



**HM Government  
of Gibraltar**

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**Minister for Justice  
The Hon. Gilbert Licudi QC MP**

**Minister with Responsibility  
for Financial Services  
The Hon. Albert Isola MP**

## **National Risk Assessment**

An Analysis of Theoretical Threats, Vulnerabilities and Risks in a Money Laundering and Terrorist Financing Context – as per the Financial Action Task Force best practice guidelines to all member countries / associated countries and territories.

April 2016



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## Introduction

This paper is a follow up of HM Government's Paper "Gibraltar's National AML/CFT Risk Assessment Methodology Paper" of February 2014 which outlined the process that was to be followed to establish the National Risk Assessment. The process is led by both the Minister for Justice and the Minister for Financial Services as both portfolios have a vested interest in the Assessment and the mitigation of the outcomes.

Both public and private sector input was sought from the commencement in order to identify as broad a range of threats and vulnerabilities as possible both from an enforcement angle as well as a customer facing and transactional perspective. A series of workshops and presentations were held in which the following parties were represented;

### **Public Sector**

Office of Criminal Prosecutions and Litigation  
Office of Parliamentary Council  
Finance Centre Director  
Financial Services Commission  
Gaming Commissioner  
Gibraltar Criminal Intelligence Department  
Gibraltar Financial Intelligence Unit  
Gibraltar Regulatory Authority  
HM Customs  
Royal Gibraltar Police

### **Private Sector**

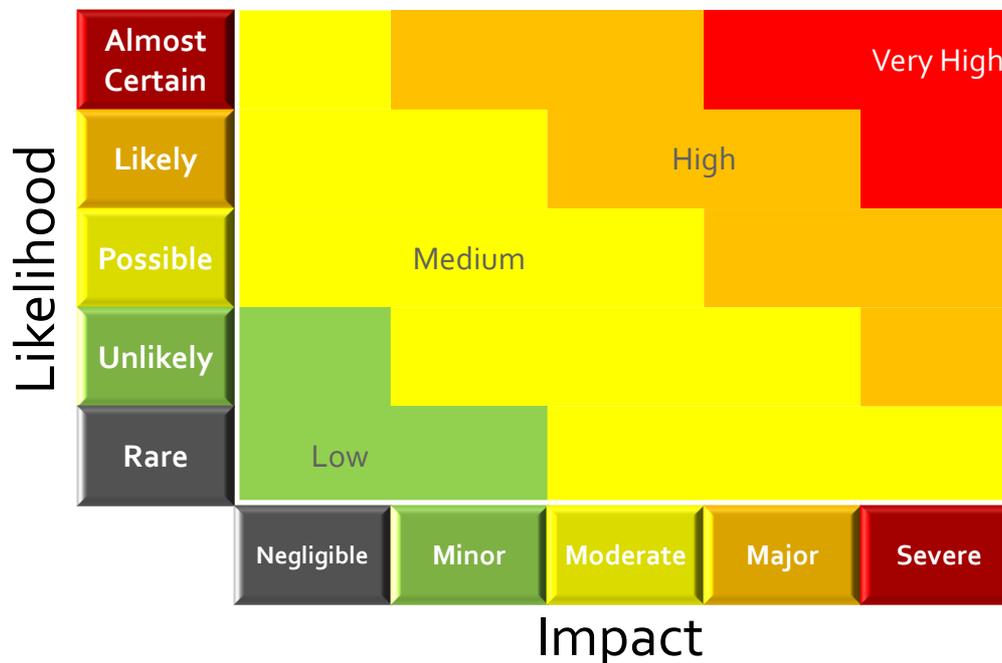
Association of Trust and Company Managers  
Gibraltar Association of Compliance Officers  
Gibraltar Bankers Association  
Gibraltar Betting and Gaming Association  
Gibraltar Chamber of Commerce  
Gibraltar Federation of Small Businesses  
Gibraltar Society of Accountants

HM Government of Gibraltar appointed a project co-ordinator to design and oversee the implementation of the methodology.



## Measuring the risk

The methodology paper made it clear that both Impact and Likelihood would be the two factors that would be taken into consideration to determine the importance of any given risk. The methodology also predetermined the risk tolerance of the Risk Assessment through the use of the following Risk Heat Map;



And the consequent action depending on where any given risk ranked on this heat map;

Very High	Action should be required now
High	Action should be initiated as soon as possible. Monitor for any change.
Medium	Action should be initiated after VH/H level risks addressed. Monitor for any change.
Low	Level of Impact is considered acceptable. Action should be initiated after higher-level risks addressed. Monitor for any change.



## Impact Scoring

For the purposes of this assessment the following Impact criteria was used in evaluating the seriousness of an operation exploiting such a vulnerability;

	Criteria Used
Severe	>£750,000
Major	£250,000-£750,000
Moderate	£50,000-£250,000
Minor	£10,000-£50,000
Negligible	<£10,000

However, when considering the impact score of terrorist financing a different criteria was used;

Severe	Loss of life Long term damage to the economy
Major	Injuries and damage to property Loss of business and effect on economy
Moderate	Damage to property only Hatred Campaign
Minor	Threats to conduct the above
Negligible	All terrorist threats were considered important



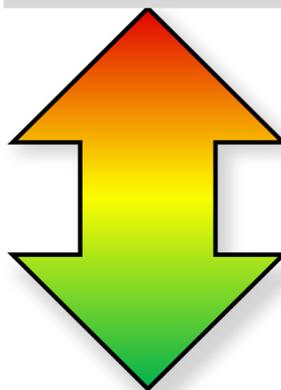
## Likelihood Scoring

When considering Likelihood scoring the following assessment criteria was used;

LAUNDERING OCCURRING IN  
A SINGLE TRANSACTION  
EXPLOITING A THREAT &/OR  
VULNERABILITY

TERRORISM BEING FINANCED  
EXPLOITING A THREAT &/OR  
VULNERABILITY

More than once a day  
Daily  
Weekly  
Fortnightly  
Monthly  
Quarterly  
Annually  
Less Frequently Than  
annually





# Risk Assessment

NOTE: The order in which the risks appear are in relation to the Heat Map shown in the Appendix.

## Very High

Risks which require urgent action

There are no risks falling in this category

## High

Risks which require action to be initiated as soon as possible and monitoring for changes

### Risk Title

Tax Planning Structures and Transactions

#### Primary risk event

That by the misuse of tax planning, structures and shielding the real purpose of any structure, evasion may take place or it is used to conceal actual proceeds of crime.

#### Contributing risk events

Professionals providing tax planning services as part of their normal business services.

#### Threats or vulnerabilities that increase the likelihood of occurrence

Abuse of corporate and legal structures, abuse of nominee shareholdings, corporate directors and banking facilities for the same.

However, tax evasion is a serious criminal offence and a predicate offence for the purposes of money laundering and professionals are aware that suspicious activity in this area is reportable.

### Risk Title

Real Estate

#### Primary risk event

The purchase of real estate as a tool for placement, layering and integration of funds obtained from illicit sources.

#### Contributing risk events

The relatively high value of property in Gibraltar.



### Threats or vulnerabilities that increase the likelihood of occurrence

Unlike other jurisdictions, Gibraltar has not seen a fall in market prices of properties. The distinct lack of supply and continued demand for properties has helped the real estate market maintain or appreciate its value.

The risk, as in any other high value Jurisdiction, is that real estate in Gibraltar is used as a conduit to launder proceeds of crime. In mitigation, the lack of substantial numbers of high value properties to make large scale acquisitions are not viable and the market is small by comparison to other jurisdictions.

#### Risk Title

## Securities and Funds Sector

### Primary risk event

That the funds and securities sector may be abused by investors to conceal ML or TF activities.

### Contributing risk events

The securities sector is one of the core industries through which persons and entities can access the financial system, providing opportunities for criminals to misuse the financial system. The securities industry plays a key role in the global economy. Participants, globally, range from multinational financial conglomerates that employ tens of thousands of people to single-person offices offering stock brokerage or financial advisory services.

The establishment of private funds and Experienced Investor Fund products locally could present an opportunity for ML and TF activities. In mitigation, the financial regulator has embarked on a series of workshops and interviews with all EIF Directors. The funds and securities sector in Gibraltar is nascent in relation to other territories.

### Threats or vulnerabilities that increase the likelihood of occurrence

Some of the features that have long characterised the securities industry, including its speed in executing transactions, its global reach, and its adaptability, can make it attractive to those who would abuse it for illicit purposes, including money laundering and terrorist financing due to the fact that the complexity of the structures and multiple relationships associated with Funds can often give rise to particular difficulties and uncertainties with regards to the principle controller(s) and owner of the assets. Moreover, the securities sector is perhaps unique among industries in that it can be used both to launder illicit funds obtained elsewhere, and to generate illicit funds within the industry itself through fraudulent activities. Transactions and techniques associated with money laundering and the specific predicate securities offences are often difficult to distinguish.



Medium

Risks which require action once Very High and High risks have been addressed and monitored for changes.

Risk Title

Corporate Vehicles

**Primary risk event**

That a Gibraltar legal entity is used unlawfully to conceal or pass-through criminal assets or terrorist financing.

**Contributing risk events**

Gibraltar has a respected, regulated, well-established and important Trust and Corporate Service Providers (TCSP) sector. Gibraltar legal entities are commonly used both as asset holding, investment and transactions based vehicles for both the domestic as well international community. The same applies to corporate entities formed elsewhere but managed and/or controlled from within Gibraltar.

All TCSPs are required to be licensed and are regulated by the Financial Services Commission.

Gibraltar is fully up to date in meeting its international obligations in transparency and exchange of information and is fully compliant with European Union legislation.

**Threats or vulnerabilities that increase the likelihood of occurrence**

The guise of commercial structuring or tax planning may be used as a cover for otherwise illicit uses. Without understanding the real rationale for tax planning structures a TCSP may be unable to make an accurate determination of the rationale for the use of the Gibraltar legal entity and be misinformed as to the true purpose of the structure.

Corporate vehicles and trusts could be abused to provide an additional layer of opacity between perpetrators of a criminal activity and the act itself. Firms should always be wary of customers wishing to seek to establish such structures which have no apparent economic reason or link to the jurisdiction.

Legal structures are frequently used internationally in the layering and integration stages of money laundering or can be used to conceal terrorist financing. There is little, if any, evidence of this occurring in Gibraltar.



**Risk Title**

**Legal Profession**

**Primary risk event**

Use by ML or TF of the legal profession as unwitting participants

**Contributing risk events**

Criminals seek out the involvement of legal professionals in their ML/TF activities in what appear or are represented to be normal commercial transactions, to access specialised legal and notarial skills and services which could assist in the laundering of the proceeds of crime and the funding of terrorism.

**Threats or vulnerabilities that increase the likelihood of occurrence**

There are a number of ML/TF methods that commonly employ or, in some countries, require the services of a legal professional. Inherently these activities pose ML/TF risk. When clients seek to misuse the legal professional's services in these areas, they may be vulnerable. The methods include:

- misuse of client accounts
- purchase of real property
- creation of trusts and companies
- management of trusts and companies

If the legal professional lacks understanding of the ML/TF vulnerabilities and red flag indicators, they are less able to prevent the misuse of their services.

The current regulation of the legal profession in Gibraltar is through the Gibraltar Bar Council.

**Risk Title**

**Prepaid Credit/Debit Cards**

**Primary risk event**

The use of emoney products as a currency in money laundering or terrorist financing transactions to place, layer and integrate proceeds of crime.

**Contributing risk events**

Pre-paid debit and or credit cards are a form of e-money. There are five e-money/card issuers operating from Gibraltar at present and these are seen as presenting growth opportunities for the finance sector. Part of the attractiveness of e-money products is to facilitate access to the financial market to those excluded from mainstream banking services, those of low income, children and those who want to make use of on-line services who might otherwise not have an established bank account etc. It also has the advantage of reducing cash handling costs and the holding of cash in a society.

Cards may typically be acquired at retail outlets and could be bought for a cash equivalent in exchange for a "load" or emoney value of the same amount. However, anonymous 'cash loading' is extremely restricted by EU law that also applies in Gibraltar.

Some of these lower value cards can be bought anonymously or without the production of any due diligence and id verification requirements that would normally be found in the opening of a bank account, for example.



The current Anti-Money Laundering Guidance Notes of the FSC exempt emoney issuers from conducting due diligence if;

- In the case where the e-money device cannot be recharged, the maximum amount stored in the device is no more than €250; or
- If the e-money device can be recharged, a limit of €2500 is imposed on the total amount transacted in a calendar year.

**Threats or vulnerabilities that increase the likelihood of occurrence**

In criminal activity it is not uncommon for payments to be effected across borders. Payment for these transactions used to entail the physical transportation of cash from one to the other but can also be carried out using these cards, in lieu of cash.

Once the card has been loaded the holder is able to integrate these funds into the financial system through the use of the credit cards to purchase goods and services in a manner which does not identify him as the purchaser. However, the severe restrictions on anonymous cash loading do make significant amounts of activity highly cumbersome.

**Risk Title**

**Money Transmitters and Currency Exchanges**

**Primary risk event**

Money Transfers utilised for the purposes of funding terrorism and/or used to launder proceeds of criminal activity

**Contributing risk events**

Internationally, money remittance and currency exchange businesses have been both willing and unwilling participants in laundering activities, in all three stages of the process (placement, layering and integration), and in certain instances, for terrorist financing purposes. There are also links between money laundering in the money remittance sector and other criminal activities (e.g., fraud, trafficking in human beings, smuggling, drug trafficking, economic crime).

**Threats or vulnerabilities that increase the likelihood of occurrence**

Clearly, laundering through money remittance and currency exchange providers poses a number of regulatory and enforcement challenges. At the same time, there is low detection of money laundering in comparison to the size of the industry as a whole. In mitigation, money transmitters and currency exchanges are regulated and subject to on-site inspections.



**Risk Title**

**Pre-paid phone cards**

**Primary risk event**

The use of pre-paid telecoms SIMs anonymously which are then used to perpetrate criminal or terrorist activities.

**Contributing risk events**

A concern of police and security agencies worldwide is that prepaid mobile services allow the user to be anonymous and therefore facilitate criminal or terrorist activities. Prepaid phone users can be anonymous for two reasons:

- the prepaid SIM card can be sold in a shop like any other goods. There is no need to register them at point of sale, unlike post-paid phones where a credit check and/or ID verification on the user is required before allowing them to purchase and enter into a contract, or
- because prepaid services can often be topped up using cash and vouchers, there is no way to trace the payment and hence determine the identity of a prepaid phone user from payment records.

A prepaid phone specifically purchased to be used briefly and then replaced is known colloquially as a “burner phone” or “burner”.

It will be noted that post a significant terrorist event, the Spanish Government introduced a registration requirement for all pre-paid cards, purchased in Spain, as burner phones were used as the triggers to activate the explosives. Other European nations also require proof of ID for the pay-as-you-go or prepaid cards although the UK had proposed introducing such a requirement (Draft Data Communications Bill) but it hasn't done so due to privacy concerns.

**Threats or vulnerabilities that increase the likelihood of occurrence**

New pre-paid phone numbers can be bought at retail outlets with no proof of identity required or retained. These can also be bought for cash making it impossible to trace the use of a number with any individual.

**Risk Title**

**High Value Goods**

**Primary risk event**

Proceeds of crime are used to purchase, for own use or as part of layering and integration stages, high value goods.

**Contributing risk events**

Large number of high value goods establishments operating in Gibraltar (Jewellers, Car Dealerships, etc) and the use of cash (up to a point) in society are contributory factors to the potential use of this sector for placement and layering. However, the 3<sup>rd</sup> EU AML Directive does specifically cover the risks associated with cash transactions. The use of cash to purchase truly high value items is highly likely to produce a suspicious activity report.

**Threats or vulnerabilities that increase the likelihood of occurrence**



A possible lack of awareness of all ML and TF issues by traders in this sector increases the likelihood that use might be made of this by launderers.

**Risk Title**

**ID Theft**

**Primary risk event**

That launderers or terrorist financiers acquire false identity documentation in order to obtain services and products.

**Contributing risk events**

The separation of the benefits of criminal or terrorist activity from the physical person who has committed the act has always been one of the main focuses of criminals so that they can derive the benefit of the criminal activity with anonymity. If a criminal can obtain financial or other products in a false name then they can continue to use the same without a direct link to their person.

**Threats or vulnerabilities that increase the likelihood of occurrence**

The increase in utility and other bills which are delivered electronically, that can easily be doctored or forged, makes their value in verifying addresses as part of a due diligence process considerably diminished.

**Risk Title**

**Bribery & Corruption**

**Primary risk event**

That businesses and public sector bodies may be obtaining or granting contracts and/or business on the basis of corrupt business practices or bribery.

**Contributing risk events**

Lack of awareness, by some, of the provisions of the Crimes Act which criminalises bribery and corruption, the OECD Convention relating to bribery of officials that was extended to Gibraltar as well as the extra-territorial provisions of the UK Bribery Act that extend to British Citizens.

**Threats or vulnerabilities that increase the likelihood of occurrence**

The proximity to countries where such practices are commonplace and which may wish to use Gibraltar-based products to conceal the receipts of the bribery or corruption.



**Risk Title**

**Remote Gaming Sector**

**Primary risk event**

That on-line gaming accounts are used as a conduit for the laundering of criminal proceeds or terrorist financing; albeit in not significant amounts.

**Contributing risk events**

Gibraltar is the international centre of excellence for on-line gaming operators with a large number of operators already in the market offering a large number of products and services to an ever increasing client base.

**Threats or vulnerabilities that increase the likelihood of occurrence**

**Background**

With a large number of transactions through this sector being low value/high volume, the majority of these transactions attract Customer Due Diligence measures in accordance with 3MLD requirements and therefore could only be attractive to low value ML and TF risks.

As is the case for Financial Institutions the CDD measures increase substantially as the value of the transaction (bet or win) increases and come into play at £2000 value mark

Unlike other jurisdictions, Gibraltar has applied high entry standards for companies wishing to be awarded remote gambling licences. Operators are subject to a strong and independent regulator who is supported by a strong legislative framework.

The regulator has published its own Guidance Notes on AML/CFT controls and which all licensed operators have to comply with as part of their conditions of holding a licence.

Controls surrounding the establishment of new operators and changes in control of existing operators by the regulator mitigates the risk, to almost negligible, of abuse by criminal organisations of Gibraltar based operators.

This sector is advanced in its preparations for compliance with 4MLD.

**Risk Title**

**Sanctions**

**Primary risk event**

That a Gibraltar transaction/structure is used to circumvent an international sanction.

**Contributing risk events**

A service provider may be unaware of applicable sanctions on a particular country and/or individual and may therefore agree to undertake or be a party to a transaction which contravenes an international sanction.

**Threats or vulnerabilities that increase the likelihood of occurrence**

Lack of centralised local list of applicable sanctions and local awareness.



**Risk Title**

**Tobacco**

**Primary risk event**

That the monies generated by tobacco sales presents an attractive target for money launderers.

**Contributing risk events**

Gibraltar's tobacco wholesale and retailing businesses generates an important volume of cash sales as most of the retail operations are made in a cash only environment from visitors to Gibraltar. When most of this cash is generated in Euros in a Sterling zone there is then the issue of currency conversion to also consider.

**Threats or vulnerabilities that increase the likelihood of occurrence**

There appears to be no evidence to suggest that tobacco sales present significant opportunities to launder the cash through the system or that this is being exploited by ML or TF operations other than in a small and opportunistic scale.

Turnover from legitimate tobacco sales by both wholesalers and retailers are sufficiently large and the distribution and sales process so streamlined that there appears to be no incentive to mix tobacco sales with illegitimate activities.

The highest sub-risk identified is in the possible use of licensed retail operations to obfuscate cash deposits.

**Risk Title**

**Terrorist Target**

**Primary risk event**

A terrorist attack.

**Contributing risk events**

Gibraltar is itself, potentially, a terrorist target due to the connections with the UK, the establishment and operation of a number of military installations by the same and the proximity to North Africa making it a target for those seeking reprisals for the UK's involvement in world affairs.

It may be attractive to raise funds for or entice persons to commit such an act in Gibraltar.

**Threats or vulnerabilities that increase the likelihood of occurrence**

The rise in Islamist extremists in north Africa is well documented as is their desire to retaliate against the US, UK and their allies for their involvement in a number of conflicts. A good and positive established connection between Gibraltar and North Africa (Morocco) has been in existence for a number of years in respect of migrant workers and more recently, tourism related activities, and it may be possible to use this connection for raising funds to perpetrate an act against a UK installation in Gibraltar.



Low

Risks which are considered acceptable. Action required once higher risks have been addressed.

Risk Title

Proximity of Organised Crime

**Primary risk event**

The proximity of a number of organised criminal gangs operating in neighbouring countries who may perceive Gibraltar as an opportunity to launder their criminal proceeds.

**Contributing risk events**

Criminals wishing to hide from law enforcement over the last three decades have become more sophisticated and mobile.

**Threats or vulnerabilities that increase the likelihood of occurrence**

The poor economic climate and unemployment rates in neighbouring regions are major contributory factors to the growth in illegal activity being conducted in the region which is exploiting the opportunities created by need.