

Executive Summary

1. This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in the Kingdom of Denmark as at the date of the on-site visit (2-18 November 2016). It analyses the level of compliance with the FATF 40 Recommendations, the level of effectiveness of Denmark's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

- Overall, Denmark has a moderate level of understanding of its money laundering and terrorist financing (ML/TF) risks; with TF risks being better understood by authorities. Denmark's assessment of ML risk is comprised of a number of sectoral risk assessments, which underpin the ML national risk assessment (NRA). The TF NRA was separately prepared. The NRAs were not conducted in a coordinated, whole-of-government manner, and suffered from several methodological deficiencies in terms of inputs, design and scope. Denmark does not maintain comprehensive statistics on matters relevant to effectiveness and efficiency of their AML systems, and this negatively impacted the ML NRA. Overall, while some risk-based actions have been taken in response to the NRAs, it is limited and variable and does not adequately correspond to the risks identified.
- Denmark does not have national AML/CFT strategies or policies. The objectives and activities of individual competent authorities are determined by their own priorities and are not coordinated. Coordination and cooperation tends to occur informally and on an ad hoc basis.
- The effective functioning of the Money Laundering Secretariat (MLS), Denmark's financial intelligence unit (FIU), is hampered by its lack of human resources and operational autonomy.
- Denmark has a handling of stolen goods offence that extends to all criminal proceeds thus encapsulating the laundering of all predicate offences. Based on Danish legal tradition, the offence does not cover self-laundering. In practice, the police focus on prosecuting the predicate offence and information provided suggests that serious ML is not actively pursued. As the ML offence also includes traditional handling of stolen goods, it is not possible to obtain separate data on ML. The criminal penalty of 1.5 years of maximum imprisonment for ordinary ML is not fully proportionate or dissuasive, and though aggravated ML carries a higher penalty of six years, the average of penalties imposed in practice were low and in many cases resulted in suspended imprisonment.

- Denmark has a robust legal framework for investigating and prosecuting TF. Every counter-terrorism investigation includes an investigation into potential TF. Between 2011 and 2016, Denmark indicted 16 persons with TF offences, resulting in seven convictions. This appears to be in line with the TF risks of Denmark. The maximum penalty for TF is ten years' imprisonment. However, in practice, more lenient sanctions are applied, which limits the dissuasiveness of the relatively high sanctions.
- Denmark has a legal system to apply targeted financial sanctions (TFS) [both TF and proliferation financing (PF)]. Implementation of TFS related to UNSCR 1267, 1988, and 1373 (and their successor resolutions) has technical and practical deficiencies due to delays at the European Union (EU) level on the transposition of designated entities into sanctions lists and the absence of any specific measures to freeze the assets of EU internals. Understanding and implementation of TFS by reporting entities is varied and limited, particularly outside the banking sector. With a few exceptions, TFS knowledge and compliance by designated non-financial businesses and profession (DNFBPs) is poor. There is some, but insufficient, compliance with obligations by reporting entities. There is limited monitoring of TFS compliance by supervisory authorities.
- Overall, there is an inadequate understanding of risk and weak implementation of AML/CFT measures in almost all segments of the financial sector. With the exception of casinos, DNFBPs' understanding of risk and implementation is also generally poor. The legal framework of preventive measures also includes a number of gaps which negatively impact the effectiveness of the system.
- With the exception of the casino sector, a risk-based approach to AML/CFT supervision is limited, and where it exists is in the early stages of implementation. Further, the frequency, scope and intensity of supervision are inadequate. There are also serious concerns related to the severe lack of resources available for AML/CFT supervision in Denmark. The range of supervisory powers to enforce compliance and sanction breaches are insufficient, with referrals to police for investigation and prosecution being the principal used to ensure compliance by financial institutions (FIs). The sanctions that have been applied are not proportionate and dissuasive.
- Denmark's extensive system of registers, for both natural (CPR) and legal persons (CVR) provides a solid foundation for obtaining ownership and other information. Beneficial ownership information is relatively easily traced through the Central Business register (CVR) in less complicated structures and where no foreign ownership or control is involved. In these cases (complex and foreign ownership), competent authorities have to obtain beneficial ownership information from FIs/DNFBPs (where the legal person is a customer). However, implementation of AML/CFT measures, including with respect to beneficial ownership, is generally weak. New legislation enacted in 2016, and coming into force in May 2017, will require all legal persons to obtain and hold beneficial ownership information and make it publicly available through the CVR, and this will significantly strengthen the ability of authorities to obtain beneficial ownership information in a timely way.
- Denmark has a sound legal framework for all forms of international cooperation. Where there is an absence of a legal framework to provide legal assistance, authorities apply Danish legislation by analogy.

Risks and General Situation

2. The Kingdom of Denmark consists of Denmark, Greenland and the Faroe Islands. The total annual ML potential in Denmark is estimated by authorities to be approximately EUR 2.8 billion, comprising of proceeds from drugs, human trafficking, car theft, robberies, arms trade, smuggling of tobacco and liquor, tax and excise duty fraud, and other economic crime. Of these crimes, Denmark considers tax and excise duty crime to be one of the most profitable crime areas. Specifically, Denmark estimates that fiscal and value-added tax (VAT) fraud generate the largest proceeds of crime in Denmark. Tax authorities estimate that the Treasury suffers a loss of about EUR 0.4 billion a year from tax fraud alone.

3. Denmark's ML NRA identifies the following areas as high risk in Denmark: currency exchangers; legal business structures; money remittance providers; and cash smuggling. Medium risks include: banks, gambling sector; purchasing of real-estate; high-value goods; trust company service providers (TCSPs); electronic payment services; and, lawyers and accountants. Low risk areas include only life assurance and pensions funds.

4. In 2015, a terrorist attack occurred in Copenhagen, resulting in three deaths (including the perpetrator) and five injured. Terrorism is recognised as a significant threat to Denmark, particularly from networks, groups and individuals who adhere to a militant Islamist ideology. Terrorist financing in Denmark is primarily conducted to support terrorist groups and networks abroad, including groups in conflict zones. At the time of the onsite an estimated 143 Danish citizens and residents had voluntarily left Denmark to fight in Syria and Iraq.

Overall Level of Effectiveness and Technical Compliance

Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

5. Overall, Denmark has a moderate level of understanding of its ML/TF risks; with TF risks being better understood by authorities. Denmark's assessment of ML risk is comprised of a number of sectoral risk assessments, which underpin the 2015 ML NRA. The 2016 TF NRA was separately prepared. Both NRAs were not conducted in a coordinated, whole-of-government manner, and suffered from several methodological deficiencies in terms of inputs and scope. The ML NRA, in particular, did not include input from the private sector and is regarded by the private sector as having limited relevance and utility. Denmark does not maintain comprehensive statistics on matters relevant to effectiveness and efficiency of its AML systems, and this negatively impacted the ML NRA. It is a positive development that Denmark intends to develop a new ML NRA in 2017, including developing a new methodology.

6. Denmark does not have a national AML/CFT strategy, and did not demonstrate that it had national AML/CFT policies. Similarly, the objectives and activities of individual competent authorities are determined by their own priorities and are not coordinated. Coordination and cooperation tends to occur informally and on an ad hoc basis. Nevertheless, there is a level of national cooperation and coordination, though it largely exists on an informal basis, this equally applies to PF coordination. Denmark is taking steps to formalise this coordination.

7. Overall, while some risk-based actions have been taken in response to the ML NRA, it is limited and variable and do not adequately correspond to the risks identified. While the Danish Security and Intelligence Service (PET) has a general understanding of TF risks, these risks are not adequately integrated into Denmark's policies relating to preventive measures (e.g. supervisory priorities related to CDD of beneficial ownership and PEPs). The Financial Supervisory Agency (FSA) and the Danish Business Authority (DBA) have not prioritised CFT policies and activities in response to the risks identified by the PET; however, the TF NRA was relatively new at the time of the onsite.
8. Neither the ML NRA nor the TF NRA provides an adequate basis to justify the exemptions contained in the MLA, or the application of enhanced or simplified measures.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

9. The MLS is a law-enforcement FIU. It receives a significant and increasing number of STRs/SARs/TFRs from FIs and to a lesser extent from DNFBPs, and cross-border declarations. The MLS has direct access to a number of databases. The MLS may, spontaneously or upon request, disseminate financial intelligence to police districts to support their investigations. Danish police districts rely upon this information in their investigations; however their focus tends to be on predicate offences.
10. At the time of the onsite, the MLS conducted limited analysis on the financial intelligence it received by accessing external databases prior to dissemination, and conducted nearly no strategic analysis on emerging trends to support the operational needs of competent authorities. The MLS prioritises its analysis and disseminations based on ongoing investigations of predicate offences and known targets, rather than identifying and pursuing new ML/TF cases. In limited instances, the MLS identifies and pursues new ML cases.
11. As regards TF, the MLS transmits TFRs directly to Denmark's domestic intelligence agency within 24 hours, with limited analysis included. The MLS also refers STRs and SARs to PET, when there is a suspicion of terrorism. To date, the products disseminated to PET from the MLS related to known targets and did not generate new investigations.
12. There is a significant concern regarding the diminishing human resources of the MLS and the impact this has on the quality of the analysis conducted, and the added-value of the MLS in developing and disclosing reports to LEAs. There are also some concerns regarding the operational autonomy of the MLS.
13. Denmark criminalises ML through a handling of stolen goods offence that extends to all criminal proceeds thus covering all predicate offences. This offence can be prosecuted as ordinary or aggravated based on a number of factors, such as the amount laundered exceeding DKK 500 000, complexity or professionalism. Based on Danish legal tradition, the offence does not cover self-laundering.
14. The authorities were unable to provide statistics that differentiate between investigations/prosecutions/convictions related to ML and traditional handling of stolen goods offences, such as receiving stolen bicycles. Case examples demonstrated that ML is pursued in some

cases, including against legal persons, but related to a limited range of predicate offences, few foreign predicate cases, and most did not include complex ML cases (most cases involved simple cases of receipt of money assumed to be criminal proceeds). The assessment team considers that there is a disproportionate focus on the investigation of predicate offences, with a particular focus on financial tax crimes (sub-contractor fraud and tax offences), at the expense of ML investigations.

15. The criminal penalty of 1.5 years of maximum imprisonment for ordinary ML is not fully proportionate or dissuasive. While the Criminal Code (CC) includes a higher penalty of six years for aggravated ML, the penalties imposed in practice on average have been low and in many cases resulted in suspended imprisonment.

16. Denmark has a sound legal framework for freezing, seizing and confiscation measures, with extended confiscation powers allowing the authorities to place a burden on the defendant to prove the legitimate origin of assets. In practice, Denmark is taking some actions to recover the proceeds of crime. The Asset Recovery Office (ARO) is central to that effort and the available data and the other qualitative information provided indicates that they have had some significant successes, particularly in the last two years. A significant number of confiscation orders are being made, on average about 1 100 per year, with a total amount of about EUR 16 million per year being ordered confiscated. However, recoveries are modest (20% of confiscated amount), and the use of tax powers to recover criminal proceeds has not yet achieved significant results. Overall, it appears that while there are a range of powers and mechanisms being used, the results achieved are only moderately effective.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9- 11; R.5-8)

17. Denmark has a robust legal framework for investigating and prosecuting TF and has a substantial level of effectiveness. Every counter-terrorism investigation includes an investigation into potential TF. Between 2011 and 2016, Denmark indicted 16 persons with TF offences, resulting in seven convictions. This appears to be in line with the TF risks of Denmark, taking into account the evidentiary challenges that exist in TF cases (i.e. intelligence into evidence), as well as PET's use of disruption. The maximum penalty for TF is ten years' imprisonment. However, in practice, Denmark applies more lenient sanctions, which limits the dissuasiveness of the relatively high sanctions contained in the CC.

18. Denmark has a legal system in place to apply TFS (both TF and PF). Implementation of TFS related to UNSCR 1267/1988, and 1373 (and their successor resolutions) has technical and practical deficiencies in large part due to delays at the EU level on the transposition of designated entities into sanctions lists and the absence of any specific measures to freeze the assets of EU internals. With reference to both UNSCRs 1267 (and successor resolutions) and 1373, no funds of persons designated by the UN or by the EU have been identified and frozen. With regard to PF, funds have previously been frozen in relation to Iran, but no assets were frozen at the time of the onsite.

19. Greenland and the Faroe Islands have limited statutory regimes in place for TFS relating to TF and no compliance monitoring takes place. In addition, Greenland and the Faroe Islands do not have regimes in place for TFS on PF. No review of NPO legislation or risk mitigation has been undertaken

in Greenland and the Faroe Islands and a systematic review of effectiveness could not be undertaken for this report.

20. Understanding and implementation of TFS by reporting entities is varied and limited, particularly outside the banking sector. With a few exceptions, TFS knowledge and compliance by DNFBPs is poor. There is some, but insufficient, compliance with obligations by reporting entities. There is limited monitoring of TFS compliance by supervisory authorities. Understanding by reporting entities of TFS related to PF is less than that for TF.

21. The DBA is the authority responsible for receiving reports on freezing actions also proactively issues an electronic notice (referred to as a newsletter) advising subscribers of changes to the EU lists. It also reiterates the obligations to prevent any assets being made available to designated persons and entities, freeze assets of designated persons immediately and, in the case of frozen assets, report immediately to the DBA.

22. Coverage of NPOs most at risk of raising and moving funds or being misused by terrorists is not complete and preventive measures to manage risk undertaken by Denmark (and permitted by legislation) are very limited. No outreach to NPOs or donor communities by the authorities has been carried out during the period under review by the evaluation team. The last outreach NPOs was the publication in 2010.

23. For those supervisory authorities which monitor TFS compliance, the members of staff engaged in AML/CFT onsite supervision are also responsible for TFS compliance, and the lack of resources for the authorities referred to in IO.3 also apply in relation to TFS (both TF and PF).

Preventive Measures (Chapter 5 - IO4; R.9-23)

24. There is generally an inadequate understanding of risk, and weak implementation of AML/CFT measures, in almost all segments of the financial sector. With the exception of casinos, DNFBPs' understanding of risk and level of implementation is also generally poor.

25. Generally, risk assessments conducted by FIs are not comprehensive and do not cover all activities, products, and services. As a result, the application of adequate AML/CFT preventive measures is insufficient and further impacted by the deficiencies in Denmark's legal framework (e.g. domestic PEPs, wire transfers, and beneficial owners).

26. Levels of STR reporting are inconsistent across the financial and DNFBP sectors. There is also a lack of appropriate mitigating measures, including enhanced due diligence (EDD) measures in higher risk cases, and internal controls

Supervision (Chapter 6 - IO3; R.26-28, R. 34-.35)

27. The supervision of FIs' compliance with regulatory requirements (including AML/CFT) falls under the responsibility of various supervisors depending on the entity and whether it is located in

Denmark, Greenland, or the Faroe Islands. Limited information was made available regarding AML/CFT supervision in Greenland and the Faroe Islands.

28. Denmark's legal framework provides for a robust licensing and registration system. However, in practice, there are significant concerns about the approach to supervision and monitoring. The range of supervisory powers to enforce compliance is insufficient, resulting in an over reliance on referrals to police for investigation and prosecution to ensure compliance.

29. With the exception of the casino sector, supervision is not conducted on a risk basis. Further, the frequency, scope and intensity of AML/CFT supervision are inadequate. There are also serious concerns related to the severe lack of resources available for AML/CFT supervision in Denmark.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

30. Denmark permits the creation of a range of legal persons including companies, proprietorships, and associations with both limited and unlimited legal liability. Businesses in Denmark are obliged to electronically register basic information (including shareholdings and associated voting rights) to the DBA, which is then made publically available in the Central Business register (CVR) in a searchable format. Non-commercial foundations are required to register basic information, such as name and address in the CVR if they have obligations concerning tax or VAT. Both competent authorities, as well as the public can access the statutes and annual reports for non-commercial foundations through the DCA. Beneficial ownership information is relatively easily traced through the CVR in less complicated structures and where no foreign ownership or control is involved.

31. Beneficial ownership information in relation to fully Danish-owned legal persons can largely be ascertained through the legal shareholding information in the CVR. Legal arrangements that may have a connection with Denmark (e.g. through a trustee resident in Denmark), no information is publicly available. This information is required to be ascertained and kept by FIs/DNFBPs. However, there was little evidence to demonstrate that verification of the beneficial ownership and examination of the chain of ownership to the ultimate beneficial owner occurs in a thorough and consistent manner by reporting entities. LEAs stated that they can sometimes access such information through reporting entities where it has been collected, on the basis of a court order. Legislation requiring registration of beneficial ownership was adopted by the Danish Parliament and enacted on 16 March 2016, although at the time of the onsite it was not yet in force. The legislation will require all legal persons to obtain and hold beneficial ownership information and make it publicly available through the CVR.

32. In 2014, Denmark introduced a further requirement to publically register owners that own more than 5% of the capital of many different types of companies (public limited, partnership, private limited, entrepreneurial and SE companies). Where ownership drops below 5% there is also an obligation on the company to register this information, and where no one owns more than 5% of a company's capital, this must also be registered. Moreover, in 2015, Denmark abolished bearer shares and established an obligation for holders of bearer shares below 5% to register those shares.

33. Reporting entities are generally aware of their obligation to identify the beneficial owner and some are aware of ways in which complex legal structures can be used to obfuscate ownership and disguise the proceeds of crime. DNFBPs, however, did not share this understanding.

34. The DBA has the power to impose default fines for failures to comply with the requirements to report various types of information, such as the information on legal ownership. However, this does not appear to be a priority in practice. Breaches can be reported to the police, which could lead to criminal proceedings in serious cases, which may subsequently result in fines. There are no statistics available in relation to such referrals. Overall, actions to apply effective, proportionate and dissuasive sanctions against persons not providing either basic or beneficial ownership information appear to be very limited.

International Cooperation (Chapter 8 - IO2; R. 36-40)

35. In general, Denmark has a sound legal framework for all forms of international cooperation. Where there is an absence of a legal framework to provide legal assistance, authorities apply Danish legislation by analogy. As of June 2016, the central authority for MLA and extradition is the DPP. The majority of Denmark's cooperation, however, occurs bilaterally and is not channelled through the central authority. As a result, Denmark was unable to provide a comprehensive account of the cooperation requested or provided.

36. Generally, Denmark has close cooperation with Nordic and EU countries, and to a lesser degree with third countries. However, the assessment team received positive feedback on cooperation from partner jurisdictions, including from non-EU/Nordic countries.

37. The MLS and PET engage effectively with their foreign counterparts; however, the number of outgoing requests sent by the MLS has declined since 2013 as a result of resource shortages. In regard to supervision, the FSA's inability to conduct inquiries on behalf of foreign counterparts limits its ability to cooperate.

Priority Actions

- In the context of the current initiative to develop a new ML NRA and updating its TF NRA, Denmark should revise its risk assessment methodology, including adding additional sources of risk information to be assessed, for findings to be corroborated, involvement of the private sector, and to consider the specific of the entire Kingdom. Authorities should better communicate information on ML/TF risks to FIs/DNFBPs.
- Denmark should develop and implement national AML/CFT policies based on the findings of ML/TF risk assessments, and provide a clear strategy to address the risks identified. To this effect, Denmark should strengthen its domestic cooperation for combatting ML, TF and PF, including by appointing a lead authority to coordinate TFS and to mitigate any TF risks in the NPO sector.
- FIs/DNFBPs should take further action to prepare internal risk assessments, including by taking into consideration any risks identified by Danish authorities.

- Denmark should collect and maintain a broader set of statistics on ML/TF. These mechanisms could also be used to assess overall AML/CFT effectiveness.
- Competent authorities, particularly the MLS and the FSA, should be granted with adequate resources to conduct their AML/CFT functions.
- Denmark, Greenland, and the Faroe Islands should create a ML offence separate from the traditional handling of stolen goods offences, and criminalise self-laundering. Denmark should prioritise the investigation and prosecution of ML, and apply fully dissuasive and proportionate sanctions.
- Denmark should monitor the penalties applied to TF convictions and consider whether they are sufficiently proportionate and dissuasive.
- Supervisors should increase efforts to ensure that AML/CFT requirements are effectively implemented, that there is an increased awareness and understanding of AML/CFT issues, and issue more detailed and practical guidelines.
- Denmark should review the dissuasiveness of sanctions for non-compliance with AML/CFT obligations and the range of enforcement powers available to improve compliance, and make legislative and other changes to improve the compliance of supervised entities. Specifically, supervisors should be given an adequate range of powers that can be used to enforce their orders.
- Denmark should amend its legislative framework to address the technical deficiencies noted in the TC Annex, such as in relation to PEPs, beneficial owners, and higher-risk scenarios.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings (High, Substantial, Moderate, Low)

IO.1 - Risk, policy and coordination	IO.2 - International cooperation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
Moderate	Substantial	Low	Low	Moderate	Moderate
IO.7 - ML investigation & prosecution	IO.8 - Confiscation	IO.9 - TF investigation & prosecution	IO.10 - TF preventive measures & financial sanctions	IO.11 - PF financial sanctions	
Moderate	Moderate	Substantial	Moderate	Substantial	

Technical Compliance Ratings (C - compliant, LC – largely compliant, PC – partially compliant, NC – non compliant)

R.1 - assessing risk & applying risk-based approach	R.2 - national cooperation and coordination	R.3 - money laundering offence	R.4 - confiscation & provisional measures	R.5 - terrorist financing offence	R.6 - targeted financial sanctions – terrorism & terrorist financing
PC	PC	LC	LC	C	PC
R.7 - targeted financial sanctions - proliferation	R.8 - non-profit organisations	R.9 - financial institution secrecy laws	R.10 - Customer due diligence	R.11 - Record keeping	R.12 - Politically exposed persons
PC	PC	LC	PC	LC	PC
R.13 - Correspondent banking	R.14 - Money or value transfer services	R.15 - New technologies	R.16 - Wire transfers	R.17 - Reliance on third parties	R.18 - Internal controls and foreign branches and subsidiaries
PC	LC	PC	PC	PC	PC
R.19 - Higher-risk countries	R.20 - Reporting of suspicious transactions	R.21 - Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence	R.23 - DNFBPs: Other measures	R.24 - Transparency & BO of legal persons
LC	C	C	PC	LC	PC
R.25 - Transparency & BO of legal arrangements	R.26 - Regulation and supervision of financial institutions	R.27 - Powers of supervision	R.28 - Regulation and supervision of DNFBPs	R.29 - Financial intelligence units	R.30 - Responsibilities of law enforcement and investigative authorities
PC	PC	LC	LC	LC	C
R.31 - Powers of law enforcement and investigative authorities	R.32 - Cash couriers	R.33 - Statistics	R.34 - Guidance and feedback	R.35 - Sanctions	R.36 - International instruments
LC	LC	PC	PC	PC	LC
R.37 - Mutual legal assistance	R.38 - Mutual legal assistance: freezing and confiscation	R.39 - Extradition	R.40 - Other forms of international cooperation		
LC	LC	LC	LC		