

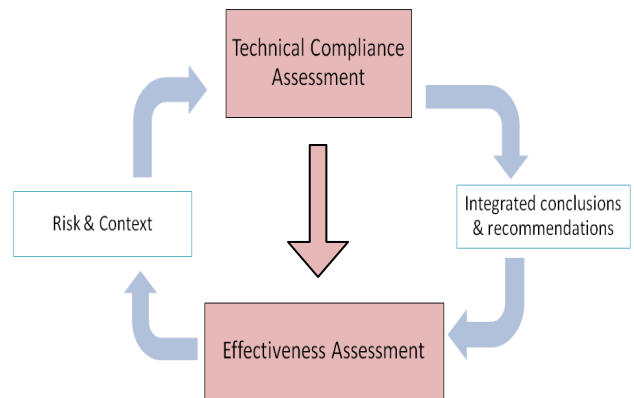
# Mutual Evaluations

The May 2018 newsletter focused on a National Risk Assessment (NRA) for the Federation that is being conducted by the Financial Services Regulatory Commission (FSRC) and other Competent Authorities in St. Kitts and Nevis. This assessment will help to identify the country's strengths and weaknesses as they relate to Anti-money Laundering and Countering the Financing of Terrorism (AML/CFT) in order to prepare for the upcoming Mutual Evaluation. This newsletter will outline the Evaluation process, the results of the country's last Mutual Evaluation and expected changes to be made following the completion of the NRA.

## The Mutual Evaluation Assessment Methodology

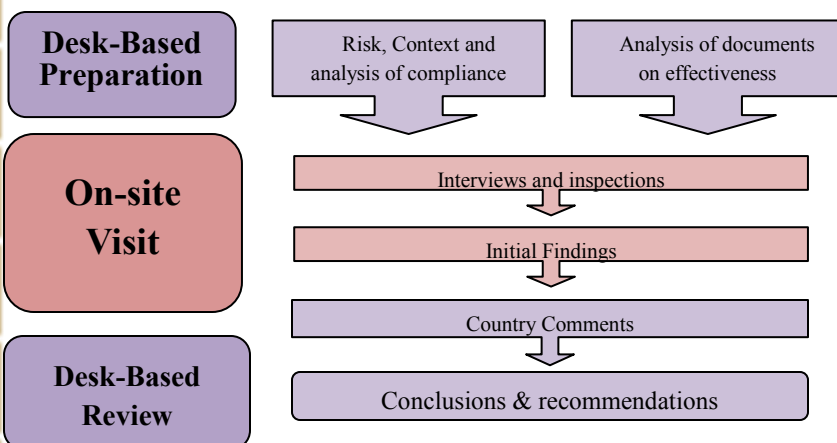
The image depicts the criteria that will be used to assess the country's technical compliance with the Financial Action Task Force's (FATF's) Recommendations and the effectiveness of its AML/CFT systems.

The starting point of the Evaluation is the assessors' initial understanding of the country's risks and context. The jurisdiction's assessment (which may be the NRA Report) will be used by the assessors as an initial basis for understanding the money laundering and terrorist financing (ML/TF) risks. The technical compliance assessment addresses the specific requirements of the FATF Recommendations, principally as they relate to the relevant legal and institutional framework of the country, and the powers and procedures of the competent authorities. The effectiveness assessment differs fundamentally from the assessment of technical compliance. It seeks to assess the adequacy of the implementation of the FATF Recommendations, and identifies the extent to which a country achieves a defined set of outcomes that are vital to a robust AML/CFT system. The focus of the effectiveness assessment is therefore on the extent to which the legal and institutional framework is producing the expected results.



## The Process

As the Federation of St. Kitts and Nevis is a member of the Caribbean Financial Action Task Force (CFATF), the Mutual Evaluation process of the jurisdiction involves a peer review by experts in the field of law, finance and law enforcement from member countries. An assessment team generally comprises five (5) to six (6) experts. The process is very thorough and may take up to 14 — 18 months to complete. The image below depicts the process of a Mutual Evaluation. The steps taken during the process are as follows:



**Step 1:** The selection of experts to form the assessment team.

**Step 2:** The country has to provide all relevant laws and regulations enacted to prevent criminal abuse of the financial system for the technical compliance assessment review.

**Step 3:** The assessors identify areas of focus specific to the country's context for the on-site visit.

**Step 4:** On-site visit — persons from the private and public sector would be interviewed by the assessors to determine how the laws are implemented and their adequacy.

**Step 5:** Draft Mutual Evaluation Report — the report will go through various cycles of discussion and review by the assessed country and independent reviewers to be finalized.

**Step 6:** The findings of the report will be discussed and adopted by the CFATF Plenary.

**Step 7:** The report will be published by the CFATF on their website.

## The FATF Rating System: Technical Compliance

Compliant	C	There were no shortcomings
Largely Compliant	LC	There were only minor shortcomings
Partially Compliant	PC	There were moderate shortcomings
Non-compliant	NC	There were major shortcomings
Not applicable	NA	A requirement did not apply, due to the structural, legal or institutional features of a country

## FINDINGS OF THE LAST MER

The Federation's 3rd Round Mutual Evaluation Report (MER) was published on 22 June 2009. Subsequently, there were nine (9) Follow Up Reports dated between April 2010 and December 2014. The following highlight **some** findings of the Reports.

### *Areas of Good Compliance*

St. Kitts and Nevis received a rating of **LC** or **C** in the following areas:

1. Secrecy Laws (C)— The assessors determined that the Secrecy Laws were consistent with the FATF recommendations.
2. Record keeping (LC) —The assessors noted that the record keeping requirements were satisfactorily addressed by the Anti-Money Laundering Regulations (AMLR). The only concerns pertained to the supervisory authorities not being able to verify that captive insurance and international insurance companies were complying with the record keeping obligations set out in the law. This deficiency was however addressed with the passing of the Financial Services Regulatory Commission Act, (No. 22 of 2009) and amendments to the relevant legislation.
3. Correspondent Banking (LC) — The assessors noted that Regulation 4(12) of the AMLR addressed the requirement for correspondent banks to conduct proper due diligence on correspondent banks.
4. Politically Exposed Persons (PEPs) (LC) - The Assessors observed that PEPs were adequately covered except for the applicability of source of funds requirements, where a PEP is found to be a beneficial owner and not a customer with whom the financial institution is transacting. This issue was clarified with amendments to the AMLR and ATR.

The jurisdiction also received a **C** or **LC** rating in other areas such as, Foreign Branches and Subsidiaries, Shell Banks, Wire Transfers and International Cooperation.

### *Areas of Deficiencies*

The country received a rating of **PC** or **NC** in the following areas:

1. Sanctions (NC) —The MER stated that the sanctions under the AMLR were homogenous and therefore not proportionate and dissuasive. This deficiency was addressed with amendments to the AMLR and Anti-Terrorism Act (ATA).

2. Money Laundering Offense—The assessors noted that the penalties outlined in the ATA did not allow for terrorist financing to be considered a serious offense. The ATA was amended to rectify this deficiency. The assessors also highlighted the fact that no one has been charged or prosecuted under the Proceeds of Crime Act (POCA). Significant training was provided to members of the Royal St. Christopher and Nevis Police Force and personnel in the Office of the Director of Public Prosecutions (DPP) with the aim of providing knowledge to improve investigations and prosecutions for ML/TF offenses.
3. Designated Non-Financial Business and Professions (DNFBPs)— The assessors noted that there was no evidence of effective supervision of Casinos for AML/CFT purposes. There were also a number of other issues relating to DNFBPs that have since been rectified.

## EXPECTED LEGISLATIVE REVIEWS

Following the completion of the NRA and in preparation for the 4th Round Mutual Evaluation, a number of legislative reviews are expected to ensure compliance with FATF recommendations. Some of these are:

- Targeted financial sanctions for ML and TF;
- Laws and Regulations for the supervision of DNFBPs, especially Casinos;
- Customer Due Diligence Procedures outlined in the AMLR, ATR and FSRO will be amended to specify the acceptable customer verification documents (especially relating to proof of address);
- Amendments to the AMLR and ATA to include assessments of Domestic PEPs.

### UPCOMING EVENT

The Financial Services Regulatory Commission — St. Kitts Branch will be hosting its AML/CFT Conference on **September 5 2018** at the Park Hyatt Hotel. **CONTACT THE OFFICE TO REGISTER TODAY!**

**Participants will be awarded 5 CAMS Credits!**

### NEW LEGISLATION

The Minimum Guidelines for Compliance Officers have been gazetted.

### Reference:

- *FATF Methodology, updated February 2018*
- *Procedures for FATF Fourth Round of AML/CFT Mutual Evaluations.*
- *FATF Recommendations: International Standards, February 2012*
- *St. Kitts and Nevis 3rd Round Mutual Evaluation Report, 22 June 2009 and the Follow Up MERs*