

**St. Vincent and the Grenadines: Detailed Assessment Report on Anti-Money
Laundering and Combating the Financing of Terrorism**

This Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism for St. Vincent and the Grenadines was prepared by a staff team of the International Monetary Fund using the assessment methodology adopted by the Financial Action Task Force in February 2004 and endorsed by the Executive Board of the IMF in March 2004. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the Government of St. Vincent and the Grenadines or the Executive Board of the IMF.

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SAINT VINCENT AND THE GRENADINES

DETAILED ASSESSMENT REPORT ON ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

JUNE 2010

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ACRONYMS

AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
AG	Attorney General
BL	Banking Law
BCP	Basel Core Principles
CC	Criminal Code
CDD	Customer Due Diligence
CFATF	Caribbean Financial Action Task Force
CFT	Combating the Financing of Terrorism
CPC	Criminal Procedure Code
CSP	Company Service Provider
CTR	Currency Transaction Report
DNFBP	Designated Non-Financial Businesses and Professions
DTOA	Drug Trafficking Offenses Act
DPP	Director of Public Prosecutions
ECCB	Eastern Caribbean Central Bank
ECCU	Eastern Caribbean Currency Union
FATF	Financial Action Task Force
FIs	Financial Institutions
FIU	Financial Intelligence Unit
FSAP	Financial Sector Assessment Program
FSRB	FATF-style Regional Body
FT	Financing of Terrorism
IAIS	International Association of Insurance Supervisors
IBC	International Business Company
IFSA	International Financial Services Authority
ITR	International Trust
KYC	Know Your Customer/client
LEG	Legal Department of the IMF
MEF	Ministry of Economy and Finance
MFA	Ministry of Foreign Affairs
MOU	Memorandum of Understanding
ML	Money Laundering
MLA	Mutual Legal assistance
NAMLC	National Anti-Money Laundering Committee
NPO	Nonprofit Organization
PEP	Politically-Exposed Person
POCA	Proceeds of Crime and Money Laundering (Prevention) Act
RA	Registered Agent
ROSC	Report on Observance of Standards and Codes
RSVGPF	Royal Saint Vincent and the Grenadines Police Force

SAR	Suspicious Activity Report
SFT	Suppression of the Financing of Terrorism
SRD	Supervisory and Regulatory Division
SRO	Self-regulatory Organization
STR	Suspicious Transaction Report
SVG	Saint Vincent and the Grenadines
UN	United Nations
UNATMA	United Nations (Anti-Terrorism Measures) Act
UNSCR	United Nations Security Council Resolution

PREFACE

This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Saint Vincent and the Grenadines (SVG) is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT assessment Methodology 2004, as updated in 2008. The assessment team considered all the materials supplied by the authorities, information obtained onsite during their mission from February 23 through March 10, 2009, and other verifiable information subsequently provided by the authorities. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex II to the detailed assessment report.

The assessment was conducted by a team of assessors composed of two staff of the International Monetary Fund (IMF) and two expert acting under the supervision of the IMF: Manuel G. Vasquez (LEG staff, team leader and financial sector assessor); Moni Sengupta (LEG staff and law enforcement/FIU assessor); Ross Delston (legal expert under LEG supervision) and John Abbott (DNFBP¹ expert under LEG supervision). The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions (FIs) and DNFBPs. The assessors also examined the capacity, implementation, and effectiveness of all these systems.

This report provides a summary of the AML/CFT measures in place in SVG at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out SVG levels of compliance with the FATF 40+9 Recommendations (see Table 1) and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). The report will be presented to and endorsed by the CFATF for purposes of their mutual evaluation program at its plenary meeting in May 2010.²

The assessors would like to express their gratitude to the SVG authorities for cooperation, assistance and hospitality throughout the assessment mission.

¹ DNFBP.

² The report was originally scheduled for presentation at the CFATF's plenary and ministerial meeting in October 2009, but the SVG authorities were unable to properly comment on the revised report within the allowable time for circulation of the report.

EXECUTIVE SUMMARY

Key Findings

1. Saint Vincent and the Grenadines (SVG), as is the case with other countries in the Caribbean, is exposed to money laundering (ML) and financing of terrorism (FT) risk related to drug trafficking and international criminal groups. It is also exposed to international ML/FT risk associated with its relatively small international (offshore) financial sectors. SVG is aware of these risks and has expressed strong commitment to identifying and prosecuting drug trafficking offenses and money laundering. It is not aware of any FT activities being conducted in SVG. There have been four convictions for ML (with two pending cases) and five prosecutions in the last five years (2004–2008). The number and level of prosecutions as well as property confiscations and forfeitures appear to be relatively low.
2. To help address these risks, SVG has enacted legislation that includes, inter alia, the DTOA, the Proceeds of Crime and Money Laundering (Prevention) Act (POCA) and its Regulations, the Financial Intelligence Unit Act (FIU Act), and the United Nations (Anti-Terrorism Measures) Act (UNATMA). However, SVG could benefit from a formal and broad-based national policy and strategy to combat ML and FT across all sectors, including international financial services. A country review of the main ML/FT threats and vulnerabilities would support the formulation of such strategy, action plan, and the effective use of resources.
3. Local legislation conforms to most but not all of the provisions of the Vienna and Palermo Conventions. In addition, the ML laws do not cover some of the categories of predicate offenses called for by the international standard, and the provisions with respect to the definition of “property” and self-laundering should be strengthened. The definition of ‘terrorist act’ in the UNATMA does not cover acts required by two of the applicable UN Conventions. Finally, there is significant scope for enhancing implementation of the AML/CFT legislation in order to increase the number of ML prosecutions, convictions and confiscations.
4. Interagency cooperation and coordination arrangements are informal but generally effective. There is a National Anti-Money Laundering Committee (NAMLC) which provides a forum for the exchange of information and coordination. Its members are key stakeholders in national AML/CFT efforts including the financial sector regulators, the financial intelligence unit (FIU) and the various law enforcement agencies. Interagency cooperation could be better supported by more formal arrangements e.g. between the DPP and the FIU with respect to investigations and prosecutions.
5. The preventive measures regime covers most of the financial and DNFBP sectors as required under the FATF Recommendations. However, the POCA and its Regulations have not kept pace with revisions in the FATF standard and should be updated. There are no other enforceable means (OEM) for ensuring compliance with these requirements and the authorities

should consider making the non-mandatory Guidance Notes or parts thereof enforceable. A key challenge will be to more fully implement the legislation across all sectors, particularly in the domestic non-banking sectors (e.g. the building societies, credit unions, insurance companies and intermediaries, and money remittance), and in the international financial services sectors. This may entail strengthening the staffing and resource capacity of the International Financial Services Authority (IFSA) and the Supervisory and Regulatory Division (SRD) of the Ministry of Finance. Compliance with the AML/CFT legal requirements has not been vigorously enforced by the financial sector supervisors and their supervisory programs could benefit from the application of more risk-based AML/CFT supervisory procedures.

6. The SVG authorities have cooperated with their international counterparts in the area of ML and are willing and able to cooperate in matters relating to both ML and FT.

Legal Systems and Related Institutional Measures

7. **ML has been criminalized and the legislation is largely in conformity with the Vienna and Palermo Conventions.** However, certain offenses and the definition of ‘property’ in POCA are not consistent with the relevant articles of these conventions. Self-laundering by way of simple possession of proceeds is not criminalized. Racketeering, human trafficking and migrant smuggling are not predicate offenses for ML. Moreover, implementation appears to be weak as suggested by the low number of criminal prosecutions and convictions for ML and related predicate crimes.

8. **The financing of terrorism has also been criminalized and is largely in conformity with the Suppression of the Financing of Terrorism (SFT) Convention.** However, the Convention on the Physical Protection of Nuclear Material (1980) and the International Convention for the Suppression of Terrorist Bombings (1997) are not included in the list of conventions under the UNATMA for purposes of the definition of ‘terrorist act.’ In addition, certain offenses in the UNATMA apply only to terrorist groups and not to individual terrorists. There is no legislation to implement the relevant United Nations Security Council resolutions (UNSCRs), including but not limited to UNSCRs 1267, 1373 and 1455, that require member states to freeze, seize and confiscate the assets of designated terrorists and terrorist organizations.

9. **While it is not possible to reach a definitive conclusion, the overall numbers of prosecutions, convictions, confiscations and forfeitures of property in the last five years appear to be low given the extent of drug trafficking believed to be taking place in or through SVG.** In addition, the available statistics do not reflect the potential for ML and FT associated with the international financial (offshore) services sectors.

10. **The FIU is well established and operational, with sufficient legal authority and a highly motivated and professional staff.** It is the primary AML/CFT institution in SVG, and is constituted as a hybrid administrative/law enforcement FIU reporting to the Minister of Finance. In addition to its core functions of receiving, analyzing and disseminating STRs, the FIU also has

taken on additional tasks, in particular, engaging in financial intelligence, investigation and prosecutorial activities. (The prosecutorial activities are carried out in coordination with the DPP.) The FIU Act provides it with sufficient legal authority for most financial intelligence functions but does not specify the requisite authority to access relevant information from other governmental bodies for intelligence purposes. Police and customs officers assigned to the FIU, however, retain their individual authority to access information under their respective police and customs legislation. The FIU consistently analyzes all suspicious activity reports (SARs) received but its effectiveness in terms of generating financial intelligence for further domestic investigation and prosecution for ML offenses is could be improved. Its composition as a multi-disciplinary FIU allows for efficient case management and information flow but this may be at the expense of its core financial intelligence function due to limited human resources. Nearly all of the ML investigations conducted and related production orders issued to-date have been based on pro-active investigations by the FIU and not prompted by SARs.

11. Designated law enforcement authorities are available to support the FIU's AML/CFT investigations and prosecutions. As a hybrid administrative/law enforcement FIU, it has specialized staff that carry out the ML/FT investigative, law enforcement and prosecutorial functions. Its staff includes lawyers, seconded police, and customs officers, and other support staff. FIU staff are adequately trained and versed in their areas of expertise. No significant weakness was observed in this arrangement.

12. There is good cooperation between the FIU, law enforcement authorities and the Attorney General (AG). The FIU staff conducts joint operations and investigations with the police and customs authorities, and regularly applies to the court for production orders in coordination with the DPP. This has helped to develop prosecutions of ML cases. Cooperation arrangements could nonetheless be enhanced through a more formal framework between the FIU and domestic law enforcement authorities. The AML/CFT expertise within the police and customs force could also be enhanced, and all agencies involved in AML/CFT could benefit from more advanced training especially for complex ML and FT cases. Both the DPP and the AG's office are under-resourced to conduct complex ML prosecutions especially those with international dimensions. This may partly explain why some ML investigations are diverted to other jurisdictions.

13. The legal and institutional framework regarding the cross-border transportation of cash and bearer instruments is largely in place. However, the Customs Department has an administrative procedure in place for dealing with cash couriers that could limit enforcement action against such couriers. This procedure is not being used and its potential drawbacks are mitigated by informal cooperation arrangements with the FIU. There is also insufficient coordination with the DPP on such matters. In addition, administrative and criminal fines in the customs laws are not sufficiently proportionate and dissuasive.

Preventive Measures—Financial Institutions

14. **SVG has implemented an AML/CFT legal and regulatory framework for FIs, supplemented by non-mandatory Guidance Notes that partly meet with the FATF requirements.** The POCA (2001) was amended in 2002 and in 2005, but the POCA Regulations (Regulations) have remained practically unchanged since they were issued in 2002. They have not been updated to more fully comply with the revised FATF standard. In addition, key provisions of the Guidance Notes, which could help meet the FATF requirements, are not mandatory or enforceable. Making them enforceable or including some of their provisions in the POCA Regulations may achieve this goal.

15. **The regulatory framework does not explicitly cover CFT issues and does not extend the customer due diligence (CDD) requirements beyond customer identification and verification.** The CDD provisions in the Guidance Notes are generally broad but, as noted above, they are not enforceable. The AML/CFT requirements could be strengthened with the addition of key provisions for, inter alia, the establishment of formal AML/CFT policies, CDD for beneficial owners and controllers of legal entities and arrangements, and record keeping. In addition, the POCA (Schedule 1) and Regulations do not explicitly cover mutual fund and life insurance sector intermediaries and should, for the avoidance of doubt, list all FIs specifically covered by SVG financial legislation. More strict enforcement of compliance by supervisors is required to ensure more effective implementation of the existing CDD requirements. The regulations should include enhanced requirements for ML/FT risk management and controls especially with respect to higher risk customers or relationships e.g. companies that issue bearer shares, politically exposed persons (PEPs), non-residents, and correspondent banking relationships.

16. **Recordkeeping in the domestic financial sector appears to be generally adequate but the regulatory requirements and practice do not facilitate effective ongoing supervision of FIs operating in the international financial services sectors.** These FIs are generally allowed to keep records outside of SVG although the IFSA (IFSA—the primary supervisor for such entities) has the legal authority to request and access information or copies of records. In cases where FIs are allowed to rely on third parties for carrying out CDD, the Regulations do not require FIs to immediately obtain the relevant CDD information from such third parties. This limits the ability of the supervisory authorities, auditors, and compliance officers to more efficiently and effectively monitor compliance with the CDD and other AML/CFT requirements, particularly where the underlying customer records are kept outside of the jurisdiction. It may also limit the ability of the FIU and law enforcement agencies to efficiently access such information.

17. **Arrangements for the reporting of suspicious transactions are generally well developed and the FIU has been receiving reports from FIs.** There is a need to upgrade the regulatory requirements to monitor and document, complex, large and unusual transactions to provide a stronger basis for identifying and reporting suspicious transactions. Implementation of

the suspicious transaction reporting regime varies significantly across sectors, with apparent under-reporting by offshore FIs sectors and the domestic non-banking sectors. The vast majority of SARs filed relate to cash transactions.

18. AML/CFT compliance supervision is still evolving and more effective implementation is required particularly with respect to the non-banking sectors. IFSA is the supervisor for international services businesses, including some DNFBPs, while the ECCB and the SRD of the Ministry of Finance are responsible for domestic banks and non-banking FIs, respectively. The scope and frequency of onsite inspections for all FIs could be strengthened including through the adoption of a more risk-based approach. Compliance supervision of domestic banks has been sporadic, and the framework and procedures for AML/CFT supervision of insurance companies and intermediaries, credit unions, and money remitters are still being developed. Implementation of AML/CFT supervision, particularly onsite inspections, has only recently commenced for the domestic non-banking sectors, and the legal and supervisory framework for a systemically important building society is still being developed. There are a couple of lending entities that appear to fall under the POCA and its Regulations but which are not subject to authorization and supervision. After the mission, they were reviewed by the authorities for significance and “fit and proper” purposes. At the time of the mission, staff resources of IFSA and the newly established SRD were very limited given the number of entities under their jurisdiction but post mission the authorities informed that steps were being taken to strengthen staff at the IFSA.

19. Effective ongoing supervision is hindered by minimal physical presence/mind and management of some FIs operating in the international financial services sector. While all offshore banks have local offices, the mission found that a small number have only nominal mind and management in SVG. Supervision of FIs that conduct and manage the core of their business operations from overseas is not complemented by e.g. the use of independent auditors and/or consultants acting on behalf of the supervisor. Monitoring of the fit and proper requirements for owners and controllers of offshore FIs does not appear to be a routine supervisory activity and should be strengthened including the transparency of ownership structures. Enforcement of AML/CFT compliance is relatively weak and there should be additional enforcement powers in the AML/CFT and/or financial laws to apply a range of administrative sanctions.

20. There are no regulatory requirements for including full originator information for wire transfers in accordance with FATF Special Recommendations SR.VII. Nevertheless, as a matter of normal business practice some FIs appear to comply with most of the originator information requirements of FATF Special Recommendations SR.VII because of international standardized procedures for cross-border wire transfers.

21. Money service businesses are required to be licensed and are subject to the preventive measures obligations of the POCA and Regulations. Supervision for compliance of stand-alone money service businesses is the responsibility of the SRD-Ministry of Finance,

including for AML/CFT. Licensing procedures, including regulatory requirements for AML/CFT controls, are in place but at the time of the assessment, the Ministry was only beginning to develop AML/CFT compliance monitoring procedures. Four firms have been licensed as money transmitters and are involved primarily in servicing inward flows of worker remittances. Money transmitters process a large volume of one-off cash transactions and have implemented systems for identifying and reporting suspicious activities. They have filed the highest number of STRs to the FIU.

Preventive Measures—Designated Non-Financial Businesses and Professions

22. **SVG has extended the preventive measures obligations of the POCA and Regulations to DNFBPs.** The covered sectors are: casinos, lawyers, notaries, accountants, company and trust services providers (RAs and trustees), real estate agents, and jewelers. The obligations also apply to lottery agents and car dealers. For the DNFBPs, the main ML/FT risk exposure appears to be related to cross-border transactions conducted through the international financial services sector, or connected with real estate transactions in the tourism sector. SVG has an active trust and company services sector focused primarily on formation and management of international business corporations (IBCs), and trust administration. They are required to be licensed by the IFSA. Tourism-related real estate transactions are also significant. Cash transactions in high value goods (jewelry, cars) are relatively small scale and domestically oriented. The casino sector is small (two facilities) but poorly regulated.

23. **The preventive measures requirements for DNFBPs are broadly similar to those for FIs but supervision of compliance with their AML/CFT obligations is uneven and underdeveloped.** RAs and trustees are supervised by IFSA as part of its oversight of the international financial services sector. Supervision of RAs has focused primarily on licensing requirements but more recently IFSA has enhanced its on-site and off-site monitoring of compliance with the AML/CFT requirements.

24. **No agency has been assigned supervisory responsibility for monitoring of and enforcing compliance by the other DNFBPs.** Nonetheless, the FIU plays an active role in promoting AML/CFT compliance by DNFBPs, as it does for other FIs. The FIU has statutory responsibility for raising awareness of AML/CFT issues across the regulated sectors and under this authority it engages in a regular program of outreach and training for DNFBPs, especially for those that are not subject to formal regulation. Despite the absence of formal supervision, these DNFBPs generally appeared to be familiar with their obligations. Formal AML/CFT oversight is needed to ensure that all DNFBPs are effectively implementing, on a risk-sensitive basis, the measures required by POCA and the Regulations, as well as the applicable FATF Recommendations. While the casino sector is very small, its vulnerability to ML has not been evaluated and its regulatory framework is not well established.

Legal Persons and Arrangements & Non-Profit Organizations

25. **With respect to international business companies (IBCs), SVG's legal framework requires RAs to obtain information about beneficial ownership of legal persons, to make that information available to IFSA, and to immobilize bearer shares.** In addition, IFSA has begun the process of implementing these requirements through onsite inspections and is developing procedures. However, in practice, there are a number of significant concerns that diminish IFSA's ability to ensure transparency of legal persons. In particular, bearer shares are not properly immobilized and onsite inspection procedures of IFSA have not been sufficient to ensure that adequate, accurate and complete information about beneficial owners is being collected and maintained by RAs. For local companies, the Companies Registrar does not have legal authority to ensure that adequate, accurate and complete information about beneficial owners is available to them or to law enforcement authorities. There is also no restriction or control on the use of nominee shareholders and directors in the Companies Act nor is it possible for the Companies Registrar to determine if nominees are being used. For both IBCs and local companies, relevant laws do not provide competent authorities with adequate powers to ensure that requisite information on beneficial owners is being maintained and disclosed.

26. **With respect to legal arrangements, the legal and institutional framework is minimal for ITRs, and there is no legal or institutional framework in place for domestic trusts.** With respect to ITRs, there are no laws, regulations or other enforceable means that require registered trustees to identify the beneficial owners/beneficiaries of trusts.

27. **Charities are subject to the preventive measures obligations of the POCA and the associated regulations but are not subject to oversight for compliance.** To be eligible for tax preferences, non-profit organizations (NPOs) are required to be incorporated under the Companies Act, including satisfying basic governance and reporting requirements. The Act does not have a specific FT orientation. Drawing on companies' registration information, the FIU has undertaken responsibility for evaluating the structure and activities of NPOs to monitor the vulnerability of the sector to ML and FT risks, and to promote AML/CFT awareness and compliance. The bulk of NPOs in SVG are believed to be small, involving raising and disbursing of local funds for social, cultural, religious, or charitable purposes. However, a few NPOs receive significant funding from overseas to support various forms of education, training, and welfare assistance. These larger NPOs have been the primary focus of the FIU's attention. No specific ML or FT concerns have been identified.

National and International Co-operation

28. **SVG has significantly enhanced its framework for national cooperation since the last assessment.** The repeal of the Exchange of Information Act 2002 eliminated the previous, prohibitive provisions on financial information. The principal legal provisions for national cooperation and coordination are contained in the Exchange of Information Act 2008 (EIA) and in the FIU Act. National cooperation has been further enhanced by the signing of MOUs among