Misuse of Citizenship and Residency by Investment Programmes

November 2023

FINANCIAL ACTION TASK FORCE

Misuse of Citizenship and Residency by Investment Programmes – A Joint FATF/OECD Report

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Citing reference:

FATF/OECD (2023), *Misuse of Citizenship and Residency by Investment Programmes*, FATF, Paris, France, www.fatf-gafi.org/content/fatf-gafi/en/publications/Methodsandtrends/misuse-CBI-RBI-programmes.html; https://doi.org/10.1787/ae7ce5fb-en

ISBN: 9789264853775 (pdf)

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Abbreviations and Acronyms

	Definition
AML/CFT	Anti-money laundering and countering the financing of terrorism
RBI	Residency by Investment
CARICOM	Caribbean Community
CBI	Citizenship by Investment
CDD	Customer due diligence
CRS	Common Reporting Standard
DDT	Due diligence team
DNFBP	Designated Non-Financial Business or Profession
FATF	Financial Action Task Force
FI	Financial institution
FIU	Financial intelligence unit
GDP	Gross domestic product
IMF	International Monetary Fund
JRCC	Joint Regional Communications Centre
LEA	Law enforcement agency
ML	Money laundering
MVTS	Money and value transfer services
NCBC	Non-conviction based confiscation
OECD	Organisation for Economic Co-operation and Development
OECD Bribery Convention	Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
PEP	Politically exposed person
SIS	Schengen Information System
SPIO	OECD Working Party of Senior Public Integrity Officials
STR	Suspicious transaction reports
TCSPs	Trust and company service providers
UN	United Nations
UNCAC	United Nations Convention Against Corruption
VASP	Virtual asset service providers

Executive Summary

1. Each year, tens of thousands of people around the world become new citizens or permanent residents of countries in which they were not born by virtue of investing in those countries. Citizenship and residency by investment (CBI/RBI) programmes are government-administered programmes that can benefit both host countries (by spurring economic growth, such as through expanding foreign investment channels) and wealthy individuals (by allowing them to gain citizenship or residency and the associated additional rights by expediting or bypassing the normal, more lengthy migration processes). These programmes attract an array of clients, many of whom have gained their assets legitimately and have benign intentions. However, they can also be abused by criminals who seek to launder and conceal proceeds of crime or commit new offences, including financial crimes, undermining these programmes' intended objectives.

2. This joint report of the Financial Action Task Force (FATF) and the Organisation for Economic Co-operation and Development (OECD) holistically examines money laundering and financial crime risks associated with investment migration programmes, including risks related to foreign bribery, fraud and corruption, alongside other policy considerations related to public integrity, tax and migration.

3. Criminals have exploited a range of vulnerabilities in CBI/RBI programmes to perpetrate massive frauds and launder proceeds of crime and corruption reaching into the billions of dollars, while also hiding assets in less compliant or effective jurisdictions, facilitating organised crime and evading law enforcement. CBI programmes are particularly vulnerable because they allow illicit actors more global mobility, the ability to open bank accounts and establish shell companies in other jurisdictions, and to disguise their identity or conceal where they may owe taxes or other liabilities from financial institutions by using new identification documents.

4. Both CBI and RBI programmes can provide the criminally wealthy with a range of opportunities, such as the ability to place assets and family members overseas to prevent or hinder asset recovery efforts, explain suspicious high-value transactions, and enable the movement of significant sums of illicit funds across borders. These programmes can act as a gateway for their recipients to the financial systems of both small and large countries, as well as regional markets. The provide the new citizens or residents with access they might not have enjoyed by virtue of their original citizenship or country of origin, and the likely lesser scrutiny that comes with being a domestic (as opposed to foreign) actor within their new financial system.

5. Investment migration programmes are complex and international – the high level of involvement by intermediaries in their design and development, and the necessary involvement of multiple agencies across a government, can provide challenges in coordination, implementation and regulation. These programmes are also vulnerable to abuse by professional enablers and fraudsters targeting opportunities to service or exploit the users of these programmes. Criminal, negligent, or complicit property agents, wealth managers immigration agents, marketing agents and concierge firms can assist in the abuse of these programmes. They often do this by failing to carry out their due diligence and financial crime reporting functions properly or by creating fraudulent/misleading evidence for clients to present in their applications to a competent authority.

6. Opportunities for abuse tend to arise especially when governments struggle to govern their programmes effectively. Malign interests can infiltrate programmes when there is a lack of clarity around the roles of public and private actors involved, where conflicts of interest are not adequately managed, and where resources are lacking to ensure proper oversight. These challenges are compounded where there is a lack of internal control and audit measures to ensure that programmes are operating as intended, as well as the difficulties government agencies face in coordinating across public authorities and borders to manage risks. Programmes appearing vulnerable to criminal abuse may lead to suspension of visa-free travel to third countries and undermine business and international relations.

7. To help policy makers and programme operators strengthen the governance of programmes and address money laundering and financial crime risks, this report proposes a series of mitigation measures. Conducting sound analysis of money laundering and corruption risks, setting clear objectives and building integrity measures into the design and implementation can help set programmes on a solid footing. This includes measures such as ensuring multi-layered due diligence by both private and public sector actors in the application process, directing specific attention to identifying applicants' sources of funds and wider wealth, the mode of funds transfer, and the finances of accompanying family members.

8. Illicit actors may obtain a visa or citizenship through investment programmes as an insurance policy before committing crimes (or before these offences are discovered) or as a tool to enable future crimes. Therefore, ongoing monitoring of recipients is crucial to prevent abuse, evasion from law enforcement and the disruption of asset recovery efforts. Domestic co-ordination across law enforcement authorities, immigration authorities, and financial intelligence units is important to effectively monitor and mitigate ongoing risks. As risks extend beyond the jurisdiction operating the programme, there is also a need for multilateral cooperation to ensure that information is swiftly exchanged and enforcement mechanisms are mutually supportive.

9. Jurisdictions operating programmes that permit private sector investments have increasingly grappled with fraud risks and the need to control not just where funds come from, but also to where funds subsequently flow. Programmes that encourage property development activity, for example, have increasingly featured requirements for domestically-established escrow accounts to stop bogus developers from defrauding both the programme and the investors. Other programmes have encountered fraudulent schemes recycling the same funds and investments through multiple applicants and even cases of programme applicants themselves being victimised and having their funds embezzled from them by property developers, immigration agents, businesspeople or wealth managers.

10. Ultimately, policymakers, programme operators, financial institutions and law enforcement should be particularly alert to the elevated risks of money laundering and financial crime not just in relation to applicants but also from professional enablers and intermediaries who are engaged in investment migration-related transactions. Ensuring clarity around the respective roles and responsibilities of public and private sector actors is a key step to prevent undue infiltration of private interests in the execution of citizenship and residency by investment programmes.

11. Properly managed, CBI or RBI programmes can, theoretically, benefit both host countries and individuals. However, in practice, such programmes bring significant risks of money laundering, fraud, and other forms of misuse, and should be designed and administered in a risk-sensitive way, including by implementing safeguards such as those set out in this paper.

1. Introduction

1.1. Overview

12. Investment migration is a niche activity that involves the creation of social contracts between a jurisdiction and new citizens or residents based on an investment in the host jurisdiction.1 These practices have become collectively known as Citizenship or Residency by Investment Programmes (CBI or RBI).

13. Granting either citizenship or residency based on a specific investment departs from the conventional features of modern immigration controls, which are generally concerned with the screening of individuals on non-transferable attributes, such as the basis of their ties to a jurisdiction (i.e., family/heritage) or skills (i.e., language), qualifications, and abilities. Investment migration provides the possibility for foreign nationals to qualify for a visa, residency permit, or passport based on a specific transient and transferable attribute that can be gained in both legal and illegal ways: wealth. These programmes are modelled upon laws and regulations that provide immigration and travel status to individuals to attract investment in some form.

14. This activity creates a unique and challenging environment for both law enforcement and policy makers. Understanding the entire CBI and RBI ecosystem, and its money laundering and financial crime risks, requires practitioners to understand the relevant nuances related to finance and immigration and how they interact.

15. Since the inception of the modern investment migration ecosystem in 1984 with the launch of St. Kitts and Nevis's CBI programme, investment migration programmes have spread rapidly to become a multi-billion-dollar sector. RBI programmes started in North America with Canada in 1986 and the United States in 1990. Following the 2007-2009 financial crisis, various European Union (EU) countries sought to establish, scale up or revamp a range of RBI and CBI programmes.[2] Significant volumes of people and funds have moved through these programmes – the European Parliamentary Research Service estimated that between 2011 and 2019, over 132 000 people secured residence or citizenship in EU Member States via CBI or RBI programmes and the total investment inflow from these programmes was estimated to be at least EUR 21.4 billion.[3]

16. As the popularity of investment migration programmes has grown, the risk of illicit actors utilising these programmes to their advantage has also increased. This report examines the money laundering (ML) and financial crime risks, as well as related policy issues, associated with CBI and RBI programmes. With respect to CBI specifically, the relatively prompt conferral of citizenship and the associated passport makes these programmes an attractive tool for illicit actors to obtain a new identity. These programmes can provide means to alter identities, illicitly access financial systems, flee to non-extradition jurisdictions, and evade taxes. RBI programmes, while generally less immediate in conferral of residency, are also desirable for illicit actors seeking to place themselves, family members and illicitly acquired assets into the issuing jurisdictions.

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1 For example: direct donations, risk capital, or recoverable deposits.

2 The European Commission considers that CBI programmes run by an EU Member State, through which EU citizenship is granted in return for pre-determined payments or investments without any genuine link to the Member State concerned, are in breach of EU law, in particular the principle of sincere cooperation (Article 4(3) Treaty on European Union) and the concept of EU citizenship (Article 20 Treaty on the Functioning of the European Union). The Commission has taken action regarding all Member States operating or having operated an investor citizenship scheme. A related court case is currently pending before the Court of Justice of the European Union.

3 European Added Value Unit (2021), "Avenues for EU action on citizenship and residence by investment schemes", European Parliamentary Research Service, www.europarl.europa.eu/RegData/etudes/STUD/2021/694217/EPRS_STU(2021)694217_EN.pdf

17. The report takes a holistic approach to addressing how illicit actors abuse these programmes, including money laundering, public integrity, tax and corruption risks. These diverse risks should be taken alongside considerations of the scope for fraud by applicants and against the jurisdiction as well as the market for the provision of criminal financial facilitation services such as unregulated money and value transfer services (MVTS).

18. This report provides analysis and guidance to understand and manage risks, particularly as they relate to the preventative measures and customer, risk identification and due diligence requirements in the FATF Recommendations, in particular those contained in the following recommendations: R.1, R.10, R.11, R.12, R.15, R.17, R.19, R.20, R.22, and R.23. Aspects of the guidance contained in this report are also meant to facilitate international cooperation, particularly those requirements contained within FATF Recommendations 37-40. The FATF recognises that not all jurisdictions can adopt identical measures given different legal, administrative and operational frameworks and should thus take their own circumstances into account when implementing such measures.

19. In addition, the analysis builds on key OECD standards in the areas of anti-corruption and integrity, including the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Bribery Convention) [OECD/LEGAL/0293], the Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions [OECD/LEGAL/0378], and the Recommendation on Public Integrity [OECD/LEGAL/0435], alongside other relevant international standards, such as the United Nations Convention Against Corruption (UNCAC).

1.2. Objectives

20. The main objectives of this study are to:

- Understand the financial crimes threats associated with CBI and RBI;
- Understand vulnerabilities in the programmes that are exploited by illicit actors;
- Understand the financial crime challenges presented from these programmes;
- Take stock of CBI and RBI risks associated with policy issues such as anti-corruption and public integrity, tax and migration; and
- Consider what tools exist to mitigate these risks and to establish the scope and limitations of such tools.

1.3. Methodology and Scope

21. The scope of this report follows the five objectives outlined in Section 1.2. Conversely, this report is not intended to address any such issues that arise related to citizenship or migration which are not specifically related to investment migration.[4]

[4] This can include, but is not limited to, abuse of other migration pathways, money laundering or terrorist financing involving fraudulent passports, and cross-border travel unrelated to CBI or RBI.

22. Experts from the United States and United Kingdom co-led this project team alongside experts from the OECD,[5] and with support from the FATF Secretariat. The project team consisted of experts drawn from 19 members of the FATF Global Network and three FATF Observers.[6]

23. The project relied on information, case studies, and country examples provided in questionnaire responses returned by 36 jurisdictions within the FATF Global Network, as well as discussions held in a session of the FATF Joint Experts' Meeting in April 2023. Inputs also included responses to a questionnaire circulated to delegates to the OECD Working Party of Senior Public Integrity Officials (SPIO), and insights from private sector investment migration practitioners and the financial sector through a session at the FATF's Private Sector Consultation Forum in May 2023. The project team also engaged with academics and noted available published academic literature, government reports and non-profit organisation research papers published in this field.

1.4. What is Investment Migration?

24. Investment migration is a type of migration where citizenship or residency in a jurisdiction can effectively be purchased though an investment in the host jurisdiction's economy. The investment migration ecosystem is growing and over the past five years has become a multi-billion-dollar enterprise globally, encompassing both government agencies and private sector actors. This expansion has been propelled by both the demand for visas, residence permits and passports and the supply of jurisdictions providing them to attract foreign direct investment. Prospective applicants can be motivated by security or humanitarian concerns, the chance to shelter wealth abroad, ease of travel or other factors. Governments offering such programmes seek to generate capital inflows and, in some cases, this has become a significant source of finance for public spending. For example, in 2016 CBI passport sales accounted for one third of Dominican gross domestic product (GDP).

1.4.1. Citizenship by Investment

25. CBI is the practice of granting citizenship status principally or solely in return for financial investment, without any requirement for a significant period of prior physical residency in the issuing jurisdiction. A unique feature of CBI is that these programmes usually allow applicants to acquire citizenship quicker than through other, more traditional immigration channels.

26. CBI programmes generally offer various benefits to applicants, such as:

- **Enhanced Freedom of Movement:** Access to passports that provide greater freedom of movement, including expanded visa-free travel, easier access to visas, and potentially less scrutiny by immigration officials, especially where electronic reporting systems are not in place.
- **Access to International Financial Sectors:** Travel opportunities afforded under the passport give investors access to the international financial system otherwise not available to them in their home jurisdiction or under their previous identity.

[5] Experts from the OECD led the drafting of Section 2.4.4, Chapter 4 and Sub-chapter 5.2. Review also included the Public Governance Committee and its Working Party of Senior Public Integrity Officials, the Working Group on Bribery in International Business Transactions and the Working Party on Migration.

[6] Antigua and Barbuda, Bahamas, Canada, China, Dominica, European Commission, Greece, Grenada, India, Ireland, Malta, Mexico, Nigeria, Portugal, Saint Lucia, Trinidad and Tobago, Türkiye, United Kingdom, United States, Caribbean Financial Action Task Force Secretariat, International Monetary Fund (IMF) and the OECD.

- **Identity Laundering:**[7] Opportunity to acquire a travel and identification document under a different nationality or name, which can be used to represent who the holder is in a novel way, or otherwise obfuscate the person's original identity.

27. CBI programmes are an important revenue source for those jurisdictions with an active programme, in some cases accounting for nearly a third of their GDP.[8] Primary investment options available to applicants can include the direct transfer of funds to a jurisdiction's treasury, purchasing or renting local real estate, investing in share or loan capital within domestic business ventures, purchasing government bonds/investments or making endowments or other charitable giving. CBI programmes can be controversial due to the immediacy at which individuals obtain citizenship status and eligibility to obtain a passport once an application has been granted. A particular feature of these programmes is that, unlike RBI programmes applicants are not typically required to physically relocate or even visit to their new country of citizenship. Instead, applicants often use the passport to access jurisdictions other than the issuing state.

1.4.2. Residency by Investment

28. RBI is the process by which applicants acquire a visa or residency permit that permits residency in the issuing jurisdiction in return for some type of financial investment. Some programmes require visa holders to be physically present for a substantial period (e.g., three or more years) before they are eligible to permanently reside in the issuing jurisdiction, while other RBI programs have lower time requirements for physical presence.

29. Jurisdictions operating RBI programmes cite a range of economic objectives, including the value of investments made and the potential to encourage high-value consumer discretionary spending and job creation in the issuing jurisdiction. However, the realised economic value of such programmes is not always clear, particularly in larger economies. Many countries have found that economic benefit assumptions have not always materialised. For example, the United Kingdom closed its RBI programme in part citing financial crime risks and abusive/fraudulent investment programmes but also due to the poor economic value of the program.[9] Ireland and Canada have also either closed or paused RBI programmes in part due to economic value concerns. The Australian Productivity Commission similarly found in conclusion that "it is likely that these immigrants will generate less favourable impacts than other immigrants."[10] The Australian Productivity Commission also found that "compared to other visa streams, investor visas are prone to fraud" a finding that has been replicated extensively across the RBI sector suggesting a systemic issue within the conventional design of such programmes which are discussed in greater detail below.

1.4.3. Distinctions between CBI and RBI Programmes

30. The fundamental difference between CBI and RBI programmes is that CBI programmes provide immediate rights as a citizen and access to a passport. RBI programmes, in contrast, do not provide immediate access to a new passport, and thus are not as closely associated with the provision of a new passport. However, this type of programme can still provide opportunities for illicit actors to place themselves, their family, and their illicit assets into the issuing jurisdiction and

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7 See Section 2.4.1 for further information on identify laundering.

8 IMF (2023), "Dominica: Staff Concluding Statement of the 2023 Article IV Mission", IMF, www.imf.org/en/News/Articles/2023/04/03/cs04032023-dominica-staff-concluding-statement-of-the-2023-article-iv-mission.

9 United Kingdom (2022), "Explanatory Memorandum to the Statement of Changes in Immigration Rules Presented to Parliament on 17 February 2022 (CP 632)", https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1055813/E02722027_-__CP_632__-_EXPLANATORY_MEMORANDUM__Web_Accessible_.pdf.

10 Productivity Commission 2016, Migrant Intake into Australia, Inquiry Report No. 77, Canberra, www.pc.gov.au/inquiries/completed/migrant-intake/report/migrant-intake-report.pdf.

potentially out of reach of the authorities of the jurisdiction in which they committed their crimes. Where RBI programmes are operated by jurisdictions participating in visa-free travel areas, there may be opportunities to access other jurisdictions and their financial systems beyond a jurisdiction in which they are resident.

31. The requirement to obtain residency in a jurisdiction alters the relationship between an applicant and issuing jurisdiction compared to a CBI issuing jurisdiction in that the applicant usually must establish a relatively long-term financial footprint in the issuing jurisdiction. For example, RBI applicants, depending on the programme's requirements, may need to buy or rent property to live in, open a bank account, pay utility bills, and purchase services within the issuing jurisdiction. This physical presence and the possible development of a financial footprint in the issuing jurisdiction allows local authorities to have more knowledge about the applicant. The added time enables a jurisdiction to identify potentially suspicious activity and to act prior to an investor applying for naturalisation at a later stage. The applicant often must undergo a separate procedure to gain citizenship in the issuing jurisdiction. That said, effectively investigating and acting against sophisticated illicit actors has resource and capability challenges for the issuing jurisdiction.

2. Money Laundering Threats and Vulnerabilities

2.1. Threat Actors in the CBI/RBI Sectors

32. Illicit actors can exploit CBI/RBI programmes to facilitate a range of illicit activity including financial crimes, such as money laundering, corruption, fraud and tax evasion. Corruption and tax transparency are further addressed in successive sections of this report. There are broadly three main financial crime threats:

1. **Criminal Actors:** Illicit actors may seek to launder illicit funds through a CBI/RBI programme as the means to obtain their citizenship or residency status. These criminals may also abuse citizenship or residency status granted to them to enable further criminal activity or to evade law enforcement authorities.
2. **Investment Migration Ecosystem Participants:** Service providers such as wealth managers, accountants, immigration agents, marketing agents and property developers may abuse CBI/RBI programmes to commit fraud, seek to corrupt programme officials to misappropriate funds, enable inappropriate investment programmes or launder illicit proceeds.
3. **Corrupt Public Officials:** Public officials operating in jurisdictions offering CBI/RBI programmes with inadequate programme integrity or governance provisions may be able to profit illicitly from these programmes (for example, by demanding or profiting from bribes, either monetary or any other undue advantages, in exchange for CBI/RBI-related services).

33. Different types of investment options present different threat profiles. Thematic risks associated with specific investment types are explored in greater detail below.

2.2. Vulnerabilities Arising from CBI/RBI Programmes

34. CBI and RBI programmes can present a host of vulnerabilities that criminals can exploit to launder the proceeds of crime or to generate additional illicit proceeds. These vulnerabilities are derived from the specific factors and characteristics of each programme, but the general structure and flow of funds remains broadly the same across various jurisdictions. This section identifies some characteristics that may make CBI and RBI programmes an effective vehicle for laundering the proceeds of crime, while the next section examines ways that criminals can exploit programme vulnerabilities to commit predicate offenses and generate additional illicit proceeds.

35. CBI programmes are attractive to illicit actors because they allow enhanced freedom of movement; ability to incorporate businesses in additional jurisdictions; and provide potential access to banking in multiple jurisdictions, particularly those with weak anti-money laundering and countering the financing of terrorism (AML/CFT) regimes and little financial transparency. Illicit actors can misuse CBI programmes in the following ways, which can help them to launder the proceeds of crime:

- Alter identity, including birth and nationality, making it challenging for compliance professionals at FIs or other businesses to engage in accurate due diligence at onboarding.
- Gain enhanced freedom of movement, including potential access to visa waiver programmes or visa-free travel areas.

- Establish legal persons in jurisdictions with weak financial transparency and governance.

36. On the other hand, RBI programmes, although they do not grant direct access to a passport, are attractive to illicit actors because they provide illicit actors' opportunities to:

- Move themselves, their family members, and associates to the issuing jurisdiction, which can enable evasion of arrest and complicate investigations.
- Justify large cross-border capital flows and funds moving into issuing countries, providing a rationale for transactions that may have otherwise raised red flags.
- Purchase and access high value goods and services that require a physical presence, for example sending children to private schools or using real property.
- Enable an individual to set up businesses in, or trade from a programme issuing jurisdiction, such as providing fraudsters and money launderers with a different address and a different corporate risk profile when doing business than if they attempted their activities from their home jurisdiction.
- Ultimately obtain a new citizenship and passport. RBI programmes normally lead to settled status and can lead to citizenship through naturalisation over time. This means that an RBI applicant can obtain a new passport, bringing with it many of the same risks as a CBI programme, albeit on a slower basis.

37. It is also not unusual for illicit actors to forum shop among CBI and RBI programmes to exploit varying levels of due diligence standards and investment costs among programmes and to combine associated advantages conferred by different programmes to create opportunities for illicit activity.

38. Illicit actors are able to exploit CBI/RBI programme when there is: (1) minimal or weak vetting conducted by the government or third-party service providers; (2) weak monitoring or due diligence on individuals granted favourable citizenship allowing access to new bank accounts and company formation; (3) non-existent or inadequate procedures to suspend or revoke passports if the holder's risk profile changes; (4) insufficient transparency, accountability, oversight and control in the governance of the programmes; (5) the opportunity to evade capture and prevent asset recovery; and (6) lack of information sharing between the public and private sectors.

2.3. Vulnerabilities in the Application Processes

39. While there are a variety of approaches globally to the design and operation of CBI and RBI programmes, they largely follow a three-stage process: (1) Pre-Application Submission Processes; (2) Application Processing; and (3) Post-Decision Assurance. There are vulnerabilities within these individual stages where illicit actors can either launder illicit proceeds or undertake criminal activities to generate proceeds. For example, the point at which the required financial investment takes place within this three-stage process can vary depending on the programme's design.

40. The speed and the significance of the conferral of citizenship by the CBI process requires safeguards and checks to take place almost exclusively during the initial application process. By contrast, RBI programmes often have a less stringent pre-application processes but include opportunities to review and understand an applicant over time as they progress through the programme.

2.3.1. Pre-Application Submission Processes

41. Applicants may interact with the following professional stakeholders before they formally apply for a CBI or RBI programme: marketing agents, immigration agents, concierge firms and financial institutions or wealth managers. Prior to application, prospective applicants engage with these entities to evaluate the CBI and RBI programmes, determine their eligibility for the programmes, and in some cases conduct investment due diligence and financial planning.

Marketing Agents

42. Marketing agents recruit prospective investors to a programme and usually target jurisdictions that are likely to have a large source of applicants. Some marketing agents are approved, either directly by the specific designated investment migration programme authority, or via broader professional services regulators for legal professionals and financial intermediaries. However, because many firms that offer investment migration services operate outside of the programme host jurisdiction, many marketing agents work with little oversight or accountability.

43. In addition, many marketing agents may be officially authorised by a host jurisdiction for one or several programmes, but then also advertise for programmes from other jurisdictions with which they hold no formal association. Non-government-authorised marketing agents operating in source markets are key in advertising and introducing prospective clients to non-genuine investment options and fraudulent products that are often marketed as "discount" investment products.

Immigration Agents

44. Immigration agents are usually regulated law firms or immigration assistance companies that assist applicants in organising the documentation needed to apply to CBI or RBI programmes. Whereas engagements with marketing agents are not generally a required step in the application process, many programmes require that applicants submit an application through one immigration agent on list of the programme's authorised agents. These local immigration agents may carry out a pre-screening function aimed at ensuring only appropriately eligible candidates are submitted to the government for official review.

45. In some jurisdictions, particularly where immigration agents are required to be regulated members of the legal profession, they may also be expected to undertake some elements of due diligence before taking on a client. In some cases, local agents may be paid on commission by the number of successful applications, incentivising them to sub-contract to third party agents around the world with access to local markets. In other examples, agents may also be obliged to meet a minimum annual quota to retain their status as an authorised agent. This may create an incentive for agents to find and process as many applicants as they can, regardless of qualification. In the process, this can create competing pressures between upholding high evidentiary and fitness standards versus generating as many applications as possible.

Financial Institutions and Accountants

46. Applicants may engage with financial institutions and accountants at the pre-application stage for advice on investment choices and the financial elements of the programme. They may also be involved in the provision of mandatory evidence, such as proof of applicant's funds. Some RBI programmes may also require applicants to have successfully opened a bank account with a local financial institution prior to issuing a visa or residence permit and this may be required by the issuing jurisdiction prior to applying for the RBI programme. This can add a layer of screening as the financial institution should subject the applicant to CDD checks. However, the capacity of the local banking sector and the strength of the local legal framework and supervisory system can affect the outcomes. There is also a risk that other layers of screening may be over-confident in the ability of financial institutions to identify criminal, fraudulent or other high-risk applicants, and may therefore

neglect their own screening responsibilities. This could negate the value of applying multiple layers of defence.

Concierge Firms

47. Concierge firms act as an intermediary between an applicant and the wider service provider ecosystem. Their role is to arrange packages of services from a network of providers and to provide wider associated services, such as finding clients private schooling for their children, purchasing property, registering businesses, and generally acting as a "fixer" for prospective applicants. As a trusted intermediary, concierge firms can be well placed to help illicit actors efficiently and discreetly find those service providers that will willingly or negligently help them launder the proceeds of crime or avoid unwanted scrutiny.

48. Programme operators can face challenges in identifying high-risk concierge firms as these firms typically operate one step removed from the programme, working through a network of approved immigration agents and wealth managers. Further complicating the picture, some concierge firms may act as government-authorised immigration agents in some jurisdictions but as a concierge and fixer in others. In some cases, government-authorised immigration agents move to become concierge firms and fixers in jurisdictions at the point when maintaining their authorised and/or regulated status becomes unsustainable. Immigration agents or wealth managers may proactively abandon their authorised status to avoid regulatory scrutiny by disarming regulators or investigative authorities in an attempt to ward off a further investigation. By acting as a concierge firm, these individuals can market noncompliant schemes or support criminal clients by using proxy agents to hide their involvement. This approach can also obscure the full extent of their activities and the risks they pose.

49. The lines between marketing agents, immigration agents, wealth managers and concierge firms can often be blurred, and it is common to find firms that offer some element of these services in-house, or that provide different versions of these services in relation to different countries programmes.

Due Diligence Firms

50. Some CBI and RBI programmes contract with due diligence firms to produce a report on each applicant and their families to gather information in addition to what is provided by the applicant. Due diligence firms are more commonly encountered working under contract to CBI programmes during the assessment stage. However, some RBI programmes have experimented with introducing a requirement for a due diligence report to be obtained by the applicant in the pre-application phase. One now defunct RBI programme had an approved list of firms that an applicant could use to obtain a suitable due diligence report. Another immigrant investor programme, by contrast, only required that an applicant source a due diligence report from a "reputable international risk management and security screening organisation."

2.3.2. Application Processing

Investment Units

51. Investment units associated with CBI/RBI programmes are dedicated government units that exist either as a distinct function within their immigration system, or in some cases, as quasi-commercial bodies headed by a government appointed Chief Executive Officer. Investment units may be chiefly responsible for carrying out governance functions for a jurisdiction's investment migration programmes. These include the oversight of authorised agents, marketing of the programme, appointing due diligence providers and the associated validation of required investment activity. The investment unit can act as a hub for specialised expertise and knowledge,

advocate for resource and capacity needs and ensure a single accountable command chain for a CBI/RBI programme.

Immigration Authorities

52. Immigration authorities may operate under an investment unit or conduct conventional casework. Many RBI programmes, particularly those of larger economies, will process applications through their immigration casework chain of command. This may be because some investment programmes are not of sufficient economic consequence to attract the same level of government attention and resourcing necessary to create a separate investment migration unit or agency. However, some immigration operations may be augmented with additional technical staff to conduct their casework function or engage in specialist training for staff assigned to this area. Further, immigration authorities often set up information sharing and collaboration mechanisms with law enforcement, Financial Intelligence Units (FIUs), as well as tax authorities and national security agencies. However, in some instances, these agencies are prohibited by law from sharing information for CBI/RBI programmes, which can hinder government's ability to conduct adequate screening. Immigration authorities – as part of their main function – undertake checks in the context of an investment migration application, including verifying:

- Identity and supporting documents and mandatory evidence documents for applications,
- Individual immigration history,
- Minimum requirements for required investment funds,
- Source of funds,[11] and
- Criminal records and/or law enforcement database checks.

Financial Institutions

53. The exact role that financial institutions (FI) play in CBI/RBI programmes depends on the structure and intent of a particular programme, but the most critical function FIs play is as a gatekeeper to the initial receiving of funds into a jurisdiction and as facilitator and investigator of any further qualifying investment transactions. Requirements for applicants to open accounts with a regulated financial institution in the issuing country engages an additional set of independent onboarding due diligence and financial crime obligations beyond the checks carried out by the country operating the programme, including those associated with FATF Recommendation 10 on the part of that institution within the framework of that jurisdiction's AML regulatory regime.

54. While financial institutions operating government accounts may not be involved in the deeper due diligence activities associated with the onboarding of a client, they will nonetheless have access to vital information around relied upon funds associated to an application.

55. Financial institutions are therefore critical partners in the operation of CBI/RBI programmes. Operating under their regulatory obligations FIs can in some cases deny access to a programme by refusing to accept funds or onboard applicants. They also act as an essential provider of financial intelligence for FIUs with regard to potential money laundering, fraud and illicit activity associated to a beneficiary both before and after an application to a programme. Given their importance, financial institutions may represent a critical point of vulnerability to CBI/RBI programmes safe operation, should an institution (or part of an institution) fail either deliberately

[11] As noted in sections related to financial institutions above and below, in some instances immigration officials may assume that the involvement of a financial institution means that source of funds or source of wealth checks will be conducted by the financial institution and neglect to do any additional investigation.

(e.g., complicit insiders) or negligently (e.g., wilful blindness) to discharge their duties effectively and responsibly. Their critical role also creates a risk that other gatekeepers which are also responsible for identifying potential abuse of CBI/RBI programmes may become over-reliant on the due diligence undertaken by financial institutions, and as a result may neglect their own responsibilities. Authorities should ensure that multiple lines of defence do not all come to rely, in practise, on a single point of failure.

Due Diligence Firms

56. Due diligence firms have become a common feature within the application processing function, particularly within the CBI ecosystem. Due diligence firms often serve as the primary means through which CBI programmes verify the identity background of applicants. This is accomplished through an extensive investigation of private and public sector records. With CBI programmes, the due diligence report is normally commissioned at the point where an individual files their application with the authority. The types and quality of investigations on applications can vary substantially between firms but normally involve a range of automated and manual checks of media reporting and open corporate and professional registers, personal interviews, CDD verification style checks, alongside elements of asset verification and source of wealth and funds checks.

57. Due diligence firms can also leverage technological capabilities developed for the investment migration ecosystem. These can enable firms to conduct due diligence checks at scale through open-source checks and automated screening and research tools across a wide range of languages. This is particularly useful for countries with case working systems that may not be sufficiently resourced to independently do deeper, manual checks for adverse reporting across the full range of languages and jurisdictions associated with applicants.

58. Jurisdictions with CBI/RBI programmes noted the primary role of due diligence firms is to provide the results of their checks to the requesting authority and remain neutral as to whether a case should or should not be granted. As such, it is important to note that due diligence firms provide information to help countries mitigate risk, but the issuing jurisdiction takes the final decision on whether to grant or refuse a case as this is an inherently governmental function that can only be granted by a competent authority operating a CBI/RBI program. For example, due diligence firms do not have access to information held by law enforcement agencies (LEAs), the FIU or other closed information sets that may hold derogatory information on the applicant.

National Law Enforcement, FIUs and Intelligence Agencies

59. National law enforcement, FIUs and intelligence agencies play a critical role in identifying ML and other financial crime risk. Given the money laundering and illicit finance risk associated with investment migration programmes, some countries have relied on their law enforcement and intelligence communities and their FIU within the application screening process. In these cases, the FIU's role is to carry out verification and screening of applicants utilizing investigation and intelligence databases held by a jurisdiction's wider law enforcement and national security community and include checks against available international information sharing databases, in particular Interpol.

60. In addition, some FIUs can locate any findings on the applicant contained in their archives, (i.e., the existence or non-existence of suspicious transaction reports [STRs], possible matches with information retrieved from other accessible databases or from cooperation with LEAs and domestic authorities or from international cooperation) which may be relevant to preclude the granting of a CBI/RBI, and communicate them to relevant authorities, in accordance with confidentiality and secrecy rules governing STRs and other information held or gathered by FIUs. Some jurisdictions that maintain CBI/RBI programmes noted that a common prerequisite for a successful application is the FIU's approval of the applicant.

Multilateral Law Enforcement Co-operation

61. Multilateral law enforcement co-operation can be a key element of most countries CBI or RBI programmes. The role of units dealing with such cooperation is to screen names across international databases, such as those held by Interpol. Some countries also participate in wider regional initiatives particularly where free trade and movement agreements are in effect. In the Caribbean for example, the Caribbean Community (CARICOM) group of nations Joint Regional Communications Centre (JRCC) run by CARICOM's Implementing Agency for Crime and Security has played a role in the vetting process for CBI programme applications. The JRCC demonstrates how small countries can pool resources to share information particularly where issuing countries have a common interest. Similarly, EU member states running investment migration programmes within the European Union normally run checks that would draw on shared intelligence resources and co-operation entities such as the Schengen Information System (SIS) and Europol.[12]

62. While multilateral entities and systems play an important role in protecting countries with common interests, their role in this process is still subject to practical limitations. If a criminal has no prior history or relationship with a participating jurisdiction, it is less likely that the multilateral systems would have useful background information for a CBI/RBI background investigation.

2.3.3. Post-Decision Assurance

Financial Intelligence Units

63. Beyond potentially carrying out checks during the application phase, some FIUs perform a role in providing ongoing evaluation of a programme's users. In some jurisdictions, provisions are in place for pro-active sharing of investor names with their FIU so that any adverse information can be flagged up to investment units/immigration authorities as appropriate. One jurisdiction provides all investor names to its FIU which then retains that data for further analysis against STRs and responding to requests for information.

RBI Immigration Authorities

64. RBI immigration authorities will typically monitor and re-assess approved applicants at critical junctures in an individual's immigration journey. Key junctures arise at the point where users either extend their visa or residence permit, apply into a different category of immigration status (i.e., "settled status"), or if they apply for naturalisation/citizenship. At each juncture individuals can be re-vetted against intelligence and law enforcement databases, investment activity can be reviewed, and any resulting risks and issues, such as potential criminal behaviour, can be investigated.

CBI Immigration Authorities

65. CBI Immigration authorities typically lack opportunities to review and reconsider the suitability of a beneficiary's immigration status. CBI programme operators may however maintain certain legal provisions to rescind an individual's citizenship status under certain conditions: for example, if a beneficiary is discovered to have obtained their citizenship by deception (using forged documents, making false declarations etc); if they are found not to have genuinely carried out the required minimum investment activity; or if they commit criminal activity or threaten a jurisdiction's national security. The specific thresholds for action will vary significantly depending

[12] Moreover, once the revised Visa Information System is operational, all applicants for long-stay visas and residence permits will be subjected to mandatory cross-checks on security grounds against all EU and international security databases. See Committee on Civil Liberties, Justice and Home Affairs (2021), "Working Document on the legislative own-initiative report on citizenship and residence by investment schemes (2021/2026(INL))", European Parliament, www.europarl.europa.eu/cmsdata/242263/WD3%20Yoncheva%20_%20final_en.pdf.

on the legal framework surrounding citizenship rights in the issuing nation. One jurisdiction noted their CBI unit has the legal authority to suspend or revoke a passport issued to an investor if, after due investigation, it is satisfied that the investor has: i) acted in an unethical or an unprofessional manner and has substantially prejudiced the regulations; or ii) the investor has committed a serious breach of guidelines, codes of conduct or codes of ethics issued by the Agency from time to time and made specifically applicable to Agents.

Due Diligence Firms

66. Due diligence firms also provide ongoing monitoring services in some countries. This service is more limited than the original vetting initially undertaken by a due diligence firm and are normally constrained to automated monitoring of machine searchable (i.e., available on the internet) open-source media and available open government sources such as sanctions databases, court records and professional regulatory databases.

2.4. Challenges and Consequences of CBI/RBI Programmes

2.4.1. Identity Laundering

67. Identity laundering is a method by which individuals may acquire secondary or multiple identities. In the CBI context, this can mean applicants could acquire a passport under a different name, or with information that is slightly different from their other identity documents, which may prevent database searches from identifying known derogatory information about that individual. Although some individuals may provide fraudulent identity documents, this is by no means necessary. In fact, there is no need for fraudulent activity to occur for a subject with criminal or national security concerns to change an identity via some CBI programmes in order to be able to travel freely and evade detection.

68. A key goal for many illicit actors in utilising investment migration programmes is to avoid measures that could prevent them from accessing the financial system. Accordingly, the ability to obtain new identities has advantages for criminals seeking to launder and conceal funds. An individual who is subject to adverse reporting may use an alternative identity when opening a bank account to circumvent traditional CDD measures or ongoing enhanced measures to establish source of funds/wealth. This allows criminals to have access to the financial system without being linked to the related derogatory information. This is of particular concern when CBI programmes offer applicants the option to change their names during the application process. One jurisdiction operating a programme noted this risk and made the practice illegal in 2014. There are a range of methodologies that illicit actors employ, such as obtaining a new identity through poorly governed CBI programme and using the new and legitimate document to apply to a more reputable RBI programme.

Box 2.1. Use of Alternative Passports to Circumvent CDD Measures

Applicants for the Portuguese RBI programme present alternative passports (from more 'convenient' jurisdictions) that do not correspond to the nationality of origin to circumvent restrictive measures and make it more difficult to scrutinise the origin and links of their investments. There can be cases where the names of applicants are spelled differently in different documents, which can present an obstacle in the security vetting procedures.

Source: Portugal

Box 2.2. Use of Alternative Passports to Circumvent CDD Measures

A suspect, who was a fugitive for a fraud case in a foreign jurisdiction, obtained a new false identity (passport, birth certificate, etc.) from another jurisdiction to conceal his real name and to avoid arrest, and eventually used this false identity to obtain Cypriot citizenship through investment (the Cypriot citizenship has been revoked).

Source: Cyprus

69. If an illicit actor obtains a new identity via a CBI programme prior to committing an offence, this may enable the individual to keep their original identity unaffiliated with the crime. Even where a person's biographical details such as name and date of birth stay the same, an undisclosed new citizenship enables an individual to create ambiguity around their identity, which can prove challenging to law enforcement. CBI programmes that do not maintain a record of the applicants and their previous identifying information make it particularly difficult for financial institutions and law enforcement to link criminals to their new identities, especially when that individual has multiple citizenships and residencies. Illicit actors can seek further anonymity using an altered identity when identifying themselves as the ultimate beneficial owner of a complex corporate structure, which can present considerable difficulties for law enforcement in tracing assets and financial flows.

Box 2.3. Deceptive Practices to Change Birth Name

A suspect, after obtaining the Cypriot citizenship in his real name, made a sworn affidavit before a court and changed his name. A Cypriot passport and other identification documents were issued in his new name. The suspect, after obtaining the Cypriot passport and identification, used these documents to establish bank accounts, register companies and purchase property.

The intermediaries or representatives of the suspect played an important role in the facilitation of various crimes and violations. These intermediaries and representatives included Cypriot lawyers, accountants, and other service providers.

Source: Cyprus

70. Holding multiple passports and visas/residence permits is a common practice seen across CBI and RBI programmes. This is a service that some CBI and RBI immigration advisors and concierge firms provide within the wealth management industry, often combining programmes to confer maximum advantages for their clients. It is common for users of these programmes to first obtain CBI before moving on to obtain RBI in their chosen destination. It has been observed that the trend of using a CBI document to then obtain an RBI visa coincided with reported incidences of discrepancies in biographical details. Obtaining multiple passports and visas/residence permits enables illicit actors to leverage the attributes of different programmes.

2.4.2. Inadequate Vetting of Applicants

71. Adequate vetting and screening of applicants is key to a robust CBI/RBI programme. However, these activities are generally not easy or quick because there are many complex steps involved in confirming the veracity of information provided by an applicant. Generally, governments or their designated agents check the information that applicants provide against criminal or national security databases, collect biometrics (such as fingerprints), and examine the applicant's employment history and/or source of wealth.

72. The length of time for governments or their agents to process CBI/RBI applications varies; some programmes have offered decision making within 48 hours, while others can take months or years. The speed with which investors are granted citizenship or residency in some programmes raises the question of how much time is needed to conduct an adequate background check. Commercial competition around the involvement of third-party service providers can also create incentives for quick processing which may result in minimal or weak vetting due to incentives to favourably process applications. Further, when a programme gives the applicant responsibility for providing their own due diligence report, the programme is vulnerable to receiving reports that may be altered or falsified, omit pertinent information, or where the applicant may commission multiple reports looking for the most favourable outcome. Over-reliance by one layer of screening on another layer (e.g., if lawyers are overconfident that financial institutions will be able to identify illicit activity) can undermine the effectiveness of multi-layered screening responsibilities.

73. It is common for high-risk individuals to gift wealth to their spouse or other family members who will make the lead application, with the high-risk individual then applying as a family dependent. This typology can be particularly common in the case of corrupt actors.[13] Where the source of wealth or funds associated to an applicant is derived from a particular third-party associate or extended family member, it is important that they are also subject to vetting.

Box 2.4. Spouses of PEPs as lead applicants

Portugal noted a trend in its programme where family members of politically exposed persons (PEPs) – usually the spouse – are used to obtain RBI status as the lead applicant. This is done on the perception that the PEP is less scrutinised and the family is more likely to be accepted by the programme.

Once an application has been successfully granted for the spouse, the PEP then applies for a "family reunification" permit, assuming that there will be lower vetting standards associated with the RBI programme. Portugal observes that this methodology closely follows the money laundering modus operandi of placing assets coming from illicit activities in the name of an intermediary such as a close associate, family member, or a front man.

Source: Portugal

2.4.3. Evading Capture and Shielding Assets

74. A key concern related to CBI/RBI programmes is the opportunity they may allow to criminals to evade capture and extradition and to shelter criminal assets from confiscation efforts.

75. One appealing feature to criminal actors is where a jurisdiction has no extradition agreement with a jurisdiction where an applicant is committing offences or is under investigation or prosecution. Criminals may be able to take advantage of countries offering CBI/RBI programmes and which do not extradite their own nationals. Once a person is ensconced with new citizenship or residency, the country which granted it may have difficulty removing that person, including for prosecution, even if it were inclined to do so. Finally, there may be an opportunity to obtain an official or diplomatic post in the new country, which may come with certain privileges or immunities that place the person even further beyond the reach of law enforcement.

76. Moreover, if the jurisdiction in question has limited or no law enforcement co-operation with foreign counterparts, this makes a jurisdiction more appealing to a criminal actor. Criminals may also select a jurisdiction for citizenship/residency because that country has no jurisdictional basis, practical opportunity, or interest in conducting their own investigations into the individual and their asset. If a jurisdiction has limited capability or resources to investigate complex financial crime, then this provides an even more attractive venue for a criminal actor. In such circumstances, an applicant can not only prevent their home jurisdiction or a third jurisdiction from being able to get hold of them for prosecution, but they can also ensure their legal presence in a jurisdiction that lacks the ability or appropriate information to bring its own charges against them.

[13] This typology is reflected in FATF's R.12, which states that obliged entities should be required to perform enhanced due diligence and put in place additional measures related to not only PEPs, but also their family members and close associates.

77. Another potential vulnerability relates to efforts that may stymie financial investigations related to non-conviction based confiscation (NCBC). Often, especially in cases related to foreign corruption, countries that initiate NCBC actions may neither be the site of the underlying criminality nor the even home to all of the assets sought for confiscation (legal jurisdiction to pursue such a case may be based on money laundering through financial transactions occurring in that country or certain domestic investments of criminal proceeds). Criminal users of CBI/RBI can leverage the lack of mutual legal assistance treaties or the lack of recognition among many countries of NCBC, and, correspondingly, the lack of international assistance such countries would be willing to provide as related to NCBC cases. This can hinder efforts to recover criminal proceeds ongoing in third countries.

78. An important consideration is also the onward use of the new citizenship or residency documents, similar to identity laundering discussed above. Even in situations where a "new identity" is not assumed, the applicants may be able to rid themselves of the cloak of their prior citizenship and any additional scrutiny or reputational impact that may have entailed. This opens opportunities for "layering activity" in money laundering, as well as for further concealment of criminal assets through countries and complex structures that are more difficult for investigators in other jurisdictions to unravel. Additionally, once citizenship or residency is established, entirely domestic companies, trusts, or other arrangements can be formed which may not be easily accessible to foreigners and which may be less transparent, thus providing additional protection for assets.

79. Criminal users of CBI/RBI programmes will look to use portfolios of visas and citizenships for a range of reasons including to launder their identities, hindering their removal by obtaining access to additional treaty rights or privileges, achieve novel offending opportunities, or to conceal their full travel histories from any given party. This can also enable the evasion of travel bans and alerts implemented in third countries, or possible efforts to include such persons on sanctions lists.

2.4.4. Conflicts of Interest

80. In many programmes, there has been a failure to adequately safeguard public interests from the infiltration of private interest. A significant issue that has arisen is the lack of clarity and role distinction between the public and private sectors in designing and implementing CBI/RBI programmes. Significant conflict of interests can arise including when private firms are involved in both designing CBI/RBI programmes and then implementing those programmes.

81. Some of the private sector actors who are supposed to verify applicants against the requirements of the CBI/RBI programmes receive fee payments from the applicants. Private entities, as for-profit enterprises, have incentive to maximize revenue on each application through extra fees. Without adequate oversight, entities may also offer favourable reports for higher, off book prices. This allows the potential for significant conflicts of interest to arise between promoting public and private interests, considering the firm was not only representing the government stakeholders but also individual clients that stood to benefit from these programmes. It is important to ensure that the design of these programmes does not give the private sector actors involved in the CBI/RBI process unchecked rights and that perceived or real conflicts of interest are effectively addressed and managed.

82. The involvement of third parties, particularly intermediaries such as advisory firms, also increases the programmes' financial crimes and corruption risk, including foreign bribery. These risks are increased when the private entities offering such services have opaque and complex ownership structures. Corruption risk can extend to all private sector participants including those with specific programme integrity focused roles. Programme operators should be aware that many due diligence providers also often provide investigative services for High-Net-Worth and Ultra-High-Net-Worth Individuals, their companies, and their family offices in areas such as acquisitions and corporate disputes. Without proper controls in place, a due diligence firm could allow itself to

become conflicted if a private client subsequently applies for an CBI/RBI programme to which it also supplies its services.

2.4.5. Offences Undertaken After Granting of Citizenship or Residency

83. Due consideration should be given to the risk that an applicant may be seeking entry into a programme and the resulting document as a preparatory step before they go on to commit crimes. Initial due diligence checks will not be able to identify offences which have not yet taken place.

84. After citizenship or residency is granted, jurisdictions should have systems in place to ensure participants are not misusing their new citizenship. This includes conducting a periodic review of applicants for changes in their risk profile to include warrants for arrest, sanctions listing, bankruptcy, etc. Survey responses and research conducted for this project found that many countries offering CBI/RBI do not consider monitoring the activity of their new citizens/residents as part of their programme. This creates an opportunity for misuse. As highlighted in the case examples above, once a new citizenship is obtained, the individual can access new bank accounts or products and can create legal entities in the new jurisdiction, further obscuring their true identity and potential links to criminal activity. Governments offering CBI/RBI programmes should consider a whole-of-government structure for resourcing and implementing coordinated efforts toward intra-agency cooperation in monitoring and undertaking ongoing due diligence of CBI/RBI programmes. This should include cooperating with domestic and, where applicable, international law enforcement agencies responsible for the enforcement of financial and economic offences, such as money laundering, tax crime, and domestic and foreign bribery.

2.4.6. Inadequate Corrective Measures

85. When a CBI/RBI beneficiary is found to have misrepresented their true identity, source of funds/wealth, or criminal association or activity, there are generally few procedures in place to suspend or revoke a visa, residence permit or passport by the issuing jurisdiction. The same is true when a CBI/RBI issued document holder engages in criminal activity after the issuance of their new identity.

86. Legal and regulatory constraints were noted as an obstacle for revoking citizenship when an investor is found to be abusing their citizenship or to have committed an unrelated offence. Another challenge noted by project participants is the inability to physically retrieve a passport, particularly if the applicant never lives in the issuing jurisdiction. This is a concern as financial institutions and trust and company service providers (TCSPs) outside CBI jurisdictions may not have the capability to identify a revoked passport in the same way travel authorities at international airports can. For example, one jurisdiction that operates a CBI programme noted that they have been unable to collect revoked passports in most cases and therefore have no ability to ensure the passport holders are no longer presenting them as a seemingly valid form of identification.

3. Other Financial Crime Associated with the CBI/RBI Sector

3.1. Illicit Funds Generated Through Abuse of CBI/RBI Programmes

3.1.1. Investment Fraud and Related Schemes

87. Financial managers and real estate agents, particularly those in the pre-application submission process, have created fraudulent investment schemes. Non-genuine investment schemes and frauds can be particularly attractive to prospective applicants who may face barriers to transferring significant volumes of cash into other jurisdictions as they can dramatically reduce the amount of funds individuals need to have access to in the issuing jurisdiction to secure a visa or residence permits or passport.

Real Estate Investment Fraud

88. Real estate investments provide several risks for CBI/RBI programmes. One vulnerability faced by programmes which permit property as a qualifying investment requirement is they are susceptible to over/under valuation. Property has long been a desirable vehicle for storing criminally obtained wealth and as such this investment class is particularly attractive both for money laundering and for holding wealth once funds have been laundered. Key threat modalities observed include two broad categories: over-valuation and fraud.

Overvaluation

89. An applicant purchases property that is overvalued and then receives the difference in actual value back from the vendor. Similar approaches can be taken to over valuation of rental values where programmes permit rental activity as a qualifying investment action.

Box 3.1. CASE STUDY: Use of CBI to Purchase Foreign Real Estate

The price paid by foreign investors to purchase real estate property for the purpose of obtaining the Cypriot nationality was well above their estimated market values. This higher price paid was in line with the provisions of the citizenship by investment program. The funds were transferred from a foreign bank account to the local developer's account. Subsequently, it was observed that the developer (seller) would return part of the funds to a foreign bank account, back to the foreign investor. Therefore, the foreign investor had in fact invested a lower amount than required under the CBI program.

Source: Cyprus

90. One jurisdiction noted that following its own analysis of its CBI programme, it created guidance that a real estate property could only be purchased by a CBI applicant on one single occasion, and that the property could not be held or registered by a legal person which is owned or controlled by the applicant or his/her immediate relatives.

Box 3.2. CASE STUDY: Over Valuation of Rental Values where Programmes Permit Rental Activity as a Qualifying Investment

Several properties were purchased at low prices by Greek real estate companies (lower than EUR 100 000) and then resold exclusively to foreign buyers, who were seeking to obtain a residence permit. The minimal threshold of funds to invest to quality for a residence permit is EUR 250 000. Subsequently, the buyers leased the properties to the seller company under multi-year leases at prices (rents) that were much higher than the prevailing rental market conditions, even in areas where rent prices were high. It is suspected that this practice meant that the real estate company was returning payment for the property back to the investor.

Source: Greece

Box 3.3. CASE STUDY: Real Estate Fraud

Greek authorities discovered a scheme using two related real estate agents targeting primarily Chinese investors. In this scheme the investment funds never actually flow from the investors to the real estate companies. Instead, the impression of property investment transactions was simulated by the real estate companies without any real transfer of funds. This was done by one real estate agent issuing a bank check which was issued by debiting the account of either the selling real estate company or another real estate company controlled by the same professional enablers. Then, each check was used to draw up the sale contracts. Subsequently, it was either cancelled, if it had been issued by the selling company itself, or it was executed by crediting the seller's account and debiting the account of the other company controlled by the first one.

Greek authorities identified a similar case where Iraqi nationals purchased real estate to qualify for a residency. After receiving the permit, the investors re-sold the property to other Iraqi applicants. With each purchase the same legal representatives were present and the Hellenic FIU observed the presence of organised groups choreographing this type of abusive activity.

Source: Greece

Box 3.4. CASE STUDY: Investment in Illegitimate Projects

Investors buy into property developments where either the funds are misappropriated or are never invested in the first place. In Saint Kitts and Nevis for example property developers collected funds from investors but in return either left the project incomplete or did not begin work on the project at all. In response, Saint Kitts and Nevis implemented an escrow account policy that requires investments are drawn down over time. St Kitts and Nevis was then able to ensure all required funds are monitored and that drawn down of funds from the programme is aligned with project development.

Source: St. Kitts and Nevis

Business Investment Fraud

91. Some CBI/RBI programmes require applicants to either invest in or start a locally incorporated business. Where programmes excessively focus on the amount of money invested rather than on what that investment achieve, investment tracks for funds placed into private businesses can become vulnerable to an array of frauds both against the programme or against the applicant. This is particularly the case as programme users may not be familiar with the business environment in the issuing jurisdiction and be unaware of business norms or have a local understanding of what a realistic rate of return should be with regard to that country's economy.

92. Frauds can include schemes to cheat the programme by reducing the amount of money invested to below that of what is intended by the programme via methodologies such as the artificial over valuation of company shares/assets that are purchased or via money merry go round schemes where the same money is invested repeatedly by different investors (described in more detail below).

93. Alternatively, frauds may be simply aimed at capitalising on a captive market of wealthy individuals who may not be familiar with the local business environment to steal applicants' money, a wide array of fraud schemes can be used here including Ponzi schemes or via the straight forward embezzlement of investor funds. Sometimes a business investment fraud may contain an element of both fraud against the programme and the applicant at the same time.

Fraudulent/non-genuine investment via "Money Merry Go-Rounds"

94. Another form of fraudulent investment activity identified by project participants is the role legal practitioners play in setting up money merry-go-round schemes. Wealth managers can devise schemes where artificial investment opportunities are created to give the impression of meeting programme requirements, but without genuine investment activity ever actually taking place. This type of activity also creates significant potential for the facilitation of wider money laundering activity by the organisers of such abusive investment schemes.

95. A "money merry go-round" scheme refers to a practice where wealth managers create bogus investment schemes that for a fee enable the same funds to be used repeatedly by different applicants for the purposes of gaining CBI or RBI. These schemes notionally place funds provided by a wealth manager into an applicant's name (although the applicant will never in reality have any control over any of the funds or the investment destination) before quickly recycling that money through a complex and opaque series of corporate arrangements and transactions using groups of

companies that are all also ultimately controlled by the organising wealth manager or their associates. These schemes will normally ultimately move funds offshore. Once the money has been effectively moved out of sight of the countries operating the programme, the same funds can be lent to the next visa applicant. Where a CBI/RBI programme prohibits the use of loans in qualifying investments the scheme operator may engage in methods to conceal the lending of the funds to the applicant, for example by notionally lending to a family member and/or corporate vehicle who can then pass the funds through to the applicant.

96. Illicit actors have abused programmes through this method for decades, and it remains a persistent threat to private sector investment focused programmes. An early example of this type of threat was observed by the United States as far back as 2001. In this case, two individuals were prosecuted for immigration fraud, wire fraud, tax fraud and money laundering in a scheme that repeatedly recycled money via a hidden fraudulent lending arrangement. The criminals used shell companies in the United States and the Bahamas to make it appear as though their clients had invested USD 500 000 dollars into US companies when in fact there was no such genuine investment. Instead, the scheme operators accepted sums of hundreds of thousands of dollars from each applicant and misappropriated the funds to maintain fraud and for their personal use, with the applicants ultimately losing almost all the money placed into the scheme, representing nearly USD 21 million in misappropriated funds.

Box 3.5. CASE STUDY: Money Merry Go Round Scheme

The UK has detected several abusive non-genuine investment schemes that sought to simulate investment for a fee. In one case a husband-and-wife team enabled clients to simulate £1million investments into the UK. The scheme organisers did this by taking loans from one UK based lending company controlled by the husband on condition the funds were passed to another UK company controlled by the wife. The UK company that received the investment then made onward investments with the funds into companies outside the UK. At no point were applicants ever genuinely in control of the funds. This service was provided to applicants for a fee of GBP 200 000 per applicant.

A later similar scheme simulated a £2million investment for a fee of GBP 400 000. A wealth manager used a complex series of transactions between offshore and onshore companies all controlled by managers at the wealth management firm and their proxies to create the impression of investments into UK companies by applicants. In practice the wealth manager simply re-cycled funds between the onshore and offshore companies without the applicant ever actually placing more than the GBP 400 000, service fee into the scheme. When the wealth manager operating the scheme was inspected by the regulator the firm was also found to have serious wider failings in its money laundering controls.

Source: United Kingdom

Box 3.6. CASE STUDY: Laundering Funds Involving Defrauded Investors

In November 2017, an attorney pleaded guilty to federal fraud and money laundering charges for participating in a multi-faceted scheme that collected more than USD 50 million from foreign investors seeking "Green Cards" through the EB-5 visa programme. The attorney admitted that she exploited the EB-5 visa program, which provides lawful permanent residence – commonly known as a "Green Card" – to foreign nationals who invest at least USD 500 000 in a domestic business that creates 10 new American jobs.

The Attorney admitted that much of the money collected by the investment company from the primarily Chinese investors was either stolen by the conspirators or refunded to the foreign nationals. This undermined one of the basic principles of the EB-5 programme because the money was not actually invested in the United States, nor did it lead to the creation of 10 new American full-time jobs, as required under the programme.

The attorney further admitted that she fraudulently used hundreds of thousands of dollars in EB-5 investor funds to purchase homes in her name, including residential properties worth nearly USD 1 million each.

Source: United States

97. There have also been cases suggesting immigration agents and/or wealth managers will deliberately encourage applicants to borrow part of the relied upon funds from them under a directed loan scheme in breach of a programme's rules. Once the applicant is de-frauded of their part of the investment, they are unlikely to go to the authorities due to the risk of losing their visa, although they may go to court if their visa is denied.

3.2. Unregulated Money Transmission

98. Some applicants, assisted by financial managers and real estate companies have used methods of cross border cash movement which indicate the use of unregulated banking, smurfing, and informal value transfer networks.

99. While the motivation to use unregulated and illegal modes of cross border cash transfer may for a majority of participants be primarily aimed at evading countries currency flight controls there is a wider implication for the concealment of additional and more substantial financial criminality.

100. The use of illegal/irregular cross border cash transfer methods means that there is not a continuous trail of transactions within the regular and regulated financial system from origin to destination. This means it is particularly difficult for institutions to establish exactly what the true origins, and thus legitimacy, of money was when it moves back into the regulated financial system if it has been moved using unregulated transfer methods.

101. Relatedly investment migration programmes can offer illicit actors a broad cover for cross border transactions. Many programmes actively encourage applicants to make investments in exactly the sorts of assets that are desirable stores of wealth for criminal actors such as property and corporate equity. As such the clear obligation to meet a government requirement can be used as an excellent rational for a criminal actor to make large cross border transactions outside of the

normal activities expected from their customer profile and that would have raised suspicions and red flags.

Box 3.7. CASE STUDY: Informal/unregulated international cash transfer

Bangladesh FIU identified that a significant number of Bangladesh nationals were utilising a wide range of RBI and CBI programmes across Asia, Europe, North America and the Caribbean but had no record of ever having registered an associated transfer of the requisite funds out of Bangladesh with the Bangladesh authorities (as required under Bangladeshi law). The Bangladeshi authorities assess that funds are being moved out of Bangladesh to fund applications using illegal informal/unregulated cash smuggling methodologies. Bangladesh notes that regardless of whether the origin of funds was or was not legitimate, this modality of cash transfer is itself an offence under Bangladesh's AML regulations.

Bangladesh authorities also report examples of cross border cash smuggling used to fund investment migration applications which were tied to the cross-border movement of the criminally obtained proceeds of large-scale fraud in Bangladesh into an RBI programme operated by another jurisdiction.

Source: Bangladesh

Box 3.8. The Use of Real Estate Companies and Foreign Remittances

In several cases, investors used funds to purchase property, which were derived through incoming foreign remittances from third-party natural or legal persons that had no obvious relation to the buyer. It was therefore extremely difficult to identify the actual origin of the remittances. In some of these cases, a Hong Kong offshore company sent remittances to residency permit investors, that were not related to each other. It was noticed that in these cases all property purchases were conducted through the same real estate company.

Source: Greece

3.3. Virtual Assets and Investment Migration

102. This project has identified that there is some information to suggest that CBI/RBI programmes are proving attractive to those seeking to circumvent national requirements regarding virtual asset activities or access virtual asset service providers (VASPs) using legal, altered aliases. Several marketing agencies have openly promoted the desirability of using CBI/RBI programmes and resulting documentation as a means for users to sidestep home jurisdiction regulations around virtual asset activities. In some instances, the promotion may offer online credentials, rather than other rights conveyed in traditional CBI/RBI programmes, that could be used for onboarding processes for VASPs. Moreover, the ability to use a legal but altered alias, either related to a user's jurisdiction of residence or citizenship or names or other identifiers as in cases of identity laundering described above, to complete VASP onboarding procedures and used within the virtual asset

ecosystem. This practice, paired with weak or non-existent AML/CFT requirements at many VASPs, may offer cybercriminals, including money launderers, particular advantage in achieving greater anonymity and evading detection.

Box 3.8. Virtual Assets and CBI

A founder of a dark web criminal marketplace was identified as having obtained an Antiguan and Barbudan CBI passport for themself and their spouse.

Despite obtaining an Antiguan and Barbudan CBI document and obtaining property in the country, the illicit actor did not reside in Antigua and Barbuda but was instead actually based in Thailand and Canada. The applicant was known to have generated and moved their wealth via the acquisition of virtual assets and transactions made related to their dark web marketplace which were then used to purchase properties internationally.

Source: Antigua and Barbuda

4. Corruption, Integrity, and Tax Risks Associated with CBI/RBI Programmes

4.1. Corruption in CBI/RBI Programmes

4.1.1. Vulnerabilities Associated with Programme Design

103. CBI/RBI programmes with insufficient transparency, accountability and oversight are at risk of cross-border corruption, including bribery and fraud. This includes risks related to the misuse of programmes for hiding funds obtained via corrupt activities, and to avoid confiscation of the funds and prosecution in home jurisdictions. For example, while the CBI programme in Malta is subject to a four-tier due diligence process, three wealthy individuals with strong political links in their own countries were found to have obtained Maltese citizenship in 2016, which raised doubts over the rigour of the system and level of discretion that was available to government officials in certain cases.[14] The Maltese authorities have subsequently updated their regime removing this discretion from the process of applications.

104. Opaque governance structures could also elevate the risk of corruption and bribery, for example, offering bribes and other undue advantages in exchange for public officials' expediting and facilitating the CBI/RBI application processes. These risks apply across the CBI/RBI life cycle – from those persons and entities designing and implementing such programmes, those facilitating them, and those applying for them. The involvement of intermediaries increases the CBI/RBI programmes' corruption risk. With only a small number of firms with opaque ownership structures operating in the ecosystem, the risk of corruption is further elevated and the ability of governments to address this risk further complicated.

105. Without clear and transparent frameworks for accountability and governance for the management of CBI programmes and revenues, there is a high risk of misappropriation or misuse of the funds invested in, and raised by, CBI/RBI programmes. Chapter 5 outlines potential mitigation measures and examples of good practice for strengthening the governance of CBI/RBI programmes, based on the OECD's 2017 Recommendation on Public Integrity, which emphasises the importance of effective accountability to prevent corruption and promote public integrity, including through sound internal risk management and control, as well as external oversight.[15] It also takes into account the UNCAC and draws on the lessons learned in combating foreign bribery since the 1999 entry into force of the OECD Anti-Bribery Convention and the 2021 Anti-Bribery Recommendation, which underscore the importance of inter-agency and international cooperation in combating cross-border corruption as well as the importance of engaging with the private sector with clear expectations for anti-corruption compliance measures and frameworks.[16]

4.1.2. Vulnerabilities Associated with Implementation of Programmes

106. There are multiple risks that can arise from the ineffective operation or implementation of CBI/RBI programmes. As set out in the section above, the design of the programme can create inherent vulnerabilities, but even a well-designed programme can face implementation challenges.

14 Transparency International and Global Witness (2018), European Getaway, Inside the Murky World of Golden Visas, https://images.transparencycdn.org/images/2018_report_GoldenVisas_English.pdf.

15 See: www.oecd.org/gov/ethics/recommendation-public-integrity/

16 See: www.oecd.org/corruption/oecdantibriberyconvention.htm

107. As identified earlier in this report, even where public sector authorities are involved in the vetting process, they face difficulties in adequately verifying the identity of the applicants and their source of wealth. Challenges are amplified when a programme also lacks resources. In addition, as programmes compete for business, there may be pressure on authorities to reduce application processing time or what are viewed as "burdensome" requirements placed on applicants.

108. These challenges are often compounded by the lack of internal controls and internal audit measures to ensure that CBI/RBI programmes are operating as intended. This includes both weak managerial accountability and internal control systems on the one hand, and a lack of risk-based systemic review by a unit independent of the operational function on the other. Ensuring that CBI/RBI programmes are operating under effective internal control requires many actors. At the government level, the central harmonisation function ensures that government-wide internal control and risk management policies are consistent. At the institutional level, internal control policies and processes provide management with reasonable assurance that the organisation is achieving its objectives and managing risks effectively. While these assurance functions are essential for fraud prevention, they are also necessary for greater accountability, better management and cost effectiveness.[17]

109. Furthermore, governments designing and implementing CBI/RBI programmes must ensure that the government agencies executing these programmes and the agencies responsible for their oversight are effectively cooperating and sufficiently resourced to prevent misconduct. The 2021 OECD Anti-Bribery Recommendation states expectations for government ensure that institutional frameworks for enforcement on foreign bribery laws and international cooperation are in place and that resources are available for executing these responsibilities. Similarly, the 2021 Anti-Bribery Recommendation provides guidance for companies to prevent foreign bribery in their business. It calls on governments to encourage companies to ensure that risks are regularly monitored, and re-assessed, to determine the allocation of compliance resources and to ensure the continued effectiveness of the company's internal controls, ethics, and compliance programme or measures.[18]

110. A lack of clarity and role distinction between the public and private actors generates a risk of private interests infiltrating the design and implementation of CBI/RBI programmes. For example, one firm which was responsible for the re-design of a CBI programme in the Caribbean, acted as the sole promoter and also claimed it was instrumental in lobbying to enable visa-free access to the EU for beneficiaries of the programme. No matter the truth of this claim, considering that the firm was not only representing government stakeholders but also individual clients that stood to benefit from the programme, the example illustrates the potential for significant conflicts between public and private interests in the implementation of CBI/RBI programmes. It is thus important to ensure that the design of programmes does not give private sector actors involved in the CBI/RBI process unchecked rights and that risks related to potential, perceived or real conflicts of interest are effectively assessed, addressed and managed in the implementation of programmes (see also Chapter 2.2.7).

111. In jurisdictions where CBI/RBI generates a significant revenue stream, private interests may try to influence or finance politicians in favour of CBI/RBI programmes. For instance, private firms involved in the promotion of CBI/RBI programmes may seek to influence the outcomes of election campaigns, including with the help of donations from potential beneficiaries. While lobbying is a legitimate part of the political and decision-making process, general measures to ensure

17 See: www.oecd.org/corruption-integrity/reports/oecd-public-integrity-handbook-ac8ed8e8-en.html

18 Other issues included in the 2021 Anti-Bribery Recommendation that may be useful to consider in the CBI/RBI context include strengthening the protection of reporting persons, investigating and prosecuting multi-jurisdictional cases, non-trial resolutions, and incentivizing compliant behaviour in the private sector.

transparency in lobbying and political finance can enable the detection/investigation of such cases. Lobbying and political finance regulation can help ensure that private interests do not unduly influence policy decisions around CBI/RBI programmes and thereby increase citizens' trust in government decision making.[19]

Box 4.1. CASE STUDY: Corrupt actor seeking CBI passport

Malta's FIU received a report related to a Maltese -registered company (Company A) acting as a broker for the sale of an oil rig, which was being run by an individual with no prior experience within the oil and gas industry. The transaction involved a known group of foreign energy companies located in different jurisdictions, which involved two foreign PEPs as the transacting parties using Company A as an intermediary. The FIU found one of the PEPs involved in the transaction was also in the process of applying for citizenship via the country's CBI programme. Further enquires revealed that the subject was under investigation for corruption in their country of origin and was subject to asset freezes in third countries. The individual was subsequently denied their application for the CBI programme and those involved in the suspect oil rig transaction were prosecuted for money laundering and corruption offences by the authorities in Malta.

Source: Malta

Box 4.2. CASE STUDY: Corruption and asymmetrical cash transfer methods

An individual was provided with funds by a corrupt nominal (her husband) to make an RBI visa application. The corrupt nominal that represented the original source of funds was involved in a bribery investigation related to duty crimes and whose wealth was inconsistent with earnings. It is understood that the cross-border transfer of funds used in the visa application saw funds initially laundered through the purchase of wealth management products from a bank in China before the cross-border transfer of the funds (circa RMB 2.75 million or approx. USD 300 000) was facilitated via a "hawala" style unregulated banking method.

Source: China

[19] OECD (2021), *Lobbying in the 21st Century: Transparency, Integrity and Access*, OECD Publishing, Paris, https://doi.org/10.1787/c6d8eff8-en

4.2. Integrity and Reputational Risks to Issuing Jurisdictions

4.2.1. Economic Benefits not Realised

112. CBI revenues have become large and are subject to significant uncertainty and volatility.[20] The economic downturn of the late 2000s and the real estate crisis in several countries led many jurisdictions to implement real estate driven CBI and RBI programmes in an effort to prop up the real estate market. With real estate purchase thresholds set high, RBI affected certain segments of the real estate market and raised concerns about distortion of the real estate market and negative impact on accessibility for residents to rental and purchased property. Many countries have since raised thresholds or phased out real estate investment. Minimum physical presence requirements reduced the potential benefit from consumption. Similarly, countries which saw their access to credit diminish and public and private borrowing costs increase, also introduced RBI in financial assets, though these saw limited take up. Reputational risks associated with CBI programmes can also have a negative impact on correspondent banking relationships.[21] Overall, there has been concern that the benefits of investment have been concentrated among a few actors and sectors rather than diffuse, prompting closer evaluation of costs relative to these benefits. There is a concern over fiscal costs associated with residence by beneficiaries of CBI, who enjoy – along with their dependents and descendants – full access to the social security and education system. More recently, the devastating impact of COVID-19 on tourism led several tourism-dependent countries to seek alternative sources of revenue through CBI/RBI programmes; some of the same issues involving the impact of real-estate investment and other investment forms may also apply in these more recent programmes. Dependence on volatile and uncertain CBI/RBI programmes to finance current expenditure can create a major source of vulnerability.[22]

113. Countries offering CBI/RBI programs that are considered or perceived to be more vulnerable to abuse because of lax vetting process, political interference or poor accountability, may negatively impact their reputation and credibility on the international scene. They can also jeopardize the ability of their citizens and residents to travel to a number of countries without a visa.

4.2.2. Risks Associated with Visa-Free Travel and Freedom of Movement Zones

114. Use of CBI/RBI as a means of gaining access to third countries can lead to suspension of visa-free travel and even undermine international relations. In some cases, visa-free travel can be suspended due to concerns regarding due diligence (which can have broader macro-economic and social impact even to natural-born citizens, not just those acquiring citizenship through CBI programmes). Even if integrity measures are in full compliance, there may still be reactions from other members of a free-mobility area. If recipients of CBI acquire the right to establish a domicile in a third jurisdiction and enjoy equal access to the labour market and social benefits as nationals of the third jurisdiction, this can disrupt supranational agreements. For example, within the European Union, CBI beneficiaries can settle in any EU country, subject to the relevant EU law residence conditions, and benefit from favourable tuition rates and access to social security when eligible.

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20 See IMF, Eastern Caribbean Currency Union, Discussions on Common Policies (2019), para. 14, page 12, available at www.imf.org/-/media/Files/Publications/CR/2020/English/1ECCEA2020001.ashx.

21 See IMF, Vanuatu, Article IV Consultation (2023) Vanuatu: 2023 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for Vanuatu, www.imf.org/en/Publications/CR/Issues/2023/03/20/Vanuatu-2023-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-531181.

22 See IMF, St. Kitts and Nevis, Article IV Consultation (2023), www.imf.org/-/media/Files/Publications/CR/2023/English/1KNAEA2023002.ashx.

4.3. Tax Transparency

4.3.1. Automatic Exchange of Tax Information

115. The Common Reporting Standard (CRS) for the automatic exchange of tax information was developed by the OECD in 2014 in response to a mandate by the G20 to tackle cross-border tax evasion and enhance international tax compliance. The CRS calls on jurisdictions to collect financial account information from financial institutions in their jurisdictions and automatically exchange that information with the jurisdictions of tax residence of the account holders on an annual basis. To this end, the CRS contains a number of customer due diligence requirements, in particular relating to the identification of beneficial owners, building on FATF Recommendations 10, 24 and 25. Since its inception, the CRS has been an astounding success in advancing global tax transparency, with over 110 jurisdictions now annually exchanging information.

4.3.2. Potential Risks to Tax Transparency

116. While CBI/RBI programmes allow individuals to obtain citizenship or residence rights through local investments or against a flat fee, they can also be misused to hide assets offshore and escape reporting under the CRS. National identity cards and other documentation obtained through CBI/RBI programmes can be misused to disguise an individual's true jurisdiction(s) of tax residence. This may lead to inaccurate or incomplete reporting under the CRS if individuals fail to disclose to financial institutions all jurisdictions where they hold tax residence and falsely claim residence in a jurisdiction that has low or no taxation. Such a scenario could arise where an individual claims to be resident for tax purposes in a CBI/RBI jurisdiction, providing its financial institution with supporting documentation issued under the CBI/RBI programme, for example a certificate of residence, ID card or passport, but does not actually or not only reside in the CBI/RBI jurisdiction.

117. Given this potential risk, the OECD has analysed over 100 CBI/RBI programmes, of which 22 are currently identified as potentially posing a high-risk to the integrity of the CRS. The OECD defines CBI/RBI programmes as potentially high-risk for tax evasion purposes if they give a taxpayer access to a low personal income tax rate on offshore financial assets while also not requiring significant physical presence in the jurisdiction. This is based on the premise that most individuals using CBI/RBI programmes to circumvent tax reporting will wish to avoid income tax on their offshore financial assets held in the CBI/RBI jurisdiction but would not be willing to fundamentally change their lifestyle by leaving their original jurisdiction of residence and relocating to the CBI/RBI jurisdiction.

118. All CBI/RBI programmes present a high risk of being used to circumvent international tax information exchanges under the CRS. The OECD endeavours to maintain up-to-date information on potentially high-risk CBI/RBI programmes on its website for financial institutions to rely on when considering whether they have a reason to suspect that statements made concerning a customer's identity or jurisdiction of residence might be incorrect or unreliable.[23]

[23] See www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/residence-citizenship-by-investment/.

5. Potential Mitigation Measures and Examples of Good Practice

119. This report focuses on identifying money laundering and related financial crime risks in CBI and RBI programs around the world. While there appears to be a general understanding of these risks, weak or uneven implementation of risk mitigation techniques contributes to the overall risk profile of these programs. There is therefore a need to provide jurisdictions more practical advice and examples on the effective measures to ensure that CBI and RBI programs are regulated and implemented with effective oversight to deter and detect illicit actors using these programs for criminal purposes, including money laundering.

120. The FATF Recommendations set out a comprehensive framework of AML/CFT measures for jurisdictions to apply to counter ML and TF effectively. The good practices included in this section are based on country examples contributed by jurisdictions, discussions with the public sector at the 2023 FATF Joint Experts Meeting, and the FATF Private Sector Consultative Forum, as well as information on the misuse of CBI/RBI programs available in the public domain. The FATF and the OECD have identified specific areas where effective implementation is critical, including:

- responsibility and oversight,
- adequate vetting,
- continued monitoring, and
- corrective measures.

121. There is no single solution or measure for eliminating risks in these sectors and the FATF mutual evaluations reveal that systems combining one or more approaches are often more effective than systems that rely on a single approach. These practices are specific to CBI and RBI programs and their associated operations and are by no means exhaustive. Jurisdictions may therefore consider the unique risks facing an individual programme and apply these practices where appropriate, which should always be considered in context. Good practices such as those listed below can be developed or combined with each other and can also be further developed through a public-private partnership, in a cyclical, evolutionary process that considers the unique risk and context of a jurisdiction, customer type, or the reporting entity itself. Operationalizing one or all of them will not necessarily prevent risk but could deter or detect problematic issues as they arise.

5.1. Mitigation Measures to Address Money Laundering and Financial Crime

122. These efforts require a whole-of-government approach to combating corruption and promoting integrity in the design, implementation, and oversight of CBI/RBI programmes. For example, national funds that manage CBI inflows require clear frameworks of accountability, as well as having access to key information on CBI/RBI programmes, such as the number of applications approved, and the amount of revenues earned. Moreover, information about the use of CBI funds should be made publicly available at regular intervals and should also be subject to financial audits. In addition, exploring options for making information available publicly about persons who have been granted citizenship or residency through such programmes could offer a means of helping financial institutions and other entities in their customer due diligence.[24]

[24] The project team noted potential privacy concerns regarding the public listing of persons who have been granted residency or citizenship through investment migration programmes. These mitigation measures that the project team identified are strategies which jurisdictions could

123. Furthermore, governments designing CBI/RBI programmes should consider ensuring that fiscal revenues from CBI programmes are channelled through countries' budgets as public money rather than through off-budget vehicles as well as ensuring transparency and accountability on the types and forms of investments (e.g., government bonds, real estate, businesses) and their accurate reporting for purposes of monitoring. Transparency and accountability on the types and forms of investments, along with accurate reporting of revenues, can help alleviate financial crime risks.

5.1.1. Measures Addressing Responsibility and Oversight

124. Issuing governments are encouraged to delegate ultimate responsibility for issuance of passports to a specific department or agency. Oversight agencies could be empowered to supervise all parties involved in the application process to include third party agent arrangements. Designated agencies are encouraged to maintain sufficient authority and independence to guard against political interference in their application and approval processes. Access to records related to applications and the granting of passports may further support competent authorities and advance the principles of public scrutiny intended by article 12 of the UNCAC. Below is a list of good practices related to regulatory oversight.

125. CBI/RBI jurisdictions should consider designating a specific specialist government agency, state corporation, or specialist operational unit that holds the end-to-end responsibility for the safe day-to-day operation of an investment migration programme, and which is subject to effective oversight. Jurisdictions are encouraged to keep this authority free from political interference, operating with a clear mandate and legal framework. The entity should also possess the authority to regulate and monitor any third-party due diligence providers engaged in the programme and regulate any applicant representatives, and professional service providers offering investment migration services associated to their programme. This may include but is not limited to ensuring that:

- Employees are appropriately qualified, e.g., be trained or have experience in customer due diligence, audit and risk, or compliance.
- Employees properly implement counterchecks, peer reviews, and mutual support ensuring multiple pairs of eyes on each application reduces risks of corruption and ensures that there are safeguards around human error in the assessment of risk particularly during the onboarding of newer/less experienced staff.
- Limit and monitor interaction between Agency case officers and Agents to ensure transparency.
- Agencies have the power to permanently remove individuals and agents from participation in the CBI/RBI programmes.
- Compensation agreements between Agency and Agent are salary-based, or, if commission-based, limits to application volume may be applied to encourage responsible trading practices and discourage perverse incentives such as engaging with a higher risk clientele to meet sales targets.
- Issuance of passports, visas, and/or residence permits is made subject to cross checks against applicable law enforcement, intelligence and immigration systems for adverse information.

consider implementing to assist in mitigating risk related to these programmes, based on the specific qualities and factors of any given programme.

- Any documents issued are based on original and true name and place of birth to reduce the risk of identity laundering.
- Number of qualifying applicants are limited to ensure adequate resources capabilities for vetting and to mitigate risk by creating a culture of focusing on quality over quantity of applicants.
- Agencies ensure that the application processing time is sufficient to allow for thorough background checks and that mechanisms exist for cases to be moved out of the usual service standard if they are particularly complex and require further slower time enquires.

126. Regulatory powers could include the permanent removal of bad marketing/immigration agents in case of inappropriate conduct from participation in the RBI/CBI programmes. Excluding operators found to be engaged in inappropriate conduct ensures that bad actors are removed from the system.

127. Jurisdiction should also not offer time limited discount investment offers. This prevents sudden surges and ensures a focus on quality applications over volume. Discount sales also promote a "race to the bottom" for all countries in terms of value and standards. In the long term, this behaviour can harm all industry participants including those operating the sale.

128. Bans could be placed on aggressive/inappropriate marketing (e.g., financial secrecy and tax avoidance and circumvention of other countries visa regimes). Advertising that stresses financial secrecy benefits, the ability to obtain a passport without any residency requirements or genuine association to a jurisdiction, limited checks/quick processing times is inherently likely to attract more customers who are malign into a programme.

129. Multiple and independent due diligence providers could be used to produce reports for the same individual. This is a quality control feature. There is currently no regulatory regime for third party due diligence providers, so it is beneficial to test performance of providers by periodically duplicating checks to test the quality of due diligence service providers and to manage the risks of conflicts of interest.

130. Reasonable target times are important to allow for thorough background checks and building in flexibility mechanisms to move complex/higher risk cases outside of service standards and into an open-ended consideration process enables caseworkers to make careful, well-reasoned decisions rather than being obliged to make quick ones. The process of carrying out due diligence can be time-consuming; processing times allowing for rigorous due diligence and that accommodate extended processes for more complex cases help providers make informed, risk-based decisions.

131. It is encouraged to have agents licensed or registered, regulated by CBI/RBI programme supervising entities, and have effective systems for monitoring and ensuring AML/CFT requirements are in place. This screens-out those who have a prior history of inappropriate conduct and ensures that agents are bound to licensing conditions that obliges them to operate with a degree of integrity and professionalism. These measures also provide the ability for an authority to review activities and remove corrupt/fraudulent operators from the system.

132. It is also a good practice to have agents which are a qualified and regulated professional service provider (e.g., lawyer or regulated estate agents). This measure can add a further layer of regulatory oversight from the wider professional service regulator. This can also oblige service providers to abide by the ethical and legal expectations of their profession with noncompliance risking their being "struck off".

133. Eligibility requirements could be considered when applying for citizenship in a jurisdiction through a CBI programme, or through a naturalisation process following successful entry into an RBI programme. While CBI programmes may have limited scope to hold investors to a longer-term economic commitment through the immigration system, a focus on skills and track record as well as on immediately available capital can provide both economic and security benefits due to their immediate nature.

134. RBI programmes can also particularly benefit from the development of investment tracks that are tied to job creation or other tangible "outcome" based success criteria which can help ensure clearer minimum economic value from a programme and reduce fraud risk.

135. Proper consideration of adequate and sustainable resourcing for a programme is important if a programme's checks and safeguards are to operate effectively over the long term. As such programme operators will need to ensure that they have adequate fee recovery/funding models in place. Programme operators will also need to consider the potential for ongoing cost liabilities from a programme including future monitoring, investigation/enforcement and litigation cost risks, and ensure that funding models are correspondingly resourced with sufficient contingency funds to meet these potential liabilities.

136. To enhance transparency, jurisdictions could consider publishing an annual report with statistical information about the programme, including number of applicants, number of passports issued, demographic information of applicants (percentages), and number of denied applications.

137. Jurisdictions could consider restricting the volume of applications to an annual cap. Application cap can ensure that case-working teams are not overwhelmed and put under pressure if an application surge is experienced. However, an assessment should also be made as to the risks of rent-seeking for public officials involved in the program, given the limited number of applications.

5.1.2. Measures Ensuring Adequate Vetting

138. Vetting systems and processes are intended to prevent fraud and misuse and deter and prevent criminal/illicit actors from obtaining CBI or RBI. Jurisdictions are encouraged to consider the good practices listed below to further enhance vetting procedures.

139. Creating a multi-tier vetting process to conduct CDD by a licensed Agent, the Agency and any third-party recipient of associated funds (i.e., financial institution, property developer etc) independently of each other helps verify customer identity using reliable, independent source documents, data, or information. Each layer should be explicitly required to independently screen applicants, and should not rely on screening already undertaken by other layers. For example, types of CDD measures can include ensuring that biographical information such as place of birth and all current citizenship holdings are verified to identify high-risk jurisdictions. Adverse media searches are helpful for identifying negative news reporting, and consideration should be given to ensuring search tools and protocols allow for checks to be made in the language (or languages) of the jurisdiction of origin and any other countries that are closely associated with the applicant. Professional background checks help confirm source of wealth and funds associated with CBI investment. Open-source screening to identify adverse information/news reporting is valuable, particularly when tools and capabilities are enabled to carry out searching against media in the language/languages of the jurisdiction of origin. Identifying indications of potential criminal activity from media is helpful when an individual may have cover from prosecution or where the necessary information from law enforcement cannot be obtained.

140. Agencies should consider conducting in-person or virtual interviews to verify information, to test the credibility of submitted documents and gain accounts against adverse media. It is also an opportunity to better understand why a subject wants the citizenship and a passport, and what they

plan do with it. Effective interviewing is a specialised skill and appropriate training in semi structured and dynamic interviewing for immigration and financial crime detection purposes should be considered.

141. Jurisdictions should consider requiring additional active citizenship holdings to be disclosed and verified. Programs should seek to obtain the applicants actual identity and any additional aliases or genuinely obtained identities, particularly those obtained via CBI/RBI. Programmes should consider imposing a requirement to disclose all current and previous identities and nationalities imposed on applicants, so that if an applicant deliberately conceals additional identities this may be grounds to revoke any issued passport or visa and facilitate inter-agency and international cooperation where necessary.

142. Law enforcement checks are an important part of the vetting process. Applicant identification documents could be sent to local, regional, and international law enforcement authorities for background and criminal checks, including for suspicious financial activity. Secondary review protocols and/or automatic disqualifiers should be considered for applicants with criminal histories or other derogatory law enforcement information. It is also encouraged that governmental programme operators identify, consider and if appropriate reject applicants with histories of serious civil action taken by law enforcement or regulators. This should include civil recovery and asset freezing procedures related to corruption/unexplained wealth or regulatory censor actions (such as being struck off as a director or banned from providing financial services due to malpractice). In this regard, certification or clearance from law enforcement agencies where the applicant is currently a citizen or resident would provide additional information and background. More broadly, inter-agency and international cooperation channels should be maintained for mitigating the risk of misuse of CBI/RBI programmes and for cooperating where necessary to detect, investigate and prosecute money laundering and related economic crimes should they take place.

143. Applicant identification documents could be sent to the operational authority (to include the FIU) for checks against for derogatory information, to include criminal record checks, as well as STRs[25]. Applicants are more likely to have a pre-established financial footprint rather than immigration footprint, particularly in financial centres. Operational authorities may hold more relevant intelligence than immigration authorities. Furthermore, the operational authorities can often use regional and international information sharing options to further develop enquiries on any identified points of risk.

[25] See FATF INR 29 – Operational authorities should follow all relevant information security and confidentiality requirements that are proscribed in their jurisdictions, as indicated by the interpretative note for FATF Recommendation 29.

Box 5.1. Domestic Coordination in Processing CBI Applications

In 2023, Mr. A applied to a financial institution and wanted to use his account, which was inactive since 2017, in order to purchase a real estate in Türkiye. He also declared that he was in Türkiye for touristic purposes. The financial institution reported an STR to MASAK after Mr. A attempted to make a transaction with the explanation "Immigration Directorate Appointment Fee" from the account he used.

As a result of the financial analysis and open-source research, it was found that Mr. A was involved in predicate offences and money laundering in another jurisdiction. Thereupon, the report prepared by MASAK was forwarded to the Presidency of Migration Management and TNP Intelligence Department to prevent Mr. A from benefiting from citizenship by investment. Through preventive measures, financial analysis and coordination and collaboration at a national level, Mr. A was prevented from applying to the CBI programme.

Source: Türkiye

144. It is important that PEP applicants are identified, and the fully understood, and where necessary risk mitigated. Jurisdictions should have appropriate risk-management systems to determine whether the customer is a PEP in line with FATF Recommendation 12. This would include obtaining senior management approval from the financial institution for considering applicants who are PEPs and conduct enhanced ongoing monitoring of the applicant once citizenship or residency is granted.

145. It is also imperative to conduct sanctions screening to include individuals who are subject to targeted financial sanctions by United Nations (UN), as well as consider screening for those subject to a domestic or multinational regime.

146. Clear escalation protocols should be considered for higher risk cases including those with criminal histories or other derogatory law enforcement information. The use of senior or experienced staff to support junior first-line staff working complex cases provides for better informed and effective decision making and helps ensure that legally robust refusals and adverse decisions are drafted properly. This is particularly important given that wealthy illicit actors are likely to be motivated to launch extensive legal challenge against such adverse decisions.

147. The creation of a Due Diligence Team (DDT) within the relevant competent authority provides for in house vetting and Due Diligence related case decision making capabilities. This team can review statutory forms and supporting documentation for correctness, authenticity, and certification, where applicable, as well as evaluating wider DD products such as any reports provided by external due diligence providers as well as collating any “inhouse” intelligence products and open-source checks carried out by the authority or associated law enforcement/intelligence agencies. It is encouraged that the DDT conduct a peer review of every application. If appropriate (meaning, for high-risk applicants), the application could be presented to a board for a final review before a recommendation is made to the approving authority. The DDT can also play a key role in helping in the oversight of vetting conducted by Agents (by identifying agents associated to excess high-risk cases).

148. Other tasks of the DDT may include aggregating and processing application documents through a risk matrix with a risk assessment report produced. The risk matrix should include key risk evaluation information such as the origin of the applicant, their professional background,

identifying whether the person is a PEP, or someone exposed to high-risk individuals and the source of wealth. This could also include whether the person has been charged or convicted of a crime. Assessments of source of wealth in addition to source of funds provides a useful means to identify where criminal actors may be using legitimate funds to obtain a document but then use this status to facilitate the movement of wider criminally obtained wealth into the issuing jurisdiction or third-party countries.

149. It is strongly encouraged that the immigration authority conduct training for their casework staff to assist them in conducting in due diligence, audit and risk, or compliance. Whilst programme operators may commission due diligence reports from private sector providers, the ultimate decision on whether to grant a case always sits with the immigration authority. As such, caseworkers responsible for making decisions need to understand how to interpret financial crime data to make and justify effective risk-based decisions in order to be effective.

150. Counterchecks, peer reviews, and mutual support are generally good practices. Rigorous review processes can reduce corruption risk within the casework function, reduce caseworker error and help support a consistent approach to risk-based decision making.

151. Placing firewalls between case decision makers and immigration representatives and marketing agents is a useful tool. Such firewalls help prevent corruption and conflict of interest developing between "for profit" private sector participants and public sector decision makers.

152. The use of biometric checks against international and local law enforcement databases are encouraged. These unique physical characteristics, such as fingerprints, could be collected, stored electronically, and used for recognition. Data is stored in a shared secure database that is accessible to international oversight and partner nations is another good measure. The use of fingerprints when running checks against law enforcement databases is a valuable fail safe where individuals have committed offences in concealed identities including potentially through other previously obtained investment migration obtained identities.

5.1.3. Measures Strengthening Continued Monitoring

153. Jurisdictions are encouraged to monitor CBI passports to prevent misuse by corrupt officials, sanctions evaders, terrorist financiers, money launderers, tax evaders, and other criminals. Such monitoring may include due diligence. For example, agencies are encouraged to conduct a periodic review of medium and high-risk applicants (at least every three years). Competent authorities should also ensure documents, data or information collected under the CDD process are kept up-to-date and relevant, by undertaking reviews of existing records, particularly for higher-risk categories of customers. Jurisdictions could also consider potential mechanisms for requiring customers to disclose previous citizenship or names as part of the customer due diligence processes of their financial institutions.

154. Due diligence should be risk-based, with recognition that measures to prevent misuse may not always identify those who are obtaining a document in advance of/in preparation for carrying out criminal activities. Continued monitoring allows programme operators to identify individuals who have gone on to abuse their documents for criminal purposes and to recall and/or rescind documents as appropriate to prevent further criminal activity.

155. STRs filed with CBI tags (see below for more on tags) could have a designated review process and be monitored for CBI-specific trends. This would enable programme operators to better understand the typologies of risks associated with their programmes regardless of investigations ultimately undertaken.

156. Jurisdictions are encouraged to review approved applicant names annually against available international law enforcement co-operation systems such as Interpol and international sanctions lists to ensure there are no active investigations or sanctions. This could also include the regular refreshes of checks for all active beneficiaries of investment visas or passports against global sanctions registers. It is important to pro-actively identify where an individual continuing to hold a passport or residency visa may no longer be appropriate due to the risk of sanctions evasion.

157. It is important to conduct enhanced ongoing monitoring of identified PEPs once citizenship or residency is granted. This enhanced monitoring may include the placement of warning flags on FIU systems to alert the issuing authority and enhanced open-source monitoring. The aim is to ensure the authority is aware of and managing the associated risks of that individual so that they are not caught unaware should crime indicators start to become available and/or their risk profile deteriorates.

158. The use of a due diligence company to perform open-source ongoing monitoring can offer some opportunities to benefit from post-grant monitoring services. For example, some due diligence firms offer an ongoing risk flagging service which can provide an efficient way of benefiting from sophisticated automated systems without the associated setup cost.

5.1.4. Corrective Measures

159. Jurisdictions are encouraged to have legal or regulatory measures in place for competent authorities to take necessary corrective action when illicit actors gain access to citizenship or residency through CBI/RBI programmes. This may include the implementation of procedures to promptly and effectively deactivate, revoke, and recall without delay and without prior notice, the passports, residence permits or visas of individuals who are subsequently sanctioned or becomes subject to serious criminal investigation. Jurisdictions should also consider promptly submitting information on withdrawn passports to international databases of lost/stolen/withdrawn passports, to prevent their use in third countries.

160. The ultimate objective of risk monitoring processes is to remove documents from criminal actors. Providing robust legislative tools for revoking passports, residence permits or visas in respect to those found abusing documents for criminal ends is vital if the wider risk identification and management systems put in place by a programme operator are to have any effect. Jurisdictions should consider range of penalties, including deactivation, revocation, and recall, available for false or misleading statements or statements of admission.

161. Jurisdictions should maintain records and ensure they can be made available for mutual legal assistance or other international requests for co-operation in relation to money laundering in line with FATF Recommendations 37 and 40 and international anti-corruption standards, including for example the UNCAC (Chapter IV) and OECD Anti-Bribery Convention (Art. 9) and its 2021 OECD Anti-Bribery Recommendation (section XIX). Co-operation with the international community in investigating criminality can help prevent programmes from being seen as “secrecy tools” for criminal actors. This cooperation can make programmes less desirable for illicit actors and may also enable programme operators to ensure such illicit actors, where they do get into a programme, are subsequently subject to investigation, prosecution, and removal from the programme.

162. Jurisdictions should consider implementing clear penalties, including deactivation, revocation, and recall, for false or misleading statements. Once a statement has been identified as false, it calls into question the veracity of all information previously provided. As such, a clear ground for revoking citizenship or residence obtained by any false or misleading statement is an important tool in preventing deception and abuse within a program.

163. The development of a post-issuance review process following a revocation of passport, residence permit or visa could be considered. This ensures organizational learning, helps identifies loopholes and vulnerabilities and enables solutions to be developed.

5.1.5. Other Potential Good Practices

164. Issuing jurisdictions should consider how to present information so that it is readily apparent and robustly protected from identity laundering or document tampering. CBI passports could be marked as acquired through investment. A clear note in the document identifying that it has been obtained via a CBI programme on the front cover and either on the biodata page or the remarks page, could allow all regulated entities to establish that the document they are considering is a CBI issued document. This would allow financial institutions can apply appropriate due diligence to individuals that acquired CBI without subjecting all citizens from an issuing jurisdiction to unnecessary or unwarranted enhanced diligence. Financial institutions will however still have to give due regard to the fact that legacy CBI programme documents will continue to be in circulation without the identifying markers. This may limit the ability for financial institutions to realistically reduce scrutiny for an indefinite period unless the programme operating jurisdiction retroactively re-issues all legacy documents so that they are in accordance with this identification approach.

165. CBI issued passports could include all past names or aliases used by the individual. Placing all other known past aliases and maiden names into either the front biodata page or official observations in both the issuing jurisdiction's language and other commonly used languages, prevents a CBI document from being used to change and conceal alternative identities.

166. Jurisdictions could consider imposing a ban on changing of names used in CBI issued documents to include during the application process or after the issuing of the document. This would ensure that illicit actors are not utilizing programme to create new identities to conceal offending or evade capture. Where a surname is changed due to marriage/civil partnership the document should clearly contain reference to any previous maiden name on the biographical data page in addition to the new surname. Jurisdictions that publish naturalizations or residence permits (e.g., in the official gazette) should identify if a nationality or residency is acquired through an investment. Jurisdictions that do not generally publish that information, should consider doing so for transparency, and to lessen the CDD burden of the private sector.

167. Public communication on policy outcomes is a good practice in any policy domain and CBI/RBI is no exception. Publishing the number of passports, residence permits, or visas issued – as for other migration programmes – could be considered. Programme-wide figures on numbers of documents issued would also provide the public and civil society with a broad annual indication of how much money is flowing through a programme. Publishing the countries of origin associated with applications granted is also something that could be considered. This would help provide civil society with information on the geographic exposure for their programme and potentially identifying associated money laundering risks.

168. Publishing the volume of applications and outcomes (e.g., granted, refused, withdrawn), broken down by jurisdiction of application could be considered. This information provides civil society with an indication of how robust vetting controls are in practice.

169. Publishing accounts showing revenue generation, cash held on deposit and spending destinations is useful. This provides for transparency over the amount of funds generated and how it is spent ensuring that civil society can scrutinize how funds are being used.

170. As part of their CDD obligations set out in Recommendation 10, financial institutions should consider enhancing their policies to establish that all nationalities and passports are disclosed when onboarding a client. To fulfil these obligations, financial institutions could ensure that where a CBI

document is utilised as the proof of identity, the institution routinely ask for evidence of the client's original nationality to include the original birth certificate from birth country and any passports held in that original identity.

171. A similar approach could be taken by countries carrying out identity checks during company incorporation and the assessment of suitability of foreign individuals in regard to their suitability to practice regulated activities.

172. Financial institutions accepting CBI jurisdiction issued passports or other legal RBI identification documents as primary means of customer identification should consider CBI/RBI risks throughout the lifecycle of a relationship. Financial institutions could also give due consideration to how the holding of multiple nationalities and residencies and in particular investment migration obtained statuses may be combined to facilitate novel opportunities for offending including fraud, money laundering and tax evasion risks. Options a financial institution could consider for facilitating ongoing monitoring include tagging personal accounts opened using a CBI passport, tagging businesses accounts where the beneficial owner used a CBI passport to register the entity. They could also conduct periodic reviews of activity associated with CBI issued passports (individual and corporate accounts). Finally, as noted above, FIs could tag any STRs filed on CBI accounts to provide the FIU with additional context.

5.2. Mitigation Measures Related to Corruption, Integrity, Tax, and Migration

173. The OECD has developed a set of tools and practices countries should consider when approaching the management of risk within CBI/RBI programmes. None of these measures, which complement those in section 5.1, should be considered binding obligations and are included in this report to provide guidance on managing the risks identified in this report. These measures should also be understood as not presuming that risks can be mitigated in all cases, but are presented as options for jurisdictions to consider.

174. Each jurisdiction has diverse legal, administrative, and operational frameworks governing their program, and so cannot all take identical measures to counter these threats. However, a risk-based application will enable governments to better understand the available tools, their effects and their limitations when designing systems to mitigate the misuse of CBI/RBI programmes. By understanding these tools and principles, programme operators may improve their ability to deter and disrupt illicit actors from evading criminal investigations and gaining access to international financial systems.

5.2.1. Measures to be Taken by Financial Institutions to Address Tax Transparency

175. Recognising potential risks to tax transparency posed by CBI/RBI programmes, the OECD has taken steps to provide financial institutions with additional guidance reiterating that, where a financial institution knows or has reason to suspect that statements or documents from clients are incorrect or unreliable, it should not rely on such information for carrying out its due diligence process. Guidance has also been provided on additional scrutiny that should be carried out by financial institutions when an account holder claims residence in a jurisdiction offering a potentially high-risk CBI/RBI programme.

5.2.2. Measures Addressing Corruption and Integrity Risks

Assess Corruption Risks and Build in Integrity Measures

176. In developing or reviewing CBI/RBI programmes, governments should consider how corruption or integrity risks may impact their jurisdiction and could consider undertaking risk assessments to this end. The following measures could assist governments in assessing corruption risks and building integrity measures into the design of programmes, to help safeguard them from misuse:

- Set clear objectives and criteria for the programme (investment, residency, due diligence etc.) and the decision-making process, including by clarifying the roles of key actors involved, establishing evidentiary thresholds required for making decisions and ensuring the separation of operational and political actors in the decision-making requirements. Record-keeping requirements should apply to the applications made but also the decision-making process. of the use of decision-makers' discretion should be limited where possible and clear parameters should apply.
- Build adequate internal controls and audits into the design of the program. Considering the potential risks set out in this paper, there should be clear mechanisms for ongoing and periodic review of the processes as well as the outcomes of the programmes. Procedures on record-keeping and cross-government sharing of decisions can enable adequate programme oversight.

Box 5.2. Public Sector Auditing Powers

Both the Portuguese Court of Auditors (Tribunal de Contas), as the Supreme Audit Institution of Portugal, and the General Inspection of Internal Administration, as a sectorial internal audit body, has powers to audit the "golden visa program". The latter audited the programme in 2014 and made recommendations to improve the transparency and simplicity of the procedure, including the approval of a manual with procedural guidelines.

Source: Portugal

Box 5.3. Regulator Monitors and Supervises the Granting of CBI

The Maltese Citizenship Act provides for the appointment of a Regulator, who shall act on their individual judgement and shall not be subject to the direction or control of any other person or authority. He shall ensure that the process of the granting of Maltese citizenship by naturalisation on the basis of investment is duly followed. The Regulator shall have access to all documentation and information related to the relative processes. They shall make an annual report on the discharge of their functions, which report shall be presented to Parliament. Maltese legislation provides for the establishment of a Monitoring Committee, to monitor the workings for the process of the granting of Maltese citizenship by investment, whereby the Regulator shall be called to report to the Committee at its meetings.

Source: Malta

- Foster high levels of transparency around the programme (e.g., on applicants, status, use of funds, effectiveness of the program, and results of audits and due diligence checks) to enable external stakeholders to also review the programmes and to allow other agencies and jurisdictions access relevant information.
- Establish tight controls over donations and other investments which are made directly to the government or government related bodies, as they are particularly vulnerable to misuse. these should include clear frameworks for accountability and ownership (via national budgets rather than opaque structures) to prevent and manage conflicts of interest, and prevent political interference and for transparency on the use of funds which should be subject to regular and independent financial audits.
- Provide and implement easily accessible and diversified reporting channels to competent authorities, as well as measures to protect persons reporting misconduct during the process of granting CBI/RBI programmes.

Box 5.4. Application Assessment

In Ireland, an independent Evaluation Committee comprised of officials from relevant authorities assessed all project applications under the Immigrant Investor Programme (IIP), an RBI program.[26] All IIP applicants had to supply a due diligence report in respect of themselves from a reputable international risk management and security screening organisation. The applicant was subject to rigorous screening by the Department of Justice as to their suitability for permission to enter and reside in the State. This entailed the IIP Unit undertaking detailed due diligence, Politically Exposed Persons (PEP) and Sanction checks on prospective applicants, and accessing reputable international databases, as and when required, to ensure that only reputable individuals are eligible for permission. Vision-Net and GBG ID3 Global are examples of the types of databases used to carry out 'Know Your Client', PEP and sanction checks.

Some of Ireland's risk-management and due diligence procedures are outlined below:

- The details of individuals approved under the IIP were shared with the Irish Tax and Customs Revenue to ensure that Ireland met the requirement of the OECD's Common Reporting Standards (see section 5.2.1).
- Any person on the IIP Evaluation Committee which assessed IIP projects had to declare any conflict of interest in relation to any project being discussed.
- While the Central Bank of Ireland's Anti-Money Laundering and Countering the Financing of Terrorism Guidelines did not directly address CBI/RBI programmes, they do provide in-depth guidance to Firms in Chapter 4 with regard to broader risk management, and measures for PEPs.[27]
- Service providers authorised to represent potential IIP applicants were solicitors and accountancy bodies who practise in Ireland or a person who works for a financial services company that is regulated by the Central Bank. This ensured that all service providers acting for IIP applicants are subject to some level of oversight by the relevant regulatory body in relation to services provided.
- No preferential treatment was given to approved investors under the IIP programme in relation to eligibility for citizenship.

The Minister for Justice was also accountable to the Oireachtas (Irish Parliament) in relation to the operation of the programme which was under constant review by Department senior management and the Evaluation Committee.

Source: Ireland

[26] The Immigrant Investor Programme was closed in February 2023. See Department of Justice (2023), "Minister Harris announces closure of the Immigrant Investor Programme", available at

- Ensure that government resources are adequately allocated to effectively engage with the private sector across the life cycle of an CBI/RBI program, alongside efforts to conduct proper due diligence on CBI/RBI programme applicants.
- Encourage the private sector to consider the risks when dealing with CBI/RBI programmes, promote robust ethics and anti-corruption compliance programmes to prevent and detect misconducts in companies of all sizes, and set clear expectations of private sector entities engaged in the CBI/RBI programme. This includes setting clear expectations within CBI/RBI programme design for compliance requirements, as well as measures to incentivise and reward good corporate behaviour. This also includes taking into account mitigating factors, such as voluntary disclosures of misconduct (including foreign bribery) to law enforcement authorities; cooperation with law enforcement, including disclosure of all facts relevant to the wrongdoing at issue; acceptance of responsibility; or timely and appropriate remediation, including the implementation or enhancement of an effective ethics and compliance programme, and mechanisms for whistleblowing.

Assess and Address Integrity and Corruption Risks in the Implementation Process

177. To effectively guard CBI/RBI programmes from misuse, integrity and corruption risks need to be assessed and addressed throughout their life-cycle.

178. To prevent and adequately manage conflicts of interest and prevent undue infiltration of private interests in the execution of CBI/RBI programmes, public and private sector actors should be assigned with **clear roles and responsibilities**. In doing so, the following measures could be considered:

- For governments that outsource aspects of the CBI/RBI programmes, assess to what extent outsourcing is reasonable and what additional measures/oversight is required to protect the public interest.
- Ensure that there is an open process for any aspects of the outsourcing of the public function to guard against undue influence.
- If private sector companies are contracted to perform aspects of the public function, there should be clear conditions to avoid conflicts of interest, carry out regular and random audits, etc.
- Ensure that contractual obligations guard against conflict of interest (for example, banning the contractor from providing services to potential applicants or their representatives or being involved in or benefitting from the potential investments to be made).

www.gov.ie/en/press-release/a4170-minister-harris-announces-closure-of-the-immigrant-investor-programme/.

[27] See AML/CFT Guidelines for the Financial Sector, Central Bank of Ireland, available at www.centralbank.ie/docs/default-source/regulation/amld-/guidance/anti-money-laundering-and-countering-the-financing-of-terrorism-guidelines-for-the-financial-sector.pdf?sfvrsn=9

179. General or agency-level **conflict of interest policies** can help prevent and manage conflict of interest situations arising for public officials from CBI/RBI programmes. To enable effective accountability for managing and preventing conflict-of-interest situations, public organisations can implement clear procedures for identifying a conflict-of-interest offence, and proportional consequences for non-compliance with the conflict-of-interest policy. Codes of conduct can explain expected behaviour and prohibited situations, help identify and manage conflicts of interest and ensure transparency and accountability.[28]

180. In addition, regular training can help increase awareness of corruption and integrity risks associated with CBI/RBI programmes and build the capacity of government agencies charged with implementing programmes to detect and react to instances of misconduct, including corruption and foreign bribery.

Box 5.5. Security Vetting of Immigration Officials

In the United Kingdom, Visas and Immigration caseworkers as well as all other Home Office employees associated with the programmes operation such as policy officials are subject to UK security vetting and must make declarations regarding any relevant conflicts of interest. Failure to declare conflicting interests is a serious disciplinary matter that can lead to dismissal. If decision making has been inappropriately conducted due to external influence this can lead to both dismissal and prosecution for misconduct in a public office. Caseworkers are randomly allocated cases and an applicant would not know who would process their case. Home Office operational policies have consistently required caseworkers to flag up any case in which they have a conflict of interest, and again a failure to do so would constitute significant misconduct.

The Home Office maintains a regular ongoing audit capability of its systems and decision-making including regular quality assurance review activity by casework managers. The Home Office also has separate professional standards investigators that operate outside of the UK Visas and Immigration operational command chain who can tackle any inappropriate activity by operational caseworkers. The UK has not encountered any corrupt/conflicted decision making regarding the Tier 1 Investor visa programme by UK Visas and Immigration caseworkers or other associated Home Office employees.

Source: United Kingdom

[28] OECD (2020), OECD Public Integrity Handbook, OECD Publishing, Paris, https://doi.org/10.1787/ac8ed8e8-en.

Box 5.6. Codes of Conduct for Immigration Officials

Immigration New Zealand (INZ) is a Branch of The Ministry of Business, Innovation and Employment (MBIE). All INZ staff follow MBIEs Code of Conduct and Declarations of Interest Policy which explain expected behaviour, identify and manage conflicts of interest and ensure that all organisational decisions are made, and seen to be made, legitimately, justifiably, independently, and fairly. The purpose of the Ministry's Declarations of Interest policy and procedure is to help staff exercise a high standard of judgement about real or perceived conflicts of interest and avoid or mitigate any risks arising from those conflicts. MBIE considers it important that conflicts of interest are well managed so that public trust and confidence in its ability to undertake regulatory and other roles are not undermined. This policy applies to all staff (including employees, secondees, contractors, interns) and consultants employed or engaged on any basis by the Ministry, whether they are voluntary, casual, temporary or permanent, whether full-time or part-time and whether located in New Zealand or any other jurisdiction. Any breach of this policy may be investigated as alleged fraud, corruption, dishonesty and/or a breach of the code of conduct and, if substantiated, could be deemed as misconduct or serious misconduct and subsequent disciplinary action taken. If a conflict of interest is suspected to involve criminal activity, a specialist MBIE Integrity Team will investigate and may report the matter to the NZ Police or the Serious Fraud Office.

Source: New Zealand

Improving inter-agency and international cooperation and information-sharing between authorities and mutual legal assistance

181. Mitigating corruption and integrity risk associated with CBI/RBI programmes requires also proactive efforts to improve inter-agency and international cooperation and information-sharing between government authorities domestically and across jurisdictions. Oversight, co-ordination and co-operation mechanisms, as well as an established exchange of information between relevant entities and institutions, both across and within enforcement regimes, are vital to ensure that information is swiftly exchanged and enforcement mechanisms are mutually supportive.[29]

182. The OECD Anti-Bribery Convention and its 2021 Anti-Bribery Recommendation provide important standards and technical guidance to governments for strengthening inter-agency and international cooperation, which are important to note in the context of this report. The Anti-Bribery Convention requires Parties to co-operate in providing prompt and effective legal assistance. Further, the 2021 Anti-Bribery Recommendation introduces strengthened standards for the enforcement of foreign bribery laws, including through the proactive detection and investigation of foreign bribery, more effective international co-operation among law enforcement authorities and co-operation in multi-jurisdictional cases.[30]

[29] OECD (2020), OECD Public Integrity Handbook, OECD Publishing, Paris, https://doi.org/10.1787/ac8ed8e8-en.

[30] For the full text of the OECD Anti-Bribery Convention and 2021 Anti-Bribery Recommendation, see here: www.oecd.org/corruption/oecdantibriberyconvention.htm.

183. This is particularly relevant for jurisdictions where CBI/RBI inflows constitute a significant portion of GDP. Considering that high-net worth individuals and their representatives can be very influential and that the international industry for CBI/RBI advisory services is concentrated, regulation on lobbying and political finance is important to make this influence transparent and to demonstrate to citizens that programmes are acting in the public interest. Further, international standards for the management of RBI/CBI programmes could help prevent forum shopping and avoid a race to the bottom (for example, exchange of information when applicants fail the vetting processes of other jurisdictions).

5.2.3. Measures Addressing Migration Risks

184. In addition to addressing corruption and integrity risks, other actions can be taken to reduce risks to the migration legislation. These should ensure that benefits of the programme are measured against different costs.

185. In developing or reviewing CBI/RBI programmes, countries should consider whether short-term economic gains (including their volatile nature) are sufficiently diffuse and significant to outweigh the costs of conducting compliance and longer-term impacts. For example, there is the risk that investment benefits only a few actors – especially intermediaries or limited sectors of the real estate market – while having a negative impact on housing costs. There are longer-term risks of financial liabilities towards recipients of CBI/RBI in terms of public outlays and that proceeds of corruption are channelled through these programmes, that the programmes may increase the opportunities for foreign bribery or that they increase opportunities for domestic corruption and misuse of funds. There may also be longer-term impact on financial stability as a result of the reputational risks stemming from such programs. The following measures could assist countries in safeguarding these programmes from misuse:

186. Evaluate the benefits and costs of the program. Detail on the use of the funds – especially the type and location of investment and related expenditures due to consumption are important. It is also important to assess additional investments brought by the CBI/RBI programme as well as possible economic and financial stability risks arising from the volatility/uncertainty of profits and negative reputational impact of such programmes. Projections of fiscal exposure and expected use of public services should be considered, with a lifetime perspective.

187. Strengthen the real link between recipients and the jurisdiction that designed the program. While residence requirements and other traditional measures for granting residence and citizenship (language and civic knowledge, for example) are absent from many programmes, these may be assessed in light of the expected engagement of beneficiaries. For countries bound by treaties of free mobility, where citizenship grants substantial rights in other jurisdictions, the standards for "real links" may be higher to reassure other countries that citizenship is granted to persons with a connection to the granting jurisdiction. Residency requirements – with clear mechanisms for ensuring respect of these requirements – are therefore one solution.

188. Communicate on the programme to the public domestically and to international partners. As noted for other risks, it is important to share statistical information (e.g., on applicants, status granted, size and type of investment, but also effectiveness of the program, results of audits). Transparency can enable national stakeholders to understand the program, and external stakeholders to make informed decisions on questions such as visa-free travel provisions.

6. Conclusion

189. CBI/RBI programmes are created with different goals and structured in different ways, but reflect the sovereign right of countries to admit, provide residence to, and naturalise foreigners as they see fit. In conducting this research, the FATF and OECD have found substantial evidence for the risk of abuse that exists within the RBI and CBI programmes worldwide. The risks are higher in jurisdictions that do not put comprehensive mitigation measures into place. The CBI/RBI market is a niche ecosystem that generally lacks adequate safeguards and strong institutions which could prevent abuse for the purposes of money laundering, and other crimes. Within the wider eco-system, the project has also identified the endemic nature of investment frauds as well as the risk of corruption within programmes undermining the intended economic objectives of these programmes which can damage operating countries' reputations as reliable investment destinations.

190. This project has set out a range of tools that are available to countries that operate an investment migration programme. It is in the interest the international community that programme operators properly understand the risks that may be present and the potential risk mitigation measures available when operating a CBI/RBI programme. As with the response to any type of financial crime, it will be critical to the efficacy of the approaches explored in this report that legal and regulatory implementation is also backed with adequate resources, systems, and capabilities for these to be effectively implemented. The report shows how investment migration programmes do not occur in a vacuum and risk mitigation is not only in the interest of the jurisdiction running the programme and its citizens but also its international partners and private sector actors.

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November 2023

Misuse of Citizenship and Residency by Investment Programmes

This report highlights how citizenship and residency by investment (CBI/RBI) programmes can allow criminals more global mobility and help them hide their identity and criminal activities behind shell companies in other jurisdictions. The report proposes measures and examples of good practice, that can help policy makers and those responsible for managing the investment migration programmes address these risks.

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