



CARIBBEAN FINANCIAL  
ACTION TASK FORCE

# First Follow-Up Report

## Anguilla

### October 6, 2010

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## ANGUILLA: FIRST FOLLOW-UP REPORT

### I. Introduction

1. This report represents an analysis of Anguilla's report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of Anguilla was adopted by the CFATF Council of Ministers in July 2010 using the Round Robin process. Based on the review of actions taken by Anguilla since its Mutual Evaluation to meet the outstanding recommendations made by the Examiners, a recommendation would be made as to whether Anguilla would remain on expedited follow-up or be placed on regular follow-up.
2. Anguilla received ratings of PC on five (5<sup>1</sup>) of the sixteen (16) Core and Key Recommendations as follows:

<b>Rec.</b>	<b>1</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>10</b>	<b>13</b>	<b>23</b>	<b>26</b>	<b>35</b>	<b>36</b>	<b>40</b>	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>	<b>V</b>
<b>Rating</b>	LC	LC	LC	PC	LC	PC	PC	PC	LC	C	C	LC	LC	LC	PC	LC

3. With regard to the other non- Core or Key Recommendations, Anguilla was rated partially compliant or non-compliant, as indicated below.

<b>Partially Compliant (PC)</b>	<b>Non-Compliant (NC)</b>
R. 9 (Third parties and Introducers)	R. 20 (Other NFBP & secure transaction techniques)
R. 12 (DNFBPs – R. ,6,8-11)	SR. VIII (Non profit organisations)
R. 14 Protection & no Tipping-off	
R. 16 (DNFBP-R. 13-15 &21)	
R. 17 (Sanctions)	
R. 21 (Special attention for higher risk countries)	
R. 24 (DNFBP-regulation, supervision and monitoring)	
R. 25 (Guidelines and feedback)	
R. 29 (Supervisors)	
R. 30 (Resources)	
R. 32 (Statistics)	
SR. VI (AML requirements for MVTs)	
SR. VII (Wire transfer rules)	
SR. IX (Cross border declaration & disclosure)	

<sup>1</sup> Despite the high level of compliance with the FATF Core and Key Recommendations, Anguilla has been asked to report back to the November 2010 Plenary because at the time of the Mutual Evaluation the legislation had only been recently enacted and accordingly Plenary wishes to get an sense of the level of implementation that has taken place since the enactment.

4. The following table is indented to assist in providing an insight into the level of risk in the main financial sectors in Anguilla.

### Size and integration of Anguilla's financial sector<sup>2</sup>

		Banks	Other Credit Institutions*	Securities	Insurance	TOTAL
<b>Number of institutions</b>	Total #	7	1	1	268	277
<b>Assets</b>	US\$	1,108M	16M	N/A	N/A	1,124M
<b>Deposits</b>	Total: US\$	799M	0.186M	N/A	N/A	799.19M
	% Non-resident	% of deposits 44%	0	N/A	N/A	353,311
<b>International Links</b>	% Foreign-owned:	% of assets 9%	% of assets 0	% of assets	% of assets	% of assets 0
	#Subsidiaries abroad	0	0			0

\* Please include savings and loans institutions, credit unions, financial cooperatives and any other depository and non-depository credit institutions that may not be already included in the first column.

\* If any of these categories are not regulated, please indicate so in a footnote and provide an estimate of the figures.

## II. Summary of progress made by Anguilla

2. Since Anguilla's Mutual Evaluation in July 2009, several legislative and implementation advances have been made. With regard to legislation, the Non-Profit Organisations Regulations, 2010 (NPOR) and the Customs (Amendment) Act, 2010 have been enacted. Amendments have been proposed for the Banking Act, the Financial Services Commission Act and the Securities Act. Consideration is also being given to making amendments to the Anti-Money Laundering Combating of Financing of Terrorism Regulations, 2009 (AML/CFTR); the Anti Money Laundering Combating the Financing of Terrorism Code, 2009 (AML/CFTC); the Proceeds of Crime Act (POCA) and the Cooperative Societies Rules. The Anguillan Authorities have also established the AML/CFT and Legal Services Unit within the FSC to deal with the implementation of a regulatory regime for DNFBPs and NPOs. On 21 September 2010, the Anguillan Authorities formed a Financial Task Force whose remit includes overseeing follow up to the CFATF Mutual Evaluation.
3. It should also be noted that Anguilla has had a significant amount of implementation which will be briefly presented since the primary purpose of having Anguilla follow-up to the Plenary at this time was to monitor the level of implementation. (See. Footnote 1 above.). With regard to the implementation of the POCA, eleven (11) charges of ML have been laid in Court since the Evaluation. The Authorities anticipate that an additional three (3) charges will be laid in the near future. With regard to SARs, the Reporting Authority has made thirty-one (31) requests for information supplementary to

<sup>2</sup> 1. Credit institutions include the Anguilla Mortgage Finance Company (AMFC), the Anguilla Development Board (ADB) and the TECCU Credit Union. AMFC and ADB are not regulated by the Commission. 2. The FSC is in the process of compiling a database to capture the insurance data. 3. Insurance includes 235 captive companies administered through insurance managers.

SARs and has received full compliance from the financial institutions. There has also been the enforcement of an external forfeiture order pursuant to Section 3 of the POCA. The order is in the amount of US\$1.2M that is currently frozen in Anguillan bank accounts and is the culmination of mutual legal assistance between Anguilla and Denmark. With regard to MSBs, two (2) of the four (4) companies operating in Anguilla have become licensed under the Money Services Business Act. The FIU has published its Annual Report for 2009.

## **Core Recommendations**

### **Recommendation 5**

4. With regard to the Examiners' recommendation concerning numbered accounts, the Anguillan Authorities are considering an amendment to Section 15 of the AML/CFTR, which will add a definition of 'anonymous accounts'. This definition is expected to include numbered accounts. The Examiners' recommendations pertaining to enhanced due diligence and reduced or simplified CDD will be addressed through an amendment to Section 12 of the AML/CFTR. Since the amendments are still under consideration, the Examiners' recommendations have not been met. The Anguillan Authorities have noted that they have prepared a paper to address the matter concerning the ECCB and reflected in the recommendations dealing with a clarification of the legal framework and the provision of guidance. Based on the aforementioned none of the Examiners' recommendations have been met.

### **Recommendation 13**

5. The Authorities are considering an amendment to Section 30 of the AML/CFTC to add a provision that would remove the MLRO's discretion with regard to attempted transactions and allow compliance with the Examiners' recommendation. With regard to the other recommendations pertaining to the clarification of the legal framework for administrative sanctions by the FSC and providing service providers with specific guidance on how to deal with breaches involving tax matters, the Authorities have noted that a paper has been prepared by the FSC addressing the need to resolve the sanction matter and other issues and circulated to the Eastern Caribbean Central Bank (ECCB). Further, the Authorities have indicated that the matter of regulatory collaboration between the ECCB/ECSRC/FSC has been included in the agenda of the Regulatory Oversight Committee (which comprises the ECCU sub-regional regulators, the ECCB and the ECSRC) regional video conference which was held on September 3, 2010. The deficiencies cited in the CFATF report were discussed and the ECCB and ECSRC have undertaken to provide their formal response to the matters raised with a view to outlining the way forward by September 30, 2010. Based on the aforementioned, none of the Examiners' recommendations with regard to Rec. 13 have been met.

### **Special Recommendation IV**

6. As noted above, the Anguillan Authorities are giving consideration to amending Section 30 of the AML/CFTC to make it a mandatory requirement for the MLRO to report attempted transactions to the Reporting Authority. The drafting of the recommended amendments to the AML/CFTC is expected to commence in the near future. Accordingly, the Examiners' recommendation has not been met.

## **Key Recommendations**

### **Recommendations 23**

7. As previously discussed, matters concerning the role of the ECCB have been addressed in a paper prepared by the FSC and submitted to the ECCB and other countries who subscribe to the ECCB Agreement. Regulatory collaboration is also on the agenda to be discussed at the ROC regional video conference scheduled for September 3, 2010. Accordingly, the Examiners' recommendation has not been met. With regard to fit and proper test at the time of licensing for MSBs the Authorities have noted that two (2) of the four (4) MSBs have become licensed under the MSB Act and were accordingly subjected to the fit and proper test. The FSC is actively working with the remaining companies to complete the application process. With regard to financial cooperatives, consideration is being given to amending the Co-operative Societies Rules to impose fit and proper requirements on committee members and treasurers. There have been no licensing of financial cooperatives and so the Examiners' recommendation has been partially met. With regard to the supervision of financial cooperatives for AML/CFT compliance, the Authorities are considering a harmonized draft of the new Co-operative Societies legislation. Such legislation would make Anguilla's only co-operative society a 'service provider' for the purposes of the AML/CFT legislation and would bring them under the supervision of the FSC for AML/CFT compliance. The Examiners' recommendation in the latter regard has not been met.

### **Recommendation 26**

8. The Anguillan Authorities have not taken any action with regard to the Examiners' recommendation to consider enacting separate legislation for the creation of the FIU in order to alleviate the problem with autonomy. The issue remains outstanding.

## **Other Recommendations**

### **Recommendations 9**

9. The Anguillan Authorities are giving consideration to an amendment of Section 26(1)(e) of the AML/CFTC that would address the issue relating to information that should be obtained where the service provider intends to rely on an intermediary. This recommendation is therefore still outstanding. The Anguillan Authorities have yet to address the second recommendation made by the Examiners. Accordingly, this recommendation also remains outstanding.

### **Recommendations 12**

10. The outstanding recommendation pertaining to Rec. 5 are still outstanding for Rec. 12 and accordingly the Examiners' recommendation has not been met. With regard to the FSC enhancing the outreach and training for DNFBPs, the FSC has developed an outreach plan which includes a series of handshake visits by the Commission, a formal

training programme and a brochure for DNFBPs on the FSC website. Since the Plan will be implemented when the DNFBP Regulations come into force, the Examiners' recommendation is only partially met. With regard to the supervision of the DNFBP sector, the Authorities have established an AML/CFT and Legal Services Unit within the FSC. This Unit's responsibilities include the implementation of a regulatory regime for DNFBPs and NPOs. The FSC has completed compilation of a database of DNFBPs doing business in Anguilla. Application forms for registration and the relevant certificates of registration have been prepared. The establishment of the Unit partially meets the Examiners' recommendation.

#### **Recommendation 14**

11. The Anguillan Authorities are giving consideration to an amendment of Section 131(2)(a) of the POCA that would adjust the verb tense so to include a disclosure in the process of being made. This recommendation is therefore still outstanding. The Anguillan Authorities are still considering how to implement the Examiners' recommendation regarding explicit protection for financial institutions, their directors and employees for reporting suspicious transactions.

#### **Recommendations 16**

12. As discussed previously, the Examiners' recommendation with regard to amending the Code to include attempted transactions is currently under consideration. The amendment will affect Section 30 of the Code and require the MLRO to report attempted transactions to the Reporting Authority. The establishment of the AML/CFT Legal Services Unit in the FSC is responsible for the implementation of a regulatory regime for DNFBPs and NPOs. As stated above, the establishment of the Unit partially meets the Examiners' recommendation until the level of implementation is ascertained. Regulations for the DNFBP sector are in the final stages of drafting and are expected to be enacted in the near future. Additionally, an outreach plan has been developed and is to be implemented following the coming into force of the Regulations. With regard to the filing of attempted transactions by DNFBPs, the amendment to Section 30 of the AML/CFTR noted above is applicable to this sector since they are categorized as service providers under Anguilla's AML/CFT laws. Based on the aforementioned only one of the Examiners' recommendations has been partially met while the other remains outstanding.

#### **Recommendation 17**

13. The Examiners' recommendations under Rec. 17 all pertain to the sanctions framework with emphasis on the ECCB's and the ECSRC's powers to sanction for AML/CFT breaches. These issues are being addressed through a paper (mentioned above) by the FSC to the ECCB. The Paper addresses the amendments to both the Banking Act and the Securities Act. The Examiners' recommendations have not been met.

#### **Recommendation 20**

14. Based on two institutions identified by the Anguillan Authorities as being at AML/CFT risk, the Examiners' recommended that all institutions other than DNFBPs and designated financial institutions should be subject to the FATF AML/CFT requirements. In that regard, the FSC has notified the ECSRC of the need to license the securities

trading platforms/Internet platform for securities without delay and the Authorities are actively considering the application of AML/CFT requirements to lotteries. The Payment Systems Act has not been implemented. None of the Examiners' recommendations have been met.

### **Recommendation 21**

15. Based on the Examiners' recommendation that Section 22 of the AML/CFTR be amended to authorise the relevant authorities to require service providers to take appropriate counter-measures against countries that do not apply or insufficiently apply the FATF Recommendations, the Authorities are currently considering the amendment of Section 22. They note that drafting of the amendment will commence in the near future. With regard to the consideration of a wider range of counter-measures against countries that fail to apply appropriate AML/CFT standards, the Authorities have not indicated that any consideration had been given to this recommendation. The Examiners' recommendations with regard to Rec. 21 have not been met.

### **Recommendation 24**

16. As noted above in discussions on Recs. 12 and 16, the establishment of the Legal Services Unit in the FSC is intended to deal with implementation of a regime for DNFBPs and NPOs. Regulations pertaining to DNFBPs have been drafted and once in effect the FSC's Implementation Plan discussed above will be implemented.

### **Recommendation 25**

17. The Examiners recommended that sector specific guidance on ML and TF be placed in the Guidance Notes. In that regard, the FIU has published its Annual Report for 2009. This Report contains general feedback, including statistics and information on current techniques, methods and trend or typologies. While this Report is beneficial and complies with the requirement for feedback by the FIU and also informs stakeholders, it does not address the Examiners' recommendations with regard to having sector specific guidance in the Guidance Notes. Accordingly, the Examiners' recommendation has not been met. With regard to the recommended review of the FSC Act, it has been completed and an amending Act is in its final stages of the drafting process. The Examiners' recommendation is therefore partially met.

### **Recommendation 29**

18. With regard to Rec. 29, the Examiners recommended that the Banking Act be amended to provide the ECCB with the power to examine licensees to ascertain their compliance with other statutes especially where AML/CFT is concerned and also to grant the ECCB the power to apply sanctions for AML/CFT breaches. A recommendation was also made that the ECSRC be expressly granted power to supervise its licensees for AML/CFT. In an effort to address these recommendations, the Anguillan Authorities as previously noted prepared a Paper addressing the need to resolve the ECCB issue and the issue of regulatory collaboration between the ECCB/ECSRC/FSC was placed on the agenda of the ROC regional video conference. As noted above, the amendments to the Banking Act

and the Securities Act are addressed in the FSC's Paper. With regard to the implementation of the MSB Act, the Authorities have noted that two of the four MSBs have been licensed under the Act and the FSC is actively working with the other companies to have them licensed. Based on the aforementioned, only latter of the Examiners' recommendations (implementing the MSB Act) has been met.

### **Recommendation 30**

19. With regard to more training for Customs Officers in cross-border issues, financial investigations and forfeitures, the Anguillan Authorities have noted that Customs Officers (including the Deputy Comptroller) received training in cash recognition connected with drug cartels on July 21, 2010. Training was also received in risk assessment during the week of August 17, 2010 and the first week of September 2010. The Authorities intend to establish a risk assessment team in the near future to ensure the effective implementation of risk assessment techniques. While valuable training has been received by the Customs Department, the type of training specified as needed by the Examiners has not been all addressed. Accordingly, the Examiners' recommendation is partially met. The Authorities are considering the secondment of legal counsel to the FIU based on the Examiners' recommendation that the staff of the FIU should be increased to handle the inclusion of DNFBPs in the Regulations and that the staff increase should include legal counsel. The recommendation has not been met
20. The recommendations that the office space for the FIU should be increased, that fire proof cabinets should be provided and that the staff should obtain training in advanced financial investigations, civil and criminal forfeiture provisions and TF have not been addressed and remain outstanding. Further, the recommendations that Judges and prosecutors be provided with training in financial investigations, civil/criminal forfeiture, ML and TF; have not been met. However, it should be noted that on September 30, 2010 a one day training session was held pertaining to financial services, AML/CFT and proliferation financing. The training was attended by two (2) members of the Attorney General's Chambers, two (2) members of the FSC, a member of the FIU and the Head of the Governor's Office. The FSC has however hired new staff with regard to the establishment of the Legal Unit discussed above. The Anguillan Authorities have not given consideration to amending the POCA with regard to clarifying the institutional arrangements between the policy making MLRA and the operational FIU.

### **Recommendation 32**

21. In an effort to meet the Examiners' recommendation that cross-border incidents be reported and documented on the OTRICS system, and shared amongst law enforcement, the Authorities have developed an electronic form consistent with the Report of International Transportation of Currency or Monetary Instrument. This form has been programmed into the OTRICS system and will allow access to information obtained by the Police, the FIU and other competent authorities. The programme is currently undergoing beta testing and is expected to be fully operational in the near future. Once the programme is fully operational, Customs will maintain their own statistics on the cross-border transportation of currency and bearer negotiable instruments. The operation of this programme will meet the Examiners' recommendations as they pertain to Customs. The requirement that the FIU put in place mechanisms to allow for the collection and analysis of wire transfer information has not been addressed.

## **Special Recommendations VI**

22. As previously noted in this report, two of the four MVTs have been licensed and the FSC is working towards having the other two licensed. Accordingly, the Examiners' recommendation to have all of the existing MVTs licensed without delay has been partially met. With regard to the recommendation that licensed MVT operators should be required to maintain a current list of agents and the list be available for inspection by the FSC, the Authorities have noted that Section 9 of the MSB Act requires an MSB to carry out business only at the location noted in its license and approved by the Authority (FSC) and that notification should be given for any changes in location. This Section of the MSB Act is viewed as dealing with location of the licensee and not the current list of agents as recommended by the Examiners. Accordingly, this recommendation has not been met. With regard to an amendment to Section 17(3) of the MSB Act, the Authorities have noted that a request has been made to the Legislative Drafting Unit. The Examiners' recommendation remains outstanding.

## **Special Recommendations VII**

23. The issue with regard to a payment change as it pertains to ensuring that full originator information accompanies wire transfers has not been addressed. With regard to clarification of the supervision and sanction powers for domestic banks and their offshore subsidiaries, as noted previously the FSC has prepared a Paper that includes this and other related issues. The Examiners' recommendation has not been met.

## **Special Recommendation VIII**

24. At the time of the Mutual Evaluation there were no AML/CFT supervisory programme in place for NPOs, accordingly several recommendations were made by the Examiners. The enactment of the Non-Profit Organisations Regulations, 2010 (NPOR) has allowed Anguilla to comply with the majority of the Examiners' recommendations. The NPO outreach programme recommended by the Examiners has commenced and at the time of this writing included a series of handshake visits by the FSC during August 2010; a formal training programme conducted by the FSC and the FIU on September 8, 2010 and the placing of an informational brochure for NPOs on the FSC's website. The recently enacted NPOR contains record keeping and disclosure measures which are to be applied to the NPO sector. Part 2 of the NPOR establishes the FSC as the NPO Supervisor. Section 5 of the NPOR requires all NPOs to be registered in the NPO Register. Exempt<sup>3</sup> NPOs are however not required to be registered. Section 4(2)(b)(c) of the NPOR requires that the purpose, objectives, activities and the identity of persons who own and control or direct the NPO be included in the Register. The information in the Register can be obtained by any person during normal business hours. (Section 4(4) of the NPOR). The FSC as supervisor of the NPO sector will monitor and ensure compliance. There was no information provided by Anguilla with regard to an AML/CFT Code specifically for NPOs.

## **Special Recommendation IX**

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<sup>3</sup> Based on the definition at Section 1 of the NPOR, NPOs are exempt where their gross annual income does not exceed \$5,000 and the assets do not exceed \$10,000 in value.

25. The Anguillan Authorities have removed the incorrect signage with regard to the declaration at ports of entry as required by the Examiners. With regard to the Examiners' recommendation to have the POCA amended to include measures specifically pertaining to the seizure of cash and bearer negotiable instruments at Anguilla's borders the Authorities have noted that the Customs (Amendment) Act, 2010, which was passed on 24 September 2010, specifically requires the declaration of cash and bearer negotiable instruments at the border (including post offices). This recently enacted amendment comes into force on September 30, 2010. The development of the electronic form discussed above at Rec. 32 will also facilitate this measure.

### **III. Conclusion**

26. Anguilla's recently enacted POCA (2009) has been implemented with regard to the ML charges that have been laid and the enforcement of an external forfeiture order in a mutual legal assistance matter with Denmark. None of the outstanding Core Recommendations (Recs. 5, 13 and SR. IV) have been met, since the relevant amendment legislation is still being considered. With regard to the Key Recommendations, Rec. 23 has been partially met, while Rec. 26 has not been met. Of the remaining recommendations, two have been met (SR. VIII & IX), two have been partially met (Recs. 25 & 16), two have been substantially not met (Recs. 30 & SR. VI) and nine (Recs. 9, 14, 17, 20, 21, 24, 25, 29, 32, SR. IV, &SR. VII) have not been met.
27. Based on the assessment, the majority of the outstanding Core and Key Recommendations have not been met. Most of the non- Core or Key Recommendations are still to be dealt with. However, legislative amendments are being considered in the near future to address most of the noted deficiencies. Further, Anguilla has had a history of quick and effective passage of their legislation. For example, Anguilla has since the Evaluation enacted the NPO Regulations and amended the Customs Act with regard to SR. IX. Consequently it is recommended that Anguilla report back to the November 2011 Plenary, which should afford them the necessary time to fully comply with the outstanding Examiners' recommendations.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation  
Anguilla**

<b>FATF 40+9</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Anguilla</b>
<b>Legal systems</b>				
1. ML offense	LC	There have been no ML prosecutions under the POCA, thus effectiveness cannot be duly determined.	<ul style="list-style-type: none"> <li>The Anguillan Authorities should ensure that the relevant bodies engage in consistent and apposite training on the ML provision of the POCA with the aim of obtaining ML prosecutions and convictions.</li> </ul>	<ul style="list-style-type: none"> <li>Since POCA was passed, 11 charges of money laundering have been laid in the Court. It is anticipated that 3 additional charges will be brought to Court in the near future.</li> </ul>
2. ML offense–mental element and corporate liability	LC	There have been no ML prosecutions under the POCA, thus effectiveness cannot be duly determined.		
3. Confiscation and provisional measures	LC	There have been no confiscations, restraints and/or or seizures under the POCA or the CFT legislation, thus effectiveness cannot be duly determined.	<ul style="list-style-type: none"> <li>The police/FIU should endeavour to make use of the restraint, confiscation and other measure in the POCA and the anti-terrorism legislation.</li> </ul>	<ul style="list-style-type: none"> <li>Since its passage in July 2009, the Reporting Authority, through the FIU, has made 31 requests under section 118(2)(b) for information supplementary to SARs, with full compliance from the institutions.</li> <li>On the 18th of May, Anguilla received word from Denmark that a conviction had been obtained and a forfeiture order entered with regard to \$1.2 million USD currently frozen in Anguillan accounts . The necessary documentation has recently been received from Denmark and, when the Court reconvenes after the summer holiday, the Danish Forfeiture Order will be enforced in Anguilla as an external order pursuant to Schedule 3 of the POCA.</li> </ul>
<b>Preventive measures</b>				
4. Secrecy laws consistent with the Recommendations	LC	Information sharing by the FSC with foreign regulators could be subject to court override.	<ul style="list-style-type: none"> <li>The Anguillan Authorities should consider reviewing Section 20 of the FSC Act to ensure that there is no impediment to the sharing of information as contemplated by the FATF.</li> </ul>	<ul style="list-style-type: none"> <li>Application of FSC Act s. 20 will be modified by the FSC (Amendment) Act, 2010, which the Authorities anticipate will be passed in the very near future. Specifically, a new section 20A provides, in pertinent part, as follows—   <b>“Effect of application to set notice aside</b>            20A. (1) An application to the Court under section 20(7) does not relieve a person from compliance with the notice issued by the Commission.            I. ...</li> </ul>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation  
Anguilla**

<b>FATF 40+9</b>	<b>Rat -ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Anguilla</b>
				<p>(3)Where this subsection applies, notwithstanding section 24(3), the Commission shall not disclose to any other person any information provided, or documentation produced, to it in compliance with the notice to which the application or intended application relates—</p> <ul style="list-style-type: none"> <li>(a) unless required or permitted to do so by the Court, whether on the application of the Commission or otherwise; or</li> <li>(b) as permitted by subsection (4).</li> </ul> <p>(4)The Commission may disclose information or documentation to which subsection (3) relates if it has reasonable grounds for believing that the immediate disclosure of the information or documentation is necessary—</p> <ul style="list-style-type: none"> <li>(a) to protect and preserve assets, or the value of assets, that are in jeopardy; or</li> <li>(b) to assist in the prevention of the commission of an offence, whether in or outside Anguilla.</li> </ul> <p>II. ...</p> <p>(8)Nothing in this section affects the disclosure of any information or documentation by the Commission prior to the receipt of a notice under subsection</p>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation  
Anguilla**

<b>FATF 40+9</b>	<b>Rat -ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Anguilla</b>
				<p>(2)(a) or the service of the application under subsection (2)(b).”</p> <p>In effect, a legal challenge does not relieve a person from compliance with the request. A person may still apply to the court to keep the FSC from further disclosing the information provided. However, the FSC may nevertheless immediately disclose the information if it has reasonable grounds for believing that the disclosure is necessary to assist in the prevention of the commission of an offence, whether that offence takes place within or outside Anguilla.</p>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation  
Anguilla**

<b>FATF 40+9</b>	<b>Rat -ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Anguilla</b>
5. Customer due diligence	PC	<p>Effectiveness cannot be assessed due to the recent passage of the POCA, Regulations and the Code.</p> <p>The regime for the supervision of and sanction powers for domestic banks and their off-shore subsidiaries ambiguous.</p> <p>No requirement in the Regulations or Code that enhanced due diligence be applied to private banking, trusts that operate as personal holding vehicles and nominee arrangements.</p>	<ul style="list-style-type: none"> <li>The Regulations and Code should expressly prohibit numbered accounts or alternatively, specify how these should be treated.</li> <li>Regulations and Code should include private banking, trusts that operate as personal asset holding vehicles and nominee arrangements as cases in which it is recommended that enhanced due diligence be applied.</li> <li>For clarity, the Authorities should consider providing specific guidance as it relates to the application of reduced or simplified CDD measures, as a result of required risk assessment by service providers.</li> <li>The Authorities should clarify the legal framework for the application of administrative sanctions by the FSC, as it relates to domestic banks.</li> </ul>	<ul style="list-style-type: none"> <li>Amendment of AML/CFTR section 15 to add a definition of “anonymous account” that expressly includes numbered accounts is under consideration by the Authorities. The addition of such a definition would make it clear that numbered accounts are expressly prohibited. It is anticipated that drafting of an amending regulation will commence in the near future.</li> <li>The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement.</li> <li>The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010.</li> <li>Amendment of AML/CFTR section 12, relating to enhanced CDD measures and on-going monitoring is under consideration by the Authorities. It is anticipated that drafting of an amending regulation will commence in the near future.</li> </ul>
6. Politically exposed persons	LC	<p>Effectiveness of implementation cannot be assessed given the recent passage of the Regulations and Code compounded by the limited human resource capacity both in the FSC and at most service providers in this area.</p>	<ul style="list-style-type: none"> <li>The Anguillan Authorities should consider including domestic PEPs in the AML/CFT framework.</li> <li>The Anguillan Authorities should consider having the United Kingdom extend the United Nations Convention against Corruption to their jurisdiction.</li> </ul>	
7. Correspondent banking	LC	<p>Effectiveness of implementation cannot be assessed given the recent passage of the Code, however the risk as it relates to cross-border correspondent banking in the jurisdiction is low.</p> <p>Cross-border correspondent banking requirements do not extend to other financial institutions that may engage in similar cross-border relationships.</p>	<ul style="list-style-type: none"> <li>The Anguillan Authorities should consider extending the requirements with regard to cross-border correspondent banking to other financial institutions that may engage in similar cross-border relationships.</li> </ul>	
8. New technologies & non face-to-face	LC	<p>Effectiveness cannot be assessed due to the recent passage of the POCA, Regulations and the Code.</p>	<ul style="list-style-type: none"> <li>The Regulations and or Code should provide for specific guidance (in line with Basel paper on Risk Management Principles for Electronic Banking) on</li> </ul>	

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business			measures to be applied in the delivery of electronic services to effectively mitigate the risk of ML/TF through this delivery channel.	
9. Third parties and introducers	PC	<p>Effectiveness cannot be assessed due to the recent passage of the POCA, Regulations and Code.</p> <p>No requirement for financial institutions to immediately obtain necessary information on the elements of the CDD process in criteria 5.3 to 5.6.</p> <p>High level of inherent risks presented by an introducer chain.</p>	<ul style="list-style-type: none"> <li>The Anguillan Authorities should amend the Code or Regulations to require financial intuitions to immediately obtain CDD information (E.C. 5.3 to 5.6) from Introducers.</li> <li>The Anguillan Authorities should consider amending the Regulations or Code to include the requirement that a service provider accept introduced business solely from an introducer or intermediary who itself has face to face contact when completing CDD measures on which the service provider rely.</li> </ul>	<ul style="list-style-type: none"> <li>Amendment of AML/CFTC section 26(1)(e), relating to information to be obtained where the service provider intends to rely on an intermediary, is under consideration by the Authorities. It is anticipated that drafting of the recommended amendments to the AML/CFTC will commence in the near future.</li> </ul>
10. Record keeping	LC	Effectiveness cannot be assessed due to recent passage of the POCA, Regulations and Code.		
11. Unusual transactions	LC	Effectiveness cannot be assessed due to recent passage of the POCA, Regulations and Code.		
12. DNFBP–R.5, 6, 8-11	PC	<p>Due to the recent enactment of the AML &amp; CFT Code, effective implementation of AML/CFT measures as they relate to all DNFBPs cannot be assessed.</p> <p>Deficiencies noted in Recs, 5, 6, 8-11, are also applicable to DNFBPs</p>	<ul style="list-style-type: none"> <li>Deficiencies identified for all regulated businesses as noted for Recommendations 5, 6, 8-11 in the relevant sections of this report are also applicable to DNFBPs</li> <li>The outreach and training for DNFBPs, especially those which were not previously licensed by the FSC should be enhanced.</li> <li>Supervision of the entire DNFBP sector should commence without delay.</li> </ul>	<ul style="list-style-type: none"> <li>An AML/CFT and Legal Services Unit has been established within the FSC. Responsibilities include implementation of a regulatory regime for NPOs and DNFBPs.</li> <li>Regulations specific to DNFBPs are in the final stages of the drafting process. Authorities anticipate they will come into effect in the very near future.</li> <li>The FSC has developed an outreach plan for DNFBPs, including a series of handshake visits by the Commission, a formal training programme jointly conducted with the FIU, and a brochure for DNFBPs will be posted to the FSC website. This plan will be implemented immediately on the coming into force of the DNFBP Regulations.</li> </ul>
13. Suspicious transaction reporting	PC	<p>No explicit requirement to include attempted transaction in SARs.</p> <p>Issues regarding the effective implementation of sanctions.</p>	<ul style="list-style-type: none"> <li>The Regulations or Code should be amended to make mandatory the requirement for the MLRO of a service provider to make a report to the Reporting Authority with regard to attempted transactions.</li> <li>The Authorities should clarify the legal framework</li> </ul>	<ul style="list-style-type: none"> <li>Amendment of AML/CFTC section 30 to add a provision removing the MLRO's discretion in the event of an attempted transaction is under consideration by the Authorities. Such a provision would make it clear that the MLRO is required to report all attempted transactions, regardless of the</li> </ul>

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			<p>for the application of administrative sanctions by the FSC, as it relates to domestic banks.</p> <ul style="list-style-type: none"> <li>• Service providers should be provided with specific guidance as to how to treat with breaches that involve tax matters.</li> </ul>	<p>amount, to the Reporting Authority. It is anticipated that drafting of the recommended amendments to the AML/CFTC will commence in the near future.</p> <ul style="list-style-type: none"> <li>• The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement.</li> <li>• The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010.</li> </ul>

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14. Protection & no tipping-off	PC	<p>Tipping-off offence not applicable to SARs that are being reported to the FIU.</p> <p>No explicit protection for financial institutions, their directors and employees from criminal or civil liability for breach of contract etc. for reporting suspicious transactions.</p>	<ul style="list-style-type: none"> <li>The relevant legislation should be amended so that the offence of tipping-off is applicable where a SAR is being reported.</li> <li>The relevant legislation should be amended to make explicit the protection provided to financial institutions, their directors and employees from criminal or civil liability for breach of any restriction on disclosure of information, breach of contract etc. for reporting their suspicion in good faith.</li> </ul>	<ul style="list-style-type: none"> <li>KEAmendment of the POCA section 131(2)(a) is under consideration by the Authorities. Such an amendment would adjust the verb tense so that a disclosure in the process of being made, as opposed to one that has been made, would be captured as well. It is anticipated that drafting of the recommended amendments to the POCA will commence upon resolution of the issues arising from the relationship between the FSC and the ECCB/ECSRC.</li> </ul>
15. Internal controls, compliance & audit	LC	<p>No requirement to maintain an adequately resourced and independent audit function to test AML/CFT compliance.</p> <p>No provision for other appropriate staff to have timely access to customer identification data and other CDD information.</p>	<ul style="list-style-type: none"> <li>The Regulations and or Code should be amended to include a requirement to maintain an adequately resourced, independent internal audit function to test compliance (including sample testing) with a service providers AML/CFT framework.</li> <li>Appropriate staff other than the MLCO should have timely access to customer identification data and other CDD information. .</li> </ul>	<ul style="list-style-type: none"> <li>AML/CFTR section 20 and AML/CFTC section 8 are under review to determine what amendments might be made to clarify the existing provisions that establish the requirement to maintain an adequately resourced, independent internal audit function to test compliance.</li> <li>Amendment of AML/CFTC section 34, relating to the manner in which records are kept, is under consideration by the Authorities. It is anticipated that drafting of the recommended amendments to the AML/CFTC will commence in the near future.</li> </ul>
16. DNFBP–R.13-15 & 21	PC	<p>Deficiencies identified for financial institutions for R13, R15 and R21 in sections 3.7.3, 3.8.3 and 3.6.3 of this Report are also applicable to DNFBPs.</p> <p>Due to the recent enactment of the Code, it is difficult to assess whether all DNFBPs have been filing STRs and SARs.</p> <p>DNFBPs are not required to file SARs on attempted suspicious transactions regardless of the amount of the transaction.</p>	<ul style="list-style-type: none"> <li>The AML &amp; TF Code should be amended to include attempted transactions.</li> <li>Other recommendations set out in section 3.7 of this Report as they relate to Recommendation 13 would also pertain to this section.</li> </ul>	<ul style="list-style-type: none"> <li>Amendment of AML/CFTC section 30 to add a provision removing the MLRO’s discretion in the event of an attempted transaction is under consideration by the Authorities. Such a provision would make it clear that the MLRO is required to report all attempted transactions, regardless of the amount, to the Reporting Authority. It is anticipated that drafting of the recommended amendments to the AML/CFTC will commence in the near future.</li> <li>An AML/CFT and Legal Services Unit has been established within the FSC. Responsibilities include implementation of a regulatory regime for NPOs and DNFBPs.</li> <li>Regulations specific to DNFBPs are in the final stages of the drafting process. Authorities anticipate they will come into effect in the very near future.</li> </ul>

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				<ul style="list-style-type: none"> <li>• The FSC has developed an outreach plan for DNFBPs, including a series of handshake visits by the Commission, a formal training programme jointly conducted with the FIU, and a brochure for DNFBPs will be posted to the FSC website. This plan will be implemented immediately on the coming into force of the DNFBP Regulations.</li> <li>• By application of section 24(2)(c) of the AML/CFTR, the requirement for DNFBPs to file SARs on attempted suspicious transactions came into effect as of 1 November 2009.</li> </ul>

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17. Sanctions	PC	<p>The ECCB does not have the power to sanction for AML/CFT breaches.</p> <p>System for levying administrative fines on domestic banks and their offshore banking subsidiaries for breaches of the POCA, Regulations and Code may be ineffective.</p> <p>The ECSRC does not have the power to sanction for AML/CFT breaches.</p> <p>The ECCB may only apply sanctions where breaches were discovered during an examination.</p> <p>The sanction powers available to the ECCB are not congruent to those available under the POCA framework for AML/CFT breaches.</p> <p>Applicable sanctions under the POCA and the Code are fairly new therefore effectiveness cannot be properly tested.</p>	<ul style="list-style-type: none"> <li>The Authorities should clarify the framework for the application of sanctions (including the levying of administrative fines on domestic banks and their offshore banking subsidiaries), given that all AML/CFT supervisory and sanction powers are vested in the FSC, which has no delegation powers in this regard.</li> <li>The Banking Act should be amended so that ECCB could be granted the power to apply sanctions for AML/CFT breaches.</li> <li>The Securities Act should be amended so that the ECSRC could be granted the power to apply sanctions for AML/CFT breaches.</li> </ul>	<ul style="list-style-type: none"> <li>The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement.</li> <li>The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010.</li> <li>Amendment of the Banking Act is addressed in the FSC's paper referred to above and will be considered by the parties.</li> <li>Amendment of the Securities Act is addressed in the FSC's paper referred to above and will be considered by the parties.</li> </ul>
18. Shell banks	C	This Recommendation has been fully observed.	The Anguillan Authorities should consider including an explicit prohibition of shell banks in the Regulations or Code.	Shell banks are explicitly prohibited in law by the Prohibition of Licensing of Shell Banks Regulations, 2009 (No. 26 of 2009); made by the Governor in Council on 24 September, and effective from 30 September, 2009.
19. Other forms of reporting	C	This Recommendation is fully observed.		
20. Other NFBP & secure transaction techniques	NC	<p>The two institutions identified by the authorities as being at risk for AML/CFT are not subject to the requirements of Recommendations 5, 6, 8, 11, 13 – 15, 17 and 21.</p> <p>The Payment Systems Bill has not yet been implemented.</p>	<ul style="list-style-type: none"> <li>All institutions other than DNFBS and designated financial institutions, which pose a potential AML/CFT risk should be required to adhere to the FATF AML/CFT requirements.</li> <li>Lotteries in particular should be subject to licensing and supervisory requirements.</li> <li>The Payment Systems Bill should be implemented</li> </ul>	<ul style="list-style-type: none"> <li>The internet platform for securities training has been informed by the FSC of the need to be licensed by the ECSRC without delay.</li> <li>The Authorities are actively considering application of AML/CFT requirements to lotteries</li> </ul>

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			without delay.	

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21. Special attention for higher risk countries	PC	<p>Service providers only required to apply enhanced CDD and ongoing monitoring regarding dealings and transactions with countries with weak AML/CFT systems.</p> <p>Effectiveness cannot be assessed due to recent passage of the POCA, Regulations and Code.</p>	<ul style="list-style-type: none"> <li>Regulation 22 should be amended to authorise the relevant authorities to require service providers to take appropriate actions or counter-measures for countries that do not apply or insufficiently apply the FATF Recommendations.</li> <li>The Anguillan Authorities should consider a wider range of counter-measures that should be taken against countries that fail to apply appropriate AML/CFT standards.</li> </ul>	<ul style="list-style-type: none"> <li>Amendment of AML/CFTR section 22 is under consideration by the Authorities. It is anticipated that drafting of the recommended amendments to the AML/CFTR will commence in the near future.</li> </ul>
22. Foreign branches & subsidiaries	C	This Recommendation has been fully observed.		
23. Regulation, supervision and monitoring	PC	<p>Fit and Proper requirements do not currently apply to money service providers and credit unions</p> <p>Financial Co-operatives (Credit Unions) are not supervised for AML/CFT compliance.</p> <p>Lack of legal jurisdiction by the ECCB to effectively supervise AML/CFT implementation in domestic banks and their offshore subsidiary banks.</p> <p>The ECSRC does not conduct onsite inspections of any kind on its licensees and lacks power to inspect and sanction for AML/CFT purposes.</p> <p>The ECCB cannot directly share information with the FSC on AML/CFT matters pertaining to licensees without an MOU.</p> <p>MSBs are not yet subject to a licensing regime.</p>	<ul style="list-style-type: none"> <li>The POCA and its attendant Regulations should make clear the role of the ECCB as it relates to the supervision of AML/CFT implementation in domestic banks and other financial institutions licensed under the Banking Act.</li> <li>The Directors, Senior Managers and Shareholder controllers of Money Services Businesses and Financial Co-operatives should be subject to a fit and proper test at the time of licensing.</li> <li>Financial Co-operatives should be supervised for AML/CFT compliance.</li> </ul>	<ul style="list-style-type: none"> <li>The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement.</li> <li>The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010.</li> <li>Amendment of the POCA and its attendant Regulations is addressed in the FSC's paper referred to above. Whether such an amendment is necessary and the extent of any such amendment will be dependant on the outcome of the decisions taken by the ECCB and other parties to the ECCB Agreement.</li> <li>Two of the four Money Services Businesses operating on Anguilla have become licensed under the MSB Act. As such, they were subjected to the fit and proper test. The FSC is actively working with the remaining companies to complete application process.</li> <li>Amendment of the Co-operative Societies Rules to impose fit and proper requirements on committee members and treasurers is under consideration by the Authorities.</li> <li>The Anguillan Authorities are considering a</li> </ul>

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				<p>harmonized draft of new Co-operative Societies legislation. Such legislation would make Anguilla's only co-operative society a "service provider" for the purposes of the AML/CFT legislation and would bring them under the supervision of the FSC for AML/CFT compliance.</p>

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24. DNFBP - regulation, supervision and monitoring	PC	<p>Unable to assess effective implementation of the Code due to its recent enactment.</p> <p>DNFBPs which are not licensed by the FSC are not monitored for compliance with AML/CFT statutes.</p> <p>Resources available to the FSC are inadequate to allow for proper supervision of the DNFBP sector.</p>	<ul style="list-style-type: none"> <li>• Training and outreach to the DNFBP sector should continue.</li> </ul>	<ul style="list-style-type: none"> <li>• An AML/CFT and Legal Services Unit has been established within the FSC. Responsibilities include implementation of regime for NPOs and DNFBPs.</li> <li>• Regulations specific to DNFBPs are in the final stages of the drafting process. Authorities anticipate they will come into effect in the very near future.</li> <li>• Once the DNFBP Regulations are in effect, the FSC will implement its outreach plan, including a series of handshake visits by the Commission, a formal training programme jointly conducted with the FIU, and a brochure for DNFBPs will be posted to the FSC website.</li> </ul>
25. Guidelines & Feedback	PC	<p>No general feedback given with regard to SARs statistics, current techniques, methods, typologies and trends.</p> <p>The Guidance Notes do not contain sector specific information.</p> <p>The effectiveness of the newly issued Guidance provided in the Code could not be assessed due to the recent passage of the Code.</p> <p>Unable to assess effective implementation of the Code due to its recent enactment.</p>	<ul style="list-style-type: none"> <li>• Sector specific guidance on money laundering and terrorist financing should be placed in the Guidance Notes.</li> <li>• The review of the FSCA should commence as soon as possible and the range of sanctions available to the FSC be made more proportional and dissuasive.</li> </ul>	<ul style="list-style-type: none"> <li>• The FIU has published its Annual Report for 2009, which contains general feedback, including statistics and information on current techniques, methods and trends or typologies.</li> <li>• Review of the FSC Act has been completed and an Amending Act is in the final stages of the drafting process. It is anticipated that this Act will be passed in the very near future.</li> </ul>
<b>Institutional and other measures</b>				
26. The FIU	PC	<p>The FIU is not an autonomous body.</p> <p>Office space not sufficient at the FIU to adequately accommodate the staff.</p> <p>Amount of FIU staff not sufficient to allow inclusion of the DNFBPs in the regulatory regime.</p>	<ul style="list-style-type: none"> <li>• The Anguillan Authorities should consider enacting separate legislation for the creation and functions of the FIU so as to alleviate the problem with autonomy.</li> </ul>	

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		No fire resistant filing cabinets for the storage of the SARs.		

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27. Law enforcement authorities	C	This Recommendation has been fully observed.		
28. Powers of competent authorities	C	This Recommendation has been fully observed.		
29. Supervisors	PC	<p>The FSC which is responsible for ensuring AML/CFT compliance does not monitor the domestic banking sector, which is the largest component of the financial sector in Anguilla.</p> <p>The ECCB which does conduct the onsite inspections (though it does not have the authority to do so), does not share the information directly with the FSC.</p> <p>The FSC does not ensure that recommendations for remedial action as set out in the ECCB's report are implemented.</p> <p>The ECCB has no legal authority to conduct onsite AML/CFT inspections.</p> <p>The ECSRC has no authority to conduct onsite AML/CFT inspections.</p>	<ul style="list-style-type: none"> <li>The Banking Act should provide that the ECCB can examine licensees to ascertain compliance with other statutes that apply to these entities, especially where AML/CFT is concerned.</li> <li>The Banking Act should be amended so that ECCB could be granted the power to apply sanctions for AML/CFT breaches.</li> <li>The ECSRC should be expressly given the authority to supervise its licensees for AML/CFT.</li> <li>The MSB Act should be implemented without delay.</li> </ul>	<ul style="list-style-type: none"> <li>The FSC has prepared a paper addressing the need to resolve this matter, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement.</li> <li>The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010.</li> <li>Amendment of the Banking Act is addressed in the FSC's paper referred to above and will be considered by the parties.</li> <li>Amendment of the Securities Act is addressed in the FSC's paper referred to above and will be considered by the parties.</li> <li>Two of the four Money Services Businesses operating on Anguilla have become licensed under the MSB Act. The FSC is actively working with the remaining companies to complete application process.</li> </ul>
30. Resources, integrity and training	PC	<p>Insufficient training for Customs in cross-border issues and financial investigations.</p> <p>Insufficient office space for the FIU.</p> <p>Lack of sufficient staff to properly review additional sectors.</p> <p>SARs not maintained in fire resistant filing cabinets.</p>	<ul style="list-style-type: none"> <li>Customs should be provided more training in cross – border issues, and financial investigations, and asset forfeiture.</li> <li>The FIU should expand its offices to accommodate the current staff and any future increases in staff.</li> <li>Anguilla should obtain additional staff at the FIU to prepare for the inclusion of the DNEFBPs in the regulations and such staff should include a dedicated legal advisor.</li> <li>The FIU should be provided with fire resistant filing cabinets for the storage of their SARs.</li> <li>The staff of the FIU should be provided with</li> </ul>	<ul style="list-style-type: none"> <li>Customs officers (including Deputy Comptroller) received training in recognition of cash connected with drug cartels on 21 July 2010.</li> <li>All Customs officers received training in risk assessment during the week of 17 August and the first week of September 2010. A risk assessment team will be formed in the near future to ensure effective implementation of risk assessment techniques.</li> <li>Authorities are considering secondment of legal counsel to the FIU.</li> <li>The Financial Services Commission has, as of March 2010, established a dedicated AML/CFT and</li> </ul>

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		<p>Insufficient training in AML/CFT for prosecutors and the Judiciary.</p> <p>Insufficient staff at the FSC, given the number of financial institutions to be supervised.</p>	<p>training in advanced financial investigations, civil and criminal forfeiture provisions and terrorist financing.</p> <ul style="list-style-type: none"> <li>• The Anguillan Authorities should provide prosecutors and Judges with training in financial investigations, civil/criminal forfeiture, money laundering and terrorist financing.</li> <li>• The Anguillan Authorities should consider amending the POCA to make clear the institutional arrangements between, and the roles and functions of, the policy making MLRA and the operational FIU.</li> <li>• The FSC should be provided with additional staff so as to adequately meet its supervisory functions for all the financial institutions under its supervision.</li> </ul>	<p>Legal Services Unit, whose responsibilities include implementation of the regulatory regime for NPOs and DNFBPs.</p> <ul style="list-style-type: none"> <li>• On September 30, 2010 a one day training session was held pertaining to financial services, AML/CFT and proliferation financing. The training was attended by two (2) members of the Attorney General's Chambers, two (2) members of the FSC, a member of the FIU and the Head of the Governor's Office.</li> </ul>

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31. National cooperation	C	This Recommendation has been fully observed.		
32. Statistics	PC	<p>Customs does not maintain statistics on cross-border transportation of currency and bearer negotiable instruments.</p> <p>No statistics maintained on cross-border incidents prior to 2008.</p>	<ul style="list-style-type: none"> <li>• Customs should maintain statistics regarding cross-border transportation of currency and bearer negotiable instruments.</li> <li>• Customs should ensure that all cross-border incidents be reported and documented on the OTRIS system, thus providing continued and timely access to this information by Police, the FIU and other competent authorities.</li> <li>• The FIU should put in place the appropriate mechanisms to allow for the collection and analysis of statistics on wire transfers carried out by the financial institutions.</li> </ul>	<ul style="list-style-type: none"> <li>• An electronic form consistent with the Report of International Transportation of Currency or Monetary Instrument has been programmed into the OTRICS system, enabling access to the information obtained by the Police, FIU and other competent authorities. This new programming is currently undergoing beta testing and it is anticipated that it will be fully operational in the very near future.</li> </ul>
33. Legal persons–beneficial owners	C	This Recommendation has been fully observed.		
34. Legal arrangements – beneficial owners	LC	There have been no onsite examinations/information requests of independent legal professionals (with respect to trusts), or in respect of foundations to duly determine the effectiveness of access, by competent authorities, to required information.	<ul style="list-style-type: none"> <li>• It is recommended that the registration of a trust be made mandatory by law. This would allow the competent authorities at a minimum, to be duly aware of all trusts (and their accompanying due details) existent in Anguilla.</li> </ul>	
<b>International Cooperation</b>				
35. Conventions	LC	The Palermo Convention and the 1999 Terrorist Financing Convention have not been duly extended to Anguilla.	<ul style="list-style-type: none"> <li>• Anguilla should request, forthwith, extension of the said un-extended Conventions.</li> </ul>	
36. Mutual legal assistance (MLA)	C	This Recommendation is fully observed.		
37. Dual criminality	C	This Recommendation is fully observed.		
38. MLA on confiscation and freezing	C	This Recommendation has been fully observed.		
39. Extradition	LC	There have been no extradition requests to duly determine the effectiveness of MLA in this regard.		
40. Other forms of co-	C	This Recommendation has been fully observed.		

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operation				
<b>9 Special Recommendations</b>				
SR.I Implement UN instruments	LC	The 1999 Terrorist Financing Convention has not been duly extended to Anguilla.		
SR.II Criminalize terrorist financing	LC	There have been no FT investigations or prosecutions under the CFT legislation, thus effectiveness cannot be duly determined.		
SR.III Freeze and confiscate terrorist assets	LC	There have been no restraints orders made with regard to FT thus effectiveness cannot be duly determined.	<ul style="list-style-type: none"> <li>The Authorities in Anguilla should duly arrange a less vulnerable process of listing and de-listing.</li> </ul>	
SR.IV Suspicious transaction reporting	PC	<p>No explicit requirement to include attempted transactions in STR.</p> <p>Issues regarding the effective implementation sanctions.</p>	<ul style="list-style-type: none"> <li>The Regulations or Code should be amended to make mandatory the requirement for the MLRO of a service provider to make a report to the Reporting Authority with regard to attempted transactions re financing of terrorism.</li> </ul>	<ul style="list-style-type: none"> <li>Amendment of AML/CFTC section 30 to add a provision removing the MLRO's discretion in the event of an attempted transaction is under consideration by the Authorities. Such a provision would make it clear that the MLRO is required to report all attempted transactions, regardless of the amount, to the Reporting Authority. It is anticipated that drafting of the recommended amendments to the AML/CFTC will commence in the near future.</li> </ul>
SR.V International cooperation	LC	<p>There have been no MLA requests under the CFT legislation, thus the effectiveness of rendering MLA thereunder cannot be duly determined.</p> <p>There have been no extradition requests in relation to the FT, thus effectiveness cannot be duly determined</p>	<ul style="list-style-type: none"> <li>The Anguillan Authorities should criminalise the commission of terrorist acts as particularized and free standing crimes.</li> </ul>	<ul style="list-style-type: none"> <li>Research for precedents of similar legislation has begun.</li> </ul>
SR.VI AML requirements for money and value transfer services	PC	<p>Money Services Business Act not yet implemented, therefore MVT operators are not licensed under the Act.</p> <p>No requirement for licensed or registered MVT operators to maintain a current list of agents.</p> <p>Penalties lack specificity and proportionality, thereby</p>	<ul style="list-style-type: none"> <li>All existing MVTs service operators should be licensed under the new MSBA without delay.</li> <li>Licensed MVT service operators should be required to maintain a current list of agents. Such a list should be made available for inspection by the FSC.</li> <li>Section 17(3) of the MSBA should refer to mandatory obligations under both AML and CFT enactments.</li> </ul>	<ul style="list-style-type: none"> <li>Two of the four Money Services Businesses operating on Anguilla have become licensed under the MSB Act. The FSC is actively working with the remaining companies to complete application process.</li> <li>Licensed MVT service operators are required by Section 9 of the MSB Act requires that an MSB may only carry out business at the location identified in its licence or approved by the Authority</li> </ul>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation  
Anguilla**

<b>FATF 40+9</b>	<b>Rat -ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Anguilla</b>
		undermining their effectiveness and dissuasiveness.		<p>(the FSC). Any change in locations (whether by adding or terminating an agency relationship) must be notified to the FSC. As noted above, two of the four MVT service operators in Anguilla are licensed and the FSC is actively working to licence the remaining 2.</p> <ul style="list-style-type: none"> <li>• A request for such amendment has been made to the Legislative Drafting Unit.</li> </ul>

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SR.VII Wire transfer rules	PC	<p>No requirement for each intermediary and beneficiary financial institution in the payment chain to ensure that full originator information accompanies transfer.</p> <p>Effectiveness cannot be assessed due to recent passage of the POCA, Regulations and the Code and the limited supervisory actions that have been taken.</p> <p>The regime for supervision and sanction powers for domestic banks and their offshore subsidiaries are ambiguous.</p>	<ul style="list-style-type: none"> <li>The Code should explicitly address the issue of a payment chain that may include a series of intermediaries and beneficiary financial institutions whereby each party in the payment chain should be required to ensure that full originator that accompanies a wire transfer is transmitted with the transfer.</li> <li>The regime for supervision and sanction powers for domestic banks and their offshore subsidiaries should be clarified.</li> </ul>	<ul style="list-style-type: none"> <li>The FSC has prepared a paper addressing the need to resolve the ambiguities relating to supervision and sanction powers for domestic banks and their offshore subsidiaries, and other related issues, and circulated same to the ECCB and other countries who subscribe to the ECCB Agreement.</li> <li>The matter of regulatory collaboration with ECCB/ECSRC/FSC had been afforded a confirmed place on the agenda of the ROC regional video conference scheduled for September 03, 2010.</li> </ul>
SR.VIII Nonprofit organizations	NC	<p>No supervisory programme in place to ensure compliance with AML/CFT legislation.</p> <p>All NPOs are not registered therefore the relevant information on all NPOs is not publicly available.</p> <p>Existing NPOs not required to adhere to AML/CFT legislation.</p> <p>No specified period for all NPOs to keep records.</p> <p>Unable to assess the effectiveness of domestic cooperation due to the current status of the NPO sector.</p>	<ul style="list-style-type: none"> <li>The Anguillan Authorities should undertake an outreach programme to the NPO sector with a view to protecting the sector from terrorist financing abuse.</li> <li>The Anguillan Authorities should ensure that AML/CFT policies which specifically pertain to the NPO sector are finalized and implemented without delay.</li> <li>Outreach programs which include AML/CFT training should be devised to provide instruction for the NPO sector.</li> <li>A supervisory authority for the NPO sector should be designated without delay.</li> <li>A mandatory registration/licensing system for all NPOs should be implemented as soon as possible.</li> <li>The purpose and objectives of all NPOs should be publicly known.</li> <li>NPOs should be required to adhere to the AML/CFT legislation.</li> <li>The AML/CFT Code specifically for NPOs should be finalized and implemented without delay.</li> </ul>	<ul style="list-style-type: none"> <li>An AML/CFT and Legal Services Unit has been established within the FSC. Responsibilities include implementation of a regulatory regime for NPOs and DNFBPs.</li> <li>Implementation of the NPO outreach programme is a high priority for the Unit and has included the following, to date: <ul style="list-style-type: none"> <li>a series of handshake visits by the Commission to NPOs during the month of August</li> <li>a formal training program jointly conducted with the FIU will take place September 8, 2010</li> <li>an informational brochure for NPOs has been posted to the FSC website at: <a href="http://www.fsc.org.ai/PDF/NPO%20Brochure.pdf">http://www.fsc.org.ai/PDF/NPO%20Brochure.pdf</a></li> </ul> </li> <li>NPO Regulations were signed and Gazetted on 28 May 2010. They include policies regarding required disclosures and record keeping.</li> <li>Part 2 of the NPO Regulations establishes the FSC as the supervisory authority and outlines its functions and duties as such. These specifically include monitoring for compliance with AML/CFT legislation.</li> <li>Section 5 of the NPO Regulations requires that all NPOs must be registered unless they are exempt. An NPO is exempt if its gross annual income does</li> </ul>

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				<p>not exceed \$5,000ECD and its assets do not exceed \$10,000ECD. The registration process is due to be fully implemented by 31 October 2010, as indicated by section 14.</p> <ul style="list-style-type: none"> <li>• Section 4(2) requires that the purpose and objectives, as well as the identity of the persons who own, control or direct the NPO shall be maintained in a public Register.</li> <li>• As noted above, NPOs will be monitored for compliance with AML/CFT legislation.</li> </ul>
SR.IX Cash Couriers	PC	<p>Cross-border transactions not yet computerized and therefore, not readily available to law authorities in Anguilla.</p> <p>No specialized training in anti-terrorism issues.</p>	<ul style="list-style-type: none"> <li>• Anguillan Authorities/H.M. Customs should remove the incorrect signage with regard to the declaration at its ports of entry.</li> <li>• Anguilla should include in their POCA a section specifically relating to the seizure of cash and bearer negotiable instruments at their borders.</li> </ul>	<ul style="list-style-type: none"> <li>• Incorrect signage has been removed; replacement signage will be ordered as soon as austerity measures are lifted.</li> <li>• Amendments proposed to the Customs Act providing specifically for the requirement to declare cash and bearer negotiable instruments at the border (including in the post) and for seizure of same. Amending Act to come into force 30 September 2010.</li> <li>• An electronic form consistent with the Report of International Transportation of Currency or Monetary Instrument has been programmed into the OTRICS system, enabling access to the information obtained by the Police, FIU and other competent authorities. This new programming is currently undergoing beta testing and it is anticipated that it will be fully operational in the very near future.</li> </ul>