

# Sint Maarten

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RISK & COMPLIANCE REPORT

DATE: March 2018

**Executive Summary - St Maarten**

<b>Sanctions:</b>	None
<b>FATF list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment Offshore Finance Centre
<b>Medium Risk Areas:</b>	Weakness in Government Legislation to combat Money Laundering
<b>Major Investment Areas:</b>	
<b>Industries:</b> tourism, light industry and manufacturing, heavy industry	
<b>Imports - commodities:</b> crude petroleum, food, manufactured items	
<b>Investment Restrictions:</b> Information unavailable	

## Contents

<b>Section 1 - Background .....</b>	<b>3</b>
<b>Section 2 - Anti – Money Laundering / Terrorist Financing .....</b>	<b>4</b>
FATF status.....	4
Compliance with FATF Recommendations.....	4
Key Findings from latest Mutual Evaluation Report (2013): .....	4
US Department of State Money Laundering assessment (INCSR) .....	5
Reports.....	9
International Sanctions.....	11
Bribery & Corruption.....	12
<b>Section 3 - Economy .....</b>	<b>13</b>
<b>Section 4 - Government.....</b>	<b>13</b>
<b>Section 5 - Tax.....</b>	<b>14</b>
<b>Methodology and Sources .....</b>	<b>16</b>

## Section 1 - Background

Although sighted by Christopher COLUMBUS in 1493 and claimed for Spain, it was the Dutch who occupied the island in 1631 and set about exploiting its salt deposits. The Spanish retook the island in 1633, but continued to be harassed by the Dutch. The Spanish finally relinquished Saint Martin to the French and Dutch, who divided it between themselves in 1648. Friction between the two sides caused the border to frequently fluctuate over the next two centuries, with the French eventually holding the greater portion of the island (about 57%). The cultivation of sugar cane introduced African slavery to the island in the late 18th century; the practice was not abolished until 1848. The island became a free port in 1939; the tourism industry was dramatically expanded during the 1970s and 1980s. In 2003, the populace of Saint Martin voted to secede from Guadeloupe and in 2007, the northern portion of the island became a French overseas collectivity. In 2010, the southern Dutch portion of the island became the independent nation of Sint Maarten within the Kingdom of the Netherlands.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Sint Maarten is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Sint Maarten was undertaken by the Financial Action Task Force (FATF) in 2013. According to that Evaluation, Sint Maarten was deemed Compliant for 6 and Largely Compliant for 10 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2013):

Sint Maarten became an autonomous country within the Kingdom of the Netherlands on October 10, 2010. Sint Maarten was one of five island territories of the Netherlands Antilles. It has a relatively small open island economy, being tourism its main economic pillar. Sint Maarten's characteristics, such as geographical location, tourism, relative easy logistical accessibility, high mobility of goods and services, pose threats in terms of illegal activities like drug trafficking, human trafficking and money laundering (ML).

Non-bank financial institutions are vulnerable to money launderers and terrorists as they seek to launder their funds derived from criminal activities. An example of a non-bank financial institution sector is the money remitters sector. Regarding terrorist financing (TF), an issue could arise in relation to drug trafficking via the island; however no concrete activities have been detected.

ML as defined in the Penal Code addresses an intentional and habitual and culpable ML. However, the penalty for culpable ML appears to be not sufficiently dissuasive. TF is partially criminalised under the Penal Code by virtue of the extension of the offence of preparation to include TF. However this approach does not result in accordance with the TF Convention. With regard to the FIU (MOT), after due analysis of the unusual transactions received, in case of suspicion of ML/TF, these are disseminated to the PPO. However, the number of disseminations appears to be low.

The Central Bank is responsible for the regulation and supervision of the financial services sector in Sint Maarten. However, the activities such as: financial leasing, financial guarantees & commitments; participation in securities issues and the provision of financial services

related to such issues; and individual and collective portfolio management are not cover by the AML/CFT regime.

DNFBPs are supervised by the Central Bank and the FIU (MOT). The Examiners found that there are no legislative requirements for: CDD to be undertaken when carrying out occasional transactions that are wire transfers, as per the Interpretive Note to SR VII; the obligation to undertake CDD when there is a suspicion of ML or TF, the requirement to conduct CDD when it has doubts about the veracity or adequacy of previously obtained customer identification data and the requirement to conduct continuous due diligence on the business relationship.

There is no specific supervisory framework for the NPO sector, however its monitoring occurs in various ways such as the registration at the Chamber of Commerce where the information is publicly available and may be reviewed by any person at any time. There is no requirement for NPOs to submit information on records of transactions to any competent authorities.

In Sint Maarten several authorities are involved in the combating of ML and TF. The Team was informed that there is periodically an 'investigation officers meeting', where the PPO, Customs officers, tax officers, local police (KPSM) and the FIU (MOT) meet to discuss matters on an operational level. There is a system for international cooperation; however domestic legislation for all law enforcement entities should specifically provide for international cooperation with their foreign counterparts. With regard to resources, several of the law enforcement agencies possess a shortage of suitably qualified officers trained in ML investigations.

## US Department of State Money Laundering assessment (INCSR)

**Sint Maarten is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

### OVERVIEW

Due to the damage from multiple hurricanes in 2017, most of the information on money laundering kept by the Sint Maarten government was destroyed.

Sint Maarten is an autonomous entity within the Kingdom of the Netherlands. The Kingdom retains responsibility for foreign policy and defense, including entering into international conventions.

Sint Maarten has been recognized by the OECD as a jurisdiction that has implemented internationally-agreed tax standards.

In 2016, Aruba, Sint Maarten, the Netherlands, and Curacao signed an MOU with the United States for joint training activities and information sharing related to criminal investigations and law enforcement. An ongoing priority area is interdicting money laundering operations.

### VULNERABILITIES AND EXPECTED TYPOLOGIES

Many hotels operate casinos on the island, and online gaming is legal.

Sint Maarten has offshore banks and companies. Sint Maarten's favorable investment climate and rapid economic growth over the last few decades have drawn wealthy investors to the island who have invested their money in large-scale real estate developments, including hotels and casinos. In Sint Maarten, money laundering of criminal profits occurs through business investments and international tax shelters. The government sector continues to be vulnerable to integrity-related crimes.

It remains to be seen how Sint Maarten rebounds from the devastation of hurricanes Irma and Maria that destroyed approximately 90 percent of the island. In exchange for development aid, the Dutch government demands the implementation of a Dutch-supervised Integrity Chamber and border control to curb money laundering and to strengthen the government sector.

#### KEY AML LAWS AND REGULATIONS

KYC laws cover banks, lawyers, insurance companies, casinos, customs, money remitters, the central bank, trust companies, accountants, car dealers, administrative offices, Tax Administration, jewelers, credit unions, real estate businesses, notaries, currency exchange offices, and stock exchange brokers.

The Kingdom may extend international conventions to the autonomous countries. The Kingdom extended to Sint Maarten the application of the 1988 UN Drug Convention in 1999 and the UNTOC in 2010. With the Kingdom's agreement, each autonomous country can be assigned a status of its own within international or regional organizations subject to the organization's agreement. The individual countries may conclude MOUs in areas in which they have autonomy, as long as these MOUs do not infringe on the foreign policy of the Kingdom as a whole. Sint Maarten is a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

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

#### AML DEFICIENCIES

Sint Maarten has yet to pass and implement legislation to regulate and supervise its casino, lottery, and online gaming sectors in compliance with international standards. In addition, the threshold for conducting customer due diligence in the casino sector does not comply with international standards.

The UNCAC has not yet been extended to Sint Maarten.

#### ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

The National Ordinance Reporting Unusual Transactions has an "unusual transaction" reporting system. Designated entities are required to file UTRs with the FIU on any transaction that appears unusual (applying a broader standard than "suspicious") or when there is reason to believe a transaction is connected with money laundering. If, after analysis of an unusual transaction, a strong suspicion of money laundering arises, those suspicious transactions are reported to the public prosecutor's office.

The harbor of Sint Maarten is well known for its cruise terminal, one of the largest on the Caribbean islands. However, the airport and seaport were hit hard by hurricanes Irma and Maria in September 2017. Cruise ship visits have halted since then and the airport is recovering slowly. It remains to be seen how business at the airport and seaport will recover. The local container facility, which played an important role in the region, was also strongly impacted. When the facility is operational, larger container ships dock their containers in Sint Maarten where they are picked up by regional feeders to supply the smaller islands surrounding Sint Maarten. Nevertheless, customs and law enforcement authorities should be alert for regional smuggling, TBML, and value transfer schemes when business resumes. In June 2017, the Sint Maarten Port Director was arrested in an investigation into forgery, money laundering, and tax evasion.

From January to October 2017, Sint Maarten's FIU reported it has submitted seven money laundering investigations to the Public Prosecutor's Office. The seven investigations consist of 441 suspicious transactions, involving approximately U.S. \$15 million.

Because the MLAT between the United States and the EU has not been extended to the Kingdom of the Netherlands' Caribbean countries, the MLAT between the United States and the Kingdom applies to Sint Maarten. It is regularly used by U.S. and Sint Maarten law enforcement agencies for international drug trafficking and money laundering investigations.

#### **Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):**

According to the US State Department, Sint Maarten does not conform with regard to the following government legislation: -

**States Party to United Nations Transnational Organised Crime Convention** - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

**States Party to United Nations Convention Against Corruption** - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

#### **EU White list of Equivalent Jurisdictions**

Sint Maarten is currently on the EU White list of Equivalent Jurisdictions (Qualified)

#### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

#### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

## Offshore Financial Centre

Sint Maarten is considered to be an Offshore Financial Centre

### **US State Dept Narcotics Report 2017 (introduction):**

The Dutch Caribbean consists of the six entities of the former Netherlands Antilles: Aruba, Curacao, Sint Maarten, Bonaire, St. Eustatius, and Saba. In 2010, the Netherlands Antilles dissolved as a political unit. Curaçao and Sint Maarten acquired the same “autonomous country” status within the Kingdom of the Netherlands as Aruba, which became an autonomous entity in 1986. The three smallest islands, Bonaire, St. Eustatius and Saba, became part of the country of the Netherlands.

Aruba and Curacao are located 30 to 40 miles north of Venezuela and continue to serve as northbound transshipment points for cocaine originating from Colombia and Venezuela. Cocaine is primarily transported via fishing boats and inter-coastal freighters for transshipment to the United States, other Caribbean islands, Africa, and Europe. Sint Maarten, the Dutch half of the island of the same name (the French side is called Saint Martin), is located in the Eastern Caribbean and is a transshipment hub for cocaine, heroin, and marijuana destined for Puerto Rico and the U.S. Virgin Islands as well as Europe.

Sint Maarten is co-located on a single island with French St. Martin. This division provides unique challenges for law enforcement investigations. Colombian and Dominican-based drug trafficking organizations have expanded their base of operations into Sint Maarten believing that law enforcement is less prevalent. However, regional law enforcement agencies have increased cooperation. In 2016, authorities continue to successfully investigate several drug trafficking organizations that were transporting hundreds of kilograms of cocaine from Sint Maarten to the United States and Europe. These investigations included unprecedented cooperation between the Korps Politie Sint Maarten (KPSM), RST, and French, Dutch, British and U.S. authorities.

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

### **US State Dept Trafficking in Persons Report 2016 (introduction):**

St Maarten is classified a Tier 1 country - - is a country whose government fully complies with the Trafficking Victims Protection Act’s (TVPA) minimum standards.

St. Maarten is a source, transit, and destination country for women, children, and men subjected to sex trafficking and forced labor. Women and girls from Latin America, the Caribbean, Eastern Europe, and Russia are the most vulnerable to sex trafficking, including women working in regulated brothels and dance clubs under temporary residence permits for three to six months. There are indications some foreign women in St. Maarten’s

commercial sex industry are subjected to debt bondage. Government officials' reports indicate a significant number of migrant workers are vulnerable to forced domestic service or forced labor in construction, Chinese-owned markets, retail shops, landscaping, and housekeeping. Government officials report workers from Asia and the Caribbean are subjected to exploitative conditions indicative of forced labor. After St. Maarten implemented a visa waiver for Colombian tourists, media reports indicated Colombian women may travel to the islands under false pretenses and be vulnerable to human trafficking.

The Government of St. Maarten fully meets the minimum standards for the elimination of trafficking. In 2015, the government conducted one of the largest human trafficking investigations in St. Maarten's history, which led to the arrest of six suspects on charges of human trafficking in both St. Maarten and St. Eustatius, the suspension of the operating license of the country's largest legal brothel, the rescue of 14 sex trafficking victims, and, following close cooperation with authorities in the Dominican Republic, identification of 35 additional victims previously employed by the brothel. Officials charged six defendants in this case—three of the six remained in custody—an unprecedented step in the St. Maarten judicial system. The appeals court upheld the conviction of a sex trafficker and a conspirator—a former government official. The government continued to implement a victim-centered approach for providing services to identified trafficking victims and made robust efforts to screen for trafficking victimization among those in the adult entertainment industry. It assisted 15 victims in 2015 and issued its first residence permit for a potential victim and his family. In December 2015, the national coordinator for human trafficking, the prosecutor's office, and the Department of Judicial Affairs drafted an ordinance and policy guidelines for the adult entertainment industry aimed at preventing the exploitation of women in the regulated prostitution industry.

## International Sanctions

None Applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	N/A
World Governance Indicator – Control of Corruption	N/A

### Section 3 - Economy

The economy of Sint Maarten centres around tourism with nearly four-fifths of the labour force engaged in this sector. Nearly 1.8 million visitors came to the island by cruise ship and roughly 500,000 visitors arrived through Princess Juliana International Airport in 2013. Cruise ships and yachts also call on Sint Maarten's numerous ports and harbours. Limited agriculture and local fishing means that almost all food must be imported. Energy resources and manufactured goods are also imported. Sint Maarten had the highest per capita income among the five islands that formerly comprised the Netherlands Antilles.

#### **Agriculture - products:**

sugar

#### **Industries:**

tourism, light industry

#### **Exports - commodities:**

sugar

### Section 4 - Government

election: French president elected by popular vote to a five-year term; prefect appointed by the French president on the advice of the French Ministry of Interior; president of the Territorial Council elected by the members of the Council for a five-year term

#### **Legal system:**

French civil law

#### **International organization participation:**

UPU

## Section 5 - Tax

### Exchange control

For further information - <http://www.centralbank.an/>

### Treaty and non-treaty withholding tax rates

Sint Maarten has signed **27 agreements** (4 DTC and 23 TIEA agreements) providing for the exchange of information.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Antigua and Barbuda	TIEA	29 Oct 2009	not yet in force	Yes	Yes	
Aruba	DTC	28 Oct 1964	1 Jan 1965	Yes	No	
Australia	TIEA	1 Mar 2007	4 Apr 2008	Yes	Yes	
Bermuda	TIEA	28 Sep 2009	not yet in force	Yes	Yes	
Canada	TIEA	29 Aug 2009	1 Jan 2011	Yes	Yes	
Cayman Islands	TIEA	29 Oct 2009	not yet in force	No	Yes	
Costa Rica	TIEA	27 Oct 2012	not yet in force	Yes	Yes	
Curaçao	DTC	28 Oct 1964	1 Jan 1965	Yes	No	
Czech Republic	TIEA	27 Oct 2012	not yet in force	Yes	Yes	
Denmark	TIEA	10 Sep 2009	1 Jun 2011	Yes	Yes	
Faroe Islands	TIEA	10 Sep 2009	1 Jul 2011	Unreviewed	Yes	
Finland	TIEA	10 Sep 2009	1 Jun 2011	Yes	Yes	
France	TIEA	10 Sep 2010	1 Aug 2012	Yes	Yes	
Greenland	TIEA	10 Sep 2009	1 May 2012	Unreviewed	Yes	
Iceland	TIEA	10 Sep 2009	1 Jan 2012	Yes	Yes	
Mexico	TIEA	1 Sep 2009	4 Feb 2011	Yes	Yes	
Netherlands	DTC	28 Oct 1964	1 Jan 1965	Yes	No	
New Zealand	TIEA	1 Mar 2007	2 Oct 2008	Yes	Yes	
Norway	DTC	13 Nov 1989	17 Dec 1990	Yes	Yes	
Saint Kitts and Nevis	TIEA	11 Sep 2009	not yet in force	Yes	Yes	
Saint Lucia	TIEA	29 Oct 2009	not yet in force	Yes	Yes	
Saint Vincent and the Grenadines	TIEA	28 Sep 2009	21 Mar 2011	Yes	Yes	
Spain	TIEA	10 Jun 2008	27 Jan 2010	Yes	Yes	
Sweden	TIEA	10 Sep 2009	20 Apr 2011	Yes	Yes	
United Kingdom	TIEA	10 Sep 2010	not yet in force	Yes	Yes	

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5
United States	TIEA	17 Apr 2002	22 Mar 2007	Yes	Yes 
Virgin Islands, British	TIEA	11 Sep 2009	not yet in force	Yes	Yes 

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

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

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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