

# Curacao

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RISK & COMPLIANCE REPORT

DATE: March 2017

## Executive Summary

<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	US Dept of State Money Laundering assessment Offshore Finance Centre
<b>Medium Risk Areas:</b>	Compliance with FATF 40 + 9 Recommendations Weakness in Government Legislation to combat Money Laundering
<b>Major Investment Areas:</b>  <b>Agriculture - products:</b> aloe, sorghum, peanuts, vegetables, tropical fruit  <b>Industries:</b> tourism, petroleum refining, petroleum transshipment facilities, light manufacturing  <b>Exports - commodities:</b> petroleum products  <b>Imports - commodities:</b> crude petroleum, food, manufactures	
<b>Investment Restrictions:</b> 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 is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

### OVERVIEW

Curacao is an autonomous country within the Kingdom of the Netherlands. The Kingdom retains responsibility for foreign policy and defense, including entering into international conventions. The Kingdom may extend international conventions to the autonomous countries. With the Kingdom's agreement, each autonomous country can be assigned a status of its own within international or regional organizations subject to the organization's agreement. The individual countries may conclude MOUs in areas in which they have autonomy, as long as these MOUs do not infringe on the foreign policy of the Kingdom as a whole. The Kingdom extended the UN Drug Convention to Curacao in 1999, and in 2010, the UNTOC was extended to Curacao.

In June 2016, Aruba, Sint Maarten, the Netherlands, and Curacao signed an MOU with the United States for joint activities and sharing of information in the areas of criminal investigation and upholding public order and to strengthen mutual cooperation in the areas of forensics and the organization of the criminal justice system. While the MOU is a broad-based attempt to improve all of the criminal justice system, one priority area is cracking down on money laundering operations.

### VULNERABILITIES AND EXPECTED TYPOLOGIES

Curacao is a regional financial center and, due to its location, a transshipment point for drugs from South America. 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.

Money laundering is primarily related to proceeds from illegal narcotics. Money laundering organizations take advantage of the availability of U.S. dollars, offshore banking and incorporation systems, two FTZs, 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, international tax shelters, wire transfers, and cash transport among Curacao, the Netherlands, and other Dutch Caribbean islands. Also, bulk cash smuggling is a continuing problem due to Curacao's close proximity to South America.

### **KEY AML LAWS AND REGULATIONS**

Curacao enters into tax information exchange agreements (TIEAs) and double taxation agreements with other jurisdictions to prevent tax fraud and money laundering.

The following types of service providers are obligated by AML legislation to report unusual transaction reports (UTRs) to the FIU, and are covered by the KYC laws: accountants and accounting firms, auditors and auditing firms, auto/car dealers, credit unions, credit card companies, building societies, insurance companies, financial leasing companies, money remitters, real estate agents, securities broker/dealers, banks, casinos, credit associations, dealers in luxury goods, financial advisors, lotteries, money exchangers (only domestic banks are permitted to provide the service of exchanging foreign currencies), notaries, pawn shops, dealers in precious stones and metals, lawyers, superannuation/pension funds, online betting lotteries, construction material dealers, and trust companies.

The MLAT between the Kingdom of the Netherlands and the United States, rather than the U.S. - EU Agreement, which has not yet been extended to the Kingdom's Caribbean countries, applies to Curacao and is regularly used by U.S. and Curacao law enforcement agencies for international drug trafficking and money laundering investigations. Additionally, Curacao has a TIEA agreement signed with the United States.

Curacao is a member of the CFATF, a FATF-style regional body and, through the Kingdom, the FATF.

### **AML DEFICIENCIES**

Curacao is currently drafting a supervisory law for internet gaming. Presently, internet casinos are subject to the AML obligations in the National Ordinance on Identification of Clients when Rendering Services and the amended National Ordinance on the Reporting of Unusual Transactions.

Curacao should conduct an AML national risk assessment. It also should strengthen its regulation and supervision of the offshore sector and FTZs, investigate underground

banking networks, increase the number of money laundering investigations and prosecutions, and evaluate the risks posed by TBML, tax evasion, and the placement of illicit proceeds by corrupt foreign officials into its financial system.

## **ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS**

Instead of a STR system, Curacao utilizes a broader UTR reporting system. Pursuant to local legislation, the reporting entities file UTRs with the FIU. The FIU analyzes the UTR and determines if it should be classified as a STR. The latest statistics, as of November 1, 2015, were 17,169 UTRs filed and 667 disseminated referrals to law enforcement agencies.

Curacao is carrying out three money laundering prosecutions: one against a lottery operator, and two against former government officials. All three are on appeal.

### **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 2017:**

The Dutch Caribbean consists of the six entities of the former Netherlands Antilles: Aruba, Curacao, 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, became part of the country of the Netherlands.

Aruba and Curacao are located 30 to 40 miles north of Venezuela and continue to serve as northbound transshipment points for cocaine originating from Colombia and Venezuela. 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.

Curacao has improved its effectiveness and efficiency in addressing endemic drug-related crime, violence, and corruption. In 2015, the Korps Politie Curaçao (KPC) appointed a police chief who has enhanced the leadership and stability of the KPC, which in turn has led to successful counternarcotics operations, including a 300 kg seizure of cocaine at the island’s international airport in October. During the first 10 months of 2016, authorities seized 963 kg cocaine and 613 kg of marijuana. Working closely with the U.S. Drug Enforcement Administration, local police arrested a Dutch national U.S. military contractor at the U.S. Forward Operating Location in Curacao for drug trafficking on November 16.

Six years after the dissolution of the Netherlands Antilles, Curaçao and Sint Maarten are still establishing counternarcotics organizational structures among their various agencies. It is imperative that both islands embrace regional cooperation and intelligence sharing efforts. Both Curaçao and Sint Maarten can look to Aruba as an example of how this is accomplished. The memorandum of understanding signed in 2016 to promote enhanced law enforcement cooperation is a positive step in the right direction.

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