



CARIBBEAN
FINANCIAL ACTION
TASK FORCE

Second Follow-Up Report

Dominica

20th May 2011

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DOMINICA: SECOND FOLLOW-UP REPORT

I. INTRODUCTION

1. This report represents an analysis of Dominica'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 Dominica was adopted by the CFATF Council of Ministers in October 2009 in the Netherlands Antilles. Dominica presented a follow-up report at the November 2010 Plenary in the Cayman Islands at which time it was determined that Dominica would be required to report at the May 2011 Plenary. Based on the review of actions taken by Dominica since its last follow-up report to meet the outstanding recommendations made by the Examiners, Plenary is being asked to consider whether Dominica should be allowed to continue in expedited follow-up or placed into the first stage of enhanced follow-up.
2. Dominica received ratings of PC or NC on thirteen (13) of the sixteen (16) Core and Key Recommendations as follows:

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

3. With regard to the other non-core or key Recommendations, Dominica was rated partially compliant or non-compliant as indicated below:

Partially Compliant (PC)	Non—Compliant (NC)
R. 9 (Third parties and introducers)	R. 6 (Politically exposed persons)
R. 11 (Unusual transactions)	R. 7 (Correspondent banking)
R. 15 (Internal controls, compliance & audit)	R. 8 (New technologies & non face-to-face business)
R. 20 (Other NFBP & secure transaction techniques)	R. 12 (DNFBP – R.5, 6, 8-11)
R. 22 (Foreign branches & subsidiaries)	R. 16 (DNFBP – R.13-15 & 21)
R. 27 (Law enforcement authorities)	R. 17 (Sanctions)
R. 28 (Powers of competent authorities)	R. 18 (Shell banks)
R. 29 (Supervisors)	R. 19 (Other forms of reporting)
R. 31 (National co-operation)	R. 21 (Special attention for higher risk countries)
R. 33 (Legal persons – beneficial owners)	R. 24 (DNFBP - regulation, supervision and monitoring)
R. 38 (MLA on confiscation and freezing)	R. 25 (Guidelines & Feedback)
SR. IX (IX Cross Border Declaration & Disclosure)	R. 30 (Resources, integrity and training)
	R. 32 (Statistics)
	R. 34 (Legal arrangements – beneficial owners)
	SR. VI (AML requirements for money/value transfer services)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organisations)

4. The following table is intended to assist in providing an insight into the level of risk in the main financial sector in Dominica.

Size and Integration of the jurisdiction's financial sector as at 30 September 2010

		Banks	Other Credit Institutions*	Securities	Insurance (Dec 08)	TOTAL
Number of institutions	Total #	7	15	Nil	14	36
Assets	US\$'000	635,863	228,974	Nil	137,929	1,002,766
Deposits	US\$'000	518,509	160,802	Nil	n/a	679,311
	% Non-resident	% of deposits	n/a	n/a	n/a	n/a
		n/a				
International Links	% Foreign-owned:	% of assets	% of assets	% of assets	% of assets	% of assets
		n/a	n/a	n/a	n/a	n/a
	#Subsidiaries abroad	n/a	n/a	n/a	n/a	n/a

II. SUMMARY OF PROGRESS MADE BY DOMINICA

5. Since its 1st follow-up report in November of 2010, Dominica reports that its progress has been to continue to improve on its draft legislation to satisfy the 16 Core and Key Recommendations. Reportedly, in light of the findings of the 1st follow-up report, and the submission of an analysis on Recommendation 11 and 13 and Special Recommendation IV, by the CFATF Secretariat and input from Dominica's Mutual Evaluation Programme (MEP) Working Group, another comprehensive review and comparative analysis of the existing legislation was conducted. The MEP Working Group consequently produced draft amendments to the 2001 Money Laundering (Prevention) Regulations in order to satisfy key aspects of the existing shortcomings relative to Recommendation 5. The MEP Working Group is also taking action to correct the shortcomings discerned with respect to Recommendations 35 and SR1.
6. Dominica has reported that it is intending to take before its Parliament, a Money Laundering Prevention Bill and Regulations, a Financial Intelligence Unit Bill and amendments to the Suppression of the Financing of Terrorism Act the Financial Services Act.
7. Notwithstanding the above, Dominica reports that it is continuing to show implementation of the existing MLPA by obtaining a Freeze Orders against assets valued at EC\$1.8 million, which includes a dwelling house and its contents and high value vehicles and cash. These Freeze Orders pertains to the ongoing court cases involving five (5) persons who were charged for money laundering offences.
8. Dominica has reported that there is only one legal draftsperson in the Attorney General's Chambers and it has recently received a technical assistance proposal from the OAS/CICAD. The Dominica FIU is currently discussing this proposal with OAS/CICAD.
9. No further new progress, since November 2010, was reported.

III. SECRETARIAT'S CONCLUSION

10. Dominica continues to be challenged in its efforts to implement the Examiners recommendations that are required to close the gaps discerned in its 3rd round MER. In the two years since the adoption of the MER the only concrete action taken to fix the noted deficiencies has been the criminalisation of the offences of piracy (pirates at sea), through the enactment of the Piracy Act No. 11 of 2010, and extortion through the amendment to the Theft Act No. 12 of 2010 and the enactment of the Money Services Act, No 8 of 2010, which authorises the FSU to regulate Money Services Businesses. In spite of the fact that Dominica had reported to the November 2010 Plenary that it had intended to take draft legislation and amendments to its Parliament before the end of 2010, since then, no concrete action has been taken to fix the noted deficiencies. Indeed, the sum total of its progress since then has been to further review and improve on the said drafts and amendments and to develop two new bills.
11. Given all of the above, the current absence of a timeline in which to anticipate progress, the length of time that has already passed since the adoption of the MER and the lack of progress to date, Plenary is being asked to consider placing Dominica into the first stage of enhanced follow-up and that a letter from the CFATF Chair be sent to relevant minister(s) in Dominica drawing their attention to the non compliance with the FATF Recommendations.

IV. DOMINICA'S CONCLUSION

12. In light of the above progress, the particular resource and capacity challenges confronting the jurisdiction, and undertakings given, Plenary is being asked to consider permitting Dominica to continue in Expedited Follow Up for a further period.

CFATF Secretariat
May 2011

ANNEX 1: SECOND FOLLOW UP REPORT SUBMITTED BY DOMINICA

Our jurisdiction has proceeded to improve on the draft legislation to satisfy the requirements of the FATF 16 Core and Key Recommendations based on the input of Mr. Clarke and comparative analysis conducted by our MEP Working Group using the Anguilla legislation as the main source of guidance. In this regard, focused attention was given to Recommendation 13, SR II and SR IV. The MEP Working Group has generated draft amendments to the Money Laundering (Prevention) Regulations SRO 14 of 2001 to satisfy the requirements of Recommendation 5.

Consequent upon the submission of the examiners, a Legal Officer has conducted a comprehensive review of our existing legislation to determine the extent of coverage of the Palermo, Vienna and Terrorist Financing Conventions and the MEP Working Group is in the process of taking the necessary corrective actions to satisfy Recommendations 35 and SR I. The Ministry of Foreign Affairs is represented on the MEP Working Group to ensure that Dominica is party to the pertinent Conventions.

Our progress on this important matter has been encumbered by limited technical resources. Currently, Dominica has one legal draftsman in the Attorney General's Chambers and Dominica has recently received a technical assistance proposal from OAS/CICAD. The Dominica FIU is currently discussing the proposal with OAS/CICAD. Our jurisdiction is aiming to present the draft legislation and regulations to Parliament.

As pertains to implementation and effectiveness, the court cases for the five persons who were charged for money laundering continues in our Magistrate's Court. In relation to the court cases, the FIU has secured numerous Production Orders to access evidential information, has received Freeze Orders for assets of approx. EC\$1.8 million and has delivered a significant quantity of computer equipment to the Regional Cyber Investigations Laboratory in Antigua for analysis. The Production Orders and Freeze Orders resulted from High Court Applications.

Additionally, our jurisdiction has developed a separate FIU Bill and a Money Laundering Prevention Bill which captures the requirements of the pertinent FATF Recommendations. All the necessary amendments to our legislation and regulation to satisfy the requirements of the 16 FATF Key and Core Recommendations are currently in draft form. Our jurisdiction is aiming to present these drafts to Parliament and thereafter, we will be able to significantly update our matrix.

I submit herewith an updated Financial Sector Table for consideration.

ANNEX 2: DOMINICA FIRST FOLLOW UP REPORT TO THE CFATF PLENARY

MUTUAL EVALUATION OF DOMINICA: FIRST FOLLOW-UP REPORT

II. INTRODUCTION

1. The relevant dates for the Mutual Evaluation Report and subsequent Follow-Up Reports for Dominica are as follows:
 - Date of the Mutual Evaluation Report: July 2nd 2009
 - Date of previous follow-up reports: This is the first follow-up report by Dominica. However, in the context of the discussions which took place at the October 2009 Plenary, Dominica was required to present the actions taken since the mutual evaluation to improve the compliance by its AML/CFT infrastructure, including for the thirteen core and key Recommendations rated as PC or NC. Dominica responded by submitting its matrix with insufficient time for a detailed analysis to be conducted and the resulting written report to be presented by the Secretariat to the plenary at its June 2010 meeting.
2. The Plenary agreed at its June 2010 meeting that Dominica will continue on expedited follow-up and report again to the November 2010 meeting on the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. Notwithstanding, this report is an analysis of the progress made by Dominica up to the September 2010.
3. The following table is intended to assist in providing an insight into the level of risk in the main financial sector in Dominica.

Size and Integration of the jurisdiction's financial sector

		Banks (Jun 10)	Other Credit Institutions* (Jun 10)	Securities	Insurance (Dec 08)	TOTAL
Number of institutions	Total #	3 offshore 4 domestic	14	Nil	20	41
	Assets	US\$ '000	795.3	186.1	Nil	137940.3
Deposits	Total: US\$ '000	546.8	113.4	Nil	42853.8	660.2
	% Non-resident	% of deposits	31.07	Nil	N/A	N/A
International Links	% Foreign-owned:	% of assets	% of assets	% of assets	% of assets	% of assets
		N/A	N/A	Nil	N/A	N/A
	#Subsidiaries abroad	Nil	Nil	Nil	N/A	N/A

N.B:- Some of the insurance companies may have included figures for their world-wide business in their December 08 returns. Dominica is in the process of identifying Dominica-specific assets and liabilities. Total number of insurance companies registered is 19 plus one underwriter.

Only 14 of these companies submitted the 2008 Statutory Returns.
The Total Column includes figures as at June 2010.

II. SUMMARY OF PROGRESS MADE BY DOMINICA

Findings of the MER

4. Dominica was rated partially compliant (PC) or non-compliant (NC) with 42 Recommendations. Among the core Recommendations, one was rated as being fully compliant (R.10) whilst two were rated as PC (R.1 & SR.II) whilst the others were rated as NC. Seven key Recommendations, were rated as being PC (R.3, R.4, R.26, R.35 SR.I, SR.III and SR.V) whilst one was rated as being NC (R.23). The plenary decided that Dominica should be placed on expedited follow-up.

Core Recommendations¹ rated PC or NC
R.1 (PC), R.5 (NC), R.13 (NC), SR.II (PC), SR.IV (NC)
Key Recommendations² rated PC or NC
R.3 (PC), R.4 (PC), R.23 (NC), R.26 (PC) R. 35 (PC), SR.1 (PC), SR.III (PC) SR.V (PC)
Other Recommendations rated as PC
R.9, R.11, R.15, R.20, R.22, R. 27, R.28, R.29 R.31, R.33, R.38, SR.IX
Other Recommendations rated as NC
R.6, R.7, R.8, R.12, R.16, R.17, R.18 R.19, R.21, R.24, R.25, R.30, R.32, R.34, SR.VI, SR.VII, SR.VIII

5. Dominica has begun the process of attempting to cure the deficiencies, which were identified by its MEVAL examiners, by drafting new legislation in the form of the Money Laundering Prevention Bill and Bills for amendments to the Suppression of the Financing of Terrorism Act and the Financial Services Unit Act. A Theft Amendment Act, a Piracy Act, a Proceeds of Crime Amendment Act, a Money Services Business Act and an Electronic Evidence Act have been passed in Dominica's Parliament in support of its Anti Money Laundering/Combating of Terrorism infrastructure.
6. At Plenary XXX during October 27 – 29, 2009 in Curacao, Dominica in its verbal report, informed of a phased approach in addressing the deficiencies in the satisfaction of the FATF 40 + 9 Recommendations. In Phase 1, Dominica would focus on compliance with FATF 16 Core and Key Recommendations and in Phase 2, Dominica would address the deficiencies related to the other FATF 33 Recommendations. Dominica has identified 13 non legal matters related to the FATF Recommendations that require administrative considerations.
7. As per its phased approach, Dominica has made draft amendments to the pertinent legislation to satisfy the requirements of the FATF 16 Core and Key Recommendations with the exception of Recommendations 5 and 35 and Special Recommendation I. These Bills have not yet been taken to Parliament however Dominica has given its commitment to have these Bills submitted for approval to

¹ The core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV

² The key Recommendations as defined in the FATF procedures are R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR.I, SR.III, SR.V

its Parliament before the end of the year. The deficiencies related to Recommendation 5 will be addressed by appropriate amendments to the Money Laundering Prevention Regulations and the deficiencies related to Recommendation 35 and Special Recommendation I will be addressed by taking the requisite actions in relation to the Palermo, Vienna and Terrorist Financing Conventions. The Piracy Act and the Theft Amendment Act criminalizes piracy and extortion respectively as required by Recommendation 1. Although most of the amendments are in draft form, however, given the history and current structure of the Dominica Parliament, there should be no difficulty in having those Bills approved by Parliament.

Core Recommendations

Recommendation 1

8. There were two inherent weaknesses discerned by Dominica's MEVAL examiners. These weaknesses related to the fact that the legislation, at the time of the evaluation, did not cover conversion or transfers as two physical and material elements of the money laundering offence and piracy (pirates at sea) and extortion were not criminalized. With the coming into force of the Piracy Act, in June 2010, the act of piracy (pirates at sea) has now been criminalised. Section 2 of this act specifically makes it an offence where any illegal act of violence or detention or any other act of depredation committed by the crew or passengers of a private ship or a private aircraft on the high seas against another ship or aircraft or against persons or property on-board such ship or aircraft. Dominica anticipates that the draft Money Laundering Prevention Bill will address the shortcoming relating to conversion and transfers. It is noted that at Section 2 of the bill that the definition of money laundering does in fact include converting and transferring as two distinct elements.

Recommendation 5

9. It was noted above that Dominica intends to address the deficiencies to Recommendation 5 by amending the Money Laundering Prevention Regulations. These amendments have not as yet been made and as such the examiners recommendations remain outstanding.

Recommendation 13

10. In applying a NC rating for this Recommendation the examiners had noted that STR requirements were linked to complex, large and unusual transactions; there was no requirement to report attempted transactions; the obligation to report STRs did not cover suspicious transactions that are linked to terrorism, the financing of terrorism, terrorist organizations and terrorist acts and the legislation did not require reporting entities to report STRs to the FIU. It is noted that the provisions which Dominica intends to rely on to fill these gaps now resided in draft legislation. Perusal of this draft suggests that the new provisions, if they become law, will still fall short of the requirement.

Special Recommendation II

11. The examiners had made six recommendations which were aimed at curing the deficiencies which they had discerned in Dominica's anti-terrorist financing

regime. Four of these recommendations are still the subject of amendments to the SFTA and therefore remain outstanding.

12. In one recommendation the examiners had asked that Dominica amend the SFTA to state that terrorist financing offences do not require funds to be linked to a specific terrorist act or acts. Dominica has responded by pointing out that that provision already exists at Section 4(2) of the SFTA No. 2 of 2003, which was in force at the time of the assessment. That Section of the SFTA states that “for an act to constitute a terrorist financing offence it shall not be necessary that the funds were actually used to carry out a terrorist act. No provision is made that terrorist financing offences should not require that the funds be linked to a specific terrorist act or acts.
13. As it relate to the examiners recommendation that Dominica amend the SFTA to permit the possibility of parallel criminal, civil or administrative proceedings where more than one form of liability is available, Dominica has indicated that this recommendation is not in accordance with that Commonwealth’s normal jurisprudence. This Recommendation remains outstanding.

Special Recommendation IV

14. The examiners had noted that the reporting of STRs in Dominica did not include suspicion of terrorist organisations, terrorism, terrorist acts or those who finance terrorism. This Recommendation mandates that the obligation to report STRs in any of these circumstances must be a direct mandatory obligation. The recommendation of the examiners is still the subject of an amendment to the SFTA. It must be noted however that the draft amendment upon which Dominica intends to rely on in closing the gap discerned by the examiners does not meet the requirement envisaged by the FATF. This Recommendation remains outstanding.

Key Recommendations

Recommendation 3

15. Some of the gaps discerned by the examiners still exist because the intended cures reside in bills which are still in the form of draft legislation.

Recommendation 4

16. The examiners recommendation is the subject of an amendment to the FSU Act of 2008. As a consequence this Recommendation remains outstanding.

Recommendation 23

17. The examiners had noted that there was no competent authority assigned the responsibility of monitoring and ensuring compliance with the AML/CFT requirements. They also noted that no specific body was entrusted with the responsibility for conducting onsite examinations and regular offsite monitoring. The FSU Act, which was not in force at the time of the Mutual Evaluation, was enacted to, among other things, give effect and establish the Financial Services Unit. It should be immediately noted that whilst the obligations envisaged by this Recommendation is applicable to all financial institutions, Section 1 (2) of the FSU Act clearly indicates that the Act does not apply to commercial banks. As a result of this, the inherent shortcoming applicable to commercial banking businesses in Dominica will still exist.

18. According to Section 9 (1) (b) of the said FSU Act, the principal functions of the Director of the FSU include the monitoring of compliance, by regulated persons, with the MLPA, such other Acts, Regulations, Guidelines or the Codes relating to the Money Laundering (Prevention) Act or the Suppression of the Financing of Terrorism Act. The Director is also empowered to conduct inspections which will enable monitoring and assessing the licensee's or former licensee's compliance with his obligations under the Money Laundering Prevention Act or Regulations and Guidelines or Codes. The structured programme recommended by the examiners has not as yet been implemented and so it is unclear whether onsite monitoring has commenced. It should be noted that the FSU Act makes no mention of offsite monitoring.
19. The FSU has not been entrusted with the responsibility of issuing licenses to DNFBPs as recommended by the examiners. This recommendation remains outstanding.

Recommendation 26

20. Some of the examiners recommendations are the subject of the Money Laundering Prevention bill which has not as yet been enacted, whilst other are reportedly the subject of "Administrative consideration". This Recommendation remains outstanding.

Recommendation 35 & SRI

21. Dominica has not as yet taken the necessary action which would result in the examiners recommendation being adopted. As a result, these recommendations remain outstanding.

Special Recommendation III

22. The examiners recommendations are the subject of several amendments to the SFTA. These amendments have not as yet been enacted. However, one of the recommendations was that Dominica issue clear guidance to financial institutions and persons that may be in possession of targeted funds or assets or may later come into possession of such funds or assets. In addition to proffering an amendment to the SFTA so as to fill this gap, Dominica has also referred to Section 36 (2) of the SFTA, which was in force at the time of the onsite. This Section of the SFTA mandates quarterly reporting by financial institutions as to whether or not they are in possession or control of property owned by or controlled by or on behalf of a terrorist group. This Recommendation remains outstanding.

Special Recommendation V

23. This recommendation is the subject of an amendment to the SFTA which is still to be enacted.

Other Recommendations

Recommendation 6, 7, 8, 9, 12, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, SRVI, SRVII, SRVIII,

24. The gaps noted in these Recommendations are intended to be addressed in the 2nd phase of Dominica's phased approach to addressing the examiners recommendations. All of these Recommendations remain outstanding.

Recommendation 11

25. The examiners had noted at paragraph 409 of the MER that there is no legal obligation requiring financial institutions to examine the background and purpose of complex, unusual large transactions or unusual patterns of transaction, that have no apparent or visible economic or lawful purpose and to set forth those findings in writing. Section 22 of the draft Money Laundering Prevention Bill, which is intended to cure this deficiency, in fact would not do so, if it is enacted with its existing provisions. This Recommendation remains outstanding.

Recommendation 38

26. Provisions in the Money Laundering Prevention Bill are intended to address two of the examiners recommendations relating to the establishing of an asset forfeiture fund and the sharing of assets between jurisdictions, when confiscation is the result of co-ordinated law enforcement actions. The other recommendations by the examiners have not been addressed. This Recommendation remains outstanding.

Conclusion

27. As noted at paragraph 6, Dominica has adopted a phased approach towards addressing the deficiencies particularised in its 3rd Round Mutual Evaluation Report. This phased approach was intended to first bring the key and core Recommendations in line with the acceptable FATF standards and subsequently address the shortcomings noted in the other Recommendations. Of the core Recommendations, Recommendation 1 has been most positively impacted because, with the enactment of the Piracy and Theft Acts, the designated categories of offences are all now criminalised. Recommendation 5 however remains as it was during the Mutual Evaluation. Recommendation 13, SR II and SR IV are the subject of draft legislation that, if enacted as they are currently drafted, will probably have no positive impact. All of the key Recommendations, with the exception of Recommendations 35 and SRI, are the subject of draft laws which are expected to be enacted before the end of 2010. Relative to Recommendation 35 and SRI, it is unclear what action is being taken by Dominica to ensure that the gaps are filled. Positively however, Dominican authorities have recently laid charges against five persons for money laundering offences. All of these charges are still pending before Dominica's Magistrates courts.
28. Given the aforementioned it is recommended that Dominica remain on expedited follow-up and report back to the Plenary in May of 2011.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Commonwealth of Dominica**

Forty Recommendations	Rating	Summary of factors underlying rating³	Recommended Action	Action Undertaken
Legal systems				
1. ML offence	PC	<ul style="list-style-type: none"> The physical and material elements of the money laundering offence in the Commonwealth of Dominica do not cover conversion or transfer. Designated categories of offences, Piracy (Pirates at Sea) and Extortion not criminalized. 	<p>The laws of the Commonwealth of Dominica should be amended to:</p> <ul style="list-style-type: none"> i. Cover conversion or transfer as two additional physical and material elements of the money laundering offence; ii. Criminalize all the designated categories of offences and in particular Piracy (Pirates at Sea) and Extortion. 	<p>Sec. 2 MLP Bill 2010 – Definition of money laundering</p> <p>Piracy Act No. 11 of 2010 Theft Amendment Act No. 12 of 2010</p>
2. ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> The Money Laundering (Prevention) Act, 2000 (Chapter 40:07), does not adequately detail what administrative proceedings that may be employed in dealing with legal persons who have been found criminally liable. No civil or administrative sanctions are provided for ML. 	<ul style="list-style-type: none"> i. Adequately detail what administrative proceedings may be employed in dealing with legal persons who have been found criminally liable; ii. Provide for civil and administrative sanctions; iii. Adopt an approach that would result in more effective use of existing legislation 	

³ These factors are only required to be set out when the rating is less than Compliant.

		<ul style="list-style-type: none"> No powers are given to administer administrative sanctions. 		
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> In the Commonwealth of Dominica the laws do not allow the initial application to freeze or seize property subject to confiscation to be made ex-parte or without prior notice. Law enforcement agencies, the FIU or other competent authorities in the Commonwealth of Dominica do not have adequate powers to identify and trace property that is, or may become subject to confiscation or is suspected of being the proceeds of crime. There is little authority in The Commonwealth of Dominica to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation. 	<ul style="list-style-type: none"> i. The laws or measures in the Commonwealth of Dominica should allow an initial application to freeze or seize property subject to confiscation to be made ex-parte or without prior notice, unless this is inconsistent with fundamental principles of domestic law. ii. There should be authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation. 	<p>Sec. 34 of the MLP Bill 2010</p> <p>Sec. 11 of the Proceeds of Crime Act No. 4 of 1993 Sec. 12 A (3) of the Bill to Amend the SFTA No. 3 of 2003</p>
Preventive measures				
4. Secrecy laws	PC	<ul style="list-style-type: none"> Inability of the competent 	i. Dominica should enact provisions	Sec. 32 of the Bill to Amend the

consistent with the Recommendations		authorities to share information without an MOU or court order	allowing the ECCB, FSU, the MLSA, the registered agents to share information with other competent authorities	FSU Act No. 18 of 2008
5. Customer due diligence	NC	<ul style="list-style-type: none"> • The requirements that documents, data or information collected under the CDD process should be kept up to date by the financial institution is not enforceable. • The obligation that financial institutions should perform ongoing due diligence on the business relationships is not enforceable. • The determination by the financial institution as to who are the ultimate beneficial owners is not enforceable. • No guidance for the insurance companies with regards to identification and verification of the underlying principals, persons other than the policyholders. • Financial institutions do not perform enhanced due diligence for higher risk customers. 	<ul style="list-style-type: none"> i. The legislation should entail requirement to undertake CDD measures according to recommendation 5. ii. The requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up to date should be enforceable. iii. Requirement for ongoing due diligence on the business relationships should be enforceable. iv. Requirement to take reasonable measures to determine who are the ultimate beneficial owners or exercise the ultimate effective control should be enforceable. v. The Guidance Notes should include additional guidance with regards to identification and verification of the underlying principals, persons other than the policyholders with regards to insurance companies. 	These matters are being addressed by appropriate amendments to the MLP Regulations

		<ul style="list-style-type: none"> • Financial institutions are not required to perform CDD measures on existing clients if they have anonymous accounts. • The business clients on the exempted list of the banks do not submit a source of fund declaration for each transaction. 	<p>vi. Financial institutions should to perform enhanced due diligence for higher risk customers</p> <p>vii. Financial institutions are not required to perform CDD measures on existing clients if they have anonymous accounts.</p> <p>viii. The bank should not keep an exempted list for business clients so that they do not require to fill out a source of fund declaration form for each deposit</p>	
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • It should be enforceable on the financial institutions that they apply enhanced and ongoing due diligence on their PEPs. 	<p>i. Recommendation 6 should be enforceable on the financial institutions.</p> <p>ii. Financial institutions should apply risk based approach on their PEPs clients, and continue to do enhanced due diligence on them.</p>	
7. Correspondent banking	NC	<ul style="list-style-type: none"> • No requirement to determine the nature of business reputation of a respondent and the quality of supervision. • No assessment of a respondent AML/CFT controls and 	<p>i. The specific requirement to understand and document the nature of the respondent bank's business and reputation, supervision of the institution and if they have been subjected to money laundering or terrorist financing activities or</p>	

		<p>responsibilities.</p> <ul style="list-style-type: none"> • No provision to obtain senior management approval before establishing new correspondent relationships. • No condition to document respective AML/CFT responsibilities in correspondent relationships. • No requirement for financial institutions with correspondent relationships involving “payable through accounts” to be satisfied that the respondent. • Financial institutions have not performed all normal CDD obligations on its customers that have access to the accounts. • No requirement for the financial institution to satisfy themselves that the respondent institution can provide reliable customer identification data upon request. 	<p>regulatory action.</p> <ul style="list-style-type: none"> ii. Financial institutions should be required to assess all the AML/CFT controls of respondent. iii. The financial institutions should document the AML/CTF responsibility of each institution in a correspondent relationship iv. Financial institutions should require senior management approval before establishing new correspondent relationships. v. Financial institutions should ensure that the correspondent relationships if involved in payable through accounts that they normal CDD obligations as set out in R5 have been adhered to and they are able to provide relevant customer identification upon request. 	
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> • There are no provisions which require the financial institutions to have measures aimed at preventing misuse of technology developments 	<ul style="list-style-type: none"> i. Financial institutions should be required to have measures aimed to prevent the misuse of technological developments. 	

		in money laundering and terrorist financing.		
9. Third parties and introducers	PC	<ul style="list-style-type: none"> • No requirement for financial institutions to immediately obtain from all third parties necessary information concerning certain elements of the CDD process referenced in Recommendation 5.3 to 5.6 • The requirement that financial service providers be ultimately responsible for obtaining documentary evidence of identity of all clients is not enforceable. • Competent authorities should give guidance with regards to countries in which the third party can be based. 	<ul style="list-style-type: none"> i. Financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning the elements of the CDD process detailed in Recommendation 5.3 to 5.6. ii. The requirement that financial service providers be ultimately responsible for obtaining documentary evidence of identity of all clients should be made not enforceable. iii. Competent authorities should take into account information on countries which apply FATF Recommendations in determining in which country the third party can be based. 	
10. Record keeping	C			
11. Unusual transactions	PC	<ul style="list-style-type: none"> • No requirement for financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions and to set their findings in writing. 	<ul style="list-style-type: none"> i. The Commonwealth of Dominica should consider amending its legislation so as to mandate financial institutions to examine the background and purpose of all complex, unusual or large business transactions whether completed or not, all unusual patterns of transactions which have no 	Sec. 22 of the MLP Bill

			<p>apparent or visible economic or lawful purpose.</p> <p>ii. The Commonwealth of Dominica should consider amending its legislation so that the financial institutions would be mandated to examine the background and purpose of all complex, unusual or large business transactions whether completed or not, all unusual patterns of transactions which have no apparent or visible economic or lawful purpose and set forth their findings in writing and to make such findings available to competent authorities and auditors.</p>	
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> The requirements of Recommendations 5, 6, 8 to 11 are not adequately enforced on DNFBPs. 	<p>i. The deficiencies identified for all financial institutions for R.5, R.6, and R.8-11 in the relevant sections of this report are also applicable to DNFBPs. The implementation of the specific recommendations in the relevant sections of this report will also be applicable to DNFBPs.</p> <p>ii. While Dominica has passed legislation capturing DNFBPs under its AML/CFT regime, there is no competent authority that ensures these entities are subject to monitoring and</p>	

			<p>compliance with the requirements of the MPLA or the Guidance Notes.</p> <p>iii. The licensed agents should be subject to ongoing monitoring and compliance given the role that they play in the keeping of and maintenance of beneficial owners' information for IBC's and other companies that they register.</p> <p>iv. There should be some form of data capture during the year by the FSU outside of the reporting of STRs as required by the MPLA to the MLSA.</p>	
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • The requirement to report suspicious transactions should be linked to all transactions and not only to complex, large, unusual. • No requirement to report attempted transactions. • The reporting of an STR does not include transactions that are linked to terrorism financing, terrorism, terrorism acts, and terrorist organizations. • The legislation does not require the STR be reported to the FIU. 	<p>i. The financial institutions should be required to report STRs to the FIU.</p> <p>ii. The requirement for financial institutions to report suspicious transactions should also be applicable to attempted transactions.</p> <p>iii. The obligation to make a STR related to money laundering should apply to all offences to be included as predicate offences under Recommendation 1.</p> <p>iv. The reporting of STRs should also include the suspicious transactions that are linked to terrorism, the financing of terrorism, terrorist</p>	<p>Sec. 22 (2) of the MLP Bill Sec. 17(1) (a) of the MLP Bill</p> <p>Sec. 22 (1) (a) of the MLP Bill</p> <p>Criminalization of Extortion and Piracy as per cited Acts</p> <p>Sec. 20 (A) of Bill to amend the SFTA No. 3 of 2003</p>

			organizations and terrorist acts.	
14. Protection & no tipping-off	LC	<ul style="list-style-type: none"> • The prohibition against tipping-off does not extend to the directors, officers and employees of financial institutions. 	i. The offence with regards to tipping-off should be extended to directors, officers and employees of financial institutions.	Sec. 23 of the MLP Bill
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> • Financial institutions do not maintain an independent audit function to test compliance with policies, procedures and controls • Internal procedures do not include terrorist financing. 	i. The requirement to maintain independent audit functions to test compliance with procedures, policies and controls should be adhered to. ii. Requirement of the financial institutions to have internal procedures with regards to money laundering should also include terrorist financing.	
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> • No effective application of R 13-14, R 15 and 21. • No competent body to impose sanctions/fines. 	i. There is no specific body charged with the duty of applying sanctions to DNFBPs without requiring a court order. ii. As well the FSU does not conduct ongoing monitoring and compliance checks on these entities or persons to ensure that the requirements of R 13-14, R 15 and 21 are complied with, particularly as regards the money remitters and licensed agents. It is recommended that a competent authority (FSU) be entrusted with the legal responsibility of imposing	

			sanctions or fines as well as conducting ongoing monitoring and compliance.	
17. Sanctions	NC	<ul style="list-style-type: none"> • Lack of a designated regulatory body to apply sanctions/fines and the absence of a clearly defined process in the law or guidance notes. 	i. There should be a competent body designated to impose administrative and civil sanctions/fines for non-compliance with the requirements of the AML/CFT legislation/regime. As well the legislation should define the process for applying these sanctions.	
18. Shell banks	NC	<ul style="list-style-type: none"> • The requirement for domestic and offshore banks not to enter into correspondent banking relationship with shell banks is not enforceable. • No requirement for financial institution to satisfy themselves that the respondent financial institutions do not permit their accounts to be used by shell banks. 	i. Financial institutions should not be permitted to enter into, or continue correspondent banking relationship with shell banks ii. Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	
19. Other forms of reporting	NC	<ul style="list-style-type: none"> • No evidence that Dominica has considered the feasibility and utility of implementing a fixed threshold currency reporting system. 	i. The Commonwealth of Dominica is advised to consider the implementation of a system where all (cash) transactions above a fixed threshold are required to be reported to the FIU. In this regard the Commonwealth of Dominica should include as part of their consideration any possible increases in the amount of STRs filed, the size of this increase compared to resources	

			available for analyzing the information.	
20. Other NFBP & secure transaction techniques	PC	<ul style="list-style-type: none"> Procedures adopted for modern secure techniques are ineffective 	<ul style="list-style-type: none"> More on-site inspections are required. Modern secured transaction techniques should be scheduled under the Money Laundering (Prevention) Act, 2000 (Chapter 40:07), 	
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> There are no measures that require competent authorities to ensure that financial institutions are notified about AML/CFT weaknesses in other countries. There are no provisions that allow competent authorities to apply counter-measures to countries that do not or insufficiently apply the FATF Recommendations. 	<ul style="list-style-type: none"> Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries. There should be requirements to allow for the application of counter-measures to countries that do not or insufficiently apply the FATF Recommendations. 	
22. Foreign branches & subsidiaries	PC	<ul style="list-style-type: none"> Requirement to inform the home country supervisor when local laws and guidelines prohibit the implementation. 	<ul style="list-style-type: none"> Inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CTF measures because this is prohibited by local laws, regulations and measures. 	
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> No competent authority assigned the responsibility of monitoring and ensuring compliance with AML/CFT requirements. No specific body entrusted with the 	<ul style="list-style-type: none"> The FSU should be entrusted with the legal authority to ensure compliance with the MLPA, its Regulations and the Anti-Money Laundering Guidance Notes. As well the Unit should 	Sec. 9 of the Bill to Amend the FSU Act No. 18 of 2008

		responsibility for conducting on-site examinations and regular off-site monitoring.	implement a structured work programme, approved by the Financial Director to ensure ongoing on-site and off-site monitoring. These measures should be applicable to all institutions under the regulation and supervision of the FSU. The Unit should also be legally entrusted with the responsibility to license or register DNFBP'S and those financial institutions not under the purview of the ECCB.	
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> No regulatory/supervisory measure are in place to ascertain compliance with AML/CFT laws and guidelines nor, is the FSU charged with the responsibility of monitoring and ensuring compliance with AML/CFT requirements. 	<p>i. There is no comprehensive regulatory and supervisory regime that ensures compliance by casinos and other DNFBPs with the AML/CFT regime that is in place. As well, there is no designated regulatory body to discharge that function as well as to apply relevant sanctions/fines for non-compliance.</p> <p>ii. It is recommended that a competent body, the FSU be charged with the responsibility of monitoring and ensuring compliance with the requirements of the regime as well as imposing sanctions.</p> <p>iii. The AML/CFT legislation should also</p>	

			detail the process to be adopted when applying sanctions.	
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> • Non issuance of specific guidelines to assist DNFBPs and other financial institutions with implementing the requirements of the AML/CFT regime. • Non issuance of guidelines by SROs and other competent authority (FSU) for DNFBPs. • The authority has not provided the financial sector with adequate and appropriate feedback on the STRs 	<ul style="list-style-type: none"> i. The Authority should provide financial institutions and DNFBPs with adequate and appropriate feedback on the STRs. ii. The FSU in addition to the MLSA should issue specific guidance notes or other targeted guidelines that can assist financial institutions other than domestic commercial banks, as well as DNFBPs to effectively apply the provisions of the MPLA, and its Regulations. 	
Institutional and other measures				
26. The FIU	PC	<ul style="list-style-type: none"> • The FIU is not the central authority for the receipt of STRs from reporting entities. • In practice STRs are filed with the MLSA and copies are made available to the FIU. • The FIU does not have total control over the STRs it maintains on behalf of the MLSA. • Although the FIU has almost 	<ul style="list-style-type: none"> i. The FIU should be made the central authority for the receipt of STRs from reporting entities as it relates to both Money Laundering and Terrorist Financing. ii. The FIU should have more control over its budget since the control currently maintained by the Ministry could impact the Unit's operation and to some extent its independence. iii. Although the security of the database 	<p>Sec. 17 (1)(a) of the MLP Bill 2010 Sec. 20A (1) of the Bill to Amend the SFTA No. 3 of 2003</p> <p>Administrative Consideration</p> <p>Administrative Consideration</p>

		<p>immediate access to the STRs submitted by the Financial Institutions and other scheduled entities, the MLPA charges that the STRs should be sent to the Money Laundering Supervisory Authority (MLSA) who is then charged with sending it to the FIU. At the same time the legislation requires that STRs relating to the TF should be sent to the Commissioner of Police.</p> <ul style="list-style-type: none"> • The data held by the FIU however, all backup data are housed on site which effectively defeats the purpose of having the backup done. • To the extent that the budget of the FIU is controlled by the Ministry this could impact on its ability to be operationally independent. • The annual report prepared by the Unit is not made public. 	<p>seems adequate, backup data should be housed off-site to ensure that in the event of a catastrophe at the Unit there would be the opportunity for the recovery of data.</p> <p>iv. The FIU should prepare annual reports which they would be able to disseminate to the public which would enhance awareness.</p>	Sec. 46 of MLP Bill of 2010
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> • No consideration of taking measures providing for the postponement or waiving of arrest of suspects or seizure of money for the purpose of identifying suspects or for evidence gathering. 	<p>i. Provisions should be made in domestic legislation that allow authorities investigation ML cases to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons</p>	

		<ul style="list-style-type: none"> • There is no group specialized in investigating the proceeds of crime. 	<p>involved in such activities or for evidence gathering.</p> <p>ii. Legislation should be put in place to provide investigators of Money Laundering and Terrorist Financing cases with a wide range of investigative techniques including controlled delivery.</p> <p>iii. There should be a group of officers who would be trained in investigating the proceeds of crime, perhaps in the NJIC, who would supplement the efforts of the FIU.</p>	
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • No provision in the SFTA which affords the FIU or the Commissioner of Police the ability to compel the production of business transaction records, in pursuit of TF investigations. • No explicit legal provision for predicate offences investigators to obtain search warrants to seize and obtain business transaction records. 	<p>i. The SFTA should be amended to provide investigators with the ability to compel the production of business transaction records.</p> <p>ii. There should be explicit legal provisions for the investigators of predicate offences to be able to obtain search warrants which would enable them seize and obtain business transaction records.</p>	
29. Supervisors	PC	<ul style="list-style-type: none"> • FSU does not have the authority to conduct inspections of financial institutions, including on-site inspections to ensure effective monitoring and compliance. 	<p>i. The FSU should be legally entrusted with the authority to monitor and ensure compliance with the AML/CFT requirements. As well the Unit should be able to conduct on-sites, request off site information and should be</p>	

			entrusted also with adequate powers of enforcement against its licensees and registrants that are not subject to the Off Shore Banking Act or the Banking Act.	
30. Resources, integrity and training	NC	<ul style="list-style-type: none"> • The staff of the FIU consists of only four persons where the Senior investigator functions as the systems administrator who in the absence of the Director also has to take on those duties. • There is not a sufficient staff compliment in the Police, the FIU and the Supervisory Authority to be able to completely deal with issues relating to ML, FT and other predicate offences. • There is also only limited continuous vetting of officers to ensure that the highest level of integrity is maintained. • The FSU should be adequately staffed to discharge its functions. • The staff, and budget and Anti-money laundering/combating of terrorist financing training of the staff in the DPP Office is in adequate 	<ul style="list-style-type: none"> i. The staff of the Unit should be expanded to include a database administrator. ii. The FSU is not adequately staffed. The Unit's request for additional staff should be adhered to. It is also recommended that a restructuring of the Unit should be considered so that its regulatory and supervisory functions can be discharged effectively. iii. The FSU should consider the establishment of databases to allow for effective off-site supervision. iv. Technical resource- The Police Force should be provided with better communication equipment. v. With the increased demand on the Police the numbers in the police contingent should be increased. vi. Special training in money laundering and terrorist financing should be 	

			<p>provided to magistrates and judges to ensure they are familiar with the provisions for dealing with the seizure, freezing and confiscation of property</p> <p>vii. There should be a group of officers who would be trained in investigating the proceeds of crime, perhaps in the NJIC, who would supplement the efforts of the FIU.</p> <p>viii. There should be regular inter agency meetings among all the agencies that are charged with ensuring the effectiveness of the AML/CFT regime.</p> <p>ix. There should be put in place some measures to vet the officers in these agencies to ensure that they maintain a high level of integrity</p> <p>x. Databases should be established which can be shared by all authorities responsible for monitoring and ensuring compliance with the AML/CFT regime in Dominica.</p>	
31. National co-operation	PC	<ul style="list-style-type: none"> • There are no joint meetings dedicated to developing policies and strategies relating to AML/CFT • The Supervisory Authority does not 	<p>i. There should be regular inter agency meetings among all the agencies that are charged with ensuring the effectiveness of the AML/CFT regime.</p>	

		<p>adequately supervise the DNFBPs and other entities in the financial sector at this time.</p> <ul style="list-style-type: none"> • There should be measures in place so that the authorities can There are, coordinate with each other concerning the development and implementation of policies and activities to combat ML and FT. 	<p>ii. The Supervisory Authority needs to expand its activity so as to ensure that all entities who may be susceptible to be used for Money laundering or Terrorist Financing are aware of these dangers and take the necessary precautions.</p> <p>iii. There should be established and maintained regular inter-agency meetings where policies and actions are developed.</p> <p>iv. There should be a closer link between the Supervisory Authority and the DNFBPs.</p> <p>v. There should be measures to allow the authorities to coordinate in Dominica with each other concerning developments with regards to money laundering and terrorist financing.</p>	
32. Statistics	NC	<ul style="list-style-type: none"> • Competent authorities appear to have limited opportunity to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing specifically in relation to Money Laundering & Financing of 	<p>i. The competent authorities should maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing.</p> <p>ii. With respect to MLA and other international request the</p>	

		<p>Terrorist investigations- prosecutions and convictions- and on property frozen; seized and confiscated.</p> <ul style="list-style-type: none"> • Competent authorities appear to have limited opportunity to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing specifically in relation to Terrorist financing freezing data. • In the Commonwealth of Dominica the Competent authorities do not maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing. Annual statistics are however maintained on Mutual legal assistance or other international requests for co-operation and all mutual legal assistance and extradition requests (including requests relating to freezing, seizing and confiscation) that are made or received, relating to ML, the predicate offences and FT, 	<p>Commonwealth Dominica should maintain statistics on the nature of such requests and the time frame for responding.</p>	
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		<p>including whether it was granted or refused but no statistics maintained on the nature of the request and the time frame for responding.</p> <ul style="list-style-type: none"> • While the examiners found that statistics were kept, the examiners finds that the competent authorities should maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing. • There are no statistics kept on formal requests made or received by law enforcement authorities relating to ML and FT, including whether the request was granted or refused. • No statistics are kept on on-site examinations conducted by supervisors relating to AML/CFT and the sanctions applied. • There is no statistics available on formal requests for assistance made or received by supervisors relating to or including AML/CFT including whether the request was granted or refused. 		
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		<ul style="list-style-type: none"> • Lack of databases to facilitate sharing of information between authorities responsible for discharging AML/CFT requirements. • The Supervisory Authority is not effective in relation to some entities in the financial sector. • The effectiveness of the money laundering and terrorist financing system in Dominica should be reviewed on a regular basis. • No comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing. 		
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> • Lack of ongoing monitoring and compliance. The FSU should implement such a programme for AML/CFT purposes as well as general supervision and regulation. • Measures should be in place to make sure that the bearer shares are not misused for money laundering 	<ul style="list-style-type: none"> i. There is a need to ensure that licensed agents are subjected to ongoing monitoring and supervision in such areas as maintenance of up-to-date information on beneficial owners, licensing and registration, particularly for IBC's incorporated by the agent. ii. It is recommended that the FSU institute the process of ongoing 	

			<p>monitoring and compliance for both AML/CFT purposes and for general supervisory and regulatory purposes.</p> <p>iii. There should be measures to ensure that bearer shares are not misused for money laundering.</p>	
34. Legal arrangements – beneficial owners	NC	<ul style="list-style-type: none"> • The Authorities should include current and accurate information of the beneficial ownership and control as part of the register information on international trusts. • Registration of Trusts does not include information of the settler and other parties to a Trust. • Competent Authorities do not have access to information on the settler, trustees or beneficiaries of a Trust. 	<p>i. Information on the settlors, trustees and beneficiaries of Trusts should be made available to the Registrar or if not recorded there should be available from the registered agent on request without the written consent of the Trustee.</p> <p>ii. Competent Authorities should be able to gain access to information on beneficial ownership of Trusts in a timely fashion.</p> <p>iii. Even though currently there are no trust activities in Dominica, the authorities in Dominica should include adequate, accurate and current information on the beneficial ownership and control of legal arrangements as part of the register information on international trust.</p>	
International Co-operation				
35. Conventions	PC	<ul style="list-style-type: none"> • The Commonwealth of Dominica is 	i. The Commonwealth of Dominica	Requisite Actions are being

		<p>not a party to The 2000 UNC Against Transnational Organized Crime – <i>(The Palermo Convention)</i>.</p> <ul style="list-style-type: none"> • In The Commonwealth of Dominica many but not all of the following articles of the Vienna Convention (Articles 3-11, 15, 17 and 19) have been fully implemented. • In The Commonwealth of Dominica some but not all aspects of Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention have been implemented. • In The Commonwealth of Dominica many but not all of Articles 2- 18 of the Terrorist Financing Convention are fully implemented. • In the Commonwealth of Dominica, S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001) are not fully implemented. 	<p>should become a party to The 2000 United Nation Convention Against Trans-national Organized Crime – <i>(The Palermo Convention)</i> and fully implement article Articles 3-11, 15, 17 and 19) of the Vienna Convention, Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention, Articles 2- 18 of the Terrorist Financing Convention and S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001)</p>	<p>taken in relation to the Palermo, Vienna and Terrorist Financing Conventions</p>
36. Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> • The Commonwealth of Dominica has not considered devising and applying mechanisms for 	<p>i. To avoid conflicts of jurisdiction, the Commonwealth of Dominica should consider devising and applying</p>	<p>Administrative Consideration Determined by court practice</p>

		determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country.	mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country.	
37. Dual criminality	C			
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • Unclear legislation regarding request relating to property of corresponding value. • Unclear legislation regarding arrangements for co-ordinating seizure and confiscation actions with other countries. • No consideration of the establishment of an asset forfeiture fund into which all or a portion of confiscated property will be deposited. • No consideration of authorising the sharing of assets confiscated when confiscation is directly or indirectly a result of co-ordinate law enforcement actions. 	<ul style="list-style-type: none"> i. Commonwealth of Dominica should consider establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes. ii. The Commonwealth of Dominica should consider authorising the sharing of confiscated assets between them when confiscation is directly or indirectly a result of co-ordinate law enforcement actions. iii. The laws should clarify whether the requirement in Criterion 38.1 is met where the request relates to property of corresponding value. iv. The laws should clarify whether the Commonwealth of Dominica could have arrangements for co-ordinating seizure and confiscation actions with 	<p>Sec. 36 of the MLP Bill</p> <p>Sec. 37 of the MLP Bill</p>

			other countries.	
39. Extradition	LC	<ul style="list-style-type: none"> The Commonwealth of Dominica do not have specific measures or procedures adopted to allow extradition requests and proceedings relating to Money Laundering to be handled without undue delay 	<ul style="list-style-type: none"> i. There should be in the Commonwealth of Dominica measures or procedures adopted to allow extradition requests and proceedings relating to money laundering to be handled without undue delay. ii. In the Commonwealth of Dominica the laws should not prohibit the extradition of nationals. iii. There should be measures or procedures adopted in the Commonwealth of Dominica that will allow extradition requests and proceedings relating to terrorist acts and the financing of terrorism offences to be handled without undue delay. 	<p>Sec. 45 of the MLP Bill 2010</p> <p>Sec. 27 of the Bill to Amend the SFTA No. 3 of 2003</p>
40. Other forms of co-operation	LC	<ul style="list-style-type: none"> There is no evidence that in The Commonwealth of Dominica requests for cooperation would not be refused on the sole ground that the request is also considered to involve fiscal matters. 	<ul style="list-style-type: none"> i. In the Commonwealth of Dominica it should be made clear that a request for cooperation would not be refused on the sole ground that the request is also considered to involve fiscal matters. 	Sec. 41 of the MLP Bill 2010
Nine Special Recommendations	Rating	Summary of factors underlying rating		
SR.I Implementation	PC	<ul style="list-style-type: none"> The Commonwealth of Dominica is not a party to The 2000 UNC 	<ul style="list-style-type: none"> i. The Commonwealth of Dominica should become a party to The 2000 	Requisite Actions are being taken in relation to the

UN instruments		<p>Against Transnational Organized Crime – (<i>The Palermo Convention</i>).</p> <ul style="list-style-type: none"> • In the Commonwealth of Dominica many but not all of the following articles of the Vienna Convention (Articles 3-11, 15, 17 and 19) have been fully implemented. • In The Commonwealth of Dominica some but not all aspects of Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention have been implemented. • In The Commonwealth of Dominica many but not all of Articles 2- 18 of the Terrorist Financing Convention are fully implemented. • In the Commonwealth of Dominica, S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001) are not fully implemented. 	<p>United Nation Convention Against Trans-national Organized Crime – (<i>The Palermo Convention</i>) and fully implement article Articles 3-11, 15, 17 and 19) of the Vienna Convention, Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention, Articles 2- 18 of the Terrorist Financing Convention and S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001)</p>	<p>Palermo, Vienna and Terrorist Financing Conventions.</p>
SR.II Criminalise terrorist financing	PC	<ul style="list-style-type: none"> • The law is not clear that Terrorist financing offences apply, regardless of whether the person alleged to have committed the offence(s) is in The Commonwealth of Dominica or a different country from the one in 	<p>The laws should be amended to:</p> <ol style="list-style-type: none"> State that Terrorist financing offences do not require funds be linked to a specific terrorist act(s); State that Terrorist financing offence 	<p>Sec. 4(2) of SFTA No. 3 of 2003</p> <p>Sec. 10 (3) (d) of the Bill to</p>

		<p>which the terrorist(s)/terrorist organisation(s) is located or the terrorist act(s) occurred/will occur .</p> <ul style="list-style-type: none"> • The law does not specifically permit the intentional element of the Terrorist financing offence to be inferred from objective factual circumstance. • The law does not specifically speak to the possibility of parallel criminal, civil or administrative proceedings where more than one form of liability is available. • No civil or administrative penalties are defined in law. • The effectiveness of the regime has not been tested by actual cases. • The definition of terrorist, terrorist act and terrorist organization are not in line with the Glossary of Definitions used in the Methodology as the terms does not refer to the Convention for the Suppression of Unlawful Seizure of Aircraft (1970) and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971) 	<p>apply, regardless of whether the persons alleged to have committed the offence(s) in The Commonwealth of Dominica or different country from the one in which the terrorist(s)/terrorist organisation(s) located or the terrorist act occurred/will occur ;</p> <ul style="list-style-type: none"> iii. Permit the intentional element of the Terrorist financing offence to be inferred from objective factual circumstance; iv. To permit the possibility of parallel criminal, civil or administrative proceedings where more than one form of liability is available. v. To address civil or administrative penalties; and; vi. Ensure that the definition of terrorist, terrorist act and terrorist organization are in line with the term terrorist act as defined by the FATF 	<p>Amend the SFTA No. 3 of 2003</p> <p>Sec. 2(b) of the Bill to Amend the SFTA No. 3 of 2003</p> <p>Not in accordance with normal jurisprudence in our jurisdiction</p> <p>Sec. 7, 12 and 47 of the Bill to Amend the SFTA No. 3 of 2003</p> <p>Sec. 2(a) of Bill to Amend the SFTA No. 3 of 2003</p>
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<p>SR.III Freeze and confiscate terrorist assets</p>	<p>PC</p>	<ul style="list-style-type: none"> • The Commonwealth of Dominica has limited and need adequate laws and procedures to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions. • The laws of the Commonwealth of Dominica do not speak to having an effective system for communicating actions taken under the freezing mechanisms • The Commonwealth of Dominica do not have appropriate procedures for authorising access to funds or other assets that were frozen pursuant to S/RES/1267(1999) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses • No guidance has been issued. 	<p>The Commonwealth of Dominica should:</p> <ul style="list-style-type: none"> i. Strengthen their legislation to enable procedures which would examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions ii. Implement effective mechanisms for communicating actions taken under the freezing mechanisms iii. Create appropriate procedures for authorizing access to funds or other assets that were frozen pursuant to S/RES/1267 (1999) iv. Issue clear guidance to financial institutions and persons that may be in possession of targeted funds or assets or may later come into possession of such funds or assets. 	<p>Sec. 12 C of Bill to Amend the SFTA No. 3 of 2003</p> <p>Sec. 12 (1) of the Bill to Amend the SFTA No. 3 of 2003</p> <p>Sec. 12 B of the Bill to Amend the SFTA No. 3 of 2003</p> <p>Sec. 47 (1) of the Bill to Amend the SFTA No. 3 of 2003 Sec. 36 (2) of the SFTA No. 3 of 2003</p>
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SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • The reporting of STRs does not include suspicion of terrorist organizations, terrorism, terrorist acts or those who finance terrorism. 	i. The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organizations or those who finance terrorism.	Sec 20 A of the Bill to Amend the SFTA No. 3 of 2003
SR.V International co-operation	PC	<ul style="list-style-type: none"> • Factors in Recommendations 37 and 38 are also applicable. • Unclear laws as to whether the requirement in Criterion 38.1 is met where the request relates to property of corresponding value. • Unclear as to whether the Commonwealth of Dominica could have arrangements for co-ordinating seizure and confiscation actions with other countries. • No measures or procedures adopted to allow extradition requests and proceedings relating to terrorist acts and the financing of terrorism offences to be handled without undue delay. • No evidence that a requests for cooperation would not be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial 	i. The examiner could find no evidence that a requests for cooperation would not be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP (except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies).	Sec. 35 (2) of the Bill to Amend the SFTA No. 3 of 2003.

		institutions or DNFBP (except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies).		
SR VI AML requirements for money/value transfer services	NC	<ul style="list-style-type: none"> • Lack of an effective supervisory or regulatory regime. • No requirements for licensing and registration by the authorities. 	<p>i. With the exception of MVT service providers that are supervised and regulated under the Banking Act, the Off Shore Banking Act and the Cooperative Societies Act, there is no specific requirement for these entities to be licensed or registered. The FSU is charged with the responsibility of supervising and regulating these institutions, however the Unit has no legal basis to enforce or discharge its functions.</p> <p>ii. There is no specific regulatory authority charged with the responsibility of monitoring and ensuring compliance with the provisions of the AML/CFT regime.</p> <p>iii. The FSU does not license or register these entities, nor does it provide ongoing supervision or monitoring. It is recommended that the FSU be entrusted with the responsibility of ensuring monitoring and compliance with the requirements of the</p>	

			<p>AML/CFT regime.</p> <p>iv. The FSU should be required to institute a programme of on-going onsite and off site monitoring for other regulatory and supervisory purposes.</p>	
SR VII Wire transfer rules	NC	<ul style="list-style-type: none"> • No measures in place to cover domestic, cross-border and non-routine wire transfers. • There are no requirements for intermediary and beneficial financial institutions handling wire transfers. • No measures in place to effectively monitor compliance with the requirements of SR VII. 	<p>i. It is recommended that the review of Dominica's legislative and regulatory provision take consideration of all requirements of the Recommendation and appropriate legislation be enacted as soon as possible.</p>	
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> • NPOs not subject to AML/CFT regime. • There is no proper supervision of NGOs. • There are no sanctions in place for non-compliance with the reporting requirements. • There are no guidelines to aid the NGO in selecting its management. • There are no requirements for the 	<p>i. The Social Welfare Department should be charged with the supervision of the NGOs and be adequately staffed to take on this task.</p> <p>ii. Sanctions should be put in place for non-compliance as it relates to the annual reporting requirements.</p> <p>iii. NGOs should be required to report unusual donations to the Supervisory Authority</p> <p>iv. NGOs should be sensitized to the</p>	

		<p>NGO to report unusual donations.</p> <ul style="list-style-type: none"> • The NGOs have not been sensitized in issues of AML/CFT. • No review of the laws and regulations that relate to NPOs by the authorities. • No measures for conducting reviews of or capacity to obtain timely information on the activities, size and other relevant features of non-profit sectors for the purpose of identifying NPOs at risk of being misused for terrorist financing. • No assessments of new information on the sector's potential vulnerabilities to terrorist activities are conducted. • No efforts at raising the awareness in the NPO sector about the risks of terrorist abuse and any available measures to protect NPOs from such abuse. • No sanctions for the violations of the rules in the NPO sector. • No monitoring of NPOs and their 	<p>issues of AML/CFT including how they could be used for terrorist financing.</p> <p>v. NGOs should be encouraged to apply fit and proper standards to officers and persons working in and for the NGO.</p> <p>vi. The requirements of the MLPA, its Regulations and the Guidance Notes should be extended to NPOs and their activities.</p> <p>vii. The Authorities should undertake a review of the domestic laws and regulations that relate to Non-profit organizations.</p> <p>viii. Measures for conducting domestic reviews of or capacity to obtain timely information on the activities, size and other relevant features of non-profit sectors for the purpose of identifying NPOs at risk of being misused for terrorist financing should be implemented.</p> <p>ix. Reassessments of new information on the sector's potential vulnerabilities to terrorist activities should be conducted.</p>	
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		<p>international activities.</p>	<p>x. The Authorities should monitor the NPOs and their international activities.</p> <p>xi. Training sessions should be implemented to raise the awareness in the NPO sector about the risks of terrorist abuse.</p> <p>xii. There should be measures to protect NPOs from terrorist abuse.</p> <p>xiii. There should be sanctions for violation rules in the NPO sector</p>	
SR.IX Cross Border Declaration & Disclosure	PC	<ul style="list-style-type: none"> • No authority to conduct further investigations pursuant to false declaration. • No dissuasive criminal civil or administrative sanctions are available for application where persons make false declarations. • No dissuasive criminal civil or administrative sanctions are available for application where persons are carrying out a physical cross-border transportation of currency or bearer negotiable instruments related to ML or TF. 	<p>i. Customs should be given the authority to request further information relative to the origin of currency or bearer negotiable instruments.</p> <p>ii. Some formal arrangements should be entered into for the sharing of information on cross border transportation and seizures with International counter-parts and other competent authorities.</p> <p>iii. Provide the legislative provisions that would allow cash or bearer negotiable instruments and the identification data of the bearer to be retained in</p>	

		<ul style="list-style-type: none"> • The declaration system does not allow for the detention of currency or bearer negotiable instruments and the identification data of the bearer where there is suspicion of ML or TF. • There is no evidence that there are formal arrangements in place for the sharing of information with international counterparts in relation to cross border transactions. 	<p>circumstances involving suspicion of ML or TF.</p> <p>iv. Make available a range of effective proportionate and dissuasive criminal, civil or administrative sanction, which can be applied to persons who make false declarations.</p> <p>v. Make available a range of effective proportionate and dissuasive criminal, civil or administrative sanctions, which can be applied to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments related to ML or TF.</p>	
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