



AML/CFT/CPF NEWSLETTER

ISSUE 13 MARCH/JUNE 2024



THE MISUSE OF INTERNET AND MOBILE PAYMENT SYSTEMS FOR MONEY LAUNDERING AND TERRORIST FINANCING

A summary of the Caribbean Financial Action Task Force Research Desk Publication

In its final instalment of the “*Emerging Trends*” series, the Caribbean Financial Action Task Force (CFATF) Research Desk explored the misuse of internet and mobile payment systems for money laundering (ML) and terrorist financing (TF) purposes. This article delves into the key definitions, associated risks, and measures to mitigate these risks in the realm of financial transactions.

THIS ISSUE'S CONTENT

Misuse of internet and mobile payment systems for money laundering and terrorist financing	2
Regulatory Updates	4
Revisions to FATF Recommendations 25	6
Outcome of the CFATF 58 th Plenary and Working Group Meeting	8
An Introduction to Reverse Money Laundering	9
Legal Arrangements - Consideration for Financial Institutions	11
Understanding Nominee Arrangements	13

KEY DEFINITIONS

- **Internet Payment Systems:** These systems allow customers to access pre-funded accounts via the internet, facilitating electronic money transfers to individuals or businesses. Common mechanisms include electronic payment cards (debit, credit, and charge cards), e-wallets, virtual credit cards, and stored-value cards.
- **Mobile Payment Systems:** Payments made through wireless devices such as mobile phones, encompassing person-to-business (P2B), person-to-person (P2P), and government-to-person (G2P) transactions.
- **Virtual Asset Service Providers (VASPs):** Entities utilising online platforms or mobile apps for global fund transfers, employing various payment channels, including cryptocurrencies and digital currencies.



ML/TF RISKS POSED BY INTERNET AND MOBILE PAYMENT SYSTEMS

The proliferation of internet and mobile payment systems has introduced new challenges in combating ML and TF. Key risks include:

1. **Increased Anonymity:** Online payment systems allow non face-to-face business which enhances the risk of identity fraud and wilful submission of falsified information with the intent to conceal illicit activities. Virtual assets further enhance anonymity, complicating regulatory efforts.
2. **Virtual Asset Transactions:** Cryptocurrencies and digital currencies amplify anonymity and global transaction speed, facilitating cross-border fund movements beyond traditional regulatory oversight.
3. **Layering and Integration:** Complex transaction structures obscure the origins of illicit funds through multiple transfers and accounts; leveraging false documentation.
4. **Smurf Accounts:** Criminals exploit multiple small transactions to evade detection thresholds and reporting requirements, utilising mobile and online banking applications.
5. **Trade-Based Money Laundering:** Digital trade advancements enable invoice manipulation and misrepresented trade values, facilitating illicit fund movements across borders.
6. **Peer-to-Peer Transactions:** Internet and mobile payment services often allow peer-to-peer transactions, and criminals may exploit this feature to move illicit funds between accounts without the need for traditional banking channels, which have established Know Your Customer (KYC) and Customer Due Diligence (CDD) measures.



MEASURES TO MITIGATE THE ML/TF RISKS

The private sector, regulatory bodies, and financial institutions (FIs) play a crucial role in implementing and enforcing robust anti-money laundering and combating terrorism financing (AML/CFT) measures to establish proportionate and risk-based measures to prevent the misuse of online and mobile payment systems. The following measures can be applied in the mitigation of such risks:

- 1. Customer Due Diligence:** Providers should take measures to identify and verify customers' identity, which will vary depending on the level of risk the product poses. Non-face-to-face verification of customers' identity often requires corroborating information received from the customer with information in third-party databases or other reliable sources. Transaction monitoring and suspicious activity reporting are also essential.
- 2. Source of funding:** Enforcing restrictions on anonymous or unregulated funding sources to prevent illicit access to payment channels.
- 3. Record keeping, transaction monitoring and reporting:** Transaction and CDD records are key to AML/CFT efforts and support law enforcement investigations. At a minimum, the transaction record of a payment or funds transfer should include information identifying the parties to the transaction, any account(s) involved, the nature and date of the transaction, and the amount transferred.
- 4. Supervisory resources allocation for higher risk areas:** As VASPs have attributes that would place them at higher risks, such as the use of anonymising technology, facilitating virtual-to-virtual financial activities or operating in higher-risk areas, supervisors should conduct the appropriate offsite and onsite supervision or monitoring and assessment to evaluate the adequacy of VASPs' policies and procedures.

In conclusion, while internet and mobile payment systems offer convenience and efficiency, they also present significant challenges in combating ML and TF. By implementing stringent regulatory measures and enhancing international cooperation, stakeholders can mitigate these risks and safeguard the integrity of financial systems worldwide.



READ MORE

https://cfatf-gafic.org/home/cfatf-research-corner/22467-misuse_of_online_mobile_payment_systems_december23-pdf/file

REGULATORY UPDATES



OUTCOMES OF THE FEBRUARY 2024 FATF PLENARY

The fifth Plenary of the Financial Action Task Force (FATF), under the Presidency of T. Raja Kumar of Singapore, took place in Paris during the period 21-23 February 2024.

The Plenary discussed the adoption of new risk-based guidance for the implementation of Recommendation 25 on the beneficial ownership and transparency of legal arrangements which completes the body of work by the FATF to enhance transparency of beneficial ownership globally, and prevent criminals and terrorists from hiding their activities and funds behind complex corporate structures and legal arrangements such as trusts.

The FATF members agreed to release, for public consultation, a range of options for potential changes to Recommendation 16 and its Interpretive Note on wire transfers.

The Plenary finalised modifications to the FATF's assessment methodology which will reflect the recent revisions to the FATF Standards to protect non-profit organisations from potential abuse for TF, in preparation for the next round of mutual evaluations.

The FATF identified jurisdictions with materially important virtual asset activity, to support them in implementing the FATF's requirements to adequately supervise and regulate this activity. Consequently, the Plenary agreed to publish an overview of the steps which the FATF and FATF Style Regional Bodies (FSRB) member jurisdictions, with the most materially important virtual asset activity, have taken to regulate and supervise VASPs.

READ MORE

<https://www.fatf-gafi.org/en/publications/Fatfgeneral/outcomes-fatf-plenary-february-2024.html>

OUTCOMES OF THE JUNE 2024 FATF PLENARY

The sixth Plenary of the FATF, under the Presidency of T. Raja Kumar of Singapore, took place in Singapore during the period 26-28 June 2024.

The FATF revised the criteria for prioritising countries under its International Cooperation Review Group (ICRG) process (also referred to as grey or black listing process). The changes will make the process even more risk-based and has taken into consideration the capacity challenges faced by the least developed countries. This revised methodology will be applied in the next round of evaluations.

2

The FATF agreed that Jamaica had satisfactorily completed its action plans to resolve the identified strategic deficiencies within agreed timeframes and would no longer be subject to the FATF's increased monitoring process.

A decision was made by the Plenary on how countries will be assessed for compliance with the recently revised FATF Standards that further enhance asset recovery and international co-operation frameworks, and more effectively deprive criminals of the proceeds of crime. These revisions will be applied during the next round of mutual evaluations.

The FATF is in the process of revising the FATF Standards to reflect the evolution of cross-border payment systems, and changes to industry standards (in particular ISO20022). The Plenary agreed that, given the complexity of the requirements and the potential impact on payment systems, further dialogue with the relevant bodies and experts in both the public and private sectors should take place before finalising the amendments.


[READ MORE](#)
<https://www.fatf-gafi.org/en/publications/Fatfgeneral/outcomes-fatf-plenary-june-2024.html>

3

UPDATES TO THE FATF GREY LIST

Effective 28 June 2024, the FATF added Monaco and Venezuela to its list of jurisdictions under increased monitoring (formally referred to as the “grey list”). Jamaica, a CFATF member, and Türkiye were removed from the list.


[READ MORE](#)
<https://www.fatf-gafi.org/en/publications/Fatfgeneral/outcomes-fatf-plenary-june-2024.html>

4

SAINT VINCENT AND THE GRENADINES MUTUAL EVALUATION REPORT PUBLISHED

The Saint Vincent and the Grenadines' (SVG) Mutual Evaluation Report was published in January 2024. The evaluation is based on information provided by the country, and information obtained by the evaluation team during the on-site visit to SVG during the period 20 to 31 March 2023. The report presents the assessors' analysis of the level of compliance with the FATF 40 recommendations and the level of effectiveness of the SVG's AML/CFT systems, and provides recommendations for strengthening the country's AML/CFT systems.


[READ MORE](#)
<https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/St-Vincent-Grenadines-MER.pdf.coredownload.inline.pdf>

REVISIONS TO FATF RECOMMENDATION 25

In February 2023, the FATF revised Recommendation 25 on beneficial ownership and transparency of legal arrangements, which aims to strengthen the framework for preventing the misuse of legal persons and arrangements for ML/TF purposes. The amendments require that countries understand the vulnerabilities related legal arrangements.



Following the revision to Recommendation 25, the FATF updated its risk-based [guidance on beneficial ownership and transparency of legal persons](#). The guidance, which should be read in parallel to Recommendation 24 on legal persons, is designed to assist stakeholders in both the public and private sectors in implementing the new requirements more effectively.

The revisions to Recommendation 25 regarding risk assessment are highlighted in red below:

Countries should **assess the risks** of the misuse of legal arrangements for money laundering or terrorist financing **and take measures to prevent their misuse**. In particular, countries should ensure that there is adequate, accurate and **up-to-date** information on express trusts **and other similar legal arrangements**, including information on the settlor(s), trustee(s) and beneficiary(ies), that can be obtained or accessed **efficiently and** in a timely manner by competent authorities. Countries should consider **facilitating** access to beneficial ownership and control information by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.

The new requirements regarding risk assessments are further explained in Paragraph 3 of the Interpretive Note (INR), which states:

Countries should assess the money laundering and terrorist financing risks associated with different types of trusts and other similar legal arrangements:

- a) **governed under their law;**
- b) **which are administered in their country territory or for which the trustee or equivalent resides in their country; and**
- c) **types of foreign legal arrangements that have sufficient links with their country; and take appropriate steps to manage and mitigate the risks that they identify**

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<https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html>

IMPLEMENTING

RECOMMENDATION 25

MANDATORY MEASURES

1. A strong understanding of relevant ML/TF risks.
2. Sanctions for trusts that operate in a country but bypass registration requirements by registering in another country.
3. Mechanisms to supervise or monitor persons that are not Trust and Corporate Service Providers (TCSPs) but administering trusts (example, lawyers and accountants).
4. Mechanisms for enhanced due diligence by FIs/DNFBPs that have business relationships with trusts or similar legal arrangements, where relevant and in line with a risk-based approach.
5. Mechanisms to investigate (and investigating) violations of registration requirements and/or beneficial ownership reporting rules, where in place, with special consideration to the threat posed by relevant higher risk arrangements.
6. Provide sufficient enforcement capacities and powers to the competent authorities.
7. Provide sufficient verification and enforcement capacities and powers to the trust registry (if it exists), beneficial ownership registry (if it exists), TCSP supervisor(s) or other relevant public body.
8. Introduce an international co-operation regime to provide rapid, constructive and effective international co-operation in relation to information, including beneficial ownership information on trusts and similar legal arrangements.

OTHER CONSIDERATIONS

1. A register of trusts administered in the country or for which the trustee or equivalent resides in the country.
2. A register of trusts governed under the law of a country (where the law is such that the trust has no legal capacity without such a registration).
3. Establish licensing or registration requirements for professional trustees.
4. Applying Recommendation 10 to Recommendation 12 to: (i) non-professional trustees; and (ii) professional administrators of trusts that are not TCSPs.
5. Mechanisms applying disclosure requirements to legal arrangements that wish to operate in, own significant assets in, or apply for registration in a country; in addition, applying disclosure requirements to legal arrangements which receive funding from foreign sources or from sources deemed to be high risk.
6. Introducing arrangements where actors in specific sectors, particularly those deemed to be at higher risk, can detect and report activity of concern.
7. Introducing legislative measures, such as anti-abusive provisions, limits to measures particularly vulnerable to abuse, disclosure requirements of the other parties to the trust, etcetera.

[READ MORE](https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/Guidance-Beneficial-Ownership-Transparency-Legal-Arrangements.pdf)


<https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/Guidance-Beneficial-Ownership-Transparency-Legal-Arrangements.pdf>



RESULTS OF 58TH CFATF PLENARY

The CFATF's 58th Plenary and Working Groups Meetings were held over the period 02 to 07 June 2024, in Trinidad. The main agenda items included: the Mutual Evaluation Reports (MERs) of Anguilla, Haiti and Guyana. Follow-up reports (FUR) of various CFATF Members; Saint Lucia's Voluntary Tax Compliance (VTC) Programme Report; Co-chairs' reports from the various CFATF working groups; and reports of Cooperating and Supporting Nations and Observer Organisations. The following were the key discussion points and actions emanating from the Plenary:

1. The Plenary approved Anguilla's and Guyana's 4th round MERs.
2. The Commonwealth of Dominica, Grenada and Saint Lucia presented FUR updates for information purposes.
3. Antigua and Barbuda and Saint Christopher (St Kitts) and Nevis will present their FURs at the November 2024 Plenary.
4. Saint Lucia's VTC Programme report was approved by the CFATF Plenary. The report noted that Saint Lucia took meaningful initial steps to address the Plenary's instructions and laid the groundwork for comprehensive risk management, which is a relevant contribution to the initial finding that Saint Lucia largely met the VTC programme principles.
5. Guyana and Suriname's Egmont membership was approved in February 2024.
6. Jamaica, Trinidad and Tobago, Cayman Island and Barbados presented on their experiences and lessons learnt throughout the ICRG Process. Common themes among the presenters were the need for: high level political commitment, extensive legal and regulatory reform, a strong collaborative approach between supervisors and national authorities, conducting continuous self-assessments; a comprehensive understanding of the FATF requirements and the mutual evaluation assessment criteria. Countries were encouraged to seek assistance and guidance where required and to take a proactive approach to avoiding the ICRG's long and agonizing process.
7. The CFATF encouraged countries to provide feedback on training and technical needs.



ECCB Representatives at the Plenary

REVERSE MONEY LAUNDERING: AN INTRODUCTION

Most of us are familiar with the term “*money laundering*”, which involves concealing the origins of the proceeds of illegitimate activities. However, you might not have heard the term “*reverse money laundering (RML)*”, a lesser-known yet equally significant phenomenon which operates in the opposite direction. This article explains the concept of RML.

What is Reverse Money Laundering?

RML refers to the process by which clean, legally acquired funds are funnelled into criminal enterprises. It is a sophisticated financial crime technique that is difficult to detect and prevent. In contrast to traditional money laundering where the aim is to make illegal funds appear legitimate, RML, also known as *money laundering in reverse*, involves diverting legally obtained funds towards criminal activity. The most common method of moving funding involve cash couriers, hawala transfer systems, payment service providers, false invoices and even the purchase of precious metal. The process of RML typically involves four (4) stages. The criminal organisations raise clean money legally, store it securely, move it discreetly to avoid detection, and then put it to use.

Navigating the complexities of RML requires a thorough understanding of the differences with traditional money laundering. To mitigate the risk of RML, a multifaceted approach is required, which involves awareness and training of stakeholders, implementing strong AML systems, leveraging advanced technology and global collaboration.



Reverse money laundering is a sophisticated financial crime technique that is difficult to detect and prevent.



Typologies of Reverse Money Laundering

Front Companies

Legitimate businesses from various sectors are often used as fronts to channel clean money into illegal activities. These entities appear legitimate and operate within the legal framework, making it difficult for authorities to detect illicit transactions. Common sectors include real estate, hospitality, and trade, where large cash flows can be used to obscure illegal financial activities.



Trade-Based Money Laundering

Trade-based RML involves manipulating trade transactions to transfer clean money into criminal enterprises. This method can include over-invoicing or under-invoicing goods and services, creating fictitious trade transactions, or using false documentation to justify the movement of funds. This complex and sophisticated technique exploits the global trade system, making detection challenging.

Financial Institutions and Investment

Financial institutions and investment vehicles such as banks, hedge funds, or private equity firms, may unwittingly or actively facilitate the investment of clean money into illegal activities. This can include purchasing high-value assets such as luxury properties or artwork, or investing in businesses that are fronts for criminal enterprises.



Non-Profit Organisations and Charities

Clean money donated to these organisations can be diverted to fund illegal activities. This method is particularly insidious as it exploits the goodwill and legitimacy associated with charitable organizations, making detection and prosecution challenging.

Legal Arrangements

Considerations for Financial Institutions



We know what legal persons are, but what are legal arrangements and what are the considerations for FIs?

► What are Legal Arrangements?

The FATF Glossary defines legal arrangements as express trusts and other similar legal arrangements.

► What are Express Trusts?

According to FATF Glossary, express trust refers to a trust clearly created by the settlor, usually in the form of a document, for example a written deed of trust. They are to be contrasted with traditional trusts which come into being through the operation of the law, and which do not result from the clear intent or decision of a settlor to create a trust or similar legal arrangements (for example constructive trust).

Examples of other similar legal arrangements may include, but are not limited to, *fiducie*, certain types of *Treuhand*, *fideicomiso*, and *Waqf*.

Similar to express trusts, other legal arrangements can also facilitate a division of ownership into two roles: legal control of assets and the enjoyment of those assets held by different individuals. These arrangements often involve one person entrusting assets to another who holds legal title and manages them for the benefit of others or a specific purpose. Consequently, they establish a fiduciary duty comparable to that of a trustee in a trust.

Requirements for Financial Institutions

- ✓ **Understand ML/TF risks** - FIs are required to assess and understand risks associated with trusts and similar legal arrangements, this requires an assessment of their nature and context.
- ✓ **Identify and verify identity** - FIs should take appropriate steps to verify the identity of any natural person(s) recorded as a beneficial owner of a trust or similar legal arrangements.
- ✓ **Record keeping** – FIs are required to maintain records of the beneficial ownership information, and any CDD measures taken in relation to trusts and similar legal arrangements.
- ✓ **Conduct enhanced due diligence (EDD)** – FIs are required to conduct EDD for high risk legal arrangements and understand the nature and purpose of these arrangements.
- ✓ FIs should also ensure that the entities they do business with have clear structures for accountability and that they can access information on the identity of persons responsible for the arrangement.



Understanding legal arrangements is crucial for FIs to ensure compliance with AML/CFT laws, regulations and guidelines and the FATF's standards.

FATF Recommendations

Recommendation 10 specifies that financial institutions should conduct CDD on legal arrangements and understand their ownership and control structures.

Recommendation 25 deals with transparency and beneficial ownership of legal arrangements, requiring countries to assess the ML/TF risks associated with them and implement mitigating measures and must have measures in place to identify the parties involved in trusts and other legal arrangements.



Part 1: Understanding Nominee Arrangements

Introduction to Key Concepts

FATF Recommendation 24 and its INR mandate countries to implement effective measures against the misuse of nominee shareholding and nominee directors.

While nominee arrangements serve legitimate business purposes and often pose minimal ML/TF risks, they can also be exploited to evade transparency rules, hindering beneficial ownership disclosures and enabling illicit activities through companies and corporate vehicles.



The most prevalent forms of nominee arrangements are nominee directors and nominee shareholders.

FATF DEFINITIONS

- A **Nominator** is an individual (or group of individuals) or legal person who issues instructions (directly or indirectly) to a nominee to act on their behalf in the capacity of a director or a shareholder, also sometimes referred to as a “shadow director” or “silent partner”.



- A **Nominee** is an individual or legal person instructed by another individual or legal person (“the nominator”) to act on their behalf in a certain capacity regarding a legal person.
- A **Nominee Director** (also known as a “resident director”) is an individual or legal entity that routinely exercises the functions of the director in the company on behalf of and subject to the direct or indirect instructions of the nominator. A nominee director is never the beneficial owner of a legal person.
- A **Nominee Shareholder** exercises the associated voting rights according to the instructions of the nominator and/or receives dividends on behalf of the nominator. A nominee shareholder is never the beneficial owner of a legal person based on the shares it holds as a nominee.

Nominee directors and shareholders play a crucial yet contentious role in global corporate frameworks. While legally permissible in many jurisdictions, they introduce significant regulatory challenges that necessitate proactive handling by national authorities and financial institutions.

Look out for the next issue of the AML/CFT/CPF Newsletter, where we will delve into Part 2 of Understanding Nominee Arrangements, exploring the associated risks and mitigation strategies!

Sources:

The FATF Glossary: <https://www.fatf-gafi.org/en/pages/fatf-glossary.html#accordion-a13085a728-item-054eacaffo>

The FATF Recommendations: [The FATF Recommendations \(fatf-gafi.org\)](https://www.fatf-gafi.org/publications/fatfrecommendations/)

The FATF Beneficial Ownership of Legal persons: [Guidance-Beneficial-Ownership-Legal-Persons.pdf](https://www.fatf-gafi.org/publications/beneficialownership/Guidance-Beneficial-Ownership-Legal-Persons.pdf).coredownload.pdf (fatf-gafi.org)



ECCB AML VIRTUAL LEARNING CAMPUS

ACAMS WEBINARS

FOR ENTERPRISE MEMBERS

JULY TO SEPTEMBER 2024

Start Date JULY 12:00PM EDT (DURATION 2 HOUR)	11	Mandatory Masterclass: Conducting EDD on High-Risk Customers and Effect on Risk Acceptance
Start Date JULY 12:00 PM EDT (DURATION 2 HOUR)	31	Mandatory AFC in Practice: A Risk-Based Approach to Banking Nonprofit Organizations
Start Date AUGUST 12:00 PM EDT (DURATION 2 HOUR)	08	Mandatory How to Conduct an Enterprise-Wide Risk Assessment
Bonus Content 24 JULY 2024 12:00 PM EDT		Optional AFC in Practice: How to Use Audit and Assurance to Test Your Compliance Program
Bonus Content 30 JULY 2024 12:00 PM EDT		Optional AFC in Practice: Avoiding Fraud in Virtual Customer Onboarding and Digital KYC
Bonus Content 19 SEPTEMBER 2024 12:00 PM EDT		Optional AFC in Practice: Understanding the Interdependencies of AML and Fraud

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Thank you!

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