

## **ANTIGUA & BARBUDA: FIRST FOLLOW-UP REPORT**



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## ANTIGUA & BARBUDA: FIRST FOLLOW-UP REPORT

### I. Introduction

1. This report represents an analysis of Antigua and Barbuda's first 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 Antigua and Barbuda was adopted by the CFATF Council of Ministers on June 23, 2008 in Haiti. Antigua and Barbuda presented a follow-up report at the Plenary in St. Kitts & Nevis. Based on the review of the follow-up action taken, this report will recommend whether Antigua and Barbuda would be placed on biennial regular or enhanced follow-up. Antigua and Barbuda was rated partially compliant or non-compliant with 34 Recommendations, as indicated below.

<b>Partially Compliant (PC)</b>	<b>Non-Compliant (NC)</b>
R. 1 (Money laundering offence)	R. 6 (Politically exposed persons)
R. 4 (Secrecy laws consistent with the Recs.)	R. 7 (Correspondent banking)
R. 5 (Customer due diligence)	R. 8 (New technologies and non-face-to-face business)
R. 13 (Suspicious transaction reporting)	R. 9 (Third parties and introducers)
R. 14 (Protection and no tipping-off)	R. 10 (Record keeping)
R. 17 (Sanctions)	R. 11 (Unusual transactions)
R. 24 (DNFBPs regulation, supervision and monitoring)	R. 12 (DNFBPs – R. ,6,8-11)
R. 25 (Guidelines and feedback)	R. 15 (Internal controls, compliance and audit)
R. 26 (The FIU)	R. 16 (DNFBPs R. 13-15 and 21)
R. 29 (Supervisors)	R. 18 (Shell banks)
R. 30 (Resources, integrity and training)	R. 21 (Special attention for higher risk countries)
R. 32 (Statistics)	R. 22 (Foreign branches and subsidiaries)
R. 34 (Legal arrangements-beneficial owners)	R. 23 (Regulation, supervision and monitoring)
SR. 1 (Implement UN instruments)	R. 33 (Legal persons-beneficial owners)
SR. 11 (Criminalise terrorist financing)	SR. III (Freeze and confiscate terrorist assets)
SR. IX (Cross border declaration and disclosure)	SR. IV (Suspicious transaction reporting)
	SR. VI (AML requirements for money value transfer services)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organisations)

### II. Summary of progress made by Antigua & Barbuda since June 2008

2. At the time of the Mutual Evaluation of Antigua and Barbuda money laundering offences were contained in four pieces of legislation: (1) the Misuse of Drugs (Amendment) Act, 1993 (MDA), which deals with money laundering based on the predicate offence of possession of controlled drugs as defined by the Act, trafficking in controlled drugs and assisting another to retain the benefit of drug trafficking etc.; (2) the Proceeds of Crime

- Act, 1993 (POCA) which only included predicate offences under the Misuse of Drugs Act, organized fraud and public fraud; (3) the Money Laundering (Prevention) Act, 1996 (MLPA), which incorporates the money laundering offences under both the Misuse of Drugs Act and the Proceeds of Crime Act and ‘a criminal offence against the laws of Antigua and Barbuda’; and (4) the Prevention of Terrorism Act, 2005 (PTA), which specifically provides for money laundering of terrorist property (section 9).
3. Based on the recommendations of the Examiners, Antigua and Barbuda has enacted amendments to the Proceeds of Crime Act, the Money Laundering Prevention Act, the Prevention of Terrorism Act and the International Business Corporations Act. . Since the Evaluation, the Insurance Act, 2007 and the Money Services Business Act, 2007 have been enacted. The Corporate Management and Trust Service Providers Act have also been drafted and have had its second reading in the House of Representatives and are currently before a select committee. A Partnership Act is to be drafted and domestic trust legislation is to be developed.
  4. This review would look at the newly enacted amendments to determine how far they have satisfied certain recommendations. With regard to draft legislation its effect on compliance with the relevant recommendations is limited by the fact that the draft could not be submitted to the Secretariat because of Antigua and Barbuda’s policy with regard to releasing draft legislation.

## **Recommendation 1**

5. The Proceeds of Crime (Amendment) Act, 2008 creates consistent definitions of key terms in the MLPA and the POCA specifically the definitions of ‘person’ and ‘property’. The new definitions are in keeping with the definitions of these words in the Vienna and Palermo Conventions.
6. Based on the Examiners recommendation that the list of predicate offences in the POCA be expanded to an all crimes approach as stated in the MLPA, the Antigua and Barbuda Authorities have stated that they intend to add offences under sections 4, 5, 6(3), 7 and 8 to the scheduled offences in the POCA and deleted the words in the schedule of the POCA that limit the possession of property derived from unlawful activity to offences related to the possession and trafficking of controlled drugs, organized fraud and public fraud. However, it still appears that these proposed amendments would not allow an all crimes approach under the POCA. The changes also still do not rationalize the need for both the existence of the POCA and the MLPA, which was discussed by the Examiners in paragraphs 75 and 127 of the Mutual Evaluation Report.
7. The proposed amendment to Section 19A of the MDA with regard to the ambiguity of the offence of drug trafficking was not a proposed recommendation by the Examiners.
8. The new offence of ‘facilitating’ money laundering is to be included in the MLPA and when this is done would satisfy the Examiners recommendation in this regard with respect to Rec. 1. The recent amendments to the MLPA have not included this amendment however.
9. With regard to the recommendation by the Examiners for an inclusion of all the offences contemplated by the FATF Designated Category of Offences, no information has been provided in that regard. Based on the Examiners’ assessment, participation in an

organised criminal group and racketeering, trafficking in human beings and migrant smuggling and piracy need to be included as offences. Accordingly, that recommendation remains outstanding.

#### **Recommendation 4**

10. With regard to the sharing of information between the Eastern Caribbean Central Bank (ECCB), the Financial Services Regulatory Commission (FSRC) and the Registrar of Cooperatives, a policy decision has been taken to exchange information based on the signing of MOUs. This process will be subject to the implementation of necessary statutory changes, which based on the information provided has not been done as yet. Accordingly, compliance with this recommendation remains outstanding.

#### **Recommendations 5, 6, 7 and 8**

11. The Money Laundering Prevention (Amendment) Act, 2008 at section 12 provides for the deletion of subsection (3) and so there is no longer any limitation on the types of transactions that should be subject to CDD measures. As previously stated, amendments have also been made to the IBC Act (International Business Corporations (Amendment) Act, 2008) which will deal with the issue of the enforceability of the Guidelines by specifically giving the necessary enforcement power under section 359A of the IBC Act including increasing the penalties for breach of any guidelines, directions, rules or orders that are given by the FSRC. Accordingly, the deficiencies noted with regard to the requirements for Essential Criteria 5.7.2, 5.14.1, 5.15(b), 5.16, 5.18, 6.1, 6.2, 7.1, 7.5, 8.1 and 8.2 have been cured as it pertains to IBCs. Since the enforceability issues have not been rectified with regard to the ML/FTG, it means that the recommendations noted for financial institutions other than IBCs are still outstanding. It is to be noted that implementation would have to be monitored with regard to full and effective implementation of the Recommendations.
12. The requirement for senior management approval to continue a business relationship when a person subsequently becomes a PEP (E.C. 6.2.1) will require an amendment to the CDD Guidelines (ML/FTG). Additionally, with regard to correspondent banking, Essential Criteria 7.1, 7.2 and 7.4 require amendments to the CDD Guidelines for compliance. The amendments to the Guidelines have not been made as yet.

#### **Recommendation 9**

13. The amendment to the IBC Act as previously stated has remedied the enforceability of the CDD Guidelines issued by the FSRC. Accordingly there is now compliance with Essential Criterion 9.1. The other measures noted for compliance with Essential Criteria 9.2 to 9.4 are under review and assessment. Accordingly, these recommendations have not yet been complied with.

#### **Recommendation 10**

14. The Money Laundering Prevention (Amendment) Act, 2008 provides for the deletion of section 12(3) of the MLPA which allowed an exemption from record keeping of single transactions under EC\$1,000. This amendment removes the deficiency that was noted by the Examiners with regard to compliance with E.C. 10.1. It should be noted however that

the Authorities should amend section 12(2) of the MLPA by deleting the reference to subsection (3). Additionally, the amendment to section 12B of the MLPA removes the deficiency noted with regard to retention of customers business correspondence (E.C. 10.2) by including in the definition of ‘customer generated financial transaction document’; documents pertaining to the ‘financial activities of the customer and any correspondence that relates to that customer.’ The recommendations pertaining to E.C. 10.1.1 and 10.3 remain outstanding.

## **Recommendations 11 and 13**

15. The Antigua and Barbuda Authorities have amended section 13 of the MLPA with regard to complex, unusual large transactions whereby there is now a requirement to examine the background and purpose of those transactions, put those findings in writing and treat them as part of the transaction record. The latter provision is intended to ensure that the findings are kept for the required time frame. However, it should be noted that there is no definition of ‘transaction record’ in the MLPA rather the terminology used is ‘financial transaction document’. It is therefore recommended that section 13(1A) (iii) be amended so that it is consistent with the references to financial transaction documents as they already exist in the MLPA.
16. Based on the aforementioned, the amendment complies with only one of the two recommendations made by the Examiners (i.e. as it pertains to compliance with E.C. 11.2). The time frame for keeping such findings has not been met due to the inconsistency noted above.
17. Section 13(2) of the MLPA has been amended so that all suspicious transactions are to be reported and not only those that are large, unusual or complex. However, the new amendment requires that the person must have a reasonable suspicion that the transaction or activity could constitute or be related to a money laundering offence. The latter burden appears to be too high and it is suggested that a further amendment should be made to this section to have suspicious transactions reported where there is a reasonable suspicion that the activities or transaction involve the proceeds of crime. With regard to reporting of STRs with regard to terrorism and the financing of terrorism, it appears that the amendment to section 34(3)(a) of the PTA does not cure the deficiencies noted by the Examiners with regard to the reporting of STRs to include the suspicion of terrorist organisations or those who finance terrorism because this subsection of the PTA does not deal with the reporting of suspicious transactions, but rather creates a requirement to provide information that will assist in the prevention of or securing the arrest for terrorist activities (section 33) and the reporting of the existence of terrorist property and transactions related to that property.

## **Recommendations 12 and 16**

18. The First Schedule of the MLPA is under review for the purpose of expanding the AML/CFT regime so that all DNFBPs will be covered. The Corporate Management and Trust Service Providers Act has had its second reading and is before a Select Committee of the House. The amendments and the outcome of the new Act will determine the level of compliance that would be achieved with regard to the recommendations made by the Examiners.

#### **Recommendation 14**

19. Section 7(2) of the MLPA has been amended to provide for an offence of tipping off that is applicable where financial institutions have submitted or are about to submit a suspicious activity report (SAR) pursuant to section 13(2) to the FIU. As noted above, the amended section 13(2) specifies a suspicion that is related to money laundering. Accordingly, the amendment to section 7(2) does not correct the deficiency noted by the Examiners.

#### **Recommendation 15**

20. With regard to recommendations based on the unenforceable status of the ML/FT Guidelines issued by the Office of National Drug and Money Laundering Control Policy (ONDCP), the status of those guidelines will have to be dealt with. No such adjustments have been noted and accordingly compliance with Essential Criteria 15.1.1, 15.1.2, 15.2 and 15.4 are still outstanding. The amendment to the MLPR to require financial institutions to develop internal procedures and controls relating to FT should be considered in conjunction with a clear determination as to whether the MLPR is the best place to put requirements with regard to FT, since the parent Act, the MLPA pertains only to money laundering. The proposed measure to comply with Essential Criterion 15.1 should be reviewed further by the Antigua and Barbuda Authorities.

#### **Recommendation 17**

21. The sanctions in the PTA have been amended to include a fine of E.C. \$500,000. This means that a Court can give either the monetary penalty or the term of imprisonment specified for the various offences under the PTA. The amendment therefore provides a better range of sanctions. Section 359A of the IBC Act has also been amended to provide an increase in the administrative penalty for failure to comply with any guidelines, directions, rules and orders given in writing by the Commission from U.S.\$10,000 to U.S.\$100,000. There is also a daily maximum penalty of U.S. \$5,000 that can be imposed for each day that the breach remains outstanding. The sanctions in the MLPA have not been amended as yet. Accordingly, the recommendations of the Examiners have only been partially complied with.

#### **Recommendation 18**

22. The IBC Act has been amended at sections 316(4) and 359A(c) to include references to rules and orders and rules, orders and guidelines respectively. This amendment has effectively dealt with the enforceability issue of the IBC guidelines thereby making the provision relating to IBCs not being permitted to enter into correspondent banking relationships with shell banks enforceable. The recommendation as it pertains to financial institutions other than shell banks has still not been met. With regard to Essential Criterion 18.3, the Authorities will amend the offshore banking guidelines. Accordingly, the Examiners' recommendation with regard to this Criterion remains outstanding.

#### **Recommendation 21**

23. The Antigua and Barbuda Authorities are reviewing mechanisms for ascertaining AML/CFT weaknesses in other jurisdictions and on reporting such findings. They have also indicated a proposed amendment to regulation 6 of the MLPR to conform to the requirements of this Recommendation. Accordingly, the proposed measures for compliance with this Recommendation cannot be assessed.

## **Recommendation 22**

24. The amendments to the IBC Act have resulted in the enforceability of the Guidelines issued by the FSRC and therefore the provisions contained therein to deal with the application of AML/CFT measures to branches and subsidiaries are enforceable as it pertains to IBCs. The recommendations are still outstanding as it pertains to other types of financial institutions. Checks would still have to be made with regard to the effectiveness of implementation of these measures on IBCs.

## **Recommendations 23 and 29**

25. With regard to the recommendation for compliance with approval by the Superintendent of Insurance for changes in shareholding, directorship or management, this cannot be assessed since amendments are to be made to the Insurance Act, 2007. The Examiners recommendations with regard to the Registrar of Cooperative Societies also cannot be assessed since the legislation is currently being reviewed by the Antigua and Barbuda Authorities.
26. The Money Services Business Act, 2008 provides a legal framework for monitoring and ensuring AML/CFT compliance. However, issues with regard to implementation would have to be looked at. In that regard, the FSRC should provide information on the type of reporting system that MSPs have in place to deal with AML/CFT and also the systems for ensuring that there is compliance by these organisations. The FSRC should also specify whether any AML/CFT inspections have been done.
27. It has also been noted that the new Act at section 18(3) provides that licensees shall institute the procedures, etc that would ensure compliance with the MLPR. It would appear that the broadest range of compliance would have been achieved if licensees were required to ensure compliance with the MLPA which in turn requires adherence to its regulations. Accordingly, the Antigua and Barbuda Authorities should consider making an amendment to section 18(3) to reflect this.
28. The Authorities need to review the Insurance Act, 2007 with a view to making amendments to provide for the Registrar of Insurance to have enforcement powers and sanctions against insurance companies, their directors and senior management who fail to comply with AML/CFT requirements. The legislation pertaining to Cooperative Societies is also expected to provide the Registrar of Cooperatives with enforcement powers and sanctions. The need for amendment and enforcement of legislation means that there can be no assessment of compliance with this recommendation.

## **Recommendation 24**

29. Antigua and Barbuda is moving forward with regard to the establishment of a Single Regulatory Unit (SRU), which will provide a comprehensive regulatory regime for

casinos, real estate agents and dealers in precious metals and precious stones. Accordingly, until this is established an assessment of compliance with this recommendation cannot be undertaken.

### **Recommendation 25**

30. The ONDCP is currently engaged in a programme to provide feedback on the substance of Suspicious Activity Reports (SARs) and annual AML/CFT Reports. In that regard, they have issued feedback in the form of acknowledgement of receipt for all forty-nine (49) STRs received for the year 2007. Additionally, the ONDCP has requested additional information on ten (10) of those STRs and requested that the financial institution monitor the account with regard to fifteen (15) of those STRs. While statistics relating to feedback given in the manner discussed herein was provided, no statistics were provided with regard to the distribution of directives and guidelines to the various sectors. They are also working on typologies and ensuring that all financial institutions are in possession of the relevant directives and guidelines issued by them. This information would be helpful in determining the level of compliance with this Recommendation.

### **Recommendation 26**

31. The Supervisory Authority was appointed on November 1, 2007 and meets the recommended action by the Examiners in this regard. With regard to the practice of copying SARs to the FSRC, the Authorities have not yet amended the IBC Act and Interactive Gaming and Interactive Wagering Act to remove that provision. The ONDCP has provided statistics with regard to training provided since the Evaluation. These statistics show that a total number of ninety-one (91) persons (onshore and offshore banks, trust companies, credit unions insurance companies money remitters and real estate companies) were trained with fifty-seven of that total receiving SAR/STR training and seventeen (17) receiving full AML/CFT training. According to the statistics provided no one from the offshore trust companies, the offshore insurance companies or the money remittance companies received full AML/CFT training. The convening of meetings by the Oversight Committee of Money Laundering seeks to address the issue of lack of systemic review of the efficiency of the ML and FT regime. In order to properly assess this development information of the frequency of these meetings and the agenda would be required. A periodic report on the operation of the ONDCP is expected to be published. The need for Cabinet approval for the hiring of ONDCP staff has not been addressed as yet by the Authorities.

### **Recommendation 30**

32. The ONDCP is in the process of filling the vacancies in that Unit, and systemic training for staff of the ONDCP in ML investigations and Court procedure is scheduled to commence in November 2008. There is no indication that the budgetary resources for the ONDCP, Police, Customs, Immigration and Prosecutors have been increased since the Evaluation.

### **Recommendation 32**

33. The AML/CFT Working Committee is expected to review the ML/FT statistics with a view to forming an opinion on the effectiveness of the AML/CFT regime so that the



Government of Antigua and Barbuda can be advised on appropriate measures for improvement. The ONDCP currently has statistics designed to reflect the impact of STRs on investigations, prosecutions and convictions.

### **Recommendations 33 and 34**

34. The Antigua and Barbuda Authorities will amend the IBC Act to immobilize bearer shares and to licence custodians of these shares. With regard to statutory obligations to provide information on the ownership and management of partnerships will be dealt with by the drafting and enactment of a new Partnership Act. With regard to legal arrangements, legislation governing domestic trusts is currently being developed.

### **Recommendation 40**

35. The International Business Corporations (Amendment) Act, 2008 repealed and replaced section 373 of the IBC Act with measures that provide for cooperation with regulatory authorities by the FSRC. Accordingly, the FSRC can disclose information with regard to ownership, management, operations and financial returns submitted by a financial institution subject to a (1) confidentiality agreement; (2) Memorandum of Understanding and (3) Court Order for customer information.

### **Special Recommendations I, II, III and IV**

36. The Prevention of Terrorism Act (PTA) has been amended to provide: a definition of 'person' which includes any entity natural or juridical etc. that is capable of acquiring rights or entering into obligations. The definition is consistent with the definition of 'person' in the MLPA and the amended POCA; a definition of 'funds' in keeping with the Palermo Convention; that the knowledge, intent or purpose required of any offence under the Act may be inferred from objective or factual circumstances; the attempted commission of terrorist acts; the amendment of relevant sanctions to include a fine of E.C. \$500,000; persons having an interest in property that was seized or restrained to make an application to the Court so that their interest in the property can be considered; the Court to revoke or varying the orders for seizure or restraint and make provisions for the release of reasonable living expenses and legal expenses (UNSCR 1425) under stipulated circumstances; compensation for victims of terrorist acts (section 28 of the PTA as amended); and the reporting of suspicious transactions and attempted transactions where there are reasonable grounds to suspect that the transaction is related to the commission of a terrorist act. Section 9 of the PTA which deals specifically with money laundering has been amended to give the Supervisory Authority the power to direct financial institutions in writing to freeze property for a period of fourteen (14) days while the Supervisory Authority seeks a freezing order from the Court.
37. The Antigua and Barbuda Authorities have stated that the Money Laundering Financing of Terrorism Guidelines (ML/FTG) will be reviewed to produce comprehensive guidance for financial institutions on combating the financing of terrorism. There will also be a review of the procedure by which the Attorney General's declarations of specified entities are communicated to financial institutions. This review would have to include the procedures for delisting and the voiding of contracts, which has not been addressed by the current amendments to the PTA.

## **Special Recommendation VI**

38. Section 18(3) of the newly enacted Money Services Business Act (MSBA), 2008 puts an obligation on the licensee to institute procedures that would ensure that its accounting records and systems of business control comply with the requirements of the MLPR. There is still no requirement that licensees be required to keep a current list of agents. While section 48 of the Act provides for the issuing of prudential guidelines and related orders with regard to various issues including AML/CFT matters; at present no such guidelines or orders have been issued. The MSBA provides sanctions for failure to operate without a licence (unless they are exempted from obtaining a license). It does not however provide sanctions for all of the criteria of SRVI as recommended by the Examiners since certain items are not addressed by the Act, guidelines or orders. The Antigua and Barbuda Authorities should amend section 40(1)(d)(ii) of the MSBA to reflect a correct reference to section 19 of the Act and also to remove an inconsistency which has the Commission reporting to themselves.

## **Special Recommendation VII**

39. The Antigua and Barbuda Authorities have decided that requirements relating to wire transfers will be included in the Money Laundering Regulations and that appropriate sanctions will be provided for. No amendments have been made to the MLFTG to make them enforceable.

## **Special Recommendation VIII**

40. The Antigua and Barbuda Authorities are reviewing the law regarding non-profit organisations with a view to addressing the noted deficiencies.

## **Special Recommendation VIII**

41. Since the Evaluation, there has been one money laundering prosecution for undeclared cross border cash, which has occurred because of enhance cooperation between the ONDCP and Customs in relation to the transportation of cross border currency and bearer negotiable instruments. This is a very positive step and addresses the concerns raised by the Examiners during the onsite visit.

## **III. Conclusion**

42. Antigua and Barbuda has amended the Proceeds of Crime Act, the Money Laundering Prevention Act, the International Business Corporations Act, the Prevention of Terrorism Act and the Office of National Drug and Money Laundering Control Policy Act. As discussed above many of the amendments have adequately dealt with the recommendations made by the Examiners. However, with regard to the enforceability issue as it pertains to the guidelines issued by the ONDCP which affect all other financial institutions other than IBCs, this deficiency has not been cured. Accordingly, several key recommendations (Recs. 1, 5, 6, 7, 8, 18, 22 and SR VII) have not been complied with. Based on the fact that there a still key recommendations outstanding, it is recommended that Antigua and Barbuda remain on enhanced follow-up and report back to the Plenary in October 2009.

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

<b>FATF 40+9</b>	<b>Rating</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
<b>Legal Systems</b>				
1. ML offense	PC	<p>Key definitions are inconsistently defined in the Statutes and these definitions are not in the terms provided under the Palermo and Vienna Conventions.</p> <p>The list of precursor chemicals does not accord with the list under the Vienna Convention.</p> <p>The list of money laundering predicate offences under the POCA is too limited.</p> <p>The predicate offences for money laundering do not cover three (3) out of the twenty (20) FATF's Designated Category of Offences, specifically Participation in an Organised Criminal Group, Trafficking in human beings and migrant smuggling and Piracy.</p>	<ul style="list-style-type: none"> <li>The list of predicate offences under the POCA needs to be expanded. An all-crimes approach similar to what obtains under the MLPA could be explored.</li> <li>The list of precursor chemicals under the MDA should be amended to include the chemicals stated in Tables I and II of the Vienna Convention.</li> <li>The equivalent Antigua and Barbuda legislation which corresponds to the FATF list of Designated Category of Offences should be revised to ensure that the Acts capture all the offences contemplated by the FAFT recommended categories. Legislation should be enacted to address participation in an organised criminal group and racketeering, trafficking in human beings and migrant smuggling and piracy.</li> <li>Facilitation of a money laundering offence should be stated as a separate crime.</li> <li>Caution should be exercised in the</li> </ul>	<p>Parliament has had the first reading of Acts to amend the <b>Proceeds of Crime Act, 1993, the Misuse of Drugs Act, and The Money Laundering (Prevention) Act</b>. The following amendments have been proposed:</p> <ul style="list-style-type: none"> <li><b>Schedule of Offences</b> of the <b>POCA</b> will be amended to include offences under sections 4, 5, 6(3), 7 and 8 of the <b>Misuse of Drugs Act, Cap 283</b>.</li> <li><b>Schedule Offence 6</b> of the <b>POCA</b>, will be amended to delete the restrictive words "in relation to paragraphs 1, 2, 3, and 4 of this Schedule)".</li> <li>The list of precursor chemicals under the <b>Misuse of Drugs Act, Cap 283</b>, will be amended to include the full list of chemicals stated in Tables I and II of the Vienna Convention.</li> <li>Key terms in the <b>POCA</b>, including "person" and "property", will be reviewed and amended to ensure the same are sufficiently expressly defined and consistent with their usage in the <b>MLPA</b>. The definitions so adopted</li> </ul>

<sup>1</sup> Since the initial completion of this matrix by the Antigua and Barbuda Authorities, they have enacted the Money Laundering (Prevention) (Amendment) Act, 2008; the Proceeds of Crime (Amendment) Act, 2008; the International Business Corporations (Amendment) Act, 2008; the Prevention of Terrorism (Amendment) Act, 2008; the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008; the Corporate Management Service Providers Act, 2008 and the Customer Due Diligence Guidelines for International Banking Corporations (Updated September 2008).

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

<b>FATF 40+9</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
			<p>drafting of legislation. There is inconsistency in the definition of key terms, and these definitions are left to judicial interpretation, for example, the definitions of “property” and “person”. Terms should be defined in accordance with the definitions provided under the Vienna Convention and the Palermo Convention. Accordingly, amendments should be made to the MLPA and the MDA and to the POCA if it is not repealed.</p>	<p>will be pursuant to the Vienna Convention and the Palermo Convention.</p> <ul style="list-style-type: none"> <li>• <b>Section 19A of the Misuse of Drugs Act</b> will be amended to remove ambiguity in the section that creates the offence of drug trafficking.</li> <li>• A new offence of “facilitating money laundering” will be inserted into the <b>MLPA</b>.</li> </ul>

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

<b>FATF 40+9</b>	<b>Rating</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
2. ML offense—mental element and corporate liability	LC	The number of money laundering prosecutions is remarkably low given the wide measures and the absence of thresholds available under the MLPA.		<ul style="list-style-type: none"> <li>Since the last CFATF Report, one money laundering charge has been filed by the <i>Office of National Drug and Money Laundering Control Policy</i> (ONDCP) and further consultations are ongoing to sensitize the <i>Royal Antigua and Barbuda Police Force of</i> (RPF) about the need to pursue money laundering charges.</li> </ul>
	LC	<p>Ineffective implementation of the freezing and forfeiture regime.</p> <p>No express provision in the PTA for third parties to have their interest in property excluded from seized property.</p>	<ul style="list-style-type: none"> <li>The Antigua and Barbuda Authorities should seek to prosecute money laundering offences as stand-alone offences pursuant to the MLPA.</li> <li>Greater emphasis should be placed on the investigation of offences with a view to securing convictions.</li> <li>The PTA should make express provision for bona fide third parties to have their interest in property excluded from seized property.</li> </ul>	<ul style="list-style-type: none"> <li>Since the finalisation of the Mutual Evaluation one money laundering charge has been brought in relation to cross border cash.</li> <li>Parliament has had the first reading of an Act to amend the <b>The Prevention of Terrorism Act, 2005. Section 35</b> will be amended to make explicit provision for third parties with an interest in property to apply to the Court to have the property removed from the restraint order.</li> </ul>
<b>Preventive measures</b>				
4. Secrecy laws consistent with the Recommendations	PC	The ECCB and FSRC are not legislatively empowered to share information with other competent authorities either domestically or	<ul style="list-style-type: none"> <li>The Antigua and Barbuda Authorities should enact provisions allowing the ECCB, FSRC, the Registrar of Co-</li> </ul>	<ul style="list-style-type: none"> <li>A policy decision has been taken that the exchange of information between competent authorities should be</li> </ul>

<sup>1</sup> Since the initial completion of this matrix by the Antigua and Barbuda Authorities, they have enacted the Money Laundering (Prevention) (Amendment) Act, 2008; the Proceeds of Crime (Amendment) Act, 2008; the International Business Corporations (Amendment) Act, 2008; the Prevention of Terrorism (Amendment) Act, 2008; the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008; the Corporate Management Service Providers Act, 2008 and the Customer Due Diligence Guidelines for International Banking Corporations (Updated September 2008).

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Antigua and Barbuda**

<b>FATF 40+9</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
		<p>internationally without a MOU.</p> <p>There are no legislative provisions allowing the Registrar of Co-operative Societies and the Registrar of Insurance to share information with other competent authorities.</p>	<p>operatives and the Registrar of Insurance to share information with other competent authorities.</p>	<p>governed by a Memorandum of Understanding (MOU). Necessary statutory provision will be implemented, and where statutory provisions are in place, then signing of MOUs will be pursued.</p>

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<b>FATF 40+9</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
5. Customer due diligence	PC	<p>Legislative requirement for CDD measures where there is suspicion of money laundering or the financing of terrorism is limited to occasional transactions.</p> <p>The requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up- to-date is not enforceable.</p> <p>The requirements concerning the time frame and measures to be adopted prior to verification are not enforceable.</p> <p>The requirement for a financial institution to consider making a suspicious transaction report when it is unable to comply with criteria 5.3 to 5.6 for a new customer or an occasional transaction is not enforceable.</p> <p>The requirement for a financial institution to consider making a suspicious transaction report when it is unable to comply with criteria 5.3 to 5.6 when it has already commenced a business</p>	<ul style="list-style-type: none"> <li>Legislative requirement for CDD measures where there is suspicion of money laundering or the financing of terrorism should cover all transactions.</li> <li>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 in accordance with FATF requirements.</li> <li>The requirements concerning the time frame and measures to be adopted prior to verification should be enforceable in accordance with FATF requirements.</li> <li>The requirement for a financial institution to consider making a suspicious transaction report when it is unable to comply with criteria 5.3 to 5.6 for a new customer or an occasional transaction should be enforceable.</li> <li>The requirement for a financial institution to consider making a suspicious transaction report when it is</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend the <b>The MLPA. Section 12 (3)</b> will be repealed to remove the record keeping exemption for transactions under \$1,000.</li> <li>Parliament has had the first reading of an Act to amend <b>The International Business Corporations Act (IBC Act). Cap 222 Section 316 (4)</b> will be amended to include “rules” and “orders”</li> <li><b>IBC Act Section 359A(1)(c)</b> to be amended to include “rules”, “orders” and “guidelines”</li> <li><b>IBC Act, Section 359A(1)</b> will be amended so as to provide for a maximum administrative penalty of US \$100,000.00 with a daily penalty for continued breach not to exceed US \$5,000 per day.</li> </ul>

<sup>1</sup> Since the initial completion of this matrix by the Antigua and Barbuda Authorities, they have enacted the Money Laundering (Prevention) (Amendment) Act, 2008; the Proceeds of Crime (Amendment) Act, 2008; the International Business Corporations (Amendment) Act, 2008; the Prevention of Terrorism (Amendment) Act, 2008; the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008; the Corporate Management Service Providers Act, 2008 and the Customer Due Diligence Guidelines for International Banking Corporations (Updated September 2008).

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		<p>relationship is not enforceable.</p> <p>The requirement to apply CDD requirements to all existing customers is limited to IBCs and is not enforceable.</p> <p>.</p>	<p>unable to comply with criteria 5.3 to 5.6 when it has already commenced a business relationship should be enforceable.</p> <ul style="list-style-type: none"> <li>• The requirement to apply CDD requirements to all existing customers should be imposed on all financial institutions and be enforceable in accordance with FATF standards.</li> </ul>	



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6. Politically exposed persons	NC	<p>The requirement for domestic and offshore banks to gather sufficient information to establish whether a new customer is a PEP is not enforceable.</p> <p>The requirement for banks to obtain senior management approval for establishing business relationships with a PEP is not enforceable.</p> <p>No requirement that when a customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP, that financial institutions are required to obtain senior management approval to continue the business relationship.</p>	<ul style="list-style-type: none"> <li>The requirement for domestic and offshore banks to gather sufficient information to establish whether a new customer is a PEP should be enforceable in accordance with FATF requirements.</li> <li>The requirement for banks to obtain senior management approval for establishing business relationships with a PEP should be enforceable in accordance with FATF requirements.</li> <li>Financial institutions should be required to obtain senior management approval to continue the business relationship when a customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP.</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend the <b>IBC Act, Section 359A(1)(c)</b> to be amended to include “rules”, “orders” and “guidelines”</li> <li>CDD Guidelines will be amended to meet the R6 essential criteria 6.2.1.</li> </ul>
7. Correspondent banking	NC	<p>Requirement for fully understanding and documenting the nature of the respondent bank’s management and business and assessing customer acceptance and KYC policies and whether it is effectively supervised is not enforceable.</p> <p>Requirement for assessing a respondent’s controls does not include all AML/CFT controls</p>	<ul style="list-style-type: none"> <li>Requirement for fully understanding and documenting the nature of the respondent bank’s management and business and assessing customer acceptance and KYC policies and whether it is effectively supervised should be enforceable in accordance with FATF requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend the <b>The IBC Act (IBC Act) , Cap 222. Section 316 (4)</b> will be amended to include “rules” and “orders”</li> <li><b>IBC Act Section 359A(1)(c)</b> to be amended to include “rules”, “orders” and “guidelines”</li> </ul>

<sup>1</sup> Since the initial completion of this matrix by the Antigua and Barbuda Authorities, they have enacted the Money Laundering (Prevention) (Amendment) Act, 2008; the Proceeds of Crime (Amendment) Act, 2008; the International Business Corporations (Amendment) Act, 2008; the Prevention of Terrorism (Amendment) Act, 2008; the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008; the Corporate Management Service Providers Act, 2008 and the Customer Due Diligence Guidelines for International Banking Corporations (Updated September 2008).

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		<p>or whether it has been subject to money laundering or terrorist financing investigation or regulatory action and is not enforceable.</p> <p>Financial institutions are not required to document the respective AML/CFT responsibilities of each institution in a correspondent relationship.</p> <p>Financial institutions are not required to obtain approval from senior management before establishing new correspondent relationships.</p> <p>The requirement for financial institutions to ensure that respondent institutions have performed normal CDD measures set out in Rec. 5 for customers utilizing payable- through accounts or are able to provide relevant customer identification upon request for these customers while only applicable to IBCs is not enforceable.</p>	<ul style="list-style-type: none"> <li>Financial institutions should be required to assess all the AML/CFT controls of respondents and whether they have been subjected to money laundering or terrorist financing investigation or regulatory action.</li> <li>Financial institutions should be required to document the respective AML/CFT responsibilities of each institution in a correspondent relationship.</li> <li>Financial institutions should be required to obtain approval from senior management before establishing new correspondent relationships</li> <li>Financial institutions should be required to ensure that respondent institutions have performed normal CDD measures set out in Rec. 5 for customers utilizing payable through accounts or are able to provide relevant customer identification upon request for these customers.</li> </ul>	<ul style="list-style-type: none"> <li>The CDD will be amended to incorporate the recommendations</li> </ul>

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8. New technologies & non face-to-face business	NC	<p>There are no enforceable provisions which require all financial institutions to have measures aimed at preventing the misuse of technology in ML and FT schemes.</p> <p>Requirements for financial institutions to have policies and procedures in place to address specific risks associated with non-face-to-face customers are not enforceable.</p>	<ul style="list-style-type: none"> <li>Financial institutions should be required to have measures aimed at preventing the misuse of technology in ML and FT schemes.</li> <li>Requirements for financial institutions to have policies and procedures in place to address specific risks associated with non-face-to-face customers should be enforceable in accordance with FATF standards.</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend the <b>The IBC Act, Cap 222. Section 316(4)</b> will be amended to include “rules” and “orders”</li> <li><b>IBC Act Section 359A(1)(c)</b> to be amended to include “rules”, “orders” and “guidelines”</li> </ul>
9. Third parties and introducers	NC	<p>The requirement for IBCs to immediately obtain from a third party the necessary identification information on the customer is not enforceable.</p> <p>No requirement for financial institutions – except for an unenforceable requirement for IBCs to obtain CDD documentation – to take adequate steps to satisfy themselves that copies of identification data and other relevant CDD documentation will be made available for the third party upon request and without delay.</p> <p>No requirement for financial institutions to satisfy themselves that third parties are regulated and supervised in accordance with</p>	<ul style="list-style-type: none"> <li>Financial institutions relying upon third parties should be required to immediately obtain from the third party the necessary information concerning elements of the CDD process in criteria 5.3 to 5.6.</li> <li>Financial institutions should be required to take adequate measures to insure that copies of the identification data and other relevant CDD documentation from third parties will be made available upon request and without delay.</li> <li>Financial institutions should be required to satisfy themselves that the third party is regulated and supervised in accordance with Recommendations 23,</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend the <b>The IBC Act, Cap 222. Section 316(4)</b> will be amended to include “rules” and “orders”</li> <li><b>IBC Act Section 359A(1)(c)</b> to be amended to include “rules”, “orders” and “guidelines”</li> <li><b>The First Schedule of the MLPA</b> is under review for the purpose of expanding the AML/CFT regime to cover DNFBP’s</li> <li>MLP Regulations and ML/FT Guidelines are being reviewed to give</li> </ul>

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		<p>Recommendations 23,24 and 29 and have measures in place to comply with the CDD requirements set out in R.5 and R.10.</p> <p>Competent authorities have not issued any guidance about countries in which third parties can be based since the FATF NCCT listing.</p>	<p>24 and 29 and has measures in place to comply with the CDD requirements set out in R.5 and R.10.</p> <ul style="list-style-type: none"> <li>Competent authorities should take into account information available on countries which adequately apply the FATF Recommendations in determining in which countries third parties can be based.</li> </ul>	<p>effect to Recommendation 9</p> <ul style="list-style-type: none"> <li>An assessment of countries in which third parties should not be based is being made.</li> </ul>

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10. Record keeping	NC	<p>Single transactions under EC \$1,000 are exempted from record keeping requirements.</p> <p>Only IBCs are required to maintain transaction records in a manner that would permit reconstruction of individual transactions to provide evidence that would facilitate the prosecution of criminal activity.</p> <p>There is no requirement for financial institutions to retain business correspondence for at least five (5) years following the termination of an account or business relationship.</p> <p>There is no enforceable requirement for financial institutions to ensure that customer and transaction records are available to the Supervisory Authority or other competent authorities on a timely basis.</p>	<ul style="list-style-type: none"> <li>• The exemption of single transactions under EC \$1,000 from record keeping requirements should be removed.</li> <li>• Legal provision for financial institutions to maintain transaction records in a manner that would permit reconstruction of individual transactions to provide evidence that would facilitate the prosecution of criminal activity should be extended from IBCs to all financial institutions.</li> <li>• The MLPA or the MLPR should be amended to require financial institutions to retain records of business correspondence for at least five (5) years following the termination of an account or business relationship.</li> <li>• Financial institutions should be legislatively required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.</li> </ul>	<ul style="list-style-type: none"> <li>• Parliament has had the first reading of an Act to amend the <b>The Money Laundering Prevention Act, 1996. Section 12 (3)</b> will be repealed to remove the record keeping exemption for transactions under \$1,000</li> <li>• <b>The First Schedule</b> of the <b>MLPA</b> is under review for the purpose of expanding the AML/CFT regime to cover all DNFBP's</li> <li>• An amendment to <b>Section 12</b> of the <b>MLPA</b> will be made to capture the record keeping requirement for business correspondence.</li> <li>• <b>MLPR</b> is to be amended so as to satisfy the requirement for there to be sufficiency of records to permit reconstruction for the prosecution of criminal activity</li> </ul>

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11. Unusual transactions	NC	<p>There is no requirement for financial institutions to examine the background and purpose of all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose and put their findings in writing.</p> <p>There is no requirement to keep findings on all complex, unusual large transactions or unusual patterns of transactions for competent authorities and auditors for at least five (5) years.</p>	<ul style="list-style-type: none"> <li>Financial institutions should be required to examine the background and purpose of all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose and put their findings in writing.</li> <li>Financial institutions should be required to keep findings on all complex, unusual large transactions or unusual patterns of transactions for competent authorities and auditors for at least five (5) years.</li> </ul>	<ul style="list-style-type: none"> <li><b>Section 13</b> of the <b>MLPA</b> is to be amended to require the examination of the background and purpose of complex, unusual and large transactions or unusual patterns of transaction, with findings to be put in writing and be treated as part of the record of transactions</li> </ul>
12. DNFBP–R.5, 6, 8-11	NC	<p>Lawyers and notaries, other independent legal professionals, accountants and company service providers are not considered financial institutions under the MLPA, and they are therefore outside the ambit of the AML/CFT regime.</p> <p>Deficiencies identified for all financial institutions as noted for Recommendations 5, 6, 8-11, in the relevant sections of this Report are also applicable to listed DNFBPs.</p>	<ul style="list-style-type: none"> <li>Deficiencies identified for all financial institutions as noted for Recommendations 5, 6, 8-11, in the relevant sections of this report are also applicable to listed DNFBPs. Implementation of the specific recommendations in the relevant sections of this Report will also apply to listed DNFBPs.</li> <li>Lawyers and notaries, other independent legal professionals, accountants and company service providers should be brought under the ambit of the</li> </ul>	<ul style="list-style-type: none"> <li><b>The First Schedule</b> of the <b>MLPA</b> is under review for the purpose of expanding the AML/CFT regime to cover all DNFBP's</li> <li><b>The Corporate Management and Trust Service Providers Act</b>, has had its second reading in the House of Representatives and is currently before a select committee of the House.</li> </ul>

<sup>1</sup> Since the initial completion of this matrix by the Antigua and Barbuda Authorities, they have enacted the Money Laundering (Prevention) (Amendment) Act, 2008; the Proceeds of Crime (Amendment) Act, 2008; the International Business Corporations (Amendment) Act, 2008; the Prevention of Terrorism (Amendment) Act, 2008; the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008; the Corporate Management Service Providers Act, 2008 and the Customer Due Diligence Guidelines for International Banking Corporations (Updated September 2008).

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			AML/CFT regime.	

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13. Suspicious transaction reporting	PC	<p>The requirement for FIs to report suspicious transactions is linked only to transactions that are large, unusual, complex etc.</p> <p>The obligation to make a STR related to money laundering does not apply to all offences required to be included as predicate offences under Recommendation 1.</p> <p>The reporting of STRs with regard to terrorism and the financing of terrorism does not include suspicion of terrorist organisations or those who finance terrorism.</p>	<ul style="list-style-type: none"> <li>The requirement for FIs to report suspicious transactions should be applicable to all transactions.</li> <li>The obligation to make a STR related to money laundering should apply to all offences required to be included as predicate offences under Recommendation 1.</li> <li>The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organisations or those who finance terrorism.</li> </ul>	<ul style="list-style-type: none"> <li><b>Section 13(2) of the MLPA</b> is to be amended to delete the reference to “<b>section 13(1)</b>” and to require the reporting without exception of all suspicious transactions and activities that may be related to money laundering.</li> <li>Parliament has had the first reading of an Act to amend the <b>PTA, 2005</b>. The PTA is to be amended to require the reporting by financial institutions of suspected terrorist organizations and suspected financiers of terrorism</li> </ul>
14. Protection & no tipping-off	PC	<p>The tipping-off offence with regard to directors, officers and employees of financial institutions is limited to information concerning money laundering investigations rather than the submission of STRs or related information to the FIU.</p>	<ul style="list-style-type: none"> <li>The tipping off offence with regard to directors, officers and employees of financial institutions should be extended to include the submission of STRs or related information to the FIU.</li> </ul>	<ul style="list-style-type: none"> <li><b>Section 7 (1) of the MLPA</b> will be amended to extend the tipping off prohibition to SAR’s and related information</li> </ul>
15. Internal controls, compliance & audit	NC	<p>Requirement for financial institutions to develop internal procedures and controls is limited to</p>	<ul style="list-style-type: none"> <li>Requirement for financial</li> </ul>	<ul style="list-style-type: none"> <li><b>The MLPR</b> will be amended to require financial institutions to develop</li> </ul>

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		<p>money laundering and does not include financing of terrorism.</p> <p>Requirement for financial institutions to appoint a compliance officer at management level is not enforceable.</p> <p>Requirement for financial institutions to provide compliance officers with necessary access to systems and records is not enforceable.</p> <p>No requirement for financial institutions to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with AML/CFT procedures, policies and controls.</p> <p>Requirement for financial institutions to put in place screening procedures to ensure high standards when hiring employees is not enforceable.</p>	<p>institutions to develop internal procedures and controls to prevent ML should include FT.</p> <ul style="list-style-type: none"> <li>• Requirement for financial institutions to appoint a compliance officer at management level should be enforceable in accordance with FATF standards.</li> <li>• Requirement for financial institutions to provide compliance officers with necessary access to systems and records should be enforceable in accordance with FATF standards.</li> <li>• Financial institutions should be required to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with AML/CFT procedures, policies and controls.</li> <li>• Requirement for financial institutions to put in place screening procedures to ensure high standards when hiring employees should be enforceable in accordance with FATF standards.</li> </ul>	<p>internal procedures and controls relating to FT.</p>

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16. DNFBP–R.13-15 & 21	NC	<p>Deficiencies identified for all financial institutions for Recommendations 13, 15, and 21 in Sections 3.6.3, 3.7.3, and 3.8.3 of this Report are also applicable to DNFBPs</p> <p>Ineffective implementation of suspicious transaction reporting requirements.</p>	<p>The requirements for DNFBPs are the same as for all other financial institutions. The deficiencies identified with regard to specific recommendations are also applicable to DNFBPs. Implementation of specific recommendations in the relevant sections of this report will also include DNFBPs.</p>	<ul style="list-style-type: none"> <li>• <b>The First Schedule</b> of the <b>MLPA</b> is under review for the purpose of expanding the AML/CFT regime to cover all DNFBP's</li> <li>• <b>The Corporate Management and Trust Service Providers Act</b>, has had its second reading in the House of Representatives and is currently before a select committee of the House.</li> </ul>
17. Sanctions	PC	<p>Sanctions in the MLPA for breaches of the guideline are not dissuasive.</p> <p>Sanctions under the PTA and the MLPA except for money laundering are not applicable to the directors and senior management of legal persons.</p> <p>The range of AML/CFT sanctions in enacted legislation is not broad and proportionate as required by FATF standards.</p>	<ul style="list-style-type: none"> <li>• The sanction applicable for non-compliance</li> <li>• of the MLFTG should be amended to be dissuasive</li> <li>• Sanctions under the PTA and the MLPA that are applicable to financial institutions should also be applicable to their directors and senior management.</li> <li>• The range of AML/CFT sanctions should be broad and proportionate in accordance with FATF requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• The sanctions in <b>the MLPA</b> and the <b>PTA</b> will be upgraded to bring them into conformity with <i>Recommendation 17</i> of the <i>FATF</i> requirements.</li> </ul>

<sup>1</sup> Since the initial completion of this matrix by the Antigua and Barbuda Authorities, they have enacted the Money Laundering (Prevention) (Amendment) Act, 2008; the Proceeds of Crime (Amendment) Act, 2008; the International Business Corporations (Amendment) Act, 2008; the Prevention of Terrorism (Amendment) Act, 2008; the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008; the Corporate Management Service Providers Act, 2008 and the Customer Due Diligence Guidelines for International Banking Corporations (Updated September 2008).

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18. Shell banks	NC	<p>Requirement for domestic and offshore banks not to enter into or continue correspondent banking relationships with shell banks is not enforceable.</p> <p>No requirement for financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</p>	<ul style="list-style-type: none"> <li>Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks.</li> <li>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.</li> </ul>	<ul style="list-style-type: none"> <li><b>The International Business Corporations Act (IBC Act) , Cap 222 Section 316 (4)</b> will be amended to include “rules” and “orders”</li> <li><b>IBC Act Section 359A(1)(c)</b> to be amended to include “rules”, “orders” and “guidelines”</li> <li>The offshore banking guidelines will be amended to ensure that the respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks</li> </ul>
19. Other forms of reporting	C	This Recommendation is fully observed.		
20. Other NFBP & secure transaction techniques	C	This Recommendation is fully observed.	<ul style="list-style-type: none"> <li>The Authorities should consider conducting an assessment of non-financial businesses and professions other than DNFBPs to ascertain those at risk of being misused for money laundering or terrorist financing in Antigua and Barbuda with a view to including them under the AML/CFT</li> </ul>	

<sup>1</sup> Since the initial completion of this matrix by the Antigua and Barbuda Authorities, they have enacted the Money Laundering (Prevention) (Amendment) Act, 2008; the Proceeds of Crime (Amendment) Act, 2008; the International Business Corporations (Amendment) Act, 2008; the Prevention of Terrorism (Amendment) Act, 2008; the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008; the Corporate Management Service Providers Act, 2008 and the Customer Due Diligence Guidelines for International Banking Corporations (Updated September 2008).

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			regime. This recommendation does not affect the rating of Recommendation 20.	

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21. Special attention for higher risk countries	NC	<p>There are no measures that require competent authorities to ensure that financial institutions are notified about AML/CFT weaknesses in other countries.</p> <p>Financial institutions are not required to examine the background and purpose of transactions that have no apparent economic or lawful purpose from or in countries that do not or insufficiently apply the FATF Recommendations and make available the written findings to competent authorities or auditors.</p> <p>There are no provisions that allow competent authorities to apply counter measures to countries that do not or insufficiently apply the FATF Recommendations.</p>	<ul style="list-style-type: none"> <li>Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries.</li> <li>Written findings of the examinations of transactions that have no apparent economic or visible lawful purpose with persons from or in countries, which do not or insufficiently apply the FATF Recommendations should be available to assist competent authorities.</li> <li>There should be provisions to allow for the application of counter measures to countries that do not or insufficiently apply the FATF Recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>A review is being conducted for the purpose of devising a reliable method for ascertaining AML/CFT weaknesses in other jurisdictions and being able to properly justify such findings.</li> <li><b>Regulation 6</b> of the <b>MLPR</b> will be upgraded to bring it into conformity with Recommendation 21</li> </ul>
22. Foreign branches & subsidiaries	NC	<p>Requirement for financial institutions to ensure that principles in guidelines are applied to their branches and subsidiaries is not enforceable.</p>	<ul style="list-style-type: none"> <li>Requirement for financial institutions to ensure that principles in guidelines are applied to their branches and subsidiaries should be enforceable in accordance with FATF standards</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend the <b>The International Business Corporations Act (IBC Act) , Cap 222. Section 316 (4)</b> will be amended to include “rules” and “orders”</li> </ul>

<sup>1</sup> Since the initial completion of this matrix by the Antigua and Barbuda Authorities, they have enacted the Money Laundering (Prevention) (Amendment) Act, 2008; the Proceeds of Crime (Amendment) Act, 2008; the International Business Corporations (Amendment) Act, 2008; the Prevention of Terrorism (Amendment) Act, 2008; the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008; the Corporate Management Service Providers Act, 2008 and the Customer Due Diligence Guidelines for International Banking Corporations (Updated September 2008).

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<b>FATF 40+9</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
		<p>Requirement for financial institutions to ensure that principles in guidelines are applied to branches and subsidiaries operating in countries which do not or insufficiently apply the FATF Recommendations is not enforceable.</p> <p>Requirement for financial institutions to inform the regulator and the Supervisory Authority when the local applicable laws and guidelines prohibit the implementation of the guidelines is not enforceable.</p> <p>Requirement for IBCs' branches and subsidiaries in host countries to apply the higher of AML/CFT standards of host and home countries is not enforceable.</p>	<ul style="list-style-type: none"> <li>Requirement for financial institutions to ensure that principles in guidelines are applied to branches and subsidiaries operating in countries which do not or insufficiently apply the FATF recommendations should be enforceable in accordance with FATF standards.</li> <li>Requirement for financial institutions to inform the regulator and the Supervisory Authority when the local applicable laws and guidelines prohibit the implementation of the guidelines should be enforceable in accordance with FATF standards.</li> <li>Branches and subsidiaries of financial institutions in host countries should be required to apply the higher of AML/CFT standards of host and home countries to the extent that local laws and regulations permit.</li> </ul>	<ul style="list-style-type: none"> <li><b>IBC Act Section 359 (A) 1 (c)</b> to be amended to include "rules", "orders" and "guidelines"</li> </ul>

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<b>FATF 40+9</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
23. Regulation, supervision and monitoring	NC	<p>The supervisory authorities have not been designated with the responsibility for ensuring that the relevant financial institutions adequately comply with AML/CFT requirements.</p> <p>No provisions in the BA for the ECCB to approve changes in directors, management or significant shareholders of a licensed financial institution.</p> <p>No provisions for the Registrar of Insurance to apply fit and proper criteria in assessing directors, managers or shareholders of an applicant to carry on insurance business.</p> <p>No provision for a registered insurer to obtain the approval of the Registrar of Insurance for changes in its shareholding, directorship or management.</p> <p>No provision for the Registrar of Co-operative Societies to use fit and proper criteria in assessing applications for registration.</p>	<ul style="list-style-type: none"> <li>The supervisory authorities should be designated with the responsibility for ensuring that the relevant financial institutions adequately comply with AML/CFT requirements.</li> <li>The BA should be amended to give the ECCB the power to approve changes in directors, management or significant shareholder of a licensed financial institution.</li> <li>The Registrar of Insurance should be required to apply fit and proper criteria in assessing directors, managers or shareholders of an applicant to carry on insurance business.</li> <li>Registered insurers should be required to obtain the approval of the Registrar of Insurance for changes in shareholding, directorship or management.</li> <li>The Registrar of Co-operative Societies should be required to use fit and proper criteria in assessing applications for registration.</li> <li>The Registrar of Co-operative Societies should have power of approval over the</li> </ul>	<ul style="list-style-type: none"> <li>The <b>Insurance Act 2007, No 13</b> has been enacted. <b>Section 14</b> and <b>Section 198</b> provides that shareholders, directors, and managers are fit and proper to carry on the business of insurance.</li> <li><b>The Insurance Act, 2007</b> will be amended to ensure registered insurers obtain the approval of the Superintendent of Insurance for changes in shareholding, directorship or management.</li> <li>Legislation is currently being reviewed covering Co-operative Societies. The legislation will provide that the Registrar of Cooperatives uses fit and proper criteria in assessing applications for registration.</li> <li>The recently enacted <b>Money Services Business Act, 2007</b> ensures that MVTO are subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements, which includes a fit and proper test.</li> </ul>

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		<p>The Registrar of Co-operative Societies has no power of approval over the management of a society.</p> <p>Money value transfer service operators are not subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements.</p>	<p>management of a society.</p> <ul style="list-style-type: none"> <li>• Money value transfer service operators should be subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements.</li> </ul>	



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<b>FATF 40+9</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
24. DNFBP - regulation, supervision and monitoring	PC	Casinos, real estate agents, dealers in precious metals and stones are not subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures.	<ul style="list-style-type: none"> <li>Casinos, real estate agents, dealers in precious metals and stones should be subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures.</li> </ul>	<ul style="list-style-type: none"> <li>Antigua and Barbuda is progressing in the establishment of a Single Regulatory Unit (SRU) which will bring casino's, real estate agents, dealers in precious metals and stones under the ambit of the regulatory authority of the SRU</li> </ul>
25. Guidelines & Feedback	PC	<p>The Supervisory Authority has not provided financial institutions and DNFBPs with adequate and appropriate feedback.</p> <p>The respective guidelines and directives are in practice not issued to all persons and companies in the sectors.</p>	<ul style="list-style-type: none"> <li>The Supervisory Authority should ensure that respective guidelines and directives are issued to all persons and companies in the sectors.</li> </ul>	<ul style="list-style-type: none"> <li>The Supervisory Authority has initiated a program to provide feedback on the substance of SAR's and annual AML/CFT reports and on the quality of those reports. The <i>ONDCP</i> is gradually building a body of typologies and is analyzing reports to establish money laundering and financing of terrorism trends for publication .</li> <li>The <i>ONDCP</i> is in the process of ensuring that all financial institutions are in possession of relevant directives and guidelines.</li> </ul>
<b>Institutional and other</b>				

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<b>FATF 40+9 measures</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
26. The FIU	PC	<p>The Supervisory Authority has not been appointed.</p> <p>SARs are being copied to the FSRC by the entities they regulate.</p> <p>A number of reporting bodies have not received training with regard to the manner of reporting SARs.</p> <p>There is no systematic review of the efficiency of ML and FT systems.</p> <p>The ONDCP's operational independence and autonomy can be unduly influenced by its inability to hire appropriate staff without the approval of Cabinet.</p> <p>The ONDCP does not prepare and publish periodic reports of its operations, ML trends and typologies for public scrutiny.</p>	<ul style="list-style-type: none"> <li>Antigua and Barbuda should move quickly to appoint the Supervisory Authority taking into account the essential role this person plays in coordinating and implementing the country's AML/CFT framework.</li> <li>The practice of copying SARs to the FSRC should be revised, in order to avoid duplication of work and to avoid exposing the information contained in the SARs to contamination and abuse.</li> <li>The ONDCP should consider establishing a structured training schedule, in the short term, to target those entities that have not yet received training in the manner of reporting. Thereafter, continuous dialogue should be maintained with reporting bodies with a view to evaluating their reporting patterns so that weaknesses could be</li> </ul>	<ul style="list-style-type: none"> <li>The Supervisory Authority was appointed on 1 November 2007 by the Hon. Prime Minister.</li> <li><b>The IBC Act</b> and the Interactive Gaming and Interactive Wagering Regulations will be amended to remove the provisions whereby SAR's and STR's are copied to the <i>FSRC</i> by financial institutions.</li> <li>Virtually all financial institutions have received training from the <i>ONDCP</i> on the filing of SAR's and Terrorist Property Reports. The internet gaming and wagering sector is scheduled to be trained in Q4 of 2008.</li> <li>With the convening of meetings by the oversight committee of Money Laundering the process of a systematic</li> </ul>

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<b>FATF 40+9</b>	<b>Rat- ing</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
			<p>identified and addressed accordingly.</p> <ul style="list-style-type: none"> <li>• The Antigua and Barbuda Authorities should consider establishing a process that would allow for a systematic review of the efficiency of the systems that provide for the combating of ML and FT.</li> <li>• The ONDCP should prepare periodic reports in terms of its operation, which would facilitate the analysis of its growth and productivity. These reports should reflect ML and FT trends and typologies so that the authorities could adapt appropriate measures and strategies. In addition these reports should be made available to all stakeholders and the general public on the whole for scrutiny in the interest of transparency and accountability.</li> <li>• The Antigua and Barbuda Authorities should review the practice of having Cabinet give the final approval with regard to the hiring of the ONDCP staff.</li> </ul>	<p>review of the efficiency of the ML and FT regime has commenced</p> <ul style="list-style-type: none"> <li>• The <i>ONDCP</i> is on the verge of publishing a report of its operations. This will be a periodic publication.</li> </ul>

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<b>FATF 40+9</b>	<b>Rating</b>	<b>Summary of Factors for Rating</b>	<b>Recommended Actions</b>	<b>Actions Undertaken by Antigua and Barbuda<sup>1</sup></b>
27. Law enforcement authorities	LC	No legislative or other measures have been put in place to allow the ONDCP when investigating ML to postpone or waive the arrest of suspected persons or the seizure of cash so as to identify other persons involved in such activities.	<ul style="list-style-type: none"> <li>Antigua and Barbuda should consider establishing measures that would allow law enforcement authorities when investigating ML cases to postpone or waive the arrest of suspected person and/or the seizure of cash so as to identify other persons involved in the commission of the offence.</li> <li>Law Enforcement Authorities should consider reviewing their strategy in combating ML with the view to adapting a more aggressive approach which may generate more ML prosecutions and possibly convictions.</li> </ul>	<ul style="list-style-type: none"> <li>The recommendation on postponement and waiver of arrest of suspects is being reviewed and an appropriate legislative provision is being considered.</li> </ul>
28. Powers of competent authorities	C	This Recommendation is fully observed.		
29. Supervisors	PC	Neither the Registrar of Insurance nor the Registrar of Co-operative Societies has adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to comply with AML/CFT requirements.	<ul style="list-style-type: none"> <li>The Registrar of Insurance and the Registrar of Co-operative Societies should have adequate powers of enforcement and sanction against financial institutions and their directors or senior management for failure to</li> </ul>	<ul style="list-style-type: none"> <li>The <b>Insurance Act, 2007, No. 13</b>, will be reviewed to provide for adequate powers of enforcement and sanctions against insurance companies, directors and senior management for failure to comply with AML/CFT requirements.</li> </ul>

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			comply with AML/CFT requirement.	<ul style="list-style-type: none"> <li>• Legislation governing Co-operative Societies will provide for adequate powers of enforcement and sanctions against insurance companies, directors and senior management for failure to comply with AML/CFT requirements</li> </ul>

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30. Resources, integrity and training	PC	The resources of law enforcement agencies are insufficient for their task, particularly the Police. A number of these entities have not received training in ML/FT matters.	<ul style="list-style-type: none"> <li>Antigua and Barbuda should consider filling the vacant positions within the ONDCP in order to strengthen its human resource capabilities. There is also need to increase the number of Investigators to complement the work of the staff of the Financial Investigations Unit.</li> <li>The budgetary resources of the ONDCP should be increased to adequately cover training and the hiring of qualified staff.</li> <li>The resources allocated to the Police, Customs, Immigration and Prosecutors should be reviewed so as to provide amounts that would enable them to perform their various functions</li> <li>The ONDCP should consider implementing a systematic training programme for its staff, particularly in the areas of ML investigations and Court procedures. This could be achieved by coordinating ML Workshops/Seminars on a regular basis. Customs, Immigration, Police and Coast Guard should be included in such training.</li> </ul>	<ul style="list-style-type: none"> <li>There is in progress a process to fill all vacancy's at the <i>ONDCP</i>.</li> <li>Systematic training for staff of the <i>ONDCP</i> in ML investigations and Court procedures is due to commence by November 2008.</li> </ul>

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31. National cooperation	LC	There are no effective mechanisms in place to allow policy makers, the ONDCP, the FSRC and other competent authorities to cooperate and where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat ML and FT.	<ul style="list-style-type: none"> <li>The level of co-operation amongst law enforcement could be improved. A more proactive approach should be adapted when sharing information. The Examiners found that contact is maintained in an ad hoc manner.</li> <li>Antigua and Barbuda should consider establishing measures to allow Policy makers, the ONDCP, the FSRC and other competent authorities to meet continuously to discuss, develop and implement policies and activities to combat money laundering.</li> </ul>	<ul style="list-style-type: none"> <li>There is a AML/CFT Working Committee headed by the Hon. Attorney General to review and coordinate AML/CFT efforts of the jurisdiction.</li> <li>ONDCP &amp; FSRC have scheduled quarterly meetings to discuss implementation of AML/CFT policies.</li> </ul>
32. Statistics	PC	<p>While statistics on money laundering investigations, prosecutions and convictions are kept, the low number of convictions which result from investigations gives credence to the view that these statistics are not adequately reviewed to ensure optimum effectiveness and efficiency of the anti-money laundering regime.</p> <p>There are no investigations or prosecutions whereby the effectiveness of the terrorist financing investigations and prosecutions may be measured. The effectiveness of the financing of</p>	<ul style="list-style-type: none"> <li>Antigua and Barbuda should consider instituting measures to review the effectiveness of their system for combating ML and FT. In the process of reviewing shortcomings would be highlighted and brought to the attention of the Authorities for appropriate action.</li> <li>Law enforcement Authorities should take particular steps to ensure that their statistics in relation to their operations are comprehensive and review friendly. These statistics should be able to clearly</li> </ul>	<ul style="list-style-type: none"> <li>The AML/CFT Working Committee will review the ML/FT statistics and form an opinion of the effectiveness of the regime, with a view to advise the Government on the appropriate measures for improvement</li> <li>The ONDCP presently has in place statistics designed to reflect the impact of STR's on investigations, prosecutions and convictions.</li> </ul>

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		<p>terrorism mechanisms could not be ascertained.</p> <p>No statistics have been provided to show whether the restraint and confiscation mechanisms under the POCA are effective.</p> <p>No measures had been instituted to review the effectiveness of their AML/CFT systems.</p> <p>No available statistics with regard to MVTs.</p>	<p>indicate the effectiveness of the whole preventive and repressive AML/CFT systems and reflect the impact of STR in investigations, prosecutions and convictions.</p>	

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33. Legal persons– beneficial owners	NC	<p>Statutory obligation to provide information as to the ownership and management of partnerships is lacking.</p> <p>There are no measures in place to ensure that bearer shares under the IBCA are not misused for money laundering.</p>	<ul style="list-style-type: none"> <li>• Appropriate measures should be taken to ensure that bearer shares are not misused for money laundering and the principles set out in criteria 33.1 and 33.2 apply equally to legal persons that use bearer shares.</li> <li>• Statutory obligation to provide information as to the ownership and management of partnerships should be put in place.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>IBC Act</b> will be amended to immobilize bearer shares and licence custodians of bearer shares</li> <li>• A new Partnership Act will be drafted and placed before Parliament.</li> </ul>
34. Legal arrangements – beneficial owners	PC	No measures for the registration or effective monitoring of local trusts.	<ul style="list-style-type: none"> <li>• Measures should be put in place for either registration or effective monitoring of local trusts in accordance with FATF information requirements.</li> <li>• The Authorities should consider including adequate, accurate and current information on the beneficial ownership and control of legal arrangements as part of the register information on international trusts.</li> </ul>	<ul style="list-style-type: none"> <li>• Legislation governing Domestic Trust is presently being developed.</li> </ul>
<b>International Cooperation</b>				

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35. Conventions	LC	There are some shortcomings with regard to the implementation of provisions in the Vienna, Palermo and Terrorist Financing Conventions.	<ul style="list-style-type: none"> <li>Antigua and Barbuda has ratified the Vienna, Palermo and Terrorist Financing Conventions and there is enacted legislation that implements substantial portions of these Conventions. There are however some provisions that are not covered adequately as stated in discussions on Rec. 1 and SR. II in section 2 of this Report. For example, with regard to the Vienna Convention, the MDA must address all the precursor chemicals mentioned in the Tables of the Convention. Additionally, with respect to the Palermo Convention, the POCA in particular should be revisited with a view to either amending it to capture predicate offences to money laundering and financing of terrorism offences, or repealing it. Provision should also be made for the transfer of proceedings pursuant to Article 8 of the Vienna Convention.</li> </ul>	<ul style="list-style-type: none"> <li>A review of all relevant legislation is being conducted to ensure full compliance with the provisions of the various Conventions</li> </ul>
36. Mutual legal assistance (MLA)	C	This Recommendation is fully observed.		

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37. Dual criminality	C	This Recommendation is fully observed.		
38. MLA on confiscation and freezing	LC	<p>No provision has been made for confiscated proceeds of terrorism or terrorism assets seized to be deposited into a Forfeiture Fund.</p> <p>No provision has been made for the sharing of assets confiscated as a result of coordinated law enforcement actions.</p> <p>No provision has been made for assets from terrorist activity to be deposited into a Forfeiture Fund.</p>	<ul style="list-style-type: none"> <li>Antigua and Barbuda has a robust mutual legal assistance regime. However, there is need for the establishment of a forfeiture fund into which the confiscated proceeds of terrorism activity can be deposited.</li> <li>Provision should be made for the sharing of assets confiscated in relation to terrorism offences.</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend the <b>The Prevention of Terrorism Act, 2005</b>, which will be amended to insert a provision for the establishment of a forfeiture fund for the deposit of the proceeds of offences under the Act.</li> </ul>
39. Extradition	C	The Recommendation is fully observed	<ul style="list-style-type: none"> <li>There appears to be a high level of cooperation between Antigua and Barbuda and foreign States with regard to extradition matters. However, the Authorities should seek ways to limit the delay in extradition procedures. The latter comment does not affect the rating of this Recommendation.</li> </ul>	
40. Other forms of co-operation	LC	<p>The FSRC is not authorised to exchange information with its foreign counterparts.</p> <p>The level of cooperation between the ECCB and</p>	<ul style="list-style-type: none"> <li>Antigua and Barbuda should consider introducing the relevant legislative framework that would allow the FSRC to exchange information directly with its foreign counterparts.</li> </ul>	<ul style="list-style-type: none"> <li><b>IBC Act Section 373</b> does provide for sharing of information. The Government has taken a policy decision that the exchange of information between competent authorities should be governed by a</li> </ul>

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		the FSRC is unclear.		<p>Memorandum of Understanding (MOU)</p> <ul style="list-style-type: none"> <li>• There is strong expectation that the Multi- Lateral Memorandum Of Understanding between, <i>ECCB</i>, <i>FSRC</i> and <i>ECSE</i>, governing the exchange of information, cooperation and consultation will be executed by the end of this year.</li> </ul>

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<b>9 Special Recommendations</b>				
SR.I Implement UN instruments	PC	<p>The definitions of “person” and “entity” are not consistent, and this may affect whether terrorist groups are captured for some offences.</p> <p>No provision has been made under the terrorism legislation for access to frozen funds as required by the UNSCRs 1373 and 1452.</p>	<ul style="list-style-type: none"> <li>All the provisions of the United Security Council Resolutions should be fully implemented, for example, authorising access to frozen funds for the purpose of meeting the defendant’s basic expenses and certain fees in accordance with UNSCR 1452.</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend The <b>PTA, 2005</b> which will insert a definition of “person” and clarify the definition of “entity”.</li> <li>The <b>PTA, 2005</b> will be amended by inserting provisions for access to frozen funds for the purpose consistent with the UNSCR 1452</li> </ul>
SR.II Criminalize terrorist financing	PC	<p>The deemed money laundering terrorism offences under the PTA and their reference to limited sections of the MLPA introduce an element of uncertainty into the financing of terrorism framework with respect to the extent to which either Act is applicable, and hence, the extent to which the elements of Special Recommendation II are covered.</p> <p>Sanctions should include fines to be dissuasive.</p> <p>Under the PTA, the intentional element of the</p>	<ul style="list-style-type: none"> <li>In accordance with Article (1), the term “funds” under the PTA should be defined, and it should include the wide range of assets contained in the definition under the Convention.</li> <li>The PTA should be amended so that the mental elements of knowledge and intent should extend to both individual terrorists and terrorist groups.</li> <li>The deemed money laundering offences under section 9 of the PTA should be</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend the The <b>PTA, 2005</b> which will insert a definition of “funds” fully consistent with the UN Convention</li> <li>The <b>PTA, 2005</b> will be amended to allow for the mental elements of knowledge and intent of offences to apply to both individual terrorists and terrorist groups. Also, provisions shall be made for the intentional element to be inferred from objective factual</li> </ul>

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		offence cannot be inferred from objective factual circumstances.	<p>revisited with a view to determining whether the creation of specific money laundering terrorism offences is necessary. The Antigua and Barbuda Authorities should also consider whether the creation of these offences in any way limits the effectiveness of the financing of terrorism mechanism under the PTA.</p> <ul style="list-style-type: none"> <li>While the terms of imprisonment are for relatively long periods, given the gravity of terrorist offences, the Government of Antigua and Barbuda should consider making the sanctions more prohibitive by including large fines and an obligation to compensate victims.</li> </ul>	<p>circumstances</p> <ul style="list-style-type: none"> <li>All provisions for sanctions will be amended as appropriate to include provision for a large fine and obligation to compensate victims.</li> <li><b>Section 9</b> of the <b>PTA, 2005</b> (money laundering provision) is being carefully reviewed for the purpose of removing all ambiguities, particularly in respect of how the anti-money laundering mechanisms work and to ensure that the effectiveness of the <b>PTA</b> regime is not limited.</li> </ul>

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SR.III Freeze and confiscate terrorist assets	NC	<p>It is difficult to ascertain the extent of the application of the freezing mechanism under the MLPA and the PTA to deemed PTA money laundering terrorism offences.</p> <p>There is no provision for access to funds for basic expenses and certain fees as required by UNSCR 1452.</p> <p>The term “funds” is undefined in the PTA.</p> <p>Guidance to financial institutions that may be holding targeted terrorist funds is not sufficient.</p> <p>The type of property which may constitute other assets is not explicit.</p> <p>De-listing procedures are not publicly known.</p> <p>There is no specific provision for specified entities to have funds unfrozen.</p> <p>The PTA does not provide third party protection consistent with Article 8 of the Terrorist Financing Convention.</p>	<ul style="list-style-type: none"> <li>The PTA should be amended to include a definition of “funds” in the terms provided under the Financing of Terrorism Convention. Additionally, the funds or other assets should extend to those wholly or jointly owned or controlled directly or indirectly by terrorists, and they should cover funds or assets derived or generated from funds or other assets owned or controlled directly or indirectly by terrorists, in keeping with the requirements of UNSCRs 1267 and 1373.</li> <li>Procedures for de-listing should be publicly known. At a minimum, the order declaring a person a specified entity should be accompanied by a statement as to the recourses available to him in respect of de-listing.</li> <li>The Guidelines for reporting suspicious transactions with regard to terrorist financing should be reviewed so as to create a uniform reporting structure.</li> <li>Specific provision should be made whereby a specified entity can apply to have funds unfrozen. Similar provision</li> </ul>	<ul style="list-style-type: none"> <li>Parliament has had the first reading of an Act to amend The <b>PTA, 2005</b> which will insert a definition of “funds” fully consistent with the UN Convention.</li> <li><b>Section 9</b> of the <b>PTA</b> is being reviewed and consideration will be given to the creation of a separate mechanism to address the freezing and confiscation of funds and assets concerned in the laundering of the proceeds and instrumentalities of terrorism offences.</li> <li>A provision will be inserted into the <b>PTA, 2005</b> to set out the de-listing mechanism for terrorist and terrorist groups and to notify specified entities of their rights.</li> <li>The ML/FTG will be fully reviewed to produce comprehensive CFT guidance to financial institutions</li> <li>Provisions will be made in the <b>PTA, 2005</b> to allow a “specified entity” or third party to apply to have funds</li> </ul>

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			<p>should also be made for persons who have been affected inadvertently by a freezing mechanism.</p> <ul style="list-style-type: none"> <li>While it is possible that access to terrorist funds for the purpose of meeting basic expenses and certain costs may be authorised in the case of deemed terrorist money laundering offences, there is no express provision under the PTA in this regard. Accordingly, the PTA should be amended to allow access to funds in accordance with UNSCR 1452.</li> <li>The seizure mechanism under the PTA should include like provisions.</li> <li>Specific measures should be put in place to ensure that the communication of the Attorney General's order in relation to the freezing of terrorist funds to the Director of the ONDCP does not result in delay in the communication of the directive to the financial institution. The measures should also ensure that the element of secrecy of the communication is not compromised.</li> <li>Express mention should be made under</li> </ul>	<p>unfrozen</p> <ul style="list-style-type: none"> <li>Provisions will be made under the <b>PTA, 2005</b> for access to funds to meet basic expenses and costs</li> <li>There will be a review of the procedure by which the Attorney General's declarations of specified entities are promptly communicated to financial institutions</li> <li>Explicit provision will be inserted into the <b>PTA , 2005</b> to prevent or void any dealings with property subject to action under the PTA</li> </ul>

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			<p>the PTA for the prevention or voiding of actions or contracts where the property is the subject of terrorist activity.</p> <ul style="list-style-type: none"> <li>• The Antigua and Barbuda Authorities should review the deeming money laundering provision under section 9(3) of the PTA. Greater clarity is needed as to the application of the MLPA with regard to terrorist offences. Ideally, special consideration must be given to whether it is necessary to deem these offences as money laundering terrorist offences.</li> <li>• Given the gravity of terrorist offences and the likely extent of harm to innocent third parties, administrative or legislative provisions should consider providing for the compensation of victims.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Section 9</b> of the <b>PTA</b> is being reviewed and consideration will be given to the creation of a separate mechanism to address the freezing and confiscation of funds and assets concerned in the laundering of the proceeds and instrumentalities of terrorism offences.</li> <li>• Consideration will be given to provide for compensation to victims of terrorist acts.</li> </ul>

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SR.IV Suspicious transaction reporting	NC	<p>The reporting of STRs with regard to terrorism and the financing of terrorism does not include suspicion of terrorist organisations or those who finance terrorism.</p> <p>The obligation to make a STR related to terrorism does not include attempted transactions.</p>	<ul style="list-style-type: none"> <li>The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organisations or those who finance terrorism.</li> <li>The obligation to make a STR related to terrorism should include attempted transactions.</li> </ul>	<ul style="list-style-type: none"> <li>The requirement to report STR's with regard to terrorism and the financing of terrorism under <b>Sections 33 &amp; 34</b> of the <b>PTA, 2005</b> will be expanded to include reporting the suspicion of terrorist organizations and persons financing terrorism</li> <li><b>Sections 33 &amp; 34</b> of the <b>PTA, 2005</b> will be amended to include the requirement for the reporting of attempted transactions relating to terrorism</li> </ul>
SR.V International cooperation	LC	The provisions of Rec. 38 have not been met with regard to the establishment of a Forfeiture Fund and the sharing of confiscated assets.		
SR.VI AML requirements for money and value transfer services	NC	<p>No requirement for registered MVT service operators to maintain a current list of agents.</p> <p>Unable to assess the effectiveness of current monitoring and compliance system for MVT service operators due to lack of information.</p> <p>Sanctions are not applicable to all criteria of SR VI i.e. failure to licence or register as a MVT service provider.</p> <p>Deficiencies in Recs. 4-11, 13-15, 21-23, and SR</p>	<ul style="list-style-type: none"> <li>Registered MVT service operators should be required to maintain a current list of agents which must be available to the designated competent authority.</li> <li>Sanctions should be applicable to all of the criteria of SRVI.</li> </ul>	<ul style="list-style-type: none"> <li>The new <b>Money Services Business Act</b> requires the FSRC to issue guidelines to licencees which will be required to keep a current list of agents</li> <li><b>MSB Act</b> makes it an obligation of the operator to satisfy the FSRC that it has adequate internal control systems and procedures to mitigate, detect and prevent risks and also to meet the AML/CFT requirements of the jurisdiction.</li> </ul>

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		VII are also applicable to MVT operators.		<ul style="list-style-type: none"> <li>Operators must be licenced under <b>Section 4 (4) MSB Act</b>. A person carrying on MSB without a licence commits an offence and is liable on summary conviction to a fine of EC \$50,000.00 or to imprisonment for a term of two years or both.</li> <li><b>MSB</b> Guidelines will cover the deficiencies.</li> </ul>

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SR.VII Wire transfer rules	NC	Requirements for wire transfers in the ML/FTG are not enforceable in accordance with the FATF Methodology.	<ul style="list-style-type: none"> <li>Requirements for wire transfers in the MLFTG should be made enforceable in accordance with the FATF Methodology.</li> </ul>	<ul style="list-style-type: none"> <li>Requirements relating to wire transfers will be inserted into the Money Laundering Regulations and appropriate sanctions will be provided for.</li> </ul>
SR.VIII Nonprofit organizations	NC	<p>No review of the adequacy of domestic laws and regulations that relate to NPOs has been undertaken by the Authorities in Antigua and Barbuda.</p> <p>There are no 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.</p> <p>No periodic reassessments of new information on the sector's potential vulnerabilities to terrorist activities are conducted.</p> <p>There is no regulatory framework for friendly societies.</p> <p>Although NPOs come within the regulatory</p>	<ul style="list-style-type: none"> <li>The Authorities should review the adequacy of domestic laws and regulations that relate to non-profit organisations.</li> <li>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.</li> <li>Periodic reassessments of new information on the sector's potential vulnerabilities to terrorist activities should be conducted.</li> <li>A regulatory framework governing friendly societies must be implemented.</li> <li>The Antigua and Barbuda Authorities should monitor more closely the NPO sector's international activities.</li> </ul>	<ul style="list-style-type: none"> <li>A review is being conducted of the law governing Non-Profit Organizations to address the deficiencies so as to implement the recommendations.</li> </ul>

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		<p>framework of the FSRC, it appears that this sector is not adequately monitored.</p> <p>No programmes have been implemented to raise the awareness in the NPO sector about the risks of terrorist abuse and any available measures to protect NPOs from such abuse.</p> <p>The sanctions and oversight measures do not serve as effective safeguards in the combating of terrorism.</p> <p>The provisions for record keeping under the FSA are inadequate.</p>	<ul style="list-style-type: none"> <li>• Programmes should be implemented to raise the awareness in the NPO sector about the risks of terrorist abuse.</li> <li>• Measures should be instituted to protect NPOs from terrorist abuse.</li> <li>• There should be adequate provisions for record keeping in the NPO sector.</li> <li>• The period for which records must be maintained by NPOs must be prescribed.</li> <li>• Sanctions for violation of oversight measures or rules in the NPO sector should be dissuasive.</li> </ul>	

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SR.IX Cash Couriers	PC	<p>Cases of cross border transportation of cash or other bearer negotiable instruments are not thoroughly investigated.</p> <p>Customs, Immigration, ONDCP and other competent authorities do not co-ordinate domestically on issues related to the implementation of Special Recommendation IX.</p>	<ul style="list-style-type: none"> <li>Customs, the ONDCP and other law enforcement agencies should work closely together to investigate cases of cross border transportation of currency or bearer negotiable instruments in order to determine its country of origin. Bearing in mind that such currency may be the proceeds of criminal conduct committed in the said country.</li> <li>The Examiners are of the view that the ONDCP should be more involved and if possible take control of the investigation with respect to cash seized at the ports of entry and where appropriate initiate money laundering proceedings against the culprits.</li> </ul>	<ul style="list-style-type: none"> <li>The <i>ONDCP</i> is taking steps to enhance cooperation with Customs in relation to the transportation of cross border currency and bearer negotiable instruments. Coming out of this there has been the institution of one money laundering prosecution for undeclared cross border cash.</li> </ul>

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