



Anti-money laundering and counter-terrorist financing measures

THE BAHAMAS

5th Enhanced Follow-up Report & Technical
Compliance Re-Rating

December 2022

Follow-up Report





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

This report was adopted at the 55th CFATF Plenary in the Cayman Islands in accordance with paragraph 92 of the CFATF Procedures for the Fourth Round of AML/CFT Evaluations, 2014 as amended, and paragraph 20 and 21 of the CFATF ICRG Procedures for the 4th Round of AML/CFT Evaluations, 2018 as amended.

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<https://www.cfatf-gafic.org/documents/4th-round-meval-reports>

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THE BAHAMAS: FIFTH ENHANCED FOLLOW-UP REPORT

I. PURPOSE

1. In accordance with the CFATF Procedures for the Fourth Round of AML/CFT Mutual Evaluations and the CFATF ICRG Procedures for the 4th Round of AML/CFT Evaluations (hereafter the CFATF Procedures) as amended, this report presents the CFATF Group of Experts' analysis of The Bahamas' 5th follow-up report (FUR).

II. INTRODUCTION

2. The mutual evaluation report (MER) of The Bahamas was adopted in May 2017, during the XLV Caribbean Financial Action Task Force (CFATF) Plenary held in Trinidad and Tobago and published in July 2017. Since it met the thresholds of having eight (8) or more NC/PC ratings for technical compliance and a low or moderate level of effectiveness for seven (7) or more of the eleven (11) effectiveness outcomes, The Bahamas was placed under the enhanced follow-up process¹.
3. This FUR analyses the progress of The Bahamas in addressing the technical compliance requirements of the recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated.
4. This report does not analyse any progress The Bahamas has made to improve its effectiveness.
5. The assessment of The Bahamas' request for technical compliance re-ratings and the preparation of this report was undertaken by the Group of Experts consisting of, Ms. Shana Donovan (Financial Expert), Chief Risk & Policy Officer, AML/CFT Division, Cayman Islands Monetary Authority, and Mr. Javone Rogers (Legal Expert), Crown Counsel, Department of Public Prosecutions, Bermuda, with the support from Mr. Loxly Ricketts of the CFATF Secretariat.
6. Section IV of this report summarises the progress made to improve technical compliance. Section V contains the conclusion and a table illustrating The Bahamas' current technical compliance ratings.

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up is based on the CFATF's policy that deals with members with significant deficiencies (for technical compliance and/or effectiveness) in their AML/CFT systems and involves a more intensive process of follow-up.



III. FINDINGS OF THE MUTUAL EVALUATION REPORT & FOLLOW-UP

7. The Bahamas' MER ratings² and updated ratings based on earlier FURs are as follows:

| R. | Rating | R. | Rating |
|----|---|----|---|
| 1 | PC (MER 2017) LC (FUR 2018) | 21 | C (MER 2017) C (FUR 2018) C (FUR 2021) |
| 2 | PC (MER 2017) C (FUR 2018) LC (FUR 2021) | 22 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 3 | C (MER 2017) | 23 | PC (MER 2017) LC (FUR 2018) |
| 4 | C (MER 2017) | 24 | PC (MER 2017) PC (FUR 2018) LC (FUR 2021) |
| 5 | LC (MER 2017) LC (FUR 2018) | 25 | PC (MER 2017) LC (FUR 2018) |
| 6 | NC (MER 2017) PC (FUR 2018) LC (FUR 2021) | 26 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 7 | PC (MER 2017) PC (FUR 2018) LC (FUR 2018) | 27 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 8 | PC (MER 2017) PC (2018) PC (FUR 2021) | 28 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 9 | C (MER 2017) | 29 | C (MER 2017) |
| 10 | PC (MER 2017) C (FUR 2018) | 30 | PC (MER 2017) C (FUR 2018) |
| 11 | LC (MER 2017) LC (FUR 2018) LC (FUR 2021) | 31 | LC (MER 2017) |
| 12 | PC (MER 2017) C (FUR 2018) C (FUR 2021) | 32 | PC (MER 2017) LC (FUR 2018) |
| 13 | C (MER 2017) | 33 | PC (MER 2017) PC (FUR 2018) LC (FUR 2021) |
| 14 | C (MER 2017) | 34 | LC (MER 2017) |
| 15 | PC (MER 2017) LC (FUR 2018) PC (FUR 2021) | 35 | PC (MER 2017) LC (FUR 2018) |
| 16 | LC (MER 2017) | 36 | LC (MER 2017) |
| 17 | PC (MER 2017) C (2018) | 37 | LC (MER 2017) |
| 18 | PC (MER 2017) LC (FUR 2018) LC (FUR 2021) | 38 | LC (MER 2017) |
| 19 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) | 39 | LC (MER 2017) |
| 20 | C (MER 2017) | 40 | LC (MER 2017) |

² There four possible levels of technical compliance are: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Effectiveness ratings for the 11 Immediate Outcomes are: Low, Moderate (Mod), Substantial or High.



IV. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

8. In keeping with the CFATF Mutual Evaluation Procedures, this FUR considers progress made up until 27 May 2022. In line with the ME Procedures and FATF Methodology, the Group of Experts' analysis has considered progress to address the deficiencies identified in the MER and the entirety (all criteria) of each Recommendation under review, noting that this is cursory where the legal, institutional, or operational framework is unchanged since the MER or previous FUR.
9. This section summarises the progress made by The Bahamas to improve its technical compliance by:
 - a) addressing the technical compliance deficiencies identified in the MER, and
 - b) implementing new requirements where the FATF Recommendations have changed since the MER was adopted.

4.1. Progress to address technical compliance deficiencies identified in the MER

4.1.1 Recommendation 8 (originally rated PC)

1. In its 4th Round MER, The Bahamas was rated PC with R.8. The technical deficiencies were *inter alia*, The Bahamas had not developed regulation, guidance and other measures for the NPO Sector. Also, sanctions were not sufficiently dissuasive.
2. In its 1st FUR, The Bahamas was rated PC with R.8. In light of the revisions to R.8, the technical deficiencies were, *inter alia*, there was no risk-based approach to the supervision, administration and management of financial activities of NPOs. There was no cooperation between the competent authorities and the NPOs to develop best practices, and while there were sanctions in place, there were no measures for a competent authority to monitor compliance. There was no indication of the expertise of law enforcement to investigate terrorist financing abuse of NPOs. There was no present framework for information sharing and cooperation among relevant authorities holding information on NPOs.
3. In its 4th FUR, The Bahamas was rated PC with R.8. The remaining technical deficiencies were, *inter alia*, though there is a requirement, there was no evidence to demonstrate work with NPOs to develop and refine best practices to address terrorist financing risk and vulnerabilities. The Bahamas had not yet completed a risk assessment of the NPO sector and risk-based monitoring was not evidenced.
4. **Criterion 8.1(a):** The Bahamas completed a TF risk assessment of its NPO sector in May 2022. The Bahamas used a wide array sources of information, which include: Registrar General's Department and Compliance Unit, specifically the NPO Register/Registration, which provided information about NPOs' name, address, telephone and email, identification documents for directors, controllers, members, and officers; place of residence of directors (including those residing in a foreign jurisdiction); purposes and objectives; cross border movement of cash and activities (overseas branches/affiliation); and annual turnover. Verification of address and identification was also obtained from the registration data.

The range of relevant authorities involved in the risk assessment included: Department of Inland Revenue; Central Bank of The Bahamas; Securities Commission of The Bahamas; Insurance Commission of The Bahamas; Compliance Commission; Department of Public Prosecutions (DPP); Customs Department; Royal Bahamas Police Force (RBPF); Financial Intelligence Unit (FIU).



Sector specific information from the NPOs was obtained through questionnaires regarding the nature of operations, administration, structure, purpose, activities, and procedures of the NPOs. Surveys, interviews and open-source social media were also used to obtain information from the NPOs.

The Group of Experts (GOE) considers that the sources of information are sufficient to identify the features and types of NPOs that are likely to be at risk of terrorism financing abuse.

In The Bahamas all NPOs that fall within the subset of FATF NPOs are required to register, and all NPOs which do not fall within that subset are exempt. Regulation 3(2) of the Non-Profit Organisations (Anti-Money Laundering and Countering Terrorism Financing (No.2) Regulations, 2022 do not explicitly state that NPOs that do not fall within the FATF definition are exempt but instead refers to an exhaustive list contained in Schedule 3 of those Regulations. Exempt NPOs are required to submit an NPO application Form together with supporting documentation for review by the Registrar. The Registrar considers the documents submitted and will issue a letter advising the NPO that they are exempt from registering. The fact that there are some NPOs that are exempt is not considered an issue in the context of The Bahamas. NPOs that fall within the subset of FATF NPOs are required to register and all NPOs which do not fall within that subset are exempt. The list of NPOs that may be exempt is made up of NPOs that do not solicit funds from or disburse funds to the public and therefore do not fall within the FATF definition.

5. **Criterion 8.1(b):** The Bahamas has now assessed the nature of threats to its NPO sector in its completed sector risk assessment. The Bahamas conducted a National ML/TF Risk Assessment exercise in 2015-2016 where no threats associated to TF were identified in the country. The 2022 NPO TF risk assessment confirms that the threat situation in The Bahamas remains the same.

Based on information obtained from the relevant agencies reveal no indications that NPOs registered in The Bahamas were involved in TF activities in the period 2018-2021 or any other period.

There were also no intelligence or suspicious transactions reported involving NPOs and the International Legal Cooperation Unit – Attorney General Office (ILCU) has reported that there were no requests emanating from or going out to foreign jurisdictions relating to terrorism, or NPOs registered in The Bahamas. No open-source information identified NPOs involvement in terrorist financing in The Bahamas.

The Bahamas is aware of the inherent risks of TF as an international financial centre (IFC). The specific threats The Bahamas identified as potentially posing a risk to at-risk NPOs in The Bahamas given the country's nature as an IFC and the activities and nature of its at-risk NPOs are as follows: i. there can potentially be diversion of funds; ii. NPOs or directing officials can potentially maintain an affiliation with a terrorist entity, either knowingly or unknowingly; iii. NPOs could be abused to provide support to recruitment efforts by terrorist entities; iv. NPOs can also be targeted for abuse of programming. The resources may flow from legitimate sources, but NPO programmes can potentially be abused at the point of delivery; iv. terrorist entities can potentially abuse the NPO sector through false representation.

The Bahamas' NPO Risk Assessment Report demonstrates that the country has sufficiently analysed the nature of threats posed by terrorist entities to the NPOs which are at risk and whether there are TF methods that abuse NPOs in development in the country

6. **Criterion 8.1(c):** For context, in 2019 The Bahamas implemented the Non-Profit Organisations Act (NPOA) which put in place measures that required all NPOs to be registered in order to



conduct business in The Bahamas. In order to register NPOs have to provide information which includes name, address, contacts, KYC documents on controllers, directors, officers; purposes and objectives; annual turnover. Other relevant information obtained from the NPOs include details of activities and declaration as to the availability of financial records, incorporation documents or constitution for unincorporated NPOs. Information regarding anticipated source of contributions, gross annual income was to be applied, and know your client procedures were obtained from the NPO Risk Assessment Surveys. Further, The Bahamas has conducted the Terrorist Financing Risk Assessment of the Non-Profit Sector, which included a review of the legislative framework, and the NPOA (introduced the measures regarding registration), and the terrorism financing risks to the NPO to determine the appropriateness of the risk-based measures in relation to the identified risks.

7. **Criterion 8.1(d):** A preliminary assessment of the NPO sector for TF risks began in May 2020. In 2020, The Bahamas commenced a desktop review and assessment of all registered NPOs to enable the identification of NPOs which hold: (1) a significant portion of the resources under control of the sector; and (2) a substantial share of the sectors activities in line with the FATF Recommendation 8 and its Interpretative Note (IN). A risk rating was assigned to each registered NPO with specific focus on those who were found to have one or more of the following three (3) criteria: annual turnover of \$75,000 or more; cross-border movement of cash; and an international nexus. This process was completed in September 2021. NPOs which did not fall within either of the three (3) criteria will continue to be monitored commensurate with their risk. A Comprehensive Risk Assessment was completed in May 2022. The Terrorist Financing Risk Assessment of the Non-Profit Sector in The Bahamas has been produced in May 2022. This is the first such assessment that The Bahamas has conducted of the NPO sector as a whole. Regulation 4(c) of the Non-Profit Organisations (Anti-Money Laundering and Countering Terrorism Financing) (No.2) Regulations, 2022 provides that the Registrar is responsible to undertake a periodic review of the non-profit organisations sector in The Bahamas in order to identify the features and types of non-profit organisations that are at risk of being used for money laundering and terrorist financing to ensure effective implementation measures.
8. **Criterion 8.2 (a) and (b):** The rating remains as was in the 4th FUR, the Non-Profit Organisations (NPO) Act gives the function of the Registrar to enhance accountability and promote public trust and confidence. The Bahamas continues to have outreach to NPOs. No deficiency cited and there are no changes to the AML/CFT framework in this regard.
9. **Criterion 8.2(c):** The Bahamas as worked with NPOs to develop best practices to address terrorist financing risk and vulnerabilities. The Bahamas has produced a Non-Profit Organisations Best Practices Manual, on 10 May 2022, that is based on the FATF Best Practices for combating the abuse of NPOs. The Bahamas engaged the NPOs in the process of preparing the Best Practices Manual over several consultative meetings between August 2020 and April 2022.
10. **Criterion 8.2(d):** The Bahamas has given specific encouragement for NPOs to conduct transactions via regulated channels. The Office of the Attorney General for The Bahamas has issued a Best Practices Manual for NPOs on 10 May 2022. Issuance of guidance and recommendations on best practices for NPOs is outlined as a function of the Registrar in Section 4(j) of the NPOA. As such the NPO's Best Practices Manual forms an enforceable guidance for NPOs in The Bahamas. At Paragraph 5.1 of The Bahamas' NPOs Best Practices Manual NPOs are explicitly encouraged to establish a facility via regulated channels and informed of the mitigation of risk that is afforded while using those regulated channels. Additionally, NPOs are advised that, under no circumstances, should use any alternative arrangements/services or unregulated and unlicensed service provider be used to remit funds overseas. NPOs are



explicitly warned that contravention of that aspect will lead to penalization to the full extent of legal framework and that the NPO may be subject to deregistration, forfeiture of assets, criminal investigation and prosecution.

11. **Criterion 8.3:** Terrorist Financing Risk Assessment of the Non-Profit Sector in The Bahamas has identified risk levels for NPOs in The Bahamas based on annual turnover in excess of \$75,000, cross-border movement of funds and international nexus due to location of activities affiliations donations or foreign directors. Using those criteria, The Bahamas developed and implemented a Risk Based Supervision Framework in April 2022.

In the Risk Based Supervision Framework those NPOs of high and medium risk are subject to onsite reviews of compliance with the NPO Act at an annual and biennial interval respectively. This onsite review is also intended to form the basis of an update in the risk profile of a given NPO. The Bahamas also maintains the ability to conduct onsite inspections at any time through section 16 of the Non-Profit Organisations Act.

Pursuant to section 18 of the NPO Act, NPOs are required to keep at its registered address records that are sufficient to show — (a) its purposes, objectives and activities; and (b) the identity of the persons who control or direct its activities, including, as appropriate, senior officers, directors and trustees. This information is also retained by the Registrar General and is available to the public on payment of a fee pursuant to Section 6(4) of the NPOA.

NPOs classified as high risk are also required to conduct ongoing monitoring of its relationships with beneficiaries, donors and partners in accordance with such guidelines as may be issued by the Registrar; follow a “know your beneficiaries and associate NPOs” rule. i.e.; make best efforts to confirm the identity, credentials and good standing of beneficiaries and associate NPOs; undertake best efforts to respect donor confidentiality; take reasonable measures to verify the identity of beneficiaries, partners and donors, in respect of any donation that is \$100,000.00 and above whether the donation is made as one lump sum or as aggregate sums, over a period of one year; and take measures, where there is a reasonable risk of terrorist financing, to confirm and appropriately record information on the identity, credentials and good standing of its beneficiaries, donors, associate non-profit organisations and partners in accordance with the Risk Based Supervision Framework. **Criterion 8.4(a):** The Registrar General has responsibility to monitor and supervise NPOs in The Bahamas. The Non-Profit Organisations Act requires that all NPOs in The Bahamas be registered to carry out operations. The Bahamas has also implemented a Risk Based Supervision Framework in April 2022 that has identified risk levels between NPOs that will determine the level of enhanced monitoring to which each NPO will be subjected. All of the requirements of the Risk Based Supervision Framework are contained within the NPO Best Practices and the NPOA. Failure to comply with those requirements can result in administrative fines not exceeding \$5,000 or criminal fines not exceeding \$10,000.

12. **Criterion 8.4(b):** Administrative fines are no longer limited to financial records. The Bahamas has issued a Best Practices Manual on 10 May 2022 that allows for sanctioning against NPOs that use unregulated financial channels. The Best Practices Manual states explicitly that NPOs failing in this regard may be subject to deregistration, forfeiture of assets, criminal investigation and prosecution. The Registrar can deregister an NPO for non-compliance with specific obligations, ceasing operations, changing the nature of its activities or failing to maintain required financial statements. Additionally, criminal sanctions are applicable against NPOs as well as persons in charge of the NPO for carrying on business without registering, failure to maintain financial statements, failure to produce records, failure to provide explanations when required by Registrar, supplying false or misleading information or withholding information to the Registrar, failure to comply with the obligations set out in the NPO Regulations as well as terrorist financing.



13. **Criterion 8.5(a):** The Bahamas has established through Regulation 4(d) of the Non-Profit Organisations (Anti-Money Laundering and Countering Terrorism Financing)(No.2.) Regulations 2022 that it is a function of the Registrar to ensure effective cooperation, coordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on non-profit organisations. Furthermore, The Bahamas has established a Memorandum of Understanding between the Registrar General and most of the relevant authorities for the Sharing of Information on Money Laundering and Terrorist Financing that provides for prompt sharing of information as between Participants whenever there is a suspicion or reasonable grounds to suspect that an NPO is involved in money laundering or terrorist financing abuse and/or is a cover or disguise for fundraising by a terrorist organisation, is being exploited as a conduit for money laundering or terrorist financing, including the purpose of escaping asset freezing measures, or any other forms of money laundering or terrorist support or is concealing or obscuring clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of money launderers, terrorists or terrorist organisations. The Memorandum of Understanding between the Registrar General and Relevant Authorities for the Sharing of Information on Money Laundering and Terrorist Financing had not been signed by the Royal Bahamas Police, Royal Bahamas Defence Force, Bahamas Immigration Department, Ministry of Finance and Ministry of Foreign Affairs at the time of this assessment. The absence of the signatures is not identified as a hinderance to the effective co-operation, co-ordination and information sharing between appropriate authorities that hold relevant information on NPO's. The MOU is meant to complement the information sharing provided for by the NPOA. To this extent, the Registrar General's database, where information on the NPO's is maintained, is readily accessible by each of the absent signatories with use of a Virtual Protocol Network. Additionally, the Royal Bahamas Police Force has general police powers to obtain production orders from any source to further investigations in any crime. Further, the Financial Intelligence Unit, a signatory at the time of assessment, is obligated to provide the Commissioner of Police information that may relate to the commission of an offence under the Anti-Terrorism Act pursuant to section 4(2)(f) of the Financial Intelligence Unit Act as read with the Second Schedule of that act. It is also a function of the Registrar to refer cases or acts of misconduct to the Commissioner of Police. Finally, information can be shared informally such as via email. The noted absence of signatories does not impede the effective exchange of information between the Registrar and other relevant authorities.
14. **Criterion 8.5(b):** Pursuant to Regulation 4(e) of the Non-Profit Organisations (Anti-Money Laundering and Counter Terrorism Financing)(No. 2) Regulations, 2022 a function of the Registrar is to carry out investigations to examine NPOs suspected of either being exploited for money laundering, terrorism financing or actively supporting, terrorist activity or terrorist organisations. In conjunction with the already existing powers of the Registrar, the Royal Bahamas Police Force provides legal framework for examining NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations. The Bahamas has ensured that Financial Crimes Unit of the Royal Bahamas Police Force has expertise in investigating financial crimes and money laundering, asset recovery, effective use of banking information techniques and forensic financial investigation techniques.
15. **Criterion 8.5(c):** Regulation 4(f) of the Non-Profit Organisations (Anti-Money Laundering and Counter Terrorism Financing)(No. 2) Regulations, 2022 provides that one of the functions of the Registrar is to ensure that full access to information on the administration and management of particular NPOs (including financial and programmatic information) may be obtained during the course of an investigation . Section 17 of the NPOA gives the Registrar General power to require any person to provide the Registrar with any information that is in the possession of that



person which relates to any non-profit organisation and is relevant to the discharge of the functions of the Registrar.

16. **Criterion 8.5(d):** Regulation 4(g) of the Non-Profit Organisations (Anti-Money Laundering and Counter Terrorism Financing)(No. 2) Regulations, 2022 provides that it is a function of the Registrar to establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular NPO is involved in money laundering or terrorism financing or is a cover or disguise for fund raising by a terrorist organisation, being exploited as a conduit for money laundering or terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support, concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of money launderers, terrorists or terrorist organisations, that such information is promptly shared with the Commissioner of Police and the Financial Intelligence Unit, in order to take preventive or investigative action.

The MOU cited at 8.5(c) also applies to this criterion and includes the following competent authorities: Signatories include the Registrar General, Office of the Director of Public Prosecutions, Financial Intelligence Unit, Royal Bahamas Police Force, Royal Bahamas Defence Force, Bahamas Customs Department, Bahamas Immigration Department, Compliance Commission, Central Bank of Bahamas, Securities Commission, Gaming Board, Ministry of Foreign Affairs, Ministry of Finance and Insurance Commission.

17. **Criterion 8.6 :** The rating remains as was in the 4th FUR, the Attorney General remains the competent authority for international cooperation on NPOs. No deficiency cited and there are no changes to the AML/CFT framework in this regard.

Weighting and Conclusion

18. The Bahamas has recently completed a risk assessment and has a full understanding of the risks and threats to its NPO sector. The Bahamas has developed a Best Practices Manual, in collaboration with the NPOs, to mitigate risks, encouraged NPOs to conduct transactions via regulated financial channels and notifies NPOs that contravening this practice may result in sanctions against the NPO including deregistration and forfeiture of assets.

Each individual NPO will be reassessed on either an annual or biennial basis to serve to underpin its updated risk assessment. Further, the sector as a whole will be reassessed on a periodic basis. Additionally, The Bahamas has implemented a Risk Based Supervision Framework that allows for proportionate and effective actions for those NPOs deemed at higher risk. The Bahamas is able to engage a number of sanctions that are dissuasive, and proportionate, which includes the power to revoke business licences, order that the corporate body be wound up forfeiture of assets and criminal fines up to \$25 million.

The Bahamas has ensured that the law enforcement authorities have the requisite training and expertise to effectively investigate NPOs. A Memorandum of Understanding between the Registrar General and Relevant Authorities for the Sharing of Information on Money Laundering and Terrorist Financing has been established as a mechanism to ensure information is promptly shared with competent authorities to take preventative and investigative action.

Overall, The Bahamas has addressed the deficiencies previously identified, and, therefore is now rated as Compliant for recommendation 8.

19. **The Bahamas is re-rated Compliant with R.8.**



4.1.2. Recommendation 15 (originally rated PC)

20. In its 4th round MER, The Bahamas was rated PC for R.15. The technical deficiencies included that there were no specific provisions for licensees and registrants of the SCB to assess ML/TF risks of new business practices, including new delivery mechanisms or the use of new or developing technologies for both new and pre-existing products. Additionally there were no measures SCB licensees and registrants to assess associated risks prior to launch or use of new products, or to take measures to manage and mitigate the risks. Adequate guidance should have been provided to the insurance, securities, and investment fund industries.
21. In its 1st FUR, The Bahamas was rated LC for R.15. The technical deficiencies included that, with respect to the development of new products and new business practices, the FTRA only addressed the requirement for FIs to take appropriate measures to identify, assess and understand the risk in relation to their products, services, transactions and delivery channels. The FTRA did not, however, place any requirement on the country itself to carry out a similar risk assessment exercise.
22. In its 4th FUR, The Bahamas was rated PC for the updated R.15. The technical deficiencies included the absence of mechanisms or procedures for the country itself to identify and assess the ML/TF risks, and the application of a risk-based approach based on that understanding of risk. There was also no policy for the identification of natural or legal persons that carry out VASP activities without the requisite license or registration. There was no specific provision to compel the production of information, and no guidelines which would assist VASPs in applying national measures to aid in detecting and reporting suspicious transactions. There was a gap regarding originator information and beneficiary information on virtual asset transfers being available on request to appropriate authorities. Deficiencies regarding international cooperation were not demonstrated as addressed.
23. **Criterion 15.1:** The Bahamas submitted its sectoral risk assessment of DA/DASPs which will supplement the Country's third NRA scheduled for 2022. The risk assessment was approved by the SCB at the 17 May 2022 Board meeting and published on 25 May 2022. The sectoral RA has enabled The Bahamas to have a greater understanding of the risks posed by the DA/DASP sector. The DA/DASP risk assessment evidences The Bahamas' understanding of their obligation to identify and assess ML/TF risks that arise in relation to the development of new products, business practices and new and developing technologies, with DA being the most recent example. It should be noted that, the identification and assessment of risks in relation to new products, practices, delivery mechanisms and technologies for new and pre-existing products beyond the scope of the VA/VASP sector is captured in the BAH's overall 2017 NRA, which was considered in previous FUR. The DA/DASP RA is presented as an addendum to the 2017 NRA to address the only remaining deficiency.
24. **Criterion 15.2:** Financial institutions, including DASPs/DABs, are required to undertake risk assessments prior to the launch or use of such products, practices and technologies. Pursuant to section 5 (2) of the Financial Transactions Reporting Act (FTRA), 2018 and 3 (3) of the DARE Rules, DASPs are required to perform risk assessments prior to the launch of products, practices and technologies. An industry wide thematic review on the risks posed by new technologies and emerging risks was undertaken.

FIs, inclusive of DASPs are mandated, in accordance with 5(1) (c), of the FTRA to take appropriate measures to manage and mitigate the risks listed in 1(a) which includes products, services, transactions and delivery channels. Section 57 of the FTRA provides the legislative framework for the imposition of administrative fines against any financial institution, including DASPs in contravention of the provisions of the FTRA. The SCB has also published a policy on the assessment of administrative penalties for ML/TF infractions by registrants. Section 26 of



the Digital Assets and Registered Exchange (DARE) Act obliges DASPs, which are financial institutions, to have established AML/CFT policies, procedures and mitigating measures. Also submitted was an onsite working paper for DA/Registered Exchanges which assesses their compliance with the DARE AML/CFT Rules, 2022, the FTRA, 2018.

25. **Criterion 15.3(a):** Mechanisms and procedures are in place to require the country itself to identify and assess the ML and TF risks emerging from virtual asset activities and the activities or operations of VASPs. Amendments to section 2 and 3 of the FTRA has resulted in the inclusion and definitions of Digital Assets (i.e. VAs) and Digital Asset Businesses, as well as an expansion of the definition of ‘identified risk’ to include DAs and DABs for the purpose of monitoring and risk assessment. This brings DAs and DABs in scope under 6 (3) of POCA for the NRA. The Bahamas has conducted a sectoral risk assessment of its DA/DAB industry, utilising the World Bank RA methodology, which was concluded on 25 May 2022. Also, a thematic review/survey was conducted.
26. **Criterion 15.3(b):** Section 5 (3) of the FTRA, 2018 mandates financial institutions, inclusive of DASPs to also ensure risk assessments are kept up-to-date as part of its risk management framework. The SCB has established a risk-based approach (RBA) policy and implemented an electronic risk/assessment monitoring tool (SOFY) which automates the risk assessment and continuous monitoring of licensees’ and registrants’ risk rating. Once an applicant has been approved for licensure/registration, the DASP will upload information on its operations, controls, identification tools, client typologies, products, services and transaction volumes into the SOFY tool. The resulting risk rating guides the frequency of inspections for the entity. The DASP is monitored to ensure its risk rating remains current and may be altered based on new information or changes to information initially submitted. Where the ratings have shown increased risk in a particular entity, is prioritised for inspection.

Information on prospective and existing DA activities were factored into the risk assessment which assisted the SCB in identifying and assessing potential risks in the DA space. Importantly the SCB was able to incorporate the information and requirements for mitigating those risks into the AML/CFT Rules for DARE registrants. The identified high-risk activities were updated and weighted into the risk-based approach methodology. The SCB will continue to risk rate licensees in the SOFY platform and subject them to onsite inspections in accordance with their identified risk rating.

The SCB has a FinTech hub which provides a central point for all Fin Tech matters. Through responding to these policy queries related to practical cases, the SCB obtains updated understanding of the risks of DA and apply mitigating measures where appropriate. Furthermore, the information from the FinTech hub, as well as other sources such as the media and regulatory meetings are used for the development of its policy and legislative updates, and by extension the risk-based approach.

27. **Criterion 15.3(c):** The rating remains as was in the 4th FUR, the obligations DASPs remain under the DARE and are also supported by s. 3 of the FTRA. No deficiency cited and there are no changes to the AML/CFT framework in this regard.
28. **Criterion 15.4(a), (b) and (c):** The rating remains as was in the 4th FUR, the DARE Act requires the registration of DABs and only legal persons are allowed to carry on DABs in The Bahamas. Fit and proper vetting is conducted for all entrants, and their obligations to maintain professional conduct. No deficiency cited and there are no changes to the AML/CFT framework in this regard.



29. **Criterion 15.5:** The addition of the new section 39 (3) of the DARE Act places a responsibility on the SCB to implement systems to identify persons not registered under sections 8 and 9 of the Act. As such, the SCB has developed and implemented an internal policy framework for identifying persons carrying on or attempting to carry on activities under the DARE without the requisite registration. This includes procedures on conducting regular media/internet searches, a complaints policy, issuance of public notices and a documented investigative process.

The prohibition of natural or legal persons carrying out DASP activities without the requisite licence/registration is captured legislatively in various parts of the DARE Act – sections 7, 14 and 42 (1). The amendment to the DARE Act with the introduction of 42B (1) provides the proportionate and dissuasive sanctions to be applied – up to \$100,000 for each contravention. There is also a general penalty provision under section 44 of the DARE Act of \$500,000 or imprisonment of up to 5 years or both.

30. **Criterion 15.6(a):** The rating remains as was in the 4th FUR, the DASPs remain subject to adequate regulation and risk-based supervision and monitoring. No deficiency cited and there are no changes to the AML/CFT framework in this regard.

31. **Criterion 15.6 (b):** There are multiple provisions that require a person to produce the required information of compel the production of information if the SCB considers it necessary or desirable for the purposes of performing or exercising its functions, powers, or duties.

The amendment to DARE, with the insertion of 40A, bestows the Commission with powers to compel production of documentation and information, however, is limited to the context of an investigation, as opposed to the Commission’s general regulatory and supervisory functions of DASPs. Notwithstanding 40A, the SCB has sufficient powers to supervise and monitor compliance of VASP, including the authority to conduct inspections, compel production of information and impose a range of disciplinary and financial sanctions. This is evidenced in section 25 of DARE Act, 2020 which obliges VASPs to comply with the Act, cooperate with the Commission and duly provide information relevant to the operations of the DAB as the Commission may require. This bestows the Commission with powers to compel production of broad information that extends beyond AML/CFT. Adherence is a minimum standard and failure to comply will result in revocation of the registration. Part VI of the DARE Act provides the framework for the imposition of sanctions for non-compliance. As such the initial identified minor deficiency is addressed by section 25 and part VI of the DARE, 2020.

Further, the information the Commission is empowered to obtain in section 15 of the FTRA is as follows:

Records obtained through customer due diligence measures, including account files, business correspondence, and copies of all documents evidencing the identity of facility holders and beneficial owners, and the results of any analysis undertaken in accordance with the provisions of this Act.

Records of transactions, both domestic and international, that are sufficient to permit reconstruction of each individual transaction for both account holders and non-account holders.

Records of any findings pursuant to section 11 (1) (a) and related transactions information which concerns accounts and business relationships that were not opened/established due to the FI being unable to fulfil customer identification obligations.

32. **Criterion 15.7:** The SCB has now finalised and published comprehensive guidelines in relation to the DARE Act, 2020 which provides registrants with guidance on areas including Risk Rating



obligations, Internal Controls, Suspicious transaction reporting, CDD measures/verification, and Record Retention.

33. **Criterion 15.8(a) and (b):** The rating remains as was in the 4th FUR, the sector remains subject to a wide range of proportionate and dissuasive sanctions, which are applicable to directors and senior management. No deficiency cited and there are no changes to the AML/CFT framework in this regard.
34. **Criterion 15.9(a):** The rating remains as was in the 4th FUR, the threshold is in the FTRR remains at USD 1000. No deficiency cited and there are no changes to the AML/CFT framework in this regard.
35. **Criterion 15.9(b)(i):** The rating remains as was in the 4th FUR, originating institutions are obligated to obtain and retain the originator and beneficiary information and to submit the information to the beneficiary institution immediately and securely, with competent authorities having access. No deficiency cited and there are no changes to the AML/CFT framework in this regard.
36. **Criterion 15.9(b)(ii):** Section 15(1) and (2) of the FTRA, 2018, of which DASPs are included, is applicable to the requirement of making information on the originator and beneficiary of a DA transfer available on request to appropriate authorities. Furthermore, section 26 of DARE requires compliance with the FTRA. Section 15(2)(b) of the FTRA obliges DASPs to keep records of transactions, both domestic and international, which may include DA transfers, while section 15(1) mandates DASPs to make this information available on timely basis when required to be disclosed by law. Section 23 of DARE mandates registrants to implement measure for accurate collection of information and documentation related to originator and beneficiary of digital assets. Furthermore, DARE AML/CFT Rules, 19 (1) (c) requires maintenance of records that enable the registrant to satisfy court orders or enquires from appropriate authorities.
37. **Criterion 15.9(b)(iii):** The rating remains as was in the 4th FUR, the obligations to maintain review and monitor the lists of designated persons or entities remain in place. No deficiency cited and there are no changes to the AML/CFT framework in this regard.
38. **Criterion 15.9(b)(iv):** Regulation 4 of the FTR(WT)R, 2018 bestows all financial institutions with the same obligations when sending or receiving virtual asset transfers as outlined above. The submitted risk assessment also indicates that The Bahamas has fully implemented the travel rule by requiring firms to obtain information on the originator and beneficiary of all VA transactions for the de minimis threshold of \$1,000. As DASPs are captured under the definition of financial institutions they are subject to section 44 of the ATA and regulation 8 of the ATA Regulations on monitoring availability of information, taking freezing action and prohibiting transactions with designated persons and entities.
39. **Criterion 15.10 :** The rating remains as was in the 4th FUR, the communication mechanisms, reporting obligations and monitoring regarding targeted financial sanctions and designations remain in place for DASPs. No deficiency cited and there are no changes to the AML/CFT framework in this regard.
40. **Criterion 15.11:** The Bahamas has demonstrated that the identified deficiencies for R37-40 were addressed. Section 41 of the DARE Act provides the provisions for cooperating and providing assistance to Overseas Regulatory Authorities and to date The Bahamas has provided assistance in regard to one of its registered DASPs.

Additionally, The Bahamas is signatory to a number of international cooperation agreements and is a member of several global networks which facilitates the cross-border exchange of information.



The Office of the Attorney General has in place the ‘Protocol Processing Requests For International Legal Assistance and Mutual Legal Assistance (MLATS)’. This document provides a detailed outline of the process for responding to MLA requests. Section 2 refers to requests assigned to legal officers for urgent action and the document contains prescribed timelines to be adhered to throughout the process. Similarly, the general procedures for extradition document outlines a transparent process for executing extradition requests.

The FIU has powers to share information with foreign FIUs which relates to or may relate to the proceeds of the offences. Section 4 (h) of the Financial Intelligence Unit Act allows the FIU to enter into agreements with foreign FIUs. Additionally, section 4 of the FIU Act permits the FIU to order any person to freeze a person’s bank account for a specified period of time upon receipt of a request from a foreign FIU. Section 347 of the Customs Management Act, 2011 bestows extensive powers to The Bahamas Customs Authority to disclose information to an overseas Customs Authority, inclusive of domestically obtained information.

Weighting and Conclusion

41. The Bahamas has concluded its risk assessment of the DA/DASP sector and assigned a low-risk rating. The legislative framework includes provisions which mandate financial institutions, inclusive of DASPs to undertake risk assessments of new products, practices and technologies and take appropriate measures to manage and mitigate risks identified. DASPs have the same full set of AML/CFT obligations as financial institutions, and there is a penalty framework for those who fail to comply.

The SCB has developed a risk-based policy which guides a risk-based supervision and regulation of the DA/DASP sector, which included risk ratings, monitoring and assessment, inspection prioritisation and onsite inspections. There is a legislative requirement for the SCB to identify entities that are operating without the requisite registration/licence and the SCB has developed a comprehensive policy to this end, as well as a mechanism for the public to make complaints. Additionally, The Bahamas applies proportionate and dissuasive administrative and criminal sanctions for persons carrying on DA activities without the requisite licence. The SCB has published comprehensive guidelines to support the DARE Act, 2022, and The Bahamas's legislative framework adequately provides for the implementation of the travel rule.

Finally, the deficiencies identified in Recommendations 37- 40 have been addressed and The Bahamas has shown evidence of the legal basis for the timely sharing of information with their foreign counterparts.

42. **The Bahamas is therefore re-rated to Compliant for R.15**



V. CONCLUSION

43. Overall, The Bahamas has made significant progress in addressing the technical compliance deficiencies identified in R. 15 and R. 8, and no deficiencies remain. The Bahamas has been re-rated Compliant on R. 8 and R. 15.
44. A summary table setting out the underlying deficiencies for the Recommendation assessed in this report is included at Annex A.
45. Overall, in light of the progress made by The Bahamas since its MER was adopted, its technical compliance with the FATF Recommendations is as follows as of May 2022:

| R. | Rating |
|----|--|
| 1 | PC (MER 2017) LC (FUR 2018) |
| 2 | PC (MER 2017) C (FUR 2018) LC (FUR 2021) |
| 3 | C (MER 2017) |
| 4 | C (MER 2017) |
| 5 | LC (MER 2017) LC (FUR 2018) |
| 6 | NC (MER 2017) PC (FUR 2018) LC (FUR 2021) |
| 7 | PC (MER 2017) PC (FUR 2018) LC (FUR 2018) |
| 8 | PC (MER 2017) PC (2018) PC (FUR 2021) C (FUR 2022) ↑ |
| 9 | C (MER 2017) |
| 10 | PC (MER 2017) C (FUR 2018) |
| 11 | LC (MER 2017) LC (FUR 2018) LC (FUR 2021) |
| 12 | PC (MER 2017) C (FUR 2018) C (FUR 2021) |
| 13 | C (MER 2017) |
| 14 | C (MER 2017) |
| 15 | PC (MER 2017) LC (FUR 2018) PC (FUR 2021) C (FUR 2022) ↑ |
| 16 | LC (MER 2017) |
| 17 | PC (MER 2017) C (2018) |
| 18 | PC (MER 2017) LC (FUR 2018) LC (FUR 2021) |
| 19 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 20 | C (MER 2017) |

| R. | Rating |
|----|---|
| 21 | C (MER 2017) C (FUR 2018) C (FUR 2021) |
| 22 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 23 | PC (MER 2017) LC (FUR 2018) |
| 24 | PC (MER 2017) PC (FUR 2018) LC (FUR 2021) |
| 25 | PC (MER 2017) LC (FUR 2018) |
| 26 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 27 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 28 | PC (MER 2017) PC (FUR 2018) C (FUR 2021) |
| 29 | C (MER 2017) |
| 30 | PC (MER 2017) C (FUR 2018) |
| 31 | LC (MER 2017) |
| 32 | PC (MER 2017) LC (FUR 2018) |
| 33 | PC (MER 2017) PC (FUR 2018) LC (FUR 2021) |
| 34 | LC (MER 2017) |
| 35 | PC (MER 2017) LC (FUR 2018) |
| 36 | LC (MER 2017) |
| 37 | LC (MER 2017) |
| 38 | LC (MER 2017) |
| 39 | LC (MER 2017) |
| 40 | LC (MER 2017) |



46. The Bahamas has 40 Recommendations rated C or LC. The Bahamas will remain in enhanced follow-up. The Bahamas’ next follow-up report is due in November 2023.

1.1 Annex A: Summary of Technical Compliance –Deficiencies underlying the ratings³

| Compliance with FATF Recommendations | | |
|--------------------------------------|---|--|
| Recommendation | Rating | Factor(s) underlying the rating ⁶ |
| R.8 | PC (MER 2017) PC (2018) PC (FUR 2021) C (FUR 2022) | |
| R. 15 | PC (MER 2017) LC (FUR 2018) PC (FUR 2021) C (FUR 2022) | |

³ Ratings and factors underlying the ratings are only included for those recommendations under review in this FUR.

⁶ Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.



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December 2022

Anti-money laundering and counter-terrorist financing measures

– The Bahamas

5th Enhanced Follow-up Report & Technical Compliance Re-Rating

This report analyses The Bahamas progress in addressing the technical compliance deficiencies identified in the CFATF assessment of their measures to combat money laundering and terrorist financing of May 2017.

The report also looks at whether The Bahamas has implemented new measures to meet the requirements of the FATF Recommendations that have changed since its 4th Round Mutual Evaluation assessment.

Follow-up Report