

Summary

Background

Dutch policy to prevent and combat money laundering is based on recommendations by the Financial Action Task Force (FATF) and European Union (EU) directives and regulations. The FATF focuses on preventing and combating money laundering, terrorist financing and other related threats to the integrity of the international financial system at a global level. Members of the FATF, including the Netherlands, have committed themselves to implementing the 40 FATF recommendations on taking preventive and repressive measures by obliged entities, and to implementing measures to improve national legal and regulatory systems and international cooperation. In addition, the FATF supervises the correct functioning and effectiveness of those (legal) measures.

In 2017 and 2019/2020, the WODC Research and Documentation Centre conducted a National Risk Assessment (NRA) in the areas of money laundering and terrorist financing for the European part of the Netherlands. In 2017/2018, the WODC conducted a separate NRA for the Caribbean Netherlands – Bonaire, Sint Eustatius and Saba (or the BES islands) – in the fields of money laundering and terrorist financing.

A second NRA on Money Laundering and Terrorist Financing has now been carried out for the Caribbean Netherlands, which aims to identify the greatest risks in the field of money laundering and terrorist financing. This concerns the risks with the 'greatest residual potential impact', or the impact that remains after taking into account the preventive and/or mitigating effect (the 'resilience'¹³¹) of the policy instruments that target these threats. To this end, the threats with the greatest potential impact have been identified, and estimates have been made of the impact that these threats may have and the resilience of the policy instruments. The objective of this second NRA BES is therefore slightly broader than the objective of the first NRA BES, in which no estimates of the potential impact and resilience have been made. In line with the first NRA, this NRA also describes a number of lessons learned in the context of the growth model for the Dutch NRAs, which can be taken into account in the implementation of the following NRAs.

In order to obtain a first insight into existing threats in the field of money laundering and terrorist financing on the BES islands, the following research activities took place in the first stage of the study: desk research, exploratory interviews and a survey that was sent out to organizations with a role in the prevention and combating of money laundering and terrorist financing in the Caribbean Netherlands that aimed to collect information about the prevalence or (im)plausibility of money-laundering and terrorist financing threats on the three islands. These activities led to a lot of information on the subject of money laundering in the Caribbean Netherlands, but did not provide clear signals about the prevalence of terrorist financing in the Caribbean Netherlands. The written and online sources consulted also did not provide any indications of the existence of terrorist financing threats. Although the

¹³¹ Resilience concerns the preventive and mitigating effect of the policy instruments, whereby the following applies: the higher the resilience, the better the threats are countered. This concerns both the content/purpose and the implementation of the policy instruments.

absence of signals of terrorist financing threats does not necessarily mean that terrorist financing does not occur on the BES islands, it follows from this finding that the present report emphasizes on the subject of money laundering.

What is money laundering?

Legal and economic approach

In money laundering a legal and an economic approach can be distinguished. The legal approach to money laundering is based on Articles 435a to 435d of the Dutch Penal Code for the BES islands (*Wetboek van Strafrecht BES, WvS BES*). These articles describe the circumstances in which someone is guilty of money laundering. Money laundering is when somebody *hides or conceals the true nature, origin, place where it was found, disposal or relocation of an object*, or hides or conceals who the legal owner is or who is in possession of the object, despite knowing or being in a position in which they should reasonably suspect that the object in question was either directly or indirectly obtained as a result of any crime. For the purpose of this definition, 'object' includes any good and any property rights.

For the NRA, the economic approach is applied, in which the analysis is determined by the description of the process. The economic approach focuses on the way in which assets of criminal origin are returned to the legal money circuit and used in an economic sense, in such a way that the origin of the money is concealed. This NRA also includes so-called consumer money laundering, the spending of criminally obtained proceeds on basic necessities. The money-laundering process according to the economic approach can be divided into three stages that are not always completed and do not always follow each other chronologically. The FATF distinguishes the following stages:

- *Placement*. In this stage, a criminal places the money to be laundered into the financial system, giving it a book-entry character. A form of crime such as drug trafficking often involves large amounts of cash that a criminal wants to place in the financial system. In some forms of crime, the money is already in the financial system, for example in the case of tax fraud.
- *Concealment*. In this stage – which can take place both during and after the placement stage – a criminal conceals his own identity and/or the origin of the criminal assets to minimize the chance of being caught. The nature of the concealment methods can vary from relatively simple to very complex.
- *Integration*. In this last stage, a criminal integrates the criminally obtained money into the financial system – whether concealed or not – via, for example, spending on his own livelihood or investing in high-value products or real estate.

Research methodology

As in the first NRA BES, the applied research approach is structured according to the ISO 31000 framework for risk management. In short, the research methodology used boils down to the following:

- A context analysis outlining the specific characteristics of the Caribbean Netherlands that may influence the prevalence of money laundering. A literature study was performed for this context analysis.

- For the purpose of an inventory of threats in the field of money laundering, a brief literature study was conducted and the FANO survey¹³² was conducted among organizations that were expected to have knowledge of money laundering in the Caribbean-Dutch context.
- In a first expert meeting, experts individually identified the money-laundering threats with the greatest potential impact for the three BES islands.
- After the first expert meeting, in-depth interviews with public parties in both the Caribbean and European Netherlands, and with private parties in the Caribbean Netherlands were held to examine the nature and mechanisms of the identified largest money-laundering threats.
- In a second expert meeting, experts estimated the potential impact of the largest money-laundering threats. For Bonaire this was done in a quantitative sense on the basis of a Multi Criteria Analysis, for Sint Eustatius and Saba this was done through a plenary discussion in a general sense.
- A survey among public parties with a task in preventing and combating money laundering on the BES islands provided insight into the policy instruments available for the prevention and repression of money laundering. This formed input for the third expert meeting.
- In the third expert meeting, experts assessed the resilience of the available policy instruments for the prevention and repression of the largest money-laundering threats. For Bonaire this was done in a quantitative sense, for Sint Eustatius and Saba this took place through a plenary discussion in a general sense.
- By comparing the estimated potential impact of the largest money-laundering threats against the estimated resilience, insight has been gained into the largest money-laundering risks in the Caribbean Netherlands, with a ranking for Bonaire according to their residual potential impact.
- Finally, in the last stage of the study, three validating interviews were conducted with a total of five key experts with the main aim of examining to what extent they recognized (the ranking of) the identified money-laundering risks.

The Covid-19 pandemic made face-to-face interviews and a physical expert meeting in the BES area that had been foreseen for this NRA impossible. As a consequence fieldwork for this NRA had to be done entirely online. A physical visit would have helped to become acquainted with the environment in which money laundering can take place and in which the investigation, law enforcement and supervision must take shape. The lack of this experience formed a complication in valuing the collected information and thus to report the research results. The possibility that more clear-cut results could have been reported after conducting physical face-to-face interviews and a physical expert meeting cannot be ruled out.

What makes the Caribbean Netherlands vulnerable to money laundering?

In terms of **geographic characteristics**, the proximity to Central and South American countries and other Caribbean islands (which are associated with drug production, ineffective anti-money-laundering regulations and strict banking secrecy) may in principle influence the prevalence of money laundering in the Caribbean Netherlands because of the illegal supply of drugs, weapons and people. In addition, the great distance between the BES islands and the European Nether-

¹³² The purpose of the FANO survey was to identify 1. the facts/cases of which money-laundering threats are known to organizations based in the Caribbean and European Netherlands, 2. the extent to which those organizations consider the prevalence of the threats plausible or not, and 3. which threats are unknown to the organizations.

lands has consequences for the organization of supervision by the three Wwft BES¹³³ supervisors located in the European Netherlands (the Dutch Authority for the Financial Markets (*Autoriteit Financiële Markten, AFM*), the Wwft Supervision Office (*Bureau Toezicht Wwft, BTWwft*) and the Dutch Central Bank (*De Nederlandsche Bank, DNB*)). Due to the limited scale, basic police service is available locally on Sint Eustatius and Saba. When specialist police service is needed, this can be flown in from Bonaire or the European Netherlands.

Socio-cultural characteristics of the Caribbean Netherlands, such as a culture in which everyone knows each other, a culture of silence, fear and interest, in which there is patronage, nepotism and clientelism according to the principle of 'give a little, take a little', cause a blurring of the boundaries between private relationships and professional contacts. In principle, this can result in a reduced willingness to report crime, in conflicts of interest and in integrity problems in the local implementation of supervision, investigation and law enforcement.

An **economic feature** of the BES islands that may be related to the prevalence of money laundering is the islands' cash orientation. A high degree of cash use in an economy is often associated with a shadow economy and the prevalence of money laundering. Other relevant economic features are the poverty problem and the associated informal borrowing culture in the Caribbean Netherlands. The small scale of the BES islands combined with a culture of self-reliance can work out into a prevailing informal lending culture that potentially influences the prevalence of money laundering. Instead of taking out a loan from a financial institution, it is relatively common in small communities that residents take out a loan among themselves or otherwise informally, such as with *loan sharks* that charge usury. An economic sector in the Caribbean Netherlands that is sensitive to money laundering is the real estate/realty sector. Bonaire in particular can be interesting for investments in real estate with criminal money that comes from, among other places, the European Netherlands.

Various **forms of crime** can precede money laundering. In the Caribbean Netherlands, this can involve a range of forms of property crime, drug crime, human smuggling/trafficking and corruption.

- *Property crime*. Property crimes are mainly registered on Bonaire and to a much lesser extent on Sint Eustatius and Saba. It can be assumed that there is a considerable dark number and that not all crimes committed are registered. The actual level of crime is probably considerably higher than the official figures.
- *Drug crime*. Bonaire is mentioned as one of the transit ports of drugs from South America, especially cocaine, to Europe and the United States, among other places. The 'Caribbean route' is often used by criminal drug organizations from Colombia and Venezuela and by Jamaican and Dominican gangs with ties to Spain and the Canary Islands. Saba and Sint Eustatius are mainly final destinations for drug transport.
- *Human smuggling/trafficking*. The politically unstable situation in Venezuela is related to the occurrence of human trafficking and the illegal residence of foreign nationals on Bonaire. For Saba and Sint Eustatius there are hardly any signs of the occurrence of human trafficking.
- *Corruption*. According to other studies, official and political corruption occurs on Bonaire and Sint Eustatius, in which there can be a relationship with socio-cultural characteristics such as patronage, nepotism and clientelism. Examples of

¹³³ Money Laundering and Terrorist Financing Prevention Act for Bonaire, Sint Eustatius and Saba.

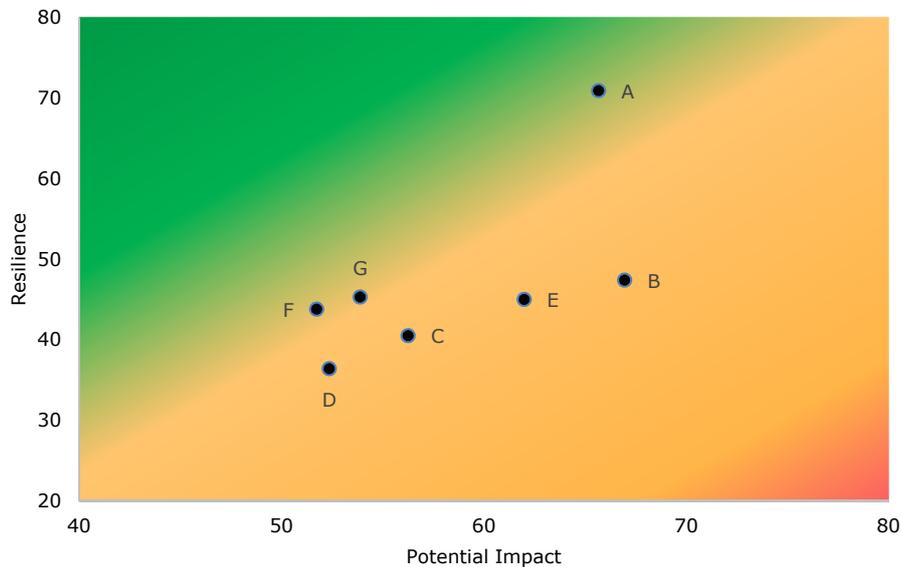
corruption in Bonaire in particular are: the untransparent way of issuing land on long-term lease and applying for and granting employment and residence permits. For Saba, the corruption problem is estimated to be lower.

Largest money-laundering risks in the Caribbean Netherlands

Bonaire

Figure S.1 brings together the expert estimates for Bonaire of the potential impact and resilience for the seven money-laundering threats identified by experts as threats with the greatest potential impact. Threats with a high potential impact and low resilience are risky.

Figure S.1 Potential Impact compared to Resilience for the seven largest money-laundering threats for Bonaire



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| A. Money laundering via banks (credit institutions) licensed by DNB | D. Money laundering through the physical placement or transfer of cash by sea and/or air |
| B. Money laundering in real estate/realty sector | E. Money laundering via legal entities |
| C. Money laundering via underground banking, including money transfer offices that operate without a DNB license | F. Money laundering via falsification of company turnover |
| | G. Money laundering via loan-back constructions |

The figure shows that this high-risk combination for money-laundering threats does not occur; many money-laundering threats are close to each other in terms of potential impact and resilience. However, this is not the case with 'Money laundering via banks (credit institutions) licensed by DNB'. This threat has a relatively high potential impact and relatively high resilience. Experts are of the opinion that this threat can have major harmful consequences, but that the policy instruments counteract this potential impact to a relatively large extent. In the figure, this threat therefore results in a green area. 'Money laundering through the physical placement or transfer of cash by sea and/or air' has low estimates for the potential impact and resilience: experts believe that this money-laundering threat – in comparison with the other threats – has less significant harmful consequences and that the policy instruments only counteract this threat to a limited extent. Closest to the red part of

the figure, which indicates a high money-laundering risk, comes the threat 'Money laundering in real estate/realty sector'. This can be traced back to a relatively high potential impact with moderate resilience to this threat.

However, Figure S.1 does not yet provide a clear answer about the extent to which the available policy instruments on Bonaire counteract the potential impact of the seven largest money-laundering threats. In order to gain a better insight into this, a final analysis step was carried out for each threat to determine what potential impact remains after taking into account the mitigating effect of the policy instruments, in this case the resilience of the policy instruments. This results in the final list of the seven largest money-laundering risks for Bonaire, which is classified according to the potential impact that remains after taking into account the mitigating effect of the policy instruments. In this NRA, this is referred to as the residual potential impact (RPI). The size of the RPI determines the size of the money-laundering risk. The results of this analysis are included in table S.1.

Table S.1 The seven largest money-laundering risks for Bonaire

	RPI-score (scale from 0-100)
Money laundering in real estate/realty sector	35
Money laundering via legal entities	34
Money laundering via underground banking, including money transfer offices that operate without a DNB license	34
Money laundering through the physical placement or transfer of cash by sea and/or air	33
Money laundering via loan-back constructions	30
Money laundering via falsification of company turnover	29
Money laundering via banks (credit institutions) licensed by DNB	19

The RPI scores for the seven money-laundering risks for Bonaire are spread from 19 to 35 (on a scale from 0 to 100). The remaining risks are therefore not very high. The money laundering risk 'Money laundering in real estate/realty sector' emerges as the largest money laundering risk for Bonaire. Shortly followed by 'Money laundering via legal entities', 'Money laundering via underground banking including money transfer offices that operate without a DNB license' and 'Money laundering via the physical placement or transfer of cash by sea and/or air'. The money-laundering risk 'Money laundering via banks (credit institutions) licensed by DNB' has the lowest RPI score. This money-laundering risk is lower than the other largest money laundering risks because of the relatively high resilience of the policy instruments, estimated by the experts.

Sint Eustatius en Saba

For Sint Eustatius and Saba it was not possible to perform an MCA¹³⁴ and to display a ranking of the largest money-laundering risks such as that for Bonaire. The threats and resilience of the policy instruments for these islands have been qualitatively discussed.

¹³⁴ The majority of the experts indicated in the interviews and the expert meetings that they were unable to properly estimate the potential impact and resilience of the money-laundering threats for Sint Eustatius and Saba. This is explained in more detail in the report.

Compared to Bonaire, the list of identified largest money-laundering threats for Sint Eustatius and Saba is slightly shorter.¹³⁵ The experts were unanimous in their opinion that for both islands 'Money laundering in real estate/realty sector' represents the largest money-laundering risk. For this reason, this risk is at the top of table S.2. The other three largest money-laundering risks for these islands are listed in no particular order. Due to the differences in scale, the smaller size of the local economy and the tourism sector, and the more limited opportunities to invest in the real estate/realty sector, the money-laundering threats for Sint Eustatius and Saba are estimated to be lower than for Bonaire.

Tabel S.2 The four largest money-laundering risks for Sint Eustatius and Saba

Money laundering in real estate/realty sector
Money laundering via banks (credit institutions) licensed by DNB
Money laundering via underground banking, including money transfer offices that operate without a DNB license
Money laundering through the physical placement or transfer of cash by sea and/or air

¹³⁵ For Sint Eustatius and Saba, experts had insufficient knowledge of the possible prevalence of the threats 'Money laundering via loan-back constructions', 'Money laundering via legal entities' and 'Money laundering via falsification of company turnover' to designate these as the largest money-laundering threat.