CARIBBEAN FINANCIAL
ACTION TASK FORCE

Sixth Follow-Up Report

Antigua and Barbuda

May 29, 2014

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ANTIGUA & BARBUDA: SIXTH FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of Antigua and Barbuda's report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of Antigua and Barbuda was adopted by the CFATF Council of Ministers on June 23, 2008 in Haiti. Antigua and Barbuda presented its fifth follow-up report at the Plenary in Nicaragua in May 2013 having been placed on a one (1) year regular follow-up. Based on the review of the follow-up action taken to address the recommendations that were still outstanding after the presentation of the fifth follow-up report, this report will recommend whether Antigua and Barbuda would remain in regular (normal) or be placed in another category of follow-up. It should be noted however that Antigua and Barbuda did make a report at the November 2014 Plenary in The Bahamas on the level of compliance with its Core and Key Recommendations.

2. Antigua and Barbuda received ratings of PC or NC on eleven (11) of the sixteen (16) Core and Key Recommendations as follows:

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

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

Partially Compliant (PC)	**Non-Compliant (NC)**
R.14 (Protection and no tipping-off)	R. 6 (Politically exposed persons)
R. 17 (Sanctions)	R. 7 (Correspondent banking)
R. 24 (DNFBPs regulation, supervision and monitoring)	R. 8 (New technologies and non-face-to-face business)
R. 25 (Guidelines and feedback)	R. 9 (Third parties and introducers)
R. 29 (Supervisors)	
R. 30 (Resources, integrity and training)	R. 11 (Unusual transactions)
R. 32 (Statistics)	R. 12 (DNFBPs – R. ,6,8-11)
R. 34 (Legal arrangements-beneficial owners)	R. 15 (Internal controls, compliance and audit)
SR. IX (Cross border declaration and disclosure)	R. 16 (DNFBPs R. 13-15 and 21)
	R. 18 (Shell banks)
	R. 21 (Special attention for higher risk countries)
	R. 22 (Foreign branches and subsidiaries)
	R. 33 (Legal persons-beneficial owners)
	SR. VI (AML requirements for money value transfer services)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organisations)

4. The following table is intended to assist in providing an insight into the level of risk in the main financial sectors in Antigua and Barbuda.

Size and integration of the jurisdiction's financial sector

		Domestic Banks	Offshore Banks	Other Credit Institutions*	Securities	Insurance	TOTAL
Number of institutions	Total #	8	14	6		26	54
Assets	US$	2,151,758,519	2,526,703,000	57,215,810		161,163,000	4,896,840,329
Deposits	Total: US$	1,276,613,704	1,764,478,000	48,541,057		159,426,764	3,089,632,761
	% Non-resident	8.92	100				
International Links	% Foreign-owned:	50	% of assets	% of assets	% of assets	% of assets	% of assets
	#Subsidiaries abroad	4					

* As at December 31, 2011, there were (10) gaming entities; (8) with interactive licences and (6) entities with a wagering licence. The total asset base of these entities as at June 2012 was $115,062,199.
* Please include savings and loans institutions, credit unions, financial cooperatives and any other depository and non-depository credit institutions that may not be already included in the first column. There are 4 non-financial cooperatives; (6) financial cooperatives; (7) Money Services Businesses as of December 2012. Total Money Services Business as of December 31, 2011 (6); assets as of December 31, 2011 is $3,147,553.
* If any of these categories are not regulated, please indicate so in a footnote and provide an estimate of the figures

II. Scope of this Report

5. This report will review Core R. 1and 13, Key R. 23 and the non-Core and Key R. 33, 34 and SR.VIII, which represent the only Recommendations that have not been complied with by Antigua and Barbuda to a level of either 'C' or 'LC'.

III. Summary of the Progress made by Antigua and Barbuda.

6. During the period since the last report, Antigua and Barbuda passed the Maritime Piracy Act, 2013, which came into effect on January 23, 2014.

Core Recommendations

Recommendations 1 and 13

7. Antigua and Barbuda passed the Maritime Piracy Act, 2013, which came into effect on January 23, 2014. The Money Laundering Prevention Act, 2013 (MLPA) provides that offences under

the Maritime Piracy Act are predicate offences for money laundering. Accordingly, both R. 1 and 13 have been fully met.

8.

Key Recommendations

Recommendation 23

7. Based on the previous report, there are two outstanding recommendations, which pertain to the Registrar of Cooperatives being required to use fit and proper criteria in the assessment of applications for registration and also having the power of approval over the management of a society. Both issues have been addressed in the Cooperative Societies (Amendment) Act, 2013 (CSA). On the first issue, Section 12 deals with the application for registration and provides at subsection (3) for the information that should be included with the application for registration. There is no indication in this Section of the Act that 'fit and proper' criteria will be used in assessing the application for registration. Further, Section 53 of the Act which deals with 'Board of Directors and Committees' has been amended at subsection (5) to state that 'a cooperative society shall, upon receipt of an application for registration of a cooperative society, consider the application along with accompanying information required under Section 12(3) and satisfy himself that every proposed director, committee member or officer of the cooperative society is, in accordance with subsection (4), a fit and proper person to hold the office to which he has been nominated." This would seem to directly tie in with the requirement for a fit and proper examination at the time of registration. There however seems to be an error in Section 53(5), which references a cooperative society in the first instance where it would seem to be more appropriate to reference the Supervisor of Cooperative Societies (note the later reference in the subsection to 'himself'). While the intent is clear and the Examiners' recommendation is met, the Authorities should take the necessary steps to clarify the provision or correct the apparent typographical error.

8. With regard to the second issue, Section 72 (d) of the CSA authorize the Supervisor to approve the management (proposed directors or committee members) of a cooperative society. The Examiners' recommendation has been met. R. 23 has been fully met.

Other Recommendations

Recommendations 33 & 34

9. With regard to the matter of a statutory obligation to provide information on the ownership and management of partnerships, the Authorities previously indicated that a new Partnership Act is being drafted to address this issue. The status remains the same. R. 33 has not been fully met.

10. As noted in the previous report, Antigua and Barbuda are still developing legislation regarding domestic trusts and accordingly R.34 remains outstanding.

Special Recommendation VIII

11. Antigua and Barbuda has indicated that provisions for controlling NPOs will be inserted into the Friendly Societies Act and the Companies Act. The amendment is expected to come before Parliament shortly. SR. VIII has not been met.

III. Conclusion

12. Based on the above review and analysis of the outstanding Recommendations, Antigua and Barbuda has no outstanding deficiencies with regard to its Core and Key Recommendations in that all the Core and Key Recommendations that were rated 'PC' or 'NC' have been addressed. With regard to Key Recommendations, R. 23 has been fully met and therefore all Key Recommendations that were rated 'PC' or 'NC' have been addressed. For non-Core and Key Recommendations, R. 33 has been partially complied with and R. 34 and SR. VIII have not been met. It is recommended that Antigua and Barbuda remain in regular one year follow-up and report to the May 2015 Plenary. However, given the start of the 4th Round and the need to have Members exit the 3rd round follow-up process, it is hoped that Antigua and Barbuda will consider making an application for exiting the follow-up process by November 2014.

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
Legal systems				
1. ML offense	PC	Key definitions are inconsistently defined in the Statutes and these definitions are not in the terms provided under the Palermo and Vienna Conventions. The list of precursor chemicals does not accord with the list under the Vienna Convention. The list of money laundering predicate offences under the POCA is too limited. 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.	• 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. • 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. • 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. • Facilitation of a money laundering offence should be stated as a separate crime. • Caution should be exercised in the 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.	❑ The Proceeds of Crime (Amendment) Act 2008 was passed and came into effect on 24 December 2008. Section 2 of the Act has inserted definitions of "person" and "property" in accordance with the UN Conventions. ❑ The Proceeds of Crime (Amendment of Schedule) Order 2009 has been signed by the Minister. This has substantially amended the Schedule of offences to which the POCA applies and covers all offences for which there is a penalty of 1 year imprisonment. ❑ Participation in an Organized Criminal Group was criminalized by section 4 of the Money Laundering (Prevention) (Amendment) Act 2009 (passed 16 November 2009, in force on 24 December 2009). ❑ Facilitation of money laundering as a separate offence was criminalized by section 3 of the Money Laundering (Prevention) (Amendment) Act 2009 (passed 16 November 2009, in force on 24 December 2009). ❑ The Money Laundering (Prevention) (Amendment) Act 2008 was passed on 13 November 2008; in force 8 January 2008. ❑ The Precursor chemicals Act 2010 was passed and came **into** effect on 11th November 2010. This now puts in place the legislative controls of precursor chemicals listed in Tables I and II of the Vienna Convention. ❑ The Trafficking in Persons (Prevention) Act, 2010 to criminalize human trafficking was passed and came into effect on 25th October 2010. ❑ The Migrant Smuggling (Prevention) Act, 2010

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				to criminalize migrant smuggling and other offences associated with migrant smuggling was passed and came into effect on 11th November 2010. ❑ The Money Laundering (Prevention) (Amendment) Act 2013 has been passed and categorizes the offences of trafficking in persons and migrant smuggling as money laundering offences. • Legislation to make human trafficking and migrant smuggling money laundering offence has been drafted and is expected to come before Parliament at the next sitting. ❑ **Criminalization of Piracy:** An Act to criminalize piracy is **at the final draft.** ❑ **The Maritime Piracy Act 2013 was passed and came into force on 23 January 2014. The MLPA 2013 makes offences under the Maritime Piracy Act makes the crime of piracy a money laundering offence.**
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.		❑ Since the last CFATF Report, ~~of the two money laundering charges that were filed by the *Office of National Drug and Money Laundering* Control *Policy* (ONDCP) one has been withdrawn and the other ongoing.~~ **it** is ~~also~~ to be **noted** that the Royal Antigua & Barbuda Police Force (RPFAB) brought a money laundering charge subsequent to ~~previous consultations to sensitize~~ **sensitization of** the *RPFAB of* the need to pursue money laundering charges and confiscation proceedings. **However, that charge did not result in a conviction for insufficiency of evidence.** ❑ The Police Proceeds of Crime Unit (PCU) has been established. That unit. which exercises powers under the Proceeds of Crime Act 2008, has to date obtained two production orders and two restraint orders and is awaiting the completion of criminal proceedings in order to

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				move forward upon conviction with confiscation proceedings. The PCU has also acted pursuant to the MLPA to seize cash and has obtained ~~a detention order for the cash. The unit has now applied for forfeiture of the cash and awaits the outcome of the hearing~~ **two cash forfeitures.** ❑ The ONDCP has between December 2011 and September 2012 brought **four** money laundering charges**,** three of which have resulted in convictions and forfeiture of the money involved, and the fourth one is pending trial. Between November and December 2012, the ONDCP charged three persons with a total of 9 charges of money laundering and 6 charges of facilitation of money laundering in relation to the activities of an organized criminal group. Preparation for trial in ongoing.
3. Confiscation and provisional measures	LC	Ineffective implementation of the freezing and forfeiture regime. No express provision in the PTA for third parties to have their interest in property excluded from seized property.	• The Antigua and Barbuda Authorities should seek to prosecute money laundering offences as stand-alone offences pursuant to the MLPA. • Greater emphasis should be placed on the investigation of offences with a view to securing convictions. • The PTA should make express provision for bona fide third parties to have their interest in property excluded from seized property.	❑ Since the Examiners' Report three standalone prosecutions for money laundering instituted by the ONDCP have resulted in convictions and forfeiture of the sums involved. ❑ The Prevention of Terrorism (Amendment) Act 2008, Section 7 makes explicit provision for third parties with an interest in property to apply to the Court to have the property removed from a restraint order. ❑ The ONDCP has forfeited the vehicle of a drug trafficker on the basis that it was an instrumentality of the offence of which he was convicted. Meanwhile, two civil forfeiture applications brought by the ONDCP has resulted in a successful forfeiture in one case of a vehicle of a drug trafficker, but the other was unsuccessful due to a technical inconsistency during criminal proceedings wherein there was a failure to apply for forfeiture. The applications were on the basis that the vehicles were instrumentalities of money laundering offences. In addition, the Supervisory Authority ~~has~~ successfully obtained the forfeiture of cash from a person who attempted

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				to **use it to** purchase drugs.
Preventive measures				
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 internationally without a MOU. There are no legislative provisions allowing the Registrar of Co-operative Societies and the Registrar of Insurance to share information with other competent authorities.	• The Antigua and Barbuda Authorities should enact provisions allowing the ECCB, FSRC, the Registrar of Co-operatives and the Registrar of Insurance to share information with other competent authorities.	❑ The IBC (Amendment) Act 2008, section 5, amends section 373 of the IBC Act to allow for the sharing of information with regulatory authorities. ❑ The Superintendent of Insurance is now under the purview of the FSRC. The FSRC is permitted to share information pursuant to an agreement of confidentiality and a MOU. Consequently provisions for the sharing of information by the Superintendent of Insurance is permitted provided the provisions of sections 373 of the IBC Act are satisfied, and provided the FSRC enters into an agreement of confidentiality and signs a MOU to facilitate the sharing of information with competent authorities. ❑ Section 196 of the Insurance Act also permits the Superintendent of Insurance to share information pursuant to an MOU pursuant to that Act. ❑ The Supervisor of Cooperatives is under the purview of the FSRC. The FSRC is permitted to share information pursuant to an agreement of confidentiality and a MOU. Consequently provisions for the sharing of information by the Supervisor of Cooperatives is permitted provided the provisions of sections 373 of IBC Act are satisfied, in that the FSRC can enter into an agreement of confidentiality and sign a MOU to facilitate the sharing of information with competent authorities. ❑ Provisions for the sharing of information with the Registrar of Cooperatives will be included in the new Cooperative Societies Act. ❑ Section 316(3b) of the IBC (Amendment) Act 2002 **gives** responsibility to the FSRC to

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				regulate business operated or carried on under the Cooperatives Societies Act, consequently the need for a sharing arrangement is not necessary since the FSRC will have access to all relevant information. ❑ The MOU between the ECCB and the FSRC as an SRU was executed on April 28, 2010. The FSRC and the ONDCP has executed a new MOU on August 13, 2010. The FSRC has also executed MOU's with other regulatory authorities including the Kahnawake Gaming Commission of the Mohawk Territory of Kahanawake in Canada in 2010, the Alderney Gambling Control Commission in 2010. The FSRC has executed an Agreement of Confidentiality with the Austrian Financial Monetary Authority 2009. ❑ In respect of the MOU between the FSRC and the ECCB, the FSRC has shared information in respect of Cooperative Societies in September-October, 2012 as a practical implementation of the MOU. ❑ With regard to the Supervisor of Cooperatives Societies, this function now falls physically under the FSRC as of January 1, 2011 and therefore the aforementioned amendment affecting the FSRC through its principal act the ICBA would be applicable to cooperatives. The Co-operative Societies Act 2010 was passed and came into effect on 11th November 2010. ❑ The issue of the ECCB sharing AML information with the ONDCP has been superceded by the establishment of the ONDCP's Financial Compliance Unit (FCU). That unit is now conducting onsite examinations of financial institutions, which for the first time includes examinations of unregulated DNFBPs. The reports from these examinations is enabling the Supervisory Authority to develop a more precise picture of

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				the nature of compliance with AML/CFT requirements, and is empowering the Supervisory Authority to prepare targeted intervention and guidance. There is already audible feedback in the community, which is indicating that financial institutions on a whole are sitting up and paying attention to the enforcement actions of the Supervisory Authority.
5. Customer due diligence	PC	Legislative requirement for CDD measures where there is suspicion of money laundering or the financing of terrorism is limited to occasional transactions. 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. The requirements concerning the time frame and measures to be adopted prior to verification are not enforceable. 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. 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 relationship is not enforceable. The requirement to apply CDD requirements to all existing customers is limited to IBCs and is not	• Legislative requirement for CDD measures where there is suspicion of money laundering or the financing of terrorism should cover all transactions. • 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. • The requirements concerning the time frame and measures to be adopted prior to verification should be enforceable in accordance with FATF requirements. • 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. • 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 relationship should be enforceable. • 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.	NOTE 1 – Enforceability of IBCA: The International Business Corporations (Amendment) Act 2008, section 3 amended section 316 (4) of the IBC Act to include "rules", "orders" and guidelines in the sanctions provisions, making all provisions subject to them enforceable to FATF requirements. NOTE 2 – Enforceability of MLPR: Section 4(4) of The Money Laundering (Prevention) (Amendment) Regulations 2009 inserted criminal penalties for breach of the Regulations with fines of $500,000 and imprisonment of 2 years, and section 4(5) inserted administrative penalties for breach of the Regulations of $100,000 and for continued breach $15,000 per day. These penalties are consistent with FATF requirements. NOTE 3 – Enforceability of MLPA: The Money Laundering (Prevention) (Amendment) Act 2009 increased sanctions for breaches in relation to the following: (1) s.5 – opening account in a false name, fine: $500,000; (2) s.6 – retention of financial records and failure to comply with the guidelines and instructions of the Supervisory Authority, fine: up to $1,000,000; (3) s. 7 – retention of documents, fine:

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		enforceable. .		$1,000,000; (4) S.8 - Suspicious activity reporting – fine: up to $1,000,000. ❑ Requirement for CDD measures to cover all transactions:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5, amended regulation 4 of the MLPR to require CDD measures to apply to all transactions including: (1) formation of a business relationship; (2) one-off transactions of $25,000 or more (3) wire transfers; (4) existing relationships on the basis of risk and materiality and at appropriate times; (5) where there is suspicion of money laundering or terrorism financing. ❑ Enforceability of requirement to keep CDD information up-to-date: The Money Laundering (Prevention) (Amendment) Regulations 2009, section 6 inserts regulation 5(1b) into the MLPR which requires that documents, data and information collected under the CDD be kept up-to-date. [See also NOTE 2 above] ❑ Enforceability of timeframe and measures to be adopted prior to verification: The Money Laundering (Prevention) (Amendment) Regulations 2009, section 6(1) inserts regulation 5(1b) into the MLPR which indicates appropriate time to review records. [See also NOTE 2 above] ❑ Enforceability of requirement to consider making a SAR when unable to comply with criteria 5.3 to 5.6 for a new customer or occasional transaction: The Money Laundering

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				(Prevention) (Amendment) Regulations 2009, section 5(3) repeals regulation 4(3)(c) and substitutes regulation 4(3)(c)(i) and (iv) of the MLPR which requires financial institutions to consider making a SAR where satisfactory evidence of identity is not obtained in relation to a new customer or a one-off transaction. [See also NOTE 2 above] ❑ Consider making a SAR when unable to comply with criteria 5.3 to 5.6 when already commenced a business relationship: The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(3) repeals regulation 4(3)(c) and substitutes regulation 4(3)(c)(ii) to (iv) of the MLPR which requires financial institutions to consider making a SAR where satisfactory evidence of identity is not obtained in relation to an existing customer. [See also NOTE 2 above] ❑ Enforceability of requirement to apply CDD to all existing customers of all financial institutions: The Money Laundering (Prevention) (Amendment) Regulations 2009, section 6(1) inserts regulation 5(1b) into the MLPR which requires financial institutions to keep customer records up-to-date and obtain all relevant customer information if at any time it lacks sufficient information. [See also NOTE 2 above] ❑ Since the 2007 evaluation the FSRC has levied administrative penalties in excess of US$350,000. ❑ Amendments to the ML/FTG have been issued to provide guidance on the new regulations.
6. Politically exposed persons	NC	The requirement for domestic and offshore banks to gather sufficient information to establish whether a new customer is a PEP is not enforceable.	• 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	❑ Enforceability of requirement to gather sufficient information to establish whether a new customer is a PEP: The Money Laundering (Prevention) (Amendment**)** Regulations 2009, section 5(4) inserts regulations 4(3)(d)(i) which requires

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		The requirement for banks to obtain senior management approval for establishing business relationships with a PEP is not enforceable. 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.	FATF requirements. • The requirement for banks to obtain senior management approval for establishing business relationships with a PEP should be enforceable in accordance with FATF requirements. • 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.	appropriate risk management systems to determine whether a potential customer is a PEP. [See also NOTE 2 above **(**under 5. Customer due diligence**)**]. [See also NOTE 1 above (under 5. Customer due diligence**)** in relation to FSRC]. ❑ Enforceability of requirement to obtain senior management approval to establish a relationship with a PEP: The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(4) inserts regulations 4(3)(d)(ii) which requires senior management approval to establish a relationship with a customer who is a PEP. [See also NOTE 2 above]. [See also NOTE 1 above **(**under 5. Customer due diligence) in relation to FSRC's power to sanction breaches of PEP provisions.] ❑ Enforceability of requirement to obtain senior management approval to continue a relationship with a customer or beneficiary discovered to be or who becomes a PEP: The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(4) inserts regulations 4(3)(d)(iii) which requires senior management approval to continue a relationship with a customer who is found to be or becomes a PEP. [See also NOTE 2 above]. The CDD Guidelines, paragraph 39 requires banks to obtain senior management approval to continue a relationship with a customer who is found to be a PEP. [See also NOTE 1 above (under 5. Customer due diligence) in relation to FSRC's power to sanction for breach of PEP provisions in the CDD.]

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7. Correspondent banking	NC	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. Requirement for assessing a respondent's controls does not include all AML/CFT controls or whether it has been subject to money laundering or terrorist financing investigation or regulatory action and is not enforceable. Financial institutions are not required to document the respective AML/CFT responsibilities of each institution in a correspondent relationship. Financial institutions are not required to obtain approval from senior management before establishing new correspondent relationships. 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.	• 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. • 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. • Financial institutions should be required to document the respective AML/CFT responsibilities of each institution in a correspondent relationship. • Financial institutions should be required to obtain approval from senior management before establishing new correspondent relationships • 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.	❑ Enforceability of requirement to document respondent bank's management, customer acceptance and supervision:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(10) repeals and replaces regulation 4(6)(1)(a) of the MLPR, which requires information to be gather about a respondent bank to understand the nature of its business and the quality of its supervision. [See also NOTE 2 above (under 5. Customer due diligence)]. ❑ CDD Guidelines have been amended for international banks and interactive gaming and wagering corporations. [See also NOTE 1 above (under 5. Customer due diligence) in relation to FSRC's sanction powers for breaches of CDD Guidelines.] ❑ Requirement to assess AML/CFT controls of respondent bank and whether it have been subject to ML or FT regulatory action:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(10) repeals regulation 4(6) of the MLPR and inserts regulation 4(6)(1)(b), which requires assessment of a respondent's AML/CFT controls; regulations 4(6)(1)(a) requires gathering information on whether the respondent has been subject of ML/FT regulatory action. [See also NOTE 2 above (under 5. Customer due diligence)]. ❑ Requirement to document the respective AML/CFT responsibilities of each institution in a correspondent relationship: — The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(10) repeals regulation 4(6) of the MLPR and inserts regulation 4(6)(1)(d), which requires documentation of respective AML/CFT responsibilities of each institution in a correspondent relationship. [See also NOTE 2 above (under 5.

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				Customer due diligence)]. ❑ Requirement to obtain approval from senior management before establishing new correspondent relationships: — The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(10) repeals regulation 4(6) of the MLPR and inserts regulation 4(6)(1)(c), which requires senior management approval before establishing new correspondent relationships. [See also NOTE 2 above (under 5. Customer due diligence**)**]. ❑ Requirement to ensure respondent institutions have performed normal CDD in Rec. 5 for utilizing payable through accounts or able to provide customer ID upon request for these customers: — The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(10) repeals regulation 4(6) of the MLPR and inserts regulation 4(6)(1)(e)(i), which requires senior management approval before establishing new correspondent relationships. [See also NOTE 2 above **(**under 5. Customer due diligence**)**]. [See also NOTE 3 **(**under 5. Customer due diligence) in relation to sanction under the MLPA].
8. New technologies & non face-to-face business	NC	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. Requirements for financial institutions to have policies and procedures in place to address specific risks associated with non-face-to-face customers are not	• Financial institutions should be required to have measures aimed at preventing the misuse of technology in ML and FT schemes. • 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.	❑ Requirement to have measures aimed at preventing misuse of technology in ML and FT schemes:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 4(2) repeals and substitutes regulation 3(1)(b) of the MLPR and regulation 3(1)(b)(ii) requires procedures to evaluate new or developing technologies and risks that may arise from them, and 3(1)(b)(iii) requires implementation of measures to prevent their use in connection

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		enforceable.		with ML and FT. [See also NOTE 2 above (under 5. Customer due diligence)]. ❑ Requirement for policies and procedures to address specific risks with non-face-to-face customers to be enforceable:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 4(2) repeals and substitutes regulation 3(1)(b) of the MLPR and regulation 3(1)(b)(i) requires procedures to evaluate new or developing technologies and risks that may arise from them, and 3(1)(b)(iii) requires implementation of procedures to address specific risks associated with non-face-to-face relations and transactions. [See also NOTE 2 above **(**under 5. Customer due diligence**)** on enforceability of MLPR]. [See also NOTE 1 above (under 5. Customer due diligence) in relation to FSRC's sanction powers for breaches of CDD Guidelines.]

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9. Third parties and introducers	NC	The requirement for IBCs to immediately obtain from a third party the necessary identification information on the customer is not enforceable. 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. No requirement for financial institutions to satisfy themselves that third parties are regulated and supervised in accordance with Recommendations 23,24 and 29 and have measures in place to comply with the CDD requirements set out in R.5 and R.10. Competent authorities have not issued any guidance about countries in which third parties can be based since the FATF NCCT listing.	• 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. • Financial institutions should be required to take adequate measures to insure that copies of the identification data and other relevant CDD documentation form third parties will be made available upon request and without delay. • Financial institutions should be required to satisfy themselves that the third party is regulated and supervised in accordance with Recommendations 23, 24 and 29 and has measures in place to comply with the CDD requirements set out in R.5 and R.10. • 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.	❑ Requirement to be able to immediately obtain from a third party necessary information about elements of CDD:— The CDD Guidelines, paragraph 31 was amended in April 2009 to address recommendation 9.2 which relates to an introducer submitting customer identification data to a bank and providing the information without delay. The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(9) repeals and substitutes regulation 4(5) of the MLPR and regulation 4(5)(a) requires a financial institution to immediately obtain from a third party information concerning CDD elements. [See also NOTE 2 above]. ❑ Requirement to take measures to ensure that copies of ID data and relevant CDD documents will be made available by third party on request without delay: — The CDD Guidelines, paragraph 31 was amended in April 2009 to address recommendation 9.2 which relates to an introducer submitting customer identification data to a bank and providing the information without delay. The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(9) repeals and substitutes regulation 4(5) of the MLPR and regulation 4(5)(b) requires a financial institution to satisfy itself that ID data and other relevant documents will be made available on request without delay by the third party. [See also NOTE 2 above]. ❑ Requirement for a financial institution to satisfy itself that the third party is regulated and supervised to FATF standards (Rec. 23, 24 and 29) and has measures in place to comply with CDD requirements:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(9) repeals and substitutes regulation 4(5) of the MLPR and regulation 4(5)(c)

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				requires a financial institution to satisfy itself that a third party is regulated and supervised to standards established in this jurisdiction or in the foreign jurisdiction if standards are higher. Regulation 4(5)(d) requires that the third party have measures in place to comply with the requirements of CDD. [See also NOTE 2 above]. ❑ Requirement that competent authorities take into account information on countries that adequately apply FATF standards in determining in which countries a third party can be based: — The Money Laundering (Prevention) (Amendment) Regulations 2009, section 5(9) repeals and substitutes regulation 4(5) of the MLPR and regulation 4(5)(e) requires a financial institution not to rely on a third party based in a country named by the Supervisory Authority as inadequately applying FATF requirements. [See also NOTE 2 above (under 5. Customer due diligence)]. ❑ [See also NOTE 1 above **(**under 5. Customer due diligence)]. in relation to FSRC's sanction powers for breaches of CDD Guidelines.]. ❑ E.C. 9.2 The CDD Guidelines for Banks – Update- April, 2009 – Paragraph 48 addresses this deficiency, which reads: '*Banks are required to ensure that respondent institutions have performed normal CDD measures for customers utilizing payable through accounts or are able to immediately provide relevant customer identification upon request for these customers.* ❑ Guidance in relation to the location of third parties was issued by the Supervisory Authority on 19 February 2010 and in subsequent years. The Supervisory has published ~~an~~ advisories on:-

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				1. Jurisdictions that have ongoing substantial Money Laundering and Terrorist Financing risks. **2.** Jurisdictions with strategic AML/CFT deficiencies that have not committed to an action plan to address these deficiencies. **3.** Jurisdictions previously identified by FATF as having strategic AML/CFT deficiencies which deficiencies still remain outstanding.
10. Record keeping	NC	Single transactions under EC $1,000 are exempted from record keeping requirements. 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. 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. 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.	• The exemption of single transactions under EC $1,000 from record keeping requirements should be removed. • 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. • 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. • 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.	❑ The Money Laundering (Prevention) (Amendment) Act 2008, section 3 deleted section 12(3) of the MLPA removing the exception of not having to keep records for transactions under $1,000. ❑ Requirement to maintain transaction records in a manner that would permit reconstruction of individual transactions:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 6(1) repeals and substitutes regulation 5(1) of the MLPR and regulation 5(1a) requires records must be sufficient to permit reconstruction of individual transactions to provide evidence for the prosecution of criminal activity. This provision is applicable to all financial institutions. ❑ Requirement to retain business correspondence for at least 5 years following termination of business relationship: — The Money Laundering (Prevention) (Amendment) Regulations 2009, section 6(2) amends regulation 5(2)(a) of the MLPR to insert the requirement to retain business correspondence following the termination of an account or business relationship. Under the MLPA, section 12B(1), records

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				are required to be held for 6 years. [See also NOTE 2 above]. ❑ Legislative requirement that customer and transaction records and information be available on timely basis to domestic competent authorities:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 6(1) repeals and substitutes regulation 5(1) of the MLPR and regulation 5(1)(a) requires a financial institution to have procedures relating to the retention of records to enable production in a timely manner of records or other information to domestic competent authorities
11. Unusual transactions	NC	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. 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.	• 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. • 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.	❑ Requirement to examine the background and purpose of complex, unusual large transactions or patterns of transaction that have no apparent economic purpose and put their findings in writing:— The Money Laundering (Prevention) (Amendment) Act 2008, section 5 inserts section 13(1A) into the MLPA which provides for a financial institution to examine the background and purpose of transactions that are complex, unusual large which have no apparent or visible economic or lawful purpose, and to put their findings in writing and as amended by section 8 of the MLPA 2009, treat the findings as part of the financial transaction documents. ❑ Requirement to keep findings on all complex, unusual large transactions and patterns of transactions for competent authorities and auditors for at least 5 years:— Under section 12B(1) of the MLPA, section 5 of the MLPA 2008 and section 8(a) of the MLPA 2009 documents relating to complex, unusual large transactions and patterns of transactions with no apparent or visible economic or lawful purpose must be retained for six years after completion of

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				the transaction.
12. DNFBP–R.5, 6, 8-11	NC	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. 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.	• 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. • Lawyers and notaries, other independent legal professionals, accountants and company service providers should be brought under the ambit of the AML/CFT regime.	❑ Requirement for lawyers, notaries, independent legal professionals, accounts and company service providers to be brought under the ambit of the AML/CFT regimes:— The Money Laundering (Prevention) (Amendment to First Schedule) Order 2009 amended the First Schedule to the MLPA to list as financial institutions: (1) Company service providers; (2) Attorneys-at-law (who conduct financial activity as a business); (3) Notaries (who conduct financial activity as a business); and (4) Accountants (who conduct financial activity as a business). (5) The Corporate Management and Trust Service Providers Act 2008, section 14 provides for the FSRC to maintain a general review of corporate management and trust service providers and to examine licensee to ensure the are complying with the Act, the IBC Act, the International Foundations Act, the Companies Act, the International Limited Liability Act, the MLPA, the PTA and any other Act that confers jurisdiction on the FSRC. The Money Laundering (Prevention) (Amendment of First Schedule) Order 2009 list Company Service Providers as financial institutions subject to the AML/CFT regime. ❑ The Corporate Management Trust Service Providers Act 2008 came into force on 12

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				February 2009. [See NOTE 1, 2 and 3 above **(under 5. Customer due diligence)** in relation to enforceability of the provisions]. ❑ The CMTSPA captures lawyers and accountants under the AML/CFT regime. ❑ The International Limited Liability Companies Act 2007, the International Trust Act 2007 are two additional statutes which corporate management and trust services providers can perform services. ❑ The FSRC has seventeen (17) pending licenses for corporate management and trust service providers. The licensing period for corporate management and trust service providers end March 31, 2011 ❑ In November 2012, Nineteen (19) companies and individuals received licenses to operate under the Corporate Management and Trust Service Providers Act since the Act was passed in Parliament. There is now one (1) pending application for a corporate management and trust service provider's licence.
13. Suspicious transaction reporting	PC	The requirement for FIs to report suspicious transactions is linked only to transactions that are large, unusual, complex etc. 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. The reporting of STRs with regard to terrorism and the financing of terrorism does not include suspicion of	• The requirement for FIs to report suspicious transactions should be applicable to all transactions. • 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. • The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organisations or those who finance terrorism.	❑ Requirement for STR reporting to be applicable to all transactions: — The Money Laundering (Prevention) (Amendment) Act 2008, section 5(b) amended by section 8 of the Money Laundering (Prevention) (Amendment) Act 2009 requires, without exception, the reporting of a transaction that could constitute or be related to the proceeds of crime. ❑ Requirements for making of STR to apply to all offences required to be included as predicate offences under Recommendation 1:— The Money Laundering (Prevention) (Amendment) Act 2009, section 3 has

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		terrorist organisations or those who finance terrorism.		criminalized facilitation of money laundering and section 4 has criminalized participation in a criminal organization. A draft criminalizing piracy is awaiting submission to the Attorney General. ❑ Requirements for making of STR to apply to all offences required to be included as predicate offences under Recommendation 1:— As mentioned previously, human trafficking and migrant smuggling have been criminalized by the Trafficking in Persons (Prevention) Act 2010 and the Migrant Smuggling (Prevention) Act 2010, both of which came into force on 11th November 2010. **An** Act to criminalize piracy is has been drafted and is to be submitted shortly to the Attorney General. ❑ Requirements for reporting of STR relating to terrorism and the financing of terrorism to include suspicion of terrorist organizations or those who finance terrorism: — Section 6 of the Prevention of Terrorism (Amendment) Act 2010 – **in force on** 15th April 2010, requires financial institutions to report transactions for which there are reasonable grounds to suspect that they are conducted by or on behalf of a terrorist group, or by and on behalf of a person who finances terrorism or the commission of a terrorist act.

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14. Protection & no tipping-off	PC	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.	• 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.	❑ The Requirement for the tipping off prohibition to include the submission of STR or related information to the FIU:— The Money Laundering (Prevention) (Amendment) Act 2008, section 2, was amended so that the tipping off prohibition relates to where a financial institution "has submitted or is about to submit a suspicious activity report".
15. Internal controls, compliance & audit	NC	• Requirement for financial institutions to develop internal procedures and controls is limited to money laundering and does not include financing of terrorism. • Requirement for financial institutions to appoint a compliance officer at management level is not enforceable. • Requirement for financial institutions to provide compliance officers with necessary access to systems and records is not enforceable. • 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. • Requirement for financial institutions to put in place screening procedures to ensure high standards when hiring employees is not enforceable.	• Requirement for financial institutions to develop internal procedures and controls to prevent ML should include FT. • Requirement for financial institutions to appoint a compliance officer at management level should be enforceable in accordance with FATF standards. • Requirement for financial institutions to provide compliance officers with necessary access to systems and records should be enforceable in accordance with FATF standards. • 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. • 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.	❑ Requirement to develop internal procedures and controls to prevent FT: — Paragraph 2 of the Money Laundering & Financing of Terrorism Guidelines (updated 20 July 2009) requires financial institutions to develop implement and maintain written internal controls, policies and procedures for recognizing and dealing with transactions and proposed transactions related to the financing of terrorism. ❑ Requirement to appoint a compliance officer at management level should be enforceable:— The Money Laundering (Prevention) Regulations 2007, regulation 6(1)(a) as amended by section 7(1) of the MLPR 2009 which amends regulation 6(1)(a) requires the appointment of a compliance officer at management level. [See also NOTE 2 above (under 5. Customer due diligence)]. ❑ Requirement to provide the compliance officer with necessary access to systems and records should be enforceable: — The Money Laundering (Prevention) Regulations 2009, section 7(2) which inserts regulation 6(1)(aa) of the MLPR requires the compliance officer to have access to CDD information and transaction records and relevant systems and information. [See also NOTE 2 above (under 5. Customer due diligence)]. ❑ Requirement to maintain an adequately

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				resourced and independent audit function to test compliance with AML/CFT requirements: — The Money Laundering (Prevention) Regulations 2009, section 10 which inserts regulation 15(3) of the MLPR requires an adequately resourced and independent audit function to test compliance with AML/CFT procedures and policies. [See also NOTE 2 above (under 5. Customer due diligence)]. ❑ Requirement to put in place screening procedures to ensure high standards when hiring employees should be enforceable: — The Money Laundering (Prevention) Regulations 2009, section 8 inserts regulation 6A of the MLPR which requires screening procedures to ensure high standards when hiring employees. [See also NOTE 2 above (under 5. Customer due diligence)].
16. DNFBP–R.13-15 & 21	NC	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 Ineffective implementation of suspicious transaction reporting requirements.	• 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.	❑ Requirement for DNFBPs same as for all other financial institutions:— The Money Laundering (Prevention) (Amendment of First Schedule) Order 2009 amended the First Schedule to the MLPA to bring the business activities of the following designated non-financial business and professions under the AML/CFT regime of the MLPA: 1. Car dealerships 2. Travel agents 3. Dealerships in high value and luxury goods 4. Company service providers 5. Attorneys-al-law (who conduct financial activity as a business) 6. Notaries (who conduct financial activity as a business) 7. Accountants (who conduct financial activity as a business). [See also NOTE 1, 2 and 3 above (under 5. Customer

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				due diligence) in relation to enforceability]. ❑ The CMTSPA captures lawyers and accountants under the AML/CFT regime. ❑ The International Limited Liability Companies Act 2007, the International Trust Act 2007 are two additional statutes which corporate management and trust services providers can perform services. ❑ The FSRC has seventeen (17) pending licences for corporate management and trust service providers. The licensing period for corporate management and trust service providers end March 31, 2011 ❑ In November 2012, Nineteen (19) companies and individuals received licence to operate under the Corporate Management and Trust Service Providers Act since the Act was passed in Parliament. There is now one (1) pending application for a corporate management and trust service providers licence. ❑ The Corporate Management and Trust Service Providers Act, 2008 (CMTSPA) provided for the FSRC to maintain a general review of corporate management and trust service providers and to examiner licensees to ensure that they are complying with the IBC Act, the International Foundations Act, the Companies Act, the MLPA and the PTA. Most recently, the Authorities have indicated that the CMTSPA also captures lawyers and accountants under the AML/CFT regime and noted that the International Limited Liability Companies Act, 2007 (ILLCA) and the International Trust Act, 2001 are two additional statutes under which corporate management and trust services providers can perform services.

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17. Sanctions	PC	Sanctions in the MLPA for breaches of the guideline are not dissuasive. Sanctions under the PTA and the MLPA except for money laundering are not applicable to the directors and senior management of legal persons. The range of AML/CFT sanctions in enacted legislation is not broad and proportionate as required by FATF standards.	• The sanction applicable for non-compliance of the MLFTG should be amended to be dissuasive • Sanctions under the PTA and the MLPA that are applicable to financial institutions should also be applicable to their directors and senior management. • The range of AML/CFT sanctions should be broad and proportionate in accordance with FATF requirements.	❑ Requirement for sanctions in the MLPA for breaches of the ML/FTG to be dissuasive: — [See NOTE 3 item (2) above **under 5. Customer due diligence**]. ❑ Requirement for the range of AML/CFT sanctions to be broad and proportionate to FATF standards: — [See particularly NOTE 2 and NOTE 3 above as well as NOTE 1]. ❑ Requirement for PTA sanctions to be applicable to senior management:— The Prevention of Terrorism (Amendment) Act 2010, section 8, inserts section 41B into the PTA as follows: "Where a body corporate commits an offence under this Act, every director or other officer concerned in the management of the body corporate commits that offence unless he proves that (a) the offence was committed without his consent or connivance: and (b) he exercised reasonable diligence to prevent the commission of the offence ❑ Requirement for MLPA sanctions applicable to financial institutions to be also applicable to their directors and senior management— Section 17E of the MLPA inserted by section 7 of the Money Laundering (Prevention) (Amendment) Act 2013 provides general sanctions against a financial institution or a director, manager or employee of a financial institution for failure to comply with the provisions under Part III of the Act which are the anti-money laundering provisions relating to customer due diligence, record keeping etc. (unless provided for elsewhere).
18. Shell banks	NC	Requirement for domestic and offshore banks not to enter into or continue correspondent banking relationships with shell banks is not enforceable.	• Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks. • Financial institutions should be required to	❑ Requirement for financial institutions not to enter into or continue correspondent banking relationships with shell banks and for the provision to be enforceable:— CDD Guidelines for International Banks, updated April 2009, paragraph 49 prohibits financial

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		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.	satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	institutions to enter or continue correspondent banking relations with a bank that has no physical presence. [See also NOTE 1 above (under 5. Customer due diligence) in relation to FSRC's sanction powers for breaches of CDD Guidelines.] Domestically, the ML/FTG (updated 20 July 2009), paragraph 7 inserts paragraph 2.1.48(a) which requires that financial institutions "should not enter into or continue correspondent banking relationship with shell banks." [See also NOTE 3 item (2) above in relation to sanctions for breach of Guidelines]. ❑ 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: — CDD Guidelines for International Banks, updated April 2009, paragraph 51 requires financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. [See also NOTE 1 above (under 5. Customer due diligence) in relation to FSRC's sanction powers for breaches of CDD Guidelines.] Domestically, the ML/FTG (updated 20 July 2009), paragraph 7 inserts paragraph 2.1.48(b) which requires that financial institutions "should satisfy themselves that respondent financial institutions in a foreign jurisdiction do not permit their accounts to be used by shell banks." [See also NOTE 3 item (2) above in relation to sanctions for breach of Guidelines].

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19. Other forms of reporting	C	This Recommendation is fully observed.		
20. Other NFBP & secure transaction techniques	C	This Recommendation is fully observed.	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 regime. This recommendation does not affect the rating of Recommendation 20.	
21. Special attention for higher risk countries	NC	There are no measures that require competent authorities to ensure that financial institutions are notified about AML/CFT weaknesses in other countries. 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. There are no provisions that allow competent authorities to apply counter measures to countries that do not or insufficiently apply the FATF Recommendations.	• Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries. • 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. • There should be provisions to allow for the application of counter measures to countries that do not or insufficiently apply the FATF Recommendations.	❑ Requirement to establish measures to ensure financial institutions are advised of concerns about AML/CFT weaknesses in other countries:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 7(6) inserts regulations 6(1a)(1) which provides for the Supervisory Authority to advise financial institutions of countries with weaknesses in their AML/CFT systems and requires financial institutions to pay special attention to business relationships with and transactions from those country. ❑ Requirement for written findings of transactions that have no apparent economic or visible lawful purpose with persons from or in countries which insufficiently apply FATF Recommendations to be available to assist competent authorities:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 7(6) inserts regulations 6(1b) which provides that where transactions have no apparent economic or visible lawful purpose, a financial institutions should examine the background and purpose of such transactions and written findings should be kept as financial transaction documents. ❑ Requirement for application of countermeasures to countries that

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				insufficiently apply FATF Recommendations:— The Money Laundering (Prevention) (Amendment) Regulations 2009, section 7(6) inserts regulations 6(1c) which requires financial institutions to adhere to any countermeasures which the Supervisory Authority or regulator may advise should be implemented. ❑ The Supervisory Authority has issued advisories on countries/jurisdictions that have weaknesses in their AML/CFT systems. The advisory contains guidance to financial institutions to pay special attention to current and potential business relationships or transactions with the listed countries.
22. Foreign branches & subsidiaries	NC	Requirement for financial institutions to ensure that principles in guidelines are applied to their branches and subsidiaries is not enforceable. 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. 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. 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.	• 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 • 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. • 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. • 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	❑ Requirement to ensure that guideline principles are applied to branches and subsidiaries and are enforceable: — The Money Laundering (Prevention) Regulations 2009, section 4 inserts regulation 3(1)(d)(i) of the MLPR which requires branches and majority owned subsidiaries to observe provisions of the regulations and the Act, which includes guidelines. [See also NOTE 2 and 3 above]. ❑ Requirement to ensure that guideline principles are applied to branches and subsidiaries operating in countries which insufficiently apply FATF recommendations should be enforceable: — The Money Laundering (Prevention) Regulations 2009, section 4 inserts regulation 3(1)(d)(ii) of the MLPR which requires foreign branches and majority owned subsidiaries to observe provisions of the regulations and the Act, which includes guidelines to the extent permitted by the laws of the foreign jurisdiction. [See also NOTE 2 and 3 above]. ❑ Requirement to inform the regulator and the

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			extent that local laws and regulations permit.	Supervisory Authority when local applicable laws and guidelines prohibit implementation of guidelines should be enforceable: — The Money Laundering (Prevention) Regulations 2009, section 4 inserts regulation 3(1)(d)(iv) of the MLPR which requires that where laws of a foreign jurisdiction do not permit the application of measures in the regulations or the Act, which includes the guidelines, the regulator and Supervisory Authority should be informed. [See also NOTE 2 and 3 above]. ❑ Requirement for branches and subsidiaries in host countries to apply the higher AML/CFT standard of the host or home country to the extent that local laws and regulations permit: — The Money Laundering (Prevention) Regulations 2009, section 4 inserts regulation 3(1)(d)(iii) of the MLPR which requires that where the standard of a foreign jurisdiction differ to those in the regulations and Act then the higher standard should be applied as permitted by the law of the foreign jurisdiction. [See also NOTE 2 and 3 above].

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23. Regulation, supervision and monitoring	NC	The supervisory authorities have not been designated with the responsibility for ensuring that the relevant financial institutions adequately comply with AML/CFT requirements. No provisions in the BA for the ECCB to approve changes in directors, management or significant shareholders of a licensed financial institution. 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. No provision for a registered insurer to obtain the approval of the Registrar of Insurance for changes in its shareholding, directorship or management. No provision for the Registrar of Co-operative Societies to use fit and proper criteria in assessing applications for registration. The Registrar of Co-operative Societies has no power of approval over the management of a society. Money value transfer service operators are not subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements.	• The supervisory authorities should be designated with the responsibility for ensuring that the relevant financial institutions adequately comply with AML/CFT requirements. • 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. • 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. • Registered insurers should be required to obtain the approval of the Registrar of Insurance for changes in shareholding, directorship or management. • The Registrar of Co-operative Societies should be required to use fit and proper criteria in assessing applications for registration. • The Registrar of Co-operative Societies should have power of approval over the management of a society. • Money value transfer service operators should be subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements.	❑ The Supervisory Authority was appointed on 1 November 2007 ❑ The FSRC is implementing the Money Services Business Act 2007. Money services offsite examinations have been conducted during the due diligence and licensing process in regard to AML/CFT for six (6) institutions. The FSRC is in the process of conducting other offsite examinations. The ECCB in collaboration with CARTAC and the Single Regulatory Unit have designed reporting forms to identify suspicious activities showing inflows and outflows to and from foreign countries and for operators to identify the 10 largest transactions. In addition, operators are subject to the MLPA and are required to file SARs with the ONDCP. ❑ In November 2012 the FSRC conducted a workshop for MSB operators addressing topics primarily surrounding the Money Services Business Act 2011. Amongst other things the topics addressed the provisions concerning the legislation MLPA; source of funds declarations and reporting thresholds; Know Your Customer (KYC) and Enhanced Due Diligence (EDD) and suspicious activity reporting. Finally there was an overview of the AML/CFT regime to include key definitions, methodologies and the impact on the industry. ❑ The Banking Act 2005 was amended by the Banking (Amendment) Act 2012 ~~is being amended~~ to give the ECCB the power to approve changes in directors, management and significant shareholders of a licensed financial domestic institution. The amendment came into force on 13 September 2012. ~~With respect to the proposed amendments to the Banking Act we are consulting with the ECCB since it is a uniformed piece of legislation throughout~~

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				~~the OECS jurisdictions.~~ ❑ Section 198 of the Insurance Act, 2007 provides for the fit and proper test to be applied. ❑ An amendment has been ~~proposed~~ made to the Insurance Act to require an insurance company to obtain approval from the FSRC in respect of changes in shareholding, directorship or management. ❑ Section 199 of the Insurance Act ~~will be amended accordingly to provide for~~ **addresses** the process when a director, officer or manager is declared unfit by the FSRC. ❑ The Cooperatives Act will make provisions requiring the FSRC to use fit and proper criteria in assessing applications for registration. ❑ The Cooperatives Societies Act ~~**will**~~ make~~**s**~~ provision for the FSRC to have power of approval over the management of a society ❑ Section 91 of the Cooperatives Societies Act 2010 ~~will be~~ **has been** amended accordingly to provide for notification of changes to the FSRC, to then permit the FSRC to apply the fit and proper criteria in turn to determine the retention of the change ❑ At present the FSRC's records reflects seven (7) licensed MVT's and one (1) pending application. ❑ The FSRC has conducted one (1) onsite examination of an MSB. ❑ The FSRC has revoked the licence of one (1) MSB; it has also suspended the license of one (1) MSB; and it has denied a licence

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				to one (1) prospective MSB. ❑ The FSRC has also initiated legal action by filing a report to the DPP for the laying of information to be granted a search warrant for a person who the FSRC has reasonable cause to suspect is operating an MSB without a licence pursuant to section 4 of the MSB. The FSRC has also fined an MSB for non-compliance with respect to quarterly filing of returns and its financial reporting. ❑ The Money Services Business Act, 2007 is being amended to address regulatory and supervisory issues, and in particular to include a dissuasive administrative sanction, the sanctions would have the necessary enforceability. ❑ Further the FSRC is also in the process of drafting Regulation and Guidelines which would have the requisite enforceability ❑ The Supervisory Authority has been authorized by the Government to establish a Financial Compliance Unit for the purpose of the supervision and examination of financial institutions for compliance with AML/CFT requirements. In 2012, the ONDCP established a new unit named the Financial Compliance Unit (FCU). The FCU conducts AML/CFT supervision of financial institutions under the delegated authority of the Supervisory Authority. ~~That unit,~~ The FCU, has ~~been successfully created and is active in conducting~~ **conducted** offsite assessments and onsite evaluations of the AML/CFT systems of ~~financial institutions~~. a number of DNFBPs. In February 2013, section 7 of the MLPA was amended by the Money Laundering (Prevention) (Amendment) Act 2013, inserting section 17A, 17B, 17C and 17E, which bestowed full powers on the

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				Supervisory Authority to enable it to comprehensively examine all sectors of financial institutions for AML/CFT compliance, with power to impose requisite sanctions. The FCU ~~is collecting and collating~~ continues to collect and **collate** a body of ~~information~~ **data** that will empower the Supervisory Authority to better assess the status of compliance nationally, and provide better informed status reports to the National Anti-Money Laundering Committee. Training on risk assessment is a key part of the development of the FCU's skills. ❑ **Since May 2013 the FCU has conducted 31 examinations of financial institutions and DNFBPs, 20 in 2013 and 11 to date in 2014. They include: money lending & pawning – 4; insurance – 2; money service businesses – 1; travel agents – 6; dealers in precious metals – 4; domestic banks – 3; credit unions – 1; company service providers – 1; car dealerships – 4; international banks – 2; real property business – 3.** ❑ **The Cooperative Societies (Amendment) Act has been passed. Section 6 amends section 72 of the Act and makes provisions for the list of nominees of proposed directors or proposed members to be submitted to the Supervisor seven days after the close of nomination, and that a nominated director or member shall be a fit and proper person in accordance with the criteria of section 53(4) of the Act.**
24. DNFBP - regulation, supervision and	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.	• 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.	❑ Casinos, real estate agents, dealers in precious metals and stones are listed in the First Schedule of the MLPA as financial institutions and are now subject to the AML/CFT regime. The AML/CFT requirements for these sectors are

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monitoring				supervised by the Supervisory Authority. Some real estate agents and jewelers have already had onsite examinations of their AML/CFT systems conducted by the FCU. Casinos are scheduled for examination shortly.
25. Guidelines & Feedback	PC	The Supervisory Authority has not provided financial institutions and DNFBPs with adequate and appropriate feedback. The respective guidelines and directives are in practice not issued to all persons and companies in the sectors.	• The Supervisory Authority should ensure that respective guidelines and directives are issued to all persons and companies in the sectors.	❑ 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 *ONDCP* is gradually building a body of typologies and is analyzing reports to establish money laundering and financing of terrorism trends for publication. ❑ The ONDCP is in the process of ensuring that all financial institutions are in possession of relevant regulations, guidelines and directives. To this end the ONDCP has its own website and which carries relevant regulatory and guideline information.
Institutional and other measures				
26. The FIU	PC	The Supervisory Authority has not been appointed. SARs are being copied to the FSRC by the entities they regulate. A number of reporting bodies have not received training with regard to the manner of reporting SARs. There is no systematic review of the efficiency of ML and FT systems. The ONDCP's operational independence and	• 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. • 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. • 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	❑ The Supervisory Authority was appointed on 1 November 2007. ❑ Requirement for training in the manner of reporting: — the standardized reporting forms for SAR all come with detailed instructions on how to complete the form and when and how to properly report a suspicious transaction. Supplementing this is a schedule of training sessions by the FIU to further advise financial institutions on what is required for the reporting of suspicious transactions. Money service providers as part of the requirement to receive their license have had to receive AML/CFT training. The reporting patterns of financial institutions are now continually under review by the FIU in order to advise

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		autonomy can be unduly influenced by its inability to hire appropriate staff without the approval of Cabinet. The ONDCP does not prepare and publish periodic reports of it operations, ML trends and typologies for public scrutiny.	with a view to evaluating their reporting patterns so that weaknesses could be identified and addressed accordingly. • 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. • 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. • 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.	on remedial action for substandard reporting patterns where necessary. ❑ The efficiency of the AML/CFT system is continuously under review by the National AML/CFT Oversight Committee and other bodies. ❑ A national risk assessment of AML/CFT vulnerability is due to be carried out to FATF standards once the expert retained by the FSRC has completed necessary training. Training of financial institutions and examinations of financial institutions has been shaped by the results of ~~that~~ a previous assessment at a different standard, and vulnerable institutions appropriately targeted. ❑ The ONDCP has published and circulated its annual report 2008, inclusive of typologies. ❑ In December 2011 the ONDCP published its annual report for 2009 - 2010, which included details of the performance of the FIU and the FID and their productive output. The ONDCP 2011 Annual Report is published on the ONDCP website and the 2012 Annual Report was published on April 23, 2013 ❑ Copying of SARs to the FSRC is being addressed by amendment to regulation 19(1) of the IBC Regulation No. 41 of 1998. ❑ Copying of SARs to the FSRC**:—** On December 30, 2010 the IBC Regulations, Regulation 19 was amended providing that compliance officer**s sh**ould only report suspicious activity reports to the Supervisory Authority under the Money Laundering (Prevention) Act. ❑ On December 30, 2010 the IGIWR,

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				Regulation 223 was amended providing that compliance officer**s** **sh**ould only report suspicious activity reports to the Supervisory Authority under the Money Laundering (Prevention) Act. ❑ Section 5 of The Money Laundering (Prevention) (Amendment) Act 2013, states in relation to the making of suspicious activity reports under section 13: "Notwithstanding any provision in any other Act or legal instrument, a financial institution in complying with this subsection shall make suspicious activity reports to the Supervisory Authority only."
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.	• 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. • Law Enforcement Authorities should consider reviewing there strategy in combating ML with the view to adapting a more aggressive approach which may generate more ML prosecutions and possibly convictions.	❑ Requirement for law enforcement authorities to review their strategy in combating ML so as to adapt a more aggressive approach to generate more ML prosecutions and convictions: — The Director of ONDCP is currently in close contact with the Commissioner of Police and the Comptroller of Customs in an effort to enhance the effectiveness of cooperation between the three law enforcement authorities with a view to securing more ML prosecutions which could lead to increased ML convictions. As a result of the closer contact between the ONDCP, the Police and Customs, there has been a jump in the number of cash seizures, particularly at the airport. The Police instituted a money laundering prosecution. Within the space of 10 months (from December 2011 to September 2012) the ONDCP successfully charged three persons with money laundering all of whom were convicted. The ONDCP now has three money laundering charges before the courts. Charges include not only money laundering but also facilitation of money laundering under the new offence created by section 5A of the MLPA.

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				❑ The recommendation on postponement and waiver of arrest of suspects is being reviewed and an appropriate legislative provision is being considered. The Director of the ONDCP has put into effect standard operating procedures for the implementation of the controlled delivery of illegal drugs and contraband by ONDCP Officers. This authorizes postponement of arrest or seizure for purposes of gathering information on persons such as co-conspirators who are not presently identifiable as being involved in the transfer of illegal items.
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.	• 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 comply with AML/CFT requirement.	❑ Draft amendments to the Insurance Act, 2007, No 13, will provide sanctions against Companies. Directors and Senior Management and Intermediaries for failure to comply with AML/CFT requirements by the appropriate officials. ❑ Section 202 of the Insurance Act No. 13 of 2007, will be amended to include a provision, that during the annual examination process, the task will be undertaken by the Superintendent to ensure that an insurance company complies with the Money Laundering (Prevention) Act No. 9 of 1996 and the Prevention of Terrorism Act, No. 12 of 2005. ❑ Draft amendments to the Insurance Act, 2007, No 13, will provide enforcement measures against Companies, Directors and Senior Management and Intermediaries for failure to comply with AML/CFT requirements by the appropriate officials. However, the amendment proposed to the

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				Insurance **Act provides** for insurance companies to comply with AML/CFT through their principal Acts. It is important to distinguish ensuring compliance to AML/CFT as opposed to enforcement and sanctions which falls within the ONDCP's mandate to prosecute AML/CFT matters pursuant to the Money Laundering and the Prevention of Terrorism Act. ❑ The Superintendent of Insurance has conducted several on-site examinations in 2012 of insurance companies. In that regard, an AML/CFT assessment forms part of the overall examination procedures as a means of practical implementation ❑ In September, 2012 the Superintendent of Insurance. Disclosed that FSRC in its assessment of the companies uses a risk based approach centered on a particular international framework. The compliance with AML:/CFT was also addressed in terms of the on-site examinations. ❑ Draft legislation governing Co-operative Societies will provide for adequate powers of enforcement and sanctions against credit unions, directors and senior management for failure to comply with AML/CFT requirements ❑ Pursuant to Section 23 of the Co-operatives Societies Act, No. 9 of 2010, the Supervisor of Co-operatives may suspend the registration of a co-operative for failing the requirements of the Money Laundering (Prevention) Act No. 9 of 1996 and the Prevention of Terrorism Act, No. 12 of 2005 and the Proceeds of Crime Act, No. 13 of 1993. ❑ The enforcement powers and sanctions with respect to AML/CFT requirements are prescribed in the MLPA and the PTA and

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				rest with the Director of the ONDCP and the Supervisory Authority and can be applied to insurance companies and cooperatives. Having reviewed the stated actions undertaken by the Authorities in the matrix previously submitted, it is noted that enforcement powers do exist under Section 16 of the MLPA which provides for enforcing compliance by an injunction. In addition, Section 3 of the MLPA 2010 also amends Section 11 of the principle Act to give the SA powers to apply administrative sanctions for breach of the Act, Regulations, Guidelines and or Directives. The amendment proposed to the Insurance Act provides for insurance companies to comply with AML/CFT through their principal Acts. It is important to distinguish ensuring compliance to AML/CFT as opposed to enforcement and sanctions which falls within the ONDCP's mandate to prosecute AML/CFT matters pursuant to the Money Laundering and the Prevention of Terrorism Act.
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.	• 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. • The budgetary resources of the ONDCP should be increased to adequately cover training and the hiring of qualified staff. • 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.	❑ The Director of the ONDCP continues the interview process to fill the vacancies in the ONDCP FIU subject to budgetary constraints. At December 2012, the ONDCP legal department was fully staffed with the addition of a second legal counsel. Additional personnel have successfully been recruited for the Financial Compliance Unit for supervision of financial institutions, and the Financial Investigations Unit. ❑ The ONDCP has conducted several local training sessions and have participated in several overseas programmes to continue to build capacity within the institution The ONDCP relies heavily on international assistance in training and has been

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			• 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.	receiving training from UK SAT. There is already noticeable improvement in the performance of the FIU. Meanwhile, the Police Proceeds of Crime Unit in the wake of a number of successful cash forfeitures has commenced training on cash seizures for the Police Force generally. Training is ongoing. ❑ Resources allocated to the Police, Customs and Immigration and Prosecution are being reviewed. Confiscated assets deposited in the Forfeiture Fund will be used towards supplementing these resources. ❑ The ONDCP has initiated ~~a~~ systematic training for new recruits and continues to implement further developmental training for all officers of the FIU.

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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.	• 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. • Antigua and Barbuda should consider establishing measures to allow Policy makers, the ONDCP, the FRSC and other competent authorities to meet continuously to discuss, develop and implement policies and activities to combat money laundering.	❑ There is a National AML/CFT Oversight Committee headed by the Hon. Attorney General to review and coordinate AML/CFT efforts of the jurisdiction. ❑ The Director of ONDCP is in frequent communication with the Commissioner of Police in order to coordinate ML and FT matters. ❑ The Director of ONDCP is in communication with the Comptroller of Customs in order to coordinate ML and FT matters, ❑ ONDCP and FSRC have scheduled quarterly meetings to discuss implementation of AML/CFT policies and to assess the effectiveness of implementation of the new MOU. ❑ The attendance to SIP training by ONDCP and FSRC members to create an enhanced working relationship in AML/CFT matters. Subsequent to this training a briefing was presented to the AML/CFT Oversight committee on the way forward.
32. Statistics	PC	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. 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 terrorism mechanisms could not be ascertained. No statistics have been provided to show whether the	• 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. • 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 indicate the effectiveness of the whole preventive and repressive AML/CFT systems and reflect the impact of STR in investigations, prosecutions and convictions.	❑ The ONDCP presently has in place statistics designed to reflect the impact of STR's on investigations, prosecutions and convictions. ❑ The FSRC now keeps statistics on money value transmission services. ❑ Individual law enforcement agencies as well as the National AML/CFT Oversight Committee are reviewing the ML/FT statistics to determine the effectiveness of the regime, with a view to advising the Government on the appropriate measures for improvement ❑ Action is underway to generate and collate the statistics of the principal law enforcement agencies, to make them review

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		restraint and confiscation mechanisms under the POCA are effective. No measures had been instituted to review the effectiveness of their AML/CFT systems. No available statistics with regard to MVTs.		friendly and to organize them so as to best reflect the effectiveness of the AML/CFT system and the impact of actions taken. ❑ The ONDCP recent annual report 2009-2010 should provide the necessary statistics to demonstrate the effectiveness of the measures undertaken.

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33. Legal persons–beneficial owners	NC	Statutory obligation to provide information as to the ownership and management of partnerships is lacking. There are no measures in place to ensure that bearer shares under the IBCA are not misused for money laundering.	• 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. • Statutory obligation to provide information as to the ownership and management of partnerships should be put in place.	❑ The International Business Corporations (Amendment) Act 2010 has been enacted It makes provisions to: 1. prohibit transfer of bearer share otherwise than in accordance with the Act 2. void the transfer of disable bearer shares and removes their entitlement to vote or share assets 3. deposit bearer shares with a custodian 4. make existing bearer shares not deposited with a recognized custodian subject to mandatory redemption 5. empower the FSRC to apply for a winding up where after the transition date bearer shares have not been deposited with a recognized custodian. 6. sets out the procedure for depositing bearer shares with a custodian 7. sets out the procedure for transfer of bearer shares 8. sets out the procedural requirement where there is a change of beneficial ownership 9. addresses the situation and sets out the procedure where a recognized custodian no longer wishes to hold a bearer share A new Partnership Act is to be drafted. 10. The FSRC has nineteen (19) pending licences for corporate management and trust service providers. The licensing period for corporate management and trust service providers end March 31, 2011. The FSRC's licensing process takes into consideration licensing of custodians of bearer shares which will address all the matters herein. 11. The FSRC is conducting an internal review to prepare a report in which it will identity

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				the corporate management and trust services providers who have incorporated companies which have been authorised to issue bearer shares to ensure that that they comply with the IBCA and the CMTSPA. 12. The Corporate Management and Trust Service Providers Act, 2008 (CMTSPA) provided for the FSRC to maintain a general review of corporate management and trust service providers and to examiner licensees to ensure that they are complying with the IBC Act, the International Foundations Act, the Companies Act, the MLPA and the PTA. Most recently, the Authorities have indicated that the CMTSPA also captures lawyers and accountants under the AML/CFT regime and noted that the International Limited Liability Companies Act, 2007 (ILLCA) and the International Trust Act, 2001 are two additional statutes under which corporate management and trust services providers can perform services. Under the provisions of Section 139A of the International Business Corporations (Amendment) Act, Cap. 222, any bearer share currently held by anyone other than a licensed custodian is deemed to be disabled. ❑ A new Partnership Act is to be drafted.
34. Legal arrangements – beneficial owners	PC	No measures for the registration or effective monitoring of local trusts.	• Measures should be put in place for either registration or effective monitoring of local trusts in accordance with FATF information requirements. • 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.	❑ Legislation governing domestic trusts is being **developed** which will address the beneficial ownership and control of legal arrangements

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International Cooperation				
35. Conventions	LC	There are some shortcomings with regard to the implementation of provisions in the Vienna, Palermo and Terrorist Financing Conventions.	• 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.	❑ The Proceeds of Crime (Amendment of Schedule) Order 2009 ~~has been signed by the Minister~~ **was gazetted on 5 August 2010.** This has substantially amended the Schedule of offences to which the POCA applies and covers all offences for which there is a penalty of 1 year or more imprisonment. ❑ The Precursor Chemicals Act has been passed which covers all precursor chemicals listed in the Vienna Convention. ❑ Provisions in relation to the transfer of proceedings according to Article 8 of the Vienna Convention are being developed.
36. Mutual legal assistance (MLA)	C	This Recommendation is fully observed.		❑ Assistance has recently been rendered to the United Kingdom authorities in confiscating a villa owned by a drug trafficker valued at approximately $648,000 EC.
37. Dual criminality	C	This Recommendation is fully observed.		
38. MLA on confiscation and freezing	LC	No provision has been made for confiscated proceeds of terrorism or terrorism assets seized to be deposited into a Forfeiture Fund. No provision has been made for the sharing of assets confiscated as a result of coordinated law enforcement actions.	• 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. • Provision should be made for the sharing of assets confiscated in relation to terrorism offences.	❑ The Prevention of Terrorism (Amendment) Act 2010 has been passed and provides for the creation of a forfeiture fund for confiscated terrorism assets. A forfeiture fund for confiscated terrorism assets is being established. ❑ Provision is being made for the sharing of confiscated terrorist assets.

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		No provision has been made for assets from terrorist activity to be deposited into a Forfeiture Fund.		

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39. Extradition	C	The Recommendation is fully observed	• 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 commend does not affect the rating of this Recommendation.	
40. Other forms of co-operation	LC	The FSRC is not authorised to exchange information with its foreign counterparts. The level of cooperation between the ECCB and the FSRC is unclear.	• Antigua and Barbuda should consider introducing the relevant legislative framework that would allow the FSRC to exchange information directly with its foreign counterparts.	❑ The International Business Corporations (Amendment) Act 2008, section 5 replaced section 373, which provides for the FSRC to disclose information concerning the ownership, management, operations and financial returns of a licensed institution to enable a regulatory authority to exercise its regulatory functions. ❑ The MOU between the FSRC and the ECCB has received ~~is awaiting signature of~~ the signatures of the Parties. ❑ A draft MOU between ONDCP and ECCB for the exchange of confidential information is being studied by both authorities the ECCB.
9 Special Recommendations				
SR.I Implement UN instruments	PC	The definitions of "person" and "entity" are not consistent, and this may affect whether terrorist groups are captured for some offences. No provision has been made under the terrorism legislation for access to frozen funds as required by the UNSCRs 1373 and 1452.	• 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.	❑ The Prevention of Terrorism (Amendment) Act 2008, section 2, was passed and has clarified the meaning of "person" and "entity" in accordance with the UN Convention. ❑ The Prevention of Terrorism (Amendment) Act 2008, section 7 was passed and makes provisions for access to frozen funds by third parties.
SR.II Criminalize terrorist financing	PC	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,	• 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	❑ The Prevention of Terrorism (Amendment) Act 2008, section 2 was passed and contains a definition of "funds" fully consistent with the UN Convention. ❑ The Prevention of Terrorism (Amendment)

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		the extent to which the elements of Special Recommendation II are covered. Sanctions should include fines to be dissuasive. Under the PTA, the intentional element of the offence cannot be inferred from objective factual circumstances.	Convention. • The PTA should be amended so that the mental elements of knowledge and intent should extend to both individual terrorists and terrorist groups. • The deemed money laundering offences under section 9 of the PTA should be 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. • 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.	Act 2008, section 2(2) provides for the intentional element to be inferred from objective factual circumstances. ❑ The Prevention of Terrorism (Amendment) Act 2008, section 2 defines "person" to include "group" and as a result all the PTA offences making reference to person now cover groups as well as individual terrorists. ❑ The Prevention of Terrorism (Amendment) Act 2008 has included provisions to remove the ambiguities in relation to money laundering expressed by the Examiners, by repealing and replacing the section with provisions for the Supervisory Authority to deal with terrorism money laundering under the PTA. In addition, the Money Laundering (Prevention) (Amendment) Act 2013 was passed in February. Section 1(c) of that Act defines money laundering offence to include: offences under sections 5 – 10, 12 and conspiracy to commit or participation in those offences. ❑ The Prevention of Terrorism (Amendment) Act 2008, section 8 has provided for fines of $500,000 for offences under the Act. ❑ The Prevention of Terrorism (Amendment) Act 2010, section 10 has provided for fines of $1,000,000 for offences under the Act.

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SR.III Freeze and confiscate terrorist assets	NC	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. There is no provision for access to funds for basic expenses and certain fees as required by UNSCR 1452. The term "funds" is undefined in the PTA. Guidance to financial institutions that may be holding targeted terrorist funds is not sufficient. The type of property which may constitute other assets is not explicit. De-listing procedures are not publicly known. There is no specific provision for specified entities to have funds unfrozen. The PTA does not provide third party protection consistent with Article 8 of the Terrorist Financing Convention.	• 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. • 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. • The Guidelines for reporting suspicious transactions with regard to terrorist financing should be reviewed so as to create a uniform reporting structure. • Specific provision should be made whereby a specified entity can apply to have funds unfrozen. Similar provision should also be made for persons who have been affected inadvertently by a freezing mechanism. • 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. • The seizure mechanism under the PTA should include like provisions. • Specific measures should be put in place to ensure that the communication of the	❑ The Prevention of Terrorism (Amendment) Act 2008, section 2 contains a definition of "funds" fully consistent with the UN Convention. ❑ The Prevention of Terrorism (Amendment) Act 2008, section 7 was passed and makes provisions for funds to be unfrozen on application of third parties. ❑ The Prevention of Terrorism (Amendment) Act 2008, section 7 makes provisions for access to restrained funds for meeting basic expenses and costs by persons with an interest in the property. ❑ The Prevention of Terrorism (Amendment) Act 2008, section 7 makes provisions for access to seized funds for meeting basic expenses and costs by persons with an interest in the property. ❑ The Prevention of Terrorism (Amendment) Act 2008, section 3 has removed the deeming provision in relation to money laundering offences and declared offences under sections (1) and (2) to constitute money laundering. ❑ The Prevention of Terrorism (Amendment) Act 2008, section 4 provides for compensation out of forfeited funds to persons who have suffered loss as a result of the commission of a PTA offence. ❑ The Prevention of Terrorism (Amendment) Act 2010 was passed and section 4 makes provisions for de-listing of specified entities. ❑ The Prevention of Terrorism (Amendment) Act 2010, section 43 provides for the Director of ONDCP to issue Guidelines to financial institutions for the effective implementation of the Act and Regulations. ❑ The Money Laundering & Financing of

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			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. • Express mention should be made under the PTA for the prevention or voiding of actions or contracts where the property is the subject of terrorist activity. • 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. • 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.	Terrorism Guidelines (MLFTG) has been amended to insert 'Part II – The Financing of Terrorism', which are Guidelines to financial institutions for the better implementation of the requirements under the Prevention of Terrorism Act. ❑ The Prevention of Terrorism (Amendment) Act 2010, section 4 inserts section 2B into the PTA which provides for the immediate communication of an Order to a financial institution by the Attorney General. ❑ The Prevention of Terrorism (Amendment) Act 2010, section 45 inserts section 4A into the PTA which renders transfers of terrorist property after the declaration of a specified entity to be null and void. ❑ The Prevention of Terrorism (Amendment) Act 2010, section 7 inserts section 37A which prohibits the disposing of or dealing with forfeited property. ❑ The Money Laundering Financing of Terrorism Guidelines (MLFTG) Part II have been issued to financial institutions. ❑ Antigua and Barbuda now gives effect to UN declarations of specified entities in a timely manner that is **within hours or** within a day or two.

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SR.IV Suspicious transaction reporting	NC	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. The obligation to make a STR related to terrorism does not include attempted transactions.	• The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organisations or those who finance terrorism. • The obligation to make a STR related to terrorism should include attempted transactions.	❑ The Prevention of Terrorism (Amendment) Act 2008, section 34 provides for reporting of transactions and proposed transactions suspected of being related to acts of terrorism. ❑ The Prevention of Terrorism (Amendment) Act 2010, section 6 requires the reporting by financial institutions of transactions of terrorist groups and financiers of terrorism. ❑ The Prevention of Terrorism (Amendment) Act 2010, section 6 requires the reporting by financial institutions of attempted transactions of terrorist groups and financiers of terrorism.
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.		❑ The Prevention of Terrorism (Amendment) Act 2010 will provide for the creation of a Forfeiture Fund for confiscated terrorist assets and the sharing of confiscated assets. A forfeiture fund for confiscated terrorist assets is being established. Issues of sharing of confiscated assets are to be decided by the Minister of Foreign Affairs or the Attorney General as appropriate.
SR.VI AML requirements for money and value transfer services	NC	No requirement for registered MVT service operators to maintain a current list of agents. Unable to assess the effectiveness of current monitoring and compliance system for MVT service operators due to lack of information. Sanctions are not applicable to all criteria of SR VI .i.e. failure to licence or register as a MVT service provider. Deficiencies in Recs. 4-11, 13-15, 21-23, and SR VII are also applicable to MVT operators.	• Registered MVT service operators should be required to maintain a current list of agents which must be available to the designated competent authority. • Sanctions should be applicable to all of the criteria of SRVI.	❑ The Money Services Business Act 2007 requires licencees to keep a list of their agents and sub-agents. This provision is now being enforced by the FSRC and statistics being kept. ❑ The Prudential Guidelines are being drafted and will be issued by the end of June 2010. ❑ Under the amendment to **s.**46 of the Money Services Business Act sanctions apply for failure to comply with rules, orders and/or guidelines, thereby allowing the Act to provide sanctions covering all criteria of SR VI. ❑ The MSBA ~~will be~~ **has been** amended to

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				include the requirement for licensees to maintain a list of sub licensees and also to conduct due diligence of the sub licensees. ❑ The amendment will also include a duty to maintain a current register of names and addresses of licensed money services and their directors and beneficial shareholders, and be responsible for ensuring compliance with licensing requirements. ❑ The process of finalising the Prudential Guidelines is ongoing; the said guidelines would be based on a risk based approach which would take into consideration customer due diligence, internal control systems, regulatory and oversight matters. In addition, the guidelines would include policies, practices and procedures for evaluating assets; policies, procedures and systems for identifying, monitoring and controlling transfer risk, market risk, operational risk; corporate governance; auditor information; procedures to be adopted by licensees and anti-money laundering and combating the financing of terrorism matters. Presently Regulations are being drafted. ❑ The FSRC has refused to grant permission to renew the licence for two (2) money services businesses. The FSRC has also initiated legal action by filing a report to the DPP for the laying of information to be granted a search warrant for a person who the FSRC has reasonable cause to suspect is operating an MSB without a licence pursuant to section 4 of the MSB. The MSBA will be amended to include a dissuasive administrative penalty for failure to comply with any guidelines, rules and orders.
SR.VII Wire transfer	NC	Requirements for wire transfers in the ML/FTG are not enforceable in accordance with the FATF	• Requirements for wire transfers in the MLFTG should be made enforceable in	❑ Requirements for wire transfers provisions to be enforceable:— The Money Laundering

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rules		Methodology.	accordance with the FATF Methodology.	(Amendment) Regulations 2009, section 5(7) inserts regulation 4(3)(m) into the ML/FTG which requires accurate and meaningful originator information in relation to wire transfers. [See NOTE 1 above **(**under 5. Customer due diligence) in relation to enforceability of the regulations]. [See also NOTE 3 item (2) above (under 5. Customer due diligence) in relation to enforceability of the provisions under the ML/FTG, paragraphs 3.4 to 3.13 inserted by the Update of 31 July 2006 and amended by paragraph 3 of the Update of 20 July 2009].
SR.VIII Nonprofit organizations	NC	No review of the adequacy of domestic laws and regulations that relate to NPOs has been undertaken by the Authorities in Antigua and Barbuda. 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. No periodic reassessments of new information on the sector's potential vulnerabilities to terrorist activities are conducted. There is no regulatory framework for friendly societies. Although NPOs come within the regulatory framework of the FSRC, it appears that this sector is not adequately monitored. 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.	• The Authorities should review the adequacy of domestic laws and regulations that relate to non-profit organisations. • 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. • Periodic reassessments of new information on the sector's potential vulnerabilities to terrorist activities should be conducted. • A regulatory framework governing friendly societies must be implemented. • The Antigua and Barbuda Authorities should monitor more closely the NPO sector's international activities. • Programmes should be implemented to raise the awareness in the NPO sector about the risks of terrorist abuse. • Measures should be instituted to protect NPOs from terrorist abuse. • There should be adequate provisions for record keeping in the NPO sector.	❑ Measures are being developed to more effectively regulate and monitor Friendly Societies. ❑ Typologies and red flags have been drafted specific to Non-Profit Organizations and have been published for the guidance of financial institutions, through Directive 01 of 2012. See website for verification. ❑ It is proposed that NPOs be controlled by an amendment to the Companies Act and appropriate regulations, which provide for registration and monitoring of these entities. A draft amendment is close to completion. ❑ ~~A change in strategy concerning NPOs has lead to draft amendments being prepared to the Friendly Societies Act rather than the Companies Act. This amendment will be before Parliament shortly~~ Amendments to the Companies Act and the Friendly Societies Act are being drafted.

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		The sanctions and oversight measures do not serve as effective safeguards in the combating of terrorism. The provisions for record keeping under the FSA are inadequate.	• The period for which records must be maintained by NPOs must be prescribed. • Sanctions for violation of oversight measures or rules in the NPO sector should be dissuasive.	

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SR.IX Cash Couriers	PC	Cases of cross border transportation of cash or other bearer negotiable instruments are not thoroughly investigated. Customs, Immigration, ONDCP and other competent authorities do not co-ordinate domestically on issues related to the implementation of Special Recommendation IX.	• 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. • 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.	❑ The ONDCP has enhanced and continues to enhance cooperation with Customs as well as airport security services in relation to the transportation of cross border currency and bearer negotiable instruments. ❑ The ONDCP now takes the lead role in matters of cross border cash seizures. ❑ There has been the institution of one money laundering prosecution for undeclared cross border cash. ❑ There have been a number of cash seizure cases which are ongoing. A recent cross border cash seizure demonstrates improved relationships since this involved close collaboration with Airport Security. Since this time there has been a further eleven (11) cash seizures which have come from drug operations by the ONDCP and the RPFAB. Ten (10) are currently before the courts and one (1) has been dismissed. ❑ The number of cross border cash seizures continues to accumulate. One seizure in December 2011 has resulted in a money laundering charge being brought against the courier which resulted in a money laundering conviction and forfeiture of the cash. Meanwhile, in 2012 the Police Proceeds of Crime Unit seized money from a courier suspected of bringing the cash to a drug trafficker. The cash was successfully forfeited under the cash forfeiture provisions of the MLPA.