

Curacao

RISK & COMPLIANCE REPORT

DATE: January 2017

Executive Summary

Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering assessment Offshore Finance Centre
Medium Risk Areas:	Compliance with FATF 40 + 9 Recommendations Weakness in Government Legislation to combat Money Laundering
Major Investment Areas: Agriculture - products: aloe, sorghum, peanuts, vegetables, tropical fruit Industries: tourism, petroleum refining, petroleum transshipment facilities, light manufacturing Exports - commodities: petroleum products Imports - commodities: crude petroleum, food, manufactures	
Investment Restrictions: Information unavailable	

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Section 1 - Background

Originally settled by Arawak Indians, Curacao was seized by the Dutch in 1634 along with the neighboring island of Bonaire. Once the center of the Caribbean slave trade, Curacao was hard hit economically by the abolition of slavery in 1863. Its prosperity (and that of neighboring Aruba) was restored in the early 20th century with the construction of the Isla Refineria to service the newly discovered Venezuelan oil fields. In 1954, Curacao and several other Dutch Caribbean possessions were reorganized as the Netherlands Antilles, part of the Kingdom of the Netherlands. In referenda in 2005 and 2009, the citizens of Curacao voted to become a self-governing country within the Kingdom of the Netherlands. The change in status became effective in October 2010 with the dissolution of the Netherlands Antilles.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Curacao is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Curacao was undertaken by the Financial Action Task Force (FATF) in 2012. According to that Evaluation, Curacao was deemed Compliant for 8 and Largely Compliant for 17 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 4 of the 6 Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2012):

Curaçao has a relatively small open island economy, with tourism as its main economic pillar. The Island's geographical location, tourism, relative easy logistical accessibility, high mobility of goods and services, pose threats in terms of illegal activities like drug trafficking and money laundering (ML). While the amount of money related to ML is difficult to quantify, most of the ML activities are related to drug trafficking. With regard to terrorist financing (TF), the Curaçao Authorities indicated that Jihad and /or the financing of Jihad related terrorism have not been observed in Curaçao. Although, there has been potential links made to participation of the FARC in drug trafficking via the Island, no concrete activities have been detected.

There are three forms of ML (intentional, culpable and habitual), which are criminalized in the Penal Code. However, the possession of materials or substances in Tables I and II of the Vienna Convention is not criminalized. Offences for preparation and TF do not meet the requirements of the Terrorist Financing Convention. With regard to the operation of the FIU (MOT), Articles 4, 16 and 22 of the NORUT contain provisions that risk interference in the operation of the Unit and the protection of information.

The Central Bank of Curaçao and Sint Maarten is responsible for the regulation and supervision of the financial services sector in Curaçao; due to the nature of their activities, pension funds do not fall within the AML/CFT regime. While the Central Bank has powers of enforcement (i. e. penalties, orders administrative fines and withdrawal of licenses) for non-compliance, it was found that the Central Bank has only issued instructions to financial institutions and so there is insufficient evidence in support of a ladder approach to sanctioning or that the sanctions are effective proportionate and dissuasive. · DNFBPs are supervised by the Central Bank, the FIU (MOT) and the Gaming Control Board (GCB). With

regard to the DNFBP sector, the Evaluation Team found that the threshold for identification requirements for casinos is too high; that there are no legislative requirements for CDD when carrying out occasional transactions under circumstances covered by the Interpretative Note to SR. VI. There is also no legislative requirement for service providers to conduct ongoing due diligence on the business relationship and the NOIS permits full CDD exemption rather than reduced or simplified CDD for low risk situations.

The non-profit sector in Curaçao consists of two types of entities that meet the FATF definition of NPOs: foundations and associations. Although, there is no specific supervisory framework for the NPO sector as defined by the FATF, the monitoring of the non-profit sector in Curaçao occurs in various ways; including registration with the Chamber of Commerce. However, there has been no recent review of this sector with regard to vulnerabilities for FT and there is no supervisory programme in place to ensure the NPO sector's compliance with the AML/CFT legal framework.

In Curaçao, national cooperation and coordination takes place through various mechanisms such as the CIWG and periodic meetings between Customs, Tax Office and the PPO or between the PPO and the FIU (MOT). There is an insufficient amount of officers in the PPO assigned to handle mutual legal assistance requests. With regard to resources, there is a need for additional human resources in both the FIU (MOT) and the BFO.

US Department of State Money Laundering assessment (INCSR)

Curacao was deemed a Jurisdiction of Primary Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Curacao is an autonomous country within the Kingdom of the Netherlands that defers to the Kingdom in matters of defense, foreign affairs, final judicial review, human rights, and good governance. Curacao is considered a regional financial center and, due to its location, it is a transshipment point for drugs from South America bound for the United States, the Caribbean, and Europe. Money laundering is primarily related to proceeds from illegal narcotics. Money laundering organizations take advantage of the availability of U.S. dollars, banking secrecy, offshore banking and incorporation systems, two free trade zones (airport and harbor), an expansive shipping container terminal with the largest oil transshipment center in the Caribbean, and resort/casino complexes to place, layer, and launder illegal proceeds. Money laundering occurs through real estate purchases and international tax shelters. Laundering activity also occurs through wire transfers and cash transport among Curacao, the Netherlands, and other Dutch Caribbean islands and illegal underground banking. Bulk cash smuggling is a continuing problem due to Curacao's close proximity to South America.

Economic activity in the free zones continues to decline. Curacao's active "e-zone" provides e-commerce investors a variety of tax saving opportunities and could be attractive to illegal activities.

The financial sector consists of company (trust) service providers, administrators, and self-administered investment institutions providing trust services and administrative services. These entities have international companies, mutual funds, and investment funds as their clients. Several international financial services companies relocated their businesses elsewhere because Curacao is fighting its perception of being a tax haven. Curacao continues to sign tax information exchange agreements (TIEAs) and double taxation agreements with other jurisdictions to prevent tax fraud, financing of terrorism, and money laundering.

Several casinos and internet gaming companies operate on the island, although the number of internet gaming companies is declining.

Do FINANCIAL INSTITUTIONS engage in currency transactions related to international narcotics trafficking that include significant amounts of U.S. currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.: no

Criminalization of money laundering:

“All serious crimes” approach or “list” approach to predicate crimes: All serious crimes

Are legal persons covered: criminally: YES ***civilly:*** YES

Know-your-customer (KYC) rules:

Enhanced due diligence procedures for PEPs: Foreign: YES ***Domestic:*** YES

KYC covered entities: Onshore and offshore banks, saving banks, money remitters, credit card companies, credit unions, life insurance companies and brokers, trust companies and other service providers, casinos, Customs, lawyers, notaries, accountants, tax advisors, jewelers, car dealers, real estate agents, and administration offices

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 510: January 1 – November 1, 2015

Number of CTRs received and time frame: 7,852: January 1 – November 1, 2015

STR covered entities: Banks, saving banks and building societies, money remitters and exchangers, financial leasing companies, credit associations, credit card companies, credit unions, life insurance companies, insurance brokers, securities broker/dealers, trust and company service providers, casinos, Customs, lawyers, notaries, accountants, tax advisors, auditors, jewelers and dealers in luxury goods, pawn shops, car dealers, real estate agents, administration offices, the Central Bank of Curacao and Sint Maarten, financial advisors, lotteries, online betting lotteries, dealers in precious stones and metals, construction material dealers, superannuation/pension funds, and administrators of investment institutions and self-administered investment institutions and investors

money laundering criminal Prosecutions/convictions:

Prosecutions: 1 in 2014

Convictions: 0 in 2014

Records exchange mechanism:

With U.S.: MLAT: YES Other mechanism: YES

With other governments/jurisdictions: YES

Curacao is a member of the Caribbean Financial Action Task Force (CFATF), a FATF-style regional body.

Enforcement and implementation issues and comments:

Dutch Kingdom government agencies continue to work together to combat organized crime in the Caribbean region. In 2014, local law enforcement authorities, together with their counterparts in the Netherlands, launched a three-year program intended to fight economic and financial crimes. This program has resulted in various seizures and arrests.

In March and November 2015, Curacao passed new legislation that addresses money laundering vulnerabilities in the money remittance and currency exchange sector. Also, the prescriptive list of indicators was removed and replaced by one category of subjective indicators that is flexible enough to allow reporting entities to submit what could be considered a suspicious or unusual transaction. This indicator is: transactions where there is a cause to presume they may be related to money laundering or terrorist financing.

The investigation into money laundering allegations against a now former member of the board of the Curacao Lottery Foundation, who also is a major lottery operator, is ongoing. The Government of Curacao's cooperation with the U.S. government led to the freezing of over \$30 million of the lottery operator's assets in the United States. The lottery operator is reputedly a major financier of a political party in Curacao. Curacao's gambling industry is allegedly intertwined with the mafia. A former prime minister and a current member of parliament are also on trial for alleged money laundering and associated crimes.

Curacao utilizes an "unusual transaction" reporting system. Pursuant to local legislation, the reporting entities file unusual transaction reports (UTRs) with the financial intelligence unit (FIU) and not suspicious transaction reports (STRs), as is the custom in common law legal systems. The FIU analyzes the UTR and determines if it should be classified as a STR. There were 17,169 UTRs filed in 2015, as of November 1. From January 1 - November 1, 2015, there were 667 disseminated referrals to law enforcement agencies. On May 1, 2015, a new head of the FIU was appointed.

A few years ago, Curacao achieved a major result by confiscating funds from a Venezuelan drug trafficker who laundered criminal proceeds via Puerto Rico. As a result, in August 2015, U.S. authorities shared \$873,127.57 with Curacao, based on an asset sharing treaty. To amplify this success Curacao launched the "Confiscation and Asset Recovery Team Curacao."

The mutual legal assistance treaty between the Kingdom of the Netherlands and the United States applies to Curacao. Additionally, Curacao has a TIEA with the United States.

Curacao is part of the Kingdom of the Netherlands and cannot sign or ratify international conventions in its own right. Rather, the Netherlands may arrange for the ratification of any convention to be extended to Curacao. The 1988 Drug Convention was extended to Curacao in 1999. In 2010, the UN Convention against Transnational Organized Crime was extended to Curacao, and the International Convention for the Suppression of the Financing of Terrorism was extended to the Netherlands Antilles, and as successor, to Curacao. The UN Convention against Corruption has not been extended to Curacao.

Curacao should continue its regulation and supervision of the offshore sector and free trade zones, investigate the underground banking phenomenon, and pursue money laundering investigations and prosecutions. The government should work to fully develop its capacity to investigate and prosecute money laundering and terrorism financing cases. Curacao also should continue to strengthen cooperation within the Kingdom, particularly among agencies such as the Public Prosecutors Office, Customs, Immigration, Revenue Services, Coast Guard, and the Royal Dutch Marechaussee (military police).

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Curacao does not conform with regard to the following government legislation: -

States Party to United Nations Transnational Organised Crime Convention - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

States Party to United Nations Convention Against Corruption - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

EU White list of Equivalent Jurisdictions

Curacao is currently on the EU White list of Equivalent Jurisdictions (Qualified)

World Governance indicators

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

Failed States Index

[To view Failed States Index Ctrl + Click here](#)

Offshore Financial Centre

Curacao is considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2016:

The Dutch Caribbean consists of the six entities of the former Netherlands Antilles: Aruba, Curaçao, Sint Maarten, Bonaire, St. Eustatius, and Saba. In 2010, the Netherlands Antilles dissolved as a political unit. Curaçao and Sint Maarten acquired the same “autonomous country” status within the Kingdom of the Netherlands as Aruba, which became an autonomous entity in 1986. The three smallest islands, Bonaire, St. Eustatius and Saba (BES), became part of the country of the Netherlands in a status similar to municipalities.

Aruba, Bonaire, and Curaçao (often referred to as the ABC Islands) are located 30 to 40 miles north of Venezuela and continue to serve as northbound transshipment points for cocaine originating from the Guajira Peninsula in Colombia and from the Maracaibo, Venezuela area. Cocaine is primarily transported via fishing boats and inter-coastal freighters for transshipment to the United States, other Caribbean islands, Africa, and Europe. Sint Maarten, the Dutch half of the island of the same name (the French side is called Saint Martin), is located in the Eastern Caribbean and is a transshipment hub for cocaine, heroin, and marijuana destined for Puerto Rico and the U.S. Virgin Islands as well as Europe.

B. Drug Control Accomplishments, Policies, and Trends

1. Institutional Development

Aruba, Curaçao, and Sint Maarten have a high degree of autonomy over their internal affairs, with the right to exercise independent decision-making in a number of counternarcotics areas. The Kingdom of the Netherlands is responsible for the islands’ defense and foreign affairs, and assists the Governments of Aruba, Curaçao, Sint Maarten, and the BES islands in their efforts to combat narcotics trafficking through its support for the RST (Dutch acronym for “Special Police Task Force”). The RST maintains its headquarters in Curaçao and has its largest presence there.

In 2012, both Curaçao and Sint Maarten adopted the BOP (Dutch acronym for “law on special investigative techniques”), which governs the use of techniques such as electronic surveillance and the infiltration of criminal organizations by the police on those islands. The BOP was already in effect in Aruba. No new counternarcotics programs were initiated in 2015. Although the BOP law has been authorized, local authorities are reluctant to use it to infiltrate criminal organizations because it is relatively new.

The Netherlands extended the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 1961 UN Single Convention on Narcotic Drugs, the UN Convention against Transnational Organized Crime, the 1971 UN Convention on Psychotropic Substances and the 1981 Netherlands-U.S. Mutual Legal Assistance Treaty to the former Netherlands Antilles and Aruba. Additionally, the former Netherlands Antilles and Aruba adopted the Agreement Regarding Mutual Cooperation in the Tracing, Freezing, Seizure and Forfeiture of the Proceeds and Instrumentalities of Crime and the Sharing of Forfeited Assets, which was signed by the Kingdom of the Netherlands in 1994.

Curaçao has vastly improved its effectiveness and efficiency in addressing endemic drug-related crime, violence, and corruption. In January 2015, the Korps Politie Curaçao (KPC)

appointed a new police chief who has greatly enhanced the leadership and stability of the KPC, which in turn has led to successful counter narcotics operations. The KPC has made dramatic strides in aggressively countering the narcotics trade in Curaçao. The local price per kilogram of cocaine has increased due to increased narcotics seizures in Curaçao.

US State Dept Trafficking in Persons Report 2014 (introduction):

Curacao is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Curacao* is a source, transit, and destination country for women, children, and men who are subjected to sex trafficking and forced labor. Police arrested a suspected Colombian trafficker in Curacao in April 2013; authorities indicated the suspect used debt bondage, withheld sex trafficking victims' personal documents, held them against their will, and subjected them to physical and psychological abuse in public establishments in Curacao. It is unclear how the recruitment process works for Curacao's walled, legal brothel that offers "24/7 access to more than 120" foreign women in prostitution. Local authorities believe that migrant workers have been subjected to forced domestic service and forced labor in construction, landscaping, and retail. Some migrants in restaurants and local businesses are vulnerable to debt bondage. Officials reported undocumented Cuban nationals were vulnerable to trafficking in Curacao given their lack of travel documents and inability to work legally in the country. Authorities also reported Indian and Chinese nationals remained vulnerable to forced labor in the country. Foreign trafficking victims originate predominantly from Colombia, the Dominican Republic, Haiti, and Asia. Organizations in Venezuela have also reported assisting trafficking victims who were exploited in Curacao. A 2013 UN Report on Curacao cited a UN Committee recommendation to strengthen its efforts to address child sexual exploitation and trafficking.

The Government of Curacao does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the year, the government initiated new trafficking investigations, continued to investigate a high-profile sex trafficking case involving a police officer, and established a multi-disciplinary anti-trafficking taskforce. However, it did not identify any trafficking victims nor convict any traffickers in 2013. The lack of standard operating procedures on victim identification for all front-line responders, including immigration officers and health workers, hindered the government's ability to identify trafficking victims and increased the risk of victims' inadvertent arrest and deportation.

International Sanctions

None Applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	77

Section 3 - Economy

Tourism, petroleum refining, offshore finance, and trade and transport are the mainstays of this small economy, which is closely tied to the outside world. Although GDP grew slightly during the past decade, the island enjoys a high per capita income and a well-developed infrastructure compared with other countries in the region. Curacao has an excellent natural harbor that can accommodate large oil tankers. Venezuelan state oil company PdVSA, under a contract in effect until 2019, leases the single refinery on the island from the government, employing some 1,500 people; most of the oil for the refinery is imported from Venezuela; most of the refined products are exported to the US. Almost all consumer and capital goods are imported, with the US, Brazil, Italy, and Mexico being the major suppliers. The government is attempting to diversify its industry and trade and has signed an Association Agreement with the EU to expand business there. Most of Curacao's GDP results from services. Curacao has limited natural resources, poor soils, and inadequate water supplies, and budgetary problems complicate reform of the health and education systems. In 2013 the government implemented changes to the sales tax and reformed the public pension and health care systems, including increasing the sales tax from 5% to as high as 9% on some products, raising the age for public pension withdrawals to 65, and requiring citizens to pay higher premiums.

Agriculture - products:

aloe, sorghum, peanuts, vegetables, tropical fruit

Industries:

tourism, petroleum refining, petroleum transshipment facilities, light manufacturing

Exports - commodities:

petroleum products

Imports - commodities:

crude petroleum, food, manufactures

Section 4 - Government

Executive Branch

elections: the monarch is hereditary; governor general appointed by the monarch; following legislative elections, the leader of the majority party is usually elected prime minister by the parliament; next election is scheduled for 2016

Legal system:

based on Dutch civil law system with some English common law influence

Section 5 - Tax

Exchange control

For further information - <http://www.centralbank.an/>

Treaty and non-treaty withholding tax rates

Curaçao has signed **26 agreements** (4 DTC and **22 TIEA** agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Antigua and Barbuda	TIEA	29 Oct 2009	not yet in force	Yes	Yes	
Aruba	DTC	28 Oct 1964	1 Jan 1965	Yes	No	
Australia	TIEA	1 Mar 2007	4 Apr 2008	Yes	Yes	
Bermuda	TIEA	28 Sep 2009	not yet in force	Yes	Yes	
Canada	TIEA	29 Aug 2009	1 Jan 2011	Yes	Yes	
Cayman Islands	TIEA	29 Oct 2009	not yet in force	Yes	Yes	
Colombia	TIEA	4 Feb 2013	not yet in force	Unreviewed	Yes	
Denmark	TIEA	10 Sep 2009	1 Jun 2011	Yes	Yes	
Faroe Islands	TIEA	10 Sep 2009	7 Jul 2011	Unreviewed	Yes	
Finland	TIEA	10 Sep 2009	1 Jun 2011	Yes	Yes	
France	TIEA	10 Sep 2010	1 Aug 2012	Yes	Yes	
Greenland	TIEA	10 Sep 2009	1 May 2012	Unreviewed	Yes	
Iceland	TIEA	10 Sep 2009	1 Jan 2012	Yes	Yes	
Mexico	TIEA	1 Sep 2009	4 Feb 2011	Yes	Yes	
Netherlands	DTC	28 Oct 1964	1 Jan 1965	Yes	No	
New Zealand	TIEA	1 Mar 2007	2 Oct 2008	Yes	Yes	
Norway	DTC	13 Nov 1989	17 Dec 1990	Yes	Yes	
Saint Kitts and Nevis	TIEA	11 Sep 2009	not yet in force	Yes	Yes	
Saint Lucia	TIEA	29 Oct 2009	not yet in force	Yes	Yes	
Saint Vincent and the Grenadines	TIEA	28 Sep 2009	21 Mar 2011	Yes	Yes	
Sint Maarten	DTC	28 Oct 1964	1 Jan 1965	Yes	No	
Spain	TIEA	10 Jun 2008	27 Jan 2010	Yes	Yes	
Sweden	TIEA	10 Sep 2009	20 Apr 2011	Yes	Yes	
United Kingdom	TIEA	10 Sep 2010	not yet in force	Yes	Yes	
United States	TIEA	17 Apr 2002	22 Mar 2007	Yes	Yes	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
Virgin Islands, British	TIEA	11 Sep 2009	not yet in force	Yes	Yes 

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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