to Solomon Islands and how FIs could be abused for ML/TF, which may be a reason for under reporting. While regular meetings are held with the AMLRO network, further guidance, outreach and support is required from SIFIU to increase the number and quality of STRs.

262. Awareness of tipping off obligations amongst FIs was not well demonstrated. Prohibitions against tipping off are not well understood or well executed by the FIs and DNFBPs.

Internal controls, procedures and legal/regulatory requirements impeding implementation

263. The banks and money remittance service providers generally have better AML/CFT compliance procedures due to home office requirements which appear to be in line with Solomon Islands' AML/CFT laws. Other FIs and DNFBPs have no understanding of the obligation for internal controls. The AML/CFT policies and guidelines of the banks confirm compliance procedures including CDD, EDD, PEPs, STRs and record keeping. However, Solomon Islands regulatory authorities need to ensure that the financial sector's AML policies and procedures are in line with the requirements of MLPCA.

264. The banks provide staff with comprehensive training (online and face-to-face) on AML/CFT which strengthens internal controls and procedures to meet legal/regulatory requirements. NBFIs and DNFBPs provided no evidence of training, which further increases the potential risks for ML and TF in these sectors. SIFIU has provided limited training to reporting entities, with seven workshops provided in 2016 covering awareness-raising sessions, undertaking a risk assessment and scam/pyramid awareness sessions.

265. DNFBPs are required to implement internal controls and procedures under the MLPCA, although as noted previously no DNFBP regulations have been issued. Whether these institutions have implemented these requirements is difficult to ascertain, as SIFIU has not yet issued detailed requirements or assessed the institutions' compliance with their existing broad obligations in this area.

266. The Solomon Islands legislation inhibits the implementation of the FATF Recommendations due to an inability to share tax information, and the inability of CBSI to share ML and TF information with equivalent organisations overseas since CBSI does not regulate AML/CFT. It is unclear if this has ever affected the sharing of information in practice. FIs are required under the MLPCAA 2010 to provide information to SIFIU, including CTRs, EFTRs and STRs. FIs, cash dealers and legal practitioners are also legally bound to make available any of their records to SIFIU whenever requested in writing.

Overall conclusions on Immediate Outcome 4

267. Solomon Islands has improved its legal framework for preventive measures with the introduction of the MLPCAA in 2010 although the draft AML/CFT Regulations (2014), are not yet in force. While the MLPCAA 2010 provides some preventive measures including CDD, STRs and funds transfers, section 12(B) limits the application of CDD measures significantly. Banks are implementing CDD measures due to complying with their parent company's policies and procedures, but have little knowledge about domestic risks and obligations. Other FIs and DNFBPs are not implementing preventive measures and no supervision is being undertaken or guidance provided. Two casinos, which are high risk, but are not being regulated or supervised for AML/CFT. Reporting of STRs from banks is reasonable but other FIs and DNFBPs are not submitting STRs.

268. **Solomon Islands has a low level of effectiveness for Immediate Outcome 4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

- 1) FIs and some DNFBPs are subject to licensing frameworks. Market entry controls in the FI and DNFBP sectors are weak and lack adequate fit and proper checking on persons and bodies corporate, including criminal and beneficial ownership checks.
- 2) SIFIU and SRBs have a limited understanding of ML/TF risks, including sectoral ML/TF risks that are inherent to the FIs and DNFBPs.
- 3) The CBSI (prudential supervisor for FIs) and SIFIU (AML/CFT supervisor) conduct joint on-site inspections on FIs with a prudential and AML/CFT focus. SIFIU's approach to supervision is not risk-based nor is it informed by any risk assessment.
- 4) While the banking and insurance sectors and one finance company have been subjected to limited on-site supervision, NBFIs (finance companies, credit unions, money changers, money remitters, insurance firms and the superannuation fund) and DNFBPs have never been subjected to any form of AML/CFT supervision by SIFIU.
- 5) No sanctions have been applied to any reporting entities for AML/CFT breaches. However letters requesting corrective measures being issued on occasion. There is no evidence of follow-up to ensure the corrective measures have been implemented. Most of the financial sector has never been subjected to AML/CFT supervision, so supervisory actions are not having any effect on compliance with the MPLCA.
- 6) AML/CFT outreach (including awareness raising) is not well supported.

Recommended Actions

- a) SIFIU should extend AML/CFT supervision to DNFBPs and increase supervision activities with the FIs. It should implement risk-based supervision for all sectors (both FI and DNFBP) including lawyers, accountants, gaming, real estate and dealers in precious metals and stones.
- b) The competent authorities should undertake consistent and comprehensive "fit and proper" assessment of FIs and DNFBPs to the level of beneficial ownership or natural person with a material controlling interest.
- c) SIFIU should develop a comprehensive national supervisory strategic plan based on the understanding the ML/TF risks of each sector in the FIs and DNFBPs. This should outline its plans to develop its capacity, resources and understanding sectoral ML/TF risks as well as the application of the MLPCA 2010 so as to discharge supervisory duties effectively as per its mandate.
- d) SIFIU should conduct comprehensive outreach programs (including risk based onsite and offsite supervision) to improve compliance and awareness of ML/TF risks and obligations including preventive measures.

- e) SIFIU should effectively utilise the full range of sanctions available to it for non-compliance with AML/CFT obligations.

269. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.26-28 & R.34 & 35.

Immediate Outcome 3 (Supervision)

270. As mentioned in chapter 1, when assessing the effectiveness of preventive measures and AML/CFT supervision, the assessment team gave the highest importance to banks, followed by money transfer services and money exchange businesses, then life insurance, credit unions and other FIs. Amongst DNFBPs, casinos are considered high risk, and accountants and lawyers were given particular importance. All these sectors warrant close consideration as DNFBPs are not supervised for AML/CFT compliance in Solomon Islands.

271. The responsibility of supervising FIs is jointly held by CBSI and SIFIU. CBSI focuses on the prudential aspects of supervision whilst SIFIU is responsible for AML/CFT supervision. SIFIU has one staff member assigned as the compliance officer dedicated to conducting AML/CFT supervision. The officer conducts the on-site AML/CFT supervision activities during joint on-site inspections of the FIs with the CBSI prudential supervision staff.

272. AML/CFT on-site supervision has only occurred with the banking (3 banks) and insurance sectors (2 insurance companies) and one finance company (credit institution). With the exception of one bank inspection in 2014 undertaken solely by SIFIU, the remaining onsite inspections were based on invitations by the CBSI to SIFIU to conduct joint on-site inspections whenever the CBSI conducts its onsite prudential inspections (see Table 6.1 following) The onsite inspections are not determined based on risk.

273. SIFIU has mandate over the DNFBP sectors for supervision, but has not conducted any supervisory activities with those sectors.

274. Table 1.2 in chapter 1, lists the reporting entities, the relevant regulators and the relative market share size of the sectors subjected to AML/CFT supervision.

Licensing, registration & controls preventing criminals & associates from entering the market

Financial Institutions

275. CBSI is responsible for licensing FIs pursuant to section 5 of the FIA 1998. Money transfer and money changing services are licensed by the CBSI pursuant to the Foreign Exchange Regulations 1977. A gazettal notice issued in August 2008 pursuant to the Insurance Act 1996, mandates the Governor of the CBSI as the controller of Insurance. The Governor of the CBSI is mandated as the Registrar of Credit Unions. The Credit Union Act 1986 and the Insurance Act 1996 mandate CBSI to regulate and supervise these sectors.

276. The CBSI licensing assessment process involves assessing the ownership spread, review of the source and origin of paid-up capital, history, qualifications and experience of the applicant, criminal records of board of directors, executive managers, and shareholders. The CBSI is

mandated to do criminal background checks pursuant to Regulation 4(3)(1) and Regulation 5(b) of the Financial Institutions (licensing criteria) Regulation of 2015. However, the extent of determining the fitness and propriety of major/controlling shareholders and management is limited. The background checks done by CBSI and SIFIU are limited. The CBSI has only issued a fit and proper prudential standard for the superannuation industry. All the other financial sectors it supervises are not subjected to any fit and proper standards. There is some evidence of criminal background checks such as getting police clearances with law enforcement and/or with international counterparts when processing licensing applications. In some instances the SIFIU is requested by the CBSI to consider both its database as well as INTERPOL, Pacific Transnational Crime Unit and commercial databases as part of the criminal background checks process.

277. The necessary legal or regulatory measures to prevent criminals or their associates from holding or being beneficial owners of a significant or controlling interest in or holding a management function in a financial institution is limited in practice, given the non-issuance of the fit and proper prudential standards and its application in the various financial sectors supervised by the CBSI. Fit and proper tests do not appear to verify beneficial owners on an ongoing basis as these limited measures only take place during the application for a banking license and when changes in senior management positions occur. Since 2013, three banking license applications have been received with two applications approved whilst the third was not approved due to insufficient and unverifiable information, as well the companies use of the word 'bank' prior to being registered and incorporated with the Company Haus, prior to applying for a banking license.

DNFBPs:

278. DNFBPs are defined by section 2 of the MLPCAA as cash dealers and include casinos, gambling house or lottery operators, real estate agents, dealers of precious metals and stones, accountants, trust and company service providers and legal practitioners and are subject to AML/CFT obligations pursuant to sections 11, 12, 13, and 14 of the Act.

279. Solomon Islands Gaming Board is the regulator for Casinos. The Gaming Board is made up of representatives from AGO, public service, churches and cabinet. Casinos are granted licenses to operate under Laws of Solomon Islands; Gaming and Lotteries, 1996 Edition. Since 2013 two casino operations have been shut down by the Gaming Board due to unlawful commercial gaming and unlawful possession of instruments for gaming. Nonetheless, the extent of fit and proper and criminal back ground checks and beneficial ownership arrangements is unclear. Under section 7 (b) of the gaming act the Board is to be satisfied that the permit holder is a fit and proper person, however no information was provided as to how this occurs.

280. The real estate sector is very small and comprises three agents. The emergence of social media advertising forced many real estate agents to leave the industry or close down. This sector does not have a regulator or a legislative framework that regulates its practise and is therefore not subject to market entry requirements. The real estate sector is however captured as a reporting entity under the MPLCA.

281. Dealers of precious metals and stones are licenced and regulated by the Ministry of Mines (Laws of Solomon Islands, Mines and Minerals, Rev. Edition 1996). Some fit and proper measures are conducted during the licensing process, consisting mainly of criminal background checks and due diligence to establish beneficial ownership arrangements of the dealers granted a licence.

282. The Institute of Solomon Islands Accountants is responsible for regulating accountants. The Regulation of the practise of Accountancy of the Accountants Act 2010 governs the practise and registration of accountants with the Accountants Board. It is not clear if the fit and proper assessment before admission extends in practise to cover criminal background checks and beneficial ownership arrangements in the case of the establishment of an accounting firm.

283. Lawyers/legal practitioners are admitted to practise by way of application to the Chief Justice of the high court of Solomon Islands (section 3 of the Laws of Solomon Islands Legal Practitioners, 1996). This law requires that the persons wishing to practise must be fit and proper persons. However, it could not be determined whether the fit and proper assessment included criminal background and beneficial ownership checks in the case of the establishment of a law firm. There are approximately 30 registered legal firms in Solomon Islands. The assessment team was unable to meet with Solomon Islands Bar Association or any legal practitioners.

Supervisors' understanding and identification of ML/TF risks

284. CBSI and SIFIU have some understanding of the ML/TF risks in the financial sector. However, a more developed understanding of the risks within the financial sector is required through sectoral ML/TF risk assessments to further enhance the understanding and identification of ML/TF risks. While CBSI and SIFIU conduct joint FI on-site inspections with a prudential (CBSI) and AML/CFT (SIFIU) focus on a periodic basis, regulators of the financial system have a limited understanding of ML/TF risks that are inherent to the different types of FIs.

285. SIFIU's limited understanding of the ML/TF risks that are inherent to the various sectors it regulates is based primarily on the NRA which was undertaken by an external consultant who was supervised by SIFIU. This limited understanding is not evidenced through using risk to guide supervision.

286. The DNFBPs in Solomon Islands pose significant ML/TF risks. SIFIU's understanding of ML/TF risks in the DNFBP sectors is limited and negligible supervisory engagement has occurred with these sectors.

287. Apart from the CBSI and SIFIU, the understanding of ML/TF risk by the Accountants Board, the Company Haus, the Ministry of Home Affairs, the Ministry of Mines and the Gaming Board, is very limited. As the assessment team was unable to meet with lawyers or the Solomon Islands Bar Association, the understanding of ML/TF risk by this sector and the association is unknown. While lawyers contributed to the NRA, it is still unclear whether they have any broad understanding of ML/TF risks as other sectors who provided input into the NRA exhibited very little understanding of ML/TF risks and associated obligations.

Risk-based supervision of compliance with AML/CFT requirements

288. There are no legal requirements, policies or procedures requiring the relevant competent authorities to implement a risk-based approach to supervision and monitoring of ML/TF risks. The development and the application of a risk based supervision framework is lacking with onsite inspections scheduled to be part of the broader prudential supervisory visits of the CBSI.

289. There is no AML/CFT supervision policy or strategy in place. Apart from the 2014 inspection of one bank, SIFIU conducts on-site inspections with CBSI, which focuses on prudential supervision. SIFIU focuses on AML/CFT, however, the scope is not always clear.

290. There have been six on-site and one offsite supervision and compliance activities conducted from 2014-2018.

291. Five on-site inspections were conducted on three banks and two insurance companies, and one offsite inspection was conducted on a finance company (Table 6.1) from 2014 to 2018. All but one bank inspection was undertaken jointly by CBSI and SIFIU. The scope and frequency of the supervision activities are limited and do not appear commensurate with the high vulnerability and risk levels identified in the NRA which identified banks and finance companies as high risk and insurance companies and credit unions as medium-high risk. Not all high-risk FIs have been subject to an inspection and none have been inspected more than once over the last five years. There is no AML/CFT risk based supervision policy that informs the scope and frequency of the supervision activities. The on-site inspections conducted have been based on invitations by the prudential regulator to SIFIU to join on-site inspections. The on-site inspections covered the financial institutions' AML/CFT policies, internal controls, systems and procedures.

Table 6.1: List of SIFIU on-site and off-site inspections for AML/CFT: 2014-2018

On-site Supervision					
Year	FI Type	Scope	Findings	Regulatory Actions	FIs' Response
2014	Bank 1	CDD controls, procedure review; In/outward funds transfer/transactions review; Filling system/records keeping Review; Basic AML/CFT training (SIFIU only)	Some Account files lack copies of ID documents. Original documentary evidence of funds flow into Solomon Islands lacking In-house AML/CFT training programs lacking	Bank 1 to provide written response on actions to be taken.	unknown
2016	Bank 2	AML/CFT policies; CDD controls, procedure review; Filling system/records keeping Review; Basic AML/CFT training (CBSI and SIFIU)	Some Account files lack copies of ID documents. In-house AML/CFT training programs to continue with focus on STR filling by frontline staff	Bank 2 to provide written response on actions to be taken.	Findings to be actioned and updated was provided to SIFIU
2016	Insurance 1	KYC/CDD reviews AML/CFT training STRs Conducted by CBSI and SIFIU	Account files lack copies of ID documents. In-house AML/CFT training programs lacking. No STR filling with SIFIU as yet.	Insurance 1 to provide written response on actions to be taken.	All recommended actions actioned and resolved
2017	Bank 3	AML/CFT policies CDD controls, procedure review Filling system/records keeping Review	AML/CFT policy needs minor amendment. Some Account files lack copies of ID documents.	Bank 3 to provide written response on actions to be taken.	Not sighted by team.

		Basic AML/CFT training <i>(CBSI and SIFIU)</i>	In-house AML/CFT training programs to be conducted No STR detection system in place.		
2017	Insurance 2	AML/CFT policy review KYC/CDD reviews Filing system AML/CFT training <i>(CBSI and SIFIU)</i>	No AML/CFT policy Some Account files lack copies of ID documents. Improve filing system In-house AML/CFT training programs to be conducted	Insurance 2 to provide written response on actions to be taken.	Will develop AML/CFT policy Will review and address KY/CDD documentation Will improve filing system Will provide in-house AML/CFT training.
CBSI Offsite Supervision					
Year	Financial Institution Type	Scope of Supervision	Findings	Regulatory Actions	Reporting Institutions Response
2018	Finance Company	AML survey on Accounts types - KYC/CDD; corresponding banking	No findings	None	CBSI wrote to the institution encouraging it to continue to comply with SI AML requirements.

Source: SIFIU

292. Table 6.1 above shows basic AML/CFT on-site inspections which have limited coverage of AML/CFT risks inherent in financial institutions. The on-site inspections have limited coverage of assessment on high risk customers and corresponding banking relations. The review of AML/CFT policies of FIs during the on-site inspections is not comprehensive. A mandatory requirement for FIs to have in place internal controls, including AML/CFT risk management frameworks is lacking.

293. There has been no AML/CFT supervision conducted on credit unions, money changers and money remitters, with credit unions rated by the NRA as high-medium risk and money changers and money remitters rated by as high-risk entities. SIFIU has not used risk to apply enhanced measures to those entities with higher risk and simplified measures in low risk sectors.

DNFBPs

294. There have not been any AML/CFT supervision activities conducted in DNFBP sectors, including real estate agents, accountants, precious metals and stone dealers and legal practitioners.

295. Although there is some supervision conducted by the Gaming Board on casinos, this is limited in scope and regularity, and does not include AML/CFT. The casino inspectors do on-site inspections of the casinos twice a year. The on-site inspection focuses mainly on the physical

premises and its security. These supervision activities do not include AML/CFT, and SIFIU have not conducted any AML/CFT inspections on casinos.

Remedial actions and effective, proportionate, and dissuasive sanctions

296. The remedial actions available to FI supervisory authorities (CBSI and SIFIU) include written warnings, revocation of licenses and imposing of fines or imprisonment for serious breaches. The remedial actions available to the relevant regulatory authorities such as the Gaming Board, the Ministry of Mines, the Accountants Council and Solomon Islands Bar Association, include written warnings, revocation of licenses and imposition of fines or imprisonment for serious breaches under the various legislations that mandate these authorities and bodies.

297. The remedial actions taken as a result of the five on-site inspections have been mostly to do with copies of identification documents being absent from customer files that were reviewed as well lack of AML/CFT training conducted by the FIs. The remedial actions taken by SIFIU were the issuance of written letters of findings to the inspected FIs, requesting corrective measures to be taken by the FIs and communicated back to SIFIU. There is no evidence of any additional follow-up to ensure the corrective measures have been implemented. Other than corrective orders, no sanctions have been imposed for non-compliance or breaches of the MLPCA, so it is difficult to ascertain whether they are dissuasive. Overall, Solomon Islands has not issued effective, proportionate or dissuasive sanctions, which is likely due to the lack of AML/CFT supervision conducted.

298. There are some limitations to the supervision sanctions regime. There are no sanctions or penalties that can be imposed for failure to conduct ML/TF risk assessments on new technologies or deficiencies in internal controls.

299. The on-site assessments did not detail or confirm if there were any breaches or non-compliance with the MLPCA obligations except some administrative practise findings that were not consistent with expectations, such as proper record keeping and having on file copies of identification documents of clients. There have been no remedial actions or sanctions applied to DNFBPs, primarily due to no supervision in the DNFBP sector. All DNFBPs apart from accountants and TCSPs (medium risk) are rated by the NRA as high or medium-high risk.

Impact of supervisory actions on compliance

300. While the banks and the insurance sector have some co-operation with SIFIU, this has not necessarily resulted in improved compliance with AML/CFT obligations. The co-operation is reflective of the various joint on-site inspections conducted, although these are limited in number and were not conducted based on risk. While supervisors have limited engagement with industry bodies and regulators such as the DSE, Solomon Islands Gaming Board, Institute of Solomon Islands Accountants and Ministry of Mines, no evidence suggests that this has resulted in improved compliance with AML/CFT obligations.

301. The impact of supervisory action on compliance is very limited in that the regulator's approach has been that of imposing corrective orders. The limited follow up does not allow supervisors to know if recommended corrective orders have been implemented, and this was difficult to confirm due to lack of evidence. Furthermore most of the sectors, including the majority of non-bank financial institutions (finance companies, credit unions, money changers, money remitters, insurance firms and the superannuation fund) have never been subjected to

any form of AML/CFT supervision, thus the impact of supervisory actions on their compliance with the MLPCA is non-existent.

DNFBPs

302. No supervision activities have been conducted in the DNFBP sector. Limited awareness-raising has taken place, but the effectiveness of this is not evident.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

303. As noted in Immediate Outcome 4, Solomon Islands lacks comprehensive AML/CFT obligations. Further, it does not have a structured ML/TF risk awareness strategy.

304. Pursuant to the MLPCA 2002, SIFIU has developed guidelines for FIs and cash dealers to provide a practical interpretation of the MLPCA, to give examples of good practice and to assist management to develop policies and procedures appropriate to their business. It is not clear if these guidelines are utilised by SIFIU or whether they have been distributed to FIs and DNFBPs. It does not appear that these guidelines have been updated to reflect the 2010 legislative amendments and they do not incorporate preventive measures reflected in the 2014 draft regulations. The key areas covered in the guidelines have formed the basis for the awareness training provided by SIFIU.

305. Solomon Islands authorities have conducted limited outreach to FIs and DNFBPs on their AML/CFT obligations. The outreach has been limited in scope and regularity. The awareness sessions were basic and these sessions did not increase awareness of ML/TF risk posed by different sectors or on trends and typologies.

306. The conducting of the NRA and the involvement of the banks and insurance agencies in the NRA process has increased the awareness of the ML/TF risks posed to them as well as the need for these FIs to ensure compliance with the MLPCA, although the overall understanding of risks during the on-site visit was variable.

307. The training provided to reporting entities covered topics on basic AML/CFT issues such as KYC/CDD requirements, record keeping, STR reporting, AML/CFT activities and AML/CFT controls/procedures (Table 6.2). In terms of awareness, SIFIU went out to provincial centres to provide presentations focused on key AML/CFT issues, scams and pyramid schemes. The understanding exhibited by smaller FIs and all DNFBPs was negligible, despite these awareness and training sessions, some of which occurred in the lead up to the onsite visit.

Table 6.2: Training and awareness sessions provided to reporting entities: 2013-2018

Year	Particulars of Training	Participants	Number of Participants
2013	AML & CFT Standards	LEAs, FIs, Cash Dealers, DNFBPs & NGOs	44
2014	Basic AML & CFT concepts	FIs & Credit Unions	34
2015	Basic AML & CFT concepts, Scams & Pyramid Schemes	LEAs, FIs, Cash Dealers, DNFBPs, NGOs and secondary schools	579 (521 school pupils)
2016	Basic AML & CFT concepts, Scams & Pyramid Schemes	LEAs, FIs, Cash Dealers, DNFBPs, NGOs and secondary schools	268 (40 schools)
2017	Basic AML & CFT concepts, Scams & Pyramid Schemes	LEAs, FIs and schools	1041

			(1000 school pupils and 41 from the LEAs and FIs)
2018	Basic AML & CFT concepts	LEAs, FIs, Cash Dealers, DNFBPs, & NGOs	47
	Pre-ME workshop	LEAs, FIs, DNFBPs, NGOs	27

Source: SIFIU

308. Although SIFIU advises that a draft version of the NRA was circulated, the final NRA has not been shared with all REs. The NRA indicates broad involvement of the private sector in this assessment, but at the on-site visit there was limited recollection of the NRA process by the private sector and little recall of the findings of the NRA.

Overall conclusion on Immediate Outcome 3

309. Market entry controls in the FI and DNFBP sectors are weak and lack adequate fit and proper checks, and limited enhanced due diligence on persons and body corporates, including criminal checks and beneficial ownership arrangements. While banks, insurance and one finance company have been subject to AML/CFT supervision, NBFIs and DNFBPs have never been subject to AML/CFT supervision. Supervision is not risk-based, and the supervisory authorities lack a sound understanding of a risk based approach to AML/CFT supervision and compliance. SIFIU's understanding and application of the obligations and the sanctions in the MLPCA is limited. Effective, proportionate or dissuasive sanctions have not been issued. There has not been sufficient structured awareness raising or outreach on risk or AML/CFT obligations.

310. **Solomon Islands has a low level of effectiveness for Immediate Outcome 3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

Legal Persons and Arrangements (Immediate Outcome 5)

- 1) Solomon Islands has not undertaken a ML/TF risk assessment of all forms of legal persons. The NRA has considered ghost/shell companies, cooperatives and charitable organisations, but not other forms of legal persons.
- 2) Solomon Islands operates a rudimentary company registration system (companies only register online, Company Haus obtains basic information and does not verify any information) with few systematic controls.
- 3) There are few structural preventive measures designed to prevent the misuse of legal persons and arrangements for ML or TF. Registration and record-keeping measures to prevent or deter the misuse of legal persons and legal arrangements are inadequate:
 - o Companies are permitted to operate for three months without registration
 - o Provisions for companies to update information held by Company Haus are not enforced
 - o There is no requirement for companies to hold BO information and Company Haus does not hold BO information
- 4) The existing mechanisms for maintaining BO information beyond the legal owners of shares and directors is inadequate. Authorities are unable to secure adequate, accurate and current BO information on all types of legal persons in Solomon Islands.
- 5) Trustees are not subject to comprehensive AML/CFT obligations, and are not required to disclose their status to an FI when forming a business relationship or carrying out an occasional transaction above the threshold.
- 6) Cooperatives are not subject to compulsory requirements to register and are not subject to comprehensive AML/CFT obligations, including the requirement to keep updated beneficial ownership information.
- 7) Foreign companies are not subject to the requirements of record keeping and the updating of records. There is no mandatory requirement to keep updated share registers, to notify the Registrar of changes to shareholders, or to keep up-to-date beneficial ownership information.

Recommended Actions

- a) Assess the risks of, and develop a comprehensive understanding of, the vulnerabilities posed by all types of legal persons able to be formed in the Solomon Islands.
- b) Require trustees to disclose their status to financial institutions when forming a business relationship or carrying out an occasional transaction above the threshold.
- c) Require legal persons to maintain updated and accurate information on their beneficial ownership as one of the mechanisms for obtaining BO. This information should be

maintained in a way that allows timely access by the relevant authorities without legal restriction or hindrance.

- d) Subject foreign companies to record keeping and updating of records requirements similar to local companies. This should include keeping updated share registers, to notifying the Registrar of changes to shareholders, and keeping up-to-date beneficial ownership information.
- e) Require the Company Haus to verify the basic information it maintains and ensure that it is current by applying appropriate sanctions for failure to update in a timely manner.
- f) Strengthen the verification processes on foreign investors and use international databases and UN lists before approving.
- g) Require mandatory registration for cooperatives and charities with record keeping requirements and the requirement to keep up-to-date beneficial ownership information similar to local companies.

Immediate Outcome 5 (Legal Persons and Arrangements)

311. The relevant Immediate Outcome considered and assessed in this chapter is IO 5. The Recommendations relevant for the assessment of effectiveness under this section are R 24 and R 25.

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

a. Legal persons

312. The types of legal persons that can be established and/or registered in Solomon Islands are outlined in the TC annex at Recommendation 24. Public information on the creation and types of legal persons is limited. The process for creation of legal persons and recording basic ownership information is set out in the Companies Act and Cooperatives Act. This legislation along with other relevant legislation is publicly available on the Company Haus website.

313. However Solomon Islands has not provided any detailed information on the number of registered companies and cooperatives and also not provided an estimate of the number of unregistered and unincorporated companies operating in the country.

b. Legal arrangements

314. Solomon Islands has provided no information on legal arrangements (including any relevant legislation or case law) and no information is available on domestic express or foreign trusts. Trusts that earn income are required to file tax returns under the Income Tax Act however the authorities have not provided information on the number of trusts that have filed such returns. There are also references to exemptions from stamp duty in s 11 of the Stamp Duties Act relating to changes in trustees under express or implied trusts and consequent transfers of trustee ownership where no beneficial entitlement is realised to give effect to those changes. However, Solomon Islands authorities have not provided information to the assessment team on the number of such transfer exemptions.

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

315. The NRA has considered the risks associated with “ghost and shell” companies as noted above which is a positive initial step. There has been no assessment of ‘all types’ of companies that can be formed under the two relevant statutes. The NRA recognises shortfalls in terms of maintenance of statistics and data in relation to these entities. The Company Haus and the Foreign Investment Department were not consulted during the NRA process.

316. Public and private sector officials interviewed during the on-site visit demonstrated a poor understanding of the ML and TF risks associated with legal persons and legal arrangements. Some financial institutions were of the view that the risk associated with legal persons was high, but did not effectively articulate why, and others had no understanding of the issues. Company Haus did not understand the concept of ML and TF risk in the context of legal persons and was therefore unable to discuss the issues.

Mitigating measures to prevent the misuse of legal persons and arrangements

317. Solomon Islands has not implemented effective structural preventive measures designed to prevent the misuse of legal persons and arrangements for ML or TF.

a. Legal persons

318. Companies are to be registered to be recognised as legal persons under the Companies Act 2009. However, the company registry states that there is a 3-month grace period within which a company may operate without being registered. Company Haus was not able to identify a risk associated with this lack of registration. Within the 3-month period, a company can obtain a bank account and operate as a legal entity. It is unclear how many unregistered companies exist in Solomon Islands, how often this grace period is utilised, and how often companies do not complete their registration requirement after the grace period lapses. No evidence was provided to the assessment team of any action being taken by Company Haus after the expiry of the 3-month period.

319. Under the Cooperatives Act, cooperatives can register voluntarily. The application for registration of a cooperative requires signatures of 10 members. The registration also needs to be accompanied with a list of all members and their capital. The registration application also needs to be accompanied with the name and addresses of committee members and officers of the society.

320. The only way information appears to be updated is yearly, if the company files an annual return, at which time it is expected to update the details maintained by the Company Haus. There is, however, no system in place which is used to notify the Company Haus if a company has not filed their annual returns. The only sanction that is applied is when a company filed its returns late and was fined an additional SBD 100 (equivalent to USD 12.50). The Company Haus does not appear to enforce provisions which require companies to update the Company Haus within a certain period of time after changes have been made to directors and/or shareholders. Accordingly the accuracy and currency of the information maintained by the Company Haus is unclear.

321. Foreign investors who form companies in SI as directors as well as shareholders are required to register with the FID. The FID verifies foreign investors and appears to use counterparts overseas to carry out background checks when needed. FID and Company Haus do

not use any international database or the UN lists to screen applicants. FID also only checks for bankruptcy rather than the criminal records of a foreign investor. No data is maintained in relation to the number of checks carried out by FID. It appears that from 2013 there have been no rejections of applications made by a foreign investor to the FID (see Table 7.1).

Table 7.1: Number of applications received and approved by FID: 2013 - 2017

Year	Applications received	Applications approved	Applications rejected
2013	173	173	0
2014	190	190	0
2015	216	216	0
2016	225	225	0
2017	217	217	0

Source: Solomon Islands authorities

322. The degree to which lawyers, accountants, and real estate agents prevent the misuse of legal persons and arrangements is unclear. While lawyers provide company formation services, the assessment team was unfortunately unable to meet with lawyers (meetings were scheduled, but scheduled meetings were not attended). Accountants appear to provide company formation services as well and also open bank accounts on behalf of customers, however they do not undertake sufficient identification processes. However due to the small number of clients that the accountants deal with due to the size of Solomon Islands, most customers are known to them.

323. There is also an issue with accountants' trust accounts used by legal persons. One accountancy firm admitted to using their trust account to keep company funds for a number of clients as they process the payroll on the clients' behalf (mainly foreign companies, to allow payment of domestic payroll).

324. Solomon Islands has not put any measures in place to mitigate the risk associated with bearer share warrants.

b. Legal arrangements (trusts)

325. There are challenges with the understanding of ML and TF risks associated with varying types of trusts (express, discretionary and foreign trusts) across the public and private sector stakeholders. FIs which deal with trust accounts lack an awareness of risk issues associated with trust structures operating in Solomon Islands.

326. There is evidence that domestic express trusts have been involved in fraud and are involved in beneficial ownership of companies:

- Solomon Islands case of *Kanaifiolo v Umai* [1996] SBHC 49 involves trustees of a family trust who wrongfully directed monies from the trust's logging operation into accounts other than the trust account.⁶ The summary of the case suggests to the assessment team that the trust structure was used for fraud and tax evasion; and.

⁶ Cited in the text book: Faren and Paterson, (2004) *South Pacific Property Law*, Cavendish Publishing, Australia at p. 279, footnote 134.

- It appears that foreign trusts hold shares in companies registered in Solomon Islands, however, the only information submitted to the Company Haus appears to be the name of shareholders.

327. There are contrasting views among officials on whether foreign trusts operate in Solomon Islands. The assessment team is therefore of the view that the risks associated with foreign trusts are not understood.

328. There is inadequate understanding by accountants on their role and responsibilities in the AML/CFT framework. This shows a definite lack of SIFIU and CBSI monitoring and a priority exists on educating and supervising these sectors given the risks involved. It is unclear what understanding lawyers have, as they did not meet with the assessment team and did not respond to any questions provided.

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

329. Basic information on the structure of a company, shareholders of a company can be ascertained through the information maintained by Company Haus, although the information is not verified and may not be up to date.

330. Competent authorities have access to CDD BO information on legal persons from FIs with major banks, securities and insurance taking reasonable measures to identify and verify the identity of BOs. Additional information can be obtained through official letters. CDD is done reasonably well amongst FIs, and while the obligations are new amongst DNFBPs, CDD information on BO may be available. As outlined in IO4, there are concerns with the scope of CDD obligations and the implementation of their obligation.

331. There is no requirement in Solomon Islands for companies to maintain BO information beyond the legal owner of shares.

332. In the absence of these mechanisms, authorities are not able to secure adequate, accurate and current BO information on all types of legal persons in Solomon Islands. Company Haus information is available online containing the names of company shareholders, directors and their nationality. However that information is limited and does not include full beneficial ownership information. In addition, FI/DNFBPs are not required to identify and verify the identity of beneficial owners of customers that are legal persons.

333. In relation to cooperatives, given the voluntary nature of registration, BO information is kept by the Registrar of Cooperatives. Those cooperatives that are registered have no requirement to keep updated beneficial ownership information, and there is no requirement to update the Registrar of Cooperatives. No information on cooperatives is accessible from the Company Haus website.

334. For foreign companies, there is no mandatory requirement placed on them to keep updated share registers or to notify the Registrar of changes to shareholders.

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

335. As there is no obligation on trustees to collect and maintain BO information, authorities are not able to secure adequate, accurate and current basic and BO information on legal

arrangements operating in Solomon Islands. In addition, financial institutions are not required to identify and verify the identity of beneficial owners of customers that are legal arrangements.

336. In the case of foreign trusts operating in Solomon Islands where the trustee is overseas, this information would only be available through formal or informal co-operation mechanisms, which may not involve the timely exchange of information. Where a foreign trustee does not declare his or her status voluntarily, the authorities would not be aware that the person was acting as a trustee.

Effectiveness, proportionality and dissuasiveness of sanctions

337. The Companies Act makes it a crime to make false entries or give false information. The penalty is SBD 1 000 or imprisonment of 7 years. In relation to a failure to update shareholder and director information, the penalty is SBD 50. The Company Haus did not have a record of anyone prosecuted for giving false information. The DPP was able to confirm that a person had been convicted for this offence. No further details on the case were provided to ascertain the sanction applied. In practice it appears that the Company Haus is content to fine people for filing late annual returns which attracts a very low fine (USD 12.50) and relies on this to be the impetus to maintain or update information by companies. No data was provided to the assessment team to show how many legal persons had been fined.

338. With respect to trusts there is no legal recourse for failure to maintain BO information or failure to update information on BO. There is no information on penalties or sanctions relating to trusts.

339. Overall, the available sanctions regime for preventing the misuse of legal persons and arrangements is not effective, proportionate and dissuasive.

Overall conclusion on Immediate Outcome 5

340. Competent authorities do not appear to have a sound understanding of the risks associated with different types of legal persons. Company Haus maintains basic information on companies registered by them, but this information is not adequately verified or updated. Due to the deficiencies in the legal framework and the obtaining and updating of information Solomon Islands is impaired in its ability to find and provide current beneficial ownership information.

341. **Solomon Island has a low level of effectiveness for Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL CO-OPERATION

Key Findings and Recommended Actions

Key Findings

International Co-operation (Immediate Outcome 2)

- 1) Solomon Islands has a reasonable legal framework for international co-operation for MLA, including extradition, but there are no policies and procedures on how MLA and extradition will be sought and requests responded to. In addition, there is an overlap between the roles of the AGO and the ODPP's Office in relation to extradition applications. The Extradition Act designates the ODPP to make applications for extradition, in practice the AGO makes the applications.
- 2) Solomon Islands has not received or made any requests for MLA or extradition since the last MER. RSIPF requested MLA on one occasion, although this case has been pending since 2016. Solomon Islands is also in the process of making an extradition request which has been delayed pending further information to be provided to AGO.
- 3) Some informal co-operation has been undertaken by SIFIU, DPP, Customs and CBSI as evidenced by a number of investigations into regional transnational crime. Solomon Islands prefers to use informal channels for international co-operation. The use of formal and informal co-operation is in line with the context of a smaller Pacific jurisdiction. However, it is difficult to judge whether co-operation is commensurate with Solomon Islands' risk profile.
- 4) Solomon Islands has never made or received a formal request for international co-operation to identify or exchange basic or beneficial ownership information. In the event of a request, it is not clear that authorities will be able to secure adequate, accurate and current basic and BO information on all types of legal persons in Solomon Islands.

Recommended Actions

- a) Solomon Islands should actively utilise the powers available under the MACMA to facilitate AML/CFT co-operation with foreign countries.
- b) Develop policies and procedures to ensure MLA and extradition requests are sought and received in a timely and efficient manner. This would also stop the overlap of responsibilities currently seen between AGO and ODPP.
- c) Competent authorities should continue to establish and strengthen their individual co-operation mechanisms with other Pacific jurisdictions that have a similar AML/CFT risk context in order to exchange information with foreign counterparts.
- d) Introduce mechanisms to ensure that if a foreign request for beneficial ownership information is received, it is able to provide this information in a timely manner.

342. The relevant Immediate Outcome considered and assessed in this chapter is IO2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40.

*Immediate Outcome 2 (International Co-operation)**Providing and seeking constructive and timely MLA and extradition*

343. Solomon Islands can provide a wide range of assistance under their MACMA and their Extradition Act. The competent authority for MLA and Extradition is the Attorney General's Office (AGO). Solomon Islands has no legislative requirement for an extradition treaty or MLA agreement to provide and receive assistance.

A) Mutual Legal Assistance:

344. There have been no MLA requests made to or by Solomon Islands since the previous MER, which is in line with the context of the Solomon Islands. As there have been no MLA requests made to Solomon Islands it is difficult to assess whether assistance can be provided in a timely and constructive manner.

345. In December 2016, RSIPF sought assistance from AGO in requesting MLA from Vietnam to obtain evidence regarding a Singaporean criminal who committed a serious offence of false pretence and other fraud in Solomon Islands. In 2019, the AGO responded to RSIPF and asked them to make changes to the documents. The MLA request has still not been sent to Vietnam authorities. This investigation has been completed and charges will be laid against the criminal once he is extradited back to Solomon Islands from Australia, where he now resides.

346. Based on the above case, it appears that there is an issue between domestic agencies with progressing MLA requests. This may reflect Solomon Islands' ability to provide timely and constructive assistance to an MLA request.

347. The extent of co-operation by LEAs in international investigations is not clear, and there has been one cited example where co-operation has resulted in operational outcomes (see Case Study 8.1.). LEAs have a preference for and acceptance of informal mechanisms.

348. Besides legislative provisions governing MLA there are no guidelines, directions or prioritisation policies for handling these matters. In light of no requests received and made, the authorities have not developed any protocols or manuals to prioritise and deal with MLA.

B) Extradition:

349. There has been no information provided by Solomon Islands to show whether it is able to provide extradition assistance in a constructive and timely manner. There appears to be an overlap between the roles of the AGO and the ODPP's Office in relation to who makes the extradition application in Court. Despite the Extradition Act designating the ODPP to make applications for extradition, in practice it appears that the AGO is making the applications.

350. In 2007 there was a successful extradition from Solomon Islands to Australia. This is commensurate with the size of Solomon Islands, it not having an offshore sector and the low-level nature of criminality.

351. In 2018 Solomon Islands initiated the extradition of an individual to Solomon Islands, however there have been some delays in co-ordination between the domestic agencies with three months having lapsed since it was forwarded to the AGO. At time of the onsite this matter was still underway and it was difficult to ascertain if delays were due to the issues with the extradition framework, other related domestic issues or factors from the foreign jurisdiction.

352. As with MLA, there are no guidelines, directions or prioritisation policies for handling extradition matters. In light of only one request in 2007, the authorities have not developed any protocols or manuals to prioritise extradition as the need has not arisen. There are however plans to release a prosecution booklet/manual.

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

353. Solomon Islands has only on occasion pursued formal international co-operation for ML and TF. There have also been limited international co-operation requests made by Solomon Islands for other predicate offences. Solomon Islands prefers to use informal mechanisms to pursue legal assistance.

354. In 2017, RSIPF investigated a Russian national who was suspected of intending to provide ML services to transitional criminals. This investigation called “Operation Kursk” involved RSIPF, SIFIU, Customs and Immigration, NZ Police and Pacific Transnational Crime Coordination Centre (PTCCC). As this investigation is ongoing, no further information was provided by Solomon Islands authorities.

355. The authorities highlighted a case where they have used informal mechanisms to pursue transnational elements (see IO.7) resulting in a successful outcome in relation to a transnational human trafficking matter which is described in Case Study 8.4. There have been some informal requests made by DPP, Customs, FIU and CBSI for information or assistance, although limited examples were provided by Solomon Islands. Domestically, Solomon Islands focuses on predicate offending rather than ML or TF. Similarly, its requests for assistance have focussed on predicate offending. It does appear that some effort has been made to target corruption which is one of the high risks of ML. Agencies have contacts with other networks including the Pacific Islands Chiefs of Police, the Pacific Islands Law Officers Network, the Pacific Transnational Crime Network, the Association for Supervisors of Pacific Countries, Egmont and Customs organisations although limited examples and no overall statistics were provided. The use of INTERPOL is noteworthy as evidenced in Case Study 8.3, although overall there is a dearth of examples.

Seeking other forms of international co-operation for AML/CFT purposes

356. ODPP appears to have made one request for assistance (in getting information on a *bech de mer* consignment which had illegally left the shores of Solomon Islands) however there was no response to the request. No further information has been provided and no indications of any follow-up were provided. The AGO has not engaged in any form of co-operation.

357. CBSI claims to have a working relationship with other regulatory authorities and can ask for assistance through phone and electronic communications. No further details were provided.

358. Solomon Islands is a member of the Pacific Islands Chiefs of Police, the Pacific Islands Law Officers Network, the Pacific Transnational Crime Network and the Association for Supervisors of Pacific Countries. RSIPF is a member of INTERPOL and can share information via this channel. RSIPF, in particular the TCU, is able to share and also execute requests for assistance successfully, although it unclear what the level of this engagement is (see case below). RSIPF also entered into an international MOU with AFP in 2018 and has utilised this in a successful drug raid involving state agencies from Australia and United States of America (see Case Study 8.2). Since 2017, RSIPF has made seven requests to INTERPOL and received three requests from INTERPOL with one fraud investigation completed with charges to be laid once extradition has been undertaken.

359. Solomon Islands Customs has an MOU with the Oceania Customs Organisation and appears to utilise and access information, although no details or statistics have been provided. Customs provided limited records of international co-operation and demonstrated limited practical co-operation between some regional countries or OCO members. No cases provided were related to ML/TF issues.

360. In October 2015, Customs made requests to Papua New Guinea regarding a company whose cargo had been claimed under the MSG trade agreement⁷. On another occasion, Customs checked a request from New Zealand Customs regarding a stolen vessel although no further information was provided for either case.

361. There have been instances where requests from Solomon Islands have not been actioned by the receiving country. Customs has made some requests for immigration information. No specific details have been provided.

362. SIFIU is able to share information with other countries, has entered into seven MOUs and is a member of the Egmont Group and the Association of Pacific Islands FIUs. SIFIU is able to share information with foreign counterparts and LEAs (see Table 8.1).

Table 8.1: MOUs signed by Solomon Islands with foreign FIUs

Jurisdiction	Name of FIU	Date
Papua New Guinea	The Financial Analysis and Supervision Unit (FASU) of the Bank of Papua New Guinea	24 July 2018
Bangladesh	Bangladesh FIU	04 July 2017
Philippine	The Anti-Money Laundering Council, The FIU of the Republic of the Philippines	13 July 2011
Fiji	Fiji FIU	12 July 2011
Sri Lanka	Sri Lanka FIU	01 July 2010
Malaysia	Malaysia FIU	10 June 2010
Indonesia	Indonesian Financial Transaction Reports and Analysis Center	22 February 2010
Chinese Taipei	Money Laundering Prevention Center, Investigation Bureau,	25 July 2007

Source: Solomon Islands authorities

Table 8.2: Exchange of Information between SIFIU and Foreign LEAs and FIUs: 2013 - 2018

	2013 to 2016	2017	2018
Requests for information received	0	3	3
Requests made for information	0	2	1

Source: Solomon Islands authorities

⁷ The Melanesian Spearhead Group (MSG) was conceived in 1986 between the three Melanesian Pacific Island Countries - Papua New Guinea, Vanuatu and Solomon Islands with Fiji becoming a member in 1998. The purpose of the group are (1) to promote and strengthen inter membership trade, exchange of Melanesian cultures, traditions, values and sovereign equality; (2) to foster economic and technical co-operation between the members; and (3) to align member country's policies and further member's shared goals of economic growth, sustainable development, good governance and security.

363. Solomon Islands has demonstrated effective inter-agency co-operation as well as co-operation with international agencies (Case Study 8.1 and Case Study 8.2).

Case Study 8.1: Co-operation with international agencies

LEAs joint investigation as "Operation Blue Boat"

On 23 March 2017, information reached RSIPF on four blue boats sighted at Makira/Ulawa province. The boats allegedly escaped PNG authorities coming into Solomon Islands EEZ.

A joint operation was conducted by a range of domestic agencies including Ministry of Fisheries, RSIPF, Immigration, Customs, Foreign Affairs, Bio-Security, AG Chambers and international advisors (RAMSI, TCU, Forum Fisheries Agencies, and Australian Defence Force). Surveillance support was also given by the French Air Force. Three boats were seized with a total of 43 males of Vietnamese origin apprehended from the boats. The fourth boat avoided apprehension. It is unclear what other foreign agencies contributed to this case and what mechanisms for co-operation were utilised.

The 3 captains and the crew of the boats were charged and produced in the Magistrate's Court in Solomon Islands whereby the 40 crew members pleaded guilty.

Source: RSIPF

Case Study 8.2: Co-operation with international agencies

LEAs joint narcotic investigation

A joint narcotic investigation involving RSIPF, the Australian Federal Police, the US Drug Enforcement Administration, the Australian Criminal Intelligence Commission, NSW Police Force and the Australian Border Force was conducted in September 2018, with simultaneous police activity in Honiara and Sydney, Australia.

RSIPF conducted a search of a Belgian-registered yacht off Honiara and located and seized 500 kilograms of cocaine concealed within the vessel. Law enforcement activity in Australia was co-ordinated to coincide with the search of the yacht in Honiara, with two men arrested and four search warrants conducted in Sydney, Australia.

The yacht and cocaine will be forfeited and lawfully disposed in collaboration with RSIPF, Customs, ODPP and Ministry of Health.

Source: RSIPF

364. In instances where Solomon Islands has received a response to its requests for information, it appears to take 2 to 3 days to receive a response (limited data has been provided). There has been no assistance requested for ML or TF (TF is in line with the risk and context).

Case Study 8.3: International request for information

Request for Information using INTERPOL involving case of Corruption

In 2018 Solomon Islands through INTERPOL requested immigration information from New Zealand for a New Zealand passport holder who was believed to be an accomplice of a person already in Solomon Islands who had been convicted of official corruption. The information was relevant to furthering investigations against the New Zealand passport holder with a view to interviewing him.

Source: Solomon Islands authorities

365. There have been frustrations expressed by domestic agencies that their informal requests are not met favourably and often they receive no response to their requests. It is unclear why Solomon Islands did not pursue formal MLA to further their investigations when investigations stalled due to not getting any responses through informal channels. No clear explanations were provided.

Providing other forms of international co-operation for AML/CFT purposes

366. In relation to informal co-operation, Solomon Islands competent authorities claim that they are responsive to requests for international co-operation received from foreign counterparts. One jurisdiction indicated it had received a request from Solomon Islands, which did not relate to any suspected criminal or AML/CFT matters, but led to an intelligence exchange. Another jurisdiction indicated that it sent one request for information to SIFIU between 2014 and 2017, but no further feedback was provided.

8

Case Study 8.4: Execute Request for Assistance

Response to informal request for information and extraction of alleged Human Trafficking victims

Solomon Islands TCU was contacted by the Vanuatu TCU in December 2016 regarding two females (citizens of Vanuatu) who were alleged to have been brought to Solomon Islands against their will and were being held against their will in Solomon Islands. Solomon Islands TCU located the two females and took them into protective custody. In just under a month after the request came, the females were flown back to Vanuatu and reunited with their family.

Source: Solomon Islands authorities

367. Customs is able to action requests for assistance within a day or two. Customs has received requests from foreign LEAs ranging from requests for information on location of a boat in distress to locating a stolen boat.

368. In relation to predicate offences, Solomon Islands has received and co-operated in relation to corruption and illegal fishing which are high risk in the 2017 NRA, although specific details on cases that involve international co-operation have not been provided.

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

369. Solomon Islands has not provided any evidence where it has shared basic and beneficial ownership information with other jurisdictions although the Company Haus website contains basic company information and details of shareholders and directors which is easily accessible. Not all beneficial ownership information is captured by the website and it appears to be restricted to companies (legal persons) only. No requests have been received although it was unclear if comprehensive records were being kept.

Overall conclusions on Immediate Outcome 2

370. Solomon Islands has an adequate legal framework for MLA but lacks formal MLA procedures and guidelines. This, coupled with the risks and context of Solomon Islands, may have resulted in no MLA being sought during the period under review (although one RSIPF request was initiated and has been pending for 3 years). Solomon Islands has some limited success through informal channels but has given no reason why it has not requested MLA in matters where investigations were ongoing or where informal channels have failed. In line with the context and size of Solomon Islands, there have been no extradition requests received since 2007.

Solomon Islands is in the process of making an extradition request which has been delayed pending further information to be provided to AGO. While Solomon Islands has had challenges on occasion facilitating positive engagement with foreign jurisdictions, Solomon Islands authorities suggest they are willing and able to respond to requests for information within a day or two of the requests being received, although no evidence was provided to support this. There is also no evidence of Solomon Islands receiving requests for basic or beneficial ownership information for legal persons or arrangements which is in line with the risk and context of Solomon Islands.

371. **Solomon Islands has a moderate level of effectiveness for Immediate Outcome 2.**

TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis of Solomon Islands' level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation adopted in 2010. This report is available from www.apgml.org.

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

3. Recommendation 1 is a new FATF Recommendation included in the 2012 revision, thus was not previously assessed in Solomon Islands 2010 MER.

4. *Criterion 1.1* - Solomon Islands has undertaken two AML/CFT National risk assessments (NRA); one in 2009 and the other in 2017. The purpose, scope and audience of the 2017 NRA are clearly identified and the NRA received whole-of-government commitment through its adoption by the Anti-Money laundering Council (AMLC) in 2018. The 2017 NRA reasonably depicts Solomon Islands' risk context.

5. The approach taken to inform the NRA in identifying the major ML/TF threats in and through Solomon Islands was based on amounts of funds derived from predicate crimes and therefore available for ML/TF. As there was little or no statistical information captured on the level of funds involved in most of the predicate crimes, the views of the various Solomon Islands government and non-government entities was the basis to determine the possible ML/TF threats and vulnerabilities.

6. This ML/TF NRA is very broad, but lacks a good statistical basis, and relies heavily on the expert views of government and non-government representatives. It does outline the high level of ML/TF risks and is consequently a foundation for the development of a more extensive assessment of ML/TF risk in the immediate future. Critically, there was a limited range of statistical and case material available to assist the development of the ML/TF NRA.

7. The NRA drew on the best available data and information obtained through interviews, workshops, statistics and other data from government agencies and from the financial institutions, media reports and other public sources as well as the expert opinions/value judgments of the agencies contributing to data collection. This information was used to assess the ML/TF risk in and through Solomon Islands using the standard risk management approach of identifying and evaluating the threats, systemic weaknesses and the possible consequences to Solomon Islands should those ML/TF risks eventuate.

8. *Criterion 1.2* - AMLC is responsible for overseeing Solomon Islands' AML/CFT program. Solomon Islands Financial Intelligence Unit (SIFIU) was designated by the AMLC to co-ordinate the assessment of Solomon Islands' ML/TF risks in its 2017 NRA and to assess AML/CFT risks more generally. SIFIU co-ordinated the NRA together with the AML Technical Expert Group (AMLTEG). The NRA was undertaken with public sector agencies including law enforcement agencies as well as reporting entities from the private sector.

9. *Criterion 1.3* - Solomon Islands second NRA was conducted in 2017 to update the 2009 assessment. While there is no legal requirement to update the NRA, the NRA includes a plan to update it every 5 years.

10. *Criterion 1.4* - The risk assessment is disseminated through SIFIU working with members of the AMLTEG and the MLROs, which through their scheduled meetings and points of contact are able to provide information on the results of the risk assessments to all relevant competent authorities and self-regulatory bodies, financial institutions and DNFBPs.

11. *Criterion 1.5* - Solomon Islands has recognised bribery/corruption and fraud as two of its key ML/TF risks, and is addressing these risks through establishing key units in the RSIPF and ODPP dedicated to corruption and fraud. RSIPF has a Corruption Targeting Team, which investigates corruption by members of parliament and government and ML/TF; and a Fraud Team which deals with fraud-related crimes against public servants and the general public. The ODPP has established a special prosecution unit, consisting of four prosecutors, to target corruption, ML and transnational crime. Task Force Janus has been established, partnering RSIPF with the Ministry of Finance and Treasury to address fraud, bribery and corruption in the public sector. In addition, the Independent Commission Against Corruption (ICAC) is being established under the Anti-Corruption Bill 2017, and will focus on corruption, in collaboration with RSIPF.

12. Solomon Islands is yet to carry out risk awareness workshops for both the public and private sectors and has not developed a strategic plan to mitigate the risks. Solomon Islands has not demonstrated a strategically focused approach to allocating resources across all government sectors to address the identified risks in the NRA.

13. *Criterion 1.6* - Solomon Islands has not utilised exemptions provided under R.1.

14. *Criterion 1.7* - Solomon Islands has no measures currently in place, either by law or by regulation. FIs and DNFBPs are not required to take enhanced measures to manage and mitigate the risks or to ensure that the information from the NRA is incorporated into their own risk assessments.

15. *Criterion 1.8* - Simplified measures based on proven low risk are not allowed for by Solomon Islands.

16. *Criterion 1.9* - The supervisors are yet to demonstrate how they are able to ensure that all financial institutions and DNFBPs are implementing their obligations as per Recommendation 1.

17. *Criterion 1.10* - There are no legal requirements for FI's and DNFBPs to identify, assess and understand their ML/TF risks.

18. *Criterion 1.11* - SIFU asserts that the FIs in Solomon Islands have policies, controls and procedures in place which are approved by their senior management. However, there is no requirement in law for FIs and DNFBPs to have policies, controls and procedures, which are approved by senior management, to enable them to manage and mitigate the risks that have been identified (either by the country, the FI or the DNFBP).

19. FIs are able to identify their risks in terms of products they are offering, their customers and the countries they are dealing with. FIs are able to carry out ongoing monitoring of their high risk customers and products. However, there is no requirement in law for FIs and DNFBPs to monitor the implementation of those controls and to enhance them if necessary; and/or to take enhanced measures to manage and mitigate the risks where higher risks are identified. Supervision activities across the reporting population including the DNFBPs are lacking thus the actual implementation cannot be determined.

20. *Criterion 1.12* - Higher and lower risk sectors and entities have been identified in the NRA; however, Solomon Islands has not considered allowing simplified measures to mitigate lower risks.

Weighting and Conclusion

21. Solomon Islands has a broad understanding of its ML and TF risks. Through RSIPF, Task Force Janus, the ODPP Corruption, ML and transnational crime team has put in place some measures to address two of the highest ML/TF risks – bribery/corruption and fraud. It is not mandatory for FIs and DNFBPs to take measures to identify, assess and understand their ML/TF risks nor are they required to have in place policies, controls and procedures to manage and mitigate ML/TF risks and take enhanced measures for higher risks and simplified measures for lower risks.

22. **Recommendation 1 is rated partially compliant.**

Recommendation 2 - National Co-operation and Co-ordination

23. Solomon Islands was rated compliant with R.31 in its 2010 MER. Recommendation 2 contains new requirements that were not assessed under the 2004 methodology.

24. *Criterion 2.1* - Solomon Islands does not currently have a national AML/CFT policy informed by risks which is regularly reviewed. Although the AMLC prepared the NRA 2017 and shared it with the relevant authorities and reporting entities, it has not formulated and developed AML/CFT policies.

25. *Criterion 2.2* - The AMLC is the overall body responsible for the oversight of the AML program in Solomon Islands. One of the main functions of the AMLC is to formulate, implement, monitor and review AML policies under s.11A of the MLPCAA 2010. RSIPF is the body responsible for the CFT policies under the Counter-Terrorism Act (CTA) 2009, which designates police as a main law enforcement authority to implement the purpose of the Act. National AML/CFT policies are in the process of being formulated.

26. *Criterion 2.3* - The AMLC is the domestic AML policy making co-ordination body which has broad agency representation including the Attorney General (Chairperson), the Governor of the CBSI (Deputy Chairperson), the Commissioner of Police, the Permanent Secretary of MoF, the Comptroller of Customs, the Director of SIFIU (Secretary) and other technical experts appointed by the Commissioner of the AMLC. RSIPF is the lead body for CFT-related issues in AMLC meetings.

27. The AMLC is scheduled to meet four times per year. During AMLC meetings held in 2016 and 2017, SIFIU reported on its operation, compliance activities and financial activities. Although Solomon Islands has a framework for development of AML/CFT policies and SIFIU reported on the progress of the preparation of the AML/CFT NRA, there seemed to be limited discussion of AML/CFT policy or ML/TF risk in the AMLC meetings.

28. At an operational level, there is a technical working group - the Anti-Money Laundering Technical Expert Group (AMLTEG), which is chaired by the Director of Public Prosecutions, with members including the Director of SIFIU (as Secretary), and representatives from Immigration, Customs and Excise, Inland Revenue Division, RSIPF, Ministry of Foreign Affairs and CBSI.

29. The AMLTEG meets four times per year to exchange information on AML/CFT related matters such as cross-border currency movement, foreign currency accounts, domestic security concerns, global trends on crimes, current cases that LEAs are working on, etc. The AMLTEG

includes representatives of the AMLC, and information can be exchanged between the AMLC and AMLTEG. The AMLTEG does not implement activities based on AML/CFT policies, as these policies are yet to be developed by the AMLC.

30. The National Security Working Group (NSWG), established in 2017, is a practical mechanism to create greater synergies between LEAs, private sector and community groups that deal with security issues, and to establish a National Security Policy for Solomon Islands. NSWG is chaired by the Permanent Secretary for the Ministry of Police, National Security and Correctional Services, with members including RSIPF, Customs, Immigration, SIFIU, AGO, Ministry of Foreign Affairs and External Trade, Ministry of Finance and Treasury, Ministry of Mines and Energy, Office of Prime Minister and other relevant authorities. NSWG has had seven meetings so far and is in the process of developing its policy and strategy.

31. Each competent authority establishes frameworks for expedited co-operation at the operational level on an MOU basis. There are MOUs for information sharing between; SIFIU and RSIPF, SIFIU and Customs, SIFIU and IRD, RSIPF and SICCI, RSIPF and MoFT, RSIPF and PSC, RSIPF and MECDM.

32. *Criterion 2.4* - No co-operation and co-ordination mechanisms exist to combat the financing of proliferation of weapons of mass destruction.

33. *Criterion 2.5* - The Constitution (S. 9) provides protection for privacy of home and other property and ensures that nothing contained in or done under the authority of any law in the interest of defence, public safety, public order, the prevention and investigation of a breach of the law, for the purpose of authorising an officer or agent of the Government shall be deemed an infringement of this privacy rule. Relevant authorities can share AML/CFT information through AMLC, AMLTEG or NSWG meetings. Overall, there do not appear to be data protection and privacy obligations on competent authorities, FIs or DNFBPs that impede the AML/CFT requirements.

Weighting and Conclusion

34. Solomon Islands has a framework for making AML/CFT policies, however does not currently have national AML/CFT policies informed by risk. There are mechanisms in place to enable related authorities to co-operate and co-ordinate domestically concerning implementation of AML/CFT activities at operational levels. Solomon Islands does not have co-operation and co-ordination mechanisms for PF.

35. **Recommendation 2 is rated partially compliant.**

Recommendation 3 - Money laundering offence

36. Solomon Islands was rated largely compliant with former R.1 and R.2. The factors underlying the rating included: Solomon Islands does not criminalise acts within a number of the designated categories of predicate offence, the definitions of “conceal or disguise” and “convert or transfer” as acts of laundering suffer from some ambiguity, the definition of proceeds does not extend to legal documents evidencing title, the effectiveness issue as identified in relation to R.2, enforcing against money laundering remains limited and is totally absent in relation to some important categories of predicate offences such as forestry, fishery and mining offences.

37. *Criterion 3.1* - Money laundering is criminalised under s.17 of the MLPCAA 2010 based mostly on the Vienna Convention Article 3(1) (b) and (c) and the Palermo Convention Article (6). In addition, s.17 of the MLPCAA 2010 covers the elements of: conversion, transfer, acquisition, possession and use of property, knowing that the property is proceeds of crime; concealment or disguise of the true nature, origin location, disposition, movement or ownership of the property.

The Act does not require the purpose of concealing or disguising the illicit origin of the property or of aiding any person involved in the commission of the offence to evade the legal consequences thereof.

38. *Criterion 3.2* - The predicate offences for ML include all serious offences which generate proceeds of crime. According to s.2 of the MLPCAA 2010, “serious offence” means an offence against a provision of any law in Solomon Islands (or against a law of another country which if the act had occurred in Solomon Islands would constitute an offence) relating to proceeds of crime or unlawful activity, for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than twelve months. The predicate offences for ML cover serious offences including a range of offences in each of the designated categories of offences with more than twelve months imprisonment.

39. *Criterion 3.3* - The predicate offences for ML are all offences which generate proceeds of crime. Solomon Islands does not apply a threshold approach.

40. *Criterion 3.4* - Section 2(1)(b) of the MLPCAA 2010 defines property as “any kind of asset whether corporeal or incorporeal, moveable or immovable, tangible or intangible, whether situated in Solomon Islands or another country, including any legal document or instrument, including electronic or digital, evidencing title to, or legal or equitable interest in such assets.” Section 17(1) of the MLPCAA 2010 provides property applicable to ML is proceeds of crime wholly or partly, or represents directly or indirectly any other person’s proceeds of crime. The MLPCAA 2010 does not require a minimum value of property to be present to constitute proceeds of crime.

41. *Criterion 3.5* - Section 17(5) of the MLPCAA 2010 provides that when proving that property is the proceeds of crime it is not necessary that the person is convicted of the “serious offence” that generated the proceeds of crime.

42. *Criterion 3.6* - According to Section 2 of the MLPCAA 2010, “serious offence” includes an offence against a provision of a law of another country, in relation to acts relating to proceeds of crime or unlawful activity, which if the acts had occurred in Solomon Islands the acts would have constituted an offence for which the maximum penalty is imprisonment or other deprivation of liberty of not less than twelve months.

43. *Criterion 3.7* - Section 17(3) of the MLPCAA 2010 provides that a person that committed any other offence that generated the proceeds of crime, can be convicted for money laundering in respect of those proceeds of crime.

44. *Criterion 3.8* - Section 17(1) of the MLPCAA 2010, ML applies to a person “knowing or having reasonable grounds to believe or suspect” that the property is proceeds of crime. Section 17(2) of the MLPCAA 2010, provides that it is not necessary to prove which serious offence has been committed to prove an offence of money laundering. Solomon Islands criminal case no. 305 of 2008 (R vs J.B.O) demonstrates that intentional elements can be inferred from objective factual circumstances.

45. *Criterion 3.9* - Under Section 17(1)(i) of the MLPCAA 2010, a natural person convicted of ML shall be subject to a fine not exceeding SBD 500 000 (USD 62 500) or imprisonment for a term not exceeding ten years or both. By comparison to the criminal sanctions for the predicate offences, this is a proportionate and dissuasive sanction.

46. *Criterion 3.10* - Under Section 17(1)(ii) of the MLPCAA 2010, a legal person convicted of ML shall be subject to a fine not exceeding SBD 1 000 000 (USD 125 000). These sanctions are not considered to be sufficiently proportionate or dissuasive in light of the lucrative nature of ML.

With regard to civil or administrative sanctions applying to a legal person, the Company Haus and FID advised that Part 10 of the Company Act 2009 provides “removal of companies from register” applicable to a legal person which committed an offence including ML. While s.17(1)(i)(ii) of the MLPCAA 2010 provides criminal sanctions for both a natural person and a legal person committing an ML offence, Solomon Islands authorities civil case No.437 of 2012, (M.W vs S.S Ltd) clarifies that criminal liability applies to a natural person responsible for the conduct of business of the legal person which committed an offence.

47. *Criterion 3.11* - Section 17(4) of the MLPCAA 2010 provides appropriate ancillary offences to the ML offence. The ML offences apply to a person who attempts, facilitates, aids and abets, conspires, counsels and procures or incites any other person to commit an offence of money laundering. With regard to elements of “participation in”, this act is punishable based on conspiracy by s.22 of the Penal Code and liable to the same punishment for the offence committed.

Weighting and Conclusion

48. Applicable penalties for a legal person which commits ML are not proportionate or dissuasive.

49. **Recommendation 3 is rated largely compliant.**

Recommendation 4 - Confiscation and provisional measures

50. Solomon Islands was rated largely compliant with former R.3. The one limitation was that the authorities do not yet make adequate use of their confiscation powers. This is mitigated by the low level of proceeds generating crimes in the jurisdiction; instrumentalities intended for use are not covered by the confiscation regime.

51. *Criterion 4.1(a)(b)* - Section 33(1) of the MLPCA 2002 and s. 17 of the MLPCAA 2010 provide that the Court may order to confiscate tainted property or proceeds of crime in respect of a serious offence for which a person has been convicted upon application by the DPP. ML/TF and predicate offences are serious offences applicable to confiscation.

52. Tainted property includes property laundered pursuant to s.33(2)(a)(b) of the MLPCA 2002 and s.17 of the MLPCAA 2010 as providing that the property which was used in or intended for use in or in connection with the commission of a serious offence, and the property which was derived, obtained or realised as a result of the commission of a serious offence are subject to be confiscated as tainted property or proceeds of crime. A confiscation order is not applicable to property where a person is not convicted of a serious offence.

53. Section 41 of the MLPCA 2002 provides a pecuniary penalty order against a convicted person in respect of benefits derived from the commission of a serious offence by the person. Pursuant to the Act, the DPP may apply to the Court to order the person to pay the value of the person’s benefit from the serious offence. The Court shall assess the value of the benefits derived from the person from the commission of the serious offence. As with a confiscation order, a pecuniary penalty order is not applicable to a person who has not been convicted.

54. With regard to property held by a third party, in assessing the value of the benefits derived from a convicted person, the Court may treat any property subject to the effective control of the person as property of the person, whether or not the person has any legal or equitable interest in the property; or any right, power or privilege in connection with the property. The Court may have regard to any relationship between the persons having an interest in the property and any persons.

55. The MLPCAA 2010 defines “realisable property”, as any property held by a defendant; or any property held by a person to whom a defendant has directly or indirectly made a gift. Pursuant to s.55(1) of the MLPCA 2002, the DPP may apply to the Court for a restraining order against any realisable property. Pursuant to s.56 of the MLPCA 2002, the DPP applies a restraining order against property where the defendant has not been convicted of a serious offence, and there are reasonable grounds for believing that the defendant committed the offense. A restraining order remains in force until it is discharged, revoked or varied; or a confiscation order or pecuniary penalty order is paid in full satisfaction of the order under s.62 of the MLPCA 2002 and s.27 of the MLPCAA 2010.

56. *Criterion 4.1 (c) - 4.1(b)* also applies to a case of financing of terrorism and terrorist acts. Section 36 of the CTA 2009 provides that the High Court, where any person is convicted of an offence under the CTA, may order that any terrorist property used for, or in connection with or received as payment for reward for the commission of the offence be forfeited to the Crown.

57. According to s.2 of the CTA, “terrorist property” means (a) proceeds from the commission of a terrorist act; (b) money or other property which has been, is being, or is likely to be used to commit a terrorist act; (c) money or other property which has been, is being, or is likely to be used by a terrorist organisation; or (d) property owned, controlled, derived or generated from property owned or controlled, by or on behalf of a terrorist organisation. However, these laws are not applicable to property where a person is not convicted. Section 37 of the CTA provides that a forfeiture order can be applied for by the Attorney General with requirements on the grounds of reasonable belief that the property is a terrorist property. The Attorney General shall name as a defendant to the application any person known to own or control the property which is the subject of the application.

58. *Criterion 4.1 (d)* - Under s.38 of the MLPCA 2002, where the property of a person convicted of a serious offence subject to a confiscation order cannot be made subject to such an order in certain conditions, the Court may, instead of ordering the property to be confiscated, order the person to pay to the Government of Solomon Islands an amount equal to the value of the property. This applies to conviction for a serious offence including ML/TF and all predicate offences.

59. *Criterion 4.2(a)* - RSIPF is authorised to exercise a wide range of powers conferred on a police officer by the Police Act 2013. RSIPF is responsible for investigating ML/TF and predicate offences and is also responsible for identifying and tracing proceeds of crime, and for initiating freezing and seizure procedures. (Sections 102- 106 of the Police Act 2013). Section 3 of the Customs & Excise Act (Cap 121) provides customs officers with the same powers, authorities and privileges as members of RSIPF when carrying out their duties under customs laws.

60. The MLPCA 2002 and MLPCAA 2010 empower a police officer to apply for a warrant to search a person, land or premises and to seize tainted property or proceeds of crime. Section 21 of the CTA also empowers a police officer without warrant, under certain conditions, to detain and search a person, package, vehicle, vessel or aircraft; take possession of and detain such article; or detain any person conveying, carrying or concealing such article. The CTA also authorises a police officer with a warrant to enter and search any premises, and seize and retain any item or property in accordance with the purpose of this Act. Furthermore, s.11H(1) of the MLPCAA 2010 further provides SIFIU with powers to obtain documents from reporting institutions, Government departments and telecommunication companies where this information will assist to trace proceeds of crime.

61. *Criterion 4.2(b)* - Under s.50 of the MLPCA 2002 and s.21 of the MLPCAA 2010, a police officer may apply for the issue of a search warrant where the police officer has reasonable grounds for suspecting that there is tainted property or proceeds of crime. Pursuant to s.49 of the

MLPCA 2002 and s.20 of the MLPCAA 2010, a police officer may seize any property found in the course of the search. In emergencies under s.51 of the MLPCA 2002 and s.22 of the MLPCAA 2010, a police officer may seize tainted property or proceeds of crime without warrant. These seizures by a police officer can be exercised ex parte without the consent of the person searched.

62. Under s.55(2) of the MLPCA 2002 and s.24 of the MLPCAA 2010, an application by the DPP for a restraining order may be made ex-parte. Section 56 of the MLPCA 2002 provides that the Court may make an order prohibiting the defendant or any person from disposing of, or otherwise dealing with, the property or such part thereof or interest therein as is specified in the order. Pursuant to s.58 of the MLPCA 2002, the Court notices any person who appears to have an interest in the property before making a restraining order, however, this does not apply if the Court is of the opinion that giving such notice before making the order would result in the disappearance, dissipation or reduction in value of the property.

63. Under s.11H(2)(k) of the MLPCAA 2010, where the Director of SIFIU has reasonable grounds to suspect that a transaction or attempted transaction may involve a serious offence, offence of money laundering, terrorist financing offence, or proceeds of crime, SIFIU has power to direct orally or in writing that the financial institution, cash dealer or legal practitioner either proceed or refrain from proceeding with the transaction or attempted transaction, for a certain period (within twenty four hours for orally, five working days in writing). This provision enables SIFIU to temporarily freeze a bank account.

64. According to s.40 (1) of the CTA, on an ex parte application made to a Judge in chambers by the Attorney General, the Judge may issue a warrant authorising a police officer to seize any property the police officer believes, on reasonable grounds, may be the subject of a forfeiture order; and may issue a freezing order prohibiting any person from disposing of, or otherwise dealing with any interest in that property other than any property specified in the order.

65. *Criterion 4.2(c)* - Section 35 of the MLPCA 2002 provides the Court may set aside any conveyance or transfer of the property that occurred after the seizure of the property before making a confiscation order or the service of the restraining order, unless the conveyance or transfer was made for valuable consideration to a person acting in good faith and without notice. Section 61(1) of the MLPCA 2002 and s.26 of the MLPCAA 2010 provide sanctions against a person who knowingly contravenes a restraining order by disposing of or otherwise dealing with property that is subject to the restraining order. Sanctions are, for a natural person, a fine not exceeding SBD 500 000 (USD 62 500) or imprisonment for a term not exceeding five years, or both, and for a legal entity to a fine not exceeding SBD 1 000 000 (USD 125 000).

66. Under s.25 of the CTA, any person, who hinders or obstructs a police officer acting in accordance with certain provisions of the Act including seizure, commits an offence and is liable on conviction to imprisonment for a term not exceeding two years.

67. *Criterion 4.2(d)* - A wide range of investigative measures are available under the MLPCA 2002 and MLPCAA 2010. For example, RSIPF can apply to the Court to issue a warrant for search of a financial institution or cash dealer for investigative purposes (s.20; s.10), can apply to the Court to order a financial institution or cash dealer to produce any related documents and information obtained about any transaction conducted by or for that person (s.21; s.11), can apply to the Court to order a financial institution or cash dealer to enforce compliance with any obligation in this Act (s.22; s.12), can apply ex-parte to a judge in chambers for an order against a convicted person to produce related documents possessed or controlled by the person (s.70), can apply for a warrant for search and seizure of documents relevant to locating property (s.74-75).

68. The DPP and RSIPF can apply ex-parte to a judge for a monitoring order directing a financial institution to disclose information obtained by the institution about transactions conducted through an account held by a particular person with the institutions (s.77; s.32).

69. The Attorney-General can give assistance to a foreign State upon its request under the Mutual Assistance in Criminal Matters Act 2002 on search for and seizure of tainted property or proceeds of crime, production orders and search warrants in relation to foreign offence (s.54, 73, 76; s.23).

70. *Criterion 4.3* - Section 36 of the MLPCA 2002 provides general rules for the protection of the rights of third parties against confiscation orders that may affect their rights. Where an application is made for a confiscation order against property, a person who claims an interest in the property may apply to the Court. Where the Court is satisfied that the person was not in any way involved in the commission of the offence, and the person acquired the interest without knowing that was tainted property, the Court shall make an order declaring the nature, extent and value of the person's interest. With regard to forfeiture order against terrorist property, s.38 and s.39 of the CTA makes similar provisions.

71. *Criterion 4.4* - Pursuant to s.34 of the MLPCA 2002, the property ordered to be confiscated vests in the Government of Solomon Islands which is entitled to be registered as owner of the property. Where the Court makes a confiscation order against the property, after the relevant appeal date and if the order has not been discharged, the property may be disposed of and the proceeds applied or otherwise dealt with in accordance with the direction of the Permanent Secretary, Ministry of Finance.

72. Under s.56(2)(a)(b) of the MLPCA 2002, where a restraining order was made against property, the Court may at the request of the DPP direct the Registrar of the court or such other person as the Court may appoint, to take custody of the property or such part thereof as is specified in the order and to manage or otherwise deal with all or any part of the property in accordance with the directions of the Court, and may require any person having possession of the property to give possession thereof to the person appointed to take custody and control of the property. Section 56(5) of the Act provides that the Registrar of the court or other person may apply to the Court for directions on any question respecting the management or preservation of the property under his control.

73. Pursuant to s.65 of the MLPCA 2002, where a pecuniary penalty order was made, the Court may, on application by the Attorney-General, appoint a receiver in respect of realizable property held by a defendant. The Court empowers an appointed receiver to take possession of and realise the realisable property in such manner as the Court may direct.

74. Section 40(2) of the CTA provides that on application made by the Attorney General to order the seizure and restraint of property, the Judge may appoint a person to take control of, manage, or otherwise deal with the whole or any part of the property in accordance with the directions of the Judge; and require any person having possession of the property to give possession to the appointed person. Section 40(3) of the CTA states, in the case of perishable or rapidly depreciating property, the power to sell that property and in the case of property that has little or no value, the power to destroy that property.

75. Section 52 of MLPCA 2002 provides that a police who seizes property shall detain property seized, taking reasonable care to ensure that the property is preserved. Pursuant to s.104 of the Criminal Procedure Code, when any such thing is seized by a police officer and brought before a court, it may be detained until the conclusion of the case or the investigation, reasonable care being taken for its preservation. In the end, where a person is convicted of a

serious offence, seized tainted property or proceeds of crime will be confiscated as ordered by the Court.

Weighting and Conclusion

76. Solomon Islands has minor shortcomings relating to the requirement under the MLPCA 2002, the MLPCAA 2010 and the CTA 2009 for a person to be convicted in order for confiscation orders and pecuniary penalty orders to be applicable.

77. **Recommendation 4 is rated largely compliant.**

Recommendation 5 - Terrorist financing offence

78. In the 2010 MER, Solomon Islands was rated largely compliant with SR.II. The MER stated that Solomon Islands limitations in their legal framework were that the law was considered ambiguous on the liability of legal persons for terrorist financing, and the Solomon Islands require a purposive element for the offences created by the Terrorist Financing Convention (TFC) when none is required under the TFC. As the legislation which deals with terrorism financing, the Counter-Terrorism Act 2009 (CTA), was new, and it was implemented in a very low risk context, effectiveness was not considered when determining the rating in the 2010 ME.

79. Solomon Islands still requires a purposive element for the offences created by the TFC. However, as noted in the 2010 ME, this is likely to be negligible as the acts proscribed by the conventions are clear acts of terror. It is highly unlikely that any of the acts would lack the purpose of intimidating the public or a section of the public. Section 6(1) of the CTA refers to a 'person' committing a terrorist financing offence. The definition of person in the Interpretation Act includes both natural and legal persons. Section 6(4) sets out the penalty to be imposed on an individual and another entity. Legal persons would be liable for a TF offence under the CTA.

80. *Criterion 5.1* - Section 6 of the CTA (2009) criminalises the financing of terrorism on the basis of the Terrorist Financing Convention (previously known as the International Convention for the Suppression of the Financing of Terrorism) (TFC). The meaning of 'terrorist act' in section 2 of the CTA includes all terrorist offences set out at Article 2 of the TFC.

81. *Criterion 5.2* - Section 6 of the CTA makes it an offence for any person who knowingly makes available or provides or collects funds or property, whether it be directly or indirectly, with the intent or knowledge of the intent that they should be used for a terrorist act or by a terrorist organisation or individual terrorist, or in the knowledge of the intention of the terrorist act (even in the absence of a link to a specific terrorist act or acts). Section 15 of the CTA provides that it is an offence to intentionally or recklessly make funds available to an entity which is a terrorist organisation.

82. *Criterion 5.2^{bis}* - Section 6(1)(b) of the CTA provides that it is an offence to facilitate any activity of a terrorist organisation. Section 6(2)(c) provides that the offence in section 6 occurs regardless of the foreign country in which the terrorist act is intended or does occur. The term 'any activity' is not defined in the CTA. AGD confirmed that the ordinary meaning of the term 'any activity' would be adopted and would include financing the travel of persons to a State other than their State of residence for the purpose of perpetrating, planning, preparing or participating in a terrorist act or for the providing or receiving of terrorist training which would accordingly be an offence under section 6(1)(b) and 6(2)(c).

83. *Criterion 5.3* - The term funds is not defined in the CTA. Property is defined very broadly in the CTA to include: "(a) assets of every kind, whether corporeal or incorporeal, moveable or immoveable, tangible or intangible, however acquired; (b) legal documents or instrument in any

form including electronic or digital evidencing title or interest in such assets; (c) a legal or equitable interest, whether full or partial in any such assets or property described in paragraph (a) or (b).” This broad definition of property is consistent with the definition of funds under the international standard and satisfies the requirement that TF offences extend to any funds or other assets from a legitimate or illegitimate source.

84. *Criterion 5.4* - Section 6 of the CTA provides that a terrorism financing offence occurs even if the funds or other assets were not actually used to commit or attempt a terrorist act or if the terrorist act does not occur or is not attempted. This would mean that a terrorism offence does not have to be linked to a specific terrorist act or acts.

85. *Criterion 5.5* - Section 6 of the CTA provides that a terrorism financing offence is an intentional offence that only occurs if the acts are committed knowingly. The CTA is not implicit on the use of inferences and circumstantial evidence required to prove the element, although there is nothing to prevent it.

86. *Criterion 5.6* - Section 6 of the CTA provides that an individual convicted of a terrorism financing offence may be imprisoned for a term not exceeding 10 years and may be given a fine not exceeding 50 000 penalty units (SBD 50 000 ~ USD 6 250). Section 15 of the CTA provides a person convicted of providing funds to a terrorist organisation may be imprisoned for a term not exceeding 20 years. The low amount of fine is mitigated by the ability of the courts to impose a combination of both fine and imprisonment in respect of a convicted offender. The term of imprisonment is considered to be sufficiently dissuasive.

87. *Criterion 5.7* - Section 33 of the CTA provides that criminal prosecutions can be commenced against legal persons for any offence under the CTA Act. Section 32 of the CTA allows for acts committed outside Solomon Islands that would constitute an offence under the CTA to be tried in Solomon Islands. Section 35 of the CTA allows for alternative offences to be prosecuted where the High Court cannot be satisfied beyond reasonable doubt that the defendant is guilty of a terrorism financing offence. Therefore, there is nothing in the CTA that would preclude parallel criminal, civil or administrative proceedings where there is more than one form of liability available.

88. Section 6 of the CTA provides that an entity convicted of terrorism financing may be given a fine not exceeding 100 000 penalty units (SBD 100 000 ~ USD 12 500). The fine is not considered to be sufficiently proportionate or dissuasive.

89. *Criterion 5.8* - Section 6 of the CTA provides that it is an offence to attempt to commit a terrorism financing offence; to participate as an accomplice in a terrorism financing offence or attempted offence; to organise or direct others to commit a terrorism financing offence or attempted offence; and to contribute to the commission of a terrorism financing offence or attempted terrorism financing offence by a group of persons acting with a common purpose (see ss6(2)(a), 6(3)(a)(b)(c) of the CTA).

90. *Criterion 5.9* - The predicate offence for money laundering extends to any offence punishable by imprisonment for a maximum term not less than twelve months. As section 6 of the CTA states that the penalty for a terrorism financing offence is imprisonment for a term not exceeding ten years, terrorism financing is a predicate offence for money laundering.

91. *Criterion 5.10* - Section 6(2)(c) of the CTA provides that a terrorism financing offence applies regardless of the foreign country in which the terrorist act was intended or does occur. Section 19 of the CTA further provides that a person who conspires with another person, whether they are inside or outside Solomon Islands, commits a terrorism financing offence. A terrorism financing offence would therefore apply regardless whether the person is in the same or different

country from the terrorist act or where the terrorist organisation is located. Section 32 of the CTA further gives the High Court jurisdiction to try acts committed outside Solomon Islands that would constitute an offence under the CTA to be tried in Solomon Islands.

Weighting and Conclusion

92. The Solomon Islands has a minor shortcoming - fines that may be awarded to a natural or legal person for a TF offence are not considered to be sufficiently proportionate and dissuasive. However, for a natural person the low amount of the fine is mitigated by the ability of the courts to impose a combination of both fine and imprisonment upon conviction.

93. **Recommendation 5 is rated largely compliant.**

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

94. In the 2010 MER, Solomon Islands was rated partially compliant with SR III. Solomon Islands did not have in place a system for the implementation and enforcement of UN Security Council Resolution 1267 and 1373. Solomon Islands still does not have in place a system for the implementation and enforcement of UN Security Council Resolution 1267 and 1373.

95. *Criterion 6.1(a)* - Solomon Islands has not identified a competent authority or a court as having responsibility for proposing persons or entities to the 1267/1989 Committee and 1988 Committee for designation.

96. Section 13(1) of the CTA provides that the Minister of Police, National Security and Correctional Services has the power to make an order for an entity to be declared a terrorist organisation if the Minister is satisfied on reasonable grounds that one or more of the grounds set out at sections 13(2)(a)-(e) of the CTA is met. The grounds to be considered by the Minister include decisions made by the Security Council of the United Nations in relation to an entity (s.13(2)(e)). There are however no provisions which enable a competent authority or a court to have responsibility for proposing persons or entities to the 1267/1989 Committee and 1988 Committee for designation.

97. *Criterion 6.1(b)* - Solomon Islands has not demonstrated it has a mechanism for identifying persons or entities for designation in accordance with the designation criteria set out in the relevant UNSCRs.

98. *Criterion 6.1(c)* - Solomon Islands has not demonstrated that there is an evidentiary standard of proof that is applicable when deciding whether to make a proposal for designation. A proposal for designation is not conditional upon the existence of criminal proceeding.

99. *Criterion 6.1(d)* - Solomon Islands has not demonstrated it has adopted procedures to follow the UN procedures and standard forms for listing by the 1267/1989 Committee or 1988 Committee.

100. *Criterion 6.1(e)* - Solomon Islands has not demonstrated it has policies regarding the information that would be provided to the relevant UN committee to support a proposed designation.

101. *Criterion 6.2(a)* - Section 13 of the CTA allows the Minister of National Security, who can be recommended to do so by the Police Commissioner, to declare a person or entity to be a terrorist organisation once there are reasonable grounds to support the recommendation, including if the Security Council of the United Nations has made a decision in relation to the

person. Section 13 only allows a mechanism by which UN Security Council designations and the designations of other domestic authorities may be adopted and disseminated through a binding domestic instrument. It would not provide a mechanism for requests for designation by another country.

102. *Criterion 6.2(b)* - Solomon Islands does not have a mechanism for identifying persons or entities for designation in accordance with the designation criteria set out in UNSCR 1373.

103. *Criterion 6.2(c)* - There are no procedures for determining whether a foreign country's request for designation of a person or entity is supported by sufficient basis and meets the criteria for designation in UNSCR 1373.

104. *Criterion 6.2(d)* - Solomon Islands has advised that the Minister of National Security would apply an evidentiary standard of proof of reasonable grounds when determining whether to declare a person or entity to be a terrorist organization under section 13 of the CTA. The assessors were not provided with any guidelines to support this.

105. *Criterion 6.2(e)* - Section 41 of the CTA allows Solomon Islands, where it is a party to a counter-terrorism convention, to provide mutual assistance in criminal matters to other countries that are party to the convention. Section 41 of the CTA Act allows the Commissioner of Police to exchange information about terrorists' acts with competent authorities of a foreign country. The assessors were not provided with any guidelines to support how the authorities would identify which information is required to support the designation.

106. *Criterion 6.3* - Solomon Islands has not demonstrated that there is a legal authority, procedures or mechanism enabling the authorities to collect or solicit information to identify persons and entities that, based on reasonable grounds, meet the criteria for designation; and operate ex-parte in relation to a person or entity that has been identified and against whom a proposal for designation is being considered.

107. *Criterion 6.4* - Solomon Islands has not demonstrated that it implements targeted financial sanctions related to terrorism and terrorism financing without delay. Solomon Islands has implemented some elements of targeted financial sanctions pursuant to UNSCRs 1267/1989 and 1988 through the CTA, which came into force in October 2009. However, there is no legal basis to comprehensively implement targeted financial sanctions. The Minister of Police is authorised to declare (by order in the Gazette) certain entities to be terrorist organisations, including entities that are designated by the UNSC and are involved in terrorist activities (s12). The Attorney General may apply to a judge of the High Court, on an ex parte basis, for a freezing order against terrorist property that is subject to a forfeiture order (s40). There is no requirement for FIs or DNFBPs to freeze assets (outside of a freezing order), and there is no requirement for the court to grant an order. In addition, it is unclear whether the Minister has prescribed the lists of designated persons and entities. There is scope to prohibit making funds available to designated persons and entities since it is an offence to deal with terrorist property. Solomon Islands relies on freezing orders to freeze the specified property of designated persons or entities but they do not have a comprehensive legal framework to apply TFS pursuant to UNSCR 1267/1989, 1988 and 1373. The property must be specifically identified before a freezing order can be issued, and it is unclear whether all elements of TFS are in place or could be implemented without delay.

108. *Criterion 6.5(a)* - While Solomon Islands has advised that AMLTEG and SIFIU communicate designations to the financial sector and that all action is taken on an informal basis, there are no legal requirements for natural and legal persons within the country to freeze the funds and other assets of designated persons and entities, except as provided under s.40 of the CTA (see 6.4).

109. *Criterion 6.5(b)* - Solomon Islands has not demonstrated there is a provision which obliges entities to freeze funds or other assets.

110. *Criterion 6.5(c)* - Solomon Islands has not demonstrated any requirement to prohibit their nationals or persons within their jurisdiction from making funds or assets available to any designated person or entity under the relevant UNSCRs.

111. *Criterion 6.5(d)* - AMLTEG and SIFIU communicate designations to the financial sector on an informal basis. There are no mechanisms for communicating designations to the DNFBPs. There are further no mechanisms for providing clear guidance to persons or entities, including DNFBPs that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms.

112. *Criterion 6.5(e)* - Solomon Islands has not demonstrated that it requires financial institutions and DNFBPs to report to competent authorities any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions.

113. *Criterion 6.5(f)* - Solomon Islands has not demonstrated it adopts measures which protect the rights of *bona fide* third parties acting in good faith when implementing the obligations under Recommendation 6.

114. *Criterion 6.6(a)* - Solomon Islands has not demonstrated that it has procedures to submit de-listing requests to the relevant UN Sanctions Committee for those designated persons and entities who no longer meet the designation criteria.

115. *Criterion 6.6(b)* - Solomon Islands has not demonstrated that it has procedures or mechanisms to de-list and unfreeze the funds or other assets of persons and entities that no longer meet the criteria for designation under UNSCR 1373.

116. *Criterion 6.6(c)* - Solomon Islands has not demonstrated that it has procedures to allow review of designation decisions pursuant to UNSCR 1373 before a court or other independent competent authority.

117. *Criterion 6.6(d)* - Solomon Islands has not demonstrated it has procedures to facilitate review of designations by the 1988 Committee in accordance with any applicable guidelines or procedures, and including Focal Point mechanisms.

118. *Criterion 6.6(e)* - Solomon Islands has not demonstrated that there are procedures informing the designated persons and entities on the availability of the United Nations Office of the Ombudsperson to accept de-listing petitions.

119. *Criterion 6.6(f)* - Solomon Islands has not demonstrated that there are publicly known procedures to unfreeze funds or other assets of persons or entities with the same or similar name as designated persons or entities who are inadvertently affected by the freezing.

120. *Criterion 6.6(g)* - Solomon Islands has not demonstrated that there are mechanisms for communicating de-listings and unfreezing to financial institutions and DNFBPs. No guidance has been provided to financial institutions and DNFBPs on de-listing and acts of unfreezing.

121. *Criterion 6.7* - Solomon Islands has not demonstrated that it allows access to frozen funds or other assets for purposes of basic expenses, payment of certain fees, expenses and service charges or extraordinary expenses in keeping with conditions set by the UN in UNSCR 1452 and any successor resolutions.

Weighting and Conclusion

122. Solomon Islands has not identified a competent authority for the purposes of implementing TFS related to terrorism and terrorism financing. There are no clear mechanisms, procedures or standards for freezing terrorist property without delay.

123. **Recommendation 6 is rated non-compliant.**

Recommendation 7 – Targeted Financial sanctions related to proliferation

124. The financing of proliferation is a new Recommendation added in 2012.

125. *Criterion 7.1* - There is no legal basis for implementation of TFS relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing.

126. *Criterion 7.2* - There is no legal basis for implementation of TFS relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. Solomon Islands has referred to the powers of SIFIU and the AMLC's power to enforce sanctions against a person or entity that is deemed suspicious of acts of money laundering under the MLPCAA. Solomon Islands has however not provided the legal authority which identifies the competent authorities responsible for implementing and enforcing targeted financial sanctions related to proliferation.

127. *Criterion 7.2(a)* - Solomon Islands has not put in place any measures requiring all natural and legal persons within Solomon Islands to freeze without delay and without prior notice, the funds and other assets of designated persons and entities as per the relevant UNSCRs.

128. *Criterion 7.2(b)* - Solomon Islands does not have provisions requiring freezing of funds and other assets of designated persons and entities.

129. *Criterion 7.2(c)* - Solomon Islands has not demonstrated a legal basis to prevent funds or assets from being made available by their nationals or by any persons or entities within their territories, to or for the benefit of designated persons or entities unless licensed, authorised or otherwise notified in accordance with the relevant UNSCRs.

130. *Criterion 7.2 (d)* - Solomon Islands has not demonstrated that it has mechanisms for communicating designations to FIs and DNFBPs immediately upon taking such action; or that it provides clear guidance to FIs and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations in taking action under TFS.

131. *Criterion 7.2(e)* - Solomon Islands has not demonstrated that it requires FIs and DNFBPs to report to competent authorities any assets frozen or actions taken in compliance with TFS.

132. *Criterion 7.2(f)* - Solomon Islands has not demonstrated that it has adopted measures which protect the rights of *bona fide* third parties acting in good faith when implementing Recommendation 7.

133. *Criterion 7.3* - Solomon Islands does not have measures for monitoring and ensuring compliance by FIs and DNFBPs.

134. *Criterion 7.4* - Solomon Islands has not demonstrated that it has developed and implemented any publicly known procedures to submit de-listing requests to the UN in the case

of designated persons and entities that, in the view of Solomon Islands, do not, or no longer, meet the criteria for designation.

135. *Criterion 7.4(a)* - Solomon Islands has not demonstrated that it has developed and implemented any procedures to enable the designated persons and entities to petition a request for de-listing.

136. *Criterion 7.4(b)* - In the absence of TFS obligations, there are no publicly known procedures to unfreeze the assets of persons and entities with the same or similar name as the designated persons and entities upon adequate verification.

137. *Criterion 7.4(c)* - As Solomon Islands does not have any provisions to freeze the funds or other assets of designated persons, there are any no procedures authorising access to funds and other assets in circumstances where the conditions for exemptions under the relevant UNSCRs are met.

138. *Criterion 7.4(d)* - As Solomon Islands has not developed and implemented any publicly known procedures to submit de-listing requests to the United Nations Security Council, there are no mechanisms pertaining to communication of de-listed entities and acts of unfreezing to the financial sector and DNFBPs immediately after such actions.

139. *Criterion 7.5* - In the absence of a TFS framework, Solomon Islands has accordingly not considered whether any addition to the accounts frozen in the form of interest, other earnings or payments due under contracts, agreements or obligations that arose prior to the designation of the persons and entities could be permitted. Similarly, Solomon Islands has not considered whether a designated person or entity could make any payment in respect of contracts, agreements or obligations that arose prior to the date on which accounts became subject to targeted financial sanctions.

Weighting and Conclusion

140. Solomon Islands does not have a legal or institutional framework for the purpose of implementing TFS relating to the prevention, suppression and disruption of proliferation of WMD and its financing.

141. **Recommendation 7 is rated non-compliant.**

Recommendation 8 – Non-profit organisations

142. Solomon Islands was rated non-compliant with SR.VIII in 2010. The factors underlining this rating were identified as: no review of the adequacy of existing laws and regulations that relate to NPO's that can be abused for TF; no effective registration of NPO's; no appropriate effective monitoring mechanism, including registration and monitoring of source of funds; sanctions were not dissuasive and proportionate; there was no active monitoring or supervision; there was no outreach or awareness raising.

Taking a risk-based approach

143. *Criterion 8.1(a)* - Solomon Islands refers to NPOs as NGOs, NPOs or CSOs⁸. They are all legal entities registered under the Charitable Trust Act (CTA) whose purposes are religious, education, literary, scientific, social or charitable.

⁸ Non-Profit Organisations, Non-Governmental Organisations and Civil Society Organisations

144. The NRA identifies that NPOs are particularly vulnerable to abuse for the purposes of TF by terrorist organisations posing as legitimate entities; to exploit legitimate entities as conduits for TF to escape asset-freezing measures; and to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

145. The NRA does not identify which features and types of NPOs present a risk of TF, but notes that the scarcity of information regarding NGOs/NPOs makes it difficult to assess the present risk of TF. Solomon Islands is not aware of any ML/TF activities relating or involving NGOs/NPOs/CSOs in Solomon Islands. The number of NPOs in Solomon Islands is unknown and the Solomon Islands has failed to identify which subset of organisations fall within the FATF definition of NPOs.

146. *Criterion 8.1(b)* - The NRA identifies some of the threats posed through ML by terrorist entities to NPOs as (i) Providing financial assistance in the name of charitable organisation (ii) Creating organisations under the charitable organisations to avoid taxation and (iii) Creating ease of access for financial transaction and communication. Solomon Islands has not identified how and whether terrorist entities abuse NPOs.

147. *Criterion 8.1(c)* - Solomon Islands has not reviewed the adequacy of measures, including laws and regulations. Solomon Islands does not take proportionate and effective actions to address risks identified in the NPO sector to prevent abuse of terrorist financing support.

148. *Criterion 8.1(d)* - The NRA process considered the risk of the NPO sector. Solomon Islands has not reassessed the sector through reviewing new information on the sector's vulnerabilities to TF to ensure effective implementation of measures subsequent to the NRA process.

Sustained outreach concerning terrorist financing issues.

149. *Criterion 8.2(a)* - The CTA provides the legal framework for the incorporation of the Trustees of charitable and other Trusts. The CTA seeks to promote accountability, integrity, and public confidence in the administration and management of the NPO sector, although it was unclear how this actually occurs. The CTA is one of the core focus areas of the Development Services Exchange (DSE), recognising that not all NPOs are members of the DSE.

150. DSE offers good governance workshops with NPOs that focus on building the NPO boards' and managements' understanding of good governance principles, and the ability to operate transparently and effectively, although it does not have any TF related content. DSE is developing a Code of Minimum Standards for member NPOs. This will detail the minimum standards of accountability, transparency and integrity NPOs must meet in order to maintain their membership with DSE. It is of concern that not all NGOs are members of the DSE, and the NGO desk in the Ministry of Home Affairs does not conduct adequate outreach to other NGOs not associated with the DSE.

151. *Criterion 8.2(b)* - SIFIU has conducted limited outreach or educational programmes for NGOs/NPOs which included limited references to TF financing, TF risks and measures to mitigate TF abuse. There is no evidence of outreach to the donor community.

152. SIFIU conducted training with the NGOs/NPOs in 2013, and annually from 2015 to 2018. In 2018, SIFIU presented to the DSE and its members on the AML/CFT framework in Solomon Islands, the role and functions of SIFIU, ML/TF National Risk Assessment, Mutual Evaluation Assessment and what is expected of the NGOs/NPOs from the Mutual Evaluation.

153. *Criterion 8.2(c)* - SIFIU is liaising with the DSE and the Ministry of Home Affairs to develop and refine best practice including on AML/CFT matters to address Solomon Islands TF

risk and vulnerabilities. It is unclear what is occurring with NPOs who are not members of the DSE.

154. *Criterion 8.2(d)* - Most NPOs/NGOs in Solomon Islands have bank accounts with the commercial banks. In line with Solomon's context, due to lack of banking services in some of the remote provinces that they are serving, cash is regularly used to meet their expenses or facilitate their various work programs. There is no requirement for NPOs to use regulated financial channels and no agency promotes the use of regulated financial channels.

Targeted risk-based supervision or monitoring of NPOs

155. *Criterion 8.3* - Solomon Islands has not taken steps to promote effective targeted or risk-based supervision or monitoring of NPOs. Appropriate authorities are unable to apply effective, proportionate or dissuasive sanctions for violations by NPOs or persons acting on behalf of NPOs.

156. *Criterion 8.4(a) and (b)* - Appropriate authorities do not monitor the compliance of NPOs. There is no clear policy or strategy that seeks to ensure compliance of NPOs with this Recommendation. There is no application of risk-based measures and there are no sanctions.

Effective information gathering and investigation

157. *Criterion 8.5(a)* - DSE works to facilitate co-operation and access to information by NPOs, relevant government departments and development partners. Work in this area includes creating, maintaining and circulating Solomon Islands' Civil Society Organisation Directory. This directory details the mission and activities of DSE's member organisations. This directory is made available to NPOs, government departments and development partners. The DSE and the NGO desk in the Ministry of Home Affairs does not share information with SIFIU and other agencies related to financial crime and TF. AMLTEG is a multi-agency body, although there is no evidence that it supports effective co-operation, co-ordination or information sharing with respect to NPOs.

158. *Criterion 8.5(b)* - No evidence of investigative expertise or associated capability to examine NPOs suspected of being exploited by or actively supporting terrorist activity or terrorist organisations is evident in Solomon Islands.

159. *Criterion 8.5(c)* - RSIPF has access to the Company Haus website and Solomon Islands company information. RSIPF is able to obtain information through INTERPOL, Transnational Crime Unit, National Intelligence Department, other LEAs and government Ministries if required. Solomon Islands has not demonstrated that it has access to information on the administration and management of particular NPOs.

160. *Criterion 8.5(d)* - The AMLTEG is responsible for co-ordinating and sharing information on matters relating to TF activity in Solomon Islands. The AMLTEG does not have any SOP that governs how it co-ordinates and shares information amongst its members. However, SIFIU has MOUs with most of the key LEAs that are members of the AMLTEG such as Customs and Excise, Immigration, Inland Revenue and RSIPF which allows for FIU to share information with these agencies and vice versa. The NGO desk in the Ministry of Home Affairs is not a member of the AMLTEG and no clear mechanisms exist for sharing of information related to suspicions of TF in the NPO sector either through the desk or through the DSE.

161. There are no TF cases reported in Solomon Islands, however, should a TF case arise, the authorities would approach or deal with it in a similar way to ML and other predicate crime cases in terms of co-ordination and information sharing amongst AMLTEG agencies.

Effective capacity to respond to international requests for information about an NPO of concern

162. *Criterion 8.6* - Solomon Islands has identified appropriate contact points and procedures to respond to international requests for information about a NPO of concern or if related to TF. International requests are directed to SIFIU. SIFIU will apply its powers under Section 11H (2) of the MLPCA Act 2010 to seek information from the appropriate agency, whether it be public or private sector agencies or FIs.

163. In addition, requests for further information can be directed to the public registry (Company Haus) regarding registration, the NGO desk at the Ministry of Home Affairs and the DSE. Information on companies or NPOs registered with the Company Haus are available on its public website. Since authorities are not aware of all NPOs in the Solomon Islands, they may not be able to respond to all requests for information.

Weighting and Conclusion

164. Shortcomings of not taking a risk based approach regarding NPOs at the time of assessment were mitigated in some part through the role of the DSE, although this body does not incorporate all NPOs in Solomon Islands. However, Solomon Islands does not monitor NPOs and is unable to identify how many NPOs there may be or what proportion of NPOs are not covered by the DSE. A full assessment of the NPOs operating in Solomon Islands has not been undertaken, and it is not clear which, if any would be at high risk of TF. Solomon Islands has conducted limited outreach through SIFIU, and the DSE is developing a code of minimum standards for its members. The financial institutions have an awareness of the risks presented by NPOs. Draft legislative amendments to ensure compliance of NPOs with this Recommendation have not yet been implemented. Solomon Islands is able to draw upon RSIPF's investigative expertise although they don't have specific expertise related to TF and to investigating NPOs. There are mechanisms to enable Solomon Islands authorities to respond to international requests for information.

165. **Recommendation 8 is rated non-compliant.**

Recommendation 9 – Financial institution secrecy laws

166. Solomon Islands was rated compliant with former R.4. The 2010 MER concluded that secrecy provisions did not prevent competent authorities from accessing shared information, conducting criminal or proceeds of crime investigations or providing mutual assistance in respect of ML or TF offences.

167. *Criterion 9.1* - Under Part 7, section 28 (4) and section 70 (2) of the CBSI Act 2012, the CBSI may disclose information to law enforcement, SIFIU, supervisory or regulatory authorities and data obtained from FIs concerning their operations and financial conditions in whole or in part in accordance with their business.

168. Pursuant to Part VI, Section 29 (1) (a) to (f) of the Financial Institution Act 1998, the CBSI may disclose information that it has obtained from FIs through supervision when lawfully required to do so by a court or in connection to a proceeding; or disclose to supervisors in another country that has similar functions to CBSI. The CBSI functions do not include combatting ML or TF which falls under the SIFIU.

169. Section 23 of the MLPCA 2002 clearly stipulates that the provisions of the Act relating to enabling the identification, tracing, freezing, seizure and confiscation of unlawful proceeds of all serious crime shall have effect notwithstanding any obligations as to secrecy or other restriction on disclosure or information imposed by law or otherwise.

170. Under section 13C MLPCAA 2010, the legal requirements for the provision and sharing of information by all financial institutions, cash dealers and legal practitioners with the FIU are in place. Financial institutions, cash dealers and legal practitioners are required to make any of their records available to SIFIU whenever they are requested in writing by SIFIU.

171. Under section 109 of the Income Tax Act 1996, tax information can be shared and this includes cases of tax evasion or suspected money laundering. SIFIU disseminates possible tax evasion cases to the Inland Revenue Division (IRD), the agency which is responsible for enforcing the Tax Act, for further investigation. Competent authorities can access financial information for AML/CFT purposes. SIFIU has the power to inquire with or obtain from FIs any information in accordance with SIFIU's functions and Powers (MLPCA Act Section 11H (1) and Section 11H (2)). SIFIU has full power to share with designated domestic and international competent authorities' relevant information from FIs.

Weighting and Conclusion

172. **Recommendation 9 is rated compliant.**

Recommendation 10 – Customer due diligence

173. Solomon Islands was rated NC for former R.5, due to very weak implementation of CDD measures in the banking sector, no indication of implementation of CDD measures in the NBFI sector, verification of occasional customers is weak in the banking sector and not done in the non-bank financial sector, no requirements for financial institutions to verify the status of legal persons or arrangements and to verify any person acting on behalf of a legal person or arrangement, the definition of the MLPCAA for “beneficial owner” does not fully meet the definition of the FATF Standards, and no explicit requirement in the legislation for financial institutions to understand the ownership and control structures of legal persons and arrangements. There were no requirements for FIs to obtain information on the purpose and intended nature of the business relationship, no requirements for FIs to conduct ongoing due diligence on the business relationship with its customers. FIs were not required to conduct enhanced due diligence on higher risk customers, or to perform CDD measures on existing customers on the basis of materiality and risk.

174. Solomon Islands has made some progress in implementing the recommendations of MER 2010 with the amendment of the MLPCA 2002, in 2010 and with the issuance of various regulatory measures.

175. Section 12B of the MLPCAA 2010 explicitly restricts verification and identification of customers. Section 12B of the Act states that CDD requirements mentioned under section 12(1) and section 12A for a financial institution do not apply to those FIs subject to regulation and supervision by a supervisory authority. This suggests that section 12(1) and section 12A are not legally enforceable. CDD measures extend to FIs under different sections of MLPCA and MLPCAA. With the definition of “financial institution” under section 2(1) of the Act, Solomon Islands included all the financial activities mentioned in the FATF Methodology.

176. *Criterion 10.1* - Section 12G(2) of the MLPCAA 2010 prohibits FIs from opening, operating or maintaining any anonymous accounts or any accounts in fictitious, false or incorrect names.

177. *Criterion 10.2* - Section 12(1) of the MLPCAA 2010 requires FIs to identify and verify the identity of a person when the person opens an account, enters into a business relationship with the financial institution, engages the services of the FI and conducts or attempts to conduct a transaction. Section 12A(1) of the Act requires FIs to identify and verify the identity of person (a)

when carrying out a funds transfer for the customer, other than an electronic funds transfer; (b) if it reasonably suspects that the customer is involved in a money laundering offence, financing of terrorism offence or serious offence; or (c) if it has doubts about the accuracy or adequacy of the customer identification and verification documentation or information it had previously obtained. However, section 12B of the MLPCAA suggests that section 12(1) and section 12A are not legally enforceable. Moreover there is no explicit provision for FIs to undertake CDD measures when carrying out occasional transactions above the applicable designated threshold or carrying out occasional transactions that are wire transfers.

178. *Criterion 10.3* - Section 12C(2) and (3) of the MLPCAA 2010 requires FIs to use official, reliable and independent source documents while identifying the customer or verifying the customers' identification information or documents. However section 12B of the same Act explicitly restricts verification and identification of customers, so section 12C(2) and (3) are not applicable.

179. *Criterion 10.4* - There is no requirement for FIs to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person.

180. *Criterion 10.5* - Section 12(2) of the MLPCAA 2010 requires FIs to verify the identity of the other person for whom or for whose ultimate benefit, the transaction is being conducted. This provision is not sufficient to identify beneficial owner as defined by the FATF. However section 12B of the same Act explicitly restricts the application of section 12(2). Section 12(2) is not legally enforceable.

181. *Criterion 10.6* - Section 12C(1)(c) of the MLPCAA 2010 FIs to obtain information on the purpose and intended nature of the business relationship when entering into a business relationship. There is no requirement to understand the purpose and intended nature of the business relationship.

182. *Criterion 10.7* - Section 12I(1) of the MLPCAA 2010 requires FIs to conduct ongoing due diligence including scrutinizing transactions undertaken throughout the course of relationship to ensure that the transaction is consistent with the FIs knowledge of the customer, the customers' business, sources of funds and risk profile. However there is no explicit provision for the FIs to keep the CDD information up to date and relevant.

183. *Criterion 10.8* - If the customer is a legal entity, section 12C(1)(b) of the MLPCAA 2010 requires FIs to verify the customers' control structure. However it does not cover legal arrangements and it also does not extend to understanding the nature of the customer's business and ownership structure.

184. *Criterion 10.9* - Section 12 C(1)(b) (i), (ii) of the MLPCAA 2010 requires FIs to verify the customers' legal existence and structure including obtaining information relating to the customer's name, legal form, address and the director, the principal owners, beneficiaries and control structure, and provisions regulating the power to bind the entity. It does not cover the obligation for identification of the customer and does not extend to collect the names of the relevant person having senior management position in the legal person or arrangement, and the address of the principal office and, if different, a principal place of business. Moreover, the mentioned provision is applicable if the customer is a legal entity but it does not cover legal arrangements.

185. *Criterion 10.10* - There is no explicit provision that requires FIs to identify and take reasonable measures to verify the identity of beneficial owners of customers that are legal persons.

186. *Criterion 10.11* - There is no explicit provision that FIs to identify the beneficial owner and to verify the identity of the beneficial owner of customers that are legal arrangements.

187. *Criterion 10.12* - There is no explicit provision that requires FIs to conduct CDD measures on the beneficiary of life insurance and other investment related insurance policies, as soon as the beneficiary is identified or designated. At the moment, there is only one insurance company which offers life insurance products, and the uptake of this product is low.

188. *Criterion 10.13* - There is no explicit provision that FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable.

189. *Criterion 10.14* - Section 12(1) of the MLPC Amendment Act, 2010 requires FIs to identify and verify the identity of person when the person opens an account, enters into a business relationship with financial institutions, engages the services of FIs and conducts or attempts to conduct a transaction. Section 12C(3)(b) of MLPCAA 2010 includes a provision for formulating regulations about the timing of the identification and verification requirements. Solomon Islands issued guidelines on Customer Identification and Verification in 2013, but these guidelines are not enforceable. In addition, section 12B of MLPCAA 2010 restricts the application of section 12(1). Section 12(1) and section 12C(3)(b) are not legally enforceable.

190. *Criterion 10.15* - Solomon Islands does not require FIs to adopt risk management procedures concerning delayed verification and the conditions under which a customer may utilise the business relationship prior to verification.

191. *Criterion 10.16* - There is no explicit provision that requires FIs to apply CDD requirements to existing customers on the basis of materiality and risk. MLPCAA 2010 s.12I(1)(a) requires an FI to conduct ongoing CDD on its relationship with each of its customers in accordance with guidelines issued by SIFIU. The MLPCAA 2010 only references risk management related to PEPs and no other high risk customer types.

192. *Criterion 10.17* - There is no explicit provision that requires FIs to apply enhanced CDD where ML/TF risk is higher except the requirements for PEPs. Section 12I(2) of MLPC Amendment Act, 2010 requires financial institutions, cash dealers or legal practitioners to pay special attention without mentioning further detail of enhanced measures to the (a) any business relation or transaction with any person in another country, which has been specified in writing by the Unit, that does not have any adequate system or law in place to detect, prevent or deter money laundering or the financing of terrorism; (b) any electronic fund transfer, other than an electronic funds transfer referred to in this Act, that does not contain complete originator information.

193. *Criterion 10.18* - There is no explicit provision that FIs to apply simplified CDD where ML/TF risk is lower.

194. *Criterion 10.19* - There is no explicit provision that prohibits FIs from opening accounts, commencing business relations or performing transactions in case of non-compliance with relevant CDD measures. However, section 12F (1) and (2) of MLPCAA requires FIs to submit an STR if satisfactory evidence of the identity of a person is not produced or obtained, and to not proceed with the transaction, although this is different to a FI being unable to comply with CDD as per this criterion.

195. *Criterion 10.20* - There is no explicit provision that permits FIs to not conduct CDD and instead submit an STR in cases where there is a suspicion of ML or TF, and where performing CDD may tip-off the customer.

Weighting and Conclusion

196. Section 12(1), 12(2) and 12A(1) of MLPCAA require FIs to undertake some CDD measures but section 12B of the same Act restricts application of the above sections. Moreover, there is no explicit provision for FIs to undertake CDD measures when carrying out occasional transactions above the applicable designated threshold or carrying out occasional transactions that are wire transfers. There are also no specific provisions requiring FIs to keep CDD information up to date. There are no specific provisions requiring FIs to identify and take reasonable measures to verify the identity of beneficial owners of customers that are legal persons or arrangements. There is no requirement to conduct CDD measures on the beneficiaries of life insurance and other investment related insurance policies. Further shortcomings include no specific provisions requiring that FIs adopt risk management procedures concerning how a customer may utilise the business relationship prior to verification; no specific provisions in relation to delaying verification of customers and BO, and no legislative provisions permitting an FI to file an STR when the FI is unable to comply with relevant CDD measures without tipping-off the customer.

197. **Recommendation 10 is rated non-compliant.**

Recommendation 11 – Record-keeping

198. Solomon Island was rated partially compliant with former Recommendation 10 in the 2010 MER due to record keeping requirements of the MLPCA only applying to those transactions that exceed a certain monetary threshold set by the Minister of Finance, the MLPCA had ambiguity on the requirements relating to the length of time customer CDD records should be maintained, financial institutions are not required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities, and implementation of record keeping practices was absent in the non-bank sectors.

199. *Criterion 11.1* - Section 13(1) of the MLPCAA 2010 requires FIs to keep records of every transaction it conducts. There is no explicit requirement to maintain these records. Section 13(2) of the Act mentions the type of information which shall be kept and section 13(3) requires FIs to keep record for six years after the completion of the transaction without referring to the type of information mentioned in section 13(2) and without explicitly mentioning whether it covers both domestic and international transactions. Under section 26 of Financial Institutions Act 1998 cheques and bank drafts shall be kept for 7 years.

200. *Criterion 11.2* - Pursuant to Section 13(2)(d) of the MLPC Amendment Act, 2010 FIs are obliged to retain CDD related information like name, address, occupation, business or principal activity for six years. Section 12H(1) (a) of the Act requires FIs to retain identity information of the customer and sections 12(H)(1)(b) and 12H(2) require FIs to retain records of any correspondence between the identified person and the FIs for six years from the date the evidence was obtained or the date of the correspondence.

201. Sections 13(2) and (3) of MLPCAA 2010 require FIs to keep records of customers' identity and nature of transaction for a period of at least six years after the transaction was completed. Pursuant to the section 13(A)(1) (a) and (b) FIs are obliged to keep record of STRs and any enquiry relating to ML and TF made by FIs for six years from the date on which the report or the enquiry was made, but this does not include account files and the result of any analysis undertaken. In addition, there are no explicit provisions to keep records at least five years after termination of business relationship.

202. *Criterion 11.3* - Section 13(1) of the MLPC Amendment Act 2010 requires the FI to keep records of every transaction conducted to allow for the reconstruction of a transaction. It does

not explicitly mention that such records should be sufficient to provide, if necessary, evidence for prosecution of criminal activity.

203. *Criterion 11.4* - Section 13C of the MLPC Amendment Act, 2010 requires FIs to make available its records to the Unit if requested to do so in writing by the Unit. The Act does not include a requirement for these to be available on a timely basis.

Weighting and Conclusion

204. Record keeping of Solomon Islands does not specifically mention that it is applicable for both domestic and international transactions. There is no explicit provision to maintain records at least five years after termination of business relationship. Section 13(1) of the MLPCAA requires the FI to keep records of every transaction conducted to allow for the reconstruction of a transaction. It does not explicitly mention that such records should be sufficient to provide, if necessary, evidence for prosecution of criminal activity. Section 13C of the MLPCAA requires FIs to make available their records to the Unit if requested to do so in writing by the Unit but the Act does not include a requirement for these to be available on a timely basis.

205. **Recommendation 11 is rated partially compliant.**

Recommendation 12 – Politically exposed persons

206. Solomon Island was found non-compliant with former R.6 in the 2010 MER; because there were no requirements for financial institutions to have in place a risk management system and due diligence measures for politically exposed persons.

207. *Criterion 12.1* - Section 2 of the MLPCAA defines a PEP as an individual who is or has been entrusted with a prominent public function in Solomon Islands or another country such as Head of State or of government, Minister, judge, a member of legislature, the head of a government department or statutory body and any other prescribed person and includes any spouse, child, brother or sister or parent, brother-in-law, sister-in-law or parent-in-law) or close associate of such person. The definition does not include military officials, senior executives of state owned corporations or important political party officials.

208. Section 12C (d) of the MLPCAA requires financial institutions to have risk management systems capable of determining whether a customer is a PEP and when the customer is determined to be a PEP, then FIs are required to take reasonable measures to establish the source of property; obtain approval from senior management before establishing a business relationship and conduct regular and ongoing enhanced monitoring of the business relationship. However it does not specify identifying whether a beneficial owner is a PEP.

209. Section 12C (d)(ii) of that Act requires FIs to obtain approval from a designated senior manager of the FI's before establishing a business relationship with a PEP. It does not however, mention a requirement for senior management approval for continuing (for existing customers) such business relationships.

210. Section 12C(d)(i) of the Act requires FIs to take reasonable measures to establish the sources of property of the PEPs as a customer but no specific measures apply to identifying source of wealth, and it does not cover a beneficial owner identified as a PEP.

211. Section 12C(d)(iii) of the Act requires FIs to conduct enhanced ongoing monitoring of business relationships with PEPs. FIs operating in Solomon Islands rely on commercial databases to identify foreign PEPs as no government agency including SIFIU, is developing such a list.

212. The technical deficiency highlighted under R.10 whereby CDD is exempted for FIs and cash dealers supervised or regulated by a supervisory authority appears to apply to R.12, although the wording in the legislation is not clear.

213. *Criterion 12.2(a)* - The provisions of section 12C (d), (i), (ii) and (iii) of the MLPCAA also apply to domestic PEPs as the definition of PEPs under section 2 of MLPCAA covers both domestic and foreign PEPs. However, there is no requirement to determine whether the beneficial owner is a PEP. SIFIU compiles a consolidated domestic PEPs list from various sources, which is kept up to date and disseminated or shared with financial institutions and some of the key LEAs to assist them with internal control mechanisms for PEPs customers or clients so FIs do not independently determine whether the customer is a domestic PEPs.

214. *Criterion 12.2(b)* - If any match from the SIFIU provided list is found, the FIs are required to adopt measures to address this higher risk as per 12.1 (b) to (d).

215. The technical deficiency highlighted under R.10 whereby CDD is exempted for FIs and cash dealers supervised or regulated by a supervisory authority appears to apply to R.12, although the wording in the legislation is not clear.

216. *Criterion 12.3* - The obligations noted in criteria 12.1 and 12.2 also apply in a limited scale to family members and close associates of PEPs. The definition of PEP under section 2 of MLPCAA mentions specific family members rather than being more general, and risks limiting the application to family members. PEPs involved in international organisations are not covered.

217. The technical deficiency highlighted under R.10 whereby CDD is exempted for FIs and cash dealers supervised or regulated by a supervisory authority appears to apply to R.12, although the wording in the legislation is not clear.

218. *Criterion 12.4* - Only one insurer is selling life insurance products, with a low uptake of these products. There are no explicit provisions for financial institutions to take reasonable measures to determine whether the beneficiary or the beneficial owner of a life insurance policy is a PEP.

Weighting and Conclusion

219. Section 12C (d) of the MLPCAA requires FIs to have risk management systems capable of determining whether a customer is a PEP, but does not require FIs to identify whether beneficial owners are PEPs. In addition, persons entrusted with a prominent function by an international organisation are not covered as PEPs. The definition of PEPs under section 2 of MLPCAA 2010 mentions specific family members rather than being more general, and risks limiting the application to family members. There is no explicit provision for financial institution to take reasonable measures to determine whether the beneficiary or the beneficial owner of a life insurance policy is a PEP, however it is noted that there is currently only one FI which issues life insurance policies in Solomon Islands. Furthermore the technical deficiency in 12B related to CDD may impact on PEPs as well.

220. **Recommendation 12 is rated partially compliant.**

Recommendation 13 – Correspondent banking

221. Solomon Island was rated non-compliant with former R.7 and largely compliant with former R.18. The 2010 MER noted that there were no requirements for financial institutions to adopt risk control measures for dealing with cross border correspondent banking and other

similar relationships and correspondent banking relationships with shell banks are not prohibited by enforceable means.

222. *Criterion 13.1* - Section 12D(2) of the MLPCAA 2010 requires FIs to (a) adequately identify and verify the person with whom it conducts cross-border correspondent transaction; (b) gather sufficient information about the nature of the business of the person; (c) determine from publicly available information the reputation of the person and the quality of supervision the person is subject to; (d) assess the person's AML/CFT controls; (e) obtain the approval of a senior manager of the financial institution before establishing a new transaction (f) document the responsibilities of the financial institution and the person.

223. However, FATF methodology defines 'correspondent relationship' as specific relationship between two banks not with a person. Moreover MLPCAA does not provide the definition of 'person', and it is unclear if person includes respondent banks. In addition to that section 12D(2) of the Act does mention gathering sufficient information about the nature of business of the person but it does not require understanding the nature of the respondent business, does not require determining the quality of supervision and does not include whether the institution has been subject to ML/TF investigation or regulatory action. It also does not require FIs to clearly understand the respective AML/CFT responsibilities of each institution.

224. *Criterion 13.2* - Section 12D(3) of the MLPCAA obliges financial institutions to satisfy themselves that the person (recognising it is unclear if person relates to respondent banks) has verified the identity of and is performing on-going due diligence on that person's customers that have direct access to accounts of the financial institution and may be able to provide to the financial institution the customer identification data of the customers. However the standards require the financial institutions to satisfy themselves that respondent bank is able to provide CDD information when it is requested.

225. *Criterion 13.3* - There is no explicit provision under MLPCA or MLPCAA that prohibits FIs from entering into or continuing correspondent banking relationships with shell banks and it also does not cover the requirement to satisfy themselves that the respondent banks are not permitting shell banks to use their accounts.

Weighting and Conclusion

226. The requirements under criterion 13.1 and 13.2 apply to banks not to a person and there is no explicit provision that prohibits FIs from entering into or continuing correspondent banking relationships with shell banks. The law also does not cover the requirement for the FI to satisfy itself that the respondent banks are not permitting shell banks to use their accounts.

227. **Recommendation 13 is rated non-compliant.**

Recommendation 14 – Money or value transfer services

228. Solomon Island was rated partially compliant for former SRVI. The 2010 MER found an absence of supervision of non-bank MVTs providers and some deficiencies in relation to the application of CDD, PEPs requirements, record keeping, STRs, Internal controls and wire transfer rules.

229. *Criterion 14.1* - Money transfer and money changing services are licensed by the CBSI pursuant to regulation 20 of the Exchange Control (Foreign Exchange) Regulations 1977. According to the provision of Section 20 of the Foreign Exchange Regulations natural or legal persons are not permitted to conduct money transfers in Solomon Islands without a license from the CBSI as an authorised dealer. Authorised dealers include money changers. However, there are

no licensing requirements for other types of MVTs. In the FIA (s.3), FIs may also be deemed to include MVTs which requires licensing although it is unclear if CBSI requires all MVTs to be licensed, recognising they are not supervised by CBSI. The MLPCAA 2010 includes money transmission services although it is unclear if SIFIU requires MVTs providers to be licensed or registered.

230. *Criterion 14.2* - There are no actions taken by Solomon Islands' authorities to identify the unlicensed MVTs operators, and CBSI is not aware of any unlicensed MVTs providers operating in Solomon Islands. However, section 25 of the Foreign Exchange Regulations states that operating without a license or registration with the Central Bank of Solomon Island is an offence. Section 26 (1) and (2) outline the penalties for an offence against these Regulations which are proportionate and dissuasive (on conviction up to \$20,000 or 5 years imprisonment and an option for forfeiture of the money or goods).

231. *Criterion 14.3* - While SIFIU is the supervisor of the MVTs sector for compliance with AML/CFT measures, no supervision is undertaken.

232. *Criterion 14.4* - There is no explicit provision in the relevant laws/regulations that agents of MVTs providers are required to be licensed or registered by a competent authority. MVTs providers are not required to maintain current list of agents accessible by competent authorities in the countries in which the MVTs provider and its agents operate.

233. *Criterion 14.5* - There is no explicit provision in the relevant laws/regulations that MVTs providers that use agents should be required to include them in their AML/CFT programmes and monitor them for compliance with these programmes.

Weighting and Conclusion

234. The Foreign Exchange Regulations requires banks, authorised foreign exchange dealers and authorised money changers to have a licence for foreign exchange dealings with customers, but there is no licensing requirement for the other types of MVTs. While FIA may suggest that MVTs can be licensed by CBSI, it is unclear whether this occurs or is required. There are no actions taken by Solomon Islands' authorities to identify unlicensed MVTs, and CBSI is not aware of any unlicensed MVTs providers operating in Solomon Islands. MVTs are subject to SIFIU supervision under the MLPC Amendment Act, but this supervision is not yet taking place. There is no explicit provision in the relevant laws/regulations for agents of MVTs providers to be licensed or registered by a competent authority. There is also no explicit provision in the relevant laws/regulations that MVTs providers that use agents should be required to include them in their AML/CFT programmes and monitor them for compliance with these programmes.

235. **Recommendation 14 is rated partially compliant.**

Recommendation 15 – New technologies⁹

236. Solomon Islands was rated non-compliant for former R.8 in the 2010 MER due to absence of requirements for FIs to have policies or measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes or for dealing

⁹ The FATF revised R.15 in October 2018 and its interpretive note in June 2019 to require countries to apply preventive and other measures to virtual asset service providers and virtual asset activity. This evaluation does not assess Solomon Islands' compliance with revised R.15 because, at the time of the on-site visit, the FATF had not yet revised its assessment Methodology accordingly. Solomon Islands will be assessed for technical compliance with revised R.15 in due course, in the context of its mutual evaluation follow-up process.

with non-face-to-face business relationships or transactions and controls are inadequate while dealing with non-face-to face customer.

237. *Criterion 15.1* - There is no explicit provision in the MLPCA 2002 or MPLCA Act 2010, nor are there procedures in place in Solomon Islands to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

238. *Criterion 15.2* - There is no explicit provision in the MLPCA 2002 or MPLCA Act 2010 nor are there procedures in place in the FIs of Solomon Islands to undertake risk assessments prior to the launch or use of such products, practices and technologies; and to take appropriate measures to manage and mitigate the risks.

Weighting and Conclusion

239. There is no explicit provision in the Act nor are there procedures in place in Solomon Islands to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, or for FIs of Solomon Islands to undertake risk assessments prior to the launch or use of such products, practices and technologies; and take appropriate measures to manage and mitigate the risks and subject to effective systems for monitoring and compliance.

240. **Recommendation 15 is rated non-compliant.**

Recommendation 16 – Wire transfers

241. Solomon Island was rated non-compliant with former SR.VII. The 2010 MER noted that there was no obligation in law, regulation or other enforceable means to include full originator information with a wire transfer, to pass originator information along with a wire transfer or to conduct enhanced scrutiny regarding possibly suspicious transactions in regard to wire transfers without full originator information.

242. *Criterion 16.1* - Solomon Islands has no prescribed threshold for wire transfers. Section 13(B) (1) of MLPCAA 2010 obliges financial institutions to include accurate originator information on an electronic funds transfer and on any other form of funds transfer, and such information is to continue to remain part of the transfer. The Act does not specify what information should be included. There is no requirement for the financial institutions to collect beneficiary information and the beneficiary account number where such an account is used to process the transaction or, in the absence of an account, a unique transaction reference number which permits traceability of the transaction. There is no directive or regulation on how to determine the accuracy of originator information.

243. *Criterion 16.2* - There is no requirement for the financial institutions of Solomon Islands that confirms that when several individual cross-border wire transfers have been bundled into a batch file from a single originator, the batch file must contain required and accurate originator information and full beneficiary information.

244. *Criterion 16.3* - Solomon Islands does not apply a *de minimis* threshold for cross-border wire transfers.

245. *Criterion 16.4* - Solomon Islands does not apply a *de minimis* threshold for cross-border wire transfers. There is no explicit requirement for financial institutions to collect and maintain

originator information, name and address, beneficiary information and to verify that information, where there is a suspicion of ML/TF in any enforceable means in Solomon Islands.

246. *Criterion 16.5* - Section 13B(1) of MLPCAA 2010 requires financial institutions to include accurate originator information on an electronic fund transfer and on any other form of fund transfer, and such information is to continue to remain part of the transfer. Section 13B(1) does not specify whether it is applicable to domestic and/or international fund transfers.

247. *Criterion 16.6* - There are no explicit provisions in the legislation requiring that where the information accompanying the domestic wire transfer can be made available to the beneficiary financial institution and appropriate authorities by other means, the ordering financial institution need only be required to include the account number or a unique transaction reference number, provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary. There is no explicit provision binding the ordering financial institution to make the information available within three business days of receiving the request either from the beneficiary financial institution or from appropriate competent authorities. Law enforcement authorities are not able to compel immediate production of such information as there is no such provision.

248. *Criterion 16.7* - Record keeping requirements under section 12H(1) and 13(2)(d) of MLPCAA 2010 are generally applicable to all FIs. However gaps identified in criteria 16.1 undermine record keeping requirements in case of wire transfer.

249. *Criterion 16.8* - There are no explicit prohibitions on the ordering bank executing wire transfers in the case of non-compliance with the requirements specified above at criteria 16.1-16.7.

250. *Criterion 16.9* - Section 13B(1) of MLPCAA 2010 requires financial institutions to include accurate originator information on an electronic funds transfer and such information is to continue to remain part of the transfer without specifying cross-border or domestic wire transfers. However there are no explicit legal provisions for the intermediary FI to ensure that all beneficiary information which accompanies a wire transfer is retained with it.

251. *Criterion 16.10* - Section 13 of MLPCAA 2010 requires FIs to keep records of every transaction they conduct as reasonably necessary to allow the transaction to be reconstructed. This includes for whom and for whose ultimate benefit the transaction is being conducted. These requirements apply to both intermediaries and third parties. These records are to be kept for six years after the completion of the transaction. However section 13B(1) does not require beneficiary information to be included.

252. *Criterion 16.11* - There is no provision for the intermediary financial institutions to take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack required originator information or required beneficiary information.

253. *Criterion 16.12* - There is no provision for the intermediary financial institutions to have risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.

254. *Criterion 16.13* - Section 12I of MLPCAA 2010 requires financial institutions to conduct ongoing scrutiny of any transaction and section 12I(2)(b) requires FIs to pay special attention to any electronic fund transfer that does not contain complete originator information. But there are

no explicit provisions for beneficiary FIs to identify cross-border wire transfers that lack required originator information or required beneficiary information.

255. *Criterion 16.14* - For cross-border wire transfers of USD/EUR 1 000 or more, there is no provision requiring the beneficiary FI to verify the identity of the beneficiary, if the identity has not been previously verified, and maintain this information in accordance with Recommendation 11.

256. *Criterion 16.15* - There is no provision requiring FIs to have risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.

257. *Criterion 16.16* - There is no provision requiring MVTs providers to comply with all of the relevant requirements of Recommendation 16 in the countries in which they operate, directly or through their agents.

258. *Criterion 16.17* - There is no provision requiring the MVTs provider to take into account all the information from both the ordering and beneficiary sides in order to determine whether an STR has to be filed; and to file an STR in any country affected by the suspicious wire transfer, and make relevant transaction information available to the Financial Intelligence Unit in the case of a MVTs provider that controls both the ordering and the beneficiary side of a wire transfer.

259. *Criterion 16.18* - There are no provisions requiring financial institutions to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities, as per obligations set out in the relevant UNSCRs relating to the prevention and suppression of terrorism and terrorist financing, such as UNSCRs 1267 and 1373, and their successor resolutions while processing wire transfers.

Weighting and Conclusion

260. Solomon Islands has a range of deficiencies which include not having a threshold for wire transfers; batch files are not required to have the required originator and full beneficiary information; there is no requirement for financial institutions to collect and maintain originator and beneficiary information and to verify that information where there is a suspicion of ML/TF; are no prohibitions on the ordering bank executing wire transfers in the case of non-compliance with the requirements specified at criteria 16.1-16.7; no provision to take reasonable straight-through processing to identify cross border wire transfers; and no provision requiring beneficiary FIs to have risk-based policies and procedures related to wire transfers. In conclusion, there are no provisions to meet criteria 16.2, 16.4, 16.6, 16.8 16.11, 16.12, 16.14-18.

261. **Recommendation 16 is rated non-compliant.**

Recommendation 17 – Reliance on third parties

262. Solomon Islands was rated PC with former R.9 as the MLPCA was silent on the issue of reliance on intermediaries or third parties for customer CDD.

263. *Criterion 17.1* - Section 12E (1) of the MLPCA requires that an FI relying on an intermediary or a third party to undertake obligations under any provision of the Act should (a) immediately obtain the information required by the Act; (b) ensure that copies of identification data and other relevant documentation relating to the requirements set out in the Act are made available to it from the intermediary or the third party upon request without delay; and (c) satisfy itself that the intermediary or third party is regulated and supervised and the intermediary or a

third party has measures in place to comply with the requirements set out in the Act. However information required by the MLPCAA does not include the identification of beneficial owner and understanding the nature of the business, and there are gaps in the record-keeping requirements (see analysis of R.10 and R.11).

264. *Criterion 17.2* - There is no requirement for FIs to have regard to the ML/TF risk associated with a country in which a third party is based before entering into a relationship with a third party on which the FI will rely.

265. *Criterion 17.3* - There are no provisions for financial institutions that rely on a third party that is part of the same financial group. Currently Solomon Islands has no financial groups in operation.

Weighting and Conclusion

266. FIs are not required to identify the beneficial owner and understand the nature of the business, and there are gaps in the record-keeping requirements. In addition, there is no requirement for FIs to have regard to the ML/TF risk associated with a country in which a third party is based before entering into a relationship with a third party on which the FI will rely.

267. **Recommendation 17 is rated partially compliant.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

268. Solomon Islands was rated partially compliant with former R.15 in the 2010 MER, due to the fact there were no binding requirements for financial institutions to establish and maintain internal AML/CFT procedures, policies and controls relating to CDD, record retention, detection of suspicious transactions and other related measures, no requirements for financial institutions to maintain adequately resourced and independent audit functions to test their compliance with AML/CFT requirements or to adopt employee screening procedures and absence of implementation of these measures in the nonbank financial sector, and implementation in the banking sector was not sufficient.

269. *Criterion 18.1(a)* - Section 15 of the MLPCA 2002, requires financial institutions to identify persons to whom to report any information or suspicion about a person involved in money laundering. It is recommended in the Guidelines for Financial Institutions & Cash Dealers that this officer be a senior staff member designated as the Money Laundering Compliance Officer. These guidelines, however, are not legally binding.

270. *Criterion 18.1(b)* - Under the Guidelines for Financial Institutions & Cash Dealers, Financial Institutions are required to put in place screening procedures to ensure high standards when hiring employees and to prevent the employment of persons convicted of offences involving fraud and dishonesty. However these guidelines are not enforceable means.

271. *Criterion 18.1(c)* - Section 16 of MLPCA 2002 requires financial institutions and cash dealers to take appropriate measures to make their employees aware and to train employees in recognising and dealing with money laundering transactions.

272. *Criterion 18.1(d)* - There is no explicit provision for the FIs to have an independent audit function to test the system.

273. *Criterion 18.2* - None of the essential elements for financial groups are met, and FIs are not required to implement group-wide AML/CFT policies and procedures.

274. *Criterion 18.3* - There are no provisions for the FIs in Solomon Islands to ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country, to the extent that host country laws and regulations permit.

Weighting and Conclusion

275. The MLPCA 2002 requires financial institutions and cash dealers to take appropriate measures to make their employees aware and to train employees in recognising and dealing with money laundering transactions. While the Guidelines for Financial Institutions & Cash Dealers recommend the ML compliance officer be a senior staff member and require screening procedures when hiring employees, they are not legally binding. FIs are not required to implement group-wide AML/CFT policies and procedures. FIs with foreign branches are not required to meet home country requirements if they are more stringent than those of the host country.

276. **Recommendation 18 is rated non-compliant.**

Recommendation 19 – Higher-risk countries

277. Solomon Islands was found partially compliant with former R.21 in the 2010 MER, because there was no requirement to inspect transactions without visible purpose, no means to inform or establish counter-measures.

278. *Criterion 19.1* - There are no provisions obliging FIs to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons (including financial institutions) from countries for which this is called for by the FATF.

279. *Criterion 19.2* - There is no provision or mechanism to apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.

280. *Criterion 19.3* - Section 12I(2)(a) of MLPCAA requires FIs to pay special attention while conducting business or transactions with any person in another country, which has been specified in writing by SIFIU, that does not have adequate systems or laws in place to detect, prevent or deter ML or TF. Apart from this, there are no measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

Weighting and Conclusion

281. There are no provisions obliging FIs to apply enhanced due diligence or countermeasures, proportionate to the risks, to business relationships and transactions with natural and legal persons (including financial institutions) from countries for which this is called for by the FATF. Beside this, there are no measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

282. **Recommendation 19 is rated non-compliant.**

Recommendation 20 – Reporting of suspicious transactions

283. Solomon Islands was rated largely compliant with the former R.13 and SRIV in its 2010 MER. Deficiencies include a lack of compliance by the cash dealer sector and a lack of specific legislation requiring the reporting of attempted transactions. The deficiencies identified in

relation to the scope of the predicate offence under the former R.1 also affected the scope of the reporting obligations and a lack of implementation outside the banking sector.

284. *Criterion 20.1* - Section 14 of the MLPCAA 2010 obligates a FIs to report suspicious transactions to SIFIU. If a FIs, cash dealer or legal practitioner suspects on reasonable grounds that a transaction or activity or attempted transaction or activity is or may be “related to” one or more of (a) the detection, investigation or prosecution of a person for a money laundering offence, financing of terrorism offence or any other serious offence, (b) the commission of a money laundering offence, financing of terrorism offence or any other serious offence (c) an act preparatory to an ML or TF offence, they shall prepare a report of such transaction or activity or attempted transaction or activity and send the report to SIFIU, as soon as possible, but no later than two working days after forming the suspicion. SIFIU clarified that “related to” covers if the FI suspects “funds are proceeds of a criminal activity.” Section 14A of the MLPCAA 2010 provides that any transaction or attempted transaction by a terrorist organisation shall be deemed to be a suspicious transaction, which shall be reported to SIFIU.

285. Section 18 of the MLPCA 2002 and s.8 of the MLPCAA provide sanctions against a financial institution or cash dealer who fails to comply with the STR reporting requirement.

286. As per Recommendation 3, s.2 of the MLPCAA, notes that “serious offence” means an offence against a provision of any law in Solomon Islands relating to proceeds of crime or unlawful activity, for which the maximum penalty is imprisonment for not less than twelve months. The predicate offences for ML cover serious offences with more than twelve months imprisonment.

287. *Criterion 20.2* - A suspicious transaction includes an attempted transaction is required to be reported by a FIs, cash dealer and legal practitioner to SIFIU under s.14 of the MLPCAA 2010, regardless of the amount of the transaction for both ML and TF.

Weighting and Conclusion

288. **Recommendation 20 is rated compliant.**

Recommendation 21 – Tipping-off and confidentiality

289. Solomon Islands was rated compliant with former R.14.

290. *Criterion 21.1* - Section 14J of the MLPCAA 2010 ensures that no civil or criminal proceedings shall be taken against a financial institution, cash dealer or legal practitioner, or an officer, employee or agent of the FI, cash dealer or legal practitioner acting in the course of employment or agency, in relation to any act taken in good faith under this Act including reporting an STR. A director of a FI is included in the subjects to be protected as an officer or employee of the FI.

291. *Criterion 21.2* - Section 14H(1) of the MLPCAA 2010 provides that a person shall not disclose to any other (a) the fact that a financial institution has formed a suspicion in relation to a transaction or an attempted transaction, (b) any report made or likely to be made to SIFIU, (c) any information given or likely to be given to SIFIU, (d) any other information from which the person to whom the information is disclosed could reasonably be expected to infer any of the circumstances in above (a), (b) or (c). Section 14H(2) of the MLPCAA 2010 makes it clear that these provisions are not to inhibit information sharing under R.18.

Weighting and Conclusion

292. **Recommendation 21 is rated compliant.**

Recommendation 22 – DNFBPs: Customer due diligence

293. Solomon Islands was rated non-compliant with former R.12 in its 2010 MER due to the limitations of coverage by its legal framework to capture all categories of DNFBPs.

294. *Criterion 22.1(a)* - Casinos are defined in Section 2 (1) of the MLPCAA as cash dealers when its customers engage in financial transactions equal to or above the minimum prescribed amount (SBD 50 000 ~ USD 6 250). This CDD threshold exceeds the USD/EUR threshold in the FATF Standards and is therefore inconsistent with the FATF requirements. The CDD requirements outlined in section 12(1), 12(2) and 12A(1) of the MLPCAA are limited by the exemptions in section 12B of the Act (see c.10.2 for details). Further CDD obligations are set out Sections 12C, 12E, 12F, 12G, 12H, 12I and 12J, of the MLPCAA, but the threshold set is above the FATF requirements and the deficiencies in R.10 also apply to casinos.

295. *Criterion 22.1(b)* - Pursuant to Section 12 of the MLPCAA, cash dealers including real estate agents, are required to identify and verify the identity of persons they are establishing business relationships with. Sections 12C, 12E and 12G of the MLPCAA state the requirements by intermediaries or third parties including cash dealers to conduct CDD. The deficiencies in R.10 also apply to real estate agents.

296. *Criterion 22.1(c)* - Pursuant to Section 12 of the MLPCAA, cash dealers includes dealers in precious metals and stones when they engage in any cash transaction with a customer equal to or above the prescribed amount (SBD 50 000 ~ USD 6 250), which is below the FATF requirement, are required to identify and verify persons they are establishing business relationships with. The deficiencies in R.10 also apply to dealers in precious metals and stones.

297. *Criterion 22.1(d)* - Section 12 of the MLPCAA 2010 requires cash dealers or legal practitioners to identify and verify the identity of persons they are establishing business relationships with. Section 2 of the MLPCAA definition for cash dealers also includes accountants, in particular, section 2 (d) (i)(ii)(iii)(iv) and (v) enables SIFIU to enforce these criteria. The Accountants Act requires registered practicing accountants to comply with the rules as per section 5 of the Accountants Act 2010. The Accountants Council may make rules in relation to trust monies as per Section 14 (1) (e) of the Accountants Act 2010. There are no rules made as yet.

298. The Legal Professional Bill 2017 (s.82) requires the legal professional to manage trust money on behalf of clients and records on trust money needs to be kept for seven years after completion of the matter to which they relate (s.85). In addition, s.86 prohibits mixing trust money with other money which aims to prevent potential misuse and abuse of trust money under the custody of legal practitioners. Failure to report appropriately (i.e. reporting irregularities) is subject to a fine of \$50,000 or five years imprisonment or both.

299. The deficiencies in R.10 also apply to legal professionals and accountants.

300. *Criterion 22.1(e)* - Whilst there is no evidence of trust companies, trust services provided by accountants and lawyers are covered as per the definition of cash dealers in section 2(e) of the MLPCAA 2010, thus obligating the cash dealers to comply with the CDD requirements in section 12, recognising the deficiencies identified in R.10 also apply.

301. *Criterion 22.2* - The cash dealers and legal practitioners are subject to the same customer record retention requirements as FIs wherein sections 12H and 13 of the MLPCAA 2010 applies as noted in Recommendation 11. However, as also noted in Recommendation 11, the MLPCAA does not explicitly mention that records should be sufficient to provide evidence for prosecutions. SIFIU under its powers in section 11H (2) can make requests to FIs to provide financial transaction records whenever there is need to reconstruct financial transactions to evidentiary standard.

302. *Criterion 22.3* - Cash dealers and legal practitioners are subject to the same CDD requirements for PEPs as FIs, as set out in section 12C of the MLPCAA 2010. Section 12C(1)(d)(i)(ii) and (iii) require cash dealers and legal practitioners to comply with the PEP requirements set out in Recommendation 12. However, as also noted in R.12, section 12C (d) of the MLPCAA 2010 requires cash dealers and legal practitioners to have risk management systems capable of determining whether a customer is a PEP, including a requirement to identify whether a beneficial owner is a PEP. Section 12C(d)(ii) of that Act requires cash dealers and legal practitioners to obtain approval from a designated senior manager of the cash dealer before establishing a business relationship with a PEP. It does not however, mention a requirement for senior management approval for continuing (for existing customers) such business relationships. Section 12C(d)(i) of the said Act requires cash dealers and legal practitioners to take reasonable measures to establish the sources of property of the PEP as a customer but no specific measures apply to identifying source of funds or source of wealth, and it does not cover a beneficial owner identified as a PEP. Section 12C(d)(iii) of that Act requires cash dealers to conduct enhanced ongoing monitoring of business relationships they have with PEPs. The technical deficiency highlighted under R.10 whereby CDD is exempted for FIs and cash dealers supervised or regulated by a supervisory authority appears to apply to R.12, although the wording in the legislation is not clear.

303. *Criterion 22.4* - There is no requirement for DNFBPs to undertake a ML/TF risk assessment of new technologies prior to their use.

304. *Criterion 22.5* - Section 12E of the MLPCAA 2010, requires cash dealers and legal practitioners to comply with the reliance on third-parties requirements under the provisions of the Act on third party reliance, with gaps and limitations as noted in R.10, 11 and 17.

Weighting and Conclusion

305. There are fundamental elements of the CDD requirements under R.10 and other requirements under R.11, R.12, R.15 and R.17 that are not covered by legislation apply equally to DNFBPs. These are major shortcomings.

306. **Recommendation 22 is rated non-compliant.**

Recommendation 23 – DNFBPs: Other measures

307. Solomon Island was rated non-compliant with former Recommendation 16 in its 2010 MER due to the DNFBP sector having only partial mandatory coverage. There were no requirements to adopt internal control measures relating to AML/CFT policies, procedures, internal audit function and screening procedures. The DNFBPs had no supervisory coverage.

308. *Criterion 23.1* - Section 14 of the MLPCAA 2010, requires all FIs, cash dealers (all DNFBPs) or legal practitioners to promptly report to SIFIU suspicious and attempted transactions or related activities that might lead to the commission of either money laundering, terrorist financing or other predicate offences. Section 14J of the MLPCAA 2010 ensures that no civil or criminal proceedings shall be taken against cash dealer or legal practitioner, or an officer,

employee or agent cash dealer or legal practitioner acting in the course of employment or agency, in relation to any act taken in good faith under this Act including reporting an STR. Lawyers and legal professionals are also covered as a company service provider in the formation of a legal entity or an arrangement, acting as a trustee or acting as a nominee shareholder (MLPCAA 2010, s. 2(1) e)

309. *Criterion 23.2 - C.18.1 (a) -* Section 15 of the MLPCA 2002, requires financial institutions and cash dealers to identify persons who should report any information or suspicion about a person involved in money laundering. In addition, C.18.1 (c) - Section 16 of MLPCA 2002 requires financial institutions and cash dealers to take appropriate measures to make their employees aware and to train employees in recognising and dealing with money laundering transactions. Legal practitioners are not covered. The draft MLPC Regulations have no enforceability (with no legal requirement in the MLPCA), so there are no further requirements for DNFBPs to comply with the internal control requirements set out in Recommendation 18.

310. *Criterion 23.3 -* The draft MLPC Regulations which require FIs, Cash Dealers (DNFBPs) and legal practitioners to comply with the higher risk countries requirements set out in Recommendation 19 are not in force. Section 12I(2) (a) of MLPCAA 2010 requires FIs, cash dealers and legal practitioners to pay special attention while conducting business or transactions with any person in another country, which has been specified in writing by SIFIU, that does not have adequate systems or laws in place to detect, prevent or deter money laundering or the financing of terrorism. There are no measures in place to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries. There is no provision or mechanism for DNFBPs to apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.

311. *Criterion 23.4 -* Section 14 (H),(I),(J),(K) and (L) (which covers legal practitioners only) of the MLPCAA require DNFBPs to comply with the tipping-off and confidentiality requirements set out in Recommendation 21, but directors of DNFBPs are not explicitly mentioned in s.14 of the MLPCAA 2010.

Weighting and Conclusion

312. While there are shortcomings including legal practitioners not being covered (R.18) and the draft regulations not being in force (R.18 and 19), the MLPCAA 2010 ensures that nearly all the requirements for suspicious matter reporting, tipping-off and confidentiality requirements are met to a large extent.

313. **Recommendation 23 is rated partially compliant.**

Recommendation 24 – Transparency and Beneficial Ownership of Legal Persons

314. The last MER rated Solomon Islands as non-compliant with Recommendation 24 (previously, Recommendation 33). Since the last MER, Solomon Islands has enacted a new statute – the Companies Act 2009.

315. Under the Companies Act 2009 the following legal persons may be formed:

- Private companies
- Public companies
- Single shareholder companies
- Overseas companies (foreign companies)
- Community Companies

316. In addition, cooperative societies may be formed under the Cooperative Societies Act. Under section 8 of that Act, cooperative societies have independent legal status. Under the Charities Act trustees may also apply for registration and be recognised as a legal person.

317. *Criterion 24.1* - The Companies Act 2009 (CA 2009) contains the rules and processes required to form a company (private, public, single shareholder, and community companies). The Company Haus website links to a copy of the Companies Act and includes information on the different types, forms and basic features of companies.

318. The Cooperatives Act creates a voluntary form of registration and sets out the legal requirements for a valid incorporation as a body corporate. The website of the Ministry of Commerce, Industry, Labour and Immigration provides a link to the Cooperative Societies Act and also sets out the process for registering a cooperative society.

319. All companies created in Solomon Islands have to be registered with the Companies Registry to be recognised as a legal entity.

320. The CA 2009 is available on the Company Haus website. Sections 117 and 118 of the Companies Act 2009 set out the process for members of the public to obtain basic ownership information of a company. There is no requirement or mechanism for beneficial ownership to be recorded or obtained.

321. *Criterion 24.2* - Solomon Islands has not assessed the risk of ML and TF for each type of legal person created under Solomon Islands' law. The NRA assesses the threat posed by 'ghost/shell' companies, cooperatives and charitable organisations, but this was done at a basic level. It has also considered NPOs/CSOs and NGOs as entities most likely to be used in the laundering of funds. There is however no assessment of other forms of private companies, including foreign registered companies, and of public companies in general.

322. *Criterion 24.3* - Sections 6 and 8 of the CA 2009 require companies to be registered if they are to be recognised as legal persons under the law. The requirements of registration include company name, type of company, rules of the company (i.e. basic regulating powers), details of all directors, full name of shareholders and address of the registered office. The Registrar maintains the details of companies, their shares, directors and registered offices. Under section 7, upon receiving the application for registration, the Registrar when satisfied that all requirements for registration have been met, is required to issue a certificate of incorporation. This information is publicly available.

323. Cooperative Societies which have at least ten members, with one member being a registered society, may be registered with the Registrar of Cooperatives as a body corporate. The registration application is to be accompanied by a list of members and their capital, the names and addresses of the committee and officers, and a copy of the by-laws of the society. Each society is to keep a copy of its rules, by laws and a list of its members, open to inspection, free of charge, at all reasonable times at the registered address of the society. Registrar of Cooperatives is to keep a Register of Societies in his office, which is open to the public at all reasonable times, free of charge.

324. *Criterion 24.4* - Under CA 2009 (s 39) companies are required to maintain a share register, which should contain the name, last known address of each shareholder, number of shares and class of shares and the date of the issue of shares. There is no requirement for the company to maintain the details of associated voting rights. This share register is to be kept at the registered office of the company and is required to be maintained by the company or an agent on behalf of the company. The CA 2009 (s 17) further requires that the company must have a registered office in Solomon Islands. Under section 113 and 117 of CA 2009, a company is

required to maintain, at its registered office, written records of the directors, the rules of the company, the certificate of incorporation (which includes details of the directors including addresses, shareholders names, and address of the company), and details of its registered office. This is available to be inspected by members of the public.

325. A registered cooperative society is to keep a copy of its rules, by-laws and a list of its members open for inspection at the registered address of the society. There is no requirement for the registered address of the society to be in Solomon Islands.

326. *Criterion 24.5* - CA 2009 requires that notice is given to the Registrar of change of registered office and postal address. There is no time frame for giving notice, however, if notice is not given then the change is not considered effective. In relation to change in particulars of directors, a notice of change of directors within 20 working days is required to be given to the Registrar. In case of name change an application has to be made to the Registrar. Rules of the company may be changed after incorporation and the Registrar has to be notified within 10 working days of the adoption of the new rules. For share/shareholder details, any changes have to be notified to the Registrar and noted in the share register held by the Company with no specific timeframe required. The Registrar also has power to require a company to provide updated or corrected details within 10 days of notice being given.

327. There is no provision requiring companies to notify Company Haus if there is a change to the basic regulating powers of a company.

328. The Director of a Company must file an annual return online each year, for registration. If the annual return is not filed within six months of the date allocated, the Registrar must remove the company from the register. When annual returns are filed, the company is also required to update shareholders and directors details with nominal fines given for late updates.

329. Cooperative societies which are registered must forward any change of by-laws or changes to the registered address of the society to the Registrar for Cooperative Societies. There is no requirement for other information to be updated and accurate

330. *Criterion 24.6(a) and (b)* There is no requirement for companies, or for the Registrar to maintain beneficial ownership information.

331. *Criterion (c)* Solomon Islands relies on mechanisms to obtain existing CDD information collected by FIs and DNFBPs that may assist competent authorities to establish beneficial ownership of a company. As outlined in R.10, section 12(2) of the MLPCAA 2010, requires FIs to verify the identity of beneficial owners. However section 12B of the same Act restricts the application of section 12(2). Furthermore, as noted in R.10 and R.22, FIs and DNFBPs are not specifically required to identify and verify the identity of beneficial owners of customers that are legal persons or legal arrangements. In addition, there is no obligation for registered legal persons to open bank accounts. IRD may also hold beneficial owner information. Section 9(4) of the Income Tax Act 1996 provides that any Solomon Islands company which applies for an exemption from tax for certain income must provide the names and addresses of all persons having a beneficial interest in the shares of such company. Solomon Islands does not have a stock exchange. There are no measures to ensure that beneficial ownership information can be accessed by competent authorities in a timely manner.

332. There are no measures requiring Cooperative Societies to obtain beneficial ownership information and to ensure that beneficial ownership information can be accessed by competent authorities in a timely manner.

333. *Criterion 24.7* - The Registrar is not required to take positive steps to obtain up to date beneficial ownership information, nor is there a requirement for a review of the information held by the registry to ensure accuracy and currency. Based on the deficiency identified in 24.6 all beneficial information is not kept and maintained. There are no specific provisions requiring FIs/DNFBPs to identify and verify the identity of the beneficial owner of customers that are legal persons or arrangements. There are no requirements for FIs/DNFBPs to keep CDD information on customers' beneficial ownership and CDD information (as per 10.7 and R.22) up to date.

334. *Criterion 24.8* - There are no measures in Solomon Islands to ensure companies co-operate with competent authorities with respect to access to beneficial ownership information which is accurate. There is no responsible officer accountable to competent authorities for providing relevant information.

335. Cooperative Societies do not collect beneficial ownership information.

336. In relation to foreign or overseas companies who have been registered in Solomon Islands, there is no similar requirement as local companies to nominate a natural person or DNFBP for providing basic information or information on beneficial ownership to competent authorities. The Companies Act only requires that details of directors need to be informed to the Registrar as well any changes to directors.

337. *Criterion 24.9* - The CA 2009 requires companies to maintain records (details of directors, shareholders) for seven years. The share register may be maintained by an agent on behalf of the company.

338. There is no requirement on cooperatives to maintain records for certain number of years however the registrar may call for the records anytime.

339. FIs, cash dealers and legal practitioners are required to maintain records of a person's identity for six years. This does not appear to capture beneficial ownership information. There is no requirement that these entities keep the information for five years after the company ceases to exist, or five years after the company ceases to be a customer of the professional intermediary or FI.

340. *Criterion 24.10* - Basic information on companies is available to the public without cost on the Company Haus website. In addition, the company must keep available for any person to inspect basic information set out in s.117 of CA 2009. The company is not required to maintain beneficial information.

341. Under the Police Act, Police are able to use search warrants to obtain anything necessary for the conduct of investigations. Whilst there is a provision for another person [competent authority / public] to conduct searches of company details and beneficial ownership information apart from police, it is not clear who this entails.

342. Under the MLPCAA 2010 SIFIU can obtain the information obtained through CDD when a company is a customer. LEAs can use search and seizure provisions to obtain information. There is no information provided to assess whether information can be accessed in a timely manner.

343. The Police and Customs require a search warrant to obtain information and this can add to the timeframe. CA 2009 s181 and s183 allow for a person authorised by the Registrar to disclose documents, information or reports in the course of criminal proceedings or subject to the approval of the Registrar for the purpose of detecting offences against any Act.

344. Beneficial ownership information of registered cooperatives is kept by the Registrar of Cooperatives. There is no requirement for registered cooperatives to keep updated beneficial ownership information, or to update the Registrar.

345. Foreign companies are not required to keep updated share registers or to notify the Registrar of changes.

346. *Criterion 24.11* - Section 39(1)(a) of the CA 2009 requires that all shares must be registered in the share register disclosing the name and address of each person who is, or has within the last 7 years been, a shareholder. Consequently bearer shares are, in effect, not permitted. There is however no explicit prohibition in the CA 2009 on the issuance of bearer share warrants.

347. *Criterion 24.12* - Under s 42 of the CA 2009, 'No notice of a trust, whether express, implied, or constructive, may be entered on the share register.' CA 2009 also states that a company must treat the registered holder of a share as the only person entitled to rights. Both provisions operate to preclude nominee shareholders of companies formed under the CA 2009. On the other hand, nominee directors are not prohibited under the Act and there are no measures in place to mitigate the ML and TF risk associated with those directors.

348. *Criterion 24.13* - CA 2009 makes it a crime to make false entries or give false information. The penalty is SBD 1 000 (USD 125) or imprisonment of 7 years. In relation to a failure to update shareholder and director information, the penalty is SBD 50 (USD 6.25). There is no dissuasive sanction for failure to update, and the sanctions for making false entries are dissuasive for natural persons only. CA 2009 does not penalise legal persons for making false entries and giving false information.

349. *Criterion 24.14* - Solomon Islands competent authorities, and the public generally, can access basic company information held by the Company Haus registry and exchange information on shareholders (through the website). In relation to beneficial ownership, the identified deficiencies above, including inadequate collection of beneficial ownership information, prevent the rapid exchange of information. The MLCPAA 2010 and the MACMA 2002 allow Solomon Islands competent authorities to offer both spontaneously and upon request international exchanges of information. RSIPF can exchange information with authorised regional and international policing outside Solomon Islands through the Pacific Transnational Crime Network, Pacific Transnational Crime Coordination Centre and INTERPOL.

350. *Criterion 24.15* - In practice it appears that all incoming and outgoing requests are channelled through SIFIU. There is no information provided by Solomon Islands to assess whether it monitors the quality of the assistance received.

Weighting and Conclusion

351. There are deficiencies in relation to information maintained on beneficial ownership, no prohibition of, or mitigating measures in place for nominee directors, and no dissuasive sanctions for failure to update.

352. **Recommendation 24 is rated partially compliant.**

Recommendation 25 - Transparency and Beneficial Ownership of Legal Arrangements

353. The last MER of Solomon Islands rated R.34 as partially compliant. Since the last MER Solomon Islands does not appear to have made changes to relevant legal frameworks.

Source of Law

354. Solomon Islands is a common law jurisdiction for trusts and the country's Constitution (Article 8(2)) clearly recognises the existence of trusts. The Income Tax Act defines a "person" for tax purposes as including a trustee (Income Tax Act s.2(1)).

355. *Criterion 25.1 -*

- a) trustees of express trusts are not required under any legislation to obtain and hold adequate, accurate, and current information on the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over a trust;
- b) trustees are not required to hold basic information on regulated agents of, and service providers to, a trust, including investment advisors or managers, accountants, and tax advisors; and
- c) professional trustees are not required to maintain this information for at least five years after their involvement with the trust ceases.

356. There was no evidence provided to the assessment team of any jurisprudence accepted by courts in relation to common law obligations that may apply to trustees.

357. *Criterion 25.2 -* There is no requirement placed on trustees to hold accurate and up to date information.

358. *Criterion 25.3 -* Under the MLPCAA 2010 s.12, financial institutions, cash dealers and legal practitioners have to identify the person for whose ultimate benefit a transaction is being carried out if they have a reasonable suspicion that the transaction is being carried out for another person. However the trustees do not have to disclose their status to the FI and DNFBPs.

359. *Criterion 25.4 -* No law prevents trustees from providing information relating to the trust to competent authorities, FIs and DNFBPs. S.198 of the Legal Profession Bill 2017 indicates it is an offence to disclose information but not in relation to investigations.

360. *Criterion 25.5 -* Police have the power to use a search warrant to obtain information required from trustees, FIs and DNFBPs (Criminal Procedure Code - ss11 and 14; 215; 14 and 104). Under section 11H(2) of MLPCAA 2010 SIFIU also has power to request information from FIs, cash dealers and legal practitioners on any information held by them however not all beneficial ownership information is maintained by the FIs and DNFBPs. This would also apply in a case where a DNFBP may be acting as a trustee.

361. *Criterion 25.6 -* While Solomon Islands has the ability to provide international co-operation, there are deficiencies in relation to collection and access to information on trusts.

362. *Criterion 25.7 -* There are no legislated sanctions applicable to trustees who fail to perform their duties relevant to meeting their obligations under this Recommendation. Solomon Islands has not provided the assessment team with information on any jurisprudence accepted by courts in relation to liabilities attached to breach of common law fiduciary obligations on trustees.

363. *Criterion 25.8 -* There is no provision related to sanctions on trustees for failing to provide information to competent authorities.

Weighting and Conclusion

364. Solomon Islands' lack of adequate trust law addressing this Recommendation means that there are no measures in place to mitigate the risk posed by trusts.

365. **Recommendation 25 is rated non-compliant.**

Recommendation 26 – Regulation and supervision of financial institutions

366. Solomon Islands 2010 MER rated the former Recommendation 23, partially compliant, as oversight of insurance companies was limited to prudential matters.

367. *Criterion 26.1* - The MLPCAA 2010 establishes SIFIU within the Central Bank for the purposes of assisting the AMLC in the performance of its functions. The MLPCAA 2010 gives the AMLC the power to delegate to SIFIU any or all the functions the AMLC is required to perform under the MLPCAA. Section 11H(2) (a) (b) and (c) of the MLPCAA 2010, gives SIFIU the authority to request information, make enquires and require FIs, cash dealers and legal practitioners to produce information or disclose records in their possession for the purposes of the Act. Section 11H (2)(d) of the MLPCAA 2010, gives authority to SIFIU to enter a financial institution upon a written request and with consent of the financial institution or with a warrant issued under section 11K for the purposes of carrying out an inspection under the Act. Part III section 11 (1) of the FIA 1998 does explicitly provide the mandate for onsite examinations to CBSI (SIFIU is part of the CBSI), although this does not include offsite examinations.

368. CBSI is responsible for the prudential supervision of licensed financial institutions in Solomon Islands as mandated by section 8(1) of the Financial Institutions Act (FIA 1998). The money transfer service as well as the money changing service are licensed by the CBSI under the Exchange Control (Foreign Exchange) Regulations 1977.

369. *Criterion 26.2* - CBSI is responsible for licensing FIs in Solomon Islands pursuant to section 5 of the Financial Institutions Act (FIA 1998). The money transfer and the money changing services are licensed by the CBSI pursuant to regulation 20 of the Exchange Control (Foreign Exchange) Regulations 1977. There is no prohibition on shell banks establishing or continuing operations in Solomon Islands.

370. *Criterion 26.3* - The CBSI is mandated to do criminal background checks on FIs pursuant to Regulation 4(3)(1) and Regulation 5(b) of the Financial Institutions (licensing criteria) Regulation of 2015. However, the extent of determining the fitness and propriety of beneficial owners and management is limited in that the licensing application process and practise does not include criminal background checks such as establishing clearance (police) with law enforcement and or, with international counterparts. The background checks done by SIFIU are limited with no competence requirements for any roles. The CBSI does not have a fit and proper prudential standard for the FIs it regulates except for the National Provident Fund.

371. *Criterion 26.4* - Authorities indicate that FIs are regulated and supervised based on principles set by the Basel Committee on Banking Supervision, the IOSCO and the IAIS, however no details were provided. There are no legal requirements that compel the relevant competent authorities to implement a risk-based approach to supervision and monitoring.

372. There is no legal requirement for consolidated group supervision for AML/CFT compliance. There is no legal requirement to compel the CBSI, and SIFIU to supervise and monitor the ML/TF risks in the financial sector. There is no requirement to compel FIs to have in place systems for monitoring and ensuring compliance with Solomon Islands' AML/CFT requirements.

373. *Criterion 26.5* - The frequency and intensity of AML/CFT supervision of FIs is not determined on the basis of ML/TF risk, policies, internal controls or the characteristics of FIs. SIFIU affirms that AML/CFT inspections are conducted every two years at a minimum for FIs, in conjunction with their prudential inspections by CBSI. However, only six AML/CFT inspections were conducted from 2014-2018.

374. *Criterion 26.6* - There are no requirements or systems in place to review the assessment of the ML/TF risk profiles of individual FIs periodically, when a major event occurs or there are developments in the management or operations of the FI or group.

Weighting and Conclusion

375. The mandate for SIFIU to undertake offsite supervision is unclear. The frequency and intensity of AML/CFT supervision of FIs is not determined on the basis of ML/TF risk, policies, internal controls or the characteristics of FIs. The extent of determining the fitness and propriety of shareholders, including its extent to beneficial owners and management is limited in that the licensing application process and practise does not include criminal background checks such as establishing clearance (police) with law enforcement and or, with international counterparts.

376. **Recommendation 26 is rated partially compliant.**

Recommendation 27 – Powers of supervisors

377. Solomon Islands 2010 MER rated Solomon Islands partially compliant with the former Recommendation 29. Deficiencies include that supervisors' powers were split up in a way that made enforcement difficult and they had effectiveness issues due to resource constraints.

378. *Criterion 27.1* - Section 11H(2) (a) (b) and (c) of the MLPCAA 2010, requires SIFIU to request information, make enquires and require FIs, cash dealers and legal practitioners to produce information or disclose records in its possession for the purposes of the Act. Part III section 11 (1) of the FIA 1998 does explicitly provide the mandate for onsite examinations to CBSI (SIFIU is part of the CBSI), although this does not include offsite examinations.

379. *Criterion 27.2* - Section 11H(2)(d) of the MLPCAA, gives authority to SIFIU to enter FIs upon a written request and with consent of the FI or with a warrant issued under section 11K for the purposes of carrying out an inspection under the Act. Part III section 11 (1) of the FIA 1998 explicitly provides the mandate for onsite examinations.

380. *Criterion 27.3* - Section 11H(2) (a) (b) and (c) of the MLPCAA 2010, gives SIFIU the authority to request information, make enquiries and require FIs, cash dealers and legal practitioners to produce information or disclose records in its possession for the purposes of the Act. Section 11H (2)(d) further mandates SIFIU to compel production of any information for the purposes of the Act.

381. *Criterion 27.4* - Sections 12, 13, and 14 of the MLPCAA 2010, outline the offences of non-compliance with the AML/CFT requirements. SIFIU can impose criminal, civil and administrative sanctions, for failures to comply with the AML/CFT requirements. The sanctions applicable to natural and legal persons are spelt out in s.18(3) MLPCA 2002.

382. The power to withdraw, restrict, suspend or revoke the FI's license falls within the jurisdiction of the CBSI under the FIA 1998 and the CBSIA 2012. The same cannot be said for the DNFBPs with regards to licensing as it is unclear.

Weighting and Conclusion

383. Section 11H(2) (a) (b) and (c) of the MLPCAA 2010, gives SIFIU the authority to request information, make enquires and require FIs, cash dealers and legal practitioners to produce information or disclose records in its possession for the purposes of the Act. The mandate for SIFIU to undertake offsite supervision is unclear. The CBSI is mandated for licensing of the FIs, and has the power to withdraw, restrict, suspend or revoke the FI's license.

384. **Recommendation 27 is rated largely compliant.**

Recommendation 28 – Regulation and supervision of DNFBPs

385. Solomon Island's 2010 MER, was rated non-compliant with former Recommendation 24. The main deficiencies related to the lack of regulation, supervision and monitoring of AML/CFT requirements on all DNFBPs. Also, casinos were not effectively supervised and the ability to enforce inspection powers was lacking.

386. *Criterion 28.1(a)* - Casinos are not permitted to operate in Solomon Islands without a licence and permit from the Gaming and Lotteries Board. Section 6(1) and (2) of the Gaming and Lotteries Act, Chapter 139, requires an application for a commercial gaming permit to be made to the Board. There are only two licensed casinos in the country. There are no internet casinos and online gaming in Solomon Islands.

387. *Criterion 28.1(b)* - There are no legal and regulatory measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant controlling interest or holding a management function, or being an operator of a casino.

388. *Criterion 28.1(c)* - Section 2 of the MLPCAA 2010 defines casinos as cash dealers and therefore casinos are required to be supervised for compliance with AML/CFT requirements under that Act.

389. *Criterion 28.2* - The MLPCAA 2010 establishes SIFIU within the Central Bank for the purposes of assisting the AMLC in the performance of its functions. The MLPCAA gives the AMLC the power to delegate to SIFIU any or all the functions the AMLC is required to perform under the MLPCA. Section 11H(2)(d) of the MLPCAA 2010, gives authority to SIFIU to enter the premises of a cash dealer or legal practitioner upon a written request and with consent of the financial institution or with a warrant issued under section 11K for the purposes of carrying out an inspection under the Act. Section 2 of the MLPCAA 2010 defines the other DNFBPs as cash dealers and this includes, the real estate agents, accountants, dealers of precious metals or in precious stones, trust or company service providers. The trust and company services are provided by the law firms or legal practitioners, thus those providing such services are defined as cash dealers.

390. *Criterion 28.3* - Section 11H(2) (a) (b) and (c) of the MLPCAA 2010, requires SIFIU to request information, make enquires and require cash dealers and legal practitioners (providing trust and company services) to produce information or disclose records in their possession for the purposes of the Act. Section 11H(2)(d) further empowers SIFIU to compel production of any information for the purposes of the Act. SIFIU does not have a clear legal basis for supervising DNFBPs and most of the powers are inferred.

391. *Criterion 28.4* - Section 11H(2) (a) (b) and (c) of the MLPCAA 2010, empowers SIFIU to request information, make enquiries and require cash dealers and legal practitioners to produce information or disclose records in their possession for the purposes of the Act. SIFIU does not have a clear legal basis for supervising DNFBPs and most of the powers are inferred. Section 11H(2)(d) of the MLPCAA 2010, gives authority to SIFIU to enter a DNFBP's business premises,

upon a written request and with consent of the DNFBP or with a warrant issued under section 11K, for the purposes of carrying out an inspection under the Act.

392. In addition to obligations in the MLPCAA 2010, the legal practitioners are subject to chapter 16 of the Laws of Solomon Islands – Legal Practitioners of 1987.

393. The Institute of Solomon Islands Accountants is responsible for regulating the practice of accountancy in Solomon Islands. Part 2- Regulation of the practise of Accountancy of the Accountants Act 2010 governs the practise and registration of the Accountants with the Accountants Board. This is in addition to the obligations in the MLPCAA 2010.

394. Trust companies do not exist in Solomon Islands. However, lawyers or legal practitioners and accountants as defined under section 2 of the MLPCA, provide some of the services that trust companies usually provide which involved the following:

- i. Formation or management of a legal entity or an arrangement;
- ii. Acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership or a similar position in relation to any other legal entity or arrangement;
- iii. Providing a registered office, business address or accommodation, correspondence or administrative address for a legal entity or arrangement;
- iv. Acting as (or arranging for another person to act as) a trustee of an express trust;
- v. Acting as (or arranging for another person to act as) a nominee shareholder for another person.

395. There are no requirements that compel the competent authorities or SRBs in Solomon Islands to take the necessary measures to prevent criminals or their associates from being professionally accredited, or holding (or being the beneficial owner of) a significant or controlling interest or holding a management function in a DNFBP.

396. All DNFBPs are subject to sections 12, 13 and 14 of the MPLCAA 2010 which set out AML/CFT requirements. Failure to comply with the various AML/CFT requirements prescribed under these sections attract sanctions. These sanctions are applicable to natural and legal persons and are spelt out in s.18(3) MLPCA 2002. The deficiencies noted in R.35 apply.

397. *Criterion 28.5* - Whilst SIFIU is the competent authority for administering AML/CFT programs for the DNFBPs, its supervisory mandate is not explicit. Furthermore SIFIU does not have a supervision policy that determines the frequency and intensity of the AML/CFT supervision informed by ML/TF risks, the nature of the various DNFBPs and size of the various reporting DNFBPs.

Weighting and Conclusion

398. Whilst SIFIU is the competent authority for administering AML/CFT programs for the DNFBPs, its supervisory mandate is inferred rather than explicit. SIFIU does not have a supervision policy that determines the frequency and intensity of the AML/CFT supervision informed by ML/TF risks, the nature of the various DNFBPs and size of the various reporting DNFBPs.

399. **Recommendation 28 is rated partially compliant.**

Recommendation 29 - Financial intelligence units

400. In the 2010 MER, Solomon Islands was rated partially compliant with former Recommendation 26. The key factors that underlined this rating were: FIU not properly staffed

or resourced; only constituted with seconded personnel, resulting in a substantial impact on effectiveness; No STR's or guidance on reporting for cash dealers; no legal provisions creating the position of Director of SIFIU, defining relationship to the AMLC, or CBSI; concerns about operational independence; no statistics, trends or typologies included in the publication of periodic reports.

401. The 2010 MER identified concerns around the operational independence of SIFIU. SIFIU relies on (i) a MOU signed between the AMLC and SIFIU and (ii) an Instrument of delegation both of which are dated from 2006.

402. SIFIU is a hybrid FIU and is housed within the CBSI under the governor's office. Funding for SIFIU comes from Solomon Islands Government through the Ministry of Justice and Legal Affairs. Elements of the administrative cost for SIFIU are met by the CBSI.

403. Section 11 MLPCA 2002 established the Anti-Money Laundering Commission (AMLC). Section 11A of the MLPCAA 2010 identifies the functions of the AMLC which include at (a) to provide overall management, control and supervision of the operations of the Unit (FIU) and the Director. Section 11D(2) states that the Unit shall be charged with the administration of the provisions of the MLPCAA 2010 subject to the supervision and control of the Commission (AMLC).

404. *Criterion 29.1* - SIFIU is re-established under section 11D of the MLPCAA 2010. SIFIU is the designated agency responsible for the implementation of the MLPCAA 2010. The main functions of SIFIU involve receiving, analysing and disseminating STRs related to money laundering and other predicate offences. Other responsibilities conferred under the Act include issuing guidelines and providing feedback to FIs (section 11H (1) (a) – (f)), and the receipt of STRs relating to TF pursuant to section 14(1) (a)(b)(c), 14(2)(a)(b) and 14A.

405. *Criterion 29.2(a)* SIFIU is the central agency for the receipt of STRs filed by reporting entities covered under the current AML/CFT legislation.

406. SIFIU Standard Operating Procedures published in November 2009 identify SIFIU as the central agency for the receipt of disclosures and the receipt of other information as required by national legislation.

407. *Criterion 29.2(b)* SIFIU is the mandated authority to receive other Reports, i.e. Cash Transaction Reports (CTR) and Electronic Funds Transfer Reports (EFTR). These are threshold-based and declarations reports, which are received from FIs, cash dealers (including DNFBPs) and legal practitioners (MLPCAA 2010, Section 14(D)(1)(a)–(c)). Whilst not a mandated “authorised person” SIFIU receives Border Currency Reports (BCR) from Customs. Section 14D (6) provides that the CBSI or SIFIU may, on application by the reporting entity, exempt in writing the reporting of transactions required by 14D 1(a).

408. *Criterion 29.3(a)* Under Section 11H(1)(a) SIFIU is to receive information or reports which it is to analyse, review and assess. Section 11H(2)(a)(b)(c) empowers SIFIU to request additional information from FIs, cash dealers and legal practitioners. Section 13C of MLPCAA 2010 requires FIs, cash dealers (DNFBPs) and legal practitioners to make their records available to SIFIU, and upon written request SIFIU has the power to obtain additional information with regard to suspected terrorist financing under section 11H (2) (e) (f) and (g) of the MLPCA Act 2010.

409. *Criterion 29.3(b)* SIFIU has the power to informally request information. These are core functions and powers of the SIFIU (MLPCAA 2010, S11H 1 a-t). Domestically, SIFIU can request access to all information (financial, administration, law enforcement), with the request made in writing to entities of interest, allowing SIFIU to gather, copy, and retrieve information SIFIU

considers relevant for its analysis. In practice, law enforcement agencies make requests for financial information through SIFIU. For example, RSIPF and the Inland Revenue Division usually send requests to SIFIU to request bank information, bank details or financial statements of entities or individuals that they are investigating. This activity is underpinned by MOUs with the respective agencies.

MOUs Signed by SIFIU with Domestic Partner Agencies

Date MOU Signed	Agency	Type of MOU
26-Oct-06	AMLC	Delegation of powers and responsibilities
03-Jul-07	CBSI	Facilitates the establishment of SIFIU within CBSI
03-Jul-07	Solomon Islands Customs and Excise Division	Information exchange
08-Aug-08	RSIPF	Information exchange and secondment of staff with SIFIU
24-Aug-10	Inland Revenue Division	Information exchange

Source: SIFIU

410. SIFIU has access to commercially held databases for open source checks and public information. SIFIU does not have direct access to databases of other government departments, but where it requires information, it will make a direct request to the government authority for specified information (MLCPA s.11H(f)).

411. Under 11H(2)(g) SIFIU is able to obtain the record of any telephone call of any person under investigation for committing or attempting a serious offence, an ML/TF offence, or to trace the proceeds of crime.

412. *Criterion 29.4(a)* - SIFIU analysts conduct operational analysis utilising STRs and other reports. Section 11H (1) (a) of the MLPCA Act 2010, permits SIFIU to receive information or reports for the purposes of the Act, including information or reports from another country, and to analyse, review and assess such information or report. This is supported by the 2009 SIFIU SOP which details the operational analysis process.

413. The analysis determines links between targets and possible proceeds of crime, money laundering and terrorist financing. This analysis is disseminated to responsible LEAs for their further consideration and possible prosecution.

414. *Criterion 29.4(b)* - In 2014, SIFIU started to undertake strategic analysis, looking at emerging, continuing and declining trends and patterns of money laundering and other predicate offences as well as TF. Strategic analysis data includes; reports from the TCU on regional transnational crime trends, local media reports of financial crime cases, police media releases on financial crime cases, incoming public enquires to SIFIU and overseas media releases. There is no reference to strategic analysis in the SIFIU SOP.

415. *Criterion 29.5* - SIFIU disseminates information to relevant LEAs if there is enough evidence to suspect that a ML/TF offence has been committed. Disseminations are also undertaken where SIFIU does not specifically suspect or where there is not enough evidence to suspect ML or TF (MLPCAA 2010, s.11H(1)(b)). The function of the SIFIU is to forward any information or report to the appropriate LEA if the Director has reasonable grounds to suspect that such information may involve an offence of ML, TF, the proceeds of crime or any other offence under the Act, even if such information has not been requested by the LEAs. SIFIU is used by other LEAs to gain access to various types of financial information. There are two channels for domestic

disseminations to LEAs - by email using encrypted files with passwords for opening documents sent, and by hard copy through direct hand delivery.

416. *Criterion 29.6(a)* - SIFIU recognises the importance of security of premises and has procedures in place that protect the security and confidentiality of information (SIFIU SOP). These include procedures for handling, storage, dissemination, and protection of, and access to, information.

417. *Criterion 29.6(b)* - The MLPCAA 2010 (s.11F) and SIFIU SOP provides for the SIFIU Director to require all officers to take an oath and sign confidentiality agreements to protect the information that they are handling, storing and disseminating. All SIFIU officers require the necessary clearance and undergo police checks when joining SIFIU.

418. FIU staff have access to all SIFIU information, except for the information which is protected by SIFIU director due to its sensitivities. Section 14H (5) (b) states "A person commits an offence if the person – discloses any fact, report or information contrary to this section with intent to prejudice an investigation of money laundering offence, financing of terrorism offence or any other serious offence".

419. *Criterion 29.6(c)* - SIFIU office is housed within the CBSI main office building and is subject to compliance with CBSI internal policies. Access to SIFIU is restricted to SIFIU staff (SIFIU SOP 2009). There are established procedures for access by visiting persons and all confidential information is required to be secured. SIFIU is subject to the CBSI internal IT policy, with hardware and software applications, accessories and support services provided to SIFIU by CBSI. The server used by SIFIU is housed within the CBSI building, and there is one additional backup off-site server that is located off-site in a CBSI residential area. Security is provided 24/7 by foot guards around the premises where the off-site server is stationed. In terms of passwords to the server and computers used by SIFIU officers, the CBSI IT department assists SIFIU with access to the server and computers.

420. *Criterion 29.7(a)* - SIFIU was established in April 2005 under the MLPCA 2002. SIFIU is an independent and administrative statutory agency of Solomon Islands Government. The powers, duties and functions of SIFIU are clearly defined in the MLPCAA 2010. While the function of the AMLC (Commission) is to provide overall management, control and supervision of the operations of the Unit and Director, the core functions of SIFIU are independent of both Solomon Islands Government (SIG) and the CBSI. SIFIU is financially and administratively dependent on the SIG and the CBSI. SIFIU's annual work plan and budget are presented to the AMLC and the Ministry of Justice and Legal Affairs for their approval. The Director SIFIU provides, for information, monthly reports to the AMLC on SIFIU's performance and achievement of work plan targets and also provides regular progress updates to the AMLTEG and AMLROs on key SIFIU outputs.

421. The Director of SIFIU is able to exercise all the powers, duties and functions of the Unit under the MLPCAA. The Director is responsible and accountable for the decisions relating to the delivery of SIFIU core outputs. The functions and powers of SIFIU are provided under Section 11H (1) and (2) of the MLPCAA 2010. The Director SIFIU has the authority and capacity to carry out its functions freely, including the autonomous decision to analyse, request and disseminate specific information. SIFIU has provided information to Operation Janus addressing critical risks such as government and public sector corruption without undue influence which indicates SIFIU operates autonomously and independently of the AMLC.

422. *Criterion 29.7(b)* - Subject to the management, control and supervision of the AMLC, SIFIU can liaise or enter into any agreement or arrangement regarding the exchange of information under the Act with any government department, LEA or agency of another country

or any international organisation MLPCAA 2010, S11H(q) and (r). Whilst there is no evidence of AMLC involvement it is technically possible for the AMLC to prevent the SIFIU entering into agreements or arrangements.

423. *Criterion 29.7(c)* - SIFIU's main functions and powers are provided for under the MLPCA Act and relate to combating ML/TF and other duties specified by legislation. These functions are different to the functions of CBSI which hosts SIFIU.

424. *Criterion 29.7(d)* - SIFIU is fully funded by the SIG through the budgetary support under the Ministry of Justice and Legal Affairs. CBSI also contributes to the revenue of the Unit and supports other operational programs planned for the year. Obtaining and deploying resources can be influenced by the AMLC due to its overarching supervision and oversight role. There is no evidence of any undue political, government or industry influence or interference that may compromise its operational independence.

425. SIFIU is administratively housed within the CBSI and is subject to all the administrative protocols, policies and procedures of the CBSI. SIFIU also receives indirect financial support from RSIPF through staff secondment to SIFIU on a full-time basis, with one officer currently on secondment.

426. *Criterion 29.8* - SIFIU has been a member of the Egmont Group since 2011.

Weighting and Conclusion

427. The enactment of the 2010 MLPCA confirmed the supervisory function of the AMLC over the Director and operations of SIFIU. While this limits the independence and autonomy of SIFIU to some extent, in considering the context of Solomon Islands, SIFIU operates independently of the AMLC with no indications to suggest otherwise.

428. **Recommendation 29 is rated largely compliant.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

429. In the 2010 MER, Solomon Islands was rated largely compliant with former R.27. It was considered that resources, capacity and expertise to conduct and prosecute ML/TF is minimal. The new Recommendation 30 contains requirements that are more detailed.

430. *Criterion 30.1* - The RSIPF is the LEA with the primary responsibility for investigating ML, associated predicate offences and TF in Solomon Islands. Other competent bodies such as Customs, Immigration and the Ministry of Finance and Treasury have powers to support police with its investigations. RSIPF have MOUs in place with all these law enforcement bodies.

431. RSIPF does not have any formal policies in place to deal with ML/TF investigations. RSIPF have however prioritised investigating the predicate offences, corruption and fraud, which is consistent with the National Risk Assessment which identifies bribery and corruption as Solomon Islands' largest risks. The National Criminal Investigation Division (NCID) within RSIPF has three units dealing with corruption and fraud - the Corruption Investigation Unit, the Money Laundering and Terrorism Financing Unit and Task Force Janus. Each unit has 7 investigators and there are plans in place to further enhance resources, so that each unit has 14 investigators.

432. Task Force Janus is a joint taskforce created in 2016 by RSIPF and the Ministry of Finance and Treasury to identify, apprehend and prosecute individuals involved in fraud and

corruption within Solomon Islands Public Service. Task Force Janus has successfully convicted a number of individuals suspected of corruption and abuse of their public office.

433. *Criterion 30.2* - RSIPF is the only law enforcement authority authorised to undertake parallel financial investigation of both predicate and ML/TF offences. Other LEAs are able to refer cases to RSIPF. RSIPF provided the assessors with a summary of a number of investigations where both the predicate and ML offence are being investigated.

434. *Criterion 30.3* - RSIPF is responsible for identifying and tracing proceeds of crime for initiating freezing and seizure procedures (sections 102- 106 of the Police Act 2013). Section 3 of the Customs & Excise Act (Cap 121) provides customs officers with the same powers, authorities and privileges as members of RSIPF when carrying out their duties under customs laws.

435. In addition, section 11H(2)(k)(i) of the MLPCAA 2010 provides SIFIU with the power to expeditiously direct a financial institution, cash dealer or legal practitioner to freeze the accounts of a person for a period of not more than 5 days, (if not extended by a Judge before the five days expire) where SIFIU has reasonable grounds to suspect the transaction may involve a serious offence, an offence of ML/TF or proceeds of crime. This power is also used to support RSIPF in ML/TF investigations. SIFIU provided the assessment team with details of five occasions where banks were requested to freeze the accounts of persons suspected of being involved in a serious offence. Section 11H(1) of the MLPCA 2002 further provides SIFIU with powers to obtain documents from reporting institutions, Government departments and telecommunication companies where this information will assist to trace proceeds of crime.

436. *Criterion 30.4* - Customs and the Inland Revenue Division (within the Ministry of Finance and Treasury) have powers under their respective legislations to pursue financial investigations related to customs and tax offences. The Ministry of Finance and Treasury, the Leadership Code Commission and the Public Services Commission have MOUs in place with RSIPF to jointly pursue financial investigations related to corruption and corruption within the public service. Solomon Islands Independent Commission Against Corruption (SIICAC) is to be established following the passing of the Anti-Corruption Act 2018 (ACA) in June 2018. The ACA authorises staff of the SIICAC and the Police to undertake corruption investigations (s.26 of ACA). Once established, the SIICAC will be responsible for investigating corruption and related predicate offences.

437. *Criterion 30.5* - The SIICAC is yet to be established under the Anti-Corruption Act 2018. Section 26 of the ACA authorises staff of the SIICAC and the Police to undertake corruption investigations. The SIICAC powers are limited to undertaking corruption investigations. (Part 4, Division 3 of the ACA). SIICAC does not have power to investigate ML/TF offences arising from, or related to, corruption offences. The SIICAC has powers to refer to RSIPF any ML/TF offence related to the corruption under s.38(c) of the ACA.

Weighting and Conclusion

438. **Recommendation 30 is rated compliant.**

Recommendation 31 - Powers of law enforcement and investigative authorities

439. In the 2010 MER, Solomon Islands was rated compliant with R28.

440. The new Recommendation 31 contains more detailed requirements for investigative powers to enable thorough and comprehensive investigations of suspected ML/TF offending.

441. *Criterion 31.1* - The Criminal Procedure Code provides RSIPF with the power to search premises, search persons where they have a warrant to arrest, take statements and evidence of

accused persons, and seize and detain evidence. (See ss11 and 14; 215; 14 and 104 of the Criminal Procedure Code). Section 93 of the Police Act 2013 provides RSIPF with powers to search a person without a warrant, and seize and detain the item where they have reasonable grounds to suspect that the person has an item on them to be used for committing a criminal offence. Section 104 of the Police Act 2013 also provides RSIPF with powers to obtain a search warrant to search premises to obtain evidence.

442. RSIPF, Customs and Immigration have powers under the Currency Declaration Act (2002) to question, search, seize and obtain evidence from persons in relation to declared or undeclared cross border movements of physical currency.¹⁰ Customs officers also have to be designated as authorised officers under the MLPCA Act 2002 and have powers to seize and detain currency suspected of being proceeds of or intended to be used for money laundering purposes (s.19 of the MLPCA).

443. A police officer further has powers to search and seize tainted property with either the consent of the person or occupier of the land, or with search warrant obtained from a magistrate under the MLPCA Act 2002 (sections 49 and 50 of the MLPCA 2002). Where the circumstances are such that it is considered necessary to exercise the power of seize and search to prevent the concealment, loss or destruction of the property, the police officer may seize tainted property or proceeds of crime without warrant (s.51 of the MLPCA 2002).

444. These police powers are supplemented by the powers of SIFIU under the MLPCAA 2010. The MLPCAA 2010 provides SIFIU with the power to require a financial institution, cash dealer or legal practitioner to make available any of its records for examination (s.13C of the MLPCAA 2010). The MLPCAA 2010 provides SIFIU with the power to enter and search the premises of a financial institution, cash dealer or legal practitioner, and seize and remove any documents from the premises (section 11K, 11(2)(c), (d) of the MLPCAA 2010). SIFIU may then provide RSIPF and the Inland Revenue with any copies of any records that they have found during their inspection where they have reasonable grounds to suspect that a transaction may involve the proceeds of crime (para. 2.3.2 of MOU between SIFIU and SIPIF; para 4.2.2 of MOU between SIFIU and Inland Revenue). SIFIU also has the power to obtain from any Government department or agency the records of a person who it is investigating (s.11H(2)(f) of the MLPCAA 2010).

445. A bank or officer of a bank may also be compelled in proceedings instituted by or against the bank to produce any banker's record, or to appear as a witness to prove the matters, transactions or accounts in such record (subject to certain exceptions) (s.102 of the Evidence Act 2009).

446. *Criterion 31.2* - The Police Act allows the police to apply for a warrant to use surveillance devices (s.107), and access computer systems during a search warrant connected to an offence stated in the search warrant (s.105). The Police Act further allows the use of electronic screening devices where it is considered necessary for public safety or national security. A magistrate would need to be satisfied that allowing the use of electronic screening devices for investigating the ML/TF offences and predicate offence is necessary for public safety or national security (s.104 of the Police Act). There is no specific authority that allows the police to conduct undercover operations, intercept communications and use controlled deliveries.

447. Section 11H(2)(k)(i) of the MLPCAA 2010 provides SIFIU with the power to direct a financial institution, cash dealer or legal practitioner to either proceed or refrain from proceedings with a transaction or an attempted transaction for a period of not more than 5 days,

¹⁰ See Recommendation 32

(if not extended by a Judge before the five days expire) where SIFIU has reasonable grounds to suspect the transaction may involve a serious offence, an offence of ML/TF or proceeds of crime.

448. *Criterion 31.3* - The MLPCA provides SIFIU with the power to require a financial institution, cash dealer or legal practitioner to make available any of its records, including records of accounts of natural or legal persons, for examination (s.13C). The MLPCAA 2010 provides SIFIU with the power to search, seize and remove any documents from the premises of a financial institution, cash dealer or legal practitioner. Section 11K provides that no prior notification is required, thereby allowing SIFIU to identify assets without prior notification to the owner.

449. *Criterion 31.4* - RSIPF, Customs and the Inland Revenue have MOUs with SIFIU and are able to ask for all relevant information held by SIFIU when conducting the investigations of money laundering, associated predicate offences and terrorist financing. As a member of the AMLTEG working group, SIFIU shares information with all law enforcement agencies.

Weighting and Conclusion

450. Law enforcement and investigative authorities have sufficient powers to investigate ML/TF with the exception of a specific authority to conduct undercover operations, intercept communications and use controlled deliveries.

451. **Recommendation 31 is rated largely compliant.**

Recommendation 32 – Cash Couriers

452. In the 2010 MER Solomon Islands was rated partially compliant with former SR.IX. This rating reflected that at the time of the on-site, Solomon Islands only obtained reports from air passengers. It did not obtain reports from crew members or reports about currency sent in or out of Solomon Islands by sea, air or postal cargo. The scope of the obligation also did not extend to bearer negotiable instruments. The Currency Declaration Act (2009) (CDA) has since come into force and provides a legal framework for cross-border currency declaration that addresses all the previous shortcomings. However, passengers on cruise ships and crew members on any vessel or craft are not reporting movements of currency and bearer negotiable instruments.

453. Recommendation 32 contains new requirements that were not assessed under the 2004 Methodology but which are assessed under criteria 32.2 – 32.10 of the 2013 Methodology.

454. *Criterion 32.1* - Solomon Islands operates a currency declaration system. Section 3 of the CDA imposes an obligation on any person that enters or leaves Solomon Islands to declare any amount of currency that they have in their possession or custody that exceeds a prescribed minimum amount. Section 3 also imposes an obligation on any person sending out from or receiving into Solomon Islands by post, courier and transshipment, to declare any amount of currency that exceeds a prescribed minimum amount. Section 2 of the CDA defines currency to include local and foreign coin and paper money, monetary instruments and BNI that may be exchanged for money, precious metals or precious stones and currency in electronic form. As currency is defined to include BNI, any reference to currency in this section includes BNI.

455. While Solomon Islands has a legal framework in place to oblige all persons entering or leaving Solomon Islands to report movement of currency - section 3 is broadly defined to cover any person who 'enters or leaves Solomon Islands' and 'craft' is defined at section 2 of the CDA to mean any aircraft, vehicle or vehicle that is used for land sea –passengers on cruise ships and crew members on any vessel or craft do not report movement of currency. Passengers on cruise ships are treated as 'transit' passengers and do not have to declare any currency they have with

them, despite the fact that they may temporarily disembark and then re-embark the ship, before permanently leaving Solomon Islands.

456. Customs are collecting reports about cross-border transportation by cargo. Customs are not aware of any reports received regarding cross-border transportation by post.

457. *Criterion 32.2* - Customs require persons to make a written declaration for any amount of currency they have in their custody or possession that is greater than SBD 50 000 (USD 6 250) on an incoming passenger card, at all airports and ports. Currency is defined at section 2 of the CDA to include local and foreign coin and paper money, monetary instruments that may be exchanged for money (which would include BNIs), precious metals or precious stones and currency in electronic form (see sections, 2, 3, and 16 of the CDA).

458. *Criterion 32.3* - Solomon Islands operates a declaration system.

459. *Criterion 32.4* - Section 4 of the CDA provides authorised officers with the power to question a person entering or leaving Solomon Islands regarding any currency in their possession or custody that they have or have not declared. The CDA further allows an authorised officer to question the person on the source, ownership, acquisition, use or intended destination of the currency.

460. *Criterion 32.5* - Section 3 of the CDA provides that any person that fails to declare or falsely declares the prescribed minimum amount of currency commits an offence. The penalty for the offence is a fine not exceeding 500 000 penalty units (SBD 500 000 ~ USD 62 500) imprisonment for a term not exceeding five years and an order for forfeiture of the currency. The sanctions are proportionate and dissuasive.

461. *Criterion 32.6* - The MOU between Customs and SIFIU states that where a passenger declares that they are carrying more than SBD 50 000 (USD 6 250) in currency (or foreign currency equivalent) or such an amount is discovered on a search, the Customs Officer will complete a Border Currency Report (BCR). The BCR will set out the reasons stated by the passenger why they are carrying on the currency and a copy of the incoming passenger card (paragraph 2.3.5 of MOU). Customs notify SIFIU by e-mail once a BCR has been completed and hand deliver all BCR reports to SIFIU no later than 3 days after the discovery of the currency or the disclosure has been made (see paragraphs 2.3.7 and 2.4.1 of the MOU between Customs and SIFIU).

462. *Criterion 32.7* - All Solomon Islands Law Enforcement Agencies (9 agencies) meet monthly or quarterly at AMLTEG meetings, where they discuss issues which include the reporting of cross-border currency movement. Customs, Immigration and RSIPF share information about cross-border currency movements and RSIPF assists Customs to investigate some of their cases. RSIPF, Immigration and Customs are negotiating a MOU which will provide a mechanism for the agencies to support each other in enforcement and intelligence sharing relating to transnational crimes. Customs and Immigration work together at the airport and seaports to co-ordinate the collection of reports of cross border currency movements on an informal basis, as there are no formal arrangements for doing so. Currently, Immigration keeps the declaration card and Customs can access it upon official request.

463. *Criterion 32.8* - The CDA allows an authorised officer to seize currency, and then detain it for up to 72 hours if the authorised officer has reasonable grounds to suspect that the currency has been obtained through unlawful conduct or is to be used for unlawful conduct. Unlawful conduct is defined at section 2 of the CDA to mean conduct that is unlawful or an offence against the law of Solomon Islands or another country. This would include the offence of making a false declaration or false disclosure (sections 2, 6 and 7 of the CDA). Subject to certain conditions being

met, a judge may make an order for the currency to be detained for a period no greater than three months, and then if a further application is made, a period no greater than two years from the date of the first order.

464. *Criterion 32.9* - All BCRS are sent to SIFIU where they are retained. SIFIU is however not able to share BCR information with foreign counterparts for intelligence and investigation purposes.

465. Customs is a member of the Oceania Customs Organisation (OCO) and provides information to other members of the OCO upon formal request. Customs is also a member of World Trade Organisation. In addition, Customs has MOUs for mutual assistance with the Australian Federal Police and PNG Customs. Customs shares information obtained through the declaration system with these alliances.

466. *Criterion 32.10* - Customs and Immigration keep all the information obtained through the declarations system, except for the BCRs which are kept by SIFIU. The Customs Policy on the Release of Official Information (2012) provides clear rules under which information can be shared either internationally or domestically with particular reference to providing protections for public revenue in both Solomon Islands and foreign jurisdiction. It is unclear if this fully extends to all trade payments and capital movements. Any trade payments between countries for goods and services that exceed SBD 100 000 have to obtain approval from the CBSI in order to facilitate the transaction through the commercial bank.

467. *Criterion 32.11* - An authorised officer may seize currency, and then detain it if the authorised officer has reasonable grounds to suspect that the currency has been obtained through unlawful conduct or is to be used for unlawful conduct. An application may then be made for this currency to be forfeited (see ss 6, 7 and 10 of the CDA). Where the movement of currency relates to a ML or TF offence, the confiscation measures under the MLPCA and the CTA would apply.

468. Additionally, where the movement of currency relates to a ML/TF or a predicate offence the sanctions set out throughout this report would apply. Section 17 of the MLPCAA 2010 further provides that the penalty for a natural person committing the offence of money laundering is a fine not exceeding 500 000 penalty units (SBD 500 000 ~USD 62 500) and/ or imprisonment for a term not exceeding 10 years. Section 6 of the Counter Terrorism offence provides that a natural person convicted of terrorism financing offence may be imprisoned for a term not exceeding 10 years and may be given a fine not exceeding 50 000 penalty units (SBD 50 000 ~ USD 6 250).

Weighting and Conclusion

469. While Solomon Islands has a legal framework in place to oblige all persons entering or leaving Solomon Islands to report movement of currency, transit passengers on cruise ships and crew members on any vessel or craft do not report movement of currency. While Customs has in place formal mechanisms for exchanging transnational information, SIFIU is unable to disclose information it has obtained in BCRs with foreign counterparts.

470. **Recommendation 32 is rated largely compliant.**

Recommendation 33 – Statistics

471. Solomon Islands was rated partially compliant with former R.32 under the 2010 MER. The following deficiencies were noted; there is no systematic overall operational review of the AML/CFT system as a whole or of its individual components; lack of statistics on instances of confiscation and the amounts seized confiscated; SIFIU does not have the resources to conduct in-depth analysis; no record keeping re MLA or extradition requests.

472. *Criterion 33.1(a)* - SIFIU is required to gather, maintain and regularly update statistics or records relevant to ML/TF in Solomon Islands (MLPCAA 2010, S11H (c)). SIFIU maintains statistics on STRs, CDRs, CTRs, EFTRs, BCRs and intelligence reports that are disseminated to law enforcement agencies. Statistics are maintained in both soft and hard copies and are also published in SIFIU and CBSI annual reports.

473. *Criterion 33.1(b)* - RSIPF and ODPP are responsible for keeping records on ML/TF investigations, prosecutions and convictions. There is no current legislation in place but all institutions like DPP and RSIPF have produced Annual Reports to the Government which contained information on the number of cases investigated, prosecuted and convicted. RSIPF Crime Annual Report has also recorded all crimes dealt with by RSIPF over the year and the details of convictions. Clear statistics on the number of ML investigations undertaken are not available and have not been provided.

474. *Criterion 33.1(c)* - RSIPF and ODPP are responsible for keeping records on property frozen, seized and confiscated. RSIPF and DPP keep records of property seized and confiscated. This information is not reported and is treated as an administrative matter.

475. SIFIU maintains a record of freeze letters issued under their MLCPA powers.

476. *Criterion 33.1(d)* - Statistics on all MLA and other international requests are maintained by RSIPF NCID Registry Management system. Domestic and international assistance requests coming through RSIPF Commissioners office were recorded in the Commissioner's office. When these requests are referred to the NCID office they will then be recorded in the Registry System.

477. Solomon Island authorities failed to provide sufficient statistics to the assessment team regarding ML investigations, property frozen, seized and confiscated and mutual legal assistance and other international requests for co-operation. The RSIPF, TCU and INTERPOL NCB have Excel databases although limited information was provided in support of these databases.

Weighting and Conclusion

478. Solomon Island authorities have failed to provide sufficient statistics to the assessment team, although a number of agencies reportedly use Excel databases. Comprehensive statistics are not fully maintained relevant to the effectiveness and efficiency of their AML/CFT systems.

479. **Recommendation 33 is rated partially compliant.**

Recommendation 34 – Guidance and feedback

480. In the 2010 MER, Solomon Islands was rated largely compliant with former R.25. The assessment team noted that there was little applicable guidance to the non-banking sector.

481. *Criterion 34.1* - Solomon Islands can issue guidelines although very little has been developed. In 2013 the SIFIU issued Guidance No. 1 2013 with respect to "Customer identification and verification". The draft regulations 2014 have not been finalised which has limited the opportunity to continue to release guidance based on enforceable obligations.

482. FIU has established AML quarterly meetings for AMLRO, one on one meetings, information session programs and annual report publications to provide and exchange feedback on ML/TF cases/reports. Very little feedback from the SIFIU is provided to FIs and DNFBPs. RIs did indicate that due to the size and context of Solomon Islands they had good access to SIFIU although reporting entities other than financial institutions appeared to have no contact with SIFIU.

Weighting and Conclusion

483. Solomon Islands has produced some guidance in relation to AML/CFT measures and the only formal feedback is via quarterly AMLRO meetings. Solomon Islands lacks resources and effective mechanisms to assist FIs and DNFBPs in applying national AML/CFT measures, and in detecting and reporting suspicious transactions. SIFIU is accessible to FIs and DNFBPs although engagement is limited. Competent authorities and SRBs have not provided any specific guidance to FIs and DNFBPs beyond the limited information from SIFIU.

484. **Recommendation 34 is rated partially compliant.**

Recommendation 35 – Sanctions

485. In the 2010 MER Solomon Islands was rated partially compliant with former R.17. This rating was given on the grounds that while sanctions are available, for much of the financial sector the sanctions require a court order before anything can be done. It was also considered that the sanctions were not sufficiently dissuasive as the banks only faced the possibility of loss of licence.

486. The MLPCAA addressed some of the deficiencies for criminal sanctions for breaches of the AML/CFT obligations by financial institutions, cash dealers or legal practitioners. Civil and administrative sanctions were also introduced to apply to both natural and legal persons.

487. *Criterion 35.1* - The offences that apply to Recommendations 9, 10, 11, 12, 16, 17, 20, and 21 are set out in the MLPCAA 2010. The Financial Institution Act 1998 sets out administrative sanctions that can be imposed by CBSI. The Exchange Control (Foreign Exchange) Regulations set out the offences related to Recommendation 14.

488. There are no sanctions for breaching the prohibition not to enter into a correspondent banking relationship with a shell bank in Recommendation 13.

489. Solomon Islands did not demonstrate that it complies with Recommendations 6, 8, 15, 18, 19, 22 and 23. No assessment in relation to the required sanctions for these Recommendations could be made.

490. *Recommendations 9, 10, 11, 12, 16, 17, 20, 21* - The MLPCAA provides that it is an offence for failure to comply with the following AML/CFT requirements:

- failure to maintain accounts in the true name of the account holders or to maintain anonymous accounts or accounts which are in a fictitious, false or incorrect name (s12G)
- failure to undertake customer identification procedures of a person; the beneficial owner of an account, a person purporting to act on behalf of another person, third parties or intermediaries (ss12(1), 12(2), 12A, 12C, 12E,)
- failure to prepare a suspicious transaction report if insufficient customer identification is given (12F)
- offence of proceeding with a transaction if insufficient customer identification is given and written permission has not been given by SIFIU to do so (12F)
- failure to comply with record keeping obligations (s12H, s13)
- failure to undertake additional customer identification procedures for PEPs (12C)
- failure to undertake ongoing customer due diligence and monitoring (s12I)
- offence of opening an account in a false name (12J)
- failure to lodge suspicious transaction reports (13A)
- failure to include accurate originator information (13B)
- failure to disclose information relating to a money laundering or terrorism financing offence (s14)

- failure to report any transactions with no legitimate purpose (s14B)
- failure of a supervisory body or auditor to report suspicious transaction (s 14C)
- failure to report financial transaction (s 14D)
- a person who conducts transaction to avoid the reporting of financial transactions commits an offence (s14E)
- failure to provide additional information on transactions when required (s14G)
- the offence of tipping off (s14H)
- failure to protect identity of persons and information in suspicious transaction and other reports (s14I)
- offence of providing false and misleading statements (s14K)

491. The penalty for a natural person committing the above offences is a fine not exceeding 500 000 penalty units (SBD 500 000 ~ USD 62 500) and/or imprisonment for a term not exceeding 5 years. The penalty for a legal entity committing the offence of money laundering is a fine not exceeding 1 000 000 penalty units. (SBD 1 000 000 ~ USD 125 000). These sanctions are considered to be sufficiently dissuasive and proportionate.

492. The draft Money Laundering and Proceeds of Crime Regulations 2014 sets out requirements for risk-based customer diligence, record keeping and retention, suspicious transaction reports and internal procedures, policies and controls. Section 27 of the Regulations provides that any person or body corporate who fails to comply with any obligation under this regulation commits an offence and is liable upon conviction to a maximum penalty of 10,000 penalty units (SBD 10 000 ~ USD 1 250) or to a term of imprisonment for up to 1 year, or both. These draft regulations are yet to be passed.

493. Section 8 of the Financial Institutions Act 1998 provides CBSI with the discretion to impose fines on any licensed financial institution, or a director or officer of the institution for failing to submit any required return or information, or for wilfully submitting any false or inaccurate return or information. The CBSI has the discretion to determine the amount of fine that is considered appropriate in the circumstances, but in no case may a fine exceed SBD 10 000 (USD 1 250) for each violation. Where the violation is a continuing one, the fine may not exceed SBD 3 000 (USD 375) for every day during which the violation continues. Administrative fines imposed by the CBSI are considered a civil debt and if not paid may be enforced by action in the Court. CBSI have provided examples of two fines that were imposed as a result of a late submission of prudential returns and failure to publish unclaimed monies. The financial institutions were fined SBD 6 000 (USD 750) and SBD 3 000 (USD 375) respectively.

494. Section 25 the Exchange Control (Foreign Exchange) Regulations provides that it is an offence for a natural or legal person to operate as MVTS/authorised dealers in foreign exchange in Solomon Islands without a license from CBSI as required under Recommendation 14. Section 26 (1) of the Regulations provide that for summary conviction, a fine of SBD 200 (USD 25) or imprisonment for six months, or both applies. For conviction at a trial, a fine of SBD 20 000 (USD 2 500) or imprisonment for five years, or both applies, as well as any other punishment. Although the prison terms seem proportionate and dissuasive, the fines, particularly for summary conviction, do not. The evaluation team further notes that the fines can be applied without a prison sentence. The evaluation team accordingly does not consider the penalties are sufficiently proportionate and dissuasive.

495. *Criterion 35.2* - The available sanctions in the MLPCA are applicable, to 'persons and entities'. This includes directors and senior management of financial institutions, cash dealers and legal practitioners. Section 8 of the Financial Institution Act 1998 further allows the CBSI to impose fines upon any director or officer of an institution whether they fail to provide required information or provide false information to the CBSI. An administrative fine imposed shall be a

civil debt and if not paid may be enforced by action in the Court. The CBSI have not provided any examples of fines imposed upon directors or officers of institutions.

Weighting and Conclusion

496. While the sanctions relating to Recommendations 9, 10, 11, 12, 16, 17, 20, 21 are considered to be proportionate and dissuasive, an assessment could not be made in relation to the sanctions that are required for Recommendations 6, 8, 15, 18, 19, 22 and 23 as Solomon Islands has not demonstrated that it complies with these Recommendations. The sanctions for Recommendation 14 were not considered sufficiently proportionate and dissuasive. There are furthermore no sanctions for breaching the prohibition not to enter into a correspondent banking relationship with a shell bank in Recommendation 13. These deficiencies need to be addressed.

497. **Recommendation 35 is rated partially compliant.**

Recommendation 36 – International Instruments

498. In the previous MER Solomon Islands was rated partially compliant for this Recommendation. Since the previous MER, Solomon Islands has become a party to the Merida Convention.

499. *Criterion 36.1* - Solomon Islands is not a party to the Palermo Convention and the Vienna Convention. Solomon Island has acceded to the Merida Convention and the Terrorist Financing Convention.

500. *Criterion 36.2* - Many of the provisions of the Vienna Convention have been implemented through the Dangerous Drugs Act, the MLPCA and the MACMA which is highlighted in Recommendation 3. Many of the provisions of the TF Convention have been implemented through the CTA 2009 Act and the MACMCA 2002 which is highlighted in Recommendation 5. Many of the provisions of the Palermo Convention have been implemented through the MLPCA and the MACMA. The Merida Convention has not been implemented.

Weighting and Conclusion

501. Solomon Islands has yet to fully implement the international instruments and ratify the conventions.

502. **Recommendation 36 is rated partially compliant.**

Recommendation 37 – Mutual Legal Assistance

503. In the previous MER, Solomon Islands was rated largely compliant under the old Recommendations. The legal framework of the Mutual Legal Assistance is MACMA 2002.

504. *Criterion 37.1* - Under MACMA 2002, Solomon Islands is able to provide mutual legal assistance in relation to money laundering, and associated predicate offences which include terrorist financing. The range of assistance is:

- A. search of persons and premises (s. 8)
- B. obtaining records or copied of records (s.8)
- C. compelling appearance in court to give evidence on oath or otherwise (s. 8)
- D. compelling the production of anything including documents or copy thereof (s.8)
- E. facilitating the consensual transfer of offenders (s.9)

- F. issuing restraining orders on behalf of a foreign state against property located in Solomon Islands and enforcing foreign restraining orders (ss. 12 & 13)
- G. issuing production orders, search warrants and monitoring orders under sections 70, 75 and 77 of the MLPCA for the purposes of identifying and locating property subject to confiscation (s. 14)
- H. enforcing foreign confiscation orders (s.13)

505. There is no definition of an authorised person who can conduct the search under s.8 of the MACMA 2002 and there appear to be no processes in place which govern how applications for mutual legal assistance are made in Court. Section 8 allows the Attorney General to withhold information/documents until the requesting country complies with conditions. This affects Solomon Islands ability to rapidly provide a broad range of assistance.

506. *Criterion 37.2* - Under MACMA 2002, the Attorney General makes and receives requests for mutual legal assistance. There is no identified central authority, and the Attorney General *de facto* plays that role. There is no evidence that there is prioritisation of requests or a case management system. There are no processes for the execution of requests.

507. *Criterion 37.3* - MACMA 2002 s.4 allows the AG to make terms or conditions as he sees fit and he may refuse the request in the public interest. MACMA 2002 does not define public interest, therefore it has the capability of being restrictive. However, there are no unreasonable or unduly restrictive conditions in the legislative provisions. This general lack of clarity on the conditions for MLA have the capacity to cause confusion.

508. *Criterion 37.4* - There are no specific restrictions on assistance on the basis of fiscal matters or on the grounds of secrecy requirements of FIs or DNFBPs specified in MACMA 2002. However, the AG has the capacity to refuse requests on the basis of an undefined concept of public interest.

509. *Criterion 37.5* - MACMA 2002 s.7 only makes provisions for the requesting country to request confidentiality, there is no requirement that it is granted. There is no evidence on the grounds confidentiality would be refused. Confidentiality can also be overridden by Solomon Islands.

510. *Criterion 37.6* - MACMA 2002 allows assistance to be granted where a serious offence is involved. The definition of serious offence requires dual criminality. Therefore the precondition before any assistance is granted is that there must also be a corresponding offence in the provision of the domestic law.

511. *Criterion 37.7* - MACMA 2002 defines serious offence with reference to “act or omission” which constitutes an offence and does not require it to be placed in the same category of offence.

512. *Criterion 37.8* - The MLPCA ss 54, 73 and 76 relate to mutual legal assistance. They relate to search and seizure of tainted property on a person, person’s immediate control, land or premise. Production orders for property tracking documents are allowed. There is a power to obtain a search warrant for locating documents similar to property tracking documents. Taking of witness statements is also permitted. Monitoring orders can also be given by Solomon Islands. Apart from the mentioned powers, the MLPCA and the MACMA do not contain powers such as undercover operations, interception warrants or controlled delivery.

Weighting and Conclusion

513. The lack of clarity around decisions the AG can take on MLA in the public interest contributes to ambiguity around the conditions for refusal of MLA. There are also deficiencies

noted in relation to the assurance of confidentiality Solomon Islands can offer, and the requirement of dual criminality for coercive actions. Regardless of the number of requests made or received, Solomon Islands has no processes guiding the execution of MLA.

514. **Recommendation 37 is rated partially compliant.**

Recommendation 38 – Mutual Legal Assistance: Freezing and Confiscation

515. The MACMA 2002 and MLPCA together provide the legal framework for mutual legal assistance in terms of identification, seizure, freezing and confiscation.

516. *Criterion 38.1* - MACMA 2002 s.7 allows for requests to be made for the tracing and seizure of property. MACMA 2002 s.12 allows for Solomon Islands to apply for a restraining order on request, but this appears to be limited to criminal proceedings commenced in respect of a foreign serious offence. This would appear to suggest that proceedings of a criminal nature have commenced before a restraining order would be applied for by Solomon Islands. MACMA 2002 s.13 also allows for the enforcement of foreign restraining orders and forfeiture orders without any limitations. This suggests that confiscation and restraining orders in relation to properties (a) to (d) referred to in criterion 38.1 can be made. Section 13 does not specify the type of confiscation orders that can be registered and it appears that a confiscation order for property of corresponding value would also be permitted. The agency responsible for receiving the request and making the application in Court is the Attorney General. There are however no processes in place for execution and prioritisation of requests which would affect expeditious dealing with the matter.

517. *Criterion 38.2* - MACMA 2002 s.13(3)(b) allows for confiscation orders to be registered if a person is dead or has absconded. MACMA 2002 does not permit registration of a confiscation order if a perpetrator is unknown. The precondition to registration is notice to the other party or that the other party is dead or has absconded. The confiscation provisions are wide and do not appear to limit non-conviction based forfeiture even though there is no provision in the domestic law for non-conviction based forfeiture.

518. *Criterion 38.3* - Solomon Islands does not have any formal mechanisms for co-ordination with other countries for seizure and confiscation, apart from the MACMA 2002 provisions highlighted in criteria 38.1 and 38.2. Also, there is no mechanism for managing and disposing of assets.

519. *Criterion 38.4* - The Attorney General is allowed to enter into sharing agreements with other countries for confiscated properties under section 15 of the MACMA 2002.

Weighting and Conclusion

520. Solomon Islands is able to enforce foreign restraining orders and confiscation orders provided criminal proceedings have commenced. There are no processes in place for execution of requests and prioritisation of requests which affects expeditious dealing with requests. There is a minor deficiency in managing and disposal of assets.

521. **Recommendation 38 is rated partially compliant.**

Recommendation 39 – Extradition

522. In the previous MER Solomon Islands was rated as largely compliant. Since the last MER Solomon Islands has enacted a new Extradition Act.

523. *Criterion 39.1* - Money laundering and terrorist financing are extraditable offences as defined in s.4 of the Extradition Act of 2010. Under the Extradition Act 2010 there is a requirement for ministerial consent/authority to proceed. After the court determines that the person should be extradited, the extradition order is made by the Minister, not the Court making the determination. Solomon Islands has not provided any evidence on its case management system and whether it has a prioritisation system. There is no evidence that there are unduly restrictive conditions on the execution of requests.

524. *Criterion 39.2* - A national can be prosecuted and punished in Solomon Islands for an offence even though the offending act took place outside of the Solomon Islands. The Minister under section 19 of the Extradition Act 2010 may refuse to make an extradition order if the person is a citizen. In relation to domestic prosecution Solomon Islands has the discretion to prosecute, that is, the matter is referred to the DPP to make a decision on prosecution but there is no requirement to forward the file or for the DPP to make a decision without undue delay.

525. *Criterion 39.3* - Section 4 of the Extradition Act 2010 defines extradition offence and imposes the requirement of dual criminality. The provision permits conduct to be looked at when determining whether it is an extradition offence. In determining whether conduct constitutes an offence, regard may be had to only some of the acts or omissions that make up the conduct.

526. *Criterion 39.4* - The Extradition Act 2010 allows for simplified extradition mechanisms where a person consents to extradition. For Pacific Island Forum countries Solomon Islands has a simplified backing of the warrants system under Part 5 of the Extradition Act 2010.

Weighting and Conclusion

527. The Extradition Act 2010 allows Solomon Islands to execute extradition requests but the role of the Minister to make the order for extradition may cause delays. While there are no specific processes for execution and prioritisation of requests, the legislation allows these requests to be processed effectively. These factors impact to a limited extent upon Solomon Islands ability to proceed without undue delay. If extradition is refused on the basis of citizenship then Solomon Islands does not have any requirement to refer the file to DPP or for DPP to make a decision without undue delay. The person can be prosecuted and punished in Solomon Islands for the offence even though the offending act took place outside of the Solomon Islands.

528. **Recommendation 39 is rated as largely compliant.**

Recommendation 40 – Other forms of international co-operation

529. The Solomon Islands was rated compliant with the old Recommendation 40 in its 2010 MER.

530. *Criterion 40.1* - Exchanges of information can be made both spontaneously and upon request. LEAs engage in international co-operation through regional bodies (such as the Pacific Transnational Crime Network, the Pacific Transnational Crime Coordination Centre and the Oceania Customs Organisation) or have entered into MOUs with foreign counterparts. There is no requirement for the international co-operation to be provided 'rapidly'.

531. *Criterion 40.2(a)* - Many competent authorities have a lawful basis for providing international co-operation:

- SIFIU can disclose any report or information derived from such report to any government department or agency of another country or any international organisation under section 11h(2)(q) MLCPA 2010. SIFIU is a member of the Association of Pacific Island Financial

Intelligence Units and has signed seven MOUs with other FIUs. SIFIU is a member of the Egmont Group and co-operates with other FIUs securely through that platform.

- AMLC has power to disclose to foreign counterparts under MLPCAA 2010 section 11I(1).
- RSIPF, upon request of a foreign authority, can disclose information on a wide range of matters related to terrorism and terrorism financing under the CTA 2009 (section 41). These disclosures cannot be made if the Commissioner believes they will be prejudicial to national security, safety of the public or safety of any person. RSIPF participates in authorised regional and international policing outside Solomon Islands, including the Pacific Transnational Crime Network and Pacific Transnational Crime Coordination Centre (S.171, Police Act 2013). RSIPF is also a member of INTERPOL. RSIPF can exchange information with regards to terrorist acts utilising the CTA 2009 (s. 41 and 43). RSIPF can exchange of information through MOUs or membership of organisations such as INTERPOL and Pacific Transnational Crime Coordination Centre (PTCCC).
- The sharing of information and intelligence by the TCU is covered in the MOA between Pacific Islands Chiefs of Police (PICP) and PTCCC and Pacific Transnational Crime Network (PTCN) and the overarching Declaration by PICP and PTCN to share information across the network in the fight to detect, disrupt and prevent transnational crime threats within the Pacific.
- In the Pacific region the sharing of information is covered by the 2017 PIF Leaders' declaration and Australia's Foreign Policy White Paper committed to support information sharing between Pacific national and regional law enforcement agencies. This Commitment also recognises longstanding regional commitments to information sharing.
- Customs has no legislation to support international co-operation, however work on draft legislation is in progress. MOUs with the PNG Customs, AFP and the OCO Charter allow for the exchange of information.
- CBSI is able to disclose non-public information if this information is given to regulatory and supervisory authorities or public international financial institutions in the performance of their official duties (CBSI Act 2012 s.70(d)).
- Solomon Islands Immigration is a member of the Pacific Immigration Development Community (PIDC). The PIDC enables Heads of immigration agencies to discuss issues of mutual interest and to foster multilateral co-operation and mutual assistance aimed at strengthening members' territorial borders and the integrity of their entry systems.

532. IRD does not share information or co-operate internationally.

533. The MACMA 2002 provides the Attorney-General the legal authority to make and act on mutual assistance requests.

534. Under the Official Secrets Act section 5(1)(a) competent authorities can communicate information to "a person to whom he is authorised to communicate it, or a person to whom it is in the interest of the state his duty to communicate it".

535. *Criterion 40.2(b)* - Competent authorities are able to use the most efficient means to co-operate.

536. *Criterion 40.2(c)* - Some competent authorities use secure gateways, mechanisms or channels for requests:

- SIFIU is a member of the Egmont Group of FIUs and utilises the encrypted and secure ESW to request or exchange information. SIFIU is a member of the Association of Pacific Island Financial Intelligence Units.
- RSIPF is a member of INTERPOL and communicates with other members through INTERPOL mechanisms.
- Customs is a member of the Oceania Customs Organisation (OCO) which co-ordinates and fosters international and regional co-operation, communication and assistance between its members on Customs issues. Solomon Islands shares intelligence with World Customs Organization (WCO) members by using the Customs Enforcement Network (CEN).
- CBSI is a member of the Association of Financial Supervisors of Pacific Countries.
- Immigration is a member of the Pacific Immigration Development Community (PIDC). PIDC provides a forum for Pacific immigration agencies to exchange and disclose information.

537. There was no information provided on the secure gateways, mechanisms or channels used by other authorities.

538. *Criterion 40.2(d)* - Requests made through the National Central Bureau are governed by the INTERPOL Constitution and Rules on the Processing of Data (RPD) Handbook, which supports secure and fast communication channels, tailored products to convey information, intelligence databases and analytical support. TCU responses are regulated by PTCN Agreement which is made on commitments to co-operate and provide assistance in the region.

- SIFIU prioritisation of requests are subject to the risks and urgency of requests coming from requesting parties.
- RSIPF has a current process (SOP Investigation 2013) where requests are managed although it does not appear to have legislation that enables international exchange.
- Customs prioritisation of requests is subject to the urgency of the request as indicated by the requesting officer and the priority given to the request by the source.
- For ODPP, the priority is ad hoc and is based on their relationship with different government agencies.

539. There was no information provided on processes for prioritising and executing requests by other authorities.

540. *Criterion 40.2(e)* - Agencies have their own internal processes for safeguarding information received or exchanged.

- SIFIU observes strict protocols to protect the confidentiality of information it handles as per the AML Act.
- Customs has a policy guideline on the Classification of Sensitive Information and how information is safeguarded.

541. There was no information provided on safeguarding of information by other authorities.

542. *Criterion 40.3* -

- SIFIU Under section 11H (2) (r) of the MLPCAA 2010, SIFIU has signed seven MOUs with other FIUs mainly in the Asia Pacific region. The time taken to negotiate is determined by the urgency and any concern the foreign FIU has with signing the MOU.

- RSIPF has also signed MOUs with a number of Pacific jurisdictions including Australia, PNG and Vanuatu.
- Solomon Islands Customs under the bilateral and multilateral agreements of the OCO Charter has signed an agreement on how best to share, disseminate, and freely provide timely information to member countries.

543. *Criterion 40.4* - Solomon Islands did not provide any information in relation to this criterion.

544. *Criterion 40.5* - Solomon Islands provided limited information in relation to this criterion.

545. *Criterion 40.5(a)* - Solomon Islands did not provide any information in relation to this criterion.

546. *Criterion 40.5(b)* - Solomon Islands did not provide any information in relation to this criterion.

547. *Criterion 40.5(c)* - The Mutual Assistance in Criminal Matters Act 2002 contains no restrictions, with the exception that Solomon Islands can refuse a request (Part II section 4 (2) (b) and (c) if the request would be likely to prejudice the sovereignty, security or other essential public interest of Solomon Islands or would be likely to impede an ongoing investigation or proceeding in Solomon Islands.

548. *Criterion 40.5(d)* - Solomon Islands did not provide any information in relation to this criterion.

549. *Criterion 40.6* - Section 11I (4) of the MLPCAA 2010 places restrictions on the use of the report or information exchanged, including that it may not be further disseminated without the prior written consent of SIFIU. Section 11I (4) of the MLPCA Act 2010 provides the legal basis for the controlling of information exchanged by SIFIU. There is no information provided by any of the other Solomon Islands authorities. The CBSI is empowered under the CBSI Act to impose conditions with regard to disclosure of information provided by CBSI (s.70 (1) (2) and (3). Also, agencies such as RSIPF and SIFIU have their own internal processes and controls to safe guard any information exchanged or received from third parties including foreign agencies.

550. *Criterion 40.7* - Section 11I(4)(a) & (b) of the MLPCAA 2010 protects information exchanged by SIFIU and s.11I(1)(a) imposes restrictions around the use of information provided under information agreements or arrangements. The level of confidentiality applied across competent authorities is variable.

551. *Criterion 40.8* - By virtue of Section 11L of the Money Laundering and Proceeds of Crime Amendment Act 2010, the Director of SIFIU may, with or without the assistance of the Police, conduct investigations and enquiries on behalf of a financial intelligence unit or a law enforcement agency of another country.

552. There are no provisions that prohibit SIFIU from conducting inquiries on behalf of foreign counterparts to include searching its own database about STR information; and, searching the police's database, administrative, commercial and public databases through the authority of its seconded RSIPF officer.

553. Section 97 to 101 of the Police Act 2013 permits the Police to obtain information on behalf of a foreign counterpart. Furthermore Part 6, Division 1, Section 51 of the Immigration Act 2012 also permits the Immigration to conduct inquiries on behalf of a foreign counterpart.

Exchange of Information Between FIUs

554. *Criterion 40.9* - Under its powers contained in Section 11H (2) (h) of the MLPCAA, SIFIU can seek information from any government agency, LEA supervisory or auditing authority, for the purposes of the Act, which includes money laundering, terrorist financing and other predicate offences regardless of whether the requesting FIU is LE, Judicial or administrative in nature.

555. SIFIU can disclose any report or information derived from such report under the MLPCA to any government department or agency of another country or any international organisation by virtue of Section 11H (2) (q) & (r) of the Money Laundering and Proceeds of Crime Amendment Act 2010.

556. *Criterion 40.10* - Section 11H (2)(q) of the Money Laundering and Proceeds of Crime Amendment Act 2010 permits SIFIU to disclose any report or information derived under the Act to any government department or agency of another country or international organisation. The assessment team has seen examples of feedback provided by SIFIU to foreign counterparts.

557. *Criterion 40.11(a) and (b)* - Money Laundering and Proceeds of Crime Amendment Act 2010, section 11H (2) (h), allows SIFIU to seek information on behalf of any government agency, LEA, supervisory or auditing authority of another country and (q) allows disclosure to any government department or agency of another country or any international organisation.

Exchange of Information Between Financial Supervisors

558. *Criterion 40.12* - Section 9(l) and (o) of the CBSI Act 2012, allows the CBSI to share information in confidence with the other international supervisory authorities, bodies and organisations. Section 11H (2) (q) of the MLPCA (as amended) allows SIFIU to co-operate and exchange information with any agencies of foreign Governments and international agencies. SIFIU as a supervisor is able to provide co-operation to a foreign agency or international organization with respect to supervisory information related to or relevant for AML/CFT purposes. SIFIU has established MOUs with foreign counterparts in providing a basis for information exchange.

559. *Criterion 40.13* - Section 9(l) and (o) of the CBSI Act 2012, allows the CBSI to share information in confidence with other foreign counterparts, information available at its disposal. In addition, Section 11H (2) (q) and (r) of the MLPC Act (as amended), requires the SIFIU to exchange information with foreign counterparts information domestically available to the SIFIU and other information held by financial institutions as per the foreign counterpart's requests or needs. The legislation does not indicate that this can include information specifically from financial institutions.

560. *Criterion 40.14* - The CBSI under Section 9(l) and (o) of the CBSI Act 2012 and SIFIU as AML/CFT supervisor is allowed under Section 11H (2) (q) and (r) of the MLPC Act (2010) to share information with any foreign agency that performs similar functions including regulatory, prudential and AML/CFT information. The CBSI Act is not totally clear regarding exchanging of prudential information.

561. *Criterion 40.15* - The CBSI is able to conduct inquiries on behalf of foreign counterparts through the FIU. Under Section 11H(2) (a) (b) (c) (e) (f) (g) (l) (q) and (r) of the MLPCA (2010), the FIU is able to conduct inquiries on behalf of foreign counterparts and passed on the information to the CBSI for dissemination.

562. *Criterion 40.16* - For both the CBSI and SIFIU, it does not appear that prior authorization is necessary for dissemination of the information exchanged. The CBSI is authorised to share

information with both domestic and international agencies subject to the confidentiality clause in Section 70 of the CBSI Act 2012, although this appears to relate more to domestic matters. Also, the FIU is authorised to share information under Section 11H (2) (q) and (r) of the MLPCA Act (as amended) for any dissemination of information exchanged.

Exchange of Information Between Law Enforcement Authorities

563. *Criterion 40.17 -*

- RSIPF police to police relationships enable the exchange of information and intelligence associated with the tracing of criminal proceeds and the identification of tainted property. The TCU is a member of the PTCC which enables sharing of information across the Pacific. RSIPF is a member of INTERPOL and is able to provide domestically obtained information to foreign counterparts to support the investigation of foreign suspected serious offences including ML and TF.
- Under the Oceania Customs Organisation Charter Customs can provide information to regional customs organisations.
- LEAs are able to exchange domestically available information with foreign counterparts for intelligence and investigative purposes (Part 7 section 41 of the CTA 2009 and Mutual Legal Assistance Act 2002 which is considered under R.37)

564. *Criterion 40.18 -* RSIPF through TCU and INTERPOL can conduct enquiries on behalf of foreign counterparts if related to criminal matters and solely for intelligence purposes (Part II section 4 (2) and section 5 (a) of the MACMA 2002). Section 170 of the Police Act 2013 permits RSIPF officers to engage in overseas operation, United Nations activity or foreign posting although does not provide powers to act on behalf of foreign jurisdictions themselves.

565. *Criterion 40.19 -* Domestically, LEAs are able to form joint investigative teams to conduct investigations. RSIPF has signed five MOU's¹¹ that establish bilateral and multilateral arrangements that enable joint investigations. Two further MOUs were being negotiated at the time of the on-site meetings.

Exchange of Information Between Non-Counterparts

566. *Criterion 40.20 -* SIFIU can share information with non-counterparts pursuant to section 11H (1) (c) and section 11H(2) (q) of the MLPCAA 2010, which provides that SIFIU may disclose information to a foreign FIU or other appropriate foreign agency.

567. RSIPF assists non-actors with only relevant information, if the request comes through diplomatic channels on matters concerning national security or transnational organised crimes. However, on a few occasions Solomon Islands has assisted non-counterparts when it has received formal requests from their organization heads sent through their foreign mission to Solomon Islands. This is purely on rendering assistance to fight organised crime.

Weighting and Conclusion

568. Provisions exist in respective legislation of some agencies, which permit Solomon Islands competent authorities to offer international co-operation. RSIPF does not have specific legislation to enable exchange of information directly with other jurisdictions. Solomon Islands provided no evidence that feedback had been provided to competent authorities on the use and

¹¹ RSIPF MoU with SIFIU, RSIPF MoU with MoFT, RSIPF MoU with MECDM, RSIPF MoU with Telekom, RSIPF MoU SICCI, RSIPF MoU with BMobile Vodafone (currently negotiated), RSIPF MoU with Customs and Immigration (Tri Agency) is currently negotiated

usefulness of information sent. Furthermore Solomon Islands provided no input regarding whether it has unreasonable or restrictive conditions for the exchange of information.

569. Recommendation 40 is rated partially compliant.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	- Solomon Islands has not demonstrated a strategically focused approach to allocating resources across all government sectors to address the identified risks in the NRA. - No measures in place to address higher risks, either by law or by regulation. - No requirements for FI's and DNFBPs to identify, assess and understand their ML/TF risks.
2. National co-operation and co-ordination	PC	- Solomon Islands does not currently have national AML/CFT policies informed by risks. - No co-operation and co-ordination mechanisms exist to combat the financing of proliferation of weapons of mass destruction.
3. Money laundering offence	LC	Applicable penalties for a legal person which commits ML are not proportionate or dissuasive.
4. Confiscation and provisional measures	LC	The MLPCA 2002, the MLPCAA 2010 and the CTA 2009 require a person to be convicted in order for confiscation orders and pecuniary penalty orders to be applicable.
5. Terrorist financing offence	LC	Fines that may be awarded to a natural or legal person for a TF offence are not considered to be sufficiently proportionate and dissuasive.
6. Targeted financial sanctions related to terrorism & TF	NC	- No competent authority has been identified for the purposes of implementing TFS related to terrorism and terrorism financing. - There is no clear legal framework, mechanisms, procedures for implementing TFS without delay.
7. Targeted financial sanctions related to proliferation	NC	No legal or institutional basis to implement TFS against the proliferation of WMD and its financing.
8. Non-profit organisations	NC	- No risk-based approach the regulation, outreach and monitoring NPOs. - No monitoring of NPOs. - No assessment of at risk NPOs undertaken.
9. Financial institution secrecy laws	C	This Recommendation is fully met.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
10. Customer due diligence	NC	- Section 12B of the MPLCAA 2010 restricts the application of CDD measures by FIs. - No specific measures for CDD for occasional transactions which are above the threshold or which are wire transfers. - No provisions for FIs to keep CDD info up to date. - No requirements to identify and verify the identity of beneficial owners of customers that are legal persons or arrangements. - No requirement for CDD on beneficiaries of investment related insurance policies. - No provisions requiring FIs to adopt risk management procedures concerning how a customer may use the business relationship prior to verification. - No specific provisions in relation to delaying verification of customers and BO. - No legislative provisions permit FIs to not pursue CDD and to file an STR when CDD is unable to be conducted without tipping-off the customer.
11. Record keeping	PC	- No provision to maintain records for 5 years after termination of business relationship. - No explicit mention that records for reconstruction of a transaction should be at an evidential level. - No requirement for FIs to make their records available to SIFIU on a timely basis.
12. Politically exposed persons	PC	- FIs are not required to identify whether BOs are PEPs. - Definition of PEPs may limit application to some family members. - No provisions for FIs to take reasonable measures to determine whether beneficiary or BO of life insurance is a PEP. - Section 12B of the MPLCAA 2010 may restrict the application of CDD measures to PEPs.
13. Correspondent banking	NC	- The requirements for 13.1 and 13.2 are applicable to 'a person' rather than to banks. - No provision prohibiting FI correspondent banking relationships with shell banks. - No requirement for FI to satisfy itself that respondent banks do not permit shell banks to use their accounts.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
14. Money or value transfer services	PC	- Unclear whether licensing is required for all types of MVTs. - AML/CFT supervision of MVTs is not taking place. - No requirement for agents of MVTs providers to be licensed/registered by a competent authority. - No provision for agents to be included in AML/CFT programmes and monitored for compliance with the programmes.
15. New technologies	NC	- No requirements or procedures for assessing ML/TF risks of new products and business practices prior to launch. - No appropriate measures to manage and mitigate the risks.
16. Wire transfers	NC	- No threshold for wire transfers. - Batch files are not required to have the required originator and full beneficiary information. - No requirement for FIs to collect and maintain originator and beneficiary information and to verify that information where there is a suspicion of ML/TF. - No prohibitions on the ordering bank executing wire transfers in the case of non-compliance with the requirements specified at criteria 16.1-16.7. - No provision to take reasonable straight-through processing to identify cross border wire transfers. - No requirement for beneficiary FIs to have risk-based policies and procedures related to wire transfers.
17. Reliance on third parties	PC	- FIs are not required to identify the BO. - No requirements for FIs to understand the nature of the business. - Gaps in record keeping requirements. - No requirement for FIs to have regard to ML/TF risk associated with a country in which a third party is based before relying on the third party to perform elements of CDD.
18. Internal controls and foreign branches and subsidiaries	NC	- No legally binding requirement for the ML compliance officer to be at management level. - No legally binding requirements for screening procedures when hiring employees. - No requirement for group-wide AML/CFT policies. - No requirement for FIs with foreign branches to meet home country AML/CFT requirements if they are more stringent than those of the host country.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
19. Higher-risk countries	NC	- No requirement for FIs to apply EDD or countermeasures proportionate to the risks to business relationship and transactions with natural and legal persons from countries for which this is called for by FATF or independently. - No measures to ensure FIs are advised of concerns about weaknesses in AML/CFT systems of other countries.
20. Reporting of suspicious transaction	C	This Recommendation is fully met.
21. Tipping-off and confidentiality	C	This Recommendation is fully met.
22. DNFBPs: Customer due diligence	NC	- Fundamental CDD requirements under R.10 are not met. - CDD threshold for casinos and DPMS exceeds the USD/EUR threshold set by the FATF Standards. - Record keeping requirements for DNFBPs are not required to be of evidential standard. - There is no requirement for DNFBPs to undertake ML/TF risk assessments of new technologies prior to use.
23. DNFBPs: Other measures	PC	- Legal practitioners are not required to comply with internal control requirements in R.18. - DNFBPs are not required to comply with the higher risk countries requirements in R.19. - Directors of DNFBPs are not included in the tipping-off and confidentiality requirements of R.21.
24. Transparency and beneficial ownership of legal persons	PC	- There is no requirement for obtaining, recording and maintaining beneficial ownership and control information to ensure that it can be accessed in a timely manner by competent authorities. - The ML/TF risk of each type of legal person created under Solomon Islands' law has not been assessed. - There is no requirement for a company to maintain details for voting rights associated with shares. - There is no provision requiring companies to notify Company Haus of any change to basic regulating powers of the company. - No dissuasive sanctions for failure to update shareholder and director information.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
25. Transparency and beneficial ownership of legal arrangements	NC	- There are deficiencies in relation to collection and access to information on parties to a trust. - No obligations for trustees to hold accurate and up to date information. - Trustees are not required to disclose their status to FIs. - No sanctions applicable to trustees who do not meet their obligations under R.25, or who fail to provide information to competent authorities.
26. Regulation and supervision of financial institutions	PC	- No clear mandate for SIFIU to undertake offsite supervision. - No risk-based approach to supervision and monitoring. - Frequency and intensity of AML/CFT supervision of FIs is not determined by ML/TF risk, policies or internal controls of FIs. - No requirements to review the assessment of ML/TF risk profiles of individual FIs periodically and when there are major events or developments in the management and operations of the FI or group. - Fit and proper requirements are limited with no criminal background checks required. - No prohibition on shell banks establishing or continuing operations in Solomon Islands.
27. Powers of supervisors	LC	- No clear mandate for SIFIU to undertake offsite supervision. - Powers to withdraw, restrict or suspend the license of a DNFBP are unclear.
28. Regulation and supervision of DNFBPs	PC	- There are no legal and regulatory measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant controlling interest or holding a management function, or being an operator of a casino. - There are no requirements that compel the competent authorities or SRBs to take the necessary measures to prevent criminals or their associates from being professionally accredited, or holding (or being the beneficial owner of) a significant or controlling interest or holding a management function in a DNFBP. - SIFIU does not have a clear legal basis for supervising DNFBPs. - SIFIU does not have a supervision policy that determines the frequency and intensity of the AML/CFT supervision informed by ML/TF risks,

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		the nature of the various DNFBPs and size of the various reporting DNFBPs.
29. Financial intelligence units	LC	- The MLPCAA 2010 confirms the supervisory function of the AMLC over the Director and operations of SIFIU. - The autonomy of SIFIU's autonomy is limited to some extent by the supervisory function of the AMLC over the Director and operations of SIFIU, but SIFIU operates independently of the AMLC.
30. Responsibilities of law enforcement and investigative authorities	C	This Recommendation is fully met.
31. Powers of law enforcement and investigative authorities	LC	There is no specific authority that allows RSIPF to conduct undercover operations, intercept communications and use controlled deliveries.
32. Cash couriers	LC	- Transit passengers on cruise ships, and crew members on any vessel or craft are not required to report movement of currency. - SIFIU is unable to share BCR information with foreign counterparts for intelligence and investigation purposes.
33. Statistics	PC	Solomon Islands does not maintain comprehensive statistics relevant to the effectiveness and efficiency of its AML/CFT systems.
34. Guidance and feedback	PC	- Solomon Islands lacks resources and effective mechanisms to assist FIs and DNFBPs in applying national AML/CFT measures, and in detecting and reporting suspicious transactions. - Competent authorities and SRBs have not provided any specific guidance to FIs and DNFBPs beyond limited information from SIFIU.
35. Sanctions	PC	- Sanctions relating to R.14 are not considered proportionate and dissuasive. - There are no sanctions for breaching the prohibition not to enter into a correspondent banking relationship with a shell bank
36. International instruments	PC	- Solomon Islands is not a party to the Palermo Convention and the Vienna Convention. - Not all of the provisions of the Palermo Convention, the Vienna Convention and the TF Convention have been implemented. - The Merida Convention has been acceded to, but not implemented.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
37. Mutual legal assistance	PC	■ The lack of clarity around decisions the AG can take on MLA in the public interest contributes to ambiguity around the conditions for refusal of MLA. ■ There are deficiencies noted in relation to the assurance of confidentiality Solomon Islands can offer, and the requirement of dual criminality for coercive actions. ■ Solomon Islands has no processes guiding the execution of MLA.
38. Mutual legal assistance: freezing and confiscation	PC	■ There are no processes in place for execution of requests and prioritisation of requests. ■ There is a minor deficiency in management and disposal of assets
39. Extradition	LC	■ The role of the Minister to make the order for extradition and the requirement for ministerial consent may cause undue delay. ■ There are no processes for execution and prioritisation of requests. ■ If extradition is refused on the basis of citizenship, then Solomon Islands can choose not to prosecute the fugitive.
40. Other forms of international co-operation	PC	■ RSIPF does not have specific legislation to enable exchange of information directly with other jurisdictions. ■ Solomon Islands provided no evidence that feedback had been provided to competent authorities on the use and usefulness of information sent. ■ Solomon Islands provided no input regarding whether it has unreasonable or restrictive conditions for the exchange of information.

GLOSSARY

ACA	Anti-Corruption Act 2018
AGO	Attorney General's Office
AMLC	Anti-Money Laundering Commission
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
AMLRO	AML Reporting Officers Group
AMLTEG	Anti-Money Laundering Technical Expert Group
BCR	Border Cash Reports
BNI	Bearer Negotiable Instrument
BO	Beneficial Owner
CA	Companies Act 2009
CBSI	Central Bank of Solomon Islands
CBSIA	Central Bank of Solomon Islands Act 2012
CDA	Currency Declaration Act
CDD	Customer Due Diligence
Company Haus	Solomon Islands registry of companies
CSO	Civil Society Organisations
CTA	Counter Terrorism Act 2009
CTA	Charitable Trusts Act
CTR	Cash Transaction Reports
DNFBP	Designated Non-Financial Businesses and Professions
DSE	Development Services Exchange
EDD	Enhanced Due Diligence
EFTR	Electronic Funds Transfer Reports
ESW	Egmont Secure Web
FFA	Pacific Islands Forum Fisheries Agency
FI	Financial Institution
FIA	Financial Institutions Act 1998
FID	Foreign Investment Division
IAD	Internal Audit Department
ICAC	Independent Commission Against Corruption
IO	Immediate Outcome
IRD	Inland Revenue Division
LEA	Law Enforcement Agency
MACMA	Mutual Assistance in Criminal Matters Act 2002
MECDM	Ministry of Environment, Climate Change and Disaster
MFA	Ministry of Foreign Affairs
ML	Money Laundering
MLA	Mutual Legal Assistance
MLPCA	Money Laundering and Proceeds of Crime Act 2002
MLPCAA	Money Laundering and Proceeds of Crime Amendment Act 2010
MoF	Ministry of Finance
MoFT	Ministry of Finance and Treasury

MOHA	Ministry of Home Affairs
MoHMS	Ministry of Health and Medical Services
MOU	Memorandum of Understanding
MSB	Money Services
MVTS	Money Value Transfer Services
NBFI	Non-Bank Financial Institutions
NCB	National Central Bureau (INTERPOL)
NCID	National Criminal Investigation Division
NPO	Non-Profit Organisations
NRA	National Risk Assessment
NSWG	National Security Working Group
OCO	Oceania Customs Organisation
ODPP	Office of the Director of Public Prosecutions
PEP	Politically Exposed Person(s)
PIDC	Pacific Immigration Development Community
PICP	Pacific Islands Chiefs of Police
PILON	Pacific Islands Law Officers Network
PF	Proliferation Financing
PNG	Papua New Guinea
PSC	Public Service Commission
PTCCC	Pacific Transnational Crime Coordination Centre
PTCN	Pacific Transnational Crime Network
RAMSI	Regional Assistance Mission to Solomon Islands
RE	Reporting Entities
RSIPF	Royal Solomon Islands Police Force
SBD	Solomon Island Dollars
SICCI	Solomon Islands Chamber of Commerce and Industry
SIFIU	Solomon Islands Financial Intelligence Unit
SIG	Solomon Islands Government
SIICAC	Solomon Islands Independent Commission Against Corruption
SIMSA	Solomon Islands Maritime Safety Administration
SOP	Standard Operating Procedures
STR	Suspicious Transaction Report
TCU	Transnational Crime Unit
TF	Terrorist Financing
TFS	Targeted Financial Sanctions



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October 2019

Anti-money laundering and counter-terrorist financing measures – Solomon Islands

3rd Round APG Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML)/counter-terrorist financing (CTF) measures in place in Solomon Islands as at November 2018. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Solomon Islands' AML/CFT system, and provides recommendations on how the system could be strengthened.