HM Government of Gibraltar

National Coordinator for AML/CFT

2020 National Risk Assessment for AML/CFT and PF

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1 Introduction

This National Risk Assessment (NRA) is the latest iteration of the process by Gibraltar that seeks to identify threats and vulnerabilities in Money Laundering (ML), Terrorist Financing (TF) as well as Proliferation Financing (PF) as it affects Gibraltar as a jurisdiction as well as public sector bodies and the private sector.

The purpose of the NRA is to provide a realistic strengths-weaknesses analysis in the field of ML and TF in Gibraltar and to identify existing and future risks and map them effectively.

1.1 Previous National Risk Assessment Processes

The 2016 and 2018 NRAs were also supplemented by a non-public TF NRA. Those NRAs have now been superseded by this NRA which has an overarching role in the identification of risks and mitigation programmes that seek to lower the inherent risks posed by products and services which are present in Gibraltar.

A separate TF NRA on the Not-for profit sector (NPO) was also conducted in 2016 and is also replaced by this NRA.

The risk assessment in the context of this analysis is in line with the requirements of the risk-based approach of FATF Recommendation 1. The risk of ML/TF is therefore the main issue in this assessment with the threat potential and corresponding vulnerability of Gibraltar assessed together.

1.2 EU Supra National Risk Assessment

Under the National Coordinator for Anti-Money Laundering and Combatting Terrorist Financing Regulations 2016 and the EU's 4th Money Laundering Directive (4MLD) Gibraltar has to consider the findings of the EU's Supra National Risk (EUSNRA) Assessment in its own considerations. The EUSNRA was last updated in 2019 and it is therefore essential that those findings find its way into Gibraltar's NRA processes.

The EUSNRA documents can be downloaded from:

https://ec.europa.eu/info/sites/info/files/supranational_risk_assessment_of_the_money_laundering_and_terrorist_financing_risks_affecting_the_union.pdf

and

https://ec.europa.eu/info/sites/info/files/supranational_risk_assessment_of_the_money_laundering_and_terrorist_financing_risks_affecting_the_union_-_annex.pdf

1.3 Use of the NRA by competent authorities

In reviewing the findings of the NRA, competent authorities (public sector authorities, law enforcement agencies, Gibraltar Financial Intelligence Unit and regulators) need to design action plans that seek to lower the overall risk that each of the threat present both to ML and TF, and where applicable, also PF.

Mitigation programmes may need to address ML and PF risks separately as the threats and vulnerabilities presented by each risk may have a different profile and one approach may not cover both.

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1.4 Use of the NRA by the private sector

Under the Proceeds of Crime Act (POCA), Relevant Financial Businesses (RFBs) are required to consider the NRA in their own risk assessment frameworks to ensure that their systems of controls are commensurate with the risks present in Gibraltar.

POCA does not permit a RFB to arrive at a conclusion on risk which is incompatible with the findings of this NRA and therefore any application of simplified or enhanced Customer Due Diligence (CDD) must be made in light of the NRA findings.

By providing the private sector with clear indicators of those products, services and sectors which could potentially prove attractive to either ML or TF in the NRA this should aid compliance officers and risk managers in making suspicious transaction reports (STRs) of a higher quality and focus their attention to those products and services of their firms which the NRA identifies as a higher risk.

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2 Risk and Context

Gibraltar is a small finance centre which is largely UK customer centric in financial services and on-line gambling. Traditional financial services products for Gibraltar had been the provision and servicing of corporate structures and private banking. Over the last two decades these services have been in decline and replaced with on-line gambling, e-money products and more recently, Distributed Ledger Technologies (DLT).

The changing landscape of products and services necessitates that we carefully consider new and emerging risks and implement mitigation programmes to effectively mitigate the threats and vulnerabilities present in the jurisdiction.

Gibraltar's client base is largely non-resident (see Chapter 5 below) and sourced in a non face-to-face way. Both of these factors increase the inherent risk.

As a finance centre the products and services available to customers and potential customers may be accessed from anywhere in the world and many may be used in jurisdictions worldwide. With the threat of use of funds to fund either terrorist organisations, terrorists or supporting terrorist activities in general, the public and private sector need to remain vigilant to the use of their products and service in countries or areas close to conflict zones or those where there is a linkage to terrorist activities.

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3 Methodology and Construction of the NRA

The 2018 iteration of the NRA builds on the previous two NRAs and the updated EUSRNA. These are now supplemented by additional and more comprehensive data sets that are now available from the public sector which provides a granular level of detail of transaction data in the financial services sector as well as data from law enforcement agencies (LEAs), Gibraltar Financial Intelligence Unit (GFIU) as well as incoming and outgoing international co-operation data. This data is available in Chapters 4 and 0 and have formulated the risk scores of the sectors, products and services.

In arriving at the overall risk score for each of the sectors, products and services the threat and vulnerability to ML and TF risks have been assessed separately. The combined score is a useful indicator but does not replace the need for users of this NRA to consider the risks separately as it may affect their own circumstances.

As this NRA is a development of the previous NRA, the development is led by the National Coordinator for AML/CFT taking into account as many inputs as possible and importantly the knowledge of the sectors by competent authorities and the competent authorities have led in the identification and refinement of the threat assessments. Similarly, private sector input is invaluable as the 'coal face' in the fight against ML/TF through the intimate understanding of their own product vulnerability. For this reason, both public and private sector bodies have been invited to provide direct input into the NRA so as to better calibrate the final NRA output.

Competent Authorities	Private Sector Bodies
Charities Commission	Association of Trust and Company Managers Ltd
Gambling Commissioner	Gibraltar Association for New Technologies
Gibraltar Centre for Criminal Intelligence Department	Gibraltar Association for New Technologies
Gibraltar Financial Intelligence Unit	Gibraltar Association of Compliance Officers
HM Customs Gibraltar	Gibraltar Association of Pension Fund Administrators
Legal Services Regulatory Authority	Gibraltar Association of Pensions Fund Administrators
Office of Fair Trading	Gibraltar Banker's Association
Registrar of Friendly Societies	Gibraltar Chamber of Commerce
Royal Gibraltar Police	Gibraltar E-mMoney Association
	Gibraltar Federation of Small Businesses
	Gibraltar Funds and Investments Association
	Gibraltar Insurance Association
	Gibraltar Society of Accountants
	Law Council
	Society of Trust and Estate Practitioners

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The involvement of public and private sector bodies in the NRA process makes the outcomes more credible and useful for all parties. Apart from the bodies listed above, feedback on the NRA was also received from the UK's Electronic Money Association as well as individual member firms of the Gibraltar Finance Centre Council's representative bodies.

Threat refers to an activity that has some potential for damage (or could cause harm) in connection with relevant forms of crime or the financing of terrorist activities. Vulnerability, on the other hand, means gaps or ambiguities in the existing defence mechanism to prevent and combat money laundering and Terrorist financing in Gibraltar. A threat- as well as a potential vulnerability can be made at both national and sector level, which is why, in the context of this NRA, the threat situation and the vulnerability at both national and sectoral level in terms of money laundering and terrorist financing have been analysed.

Scoring for threat and vulnerability is on the following basis individually for ML and TF risks;

Score	**Description**
0	Not Applicable
1	Lowly Significant
2	Moderately Significant
3	Significant
4	Very Significant

The combined threat and vulnerability score for each ML and TF provide the **ML or TF risk score** for that risk on a scale of;

Score	**Description**
0	Not Applicable
2 to 3	Low Risk
4 to 6	Medium Risk
7 to 8	High Risk

The ML and TF risk scores are then added together to provide a **Total Risk Score** with results being;

Score	**Description**
< 5	Low Risk
5 to 9	Medium Low Risk
10 to 13	Medium High Risk
> 13	High Risk

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4 Geographic Risk

4.1 Spain

As our closest neighbour with whom daily trade is conducted across all sectors of the economy, Gibraltar needs to be aware of the ML and TF risks present in that country and how these could affect Gibraltar.

The most recent FATF follow-up report is to be found at https://www.fatf-gafi.org/media/fatf/documents/reports/fur/Follow-Up-Assessment-Spain-2019.pdf and it is interesting to note the inclusion of Organised Crime in the Campo area as the top ML risk for Spain. The report states;

> "*11. Spain continues to be exposed to organised crime due to its geostrategic position as a point of access to the European Union. As a consequence, the main ML threats are related to the activities of Organised Criminal Groups (OCGs) based in North Africa, Latin America and the former Soviet Union involved in drug crimes, organised crime, tax and customs offences, as well as counterfeiting and human trafficking. Risks emanating from the OCGs operating in the Campo de Gibraltar area have become of increased focus by authorities.*
>
> …
>
> *14. Spain continues to face a high risk of TF from Islamic terrorist groups, including a slight increase in the risks of returning foreign terrorist fighters. Risk of radicalised individuals, supporting terrorist organisations by providing funds, including through the misuse of MVTS providers, remains to be among the key challenges for the competent authorities of Spain. Some types of NPOs continue to be vulnerable to TF abuse as well."*

Gibraltar's 2016 NRA had already identified the proximity to OCGs as one of the primary risks that could potentially impact Gibraltar. This is explored in more detail in 7.1 below as is the TF risk in Chapter 10 below. A number of international bodies have also criticised Spain for the prevalence of Bribery and Corruption at many levels of public and private sector and this must also be a factor for Gibraltar when conducting business with Spanish nationals or businesses. Bribery and Corruption risk is dealt with in section 7.6 below)

4.2 Morocco

In much the same way that physical proximity is a factor with Spain, Morocco needs to be accounted for in terms of a jurisdictional risk assessment. Morocco is one of the leading cannabis producers in the world, supplying most of Europe's demand for the product. A lot of the product is shipped via the Strait of Gibraltar (although not through Gibraltar or British Gibraltar Territorial Waters). OCGs on both sides of the Strait can also exploit these same drug trafficking routes for migrant smuggling.

With the increase in radicalisation in northern Africa and the Sahel, there is a corresponding increase in the threat of terrorist activity, and therefore TF risk that arises from migration of persons from these regions.

4.3 High risk jurisdictions

Gibraltar, as a regional financial centre conducts transactions not only with the UK but many other jurisdictions throughout the world. Businesses must be aware that each country presents different risks to both Money Laundering and Terrorist Financing either because of the prevalence of certain predicate offences, the funding of terrorist activities or the lack of effective

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controls to prevent either. Fortunately international standard setting bodies like the FATF and its regional bodies conduct detailed evaluations of the effectiveness of controls in each jurisdiction and these reports can easily be accessed from http://www.fatf-gafi.org/publications/mutualevaluations/?hf=10&b=0&s=desc(fatf_releasedate).

In more general terms the FSC uses a much broader definition of High Risk Jurisdictions than the narrow FATF definition as it captures in its regulatory returns transaction data with countries that are either drug producers or transit countries for drugs and conflict zones and countries close to those. This, however, does not mitigate the need for vigilance either for the transaction themselves or from customers and business relationships with these countries.

4.3.1 FATF High Risk Jurisdictions

The FATF maintain a list of monitored countries http://www.fatf-gafi.org/countries/#high-risk which are;

> Bahamas, Botswana, Cambodia, Democratic People's Republic of Korea (DPRK), Ghana, Iceland, Iran, Mongolia, Pakistan, Panama, Syria, Trinidad and Tobago, Yemen, Zimbabwe.

Gibraltar's customer base in financial services is only marginally derived from FATF high risk jurisdictions.

All of Gibraltar's transactions with FATF High Risk jurisdictions are only with Pakistan, Bahamas and Yemen. Even then Yemen only consists of six transactions in 2018.

Transactions and business relationships with these countries are susceptible, because of the lack of effective measures to prevent ML and/or TF, to both types of risks.

4.3.2 Conflict Zones

The FSC has considered the following criteria in the analysis of which countries fall into this category;

- A conflict zone. This is a synonymous term for those high-risk jurisdictions/regions that are unstable, at war, where armed hostility is present or where terrorist organizations are active.
- Provinces/regions with known links to terrorist organizations or share a border with territories controlled by terrorist organizations.
- Countries where funds and other assets are generated (e.g., originator of the funds transfer) for terrorism acts or terrorist organizations irrespective of where those acts take place or organizations reside.
- Jurisdictions/regions that are transit points or have had money flows to/from known foreign-terrorist fighters (FTFs).

In doing so the following countries have been considered as falling into this category;

> Afghanistan, Burundi, Central African Republic, Congo (Brazzaville), Congo (Kinshasa), Egypt, Iran, Iraq, Korea (North), Lebanon, Libya, Mali, Myanmar, Nigeria, Pakistan, Palestinian Territory, Somalia, South Sudan, Sudan, Syria, Turkey, Ukraine, Yemen.

Transactions and business relationships with these countries are particularly susceptible to TF risks.

4.3.3 Drug Trafficking/Producing Countries

The following countries have been identified by the US Department of State as major drug producing and transit countries that have an impact on security and links to terrorist activities, and have been therefore included within the analysis:

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Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela.

ML risk is the highest risk that emanates from these jurisdictions due not only because of the direct linkage to drug production and distribution but also with the general concerns about rule of law when a drug economy becomes prevalent through the economic activity of the jurisdiction.

4.4 EU and EEA Jurisdictions

A general assumption made in determining geographic risk is that because a country is required to transpose EU Anti Money Laundering Directives as well as other financial services Directives relating to the freedom of movement of capital (e.g. passporting rights) that all EU and EEA states will have broadly similar, low risk of ML and/or TF.

As the FATF Mutual Evaluation processes clearly demonstrate such an assumption cannot be automatically reached and business should make their own assessment, based on the published MER results as to whether an EU/EEA State meets the required standards.

4.5 Threat and Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
4.1	Spain	3	2	**5**	4	3	**7**	**12**
4.2	Morocco	2	2	**4**	4	3	**7**	**11**
4.3.1	FATF High Risk Jurisdictions	3	1	**4**	3	1	**4**	**8**
4.3.2	Conflict Zones	2	1	**3**	2	3	**5**	**8**
4.3.3	Drug Trafficking/Producing Countries	3	2	**5**	2	2	**4**	**9**
4.4	EU and EEA Jurisdictions	2	1	**3**	1	1	**2**	**5**

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5 Transnational Crimes

5.1 Organised Crime Groups

The proximity to Organised Crime Groups (OCGs) that operate in the Campo de Gibraltar has already been touched upon (see 6.1 above) and already featured in the 2016 iteration of the NRA.

Over the last two years Gibraltar has witnessed how these OCGs are increasing their influence and activities in Spain and how Spanish law enforcement agencies have been taking a more proactive approach to the detection, disruption and prosecution of their activities. Many actions by Spanish law enforcement agencies has also seen close liaison and cooperation with Gibraltar Law Enforcement Agencies in both Spain and locally.

It is therefore no surprise to note that as OCGs grow their activities and spheres of influence they may wish to use Gibraltar either as a placement location for their funds or even by way of integration and layering stages using Gibraltar based business, products or services for their laundering activities.

It would be unlikely that OCGs themselves would seek to use Gibraltar as their primary ML jurisdiction, as this is still predominantly Spanish based, but the threat is centred on the individuals who work for these groups who may wish to spend the proceeds of their criminal activities in Gibraltar.

There is no evidence to support that OCG operations in Spain are being used for TF purposes but because their activities are, to a large part, associated with North Africa there are no guarantees that profits from these illegal activities are also not being used for TF activities and as such the private and public sector need to be aware of these risks.

5.1.1 Tobacco

The origins of many “home grown” Spanish OCGs is rooted in illegal tobacco, either counterfeit tobacco that is manufactured and distributed throughout Spain as well as the importation of tobacco into Spain without the payment of the necessary import and other duties. The latter of this taking place at container sized volumes having been imported from European countries.

To a much lesser extent, tobacco emanating from Gibraltar is a small volume and largely eliminated with the eradication of the fast launch activities in the 1980s and the introduction of draconian anti-smuggling legislation dealing with storage, transportation and possession of tobacco in Gibraltar. The controls over wholesalers and retailers of tobacco and the efforts by HM Customs in this time has seen a dramatic fall in attempts to export quantities of tobacco in large quantities.

OCG activities continue to be heavily focused in the distribution of tobacco in Spain and a market continues to exist for tobacco purchased in Gibraltar and transported across the frontier by frontier workers and day trippers, both of which continue to represent the vast majority of tobacco sales in Gibraltar.

There is no denying the fact that Gibraltar sells a lot of tobacco products and that most of this finds its way into Spain. However, because Spain only treats undeclared imports over €15,000 as an illegal activity, the importation by Spanish nationals of amounts less than this is not an illegal activity and hence why the market for Gibraltar based tobacco products continues to exist (as well as the obvious price differential).

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The BREXIT agreement entered into by the Governments of Gibraltar and Spain now establishes a formal price differential below which Gibraltar will not undercut the retail price of Spanish tobacco by more than 30%. This fixed price differential will ensure that sales of Gibraltar tobacco service the legitimate demand from visitors and not create a price opportunity for OCGs.

Additionally, the Government of Gibraltar will apply the content and rules regarding traceability of cigarettes with the purpose of eliminating illicit trade in tobacco products. This will follow the objectives and key elements of 'The Protocol to Eliminate Illicit Trade in Tobacco Products' (Seoul Protocol).

Tobacco products are also usually bought by Spanish nationals, in Euros which accounts not only for the high volumes of cash in Gibraltar but also the surplus of Euros in the economy. It is in the existence of such large cash volumes that the risk of ML exists and the difficulty in differentiating between legitimate cash sales of tobacco as well as attempts that may be made by OCGs to control Gibraltar based tobacco retailers and wholesalers that vigilance must be exercised over.

5.1.2 Drug Trafficking

Over recent years the activities of OCGs have expanded to cover not just cannabis imports into Spain from Morocco but now firmly established as the main importers of cocaine and amphetamines into Europe, mainly via the port of Algeciras.

Cannabis imports from Morocco to Spain have traditionally used fast launches and almost always skirt BGTWs evading arrest by HMC and RGP seaborne patrols. Both LEAs continue to cooperate with their Spanish counterparts to pursue and arrest any fast launches that do stray into BGTWs. Recent prohibition by Spain on the operation of fast launches has already had an impact on this activity, although still the preferred method, and is seeing OCGs choose alternative methods through which to import Cannabis into Spain.

Other drugs, mainly Cocaine is being imported via containers through the important port of Algeciras, the complex nature and volumes of freight being handled via the port makes detection difficult. As recent Spanish law enforcement cases have shown, OCGs tend to have insiders placed within the port to provide intelligence and to facilitate the smuggling operations.

As with tobacco there is no evidence to support a view that OCGs are making use of Gibraltar based business, products or services in a systemic manner to launder the proceeds of crime. However, their physical proximity means that businesses must be wary of attempts to buy or rent properties or purchase high value goods (usually in cash and in Euros) as a means to launder the proceeds.

5.2 Fraud

Fraud is the most prevalent predicate offence for which international cooperation is sought from Gibraltar on, the second highest predicted offence indicted locally in STRs and the third most common predicate offence investigated by law enforcement (see Chapter 4 above)

Those on which Gibraltar's cooperation was sought are transnational in nature (i.e. committed outside of Gibraltar but the proceeds laundered in one way or another in Gibraltar) although as local investigations indicate, a large number of these offences are also committed locally and laundered locally. The nature of Gibraltar's economic activity, a regional financial centre, positions Gibraltar for this type of offence.

The term itself covers a variety of actual offences (see Crimes Act https://www.gibraltarlaws.gov.gi/uploads/legislations/crimes/2011-23o.pdf#viewer.action=download Sections 415-428) including;

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Fraud	***Offences akin to fraud***
Offence of fraud.	*False accounting.*
Fraud by false representation.	*False statements by company directors, etc.*
Fraud by failing to disclose information.	*Suppression, etc of documents.*
Fraud by abuse of position.	*Dishonestly retaining a wrongful credit*
Possession etc. of articles for use in frauds.	
Making or supplying articles for use in frauds.	
Obtaining services dishonestly.	

5.3 Money Laundering / Proceeds of Crime

Money laundering/Proceeds of crime offences is the most common form of predicate offences on which co-operation from Gibraltar is sought indicating that Gibraltar may be being used to launder the proceeds of crime through products and services even though the underlying offence was not committed in Gibraltar.

In 2019 and 2018 the majority of the STRs indicating ML as the predicate offences locally mainly came from the Gambling and E-Money Sector (see 4.2 above) and the DLT sector. These sectors deal with a predominantly non-resident customer base (see 5.1 above) so it is also safe to assume that the ML refers to a predicate offence committed outside of Gibraltar but whose proceeds may be attempted to be laundered through a Gibraltar based product or service.

5.4 Tax Crimes

In the last four years there have been 209 information requests under the various international tax information exchange agreements and 76 requests over the last 6 years under the MLA (8), Police (4) and FIU (64) mechanisms. These numbers do not point to Gibraltar being a target for tax evasion monies but nonetheless the availability of a large number of services does make it vulnerable.

In 2019 Banks accounted for nearly 20% of STRs where Tax Crimes were indicated and the TCSP sector close behind with 19% of their STRs indicating the same. It is therefore likely that banking and TCSP products and services are the most attractive method through which Tax Crime proceeds of crime could be hidden.

Tax crimes are not considered to pose a significant TF risk.

5.5 Bribery & Corruption

The highest threat arising for Bribery and Corruption arises from contact with PEPs. This is particularly significant when those PEPs have a connection with a country with a high propensity to bribery and corruption as well as their close families and close associates.

The only two sectors whose STRs indicate Bribery and Corruption are the TCSP and Banking Sectors who have only made a total of 10 STRs in the last three years which does not indicate a prevalence of this offence in Gibraltar but would be commensurate with the establishment of legal structures and banking products used to conceal the benefits. The higher presence of PEPs in this sector is also indicative that these products are also more attractive to PEPs.

Importantly, though there is a need to distinguish the risk of domestic PEPs and those that are derived from those higher risk jurisdictions. At onboarding, and throughout the business

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relationship, firms must apply enhanced due diligence measures and transaction monitoring on those accounts as well as senior management approval and oversight over the business relationship. Gibraltar is not a jurisdiction where bribery and corruption of prominent persons prevails so the risk is directed to overseas PEPs who may use Gibraltar based products and services.

The TF risk for this offence is not considered significant.

5.6 Cash & Cash couriers

Gibraltar is to a large extent a cash economy. This is predominated by the large number of frontier workers who take their wages out in cash on a weekly basis, tourist spending which also mainly occurs in cash and also due to the sale of retail tobacco which is almost exclusively made up of cash-based transactions (see 5.1.1 above).

Data collated and analysed by the GFSC for 2017-2019 shows that cash transactions put through the banking system is in decline, both in terms number of transactions as well as values represented by the cash transactions.

Gibraltar also operates a cash declaration system at the external frontier points (ferry terminal, yacht reporting berth and flight to or connecting to/from non EU countries) for amounts over £8,000. Additional HM Customs controls at the land frontier (including the use of cash dogs) to detect cash entry in anti-smuggling operations ensures that Gibraltarian authorities have a handle on cash which might be intended to be placed in the Gibraltar financial system.

There is no data to suggest that cash couriers are being used to carry large sums of money into Gibraltar via any of the designated entry points or via any other means.

5.7 Proliferation Financing

The proliferation of weapons of mass destruction (WMDs) including their means of delivery is a significant threat to global security. Proliferation, and the financing of it, is quickly evolving as threat actors find innovative ways to disguise funds using complex web structures. As a UK centric financial centre, Gibraltar specialises in providing banking, TCSP, DLT and insurance services. In the latest UN Panel of Experts Report, it highlights that one of the main vulnerability points for financial institutions is cyber activity which opens new opportunities in areas such as Distributed Ledger Technology (DLT) and the abuse of the financial system by threat actors.

Recommendations made by Moneyval in Gibraltar's Mutual Evaluation Report 2019, have already been addressed through mitigation plans and include the development of Counter Proliferation Financing Guidance Notes, with the aim of raising awareness to enhance the knowledge and understanding of the public sector, with further outreach planned for the private sector. Moneyval has assessed that Gibraltar has a comprehensive legal framework governing targeted financial sanctions and proliferation financing.

Gibraltar is subject to international obligations ensuring it has measures in place to adopt the United Nations Security Council Resolutions (UNSCRs) to combat proliferation financing. In addition to the Weapons of Mass Destruction Act 2004, domestic legislation also applies certain measures to give effect to decisions under Council Regulations (EU) which relate to the Democratic People's Republic of Korea (DPRK) Sanctions Order 2018. This order repeals the DPRK Sanctions Order 2016 and creates offences which include; making funds or economic resources available to a designated person (except where an exemption applies or under licence), dealing with funds or economic resources that must be frozen (except where an exemption applies or under licence); and failing to comply with reporting obligations, activities that circumvent an asset freeze, and breaches of licensing conditions.

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Appropriate measures have also been established in order to prevent the financing of any sensitive material or dual-use goods to become accessible to proliferators who seek to profit from the manufacture, acquisition and transportation for their use in WMD programmes. Any enhancements to strengthen Gibraltar's measures in countering proliferation financing will also strengthen the protective framework and contribute to global security.

The GFIU and GFSC have produced very useful guidance on Proliferation Financing which all readers of the NRA should also take the opportunity to read and understand as it supports the NRA findings. The document can be downloaded from https://www.gfiu.gov.gi/uploads/X86Ru_CPF_Guidance_Notes_v1.1.pdf.

5.8 Illegal Wildlife Trade

The United Nations estimates that the illegal wildlife trade is worth as much as 23 billion USD every year. It is not surprising that the illicit exploitation of wildlife is one of the most lucrative types of transnational organised crimes and has become a serious problem globally. These crimes are not just about the world's biodiversity but they have a negative impact on economic and social development, affecting the livelihoods of communities that depend on wildlife. They also undermine the rule of law and create huge criminal profits through other forms of serious organised crimes such as money laundering and corruption. Most of these vast profits are then laundered through global financial systems using well developed trade infrastructures with strong integration into the global economy.

Located at the crossroads between Africa and Europe, Gibraltar has a vibrant bunkering business with vessels regularly stopping on transit to other ports of call. Despite its strategic location, it has not detected or seized any wild animals or plants in recent years.

Gibraltar's finance centre has a key role to play to combat this crime and raising awareness on it will be crucial to be able to identify how criminals are able to exploit formal banking systems to launder their illicit funds.

5.9 Threat and Vulnerability Assessment

With OCGs generally the threat and vulnerability is largely focused on ML. A large number of players are involved in the OCGs operation who may wish to purchase high value goods in Gibraltar, rent apartments or purchase business through which cash may be laundered.

As mentioned previously, there are no known links to TF operations but because terrorist organisations tend to have criminal activities as one of their funding sources, it cannot be discarded that the North African element of the OCG operations are not supporting TF.

The nature of Gibraltar's economic activity, a regional financial centre, positions Gibraltar for this type of offence. Most frauds are committed by persons for their own benefit and not as a source of third party money laundering (e.g. employee fraud). The risk is therefore primarily ML led and not TF linked.

The predicate offence is specifically related to ML so therefore TF is not a factor for this assessment. The numbers indicated by both incoming requests for co-operation as well as STRs, although forming a large part of the total are small in relative terms to number of customers or transactions and therefore point to a low threat and vulnerability.

Cash is still the predominant method used by ML and TF operations to spend their proceeds or to fund operations or organisations. The use of cash in Gibraltar is complicated by the large amounts of cash generated from legitimate tobacco sales which makes it difficult for financial

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and other institutions to adequately distinguish between criminally derived cash and legitimate cash usage.

Gibraltar is neither a weapons manufacturing jurisdiction, an international trade centre or a market for proliferation goods. Gibraltar's port mainly serves as a transit point and is very limited to provisions and ship spares. It does not maintain any cultural or diplomatic ties with the Democratic People's Republic of Korea or with the Islamic Republic of Iran which reduces the risk further of exposure to sanctions evasion activities. There is no data or evidence to suggest that proliferation or proliferation financing has been experienced locally. Although **the risk of proliferation financing is considered to be low** and the threat negligible, instances of proliferation financing within Gibraltar's finance centre cannot be disregarded.

Gibraltar has a robust legal framework to support investigations related to illicit wildlife trade. As a regional finance centre, Gibraltar is aware of the risks that this may create for transnational organised crime groups intent in abusing the finance system but statistics show that there have not being any suspicious transaction reports locally related to the illicit wildlife trade.

The risk of illicit **wildlife trade is therefore considered to be low**.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
5.1	Organised Crime Groups	4	4	**8**	1	2	**3**	**11**
5.1.1	Tobacco	3	3	**6**	1	2	**3**	**9**
5.1.2	Drug Trafficking	4	3	**7**	1	2	**3**	**10**
5.2	Fraud	2	2	**4**	1	1	**2**	**6**
5.3	Money Laundering	2	1	**3**	0	0	**0**	**3**
5.4	Tax Crimes	3	2	**5**	1	1	**2**	**7**
5.5	Bribery and Corruption	3	2	**5**	1	1	**2**	**7**
5.6	Cash	2	4	**6**	1	2	**3**	**9**

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6 Sectorial Assessments

6.1 Banking

Gibraltar hosts 10 banks which are made up of foreign banks, one third country branch, locally incorporated subsidiaries and two Gibraltar institutions.

The banking sector represents the majority of transactions with jurisdictions deemed as posing a higher risk, in terms of amounts of inflows and outflows. However, this is as expected given the key role of credit institutions within the financial services industry.

Despite the low number of customers (as compared to Gaming and E-money sectors), the banking sector is the third (2018) and fourth (2019) highest STR reporting sector which is a good demonstration of the high level of awareness of ML and TF that exists in the industry. The indicate predicate offences of the STRs shows a predominance of Tax Crimes, ML offences followed by Fraud leading to the knowledge or suspicion.

6.1.1 Deposit Taking

The primarily financial crime risk associated with deposit-taking institutions, is that perpetrators may place the proceeds of crime into the financial system through the regulated credit and financial sector in order to hide its illegitimate origin. Terrorists, as well as their supporters or facilitators could also potentially place funds from legitimate or criminal sources into the financial system with a view to using it for terrorist purposes.

The threat related to deposits on account involves both the placement and withdrawal of funds to disguise their illegitimate origin.

Deposits on account are frequently used internationally by OCGs and their close relatives or associates for such purposes. Law enforcement authorities internationally have reported frequent use of this method, as it is one of the most frictionless ways to integrate illicit funds into the financial system. Although in the case of small amounts of money, deep planning and knowledge of how banking systems work may not be necessary, in the case of a complex money laundering case involving funds deposited on accounts transiting via a chain of complex operations, more in-depth knowledge is necessary and perpetrators may use available expertise from intermediaries.

'Money mule' mechanisms may also be used to transfer proceeds out of the banking sector using personal accounts, either through cybercrime (scamming, fake banking websites etc.) or through money value transfer services. 'Bridge accounts' also pose a potential money laundering threat. These are accounts of legal or natural persons in the EU with the sole purpose of transferring funds to non-EU countries.

International experience shows that terrorists groups frequently use deposits on account to enter cash in bank accounts and withdraw money for terrorist activities. Some basic knowledge and planning capabilities are required, however, to ensure that funds deposited appear legitimate. Due to the attractive qualities of such methods, Banks continue to be exposed to terrorist financing risks. Deposits on account represent one of the easiest ways to introduce money into the financial system. In the case of the risk from terrorist financing, the risk exposure is even higher when the origin of funds is legitimate. The use of funds in deposit accounts for terrorist purposes is typically difficult to detect due to the low volumes of money transacted. When it comes to sending money to conflict zones, the terrorist financing risk is lower in deposits on accounts as perpetrators prefer the use of other products such as money value transfer services or E- money products.

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Credit institutions are subject to all requirements under POCA and fall within the licensing and supervisory remit of the GFSC. As part of both authorisation and ongoing monitoring, the GFSC ensures that credit institutions are applying adequate measures in mitigating or managing any potential AML/CFT risks. Additionally, in 2020 the GFSC conducted a thematic review of the AML/CFT systems and controls in the Banking sector in order to identify any potential weaknesses and ensure subsequent remediation.

Although the use of deposits on account may be a common approach for the funding of terrorist activities internationally, this has not been found as a method used by criminals in Gibraltar for TF purposes. Therefore, the risk posed is considered to be low.

It is also important to note that both the money mule and bridge accounts mechanisms have not been identified as occurring In Gibraltar, and so therefore, this threat is not a material risk.

6.1.2 Corporate Banking

Corporate structures are exposed to money laundering as they can be set up in ways that seek to make the identity of the beneficial owner harder to establish partcularly when trade based transactions are linked to other jurisdictions with weaker AML/CFT regimes that require less transparency. Various layers with a foreign element can be considered as indicators or red flags.

Cash intensive business poses money laundering risks to banks as perpetrators run or use cash based business to commingle illegally obtained funds with cash actually generated legally by the business.

The risks linked to forged documentation also affects the level of risk exposure, while the increasing role of intermediaries and facilitators working for organised crime groups can also affect the inherent risk of these products.

The inherent risk of terrorist financing vulnerability in the corporate banking sector is of low significance. The different risk factors, products, customers, geographies and delivery channels in the sector mean that its use for terrorist financing purposes is not favoured. Perpetrators usually do not have the expertise to access the sector, while the low amounts of money used in terrorist attacks make other sectors more attractive for their purposes.

Studies show that corporate vehicles have been used for illicit purposes, including money laundering, due to the product's capacity to hide the true or ultimate beneficial owner with complex layers.

Cash intense businesses pose money laundering risks to bank's due to money laundering commingle illegal funds with legal funds.

Furthermore, due to the characteristics of corporate vehicles, credit institutions are also exposed to terrorist financing risks. Whilst evidence has shown that the direct costs of mounting individual attacks have been low, maintaining a terrorist organisation requires signifcant funds to receive financial support from supporters and to pay out e.g. wages etc. These corporate vehicles are also used to finance legitimate businesses needed to provide a veil or legitimacy for terrorist organisations.

Credit Institutions are subject to the requirements of POCA and are expected to mitigate the above mentioned risks by:

- Establishing a systematic procedure for identifying and verifying its clients and where applicable, any person acting on their behalf and any beneficial owner(s). The procedures should also include taking reasonable measures to verify the identy of the beneficial owner and akso verify ay person acting on behalf of the customer if so authorised.

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- Obtaining all the information necessary to conduct a risk assessment and to establish the background and purpose of the relationships and activities.
- Checking the rationale for complex corporate structures, the nature of the businesses and the source of wealth and funds.
- Conducting Enhanced Due Diligence and independent verification on higher risk companies.
- Have systems in place to detect unusual or suspicious transactions or patterns of activity that do not make economic sense, or that involve cash deposits that were not consistent with the customers normal expected transactions,
- Have thresholds in place for cash businesses and have a policy that requires appropriate CDD, an approval process relating to specific amounts and transaction monitoring alerts.
- Screening all the key individuals involved in the corporate structure against databases at on boarding and on an on-going basis.
- Recording all CDD and ensure that records are kept up to date and relevant by undertaking regular reviews of the business relationship.

The above mentioned processes, were key areas of focus in the GFSC's Banking Thematic Review in 2020.

Additionally, in the GFSC banking thematic review, one of the key areas of focus was to ensure that all credit institution had adequate tools and systems to be able to specifically identify of its customers are:

- Subject to international sanctions
- PEPs
- Convicted or suspected criminals.

6.1.3 Broker Deposits

There are several scenarios where perpetrators are able to commit abuses related to institutional investment. This includes fraud, market abuse, the use of investment to justify criminal proceeds as profit, predicate investment fraud, and placement of proceeds using specialised high-return financial services.

The increasing role of facilitators in money laundering highlights a potential increase in exposure to such threats, although knowledge and technical expertise are required in order to carry them out. Criminal organisations could potentially rely on such facilitators to launder the proceeds of illegal activities. Although large amounts of funds can be gathered through this process, it is not easy to access, and may not be financially viable (depending on the quality of investment).

The role of facilitators is essential when creating opaque structures in an effort to hide the proceeds of criminal activities, and requires a high degree of expertise. Banks are therefore the first barrier that could act in prevention of those illicit funds entering the financial system and mitigating the inherent money laundering risk.

The terrorist financing threat surrounding institutional investment primarily relates to scenarios in which large sums of legitimate funds are invested for the purpose of financing terrorism. When it comes to small amounts, however, the threat is not significant in this product/sector and therefore poses a low inherent risk. The different risk factors, products, customers, geographies and delivery channels in the sector mean that its use for terrorist financing purposes is not favoured.

There are currently very few brokerage accounts held at Gibraltar credit institutions, therefore mitigating the potential vulnerability considerably. Each credit institutions is subject to all requirements under POCA and falls within the licensing and supervisory remit of the GFSC. As part of both authorisation and ongoing monitoring, the GFSC ensures that credit institutions are

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applying adequate measures in mitigating or managing any potential AML/CFT risks. Additionally, in 2020 the GFSC conducted a thematic review of the AML/CFT systems and controls in the Banking sector in order to identify any potential weaknesses and ensure subsequent remediation.

6.1.4 Lending Activities

6.1.4.1 Mortgage Credit & High Value Asset-Backed Credits

Money laundering: Perpetrators disguise and invest the proceeds of crime by way of real-estate investment. The proceeds are used for deposits, repayments and early redemption.

The assessment of the money laundering threat related to mortgage credit shows that organised crime organisations have frequently used this method. They are well equipped to provide false documentation and the structure of the mortgage (with third-party involvement) helps them to hide the real beneficiary of the funds. Mortgage credit constitutes an easy way to enable criminals to own several properties and to hide the true scale of their assets. This method is still used for the integration phase (mostly for lower amounts, as it does not require sophisticated operations). However, it is more often used in combination with concealment of the beneficial owner of real estate behind a complex chain of ownership.

Inherent risk can be high, because of the link with the real-estate sector, which criminal organisations prefer to use to launder the proceeds of their activity by means of high-value transactions. Where credit institutions are involved, inherent risk can be lower, but it is also exposed to high-risk customers (e.g. politically exposed persons) and can involve cross-border transfers of funds. Where provided by banks, mortgage credit products are as vulnerable as deposits on accounts.

Terrorist financing: Perpetrators use (medium/long-term, low-interest) high-value asset-backed credit/mortgage loans to fund plots. Loans are taken out for relatively high amounts to access funds that are untraceable as long as the money is not transferred.

The assessment of the terrorist financing threat related to mortgage credit shows that terrorist groups find this method very difficult to use and to access. In addition, the purpose of mortgage credit is to give a third party access to funds, so it does not give terrorist organisations easy and speedy access to funds unless they have built up a relationship of complicity with such a third party.

6.1.4.2 Business Lending

Perpetrators repay business loans with criminal funds (sometimes using credit cards in order to legitimise sources of funds). Loans give criminal funds an appearance of legitimacy.

The assessment of the terrorist financing threat related to business loans shows that there have been few cases of terrorist organisations using them as a means of collecting funds.

The assessment of the money laundering threat related to business loans has found few indications that criminals intend to exploit this risk scenario, which they perceive as unattractive. Most fake loans are a feature of fraud schemes (e.g. two companies take out a fake loan and use a bank to transfer funds); they are not necessarily used to launder the proceeds of crime. The main risk posed by these products lies in their possible early redemption by firms, sometimes in cash (with funds from increasing capital operations of unknown origin).

6.1.4.3 Consumer Credit and Low Value Loans

Terrorists/organised crime groups use (short term, low value but high interest) ‘payday’, consumer credit or student loans. Loans are given for relatively low amounts, allowing access to funds, the sources of which are untraceable if the money is not transferred.

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Terrorists/organised crime groups use credit cards to withdraw cash from cashpoint machines, generating a negative account balance. They disappear with the funds, with no intention of reimbursing the 'forced' credit.

The assessment of the terrorist financing threat related to consumer credit and low value loans shows that terrorist groups use this method to finance travel by foreign terrorist fighters to high risk countries.

This kind of loan can also be used to launder the proceeds of criminal activity. The loans are used to buy high value goods (e.g. cars, jewellery) and then redeemed early. These products offer less money laundering potential than other financial products, but criminal organisations use them to finance the purchase of high value goods and then redeem the loans by cash.

Gibraltar providers do not offer payday loans and do not generally issue credit cards thereby reducing the residual risk considerably.

6.1.5 Private Banking/Wealth management

Wealth management/private banking industry in Gibraltar is small but still presents a ML/TF risk due to the more complex structures that may exist in the arrangements to protect the customer's wealth which may not only include corporate and trust structures but also the use of various intermediaries and advisors.

Wealth management and private banking services are judged to be particularly exposed to the risk of being used to launder the proceeds of overseas corruption. To mitigate these risks, POCA requires firms to apply EDD to PEPs, their family members and their known close associates (see 5.2 for a breakdown of PEP geographic risk).

Firms should assess the risks from PEPs to be particularly acute in cases where a customer has held a prominent public function in a high-risk third country. PEPs who hold prominent public functions in Gibraltar (and their family members and known close associates) should generally be treated as lower risk. However, firms are still required to apply more stringent approaches in cases of higher risks, including in relation to PEPs from countries where corruption is a high risk.

The Risks related to Private Banking are also about the following areas:

- Many corporate clients present complex structures so need to fully understand the nature/activity of the account and all the natural and legal persons behind the structure (though mitigated by 5AMLD's requirements re BOs etc)
- Ongoing monitoring needed to ensure activity of the account is in line with what decided at account opening etc.
- However, smaller client base and, therefore, better knowledge and understanding of the customers and easier to monitor etc.

6.1.6 Safe Custody

Perpetrators rent multiple (commercial or banking) safe custody services to store large amounts of currency, monetary instruments or high-value assets pending their conversion to currency, for placement into the banking system. Similarly, they may establish multiple safe custody accounts to park large amounts of securities pending their sale and conversion into currency, monetary instruments, outgoing funds transfers or a combination of these, for placement into the banking system.

As Gibraltar bank do not provide safe custody services, the residual risk is minimal.

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6.1.7 Threat and Vulnerability Assessment

Retail banks (those providing personal and business accounts, cash savings accounts and payment services) continue to be exposed to the highest volume of criminal activity out of all financial sectors. While controls are more developed in retail banking than other areas, the widespread criminal intent to exploit retail banking products and the increasing speed and volume of transactions mean that the sector remains at high risk of money laundering. When looking specifically at retail banking the terrorist financing risk is assessed to be high relative to other financial and non-financial sectors.

The universal nature of retail banking transactions, as well as the frequency and speed with which they are conducted, continue to make the sector vulnerable to money laundering and terrorist financing. The exceptionally high speed and volume of transactions in the sector can allow basic products to be abused, with banks often only able to act on this or report suspicions after transactions have gone through.

In this context, it should be borne in mind the number and volumes of transactions that this sector conducts which high risk jurisdictions (see 4.3 above) and the low number of TF related STRs made be the sector over the last five years.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.1.1	Deposit Taking	4	3	**7**	3	3	**6**	**13**
6.1.2	Corporate Banking	3	2	**5**	1	1	**2**	**7**
6.1.3	Broker Deposits	3	1	**4**	1	1	**2**	**6**
6.1.4	Lending Activities	4	2	**6**	1	1	**2**	**8**
6.1.5	Private Banking\Wealth management	2	2	**4**	1	1	**2**	**6**
6.1.6	Safe Custody	1	1	**2**	1	1	**2**	**4**

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6.2 Trust and Corporate Services Providers (TCSPs)

Gibraltar was one of the first jurisdictions to introduce a regulatory framework for the provision of trust and corporate services. This includes prudential, conduct of business and AML/CFT requirements.

Firms and/or individuals who perform these functions in Gibraltar are required to be licenced and regulated as a TCSP. The regulatory framework for TCSPs, which is supervised by the Gibraltar Financial Services Commission (GFSC), includes an assessment of the fitness and propriety of beneficial owners and officials conducting the TCSP activities.

The POCA systems of control extend to Customer Due Diligence on the customers of the TCSPs, their beneficial owners and the identification of PEPs, their family and known close associates as well as ongoing transaction monitoring requirements. With 98% of all Gibraltar legal entities being managed through TCSPs, risks that are normally associated with legal entities (complex and opaque structures to hide beneficial owners) are substantially mitigated. The GFSC's supervisory programme includes verification that the requirements of POCA and the GFSC's AML/CFT Guidance Notes are being adhered to.

The threat and vulnerability assessment of the different types of legal person and arrangements is covered separately below (see 9.2.5.9 and 9.2.6.4).

6.2.1 Creation of Legal Entities and Legal Arrangements

A common approach taken internationally by perpetrators is the creation of complex structures involving many jurisdictions or in jurisdictions with secretive chains of ownership where the owner of another company or another legal structure is registered elsewhere. Nominees are designated and will only appear to be in charge of the company by hiding the link with the true beneficial owner from public registers. By involving such structures, the perpetrators can stay anonymous, return the funds derived from criminal activity into the legal economy, and commit tax fraud, tax evasion and other activities that impair the state budget or conceal the sources of the funds. The concealment of beneficial ownership is particularly attractive to terrorist organisations and those persons on sanctions lists. Although this approach may be common in other jurisdictions, it is not currently found to be happening in Gibraltar given the statutory requirements to which TCSPs are subject to. Therefore, at present, the risk is considered to be low.

Whilst corporate vehicles and trusts could be used as a method of driving illicit activity and is particularly attractive to criminals, the TCSP sector in Gibraltar is long standing and has been regulated for many years. The industry also maintains a high level of awareness of the ML risks.

The non-face-to-face nature of the engagement with some clients may also make the services of a TCSP attractive to those intending to launder the proceeds of crime.

Legal structures are frequently used internationally for the purposes of ML, however, there are limited cases in Gibraltar to suggest that this is a significant risk. Legal structures can also be used internationally for the purposes of TF, however, the technical expertise and knowledge required in establishing a corporate vehicle or trust, as well as, the time taken to do so may dissuade terrorist organisations which may prefer a simpler, more accessible solution. Additionally, there is no evidence to date to suggest that this is a risk posed within the jurisdiction via the use of companies or trusts.

Companies that have been in existence for some time but not used for any purposes, may be particularly attractive for ML as the company structure gives some legitimacy to the time that an operation has been in existence and is often targeted for this specific purpose. Names may then be changed as would shareholding structures under the appointed nominees. Although this may

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be a potential threat, the ongoing supervision by the GFSC includes identifying dormant companies and questioning TCSPs as to how this risk is managed and whether the appropriate measures are taken in ensuring these are not used for illegitimate purposes.

Gibraltar mitigates the risks associated to this typology primarily through the requirements in POCA that obliges all relevant financial businesses (RFBs) (including TCSPs) to understand, identify, verify and document chains of ownership leading all the way back to natural persons who exercise control over the legal entity in any way. Although there are legal provisions allowing TCSPs to rely on an eligible introducer, data held by the GFSC demonstrates that the overwhelming majority of TCSPs do not apply this approach and they do not rely on the due diligence undertaken by the introducer, rather this is completed directly by the regulated firm. Therefore, any potential risk posed by an intermediary company is significantly reduced to low.

Section 157 of the Companies Act does not permit the issuance of bearer shares by Gibraltar incorporated companies and data analysed by the GFSC confirms TCSPs do not have any non-Gibraltar client company that allows the issuance of bearer shares. This mitigates ML/TF risk further.

Ownership structure and control information is held by the TCSP and is available to the regulator, law enforcement agencies and Gibraltar Financial Intelligence Unit at all times. The data on ownership is required to be maintained in an accurate and timely manner and be available to competent authorities without delay.

The Register of Beneficial Ownership is also a tool which manages the risk of lack of transparency. It is a public record of beneficial owners of legal entities and arrangements. Amendments have been made to the register arising out of the 5th Money Laundering Directive transposition. This includes verification of the data in the register thereby ensuring the quality UBO data that is on the register.

Shelf-companies that have been in existence for some time, but not used for any purposes, are particularly attractive for ML and TF as the company structure gives some legitimacy to the time that an operation has been in existence and is often targeted for this specific purpose. Names may then be changed as would shareholding structures under the appointed nominees. Even more attractive would be companies that have had trading activity as this adds even more legitimacy for ML purposes. Although this may be a potential threat, the assessment of data provided and ongoing supervision by the GFSC demonstrates this is not currently identified as a risk in this jurisdiction.

Notwithstanding, the larger terrorist organisations are structured more like large businesses with the use of corporate structures to manage their assets increasing the TF threat posed to TCSPs. It is important to note that the sectorial data analysed by the GFSC demonstrates that 80%-90% of the sector's customers reside or are registered in low to medium low risk jurisdictions, ruling out any high risk or conflict zone countries. This reduces the TF risk significantly.

6.2.2 Business Activities of Legal Entities and Legal Arrangements

In assessing the risks of the activities that may be conducted through legal persons and arrangements, the following typologies are worth bearing in mind;

Front companies used for fraud via false invoicing: Perpetrators use front companies to apply false invoices to imported items, with the overpayments siphoned off to terrorist causes.

Trade-based money laundering (TBML): Perpetrators use trade-based money laundering (TBML) to justify the movement of criminal proceeds through banking channels (via letters of credit, invoices, etc.) or through the use of global transactions, often using false

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documents for the trade of goods and services. It can potentially allow the rapid transfer of large sums by justifying an alleged economic purpose. TBML schemes have also been used by international terrorist groups with complex funding methods.

False loans: Companies set up fictitious loans with each other to create an information trail to justify transfers of funds of illegal origin. Perpetrators use fictitious loans to justify the movement of criminal proceeds through banking channels — without any economic backing.

Money Laundering:

Gibraltar companies, or indeed any other type of company or legal entity managed by a TCSP, may be used at any time for the provision of any of the above purposes, however, there have been no cases to date within the jurisdiction to suggest that this is a material risk.

In addition the significant majority of Gibraltar companies (66%) are asset holding with less than a quarter being trading.

Nevertheless, these risks are mitigated through the obligations placed on TCSPs from the POCA. The regime in Gibraltar treats TCSPs in the same manner as Financial Institutions. Particularly relevant to mitigating these risks is the ongoing monitoring requirement. Here, TCSPs are required to scrutinise transactions undertaken throughout the relationship to ensure that the transactions are consistent with the relevant financial business' or person's knowledge of the customer, his business and risk profile, including where necessary the source of funds and keeping the documents, data or information obtained for the purpose of applying customer due diligence measures up-to-date.

In addition, and further enabling a TCSP to scrutinise transactions, S.47 of the Financial Services (Fiduciary Services) Regulations 2020 provides that TCSPs must keep accurate records of every transaction or commitment which it enters into, either on its own behalf or on behalf of companies for which directors are provided or trusts or foundations administered. The GFSC's AMLGNs further provide that firms, such as TCSPs, must pay special attention to any activity which they regard as particularly likely, by its nature, to be related to money laundering or terrorist financing threat related to business activities of legal entities or and in particular complex or unusually large transactions and all unusual patterns of transactions which have no apparent economic or visible lawful purpose.

The GFSC's supervisory methodology as applied to TCSPs is primed towards the assessment of AML/CFT risks, which includes extensive use of on-site and off-site inspections where a TCSP's compliance with these requirements is assessed. This is a significant contributing factor to the mitigation of ML risks posed.

The number of companies under management by TCSPs within Gibraltar has been declining for a number of years. TCSPs are attracting and retaining higher value/lower volume business. This category of client typically facilitates a TCSP's ability to undertake more effective transaction monitoring due to the type and availability of relevant documents decreasing the potential ML risks.

Legal arrangements shows that such as trusts and foundations are not practical for TBML, false invoicing, or false loans. Legal arrangements within Gibraltar, as in similar IFCs, are primarily for inheritance planning, asset holding and wealth management. Therefore, in these instances, there is limited risk posed for ML purposes

Terrorist Financing: The assessment of the terrorist financing threat related to business activities of legal entities or legal arrangements shows that terrorists groups do not particularly favour this kind of method to finance terrorist activities. According to international law enforcement authorities, this risk scenario is not really attractive for terrorist groups as it requires the creation

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of an opaque structure (illicit legal entity or legal arrangement) or infiltrating the ownership of a legitimate legal entity or legal arrangement. It requires expertise and the ability to plan. Due to the different steps to be taken, it is unlikely that 'clean' money can be collected quickly from this method. It has not been identified that criminals have used local TCSPs as a method of funding terrorist activities or organisations.

Notwithstanding, the larger terrorist organisations are structured more like large businesses with the use of corporate structures to manage their assets increasing the TF threat posed to TCSPs.

Sectorial data analysed by the GFSC indicates that some TCSPs either have clients who are nationals or resident in higher risk countries or transact business in these countries. The exposure is however, negligible based on the relatively insignificant number of clients linked to those countries.

It has not been identified that criminals have used local TCSPs as a method of funding terrorist activities or organisations.

The GFSC's supervisory methodology as applied to TCSPs is primed towards the assessment of AML/CFT risks, which includes extensive use of on-site and off-site inspections where a TCSP's compliance with these requirements is assessed. This is a significant contributing factor to the mitigation of TF risks posed.

Transaction monitoring obligations placed on TCSPs mitigates this threat substantially as the TCSP is obliged to scrutinise transactions.

With regard to legal arrangements such as trusts, there is very little evidence, internationally and in Gibraltar, to suggest that they are used for TF purposes. Also, they are less likely to be used by clients from higher risk countries as trusts don't generally exist within their legal systems.

The majority of the activities are related to Holding Companies.

6.2.3 Termination of Legal Entities and Legal Arrangements

This typology looks at fraud using bankruptcy/judicial liquidation of a company: following the bankruptcy of a company, the same company is bought by a former shareholder who creates a new structure to pursue the same business activity but now without financial difficulties. Perpetrators may cash out funds from the front company before the illegal activities are detected or before assets are seized by competent authorities, masking the audit trail of money laundered through the liquidated company.

The assessment of the ML and TF threat posed by the termination of business activity through legal structures shows that bankruptcy is part of a more global process and some judicial administrators have reported cases where false bankruptcy has been used to launder proceeds of crime.

No cases have been identified in Gibraltar to suggest that this is a method used by criminals locally for ML/TF purposes. This indicates that criminals and criminal organisations perceive this method as unattractive or difficult to access as it requires some logistical and planning capabilities, therefore, reducing the likelihood of the risk crystallising.

Gibraltar's regulatory and supervisory regime for TCSPs and Insolvency Practitioners (who would be involved in the insolvency process) places AML requirements on the carrying on of their respective activities and are subject to the same scrutiny as Financial Institutions.

Insolvency Practitioners are also subject to the licensing and supervisory assessments by the GFSC, including on-site and off-site inspections. Client file reviews are undertaken, which includes the client on-boarding process. This contributes to the mitigation of risks in this area.

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6.2.4 Threat and Vulnerability Assessment

As a regional financial centre, Gibraltar would be a likely target where launderers or financiers of terrorism would look to exploit weaknesses in the legal or regulatory framework and therefore the threat is probably higher than in other jurisdictions. However, the vulnerability is mitigated because of the legal and regulatory frameworks in place and understanding of the risks by the regulated sector.

The predicate offences indicated by STRs from the sector in 2018 show a prevalence of Fraud, Proceeds of Crime and Tax Crimes as the main reasons for the submission of an STR which is commensurate with the activities that this sector is likely to be misused for.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.2.1	Creation of Legal Entities and Legal Arrangements	4	2	**6**	2	2	**4**	**10**
6.2.2	Business Activities of Legal Entities and Legal Arrangements	3	2	**5**	3	1	**4**	**9**
6.2.3	Termination of Legal Entities and Legal Arrangements	1	1	**2**	1	1	**2**	**4**

6.2.5 Legal Persons & Arrangements

As a regional financial centre, Gibraltar is particularly exposed to criminal exploitation of otherwise legitimate economic activities and structures. As such, corporate structures and trusts are used in almost all high-end money laundering cases, including to launder the proceeds of corruption. There is insufficient evidence to quantify the exact extent of money laundering through corporate structures and trusts worldwide let alone Gibraltar, though the vast majority of Gibraltar trusts, companies and partnerships are assessed as being used for legitimate purposes.

Corporate vehicles and legal structures are attractive to those seeking to launder money, conceal the origins of criminal funds and/or move criminal proceeds overseas because it is easier for larger sums of money to be moved between legal entities without attracting attention. Corporate structures can also obscure the ultimate beneficial ownership of companies and assets, including property, making it harder to ascertain whether such companies or assets are linked to criminality.

A company may be incorporated either directly with Companies House or through a third-party such as a Trust or Company Service Provider (TCSP). In Gibraltar 98% of all companies are managed via a TCSP (See 0 above for a sectorial assessment of TCSPs). When incorporating, a company is required to provide a range of details, such as the registered office address and details of its directors and shareholders.

Trusts are a common law legal concept and generally ownership of the assets of one party (the settlor) is transferred to another party (the trustee) to look after and use for the benefit of a third group (the beneficiaries). Trusts typically do not have a legal personality in Gibraltar, so the assets held in a trust are not legally owned by the trust. Instead, the assets held in a trust are legally owned by the trustee(s).

Trusts may be used for personal reasons, including providing family support, protecting vulnerable persons, personal benevolence, or personal inheritance, and for commercial purposes, such as in a private pension scheme. In practice nowadays and due to increasing compliance and regulatory costs, trusts are usually used by wealthy individuals/families for estate planning purposes as there would be little economic sense to so otherwise. Beneficiaries can be

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natural persons, or legal persons (such as a company) or arrangements (such as another trust). Trusts are also a commonly used charity structure; these trusts, unlike all other express trusts, are not required to have an ultimate ascertainable beneficiary. Charitable Trusts would usually have charitable objects and whilst a discretionary trusts may have charitable beneficiaries as well as ultimate ascertainable beneficiary, if the charity is set up as a charitable trust (with charitable objects) it would need to be registered with the Board of Charity Commissioner for Gibraltar under the provisions of the Charities Act 1962 and it would not be able to change its status at a future stage to a non-charitable trust.

There are a number of different legal entity types that can be formed under Gibraltar law.

Type of Legal Entity	*Number on the Gibraltar Register*
Private Company	16,147
Private Company limited by guarantee with or without share capital	363
Foreign Company carrying on business in Gibraltar	133
Public Company	48
Limited Liability Partnership	14
European Economic Interest Grouping	4
Public Company limited by guarantee with or without share capital	0
European Company (Societas Europaea)	0

6.2.5.1 **Private Company**

A Private company is one which, by its articles of association: Restricts the right to transfer shares and prohibits any invitation to the public to subscribe for its shares or debentures.

6.2.5.1.1 Private Trust Companies

A private trust company's sole purpose is to act as trustee to the trust (or group of trusts) that are Connected. Connected trust business is trust business where the contributors of funds to the trusts are all "connected persons". The term "connected person" as defined by the Private Trust Companies Act 2015. Broadly this look at degree of family connection, and connections via groups of companies. Most usually these trusts are connected to the same family of the main Settlor (known as the designated person). It is usually formed to act as trustee for one or more family trusts where the beneficiaries are all family members of the Designated Person and the family wants to reduce the exposure of the licensed TCSP from becoming unable to continue to act by either corporate insolvency or revocation of FSC license. The PTC trustee may not be compensated for its services unless it is licenced by the FSC. Whilst the PTC is not itself subject to any regulatory regime in Gibraltar, it is required to be administered by a licenced and regulated TCSP in Gibraltar. The PTC must exercise the duties and powers of a trustee in the usual way.

All PTCs are Private Companies and subject to the same registration and filing requirements as all other private companies.

6.2.5.2 **Private Company limited by guarantee with or without share capital**

Most Companies Limited by Guarantee are used for various purposes usually not for profit organisations, including clubs, charities, community activities and property management so as to obtain corporate status. They would come under the category of Private or Public Companies depending on their size.

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6.2.5.3 **Foreign Company carrying on business in Gibraltar**

Branches of foreign companies that operate in Gibraltar. Such Branches are required to be registered with Companies House as a matter of law under Part XII or Part XIV of the Companies Act. The Branch must provide to Companies House various information on registration including its constitution, its directorship and its membership. It is also required to appoint authorised representatives in Gibraltar to receive served process, and must provide Companies House with accounts, annual returns and any alterations on an ongoing basis.

6.2.5.4 **Public Company**

A public company, i.e. a company whose articles do not contain the restrictions of a private company, must have at least two directors, and, if formed as such, is not allowed to commence business until it has obtained a trading certificate from Companies House. The Secretary of the Public Company also needs to have specific knowledge and experience to discharge the functions of secretary.

Due to the regulatory requirements involved, criminals are assessed to be highly unlikely to set up Public Limited Companies to launder funds or for raising funds for terrorism.

6.2.5.5 **Public Company limited by guarantee with or without share capital**

Separate legal personality with members who act as guarantors. Profits may be distributed to its members. Used primarily for incorporating multi-stakeholder organisations.

6.2.5.6 **Limited Liability Partnership**

LLPs have the same characteristics as a normal partnership in terms of tax liability, but provides reduced financial liability to each partner. Used primarily for professions which normally operate as a traditional partnership, such as solicitors and accountancy firms.

Any changes in the particulars of an LLP must be filed with the Registrar and all LLPs must file yearly accounts.

6.2.5.7 **European Economic Interest Grouping**

An EEIG is a type of legal entity created under the European Community (EC) Council Regulation No. 2137/85. It is designed to facilitate or develop the economic activities of its members by a pooling of its resources, activities or skills. An EEIG is not a EU company but a vehicle allowing companies or individuals of different Member States to combine and register in any EU country a grouping that has legal personality and can operate across national frontiers. It is formed to carry out particular tasks for its member owners and is quite separate from its owners' businesses.

It is not intended that the grouping would make profits for itself, however. Any profits would be apportioned among the members and taxed accordingly, and in this it is similar to a partnership. The EEIG is not subject to corporate tax. It has unlimited liability.

6.2.5.8 **European Company (Societas Europaea)**

The European Company Statute (Council Regulation (EC) No 2157/2001 (the "Regulation") created a new form of company – the European Company or Societas Europaea. This type of company is available to commercial bodies with operations in more than one Member State. Its use will be entirely voluntary. It may be created on registration in any Member State of the European Economic Area. An SE that has been formed and registered in one Member State may subsequently transfer its registration to any other Member State.

6.2.5.9 **Threat and Vulnerability Assessment**

On the basis of the types of legal persons that can be established it is concluded that a private company, being the most popular vehicle used in Gibraltar is the most vulnerable and public

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companies, because of their complexity, the least. Branches of foreign companies operating in Gibraltar as subject to registration and reporting requirements locally and subject to additional controls in their home country. Limited Liability Partnerships are of limited use and not readily understood.

The threat assessment is that all legal persons may be misused by foreign nationals would highly likely be for ML purposes as there is no evidence to suggest that TF is a likely factor. The regulation of the TCSP sector provides considerable safeguards to the potential misuse as TCSPs are required to conduct CDD (including Beneficial Ownership and PEP identification) and ongoing transaction monitoring.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.2.5.1	Private Companies	2	4	**6**	2	1	**3**	**9**
6.2.5.2	Private Company limited by guarantee with or without share capital	2	4	**6**	2	1	**3**	**9**
6.2.5.3	Foreign Company carrying on business in Gibraltar	1	2	**3**	1	1	**2**	**5**
6.2.5.4	Public Company	1	1	**2**	1	1	**2**	**4**
6.2.5.5	Public Company limited by Guarantee with or without share capital	1	1	**2**	1	1	**2**	**4**
6.2.5.6	Limited Liability Partnership	1	1	**2**	1	1	**2**	**4**
6.2.5.7	European Economic Interest Grouping	1	1	**2**	1	1	**2**	**4**
6.2.5.8	European Company (Societas Europea)	1	1	**2**	1	1	**2**	**4**

6.2.6 Types of Legal Arrangements

A trust is a way of managing assets (money, investments, land or buildings) for people. There are different types of trusts and they are taxed differently.

Trusts involve:

- the 'settlor' - the person who puts assets into a trust
- the 'trustee' - the person who manages the trust
- the 'protector' – the person who in effect oversees the work of the trustee and who would usually have the power to remove the trustee and appoint a new trustee if for example they are not abiding by the rules of the Trust
- the 'beneficiary' - the person who benefits from the trust

Trusts are set up for a number of reasons, including:

- to control and protect family assets
- when someone's too young to handle their affairs
- when someone cannot handle their affairs because they're incapacitated
- to pass on assets while you're still alive
- to pass on assets when you die (a 'will trust')
- under the rules of inheritance if someone dies without a will (in England and Wales)

A trust is constituted by a document known as the Trust Deed which would name the beneficiaries of the trust and also set out the powers of the trustee, governing law of the trust,

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investment powers, etc. A trust may be revocable or irrevocable which means that under a revocable trust the Settlor has the right to revoke the trust during his/her lifetime. Usually after the death of the Settlor the Trust would become irrevocable. Most trusts tend to be discretionary which means that the trustee would usually have full discretion as to how funds are applied to the beneficiaries, how and when, including the appointment and removal of beneficiaries. It is quite common for certain important powers to require the approval of the Settlor if he/she is alive or of the Protector – this can include the removal or appointment of beneficiary. It is also quite common for the Settlor to write a letter of wishes to the Trustees at the time of settling the Trust which would usually state the Settlor's wishes, however such letter may be updated by the Settlor during his/her lifetime and is not binding on the Trustees.

It is quite common for the Settlor to be able to benefit from the trust during his lifetime and usually on the death of the Settlor his children and remoter issue would become appointed beneficiaries.

The trustees are the legal owners of the assets held in a trust. Their role is to:

- deal with the assets according to the settlor's wishes, as set out in the trust deed or their will
- manage the trust on a day-to-day basis and pay any tax due
- decide how to invest or use the trust's assets

If the trustees change, the trust can still continue, but there always has to be at least one trustee.

There might be more than one beneficiary, like a whole family or defined group of people. They may benefit from:

- the income of a trust only, for example from renting out a house held in a trust
- the capital only, for example getting shares held in a trust when they reach a certain age
- both the income and capital of the trust.

6.2.6.1 **Bare trusts**

Assets in a bare trust are held in the name of a trustee. However, the beneficiary has the right to all of the capital and income of the trust at any time if they're 18 or over (in England and Wales), or 16 or over (in Scotland). This means the assets set aside by the settlor will always go directly to the intended beneficiary.

Bare trusts are often used to pass assets to young people - the trustees look after them until the beneficiary is old enough.

6.2.6.2 **Interest in possession trusts**

These are trusts where the trustee must pass on all trust income to the beneficiary as it arises (less any expenses).

6.2.6.3 **Discretionary trusts**

These are where the trustees can make certain decisions about how to use the trust income, and sometimes the capital.

Depending on the trust deed, trustees can decide:

- what gets paid out (income or capital)
- which beneficiary to make payments to
- how often payments are made
- any conditions to impose on the beneficiaries

Discretionary trusts are sometimes set up to put assets aside for:

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- a future need, like a grandchild who may need more financial help than other beneficiaries at some point in their life
- beneficiaries who are not capable or responsible enough to deal with money themselves

6.2.6.4 **Accumulation trusts**

This is where the trustees can accumulate income within the trust and add it to the trust's capital. They may also be able to pay income out, as with discretionary trusts.

6.2.6.5 **Settlor-interested trusts**

These are where the settlor or their spouse or civil partner benefits from the trust. The trust could be:

- an interest in possession trust
- an accumulation trust
- a discretionary trust

6.2.6.6 **Foundations**

Broadly speaking, a foundation is a non-profit entity or a non-profit or charitable entity that makes grants to organizations, institutions, or individuals for charitable purposes such as science, education, culture, and religion. Specific legislation exists in Gibraltar covering the establishment and operation of foundations and these are subject to oversight by the FSC.

6.2.6.7 **Threat and Vulnerability Assessment**

Gibraltar has a regulated TCSP sector which requires all professional trustees to be regulated and are supervised by the FSC for compliance with prudential and conduct of business requirements as well as the adherence to POCA requirements as relevant financial businesses.

Whereas it is possible to be a trustee of a Gibraltar trust without being licensed (e.g. acting in a personal capacity) nearly all trusts in Gibraltar (circa 2,500) are managed by licensed professional trustees.

The main ML risks lie in the ability to disguise funds in a trust structure and then to distribute the trust funds as a legitimate disbursement of the trust. Because of the regulated nature of the activities conducted by the trustees adequate controls are in place to mitigate misuse of trust funds by trustees. The attractiveness of trust structures for TF purposes is considerably less as this will require collusion on behalf of the regulated trustees. Similar considerations apply for foundations.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.2.6	Trusts	2	1	**3**	1	1	**2**	**5**
6.2.6.6	Foundations	2	1	**3**	1	1	**2**	**5**

6.2.7 Asset Holding and Asset Protection Vehicles

As seen in 6.2.2 above most of the activity of Gibraltar TCSP clients relates to assets holding of one type or another. Actual asset possession may be through either a limited company or trust structure. The risk assessment applicable to each of those types of legal entities or legal arrangements applies to the asset holding entity.

In some two dozen cases Asset Protection Trusts (APTs) are used to hold assets of medical professionals shielding their assets from civil lawsuits. These APTs are fully disclosed to the Inland Revenue Service of the USA and therefore do not present a ML or TF risk.

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The assets being held under this category is varied but in broad terms falls under one of these;

- Regulated Investment
- Bank deposits
- Unregulated investment
- Real Property
- High value vehicles and vessels
- Art and other valuable Chattels
- Trading.

All of these activities are already covered by the NRA itself and therefore the risks applicable to these assets applies in much the same way as it would for an individual holding these assets in their own name. A separate threat and vulnerability assessment are not considered necessary.

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6.3 Money Services Businesses (MSBs) and Money Value Transfer Services (MVTS)

6.3.1 Currency Exchange

Currency Exchange allows for the conversion of funds from one currency to another at a determined rate set by the provider.

Currency Exchange is a widely used service in Gibraltar due to the land border it shares with Spain.

All currency exchange providers within Gibraltar are regulated entities and are subject to compliance with the legislative and regulatory standards set by the Gibraltar Financial Services Commission.

The low level of STRs relating to this sector is due to bureaux being unable to report any transactions without having oversight of any documentation to prove the customers identity and are therefore are unable to report a transaction if it was not completed.

The money laundering threat related to currency exchange is that high volumes of money can be easily converted, making it simpler for organised crime groups to access clean funds.

Currency Exchanges predominately operate in cash for both the buying and selling of currency, therefore, the firms are unable to be certain of the origin of the funds and where these have derived from posing a greater ML threat.

Due to Gibraltar's close proximity to Spain, there is a demand for the exchange of currency on a regular basis. There are many tourists who cross the land border Gibraltar shares with Spain and require the exchange of currency. Gibraltar also has over 10,000 cross-border workers who reside in Spain and require funds exchanging into Euros . Given money laundering through currency exchanges does not require any specific planning or expertise, this method is more appealing to criminals.

Gibraltar's licensing and regulatory framework provides significant mitigation against the risk of money laundering.

The Gibraltar Financial Services Commission is responsible for the oversight and supervision of currency exchanges and as part of this, a thematic review was conducted to understand the overall risks applicable to the industry. The review outlined that the exchanges operating within Gibraltar have a good understanding of the relevant risks and appropriate systems of control. The shortcomings identified for some firms have now been remediated to a satisfactory level. Therefore, this reduces the overall ML risk posed within the jurisdiction.

Additionally, through its supervisory programme, the GFSC has established that most currency exchanges do not accept high-value euro notes unless they can be satisfied of their origin which reduces a level of ML risk posed.

The majority of transactions carried out within the jurisdiction relate to tourists exchanging small denominations, cross-border workers exchanging salaries and established businesses converting funds. This risk is further mitigated by the GFSC imposing a lower threshold than what is stated within EU directives. A maximum of €5,000 can be exchanged without the requirement for customer due diligence measures to be established.

Licensees are required to submit returns to the GFSC indicating the number and value of transactions, including those below €5,000, the sourcing of currency and destination of the transaction. This ensures a level of control and monitoring over the business carried out by the exchanges which increasing transparency and reduces the ML risk.

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6.3.2 Transfer of Funds

Money value transfer or money remittance is defined under the second Payment Services Directive (PSD2) as a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee.

MVTS are a regulated activity in Gibraltar and require to be authorised by the GFSC and are subject to the legislative requirements contained within the Proceeds of Crime Act 2015 Gibraltar only has two MVTS operating within the jurisdiction and these are part of global MVTS providers. Both MVTS are also regulated Currency Exchanges, subject to ongoing supervision by the Gibraltar Financial Services Commission.

One of the global providers used in Gibraltar provides its own framework, which includes ongoing training on the threats related to this sector and raising awareness of suspicious activity reporting reducing the ML risk further.

Money Laundering:

MVTS are, in a number of cases, cash-based and allow for speedy transactions. Due to their specific features and in particular their reliance on agents, MVTS can be provided in high risk, non-EU countries and may be used by high risk customers. Transactions via MVTS are subject to specific monitoring and checks. Therefore, the most prevalent risks in the MVTS sector are the cash intensive nature of the service, the high speed and volume of transfers (although individual transactions are usually low), and transfers to high risk jurisdictions.

Organised crime groups tend to use this method and manipulate agents who provide this service to help facilitate the flow of funds.

There are no known organised crime groups operating in Gibraltar and therefore, there is no evidence to demonstrate that MVTS are being exploited for ML purposes.

Part of this supervision consists of quarterly returns which outline the countries in which funds are sent/received and the respective denominations. This reduces a level of the risk posed as there is increased transparency and

Terrorist Financing:

The threat associated to MVTS providers is that it does not require any expertise to use the services making it particularly attractive to terrorist groups. MVTS allow for cash to be remitted anywhere in the world including high risk jurisdictions and conflict zones without an account being required.

Terrorist groups use this method as it also allows for the movement of small denominations from various locations globally which assists with hiding the true origin when raising funds to carry out attacks.

Many MVTS are placed in locations where there is a large population of migrants and operate from newsagents/internet cafes where the knowledge of the terrorist financing threat associated to this type of activity may be insufficient.

The largest proportion of transactions undertaken by the MVTS providers in Gibraltar are to jurisdictions of which Gibraltar has large migrant communities, therefore, justifying these transactions. The sectorial data analysed by the GFSC has demonstrated that Gibraltar's exposure to high risk countries and conflict zones through the use of MVTS providers is low.

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There are no known terrorist groups or organisations in Gibraltar which decreases the TF risk, as well as, no evidence to suggest that the MVTS providers locally are being used for illicit purposes.

6.3.3 Payment Services

Payment services institutions are regulated by the GFSC and fall under local legislation which recently transposed the revised Payment Services Directive (2015/2366) ('PSD2'). They are listed in Annex I of PD2 and cover a wide variety of services, including:

- services enabling cash to be placed on or withdrawn from a payment account;
- money remittance;
- execution of payment transactions such as credit transfers or direct debits;
- execution of payment transactions through payment cards or similar devices;
- issuing of payment instruments;
- acquiring of payment transactions.

A 'payment transaction' is defined as an act initiated by the payer or on his behalf or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee.

PSD2 does not regulate all payments. Payments in cash or paper cheque payments are not covered. Payments transactions by a provider of electronic communication networks, under a certain value are also excluded from the scope of the Directive.

Perpetrators are using the banking and financial system may use this method to channel their funds through bank accounts, the financial system using wire credit and transfers, debit transfers, (peer-to-peer) mobile payments and internet-based payment services.

Money Laundering:

The assessment of the ML threat related to payment services concerns both the placing and withdrawing of funds (i.e. deposits on account and use of this account). This method may be frequently used by criminals with the funds used in payment services being from non-legitimate origins. It requires some planning and knowledge of how banking systems work.

The risk exposure is inherently high due to the characteristics of payment services, as they involve very significant volumes of products and services. Although payments are generally not anonymous (as they are linked to an identified account), they may interact with higher risk customers or countries, including cross border movements of funds. They also interact with new payment methods (mobile/internet), which may increase the level of risk exposure because they imply a non-face-to-face business relationship.

Gibraltar recognises payment services institutions as a relevant financial business under POCA and therefore, they are subject to all the AML/CFT obligations and to the licensing and supervisory measures of the GFSC. Nonetheless, there is currently only one payment services institution in the jurisdiction which is in the process of surrendering. This reduces the impact and vulnerability of a potential ML risk.

Terrorist Financing:

The assessment of the terrorist financing TF threat related to payment services shows that account-based transactions are used by terrorists to store and transfer funds and used to pay for the services or products needed to carry out their operations, in particular when processed through the internet. The majority of terrorist cells located in Europe have derived some income from legal sources — usually received through the formal banking system — and use bank accounts and credit cards both for their everyday economic activities and for attack-related expenses. However, due to the account-based elements, terrorist groups' intent to rely on this

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risk scenario is more limited. However, their capability to use it is quite high. The use of payment services requires certain skills, but specific knowledge is not necessarily required which increases the threat posed. Therefore, this method is commonly widespread within terrorist groups and do not constitute an obstacle (mobile/internet payments are quite easy).

Payment services allow cross-border transactions that may rely on different mechanisms of identification (depending on national legislation) that may lead terrorists to use a false identity. This means that law enforcement agencies authorities are not be able to track the originator or beneficiary of the transaction. The use of payment services requires specific skills but, according to law enforcement agencies, these skills are commonly widespread within terrorist groups and do not constitute an obstacle (mobile/internet payments are quite easy). The amounts concerned appear to remain small and limited which reduces the risk exposure.

The risk exposure is inherently high due to the characteristics of payment services, as they involve very significant volumes of products and services. Although payments are generally not anonymous (as they are linked to an identified account), they may interact with very significant volumes of higher risk customers or countries, including cross border movements of funds. They also interact with new payment methods (mobile/internet), which may increase the level of risk exposure because they imply a non-face-to-face business relationship.

The assessment of the money laundering threat related to payment services is considered as presenting similarities with deposits on account. This risk scenario concerns both the placing and withdrawing of funds (i.e. deposits on account and use of this account). It is frequently used by criminals, but also by relatives/close associates, which extends the scope of the intent and capability analysis. The funds used in payment services are from non-legitimate origins. Payment services also interact with new payment methods (mobile/internet), which may increase the level of risk posed because they imply a non-face-to-face business relationship.

Gibraltar recognises payment services institutions as a relevant financial business under POCA and therefore, they are subject to all the AML/CFT obligations and to the licensing and supervisory measures of the GFSC. Nonetheless, there is currently only one payment services institution in the jurisdiction which is in the process of surrendering. This reduces the impact and vulnerability of a potential TF risk.

6.3.4 Informal transfer of funds through Hawala

Hawala is a system of money transmission which arranges the transfer and receipt of funds or equivalent value. It is often reliant on ties within specific geographical regions or ethnic communities. These movements of value may be settled through trade or cash businesses engaged in remittance activities and often operate in areas of expatriate communities. Informal systems of value transfer, like Hawala, can be used for legitimate purposes, like money remittances, but also for criminal ones.

Whilst the Hawala method may be considered high risk for ML/TF purposes, Gibraltar does not have members of diaspora and migrant communities where this system would be more commonly found and local law enforcement has not found evidence to suggest that Hawala systems operate from Gibraltar, therefore, the risk posed is decreased. Additionally, the local TF threat is considered to be low in Gibraltar.

Although the Hawala system could be operated via an existing currency exchange or money remittance firm in Gibraltar, this has not been found to be the case.

The currency exchange sector in Gibraltar is licensed and supervised by the GFSC including being subject to all requirements under POCA. Through its ongoing monitoring programme the GFSC reviews inflows and outflows to jurisdictions where transactions are sent to including the values of those. The GFSC has never had a case of ML/TF through this modus operandi. Therefore, there

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is little evidence to suggest that this is a method which criminals would use locally for illicit purposes.

6.3.5 Threat and Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.3.1	Currency Exchange	3	2	**5**	2	1	**3**	**8**
6.3.2	Transfer of Funds	3	2	**5**	3	1	**4**	**9**
6.3.3	Payment Services	3	1	**4**	3	1	**4**	**8**
6.3.4	Informal transfer of funds through Hawala	1	1	**2**	1	1	**2**	**4**

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6.4 Securities & Funds Sector

The securities sector is an industry 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.

6.4.1 Securities Sector

Some of the features that have long characterised the securities industry are its speed in executing transactions, its global reach, and its adaptability, making securities attractive to those who would abuse it for illicit purposes, including ML and TF.

The GFSC currently regulates 11 Investment Dealers and 14 Investment Managers. These firms are required to appoint a suitably experienced and qualified Compliance Officer and MLRO. Firms are also required to implement client verification and identity procedures, establish source of wealth and source of funds, client suitability assessments and conduct ongoing transaction monitoring and sanctions screening. These firms are also required to conduct enhanced due diligence and monitoring for higher risk clients and PEPs. These controls ensure that ML and TF risks are monitored and mitigated.

6.4.2 Funds Sector

The establishment of private funds and Experienced Investor Fund products locally could present an opportunity for ML and TF activities. Certain types of funds provide liquidity, and some have complex structures and multiple relationships which can give rise to uncertainties with regards to the principle controller(s) and owner(s) of assets. These characteristics increase the ML and TF vulnerabilities of Funds.

6.4.2.1 **Experienced Investor Funds (EIF)**

EIFs are regulated by the GFSC and there is currently 44 EIFs that are authorised by the GFSC. The ML and TF risks detailed above in respect of the Funds Sector generally are mitigated in Gibraltar as follows.

The Financial Services (Experienced Investor Funds) Regulations 2020 (EIF Regs) is the principle statutory instrument that regulates EIFs. Under the EIF Regs, an EIF is required to appoint a minimum of two persons, responsible for its management and control, who each hold consent given by the GFSC in accordance with the EIF Regs (EIF Directors). Furthermore, the EIF Regs require the EIF to disclose in its offer document the full name and address of every person responsible for the management and control of the EIF. The offer document is submitted to the GFSC. This allows the GFSC to have insight into the individuals responsible for the management and control of the EIF and thus makes it unlikely that individuals looking to manage and control an EIF for the purposes of ML and TF would look to use this transparent vehicle, particularly since the GFSC has the right to intervene in and indeed take over the business of the fund.

Furthermore, the EIF Regs require the EIF to appoint an Administrator. The Administrator is primarily responsible for the calculation of the net asset value of the EIF and for undertaking transfer agency services. The provision of fund administration services is also a regulated activity under the Financial Services Act 2019.

Both the EIF and the Administrator fall within the remit of the definition of a “relevant financial business” for the purposes of the Proceeds of Crimes Act 2015 (POCA) and thus are required to comply with the same.

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As mentioned, the EIF is itself required to comply with POCA. The EIF must appoint a person responsible for ML & TF risks, i.e. an MLRO. Furthermore, as regulated persons or entities, the Administrator and the EIF directors must ensure that the appointment occurs.

An EIF may be a company formed or re-domiciled under the Companies Act 2014, a protected cell company, a unit trust established under and governed by Gibraltar law, a limited partnership or any other form/vehicle/entity authorised and approved by the GFSC. The EIF Regs require all individuals responsible for management and control to be identified.

On establishment of an EIF, the vehicle/entity is required to obtain legal opinion from a lawyer that has at least 5 years professional standing, is a barrister or solicitor of the Supreme Court of Gibraltar and is independent of the Administrator. The legal opinion is required to confirm that at the date of establishment, it complies with various provisions of Gibraltar law.

Under the EIF Regs, an EIF is required to disclose in its offer document the investment objective and investment strategy to be employed, including the EIF's approach to borrowing and leverage and any applicable restrictions. The offer document is submitted to the GFSC, in accordance with the EIF Regs.

In conjunction with the above, the EIF Regs require the EIF to appoint an auditor in Gibraltar and to undertake an annual audit. Auditors also fall within the remit of POCA and have their own POCA obligations. The auditor would also be obliged to report any ML and TF risk identified in the conduct of its audit. This would include any ML and TF risk identified because of auditing the EIF's investment activity and operations.

On establishment of an EIF, the vehicle/entity is required to obtain legal opinion from a lawyer that has at least 5 years professional standing, is a barrister or solicitor of the Supreme Court of Gibraltar and is independent of the Administrator. The legal opinion is required to confirm that at the date of establishment, it complies with various provisions of Gibraltar law.

As set out, there are numerous complexities in establishing an EIF which are likely to deter individuals from establishing such a vehicle for the purposes of ML and TF. Once established, the EIF is itself required to comply with POCA and there are several independent third parties engaged by the EIF who are also required to comply POCA in respect of its client EIF. These measures are likely to deter the use of the EIF for the purposes of ML and TF.

Although certain EIF vehicles would have the option of listing on a stock exchange to create liquidity of the units of an EIF on a secondary market. Any such listing would need to be disclosed in the EIF offer document and would be authorised by the GFSC. In practice, only a small number of EIFs have been listed on a stock exchange.

Where an EIF is not listed, to liquidate a position in a unit the holder thereof would either have to redeem their unit or transfer it to a third party. In the case of the redemption, the EIF would be required to undertake ongoing CDD in respect of the investor. In the case of the transfer of the unit, the EIF would be required to undertake CDD on the transferee before permitting the transfer of the unit. This would apply not only in respect of POCA but also for the purposes of ensuring the transferee satisfies the definition of an experienced investor as set out in the EIF Regs.

6.4.2.2 **Private Funds**

Private Funds are restricted under the Financial Services Act 2019 to identifiable categories of persons and no more than fifty people may subscribe for shares. They are intended for friends and family of a promoter and in some case for family office structures that do not seek external investors. The ML and TF risks for Private Funds are similar to that of the "Creation of Legal Entities and Legal Arrangements" set out at section 6.2 of this document because unlike EIFs,

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Private Funds are not regulated by the GFSC and thus the deterrents and some of the mitigating factors that exist with EIFs does not exist in the case of Private Funds.

Whilst Private Funds are not regulated by the GFSC, they are subject to the Financial Services (Alternative Investment Fund Managers) Regulations 2020 and at a minimum are required to register as a "small AIFM" with the GFSC. There are currently [75] small AIFMs registered with the GFSC (albeit some are EIFs, which are also required to register).

Private Funds may be established as a partnership, a unit trust or a company. All of the entities registered with the GFSC are companies with the exception of one partnership and one limited partnership. There is a legal requirement for companies and partnerships to have a registered office in Gibraltar, therefore in practice a Private Fund will appoint a TCSP that provides registered office services and either company management or professional trustee services. The TCSP is itself subject to POCA and constantly is required to undertake CDD in respect of its client on an ongoing basis, this includes CDD in respect of the investors in the Private Fund.

Because a private fund is not a regulated entity, when dealing with financial institutions, for example to open an account, the financial institution is required to undertake CDD in respect of the private fund and by virtue of the fact that the private fund is not a regulated entity is required to look through and also undertake CDD in respect of the private funds investors. In this regard, for a private fund to access the financial markets it must be fully transparent in respect of its investors. This deters the use of private funds for ML and TF and thus mitigates the risk that they may be used in such respects.

To establish a private scheme, one requires know-how on the establishment of the vehicle (i.e. companies, trusts or partnerships) and know-how on the establishment of the private fund itself. The complexity of establishment also mitigates the risk that it may be used for the purposes of ML and TF. The know-how for the establishment of the private scheme usually requires the involvement of legal counsel in Gibraltar or at the least an Administrator. Both service providers would be required to comply with POCA and undertake CDD.

The Financial Services Act 2019 prohibits Private schemes from being listed on a stock exchange and so the possibility of creating liquidity on a secondary market. This means that like in the case of an EIF, the only manner of creating liquidity in respect of the units of the private scheme would be either by redemption or transfer of the unit. In both cases, the involvement of the TCSP would be required. The redemption could only be made to the holder of the unit (in respect of which the TCSP will have undertaken CDD before allocating the unit). The transfer could only be permitted by the TCSP once CDD is undertaken on the transferee.

6.4.3 Threat and Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.4.1	Securities	4	3	**7**	1	1	**2**	**9**
6.4.2.1	Experienced Investor Funds	2	2	**4**	2	2	**4**	**8**
6.4.2.2	Private Funds	3	3	**6**	3	3	**6**	**12**

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6.5 E-Money

"Electronic money" is defined under the second E-Money Directive ('EMD2', 2009/110/EC) as electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions and which is accepted by a natural or legal person other than the electronic money issuer. A key characteristic of e-money is its pre-paid nature. This means that an account, card or a device needs to be credited with a monetary value for that value to constitute e-money.

E-money can for example be stored on cards, on mobile devices, and in online accounts. Depending on the way e-money is stored, it can be classified as 'hardware-based' or 'server-based'.

Each of the authorised e-money firms in Gibraltar offer either entirely or partially software-based products. These products are based on specialised software that functions on common devices such as computers or tablets via network access. For hardware-based products, the purchasing power resides in a physical device, such as a chip card, with hardware-based security features. Monetary values are typically transferred by means of device readers that do not need real-time network connectivity to a remote server. A number of authorised firms in Gibraltar offer schemes which contain elements of both hardware and software-based features, such as a chip-and-pin card.

Other potential distinctions between e-money products can include the manner by which the e-money is created or issued. The key distinction relates to whether e-money can be prepaid by the user (payer) or by a third party on behalf of or in favour of the payer (e.g. by a company in the case of business-to-business cards or by a merchant in multi merchant loyalty schemes).

It should be noted that all prepaid cards are required under card scheme rules to be online (real-time authorisation only) – Hence why airlines and toll booth operators for example, who operate offline, restrict acceptance of prepaid cards. E-Money issuers also issue Debit and Credit cards which can be offline services but most issuers will configure a real-time authorisation process by default to protect against fraud.

How e-money products are classified depends on whether the product is multifunctional or is linked to a platform. Both types can be used online, but the latter only allows purchases in a single platform and does not allow peer-to-peer transfers. In both cases, a bank account is needed for loading the e-money products. Another category includes prepaid cards or vouchers with customer due diligence exemptions: these products can be used online or offline and can be purchased by cash but these are not permitted to be offered in Gibraltar. Anonymous cards are not offered by Gibraltar based service providers.

Not all monetary value that is stored electronically should be considered as e-money in the context of the EMD2. Limited network products such as gift cards and public transport cards that can only be used with a certain retailer or a chain of defined retailers are outside the scope of EMD2. Virtual currencies such as Bitcoin are not considered as e-money as they are not issued on receipt of funds, and instead fall under the scope of the NRA under Distributed Ledger Technology.

As regards the different business models, three types of actors are recognised in EMD2:

- **the issuer:** entity which 'sells' e-money to the customer (whether a consumer or a business) in exchange for a payment. It is also the entity that requires authorisation to issue electronic money and is regulated by EMD2;
- **the distributor:** entity other than the issuer that can distribute or redeem e-money on behalf of the issuer (i.e. it re-sells the e-money issued by the issuer, such as a retail outlet selling prepaid cards);

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- **the agent:** entity that acts on behalf of the e-money issuer, enabling issuer to carry out payment services activities (except for issuing e-money) in another Member State without establishing a branch there. The PSD2 and EMD2 agent directives implemented in certain jurisdictions requires a branch – Germany for example and France requires a local AML representative

In practice, this distinction appears to be used by authorised e-money issuers primarily in the context of cross-border provision of e-money services, with selected issuers using 'distribution partners' in order to operate in other Member States.

There are four e-money/card issuers currently operating from Gibraltar and a Bank that primarily provides E-Money services. These firms passport their services into a variety of EU jurisdictions.

6.5.1 Open Loop

Open loop cards are those which can be used at any retailer or merchant, as well as in some cases ATMs for cash withdrawals. Many e-money products are single use cards, e.g. gift cards which can be used in any retailer or merchant but once the stored value is used up there is no way that the e-money can be topped-up. Single-use products are not offered in Gibraltar, however, as all authorised entities currently allow their clients to top-up additional funds using their own bank accounts.

There are currently 4 licenced e-money institutions in Gibraltar, all of whom offer open-loop products. Each e-money institution is subject to all of the legislative requirements under POCA and falls within the licensing and supervisory remit of the GFSC. As part of both authorisation and ongoing monitoring, the GFSC ensures that e-money institutions are applying adequate measures in mitigating and managing any potential AML/CFT risks. The implementation of sanctions screening checks, and the review of due diligence records held on clients would form part of this ongoing supervision. The AML/CFT thematic review of the e-money sector conducted by the GFSC in 2018 is an example of the oversight exercised by the regulator. Potential weaknesses were identified through this review and were addressed in feedback to ensure their subsequent remediation.

It is also important to note that Gibraltar has not applied the Derogation allowed for under Article 12 of the Electronic Money Directive which allows for Simplified Due Diligence to be undertaken on clients transacting under a €150 limit. Anonymous e-money products are also not allowed in Gibraltar. Both of these controls ensure that e-money institutions operating in or from Gibraltar apply customer due diligence at all times, mitigating the risk considerably.

6.5.2 Closed Loop

Closed loop cards are prepaid cards which can be used to purchase goods and services within a single network, or limited network of service providers. These cards are split into various categories such as those which are single use and those which can be used to acquire cumulative purchases. The difference between the cards is that single use cards would be topped up initially with a limited load value and then disposed of. Single use cards, in most instances, are not subject to due diligence measures. In contrast, many providers who offer cards that are used to make purchases on an ongoing basis would subject their clients to due diligence measures for the purposes of repayment.

There is minimal risk associated with closed loop cards given the limited network in which they can be used. This being said however, for single use cards the primary loading could be cash-based. Closed loop cards are out of scope of the 2nd Electronic Money Directive and fall under the limited network exemptions permitted under the 2nd Payment Services Directive.

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6.5.3 Threat and Vulnerability Assessment

The analysis of the STRs submitted by the sector show a spread of predicate offences which gave rise to the knowledge or suspicion highlighted Fraud and ML being the major contributors to the STR process. No cases of TF were the cause of an STR submission.

The STR reporting numbers, 2nd highest reporting sector in 2018 and 3rd highest in 2019, is commensurate with the types of products and activities of the sector and the comparatively small numbers of transactions with higher risk jurisdictions.

6.5.3.1 Money Laundering

The assessment of the money laundering threat is linked to some cash-based products that can be used by criminal organisations, including non-EU ones, through distributors of these products. E-money products have some advantages over cash when it comes to moving that money outside the EU or to different Member States. Nevertheless, cash remains a preferred option for these groups.

Internationally, financial intelligence units have detected multiples cases of misuse of e-money (tax fraud, drug trafficking, prostitution) through the purchase of multiple prepaid cards. Law enforcement agencies have found cases where the proceeds of drug trafficking were laundered by prepaid cards. Typically, prepaid card limits in Gibraltar are lower than €5,000 maximum balance. The average annual prepaid card balance/turnover is €1,500-€2,000. However, since the use of frontmen is costly when circumventing customer due diligence thresholds and laundering large amounts of money, it easier to use agents involved in the delivery channel of e-money products.

Among the wide range of e-money products, the products most exposed to money laundering risks are the ones that can be purchased for cash. Of the four e-money issuers in Gibraltar only one permits cash purchasing of cards, the others only permit existing bank accounts/debit cards to be used. The use of these products individually for money laundering purposes is costly because of the lower thresholds and the cost of hiring frontmen to circumvent the thresholds for applying customer due diligence. However, when some intermediaries act in the delivery channel of the e-money product (distributors, agents), this can be the weakest part of the AML prevention system if firms are unable to perform efficient monitoring of their distributor's network.

Perpetrators or facilitators can have an external agreement with these agents or distributors to purchase large amounts of prepaid cards and move those funds across Member States or non-EU countries, or even to sell such amounts of prepaid cards at a discount to third parties. If e-money firms do not have robust checks over their distributor's network and detect potential rogue distributors, such distributors will be able to avoid applying customer due diligence measures properly and to introduce fake documents into the system, in a similar way as occurs with rogue agents of money remittance firms.

6.5.3.2 Terrorist Financing

E-money products present some hypothetical advantages over cash when it comes to making online payments, and the use of these products does not require great expertise. Taking into account the low amounts of money needed for terrorist attacks, it can sometimes be easier to pay for some products or services using e-money products rather than by cash - even if perpetrators have to pass customer due diligence measures because payments are above the thresholds. One disadvantage of using e-money products over cash in such instances, however, would be their traceability. Very few, if any, hotels accept prepaid cards – most have a requirement for Debit or Credit. Where an EMI issues Debit or Credit cards they are linked to an

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IBAN or Bank Account or predefined loan balance. Car Rentals accept credit cards only because they wish to avoid insufficient funds fraud.

When assessing the terrorist financing threat of e-money, additional considerations need to be made relating to transactions undertaken in "conflict zones". These regions are defined as directly experiencing or adjacent to areas of war or extreme violence. When perpetrators attempt to send money to conflict zones, e-money products can often be seen as a more viable alternative, but using them as a means of payment in those countries can be more complicated or restrictive than cash. The requirement to get through customer due diligence methods presents itself as an additional barrier to its usage for such crime.

In summary, e-money products have some advantages for terrorist financers in comparison with cash. While such products allow for more discrete payments than cash, they bring with them disadvantages when using e-money products in conflict zones or avoiding traceability of the payments. The level of threat is independent of the thresholds for applying customer due diligence if perpetrators are not included in sanction lists.

The terrorist financing inherent risk for non-cash-based e-money products can be considered similar to that for other banking products or credit cards. Despite the origins of funds being known and traceability of payments being complete, perpetrators can use these products as a means of payment even if they have to pass customer due diligence measures. This is because most of the time perpetrators are not under the scope of sanctions regime.

In respect of TF, e-money products offer a more secure way of moving money to conflict zones for terrorist financing, but the use of such products as a means of payment in these areas can be more difficult.

When it comes to terrorist financing risks, the efficiency of checks is independent of the customer due diligence measures applied and depends more on the quality of the databases checked to detect transactions and customers linked with terrorist financing. The sector's engagement with competent authorities and law enforcement agencies is crucial to improve efficiency and mitigate such risks and reliance on technology improves efficiency in identifying suspicion, particularly where high-risk countries are involved. The role of the Gibraltar Financial Services Commission in undertaking the supervision of these firms and ensuring that adequate are controls are in place therefore fulfils his function. The e-money thematic undertaken in 2018 is an example of the level of oversight that the commission has over the suitability of these controls. Any weaknesses that were identified were then remediated and will continue to be screened as part of their ongoing supervision.

6.5.4 Threat & Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.5.1.1	Open Loop e-money (Cash Purchasing)	4	3	**7**	4	3	**7**	**14**
6.5.1.2	Open Loop e-money (Linked to a back account)	3	2	**5**	2	2	**4**	**9**
6.5.2	Closed Loop e-money	1	1	**2**	1	1	**2**	**4**

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6.6 Distributed Ledger Technology (DLT)

Distributed Ledger Technology (DLT), as an emerging technology in the financial services sector, has presented possible vulnerabilities to money laundering, terrorist financing and proliferation financing. Virtual Assets (VAs) are currently one of the most popular uses of DLT. VAs are a digital representation of a value that can be traded online. One way to trade VAs online is through a Virtual Asset Service Provider (VASP). Similarly, like most jurisdictions, Gibraltar does not recognise any VAs as legal tender. However, more importantly, and in contrast to most other jurisdictions, Gibraltar does regulate certain uses of DLT.

Since 1 January 2018, Gibraltar has implemented a regulatory framework under which any firm carrying out by way of business, in or from Gibraltar, the use of distributed ledger technology (DLT) for storing or transmitting value belonging to others (DLT activities). Firms conducting these activities need to be authorised by the Gibraltar Financial Services Commission (GFSC) as a DLT Provider. This framework has positioned Gibraltar as a jurisdiction which facilitates innovation, while ensuring it continues to meet its regulatory and strategic objectives.

In Gibraltar, thirteen firms have permission to operate as DLT Providers. Seven of these firms function as a type of VA exchange, four operate as forms of VA over-the-counter (OTC) trading desks, one provides VA lending services and one operates as a prediction market. Gibraltar would appear to be exposed to risks of money laundering and terrorist financing, primarily through the DLT Providers that operate as VA exchanges. However, the requirements of DLT Providers that are enshrined in the DLT Framework largely mitigate many of these apparent risks.

The DLT Framework sets out nine regulatory principles, one of which outlines the requirements around Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT). Principle 8 states that:

> *"A DLT provider much have systems in place to prevent, detect and disclose financial crime risks such as money laundering and terrorist financing. "*

As such, any firm applying for permission to operate as a DLT Provider in Gibraltar must evidence to the GFSC that it does in fact have appropriate systems in place to mitigate risks of money laundering and terrorist financing, for example by having robust customer due diligence and 'Know-Your-Customer' (KYC) procedures in place. Additionally, all firms seeking a permission under this regime must also ensure that they are compliant with all aspects of the Proceeds of Crime Act 2015 (POCA), and by doing so the European Union's Fifth Anti-Money Laundering Directive (AMLD 5) and the latest Financial Action Task Force (FATF) standards.

The requirements of Principle 8 of the DLT Framework and POCA preclude, to a significant degree, the ability of organised criminals and terrorist organisations to anonymously transact using the services of DLT Providers in Gibraltar. All DLT Providers in Gibraltar are expected to conduct appropriate KYC and due diligence checks, including on clients' source of wealth and source of funds. Additionally, DLT Providers are required to conduct on-going monitoring of transactions aligned to the risk profile of each client to be able to monitor and identify any patterns of suspicious activity from darknet markets, sanctioned addresses or anomalous transactions. DLT Providers are also expected to conduct an analysis on wallets, to identify where clients deposit from, and withdraw to. Whilst also preventing withdrawals to blacklisted addresses and freezing deposits from illicit activities.

Criminal organisations may be attracted to money laundering using VAs as these assets are characterised by non-face-to-face transactions that can offer a higher degree of anonymity than traditional non-cash payment methods. However, this higher degree of anonymity is largely mitigated in Gibraltar, through the requirement that DLT Providers know the identity of each and every one of their customers and do not process transactions where the the customer's identity is not known to the firm. Many DLT Providers have adopted new technologies like comparing live

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facial recognition to independent sources of identification to verify clients. Furthermore, DLT providers in Gibraltar do not currently offer any coins with privacy enhanced features..

6.6.1 Stakeholders

Various stakeholders are involved in the virtual assets market, the main ones being :

6.6.1.1 Wallet Providers

Virtual asset users may hold virtual asset accounts on their own devices or entrust a wallet provider to hold and administer them (in an e-wallet) and provide an overview of the user's transactions (via a web or phone-based service).

There are three types of wallet provider:

- hardware wallet providers, which provide users with specific hardware solutions to store their cryptographic keys privately;
- software wallet providers, which provide users with software applications that allow them to access the network, send and receive virtual assets, and save their private keys locally; and
- custodial wallet providers, which take online custody of a user's private keys (including multi-signature wallets).

Unlike software wallet providers, custodial wallet providers take custody of the user's public and maintain their own private key, holding crypto in custody on behalf of clients. This is analogous to a traditional bank providing a personal account.

Wallets can be stored online ('hot storage') where the private cryptographic keys are held or offline ('cold storage'), with the latter ensuring greater protection.

Hardware and software wallet providers do not safeguard keys on behalf of their customers but provide them with the tools to safeguard their virtual assets themselves; this creates scope for possible ML/TF activities.

Only custodial wallet providers (entities that provide services to safeguard private cryptographic keys on behalf of their customers, to hold, store and transfer virtual assets) are obliged entities under AMLD5 and Gibraltar's DLT framework.

6.6.1.2 Exchanges

Exchange platforms (a person or entity engaged in the exchange of virtual asset for fiat currency, fiat currency for virtual asset, funds or other brands of virtual assets) may accept a wide range of payments, including cash, credit transfers, credit cards and other virtual assets. They include cashpoint machines.

Like traditional currency exchanges, large virtual asset exchanges provide an overall picture of changes in a virtual asset's exchange price and its volatility. Some platforms offer services such as conversion services for merchants who accept virtual asset payments, but are afraid of depreciation and want to convert them immediately into a (national) fiat money.

Whilst AMLD5 covers only exchanges of virtual assets into fiat currencies, not into other virtual assets, Gibraltar's DLT framework (as does the FATF standard) covers both virtual assets to fiat (and vice versa) as well as virtual asset to virtual asset.

6.6.1.3 Mining

In decentralised virtual asset schemes, miners solve a complex mathematical puzzle to obtain virtual asset rewards. Miners tend to operate anonymously from around the world to validate blocks.

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When a group of miners control more than half the total of the networks processing power (hash rate) used to mine blocks, they are in a position to interfere with transactions, e.g. by rejecting blocks validated by other miners. Miners can group into pools (Antpool, F2Pool, BitFury, BTCC Pool, BW.COM, etc.) to increase their processing power and hence increase their chances of mining the next block and claim the reward. Currently, most miners and mining pools are in China.

Gibraltar does not regulate mining operations primarily due to the unattractiveness of operating a mining operation in Gibraltar due to the high power costs required for substantive mining hardware.

6.6.1.4 Initial Coin Offerings

FATF's recently adopted definition of virtual asset service provider covers 'participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset'. Coin offerors are individuals or organisations who offer coins to virtual asset users on the coin's initial release, either against payment (e.g. through a crowd sale) or free of charge (e.g. as part of a specific sign-up programme, such as Stellar), normally to fund the coins further development or boost its initial popularity. A coin offeror can be the same person as the coin inventor, another individual or organisation.

AMLD5 has extended anti-money laundering obligations to 'providers engaged in exchange services between virtual currencies and fiat currencies' (exchange platforms) and custodian wallet providers, but does not cover all virtual asset related activities referred to in the new FATF definition of virtual asset service providers, in particular exchanges from VA to VA and initial coin offerings.

POCA requires all ICOs to comply with the requirements regarding systems of control to prevent and detect ML, which includes performing CDD on all ICO subscriptions.

6.6.1.5 Over-the-counter (OTC) Services

Over-the-counter (OTC) services provide two interested parties with the ability to trade directly, without the use of an exchange. However, traders are not necessarily involved in the process directly; they will usually seek the services of intermediaries, like brokers or OTC desks to act as an escrow.

OTC services are mostly popular amongst miners, institutions and high net worth individuals (HNWI) looking to make large trades. The two main reasons for this are liquidity and fluctuation; OTC services will usually be able to provide higher liquidity for larger trades, and OTC trades will not appear in order books, thus minimising the impact on the market.

Historically, the main issues with OTC services have been KYC, settlement risks and custody. OTC services will usually have lower KYC requirements than exchanges and may not conduct checks on the origin of the virtual assets, assets that may have been involved in illicit activities. In terms of settlement risk, unless the deal is conducted through a reputable broker or OTC desk, there is no guarantee the virtual asset will be delivered or cash will be paid. Finally, brokers and/or OTC desks do not always provide a trustworthy custody solution, which increases settlement and operational risks.

6.6.1.6 Peer-to-Peer Lending

Peer-to-peer (P2P) lending services has been a recent development in the DLT sector. Appetite for P2P lending services continue to grow at a steady rate.

Virtual asset lending offers superior rates for users. However, due to the volatility of virtual assets, borrowers using P2P services must collateralize large amounts of virtual assets, making borrowing inaccessible to the average user. Stablecoins provide a solution to the

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overcollateralization problem, because they have a stable price, so there is a reduced risk of the stablecoin collateral dropping below the value of the loan. Because of this, there is a huge demand for stablecoin loans.

Returns on stablecoin loans are high because of two main reasons; stablecoins have a relatively low supply from lenders, as it is a nascent asset and there is a huge demand for stablecoin loans. The demand for stablecoin loans are largely driven by institutional traders and payment processors. Institutional traders are looking to use the capital to increase their leverage on certain virtual assets. Payment processors on the other hand receive large amounts of virtual assets from businesses using their services, and there may not be enough volume on exchanges to liquidate their assets. Therefore, they can use their virtual assets as collateral for loans.

6.6.2 Threat and Vulnerability Assessment

By having established a full regulatory framework for the DLT space and a KYC compliance framework for ICOs Gibraltar has substantially mitigated the inherent risk that the DLT space presents. Compliance with the requirements of POCA (and by doing so AMLD5 and the revised FATF standard) as well as creating barriers to entry into the regulated space Gibraltar seeks to ensure that ML and TF risks are reduced considerable. The extension of KYC processes to include transactional data like IP, MAC and other unique identifiers extends the traceability and accountability of virtual assets which transact through Gibraltar. Legislation will need to keep abreast of more recent FATF definitions for VASPS (Virtual Asset Service Providers) as these definitions are broader in scope than those of AMLD5.

The European Union's Supranational Risk Assessment Report shows that terrorist organisations may have an interest in utilising VAs to finance terrorist activities. A limited, but growing number of cases related to VAs have been reported. The Egmont group of Financial Intelligence Units has detected cases of terrorist groups using VAs and having given instructions on social networks on how to donate VAs. The risk of terrorist financing in Gibraltar, using VAs is mitigated by the requirement that DLT Providers conduct due diligence on where their clients' funds are being withdrawn to. Firms are expected to block and report any attempts to withdraw VAs to wallets that have been known to engage in illicit activities.

6.6.2.1 Overall analysis

The overall risk analysis for this sector is as follows:

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.6.1.1	Wallet Providers	2	4	**6**	2	2	**4**	**10**
6.6.1.2	Exchanges	2	3	**5**	2	1	**3**	**8**
6.6.1.4	Initial Coin Offerings	2	3	**5**	1	1	**2**	**7**
6.6.1.5	Over the counter services (OTC)	3	1	**4**	1	1	**2**	**6**
6.6.1.6	Peer-to-peer lending	1	1	**2**	1	1	**2**	**4**

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6.7 Gambling

Gibraltar has a small and closely regulated gambling sector consisting mainly of remote gambling operators in the B2C and B2B sectors with one casino licence holder operating two small land-based casino premises and two betting premises A number of gaming machines located in premises (such as bars and restaurants) throughout Gibraltar.

The Gambling Division mitigates the risk of gambling operations being run by criminal organisations through its licensing procedures. All licence applications are assessed and a range of factors considered to ensure that each licensee is fit and proper. This helps to ensure that criminal elements are unable to own or control gambling operations. The extension of due diligence to critical supplier approvals further mitigates risk. The focus of licensing is to understand the nature of ownership and control; including the identification of all ultimate beneficial owners.

As such the residual risk present in all the gambling scenarios in Gibraltar, particularly online gambling is related primarily to user-related ML in which proceeds of a crime are used to gamble (e.g. theft from employer/ proceeds of fraud etc.). Whilst theft and fraud cases are only a very small percentage of the total relative size of active customer numbers, nevertheless the risk of operators accepting deposits from the proceeds of crime is a crystallised risk which is mitigated by effective ongoing customer monitoring and due diligence. Historically operators have had too much risk appetite for large depositing and losing customers. Effectiveness of controls is now a key regulatory focus.

The Poker vertical is a higher risk area with "chip-dumping" and peer-to-peer transfers of funds between players being a feature on online poker platforms. Lower level transfers of funds can be effected and this is recognised as a potential terrorist financing/money laundering risk, albeit that there also collusion in poker rooms for legitimate non-criminal (gameplay) reasons.

The gambling sector with its large customer base is the largest STR contributor over the last six years and the predominant predicate offence indicated in these STRs is "proceeds of crime", i.e. the use of self-generated proceeds to place a bet with 90% of the STRs total and 6% indicating ML. There is little in the way of evidence of traditional money laundering being carried out through online gambling operators.

6.7.1 Remote Gambling (Betting, Casino, Bingo, Poker)

Remote gambling encompasses any service which involves wagering a stake with monetary value in games of chance. These include those with an element of skill, such as lotteries, casino games, poker games and betting transactions that are provided by any means at a distance, by electronic means or any other technology that facilitates communication, and at the individual request of a recipient of services.

A large variety of gambling products are available online. These include i) games where the customer wagers a stake against the gambling service provider at fixed odds (e.g. lotteries, sports betting, roulette, etc.) and ii) gambling activities where customers can play against each other and where the service provider takes a small commission for facilitating the activity, usually a percentage of net winnings for each customer on each event (e.g. poker and betting exchanges where customers can both place and accept bets).

Gibraltar is an international hub for remote gambling operators in both the B2C and B2B sectors and is a major contributor to Gibraltar's GDP. Gibraltar licensed B2Cs represent approximately 8 million active customers at any given time. The majority of the client-base is in the UK, with the remainder being mainly located in other EU jurisdictions. Gambling operators are required to be licensed and regulated for their activities and for which extensive barriers to entry exist to prevent criminals and their associates from owning or controlling operators.

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Various controls also exist to detect and prevent unlicensed operators from using Gibraltar for unlicensed gambling activities.

The main risk for on-line gambling in the B2C sector arises out of the non-face-to-face interaction between the players and the operator. However, at the same time on-line gambling offers significant mitigating features: measures to identify and verify customers begin with the registration process and all customers are required to have accounts; remote operators use software to enable them to validate a customer's identity and prevent fraud. B2C operators also record and track all customer activity with all transactions being recorded and monitored.

The main threat encountered in remote B2C operations is that of criminals spending the proceeds of crime (including theft from employer cases and the sale of illicit commodities) for leisure purposes as opposed to the traditional 'laundering' of criminal funds.

In the B2B sector the principal concern in respect of ML is that where B2B operators (Casino Games, Poker Networks and Betting Data providers) offer their games to B2Cs, no one operator has full visibility of player data and correspondent gambling activity to allow for the effective identification and investigation of suspicious activity. That said B2Bs can identify suspicious betting patterns and non-standard game play.

6.7.2 Land-based Casinos

Gibraltar has two physical casino premises which are owned and operated by the same licensee.

We have taken into account the theoretical typologies detailed in EUSNRA and considered them in the light of real world and long standing regulatory experience in this area. Gibraltar agrees with the EUSNRA in that land-based casinos do not pose a TF risk. Ownership and control of casinos by criminals or those associated with crime groups is a risk mitigated by robust due diligence at the licensing stage. The placement of criminal funds as gambling deposits and subsequent withdrawal as winnings (thus legitimising the source of cash) is the other main risk area. The provision of casino facilities in Gibraltar (also including the provision of bingo) is essentially high churn, high footfall leisure activity and the incumbent operator has extensive controls around "high roller" (VIP) activity. Such activity is generally conducted under membership conditions with ongoing monitoring and payment method controls. There is a low risk appetite and appropriate monitoring of currency exchange from Euros to local currency. Although the lack of STRs from this sub-sector could be seen as pointing to a lack of understanding of ML risks, the money laundering risk appears to be well managed and the nature of the business model may not give rise to significant crystallised risk. Supervision is focussed on the effectiveness of controls and cross border risk is factored into risk assessment and controls .

6.7.3 Betting (Land-based)

There is currently only one betting shop and one sports bar in Gibraltar which are licensed and regulated by the Gambling Division. This licence was awarded to a longstanding and experienced licensee and the Gambling Division's supervisory activity has demonstrated that the licensee is complying with its AML obligations. The licensing process any new applicants must undergo with the Gambling Division greatly reduces the risks of infiltration and ownership of a betting shop which is deemed to be the predominant AML threat by the EU SNRA.

Three basic ML scenarios have been identified:

1. a perpetrator places a bet and cashes in the winnings (conversion);
2. a perpetrator places money in a betting account in one location and an accomplice withdraws the funds in another (e.g. an online channel) (concealment, disguise and transfer);

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3. a perpetrator can increase their odds of winning by placing bets on a series of events which will give more favourable accumulated odds (but reducing his chances of winning) or reduce the risk of losing by hedging bets (i.e. betting on both possible outcomes of the same event).

There is some risk in the fact that anonymous customers are able to place bets. However, the use of CCTV and employee interaction assists the betting shop in building a profile of its customers and are able to further monitor any higher spending customers. The use of cash presents a further risk. However, the risk of any substantial money laundering is mitigated by the limits set by the betting shop in respect of how much may be staked over the counter, the nature of the business which comprises low level leisure betting from locals and holiday makers and this limits the level of risk posed.

Gibraltar has a highly regulated gambling sector covering all aspects of gambling. This regulation mitigates the identified inherent risks considerably. Furthermore, the size and nature of the betting shop in Gibraltar, in respect of the number of customers frequenting it and the level of bets that may be placed substantially limit the risks posed.

6.7.4 Bingo (Land-based)

Offline or land-based, bingo is a game of chance, in which the player uses a scorecard, that can be electronic, bearing numbers. Bingo is played by marking or covering numbers identical to numbers drawn by chance, whether manually or electronically. It is won by the player who first marks or covers the 'line' which is achieved when all five numbers on one horizontal row on one scorecard are drawn, or when the player is first to complete the 'house' or 'bingo' when all the numbers on one scorecard are drawn.

The ML risk scenario is that a perpetrator purchases cards, traditionally with cash, on which a random series of numbers are printed. Players mark off numbers on their cards which are randomly drawn by a caller (employed by the gambling operator), the winner being the first person to mark off all their numbers. A winning card could be purchased for a higher amount, like a lottery ticket or betting slip.

Bingo takes place in the licensed land-based casino and therefore falls under the licensing and regulatory remit of the Gambling Division. Smaller clubs and associations may hold bingo events but these are small-scale and for charitable purposes. The risk that bingo operations could be co-opted by criminals as a means to launder criminally derived funds is therefore substantially mitigated. Bingo in Gibraltar is not a large scale activity and therefore the corresponding risk is a lower one. The use of CCTV and effective monitoring activity within the casino premises also mitigate the risk that individuals could launder or spend the proceeds of crime in the bingo hall.

There is negligible risk of ML in this area in Gibraltar.

6.7.5 Lotteries (Gibraltar Government Lottery)

The relatively low return to players makes direct purchase of lottery tickets a costly and unattractive form of money laundering. Direct purchase of lottery tickets to win a prize is therefore not considered a likely risk scenario. On the contrary, the modus operandi of purchasing a winning ticket - a perpetrator purchases a lottery ticket from the winner (possibly through collusion with the sales agent) and cashes the prize with a receipt is more viable scenario reported by LEAs.

Gibraltar only operates one state run Lottery and the risk of ML through the purchase of winning tickets is considered low due to the relative low pay-outs of the lottery, making this unattractive for large scale ML.

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6.7.6 Poker (Offline)

Poker is a card game that involves betting procedures and where the winner of each hand (round) is determined according to the combinations of players' cards, at least some of which remain hidden until the end of the hand, and the bets.

Poker is organised in licensed premises (such as the casinos). It is either organised as a tournament, where a poker player enters by paying a fixed buy-in at the start and is given a certain number of poker chips (the winner of the tournament is usually the person who wins every poker chip in the tournament) or as a table game where the player can buy more poker chips as the game continues. Unlike many other gambling products, participants play against each other and not against the organiser of the activity. The organiser will receive a fixed amount of the turnover (a rake) or winnings.

The ML risk scenario is that a perpetrator purchases chips at the casino (for cash or anonymous pre-paid cards) and these chips may be transferred to another player through deliberate losses (folding on a winning hand to ensure that the accomplice receive the chips known as 'chip dumping'). Chips are converted into cash or transferred in another way to the customer.

This channel is perceived as rather attractive although it requires moderate levels of planning (complicity) or technical expertise (gambling strategy itself) to make use of illicit tournaments or to deliberately lose so that an accomplice can win.

Poker events take place at the licensed casinos and the Gambling Division is informed beforehand of the arrangements in order to ensure that the poker events are adequately supervised through the use of effective CCTV positioning and supervision on the part of employees. Smaller poker events held by clubs and associations require prior approval by the Gambling Division although these are rare and are not held for the purposes of commercial gain.

The land-based casinos, have undergone a stringent licensing process to ensure their suitability and are regulated by the Gambling Division.

6.7.7 Gaming Machines (non-casino)

Gaming machines (offline) based on a random number generator are normally divided into several subcategories, depending on the maximum stake, maximum winnings or the type of premises the gaming machine can be placed in.

While the anonymity of customers using gaming machines presents a potential enabling factor for laundering the proceeds of crime through gaming machines there is little evidence of this vulnerability being exploited. Furthermore, gaming machines do not appear as an attractive option for money laundering due to the inherent chance element, low stakes and winnings combined with the time and effort required to launder any significant amounts of money.

6.7.8 Threat and Vulnerability Assessment

None of the gambling sector's products are deemed to pose a significant TF risk although online poker and peer-to-peer transfers are recognised as a potential conduit for TF. Nevertheless, there is some limited evidence that this is a threat that has materialised within the sector.

The assessment of the money laundering threat related to gambling is that:

- there is a risk of infiltration or ownership by organised crime groups, and
- the gambling sector itself may be used as a conduit for the spending of the proceeds of crime.

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Online gambling with virtual assets provides a potential opportunity for cybercriminals. Among the known examples of ML activity which may takes place in the gambling sector are the following:

- Where a customer recycles or attempts to recycle criminal funds or a proportion of such funds through gambling facilities either through engaging in minimal or very low risk activity.
- Collusion between players in which one player deliberately loses funds which represent the proceeds of crime in online poker and the other receives all the funds as an apparent winner, who will then cash them out as legitimate gambling earnings.
- The operator is used as a cash intensive business to mix dirty money from criminal activities with clean money from legitimate customers.
- Where a customer deposits, loses or wins money where the source of their gambling funds is a criminal activity.
- Criminals use third parties operating as proxies and create false customer accounts to gamble the proceeds of crime over the internet.

Additionally, different types of bets exist in the online environment that are not available offline. There is a specific risk for sure bets in online betting, where a player uses several accounts to place bets on every possible outcome and thereby reduces the risks of loss. In the case of online poker, there is also a specific risk for collusion.

It is emphasised that a substantial proportion of the money laundering which takes place within the gambling sector represents the spending of the proceeds of crime for gambling purposes. The traditional 'washing' of criminal funds and that the above examples are theoretical threats. The majority of ML encountered within the gambling sector has been the simple spending of the proceeds of crime and is often associated with problem gambling leading to the theft of funds.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.7.1	Remote Gambling (Betting, Casino, Bingo, Poker)	3	3	**6**	2	1	**3**	**9**
6.7.2	Land-based Casinos	3	3	**6**	1	1	**2**	**8**
6.7.3	Betting (land-based)	2	2	**4**	1	1	**2**	**6**
6.7.4	Bingo (land based)	1	1	**2**	1	1	**2**	**4**
6.7.5	Lotteries (Gibraltar Government Lottery)	1	1	**2**	1	1	**2**	**4**
6.7.6	Poker (Offline)	1	1	**2**	1	1	**2**	**4**
6.7.7	Gaming Machines (non-casino)	1	1	**2**	1	1	**2**	**4**

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6.8 Insurance Sector

The insurance sector in Gibraltar is composed primarily of general insurance companies, and is one of the largest contributors to economic activity. The majority of these firms underwrite wholly non-local risks in classes 3 and 10 (motor business) into the United Kingdom. Gibraltar's insurance industry is estimated to underwrite approximately 30% of all UK car insurance policies (its main market).

By comparison, the provision of life assurance products is relatively small and is only undertaken by a handful of local insurers who issue small policies in a number of EU jurisdictions. The sector also comprises a number of authorised Insurance Intermediaries (both General and Life) who provide both insurance and investment business.

The indicated predicate offences from this sector observed from the STRs submitted share commonality with the other sectors examined in that Fraud, Proceeds of Crime, ML and Tax Crimes are the most common occurrences for knowledge or suspicion.

6.8.1 General Insurance

As detailed above, general insurance comprises the majority of the Insurance sector in Gibraltar. The provision of General Insurance, however, is not considered to constitute a level of ML/TF risk.

Non-life insurance policies are generally short-term in nature and serve to provide protection against unexpected loss, such as damage to property. Based on the gross written premiums, the most dominant lines of non-life insurance business are those linked to motor vehicle liability, fire and other forms of damage to property, as well as medical expenses. As detailed above, however, Gibraltar's General Insurance market is predominantly composed of motor vehicle liability.

Money laundering can occur in the context of, and as the motive behind, insurance fraud involving non-life insurance, e.g. where this results in a claim to recover part of the invested illegitimate funds. Relevant risk scenarios typically feature high-frequency premiums and cancellations. The risks may arise or materialise where an insurer:

1. Accepts premium payments in cash, although this is not a common practice; or
2. Refunds premiums, upon policy cancellation or surrender, to an account other than the source of original funding (owned by a party other than the policyholder).

Scenario 1 could potentially be used by perpetrators attempting to carry out money laundering for placement, whereas scenario 2 could be used for layering/integration.

Similarly, the terrorist financing risk relates to the use of insurance fraud to access sources of revenue for terrorist activities. This method does require a degree of planning and large paper trails, however, that could make it relatively unattractive to terrorist groups.

The risks of these activities occurring in Gibraltar are mitigated primarily through the legislative requirements and supervisory regimes that the firms are required to adhere to. The majority of general insurers in Gibraltar are also managed and administered by licenced insurance managers. These firms provide an additional layer of oversight and assessment over the controls employed by the insurance company as well as providing day-to-day management and administrative support.

6.8.2 Long term business

As stated above, the Gibraltar life assurance sector is composed of a small number of entities. Life assurance companies offer a range of investment products, with or without guarantees, and

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include life insurance benefit as a component. The Gibraltar sector specifically deals mainly with low value policies issued to low risk jurisdictions, with an average value of approximately £3,000.

Money laundering and terrorist financing risks in the insurance industry as a whole relate primarily to life assurance and annuity products. These allow potential customers to place funds into the financial system and potentially disguise their criminal origin, or to finance illegal activities. Relevant risk scenarios typically primarily involve the investment products involved in life insurance rather than death benefit products as such.

The potential money laundering risks may arise where:

1. An insurer accepts a premium payment in cash (although this is not a common practice);
2. An insurer refunds premiums, upon policy cancellation or surrender, to an account other than the source of the original funding (owned by a party other than the policyholder);
3. An insurer does not carry out 'know your customer' due diligence in general or establish the source of investments in particular;
4. An insurer sells transferable policies (these are uncommon);
5. investment transactions involve trusts, mandate holders, etc.;
6. An insurer sells tailor-made products, where the investor dictates the underlying investment or portfolio composition; and/or
7. An insurer sells a small investment policy initially and the investor makes subsequent large investments without undergoing additional 'know your customer' due diligence.

Scenarios 2, 4 and 6 listed above, demonstrate both a direct and indirect potential terrorist financing risk. Money laundering risk, however, exists in all of the above scenarios. Perpetrators could potentially use risk scenarios 1, 6 and 7 for placement, 2 and 4 for layering, and 2, 4, 6, and 7 for integration. This being said, however, all of the scenarios listed above are either extremely uncommon in Gibraltar or are disallowed under local legislation (such as the requirement for all firms to conduct customer due diligence). Additionally, the assessment of these potential risks would occur both prior to the point of authorisation as well as part of the ongoing supervision of the firm by the Gibraltar Financial Services Commission. This would therefore ensure that Gibraltar's life assurance firms are further limiting their exposure to ML/TF risks.

The assessment of the terrorist financing threat related to life insurance generally in all jurisdictions shows that terrorist groups have limited interest in this method. Usage of these means would require a high level of specific knowledge on the product and its characteristics. Additionally, life assurance contracts are not easily accessible and applications require a lot of supporting documentation, which is likely to dissuade terrorist groups. Foreign terrorist fighters may theoretically also attempt to take out life assurance with the request that the funds be redeemed for the benefit of their family in the event of their suicide or death in battle. However, Member State legislation or insurance companies' underwriting policies often does not allow for such a clause, greatly lessening the risk of this occurring.

In conclusion, the small number of authorised life assurance firms in Gibraltar, coupled with low premium levels and exposure associated with these firms lessens the potential risk that they pose to the jurisdiction. This is then further mitigated by the regulatory regime of the Gibraltar Financial Services Commission in assessing these controls.

6.8.3 Threat and Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.8.1	General Insurance	1	1	**2**	1	1	**2**	**4**
6.8.2	Long term business	1	1	**2**	1	1	**2**	**4**

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6.9 Real Estate

Organised crime groups can use the real estate sector to launder the proceeds of crime and to hide the illegal origin of the funds. Real estate holds its value, can give returns on investment and requires little specific expertise or knowledge which increasing its financial attractiveness to criminals.

Gibraltar is a very small country covering an area of approximately 6.8 km. Of this area approximately 40% consists of the upper rock nature reserve that is a mostly uninhabited protected area. There are just approximately 19,200 properties in Gibraltar. Of these 3,900 are commercial. Of the remaining 15,300 properties there are four types of residential properties:

1. Government of Gibraltar (GoG) rental stock: 100% owned by GoG, let directly by GoG's Housing Department to Gibraltarians and cannot be sublet (approximately 5,300 properties);
2. Co-ownership properties: Government funded "affordable" properties, subject to a minimum 3 year Gibraltar residency requirement, often co-owned between GoG and the occupier and with rental restrictions (approximately 4,900 properties);
3. Open market properties: not generally subject to restrictions, are available to any owner or occupant and can be rented (approximately 4,800); and
4. Ministry of Defence properties: solely for occupation by the British Forces personal (approximately 300).

The value of an open market property is approximately double the value of an equivalent co-ownership property reflecting the restrictions imposed on the latter. The approximate average property value of open market properties is £600,000 compared to £300,000 for co-ownership properties.

Due to Gibraltar's small size, there are limited opportunities for property development in new areas of Gibraltar. A large proportion of properties are located on land reclaimed from the sea due to limited space for development. While there is a boom in construction to try to meet the demand for new properties, most new developments are on land previously used for non-residential purposes or renovations of pre-existing buildings. A new reclamation project has been announced by GoG to alleviate this demand. It is normal for off-plan properties to be sold-out and resold prior to completion.

The scarcity of land keeps demand and property prices high, which can be attractive to criminals. Only open market and commercial properties however are considered to be suitable for investment and therefore targets for international criminal groups. This only represents 25% of the residential property market of which the majority are occupied by locals or foreign workers and expats who are not eligible for co-ownership properties. Local criminals eligible for co-ownership properties may however see these attractive although the exchange of funds in such circumstances would be limited and for a single transaction only as eligibility is for one co-ownership property only.

The open market property rental market is attractive for investment due to the big demand for rental accommodation as there is limited rental stock. The opportunities for criminal groups seeking to launder funds on a significant scale however are similarly reduced by lack of availability of properties. The letting of other properties is not deemed attractive for international criminals due to the restrictions on rentals. There may be limited attraction of GoG rental stock and non-declared rental of restricted co-ownership properties to low level local criminals if they are seeking to rent homes for their own use, however the exchange of funds in such circumstances would be very small.

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6.9.1 Real Estate Agents (REAs)

Real estate agents (REAs) include businesses which provide services associated with the buying, selling and leasing of property as defined in the Office of Fair Trading's (OFT) AML/CFT Guidance Notes for REAs. They are subject to anti-money laundering requirements and are licensed and regulated by the OFT. REAs are required to carry out CDD on both parties to a real estate transaction before proceeding with the same.

Unlike REAs in other jurisdictions, Gibraltar REAs only receive a commission on the transfer of real estate, which is usually between 1 and 2% of the purchase price, but do not handle the purchase funds which are instead handled by lawyers through their client accounts. This substantially decreases the attractiveness to criminals using Gibraltar REAs for laundering and therefore reducing the ML/TF threat as money would not flow through them.

There are 49 REAs in Gibraltar who offer their services in relation to only 50% of the residential market (co-ownership sales and sales and rental of open market properties) and commercial properties. Some also offer their services for properties in other jurisdictions, most notably in in Spain.

The OFT has met with every licensed REA to discuss AML/CFT issues and has issued detailed AML/CFT guidance notes for REAs. Separately the OFT has also prepared pro forma CDD templates to assist REAs with their CDD requirements under POCA. This considerably reduces the ML/TF vulnerability of this sector. All licensed REAs are required to carry out annual risk assessment of the business, report annually to the OFT and to implement internal systems of control in order to understand and thereafter mitigate their ML/TF risk.

6.9.2 Developers

There is a boom in construction in Gibraltar to try to meet the demand for new properties given Gibraltar's limited size. Most new developments are on land previously used for non-residential purposes or renovations of pre-existing buildings. In this climate, it is common for developments to be sold out off-plan and for there to be numerous resales of the same property prior to completion.

The sale of off-plan properties through REAs is considered to be low form a ML/TF perspective given that REAs, lawyers and credit institutions are required to carry out CDD as per their obligation under POCA. The sale of property by developers directly to buyers however is considered to carry a significantly higher potential threat to ML/TF as they are not required to carry out CDD and are not regulated. While the availability of properties for large scale acquisitions by serious criminal groups is nevertheless limits the risk, the ML risk in particular is thought to be elevated compared to transactions carried out through REAs.

6.9.3 Construction industry

There is a boom in construction to try to meet the demand for new properties. There is a constant stream of new developments under construction. A lot of the main contractors used in Gibraltar for construction projects are from Portugal and Spain, including labourers who are mostly cross-frontier workers crossing from Spain into Gibraltar on a daily basis to work.

It is common in the construction industry to operate using large amounts of cash, including cash to pay workers. This elevates the ML risk in particular.

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6.9.4 Threat and Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.9.1	Real Estate Agents	2	2	**4**	2	1	**3**	**7**
6.9.2	Developers	2	4	**6**	2	1	**3**	**9**
6.9.3	Construction Industry	2	4	**6**	1	1	**2**	**8**

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6.10 High Value Dealers

The Office of Fair Trading licences all goods dealers in Gibraltar to carry on business. These business licences are relied upon by HM Customs as de facto import licences for the importation of the relevant goods into the jurisdiction.

The POCA imposes AML/CFT obligations on high value goods dealers (HVDs) where they sell high value goods in cash. The OFT, the AML/CFT Supervisory Authority for HVDs under the POCA, considers any dealer receiving more than £8,000 in cash for goods (in single or linked transactions) as a HVD. The OFT has issued detailed AML/CFT guidance notes for HVDs and raised awareness about HVDs' AML/CFT obligations under the POCA. The OFT has also successfully encouraged dealers to implement cash policies not to accept cash above £8,000 for goods.

Additionally, the OFT has created a category of High Risk Dealers (HRDs) being dealers in goods which the OFT considers to have a higher inherent risk and vulnerability to ML/TF irrespective of whether sales in cash surpass the £8,000 monetary threshold. These goods are precious stones and metals, car and motorbike dealers, marine craft dealers and antique and arts dealers which are attractive to criminals for the purposes of ML/TF. These dealers, of which there are only 41, have additional record keeping requirements applicable to cash sales of these high-risk goods in cash above £1,000.

Gibraltar has a very small retail market where traders support payment by bank and credit cards. The majority of businesses in Gibraltar are not inclined to accept large cash transactions due to cash deposit fees imposed by local banks (1-2%). Businesses are not therefore inclined to accept large amounts of cash as this will result in higher bank fees. The OFT can therefore focus its awareness on the dealers most likely to be responsible for the sale of high value goods in cash. Almost all dealers in high value goods (motor vehicle dealers being the notable exception) operate from one main retail area centred around Gibraltar's only high street which contains less than 300 retailers. A lot of the these shops are geared towards serving locals and one-day tourists looking to purchase duty free items at a lower price than that available in their countries. As they leave Gibraltar these tourists must cross a Schengen Border and declare these goods.

Within this retail market there are limited opportunities for the sale of high value goods with few retailers of high end luxury brands where the price of single items would come close to the £8,000 monetary threshold. Of these, following OFT engagement, many have implemented cash policies to not accept large payments in cash. The ability for criminals to purchase truly high value items in cash is limited to easily identifiable businesses in the jurisdiction, which increases the possibility of identification and of a SAR being submitted to the GFIU. The main ML vulnerability is not therefore considered to be the integration of funds into the legal economy by converting criminal cash into another class of asset, but rather the direct purchase by local criminals of luxury items for their own personal use and consumption. The jurisdiction is not considered to be vulnerable to TF.

6.10.1 Artefacts, Art and Antiquities

Arts dealers are considered high risk dealers as the international trafficking of looted artefacts and antiquities is internationally recognised as one of the biggest criminal trade categories. The OFT has therefore created additional record keeping requirements applicable to these dealers in Gibraltar as set out in the OFT's AML/CFT Guidance Notes for HVDs.

The market for the sale of artefacts, art and antiquities in Gibraltar is very small however with only four licensed art and antique dealers in the jurisdiction selling low value items. All have been engaged by the OFT who have carried out onsite visits. The OFT has engaged with these businesses to raise awareness and to ensure compliance. The ML/TF threat is therefore considered to be very low.

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6.10.2 Precious Metals and Stones

It is internationally recognised that criminals favour precious metals such as gold and stones such as diamonds as they are inexpensive to store and easy to turn into cash. The purchase of gold and diamonds is easily accessible and requires moderate level of planning and expertise. Gold is also commonly used in war zones and is therefore viable and attractive for terrorist groups.

For these reasons, dealers in precious metals and stones are considered by the OFT as high risk dealers. It has therefore increased the record keeping requirements applicable to these dealers as set out in the OFT's AML/CFT Guidance Notes for HVDs. Dealers are licensed and regulated by the OFT and are subject to onsite inspections. The OFT has encouraged these dealers to implement policies not to accept payments above £8,000. 42% of jewellers have introduced such policies.

In Gibraltar there is no wholesale market for the exchange of diamonds and bullion. The only market for precious metals and stones is through local jewellers in small retail quantities and mostly of low value. The biggest ML/TF threat is considered to be the direct purchase by local criminals of jewellery and timepieces for their own personal use and consumption. Another vulnerability is the purchase by Gibraltar jewellers, inadvertently or otherwise, of gold and jewellery which has been bought with illicit funds in another jurisdiction through a broker using false invoices and certificates.

There are only 32 licensed Jewellers trading within Gibraltar, many of which are part of three main jeweller groups owned by the same UBOs and which trade mainly in jewellery and timepieces as opposed to precious metals by weight, bullion and lose diamonds.

The OFT has engaged with these businesses to raise awareness and to ensure compliance. These businesses have been asked to submit their internal AML/CFT policies and report annually to the OFT with updated risk assessments. Specific FATF typologies have been made available on the OFT's website.

6.10.3 Cars

Cars are attractive as both lifestyle goods and economic assets to criminals. Cars are therefore considered as high risk from a ML/TF perspective. The OFT has therefore increased the record keeping requirements applicable to these dealers as set out in the OFT's AML/CFT Guidance Notes for HVDs. There dealers are licensed and regulated by the OFT and are subject to onsite inspections. The OFT has also encouraged these dealers to implement policies not to accept payments above £8,000 with 67% reporting they had implemented such policies and not accepted any cash in the last reporting period.

With one, highly specialised exception, the 13 licensed car dealers in Gibraltar mainly supply the local 32,000 (approx.) population. While they sell common luxury brands there are no top-end luxury car dealers. Given the limited market most dealers generally have exclusivity in the jurisdiction over specific marques that they sell through bespoke show rooms. It is therefore very easy to identify cars sold by particular dealers unless they are sold second hand which increases the businesses exposure should they not fulfil their AML/CFT obligations. A higher ML risk is presented by dealers with limited show rooms and that specialise in the importation of one-off cars (usually second hand) to order for their clients. They are considered to be more attractive to criminals wishing to import new cars for their personal use from jurisdictions where CDD obligations are more lax.

6.10.4 Other High Value Goods

Certain high value goods such as luxury watches, motor vehicles and boats are particularly attractive to criminals as both lifestyle goods and economic assets. Criminal cash can be

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converted into goods that are in high demand in foreign markets. While all of these items may be purchased in Gibraltar the dealers in these goods are few and easily identifiable.

There are only five licensed marine craft dealers in Gibraltar. None have a substantial showroom however and most sell these goods to order, sometimes via brokers. While this could elevate their ML/TF exposure as they could be more attractive to criminals wishing to import new marine craft for the five dealers have very limited and import on a retail basis only. All have been engaged by the OFT, have implemented AML/CFT policies, have implemented cash polies below the £8,000 monetary threshold and report annually to the OFT.

Due to the small scale of trading in Gibraltar the risk of these high value goods being used for ML/TF schemes is mitigated considerably as not many opportunities are presented to ML criminals other than the purchase of these lifestyle goods for their own use.

The assessment of the terrorist financing vulnerability related to the purchase of other kinds of high value goods (other than gold, diamonds, artefacts and antiques) has not been considered as relevant.

6.10.5 Threat and Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.10.1	Artefacts, Art and Antiquities	1	1	**2**	1	1	**2**	**4**
6.10.2	Precious Metals and Stones	3	2	**5**	2	1	**3**	**8**
6.10.3	Car Dealers	2	2	**4**	1	1	**2**	**6**
6.10.4	Other High Value Goods	2	1	**3**	1	1	**2**	**5**

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6.11 Legal Profession & Notaries

Perpetrators may employ or require the services of a legal professional (such as a lawyer, notary or other independent legal professional) — as regards:

- misuse of client accounts;
- purchase of real state;
- creation of trusts and companies/ management of trusts and companies; or - undertaking certain litigation.

They may be involved in money laundering schemes by helping create 'opaque structures' defined as business structures where the real identity of the owner(s) of entities and arrangements in that structure is concealed through the use of, for example, nominee directors. The creation of such structures, often set up in multiple jurisdictions including offshore centres, is complicated and requires both regulatory and tax services of professionals.

The assessment of the terrorist financing threat related to legal services provided by legal professionals has been considered together with money laundering schemes related services provided by these professionals to hide the illegal origin of the funds. The terrorist financing threat therefore does not need a separate assessment.

There are many ways in which client accounts can be used to launder money, the most common of which are:

- performing financial transactions on behalf of a client, including banking;
- accepting large cash deposits in the client's account followed by cash withdrawals or the issuance of cheques;
- purchasing real estate, companies or land on behalf of a client; and
- in some cases, using the personal account of the legal professionals themselves to receive and transfer funds.

Criminal organisations do not consider access to legal professionals to be particularly complex. For them, relying on legal professionals' skills means that they do not need to develop these competences themselves.

6.11.1 Threat and Vulnerability Assessment

Notaries in Gibraltar do not handle client monies and therefore are not subject to this assessment as under Gibraltar law they only act to notarise documents and similar functions.

Similarly, lawyers conducting TCSP activities are required to be separately licensed and regulated by the FSC and the risks arising from these activities are covered by the assessment in 0 above. The remaining threat and vulnerability assessment therefore relates exclusively to activities undertaken through client accounts.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.11	Legal Profession & Notaries	3	2	**5**	3	2	**5**	**10**

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6.12 Auditors and Insolvency Practitioners

Auditors certify information by giving an independent expert opinion to improve an organisation's information or its context. In the case of a statutory audit, they provide a legally mandated check of the financial and form an opinion on them. In some instance, they can provide additional services.

Insolvency practitioners are charged with the orderly winding down of a firm's activities.

Perpetrators may use or require the services of accountants, auditors or tax advisors, albeit with a moderate level of involvement of the professionals themselves, with the aim to:

- misuse client accounts;
- purchase real estate;
- create trusts and companies/ manage trusts and companies;
- undertake certain litigation, set up and manage charities;
- arrange over or under-invoicing or false declarations for import/export goods;
- add creditability and respectability to financial accounts
- provide assurance; and/or
- provide assistance with tax compliance.

As for all other legal activities, risk of infiltration or ownership by organised crime groups is a money laundering threat for auditors and insolvency practitioners. These professionals may be unwittingly involved in the money laundering but may also be complicit or wilfully negligent in conducting their customer due diligence obligations.

The assessment of the terrorist threat related to services provided by auditors and insolvency practitioners has been considered together with money laundering schemes related to services provided by these professionals to hide the illegal origin of the funds. The terrorist financing threat therefore does not need a separate assessment.

The risk of audit and insolvency practitioners in Gibraltar being used for terrorist financing and money laundering is low. Both auditors and insolvency practitioners are regulated by the GFSC and subject to the same regulatory scrutiny as any other financial institution. Senior members of audit firms are required to be qualified accountant and members of international professional accounting bodies (such as ACCA and ICAEW). Gibraltar's audit offering comprises of companies which form part of global groups and a few smaller local based firms. All auditors based in Gibraltar follow IESBA standards and insolvency practitioners are required to comply with UK ethical standards. The Auditors and Insolvency Practitioners in Gibraltar is represented by their professional body - The Gibraltar Society of Accountants ("GSA").

Audit and insolvency practitioners undergo regular reviews by the FSC and as part of this, client files and client onboarding is checked to ensure compliance with AML/CFT legislative requirements and thus mitigating potential risks.

6.12.1 Threat and Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.12	Auditors and Insolvency Practitioners	2	1	**3**	2	1	**3**	**6**

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6.13 Accountants and Tax Advisors

Accountants help organisations prepare their financial and non-financial data to measure performance, including the social impact of their economic activities. In doing so, they help organisations manage and control risks, and provide checks and balances on good governance, ethics and sustainability. They also report these measurements to the outside world so stakeholders can base their decisions on the organisation's performance.

Tax advisors carry out a range of activities. The main tax advice activities can be grouped as follows:

- Tax compliance: preparation of tax returns, social security and payroll, compliance with various statutory reporting, registration or publication requirements;
- Advisory: advice on specific tax-related questions that do not occur on a regular basis (e.g. inheritance, mergers or spin-offs, insolvencies, setting up of a company, purchase of immovable property), tax investigation, tax planning / tax optimisation;
- Tax litigation and appeals, advice on these proceedings, representation in criminal tax cases.

Perpetrators may use or require the services of accountants or tax advisors, albeit with a moderate level of involvement of the professionals themselves, with the aim to:

- misuse client accounts;
- purchase real estate;
- create trusts and companies/ manage trusts and companies;
- undertake certain litigation, set up and manage charities;
- arrange over or under-invoicing or false declarations for import/export goods;
- provide assurance; and/or
- provide assistance with tax compliance.

Activities conducted by accountants or tax advisors which represent TCSP activities are required to be licensed and regulated by the FSC and the risk assessment is covered in 0 above.

Professionals can be involved in the laundering process to various degrees. They can be consulted for advice on how to circumvent specific legal frameworks and how to avoid triggering red flags put in place by financial institutions. Or they can take a more proactive approach by directly assisting or orchestrating the laundering process. Often, however, perpetrators seek to involve tax advisors because the services they offer are essential to a specific transaction and they add respectability to that transaction.

Experts in these areas are among the professionals which can be misused by organised crime groups to launder criminal proceeds due to the types of services that they can provide to their clients. They devise corporate structures, design accounting systems, provide bookkeeping services, prepare documentation (financial statements or references, fraudulent income and expenses) and provide general accounting advice. Through these services, some accountants can help organised crime groups obscure their identity and the origin of the money that they handle.

Most of these services are used for legitimate purposes. However, they can also support a large range of money laundering schemes. These include fraudulent trading, false invoices, preparation of false declarations of earning, fraudulent bankruptcy, tax evasion and other types of abuse of financial records.

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6.13.1 Threat and Vulnerability Assessment

The vulnerability for these two sectors in Gibraltar is particularly low as there are few players operating in this sector. Those that do exist, however, perform very limited functions. Accountants for example only perform book-keeping functions mainly to do with the preparation of non-statutory accounts and payroll. Whereas there are only a handful of tax advisors in Gibraltar, and these are performed alongside other regulated functions with only a couple of stand-alone players. The accounting and tax advisory profession in Gibraltar is represented by their professional body - The Gibraltar Society of Accountants ("GSA")

The supervisory authority for both of these activities is the Financial Secretary.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.13	Accountants and Tax Advisors	2	1	**3**	2	1	**3**	**6**

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6.14 Domestic Football League

The sporting industry is one of many sectors that could be attractive for criminals for money laundering purposes and merits closer consideration given its social and cultural impact, the large scale of monetary transactions, and the increase in the number of individuals involved.

Like many other businesses, sport and gambling have been used by criminals to launder money and derive illegal income. As in the art world, criminals in the sports world are not always motivated by economic gain. Social prestige, appearing with celebrities, and the prospect of dealing with authority figures may also attract private investors with dubious intentions.

Also, the use of non-financial professionals, such as family members, lawyers, consultants, and accountants as a means of creating structures to move illicit funds has also been observed by the Financial Action Task Force (FATF). The money stipulated in such image contracts (for exploitation of a player's personal appearance as part of an extensive advertising campaign) is often transferred to accounts of companies in third countries with serious risks of fraud. Advertising and sponsorship contracts can also be used for money laundering. Organized crime could sponsor sport and constitute a bridge to legitimate business. The most common form of payments involves jurisdictions located abroad, always as a way to hide the last destination.

The most common form of cash payments involves jurisdictions located abroad that allow the final destination of payments to be disguised. Image rights are also used to conceal the amounts actually paid to players.

In addition, gambling is directly linked to football through betting on games and matches.

The first document from the EU that recognised the importance of the sport was published in July 2007 (EU White Paper on Sport). It states that, 'sport is confronted with new threats and challenges, as commercial pressures, exploitation of young players, doping, corruption, racism, illegal gambling, violence, money laundering, and other activities detrimental to the sport'. Many factors have led to the use of illegal resources in football, not least its complex organisation and insufficient transparency.

The assessment of the terrorist financing (TF) threat arising from collecting and transferring funds in the football sector shows that this method of funding terrorism is not frequently used by terrorist groups. Indeed, no known cases of TF from money moved through the football sector exist.

6.14.1 Threat and Vulnerability Assessment

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
6.14	Domestic Football League	2	2	**4**	1	1	**2**	**6**

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7 Jurisdictional Terrorist Financing Risk

Gibraltar used to have a separate and confidential TF risk assessment for the jurisdiction. Following requests from FATF that these should also be made public, so as to better informed relevant financial businesses, this NRA now includes the jurisdictional TF as well as the individual TF risk assessments for the products, services and predicate offences (see Chapters 4 aboveto 6 above).

This TF risk assessment has been drawn up using the FAT's most recent TF risk assessment guidelines of July 2019 (http://www.fatf-gafi.org/media/fatf/documents/reports/Terrorist-Financing-Risk-Assessment-Guidance.pdf).

TF needs to be separately considered at a jurisdictional level as Gibraltar, as a regional finance centre, may itself be targeted as means through which funds could be channelled.

TF risk and terrorism risk are often, but not always, interlinked. For example, an assessment of TF risk will require a consideration of the domestic and foreign terrorist threats. If a jurisdiction has active terrorist organisations operating domestically or regionally, this will likely increase the probability of TF.

Nevertheless, in light of the cross-border nature of TF, a jurisdiction that faces a low terrorism risk may still face significant TF risks. A low terrorism risk implies that terrorist individuals and groups are not using funds domestically for terrorist attacks. However, actors may still exploit vulnerabilities to raise or store funds or other assets domestically, or to move funds or other assets through the jurisdiction.

Crucially the factors associated with TF risk are also distinct from those associated with ML risk. While laundered funds come from the proceeds of illegal activities, funds used to finance terrorism may come from both legitimate and illegitimate sources. Similarly, for ML it is often the case that the generation of funds may be an end in itself with the purpose of laundering being to transmit the funds to a legitimate enterprise. In the case of TF, the end is to support acts of terrorism, terrorist individuals and organisations, and for that reason the funds or other assets must, for the most part, ultimately be transferred to persons connected with terrorism. Another important distinction is that while identification of ML risk is often enforcement-led, TF risk by the nature of the threat will need to be more intelligence led.

Although there may be some overlap in the potential vulnerabilities that criminals and terrorists misuse, the motive, and therefore the threat and risk indicators, differs. While transfer of a low volume of funds may be lower risk for ML, this type of activity may pose a higher risk indicator for TF when considered along with other factors (e.g. reporting thresholds or limited amount of funds necessary to carry out terrorist acts).

There is little evidence to point to the use of Gibraltar as a jurisdiction through which TF is channelled and this is evident from the lack of TF related requests for assistance and the low numbers of TF related STRs. Nonetheless, it is important that stakeholders remain aware of the threat and vulnerabilities of the jurisdiction.

It is important that Gibraltar assess and continue to monitor their TF risks regardless of the absence of known threats. The absence of known or suspected terrorism and TF cases does not necessarily mean that a jurisdiction has a low TF risk. In particular, the absence of cases does not eliminate the potential for funds or other assets to be raised and used domestically (for a purpose other than terrorist attack) or to be transferred abroad. Jurisdictions without TF and terrorism cases will still need to consider the likelihood of terrorist funds being raised domestically (including through willing or defrauded donors), the likelihood of transfer of funds

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and other assets through, or out of, the country in support of terrorism, and the use of funds for reasons other than a domestic terrorist attack.

The assessment of TF vulnerabilities is inherently linked to a jurisdiction's context and identified TF threats.

7.1 UK Centric financial centre

Due to the high volume and cross-border nature of assets managed and transferred, regional finance centres like Gibraltar may be vulnerable to misuse for the movement or management of funds or assets linked to terrorist activity. In particular, cases have shown terrorist organisations have misused land, sea and air trade to move funds or other assets (e.g. weapons or vehicles) within and between jurisdictions. Common techniques include: under/over-invoicing, or falsification of trade documents. Such activity may be particularly challenging to identify, as terrorist organisations/individuals are known to rely on complex legal structures to hide the underlying beneficial owner.

Gibraltar as a low number of Terrorism and TF related STRs from the various reporting sectors for the years 2017 to 2019. This shows few instances where a knowledge or suspicion of Terrorism related activities or TF suspicions have arisen. The distribution of the reporting sectors is commensurate with the activities conducted and vulnerability of the products offered to TF risk.

7.2 Large Informal or Cash-based Economies

A number of FATF reports have identified use of cash as a common means through which terrorist financiers raise, move and use funds (including through physical transportation via foreign terrorist fighters).

See 5.6 above for the assessment of cash risk.

7.3 Conflict Zones

Jurisdictions bordering a conflict zone or within close proximity to jurisdictions with active terrorist organisations often face additional cross-border TF threats. Cases to date have highlighted the use of TF facilitators located in neighbouring jurisdictions to assist in transporting funds and other goods (including foreign terrorist fighters) into or out of conflict zones.

Although Gibraltar is not itself close to a conflict zone the assessment conducted by the FSC on the inflows and outflows of funds by the financial services industry, has identified some transactions received from and issued to jurisdictions considered to be conflict zones by the GFSC.

E-money products have been identified as the most used products in these conflict zone jurisdictions, however the average value of these are low. Whereas banking products are of a higher value when looking at incoming average amounts but still low for outgoing transactions. The higher average value for banking transactions is commensurate with the established banking payment systems used to transfer larger amounts of money across countries.

Whilst those stats may, at first glance appear to indicate a high number of transactions there is a need to delve deeper into these statistics in order to give a proper sense of proportion. In the first instance the list of conflict zone countries is extensive.

Out of all the transactions to conflict zone jurisdictions it is necessary to provide some context as to the countries where these funds are going to.

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With these small average values and low number of transactions of outgoing payments to conflict zones, it is not surprising that there are low numbers of STRs with TF related suspicions.

7.4 Weak communal links to active terrorist zones

Terrorist financiers have been known to utilise local diaspora communities, ethnic links and family ties to raise and move funds and other assets to support terrorist activities. Experience highlights that jurisdictions with strong communal links to areas with an active terrorist threat will typically consider: the potential for sympathetic views to be held by local members of the relevant community (e.g. open source information and intelligence on radicalisation of individuals), and the level of economic activity flowing to and from the local community and regions of active terrorist activity (for example through family support remittances).

Gibraltar does not have a local diaspora community and the only link to another community is to the population of Moroccan origin which is well integrated and which LEAs have a close working relationship with.

7.5 Lack of natural/environmental resources

Terrorist organisations such as ISIL, al-Shabaab and al-Qaeda have relied on natural resources in their area of control (oil, gold, charcoal, talc, lapis-lazuli, etc.) as a source of income. Supply chains in source, transit and end use jurisdictions may be vulnerable to exploitation. Countries that are rich in natural/environmental resources, and particularity those with active terrorist organisations operating, will need to consider the TF risks associated with exploitation of such resources.

Gibraltar has no natural resources and therefore this risk is not present in Gibraltar.

7.6 Threat and Vulnerability Assessment

Product and service TF threats are covered extensively and for each of the sectors, products and services in the chapters above. This Chapter looks the overall TF threat and vulnerability of the jurisdiction as a regional finance centre and the conclusion arrived at is that of a LOW TF risk which is altered depending on the individual product or service.

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7.7 NPO Sector

In April 2017 the NCO completed a TF risk assessment of the Not for Profit Sector (NPO). That risk assessment was confidential, but findings and conclusions of the risk assessment was shared with public and private sector stakeholders primarily through the Project Nexus outreach programme of the GFIU. This NRA replaces the 2017 NPO TF risk assessment.

Non-Profit Organisations (NPOs) are a vibrant and integral part of the contemporary global environment and play a significant role in combatting terrorism. The wide range, geographic reach, and operational endurance of their activities arguably make NPOs unique among international actors.

However, the concept of carrying out good works has been a target for those whose goals are not purely benevolent. The most extreme threat of abuse is posed by those engaged in terrorist activity. While the vast majority of NPOs work tirelessly to better the lives of people around the world, a small number of organisations and individuals have taken advantage of the NPO sector for the most contrary of reasons: to support those who engage in terrorism or support to terrorist organisations.

The abuse of NPOs to finance or materially support terrorism may seem to be a risk with low probability, yet the impact of these activities is particularly acute for both the victims of terrorism and those who should benefit from the good works of NPOs. This immediate impact is multiplied when one considers the loss of public confidence in the integrity of the NPO sector.

Taking the FATF definition of what constitutes and NPO that is at risk of TF there will be NPOs in Gibraltar who meet the criteria who "primarily engage in raising or disbursing funds." The most obvious category for this will be organisations that are registered charities under the Charities Act. The FATF Definition does not cover all these Charities as they may not conduct significant international activities or be a substantial nature.

A second category that should be considered, at least initially, to fall into scope of the Risk Assessment are Friendly Societies that are registered under the Friendly Societies Act . Again, it is important that their international work and size are determined to determine whether they fall within the scope of the FATF definition.

It is important to note that there also exist several different organisations present within the jurisdiction which are important to consider for the purposes of the FATF definition should their activities fall into such a definition. Whilst there are no legislative provisions requiring clubs, societies and the like to seek a formal registration certain legislative provisions come into play particularly where premises are occupied by such organisations or there is alcohol sold in those premises, namely.

- Public Health Act – section 279(k) exemption from rates for "premises occupied by such clubs, association or society not established or conducted for profit as may be approved by the Financial Secretary in accordance with the criteria laid down for that purpose from time to time by the Government of Gibraltar".
- Income Tax Act 2010 – section 25 reliefs and allowances. Person includes "any cooperation either aggregate or sole and any club, society or other body…". Income Tax (Allowances, Deductions and Exemptions) Rules 1992 – rule 3(5), (6)
- Clubs Act – section 3 obligation to register when intoxicating liquor is supplied to members or guests – otherwise no obligation to register
- Cultural Society has a register (as well as the sports authority) for their purposes – obligation to register not pursuant to legislation – internal policy to register if they want to apply for cultural grants.

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- Financial Sector – KYC etc.

As part of this Risk Assessment, Sporting Clubs and Societies as well Cultural Organisations were examined using open source information and all of those named organisations discarded as not meeting the FATF scoping definition.

Gibraltar's NPO sector is large and varied with nearly 300 registered charities and a dozen Friendly Societies.

As can be imagined these serve a large variety of uses, many being small charities used for single purposes or causes. Others have a wider scope and serve both the local community as well as specific projects outside of Gibraltar. Some of these charities, however, are large in comparison to the general pattern observed, some of which may present a higher TF risk to the jurisdiction.

In the analysis of the NPO sector undertaken in 2017 data as to inflows and outflows of donations and charitable work showed that most charitable donations were from Gibraltar itself followed by the UK, Switzerland and Israel. The charity's work, however, were based mainly based in Israel, UK, and Gibraltar.

When analysed further the results of the donation base and the activity of the charity are commensurate with the activities of the locally based charities which are either offshoot or UK based charities or where substantial educational grants are provided not least of which will be Jewish based charities remitting funds to Israel.

The NCO sought input from the Banks operating in Gibraltar as to whether any of these provided banking services to a non-Gibraltar registered Charity or Friendly Society. All respondents confirmed that none of them had such accounts.

There is also no intelligence data arising from MLA requests or STR disclosures which points to any of those organisations being used for ML or TF activities.

7.7.1 Threat and Vulnerability Assessment

The TF threat to the sector is considered Low whereas the vulnerability is slightly higher (medium Low) due to lack of awareness of the sector to TF as a risk.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln.	Score	Threat	Vuln.	Score	
9	Jurisdictional TF Risk			**0**	1	1	**2**	**2**
9.7	NPO TF Risk			**0**	1	2	**3**	**3**

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8 Summary of risks, threat and vulnerability scores

By way of summary the following tables summarises the threat, vulnerability and combined scores for ML and FT of each of the risks identified in this NRA. The table by itself is not a substitute to a full understanding of the risks and their mitigation as described in full detail above.

Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln	Score	Threat	Vuln	Score	
4	**Geographic Risk**							
4.1	Spain	3	2	**5**	4	3	**7**	**12**
4.2	Morocco	2	2	**4**	4	3	**7**	**11**
4.3.1	FATF High Risk Jurisdictions	3	1	**4**	3	1	**4**	**8**
4.3.2	Conflict Zones	2	1	**3**	2	3	**5**	**8**
4.3.3	Drug Trafficking/Producing Countries	3	2	**5**	2	2	**4**	**9**
4.4	EU and EEA Jurisdictions	2	1	**3**	1	1	**2**	**5**
5	**Transnational Crimes**							
5.1	Organised Crime Groups	4	4	**8**	1	2	**3**	**11**
5.1.1	Tobacco	3	3	**6**	1	2	**3**	**9**
5.1.2	Drug Trafficking	4	3	**7**	1	2	**3**	**10**
5.2	Fraud	2	2	**4**	1	1	**2**	**6**
5.3	Money Laundering	2	1	**3**	0	0	**0**	**3**
5.4	Tax Crimes	3	2	**5**	1	1	**2**	**7**
5.5	Bribery and Corruption	3	2	**5**	1	1	**2**	**7**
5.6	Cash	2	4	**6**	1	2	**3**	**9**
6.1	**Banking**							
6.1.1	Deposit Taking	4	3	**7**	3	3	**6**	**13**
6.1.2	Corporate Banking	3	2	**5**	1	1	**2**	**7**
6.1.3	Broker Deposits	3	1	**4**	1	1	**2**	**6**
6.1.4	Lending Activities	4	2	**6**	1	1	**2**	**8**
6.1.5	Private Banking\Wealth management	2	2	**4**	1	1	**2**	**6**
6.1.6	Safe Custody	1	1	**2**	1	1	**2**	**4**
6.2	**Trust and Company Service Provision**							
6.2.1	Creation of Legal Entities and Legal Arrangements	4	2	**6**	2	2	**4**	**10**
6.2.2	Business Activities of Legal Entities and Legal Arrangements	3	2	**5**	3	1	**4**	**9**
6.2.3	Termination of Legal Entities and Legal Arrangements	1	1	**2**	1	1	**2**	**4**
6.2.5.1	Private Companies	2	4	**6**	2	1	**3**	**9**

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Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln	Score	Threat	Vuln	Score	
6.2.5.2	Private Company limited by guarantee with or without share capital	2	4	6	2	1	3	9
6.2.5.3	Foreign Company carrying on business in Gibraltar	1	2	3	1	1	2	5
6.2.5.4	Public Company	1	1	2	1	1	2	4
6.2.5.5	Public Company limited by Guarantee with or without share capital	1	1	2	1	1	2	4
6.2.5.6	Limited Liability Partnership	1	1	2	1	1	2	4
6.2.5.7	European Economic Interest Grouping	1	1	2	1	1	2	4
6.2.5.8	European Company (Societas Europea)	1	1	2	1	1	2	4
6.2.6	Trusts	2	1	3	1	1	2	5
6.2.6.6	Foundations	2	1	3	1	1	2	5
6.2.7	Asset Holding & Asset Protection Vehicles				0			0
6.3	**Money Service Business and Money Value Transfer Services**							
6.3.1	Currency Exchange	3	2	5	2	1	3	8
6.3.2	Transfer of Funds	3	2	5	3	1	4	9
6.3.3	Payment Services	3	1	4	3	1	4	8
6.3.4	Informal transfer of funds through Hawala	1	1	2	1	1	2	4
6.4	**Securities and Funds Sector**							
6.4.1	Securities	4	3	7	1	1	2	9
6.4.2.1	Experienced Investor Funds	2	2	4	2	2	4	8
6.4.2.2	Private Funds	3	3	6	3	3	6	12
6.5	**E-Money Sector**							
6.5.1.1	Open Loop e-money (Cash Purchasing)	4	3	7	4	3	7	14
6.5.1.2	Open Loop e-money (Linked to a back account)	3	2	5	2	2	4	9
6.5.2	Closed Loop e-money	1	1	2	1	1	2	4
6.6	**Distributed Ledger Technologies (DLT) or Virtual Asset Service Providers (VASPS)**							
6.6.1.1	Wallet Providers	2	4	6	2	2	4	10
6.6.1.2	Exchanges	2	3	5	2	1	3	8
6.6.1.4	Initial Coin Offerings	2	3	5	1	1	2	7
6.6.1.5	Over the counter services (OTC)	3	1	4	1	1	2	6
6.6.1.6	Peer-to-peer lending	1	1	2	1	1	2	4
6.7	**Gambling Services**							
6.7.1	Remote Gambling (Betting, Casino, Bingo, Poker)	3	3	6	2	1	3	9
6.7.2	Land-based Casinos	3	3	6	1	1	2	8

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Ref	Risk Description	Money Laundering Risks			Terrorist Financing Risks			Total
		Threat	Vuln	Score	Threat	Vuln	Score	
6.7.3	Betting (land-based)	2	2	**4**	1	1	**2**	**6**
6.7.4	Bingo (land based)	1	1	**2**	1	1	**2**	**4**
6.7.5	Lotteries (Gibraltar Government Lottery)	1	1	**2**	1	1	**2**	**4**
6.7.6	Poker (Offline)	1	1	**2**	1	1	**2**	**4**
6.7.7	Gaming Machines (non-casino)	1	1	**2**	1	1	**2**	**4**
6.8	**Insurance**							
6.8.1	General Insurance	1	1	**2**	1	1	**2**	**4**
6.8.2	Long term business	1	1	**2**	1	1	**2**	**4**
6.9	**Real Estate**							
6.9.1	Real Estate Agents	2	2	**4**	2	1	**3**	**7**
6.9.2	Developers	2	4	**6**	2	1	**3**	**9**
6.9.3	Construction Industry	2	4	**6**	1	1	**2**	**8**
6.10	**Other Designated Non-Financial Businesses and Professions (DNFPBs)**							
6.10.1	Artefacts, Art and Antiquities	1	1	**2**	1	1	**2**	**4**
6.10.2	Precious Metals and Stones	3	2	**5**	2	1	**3**	**8**
6.10.3	Car Dealers	2	2	**4**	1	1	**2**	**6**
6.10.4	Other High Value Goods	2	1	**3**	1	1	**2**	**5**
6.11	**Other professions**							
6.11	Legal Profession & Notaries	3	2	**5**	3	2	**5**	**10**
6.12	Auditors and Insolvency Practitioners	2	1	**3**	2	1	**3**	**6**
6.13	Accountants and Tax Advisors	2	1	**3**	2	1	**3**	**6**
6.14	**Football League**							
6.14	Domestic Football League	2	2	**4**	1	1	**2**	**6**
7	**Jurisdictional Terrorist Financing Risk**							
7.6	Jurisdictional TF Risk			**0**	1	1	**2**	**2**
7.7	NPO TF Risk			**0**	1	2	**3**	**3**

End of 2020 National Risk Assessment

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