CARIBBEAN FINANCIAL
ACTION TASK FORCE

Second Follow-Up Report

Antigua and Barbuda

May 14, 2010

ANTIGUA & BARBUDA: SECOND FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of Antigua and Barbuda's second report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of Antigua and Barbuda was adopted by the CFATF Council of Ministers on June 23, 2008 in Haiti. Antigua and Barbuda presented a follow-up report at the Plenary in Netherlands Antilles in October 2009. Based on the review of the follow-up action taken to address the recommendations that were still outstanding after the first follow-up report, this report will recommend whether Antigua and Barbuda would be placed on biennial, regular or remain on expedited follow-up.

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 indented 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	16	6		24	46
Assets	US$	2,151,758,519	2,634,131,822	19,146,303		249,305,144	5,054,341,788
Deposits	Total: US$	1,276,613,704	1,999,145,800	18,928,847			2,018,074,647
	% 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, 2009, there were 10 entities with a gaming licence and 7 entities with a wagering licence. The total asset base of these entities as at December 31, 2009 was $559,870,283.

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

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

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

5. At the time of the Mutual Evaluation of Antigua and Barbuda money laundering offences were contained in four pieces of legislation: (1) the Misuse of Drugs (Amendment) Act, 1993 (MDA), (2) the Proceeds of Crime Act, 1993 (POCA); (3) the Money Laundering (Prevention) Act, 1996 (MLPA), (4) the Prevention of Terrorism Act, 2005 (PTA).

6. Since the Evaluation, Antigua and Barbuda has enacted the following amendments: Prevention of Terrorism (Amendment) Act, 2008 and 2010; (PTA); the International Business Corporations (Amendment) Act, 2008 and 2010 (IBCA); the Money Laundering (Prevention) (Amendment of First Schedule) Order, 2009; Money Laundering (Prevention) (Amendment) Act, 2008, 2009 and 2010; the Proceeds of Crime (Amendment of Schedule) Order; and the Money Laundering (Prevention) (Amendment) Regulations, 2009 (MLPR) and the Office of National Drug and Money Laundering Control Policy (Amendment) Act, 2008. The Corporate Management and Trust Providers Act, 2008 was also passed. The Money Laundering and Financing of Terrorism Guidelines (MLFTG) have been amended and issued to financial institutions. The Single Regulatory Unit (SRU) has been established and is in force.

Core Recommendations

Recommendation 1

7. With regard to amending the list of precursor chemicals in the Misuse of Drugs Act (MDA) to reflect the chemicals listed in Tables I and II of the Vienna Convention, the Authorities have delayed the amendment to the MDA because it was decided that there should be a standalone statute to deal with precursor chemicals. This action is currently underway. Accordingly, the Examiners' recommendation with regard to precursor chemicals has not been met. The Proceeds of Crime (Amendment of Schedule) Order, 2009 amends the schedule of offences to which the POCA applies and covers all offences for which there is a penalty of one (1) year imprisonment. With regard to the offences not criminalized in accordance with the FATF's Designated Category of Offences, specifically participation in an organized criminal group; trafficking in human beings and migrant smuggling; and piracy, the Authorities have criminalized participation in a criminal organisation, while the other two offences will be criminalized in separate Acts. Specifically the Authorities have stated that that at the next sitting of Parliament, offences of trafficking in human beings and migrant smuggling will be passed in separate pieces of legislation. Please note that policy directions have now been given as it relates to Piracy legislation. Section 4 of the Money Laundering (Prevention) (Amendment) Act, 2009 criminalizes the participation in a criminal organisation and penalizes persons who by act or omission, aids, abets, counsels, procures or facilitates a criminal organisation to commit or attempt to commit serious offences. The MLPA has also been amended to include a definition of criminal organization, which in general complies with the elements in the Palermo Convention definition.

8. In keeping with the Examiners' recommendation, facilitation has been stated as a separate crime. Section 3 of the Money Laundering (Prevention) (Amendment) Act, 2009 criminalizes facilitation of money laundering. The offence carries a penalty on indictment of a term of imprisonment not exceeding seven (7) years or a fine of EC$500,000 or to both. Except as noted otherwise above Antigua and Barbuda has substantially met most of the recommendations made by the Examiners with regard to Rec. 1.

Recommendation 5

9. After the first follow-up report, Essential Criteria 5.7.2, 5.14.1, 5.15(b), 5.16 and 5.18 remained outstanding in part because the MLFTG were not considered OEM and resulted in the unenforceability of the measures in the Guidelines and also the absence of some of the provisions. Essential Criterion 5.7.2 has now been met as a result of an amendment to the MLPR (See. Section 6 of the Money Laundering (Prevention) (Amendment) Regulations, 2009), which requires that documents, data and information collected for CDD are to be kept up-to-date. With regard to E.C. 5.14.1, the requirement has not been satisfied by the amendment to the MLPR at regulation 5(1b) (or section 6(1) of the 2009 Amendment Regulations) as noted by the Authorities since the cited provision refers to the relevant time for 'undertaking reviews of existing records.' The specified criterion however addresses the risk management procedures that financial institutions should maintain when customers are allowed to utilise the business relationship prior to verification. (See. Paragraph 418 of the MER). The Authorities intend to issue the necessary Money Laundering Prevention Guidelines to amplify the requirements to be undertaken by financial institutions when a customer utilizes the business relationship prior to verification of identity.

10. With regard to E.C. 5.15(b), it has been met through an amendment to the MLPR, which requires financial institutions to consider making a SAR where satisfactory evidence of identity has not been obtained in relation to a new customer or a one-off transaction. (See. amended Regulation 4(3)(c)(i) and (iv)). The Authorities have also met E.C. 5.16 by amendment of the MLPR to provide for financial institutions to consider making a SAR where satisfactory evidence of

identity is not obtained for an existing customer. (See. new Regulation 4(3)(c)(ii) to (iv)). Finally, the Examiners' recommendation that CDD measures be performed on all existing customers i.e. customers to whom criterion 5.1 applies (E.C. 5.18), has been met.

11. In addition to the aforementioned, the amended regulations now provide more substantive criminal penalties for breach of the regulations; with a fine of EC$500,000 and imprisonment of two (2) years. There are also administrative penalties for breach of the Regulations (E.C$100,000 for the original breach and up to EC$15,000 per day for each day that the breach remains outstanding). The MLPA now also has penalties of up to EC$1,000,000 in fines in relation to breaches with regard to the retention of documents and records and suspicious activity reporting. The sanctions in the MLPA are applicable for breaches of the ML/FTG and as such these guidelines are now considered to be 'other enforceable means'. Further, since the 2007 onsite Evaluation, the FSRC has levied administrative penalties in excess of US$350,000. It should be noted that none of the penalties are for breaches of AML/CFT provisions. It should be also noted that in addition to the 2008 amendment to the MLPA which removed the limit on transactions subject to CDD, the Authorities have by an amendment in the Money Laundering (Prevention) (Amendment) Regulations (Regulation 5, require that CDD measures apply to all transactions including formation of a business relationship; one-off transactions of $25,000 or more; wire transfers existing relationships on the basis of materiality and risk and where there is suspicion of ML or TF. Based on the aforementioned, the Examiners' recommendations with regard to Rec. 5 have been met with the exception of the recommendation pertaining to E.C. 5.14.1 as discussed above.

Recommendation 10

12. Based on the last review of the measures taken by Antigua & Barbuda to meet the Examiners' recommendations for Rec. 10, only the recommendations pertaining to E.C. 10.1.1 and 10.3 remained outstanding. Accordingly, the MLPR was amended (See. Regulation 6(1) of the amended regulations) to provide that all financial institutions should keep records for the prescribed period in a manner that would allow reconstruction of individual transactions so as to 'provide, if necessary, evidence for prosecution of criminal activity'. These measures comply with the requirements of E.C. 10.1.1. With regard to the recommendation that financial institutions should be legislatively required to ensure that all customer and transaction records are available on a timely basis to properly authorized domestic competent authorities, (E.C. 10.3; the Authorities have through the MLPR amendment repealed and replaced regulation 5(1) to require financial institutions to maintain procedures which would allow them to provide the records and other information to the Supervisory Authority or other authorised domestic competent authorities upon request and in a timely manner. This measure meets compliance with the Examiners' recommendation. It should also be noted that in the previous matrix, Antigua and Barbuda had complied with E.C. 10.2 (retention of business correspondence for a period of five years following the termination of an account or business relationship) by amending Section 12(viii) of the MLPA. The Authorities have reinforced compliance with this recommendation by amending Regulation 5(2)(a) of the MLPR to require the retention of business correspondence following the termination of an account or business. The retention period in Antigua & Barbuda is six (6) years. As noted previously, the penalties in the both the MLPA and the MLPR were increased. The Examiners' recommendations with regard to Rec. 10 have been met.

Recommendation 13

13. In the first follow-up report, Antigua & Barbuda amended Section 13(2) of the MLPA so that all suspicious transactions would be reported. Since then, the Authorities have further amended Section 13 through the Money Laundering (Prevention) (Amendment) Act, 2009 to require that SARs be reported that 'could constitute or be related to the proceeds of crime'. This recommendation has been met. With regard to SARs being related to all offences, as noted above in Rec. 1 the Authorities have criminalized participation in an organized criminal organisation. Draft legislation is being prepared with regard to the offences of trafficking in human beings and migrant smuggling and piracy. Accordingly, this recommendation has been partially met. With regard to the recommendation that SARs filed for terrorism and the financing of terrorism should include suspicion of terrorist organisations and those who finance terrorism, the Prevention of Terrorism (Amendment) Act, 2010 at Section 6 makes provision for this requirement.

Special Recommendation II

14. Based on relevant amendments in 2008 to the Prevention of Terrorism Act (PTA), the Examiners' recommendations with regard to SR. II were all met in Antigua & Barbuda's first follow-up report. (See. Prevention of Terrorism (Amendment) Act, 2008; Sections 2, 8 and 9). For ease of reference, the recommendations dealt with a definition of 'funds' in keeping with the Palermo Convention; extension of knowledge and intent requirement to individual terrorist and terrorist groups; clarification of Section 9 and increase of the fines for offences under the PTA.

Special Recommendation IV

15. The Examiners' recommended that for the reporting of STRs, on terrorism and the financing of terrorism that suspicion of terrorist organisations or those who finance terrorism should also be included. Accordingly, Section 6 of the Prevention of Terrorism (Amendment) Act amends Section 34 by repealing and replacing subsection (4). The new subsection requires the reporting of every transaction, attempted transaction or proposed transaction where there are reasonable grounds to suspect that the transaction is '…conducted by or on behalf of a terrorist group or a member of a terrorist group; conducted by or on behalf of a person who finances terrorism or the commission of a terrorist act.' The same amendment also addresses the Examiners' recommendation with regard to attempted transactions. Accordingly, the amendment to Section 34 of the PTA meets both recommendations made by the Examiners with regard to SR. IV.

Key Recommendations

Recommendation 4

16. Measures that would allow the ECCB, FSRC, the Registrar of Cooperatives and the Registrar of Insurance to share information with other competent authorities have been partially addressed. The IBC (Amendment) Act, 2008 noted in the first report, amended Section 373 of the IBCA to allow the FSRC to disclose information on the ownership, management, operations and financial returns submitted by a financial institution to a regulatory authority so that it can exercise its regulatory function. Accordingly, the FSRC can disclose information with regard to ownership, management, operations and financial returns submitted by a financial institution subject to a (1) confidentiality agreement; (2) Memorandum of Understanding and (3) Court Order for customer information. With regard to the Superintendent of Insurance, this function now falls under the FSRC and therefore the aforementioned amendment would be applicable. At present, there is a MOU being circulated between the ECCB and the Single Regulatory Units, which includes the

FSRC. Antigua and Barbuda has recently signed the MOU. Information sharing requirements for the Registrar of Cooperatives will be included in the new Cooperative Societies Act. However, Section 316(3b) of the IBC (Amendment) Act 2002 gives the FSRC the authority to regulate businesses operated or carried on under the Cooperatives Societies Act and accordingly the FSRC disclosure powers discussed above will also be applicable to Cooperatives.

Recommendation 23

17. The Supervisory Authority was appointed on November 1, 2007 and has the authority for ensuring AML/CFT compliance by relevant financial institutions. This meets the Examiners' recommendation in that regard. The Banking Act, 2005 is being amended to give the ECCB the power to approve changes in directors, management and significant shareholders of a licensed financial domestic financial institution. With regard to the Superintendent of Insurance being able to apply fit and proper criteria in assessing directors, managers, etc., Section 198 of the Insurance Act provides for the fit and proper test to be applied to directors and officers and provides requirements that would allow for the assessment of their integrity. The Insurance Act, 2007 will also be amended to require insurance companies to obtain the Superintendent of Insurance's approval for changes in shareholding, directorship or management. The Authorities have stated that the new Cooperatives Act will include measures that will require the FSRC to use fit and proper criteria when assessing applications for registration. The Cooperatives Societies Act will also be amended to give the FSRC the power of approval over the management of a society.

18. With regard to there being effective systems for MVTs, the Authorities have noted that the FSRC is implementing the Money Services Business Act, 2007. At present, there are three (3) licensed MVTs and six (6) applications pending. The FSRC has conducted offsite examinations for the six (6) institutions whose applications are pending. The FSRC is also in the process of conducting other offsite examinations. The ECCB in association with CARTAC and the Single Regulatory Unit have designed reporting forms to identify suspicious activities showing inflows and outflows to and from foreign countries. These forms are now in use and the relevant information is now being received on the ten largest transactions along with information on the inflows and outflows to and from foreign countries. Operators are also subject to the MLPA and are required to file SARs. These activities reflect implementation and monitoring with regard to MVTs. Overall, the majority of the Examiners' recommendations have not been met due to the draft status of the corrective measures noted above.

Recommendation 26

19. With regard to the practice of copying SARs to the FSRC, the Authorities have not amended IBC Regulations (No. 41 of 1998) to remove that provision and this recommendation remains outstanding. In addition to the training provided by the ONDCP since the Evaluation on the reporting of SARs and AML/CFT, the Authorities have standardized the reporting forms for suspicious activities to include detailed instructions on the completion and filing of a SAR. The FIU has also conducted training sessions to advise financial institutions on the reporting of SARs. The Authorities have also required money service provider to receive AML/CFT training as part of the requirement for obtaining a license. The reporting patterns of financial institutions are now continually under review by the FIU so that advice can be given on remedial action for substandard reporting patterns. All offshore trust companies have received the relevant training and the offshore insurance companies are scheduled to receive the necessary training by the end

of June 2010. The Authorities note that the AML/CFT system is under continuous review by the Oversight Committee of Money Laundering and Financing of Terrorism and other Bodies. The Oversight Committee is scheduled to meet once a quarter, but a sub-committee has been formed to deal with Antigua and Barbuda's targeted review and the follow-up process. This subcommittee meets twice a month. The other Bodies reviewing Antigua and Barbuda's AML/CFT system include the ECCB and the FSRC. With regard to the recommendation that the ONDCP should prepare a periodic report, the ONDCP has published and circulated its 2008 annual report. The report includes typologies. The need for Cabinet approval for the hiring of ONDCP staff has not been addressed as yet by the Authorities. Based on the aforementioned, the majority of the Examiners' recommendations for Rec. 26 have been met. The outstanding recommendations should be addressed as soon as possible however.

Special Recommendation I

20. The Examiners' recommendations were met by the 2008 amendments to the PTA as noted in the first follow-up report. (See. Sections 2 and 7 of the Prevention of Terrorism (Amendment) Act, 2008).

Special Recommendation III

21. The Prevention of Terrorism (Amendment) Act, 2010 at Section 4 provides for the delisting of specified entities. This measure meets The Examiners' recommendation for publicly known delisting procedures. With regard to the issuance of Guidelines for reporting SARs for terrorist financing, the 2010 amendment to the PTA states that the Director, ONDCP 'may issue guidelines to financial institutions for the effective implementation of the provisions of the PTA or Regulations'. The Money Laundering & Financing of Terrorism Guidelines (MLFTG) have been amended to include guidelines to financial institutions with regard to the implementation of the PTA. Section 4 of the 2010 amendment to the PTA puts specific measures in place to ensure that there is no delay in the communication of the Attorney General's order in relation to the freezing of terrorist funds. This measure meets the Examiners' recommendation. With regard to the recommendation that measures be put in place for the voiding of actions or contracts, Section 5 of the 2010 amendment to the PTA provides that where an order is made declaring an organisation a specified entity, any property referred to or within the scope of the order that is transferred by an mode whatsoever, such transfer shall be ignored, or declared null and void if the property is subsequently forfeited and the financial institution which was directed to restrain or freeze the property will be civilly liable to the Crown. This meets the recommendation made by the Examiners. The Examiners' recommendations with regard to SR. III have been met.

Other Recommendations

Recommendation 6

22. The Money Laundering (Prevention) (Amendment) Regulations, 2009 inserts regulations 4(3)(d)(i), (ii), and (iii), which provide for the following: the establishment of appropriate risk management systems to determine whether a customer, potential customer , or the beneficial owner is a PEP; the requirement that senior management approval be obtained for establishing a business relationship and the requirement that senior management approval be obtained to continue a business relationship when a customer or beneficial owner is subsequently found to be or subsequently becomes a PEP. These measures also have substantial penalties for their breach

as noted above in this report. It should also be noted that the CDD Guidelines for IBCs at paragraph 39 also has the latter of the aforementioned provisions. Based on these amendments, the Examiners recommendations with regard to Rec. 6 have all been met.

Recommendation 7

23. The Money Laundering (Prevention) (Amendment) Regulations, 2009 has with regard to compliance with Rec. 7 repealed and replaced regulation 4(6) with the following requirements for correspondents in relation to cross-border correspondent banking: (1) gather sufficient information about a respondent bank to fully understand the nature of the respondent bank's business and to determine from publicly available information the reputation of the respondents bank; quality of its supervision including whether it has been subject to a ML or TF investigation or regulatory action, (2) assess the respondent bank's AML/CFT controls; (3)obtain approval from senior management before establishing new correspondent relationships, (4) document the respective AML/CFT responsibilities of each institution in the correspondent banking relationship and (5) with respect to 'payable-through accounts' satisfy itself that the respondent bank has verified the identity of and performed normal CDD in respect of those of the respondent's customers having direct access to accounts of the correspondent financial institution and that upon request the respondent bank is able to provide relevant customer identification data to the correspondent bank. These measures meet the Examiners' recommendations with regard to Rec. 7.

Recommendation 8

24. With regard to compliance with the Examiners' recommendations for Rec. 8, the Authorities have amended the Money Laundering (Prevention)(Amendment) Regulations, 2009 by repealing and replacing regulation 3(1)(b). The relevant amendments address the Examiners'' recommendations as follows: Financial institutions are to establish procedures to address any specific risks associated with non-face-to-face business relationships and transactions. The procedures and controls shall include specific and effective CDD in respect of non-face-to-face customers; financial institutions are to establish procedures to evaluate any new or developing technologies to identify the risks that may arise from them including, but not limited to any technological development that might allow or facilitate customer or beneficiary anonymity, and implement measures to prevent the use of new or developing technologies ion o in connection with ML or FT. These measures meet the Examiners' recommendations for Rec. 8.

Recommendation 9

25. The amendment to the IBC Act following the Evaluation remedied the enforceability of the CDD Guidelines issued by the FSRC and resulted in compliance with E.C. 9.1 as it pertained to IBCs, however, other types of financial institutions were not covered. The 2009 amendment to the MLPR now makes the provisions of E.C. 9.1 applicable to all financial institutions. The new Regulation 4(5) requires financial institutions relying upon third parties to perform CDD to: 'immediately obtain from the third party the necessary information concerning elements of the customer due diligence; satisfy itself that, upon request copies of identification data and other relevant documentation will be made available from the third party without delay; satisfy themselves that the third party is regulated and supervised to standards established by Antigua and Barbuda or that of the foreign jurisdiction if higher, as they relate to customer identification, record keeping, regulation and supervision; satisfy itself that the third party has measures in place to comply with the requirements of CDD; not rely on a third party based in a county named by the Supervisory Authority as inadequately applying the FATF Recommendations and retain

ultimate responsibility for ensuring compliance with CDD requirements, particularly the identification and verification of customers. These amendments cover the Examiners' recommendations with regard to Rec. 9.

Recommendations 11

26. In the first follow-up report, it was noted that the Authorities had made amendments to Section 13 of the MLPA (2008 amendment to the MLPA), which sought to address both recommendations made by the Examiners. At that time only one recommendation was met due to an inconsistency in terminology in the MLPA that was created by the amendment i.e. the use in the 2008 amendment of the term 'transaction record' rather than 'financial transaction document'. The Money Laundering (Prevention) (Amendment) Act, 2009 at Section 8 amends Section 13 (1A)(iii) by repealing the words 'transaction record' and substituting 'financial transaction documents'. Accordingly, both of the Examiners' recommendations are now met.

Recommendations 12 and 16

27. In order to bring lawyers and notaries, other independent legal professionals, accountants and company service providers within the DNFBP AML/CFT regime, the Money Laundering (Prevention) (Amendment to First Schedule) Order, 2009 includes (i) Car dealerships; (ii) Travel agents; (iii)Dealerships in high value and luxury goods, (iii) Company service providers; (iv) Attorneys-at-law who conduct financial activity as a business; (v) notaries who conduct financial activity as a business and (vi) Accountants who conduct financial activity as a business. Additionally, the Corporate Management and Trust Service Providers Act, 2008 came into force on February 12, 2009 and provides 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. The Examiners' recommendations with regard to Rec. 12 and 16 have been met to the extent that the other relevant recommendations have been met. For example the outstanding deficiency in Rec. 5.

Recommendation 14

28. Section 7(2) of the MLPA was amended to provide for an offence of tipping off that is applicable where financial institutions have submitted or are about to submit a suspicious activity report (SAR) pursuant to section 13(2) to the FIU. However, the 2008 amendment to section 13(2) of the MLPA specified that the suspicion should be related to money laundering thereby failing to correct the deficiency noted by the Examiners. However, the 2009 amendment to the MLPA specifies a suspicion related to the proceeds of crime, which adequately broadens the requirement. Accordingly, the amendment to section 7(2) of the MLPA now satisfies the Examiners' recommendation for Rec. 14.

Recommendation 15

29. The requirement for financial institutions to develop internal procedures and control to prevent FT is met by the 2009 update of the Money Laundering and Financing of Terrorism Guidelines (ML/FTG), which requires financial institutions to implement and maintain written internal controls, policies and procedures for recognising and dealing with transactions/proposed transactions related to FT. The 2009 amendment to Regulation 6(1)(a) of the MLPA requires the appointment of a compliance officer at the management level. This meets the Examiners'

recommendation in that regard. Regulation 15 of the MLPR has been amended (2009) to insert sub regulation 15(3) which requires financial institutions to maintain an adequately resourced and independent audit function to test AML/CFT compliance. This measure meets the Examiners' recommendation. Finally the 2009 amendment to Regulation 6 of the MLPR requires financial institutions to put in place screening procedures to ensure high standards when hiring employees. This requirement meets the Examiners'' recommendation. Based on the aforementioned the Examiners' recommendations with regard to Rec. 15 have been met.

Recommendation 17

30. In the first follow-up report, the Examiners' recommendations with regard to Rec. 17 were only partially complied with by increasing the sanctions in the PTA and the range of sanctions available under the IBC Act. Since then, the Authorities have made amendments that to meet the Examiners recommendations. The amendments are as follows: The Money Laundering (Prevention) (Amendment) Act, 2009 provides for criminal penalties for breach of the Regulations with fines of EC$500,000 and imprisonment of two (2) years. Administrative penalties have also been created; with a breach of the Regulations resulting in a fine of EC$100,000 for the initial breach and EC$15,000 per day for each day the breach remains outstanding. The Money Laundering (Prevention) (Amendment) Act, 2009 increased sanctions for (i) opening an account in a false name (EC$500,000); (ii) retention of financial records and failure to comply with the guidelines and instructions of the Supervisory Authority (fine up to EC$1,000,000); (iii) retention of documents (EC$1,000,000) and (iv) suspicious activity reporting (fine up to EC$1,000,000). The Prevention of Terrorism (Amendment) Act, 2010 provides for the liability of directors or other officers concerned in the management of the body corporate where the body corporate commits an offence under the Act. (Section 41B). The MLPR at Regulation 3 provides for the liability of 'every person who, at the time of the commission of the offence acted in an official capacity for or on behalf of the body of persons in respect of that offence as director, manager, secretary or other similar officer…' A regulation 3 offence pertains to systems and training to prevent ML. Further, the MLPA provides for director and senior management liability as it relates to ML offences only (Section 4) and for directors and employees as it relates to failure to file SARs. (Section 13(6)). Accordingly, the MLPA meets the Examiners' recommendation in this regard. The amended sanctions are proportionate and dissuasive and should be effective in terms of encouraging compliance by financial institutions.

Recommendation 18

31. Both the CDD Guidelines for IBCs (paragraph 49) and the ML/FTG (paragraph 7) were updated in 2009 and provide respectively that IBCs and financial institutions should not enter into or continue correspondent banking relationships with shell banks. These measures are fully enforceable since both Guidelines meet the requirement of being OEM. The recommendation that financial institutions should satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks, is found in both the updated CDD Guidelines for IBCs (paragraph 51) and the updated ML/FTG (paragraph 7) Accordingly, all the Examiners' recommendations have been met with regard to Rec. 18.

Recommendation 21

32. The Money Laundering (Prevention) (Amendment) Regulations, 2009 inserts Regulation 6(1a)(1), which provides for the Supervisory Authority to advise financial institutions of the countries that have weaknesses in their AML/CFT systems and that require financial institutions to pay special attention to business relationships with and transactions from those countries. Specifically, the Supervisory Authority issues an Advisory 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. The 2009 MLPR amendments (See. Regulation7 (6)) provide that where transaction have no apparent economic or visible lawful purpose, the financial institution should examine the background and purpose of those transactions and written findings should be kept to assist competent authorities. With regard to the application of counter measures to countries that do not or insufficiently apply the FATF Recommendations, Regulation 7(6) of the 2009 amended MLPR requires financial institutions to adhere to any countermeasures which the Supervisory Authority or regulator may advise. The Examiners recommendations have all been met.

Recommendation 22

33. The amendments to the IBC Act resulted in the enforceability of the Guidelines issued by the FSRC and the applicability of the Examiners 'recommendations to IBCs. With regard to meeting the recommendations for other financial institutions, the Money Laundering (Prevention) (Amendment) Regulation, 2009 inserts Regulation 3(1)(d), which provides that: (i) foreign branches and majority subsidiaries observe the provisions of the MLPA and the Regulations; (ii) foreign branches and majority owned subsidiaries observe the requirements of the Regulations, the MLPA or foreign measures consistent with them to the extent permitted by the law of the foreign jurisdiction; (iii) where the standards of the foreign jurisdiction differ form those set out in the MLPA, then the higher standard should be applied, to the extent permitted by the foreign jurisdiction and (iv) where the laws, regulations or other measures of a foreign jurisdiction do not permit the application of the measures contained in the Regulations or the MLPA, the Supervisory Authority and the regulator should be informed of that fact. These measures meet the recommendations made by the Examiners with regard to Rec. 2. The 2009 amendment of the MLPR also provides penalties for breaches of these requirement (See. amended Regulation 3(2)), with a minimum penalty of EC$1,000 and a maximum penalty of EC$5,000,000. The Supervisory Authority can also server a notice of non-compliance on a person, with the initial breach incurring an administrative penalty and each subsequent breach to incur a daily penalty in the same amount as assessed by the Supervisory Authority (not to exceed EC$15,000 per day). The effectiveness of implementation of these measures on will have to be monitored.

Recommendation 24

34. In keeping with the Examiners' recommendation, casinos, real estate agents, dealers in precious metals and stone are listed in the First Schedule of the MLPA as financial institutions and are accordingly subject to Antigua and Barbuda's AML/CFT regime. The FSRC has now been established s as a Single Regulatory Unit (SRU) and as such is responsible for enforcing the regulatory regime for casinos, real estate agents and dealers in precious metals and precious stones. The AML/CFT requirements for these sectors are enforced by the ONDCP. The recommendation made by the Examiners has been met.

Recommendation 25

~~35.~~ In complying with the recommendation made by the Examiners for the Supervisory Authority to ensure that respective guidelines and directives are issued to all persona and companies in the various sectors, the Supervisory Authority has initiated a programme to provide feedback on the substance of SARs and annual AML/CFT reports and on the quality of those reports. Additionally, the ONDCP is currently gathering typologies and analyzing reports to establish ML and FT trends for publication. The ONDCP is also in the process of constructing its website, which will be used to ensure that all financial institutions are in possession of relevant regulations, guidelines and directives. The website is expected to be launched by May 1st 2010. The Examiners' recommendation has been met to the extent of the measures that have been taken. It is recognised that ongoing work will be required for the implementation of this recommendation and the steps taken by the Authorities are reflective of the fact that there will be ongoing implementation of this recommendation.

Recommendation 29

36. The enforcement powers and sanctions with respect to AML/CFT requirements are prescribed in the MLPA and the PTA and are vested in the ONDCP as the Supervisory Authority. These enforcement powers can be applied to insurance companies and cooperatives. The Authorities have noted that Section 16 of the MLPA provides for enforcing compliance by injunction. This provision however only applies to specified actions that financial institutions fail to take with regard to the retention of records and the reporting of suspicious business transactions. Additionally, this power is not applicable to directors, but to officers and employees of a body corporate and requires a court injunction for enforcement. Section 3 of the Money Laundering (Prevention) (Amendment) Act, 2010 however does give the Supervisory Authority the power to impose administrative sanctions ranging from a notice of non-compliance to the imposition of administrative civil sanctions against any person which will included a body corporate but not specifically directors or senior management. The Authorities have drafted amendments to the Insurance Act, 2007 which will ~~to~~ provide for insurance companies to comply with AML/CFT thorough their principal Acts. Based on the aforementioned the Examiners' recommendation is not met since the MLPA sanctions noted above do not pertain specifically to directors and senior management as prescribed by the Examiners' recommendation.

Recommendation 30

37. With regard to filling vacancies in the FIU, the Director of the ONDCP is continuing the interview process to fill the vacancies in that Unit subject to budgetary constraints. The recommendation remains outstanding. With regard to the issue of increase of budgetary resources of the ONDCP to adequately cover training and facilitate the hiring of qualified staff, the Authorities note that the ONDCP has conducted several training sessions and participated in overseas programmes to build capacity. It is also noted that the ONDCP relies heavily on international assistance for training and has been receiving training from the United Kingdom – Security Advisory Team (UK SAT). The ongoing training is commendable; however there is no indication that the actual budgetary resources of the ONDCP have been increased to address this recommendation. The resources of the Police, Customs, Immigration and Prosecutors are being reviewed. Additionally, confiscated assets deposited in the Forfeiture Fund will be used to supplement their resources. The ONDCP has initiated a systematic training programme for its new recruits and is in the process of implementing a training programme for officers of the FIU. Overall, the Examiners' recommendations have been partially met with regard to Rec. 30.

Recommendation 32

38. With regard to having measures that would provide for the review of statistics to determine the effectiveness of the AML/CFT system, the ONDCP currently has statistics that reflect the impact of SARs on investigations, prosecutions and convictions. Additionally, the FSRC now maintains statistics[1] on money value transmission services. The Authorities have also noted that 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. The results will be used to advise the Government on appropriate measures for improvement. Action is also underway with regard to generating and collating the statistics of the principal law enforcement agencies to make them review friendly as suggested by the Examiners and also to organize them so as to best reflect the effectiveness of the AML/CFT regime and the impact of the actions that have been taken thus far. The Examiners' recommendations have been partially met since the work with the statistics is ongoing.

Recommendations 33 and 34

39. The International Business Corporations (Amendment) Act, 2010 has been enacted and prohibits the transfer or possession of bearer shares otherwise than in accordance with the Corporate Management and Trust Service Providers Act (also includes the disabling of bearer shares after the transition date). The amendment also contains measures for the mandatory redemption of existing bearer shares where a company is unable after making reasonable enquiries to ascertain the identity or address of the holder of the bearer share; the winding up of companies that have one or more existing bearer share(s) that have not been deposited with a custodian; the deposit of bearer shares with a custodian ; the transfer of possession of the bearer share, the transfer of beneficial ownership of bearer certificate and procedures for a custodian who wishes to discontinue holding bearer shares. The transition period is defined in the amendment Act as three (3) months after the commencement of the Act or a date determined by the Commission. The measures presented to deal with bearer shares are comprehensive and are applicable to legal persons. Since this legislation was just passed, the level of implementation of measures associated with the transition date for bearer shares will have to be monitored. With regard to the establishment of a statutory obligation to provide ownership and management information on partnerships, a new Partnership Act is to be drafted.

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[1] The statistics kept on MSBs reflect the following: (i)List of all MSBs, agents and subagents: This includes the number of MSBs, agents and subagents, the contact information, the international representative, the type of service provided, the subagent details, the type of licence held, the dates the licence was issued etc. (ii)Financial information: This includes the balance sheet, income statements and cash flows and (iii) Quarterly cash inflow & outflow statements: This comprise statement of revenues and expenses, uncollected remittances, foreign exchange transactions, remittances sent/received for ECCU and Non-ECCU regions, the ten (10) largest transactions sent/received above the applicable threshold of $3K. The cash inflow & outflow statements are used as follows:

(i) For comparative analysis to scale the level of activities conducted by each MSB.
(ii) For trend analysis; for instance remittances sent/received are considered over a period of time to determine the likely impact of the economic decline on the industry.
(iii) To verify the actual activities conducted against the nature of business previously disclosed.

The financial statements are used primarily to:

(i) Assess the financial standing of the MSBs and to consider if there are any issues that require attention such as insolvency.

The list of Licensees/Applicants/Subagents & Locations are used primarily in:

(i)Ongoing site visits
(ii) To provide a concise snapshot of the current stakeholders in the MSB industry.

40. With regard to Rec. 34, the Examiners recommended that measures be put in place for either registration or effective monitoring of local trusts. The Authorities are currently developing legislation to deal with local trusts and the issue of beneficial ownership and the control of legal arrangements.

Special Recommendation VI

41. Section 18(3) of the newly enacted Money Services Business Act (MSBA), 2008 puts an obligation on the licensee to institute procedures that would ensure that its accounting records and systems of business control comply with the requirements of the MLPR. There is still no requirement that licensees be required to keep a current list of agents. Prudential guidelines are being drafted for Money Services Providers and is expected to be issued by the end of June 2010. While section 48 of the Act provides for the issuing of prudential guidelines and related orders with regard to various issues including AML/CFT matters; at present no such guidelines or orders have been issued. The MSBA provides sanctions for failure to operate without a licence (unless they are exempted by the Minister of Finance from obtaining a license). Section 46 of the Money Services Business Act was amended to provide for sanctions to be applicable for the failure to comply with rules, orders, and/or guidelines. It does not however provide sanctions for all of the criteria of SRVI as recommended by the Examiners since certain items are not addressed by the Act, guidelines or orders.

Special Recommendation VII

42. The Money Laundering (Prevention) (Amendment) Prevention Regulations, 2009 inserts Regulation 4(3)(m) which requires that wire transfers be accompanied by adequate and meaningful originator information. The information must include the name and address of the originator and where an account exists, the number of the account. In the absence of an account the unique reference number should be included. It should be noted that the wire transfer requirements in the ML/FTG were not enforceable at the time of the Evaluation because the Guidelines were not considered to be OEM. Accordingly, the Examiners' recommendation was to make the measures in the Guidelines enforceable. The 2009 amendment to the MLPA increased the penalties for breach of the Guidelines thereby curing the deficiency that caused them to be considered non-OEM. Thus the wire transfer measure noted above is in addition to the requirements in the Guidelines. The Examiners' recommendation has been met.

Special Recommendation VIII

43. The Antigua and Barbuda Authorities are still reviewing the law with regard to NPOs. Measures are being developed to more effectively regulate and monitor Friendly Societies. The Examiners' recommendations for SR. VII remain outstanding.

Special Recommendation IX

44. Since the Evaluation, there has been one money laundering prosecution for undeclared cross border cash, which the Authorities state has occurred because of enhanced cooperation between the ONDCP and Customs in relation to the transportation of cross border currency and bearer negotiable instruments. The Authorities have noted that there are also a number of ongoing cash

seizure cases. With regard to the Examiners' recommendation that the ONDCP should take a more involved role in the investigation of cash seizure matters, the Authorities have noted that the ONDCP now takes the lead role in matters involving cross border cash seizures. This has been recently evidenced by a recent cash seizure at the airport where Airport Security became aware of the movement of the cash and called the ONDCP. The cash was detained and the matter is now currently under investigation. This is a very positive step and addresses the concerns raised by the Examiners during the onsite visit.

III. Conclusion

45. Antigua and Barbuda has amended the Proceeds of Crime Act, the Money Laundering (Prevention) Act, the Money Laundering (Prevention) Regulations, the International Business Corporations Act, the Prevention of Terrorism Act and the Office of National Drug and Money Laundering Control Policy Act. The Money Services Business Act is being implemented. The enforceability issues for both the ML/FTG and the CDD Guidelines for IBCs have been corrected. There is now a high level of compliance with the recommendations that were made by the Examiners during the third round mutual evaluation. Specifically, the Core Recommendations (1, 5, 10, 13, SR. I, and SR. IV), Rec. 10 and SR.I and SR.IV have been fully complied with, while the others have been substantially met (the latter meaning generally one but not more than two outstanding recommendations). With regard to the Key Recommendations (4, 23, 26, SR.II and SR.III), SR. II and SR. III have been fully complied with and the rest have either been substantially or partially complied with. For the remainder, Recommendations 6 to 9, 11, 14, 15, 17, 18, 22, 24, SR. VII and SR. IX have been fully met. Recommendations 12, and 21 have been substantially met, and Recommendations 25, 30, 32, 33, SR.VI have been partially met and Recommendations 29, 34, and SR.VIII have not been met.

46. Based on the aforementioned it is recommended that Antigua and Barbuda be required to report back to the Plenary in May 2011. However, because of the implementation issues noted in Rec. 33, Antigua and Barbuda should be required to provide an update on the bearer shares transition at the November 2010 Plenary.

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

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. • **Precursor chemicals:** The legislative controls of precursor chemicals listed in Tables I and II of the Vienna Convention has been delayed. The original plan was to include these in the Misuse of Drugs Act. However, recent advise has indicated that these lists should be placed in a standalone statute, and action to achieve this is under way. • **Criminalization of Human Trafficking and Migrant Smuggling:** An Act to criminalize

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				human trafficking migrant is being drafted. • **Criminalization of Piracy:** An Act to criminalize piracy is being drafted.
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, two money laundering charges have been filed by the *Office of National Drug and Money Laundering Control Policy* (ONDCP) and further consultations are ongoing to sensitize the *Royal Antigua and Barbuda Police Force of* the need to pursue money laundering charges and confiscation proceedings.
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 two money laundering charges have been instituted by the ONDCP. ❑ **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.
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. ❑ There is an MOU being circulated between the ECCB and the Single Regulatory Units, which includes the FSRC. ❑ Provisions for the sharing of information with the Registrar of Cooperatives will be included in

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				the new Cooperative Societies Act. ❑ Section 316(3b) of the IBC (Amendment) Act 2002 gave responsibility to the FSRC to 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.
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 enforceable. .	• 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	**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: $1,000,000; (4) S.8 - Suspicious activity reporting – fine: up to

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
			accordance with FATF standards.	$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 (Prevention) (Amendment) Regulations 2009, section 5(3)** repeals

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
		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.	regulations 4(3)(d)(i) which requires appropriate risk management systems to determine whether a potential customer is a PEP. [See also NOTE 2 above]. [See also NOTE 1 above 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 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 in relation to FSRC's power to sanction for breach of PEP provisions in the CDD.]

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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]. ❑ **CDD Guidelines** have been amended for international banks and interactive gaming and wagering corporations. [See also NOTE 1 above 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]. ❑ **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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				relationship. [See also NOTE 2 above]. ❑ **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]. ❑ **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]. [See also NOTE 3 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 enforceable.	• 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 with ML and FT. [See also NOTE 2 above].

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				❑ **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 on enforceability of MLPR]. [See also NOTE 1 above in relation to FSRC's sanction powers for breaches of CDD Guidelines.]
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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				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) 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.

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				[See also NOTE 2 above]. ❑ [See also NOTE 1 above 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. The Supervisory has published an advisory on:- 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)	• 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 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**

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
		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 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.	**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 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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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 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	❑ **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:

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
			legal professionals, accountants and company service providers should be brought under the ambit of the AML/CFT regime.	(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). 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 February 2009. [See NOTE 1, 2 and 3 above in relation to enforceability of the provisions].

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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 terrorist organisations or those who finance terrorism.	• 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 criminalized facilitation of money laundering and **section 4** has criminalized participation in a criminal organization. ❑ **Requirements for making of STR to apply to all offences required to be included as predicate offences under Recommendation 1:—** Drafts are being prepared for the criminalization of (1) human trafficking, (2) migrant smuggling and (3) piracy and will be laid before Parliament at its next sitting. ❑ **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 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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				act.
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]. ❑ **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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				information. [See also NOTE 2 above]. ❑ **Requirement to maintain an adequately 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]. ❑ **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].
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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				activity as a business). [See also NOTE 1, 2 and 3 above in relation to enforceability].
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]. ❑ **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
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. 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.	• Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks. • Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	❑ **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 institutions to enter or continue correspondent banking relations with a bank that has no physical presence. [See also NOTE 1 above in relation to FSRC's sanction powers for breaches of CDD Guidelines.] Domestically, **the ML/FTG (updated 20 July 2009), paragraph 7**

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				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 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].
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	NC	There are no measures that require competent authorities to ensure that financial institutions are notified about AML/CFT weaknesses in other	• Effective measures should be established to ensure that financial institutions are advised	❑ **Requirement to establish measures to ensure financial institutions are advised**

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
countries		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.	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.	**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 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 an

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				advisory 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 extent that local laws and regulations permit.	❑ **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 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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				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].
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 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	❑ 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. ❑ The Banking Act 2005 is being amended to give the ECCB the power to approve changes in directors, management and significant shareholders of a licensed financial domestic institution. With respect

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
		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.	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.	to the proposed amendments to the Banking Act we are consulting with the ECCB since it is a uniformed piece of legislation throughout 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 to the Insurance Act to require an insurance company to obtain approval from the FSRC in respect of changes in shareholding, directorship or management. ❑ 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 provision for the FSRC to have power of approval over the management of a society

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
24. DNFBP - regulation, supervision and monitoring	PC	Casinos, real estate agents, dealers in precious metals and stones are not subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures.	• 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 subject to the AML/CFT regime. The FSRC a single regulatory unit.
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.	• 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	❑ 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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
		The ONDCP's operational independence and 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.	yet received training in the manner of reporting. Thereafter, continuous dialogue should be maintained with reporting bodies with a view to evaluating their reporting patterns so that weaknesses could be 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.	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 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. ❑ The ONDCP has published and circulated its annual report 2008, inclusive of typologies. ❑ Copying of SARs to the FSRC is being addressed by amendment to regulation 19(1) of the IBC Regulation No. 41 of 1998.

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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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. ❑ The recommendation on postponement and waiver of arrest of suspects is being reviewed and an appropriate legislative provision is being considered
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. ❑ 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 ❑ The enforcement powers and sanctions with respect to AML/CFT requirements are prescribed in the MLPA and the PTA and rest with the Director of the ONDCP and the Supervisory Authority and can be

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				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 ONDCP should consider implementing	❑ The Director of the ONDCP continues the interview process to fill the vacancies in the ONDCP FIU subject to budgetary constraints. ❑ 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 receiving training from UK SAT. There is already noticeable improvement in the performance of the FIU. ❑ Resources allocated to the Police, Customs and Immigration and Prosecution are being reviewed. Confiscated assets deposited in the Forfeiture Fund will be used towards

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
			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.	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.

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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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.
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 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.	• 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 friendly and to organize them so as to best reflect the effectiveness of the AML/CFT system and the impact of actions taken.

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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.
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	❑ Legislation governing domestic trusts is being developed which will address the beneficial ownership and control of legal arrangements

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
			adequate, accurate and current information on the beneficial ownership and control of legal arrangements as part of the register information on international trusts.	

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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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. 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. ❑ An Act is being drafted to cover all precursor chemical 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.		
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. No provision has been made for assets from terrorist activity to be deposited into a Forfeiture Fund.	• 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. ❑ Provision is being made for the sharing of confiscated terrorist assets.
39. Extradition	C	The Recommendation is fully observed	• There appears to be a high level of	

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
			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 is awaiting signature of the Parties. ❑ A draft MOU between ONDCP and ECCB for the exchange of confidential information is being studied by both authorities.
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	• 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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
		the extent to which either Act is applicable, and hence, 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.	the UN Convention. ❑ **The Prevention of Terrorism (Amendment) 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. ❑ **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.

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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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.	❑ **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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
			• Specific measures should be put in place to ensure that the communication of the Attorney General's order in relation to the freezing of terrorist funds to the Director of the ONDCP does not result in delay in the communication of the directive to the financial institution. The measures should also ensure that the element of secrecy of the communication is not compromised. • 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.	implementation of the Act and Regulations. ❑ **The Money Laundering & Financing of 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.**

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

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
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.
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.
SR.VII Wire transfer rules	NC	Requirements for wire transfers in the ML/FTG are not enforceable in accordance with the FATF Methodology.	• Requirements for wire transfers in the MLFTG should be made enforceable in accordance with the FATF Methodology.	❑ **Requirements for wire transfers provisions to be enforceable:— The Money Laundering (Amendment) Regulations 2009, section 5(7)** inserts regulation

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
				4(3)(m) into the ML/FTG which requires accurate and meaningful originator information in relation to wire transfers. [See NOTE 1 above in relation to enforceability of the regulations]. [See also NOTE 3 item (2) above 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 sanctions and oversight measures do not serve as effective safeguards in the combating of terrorism.	• 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. • The period for which records must be	❑ Measures are being developed to more effectively regulate and monitor Friendly Societies.

FATF 40+9	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Antigua and Barbuda
		The provisions for record keeping under the FSA are inadequate.	maintained by NPOs must be prescribed. • Sanctions for violation of oversight measures or rules in the NPO sector should be dissuasive.	
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. ❑ Training with Customs is also due to be completed by the end of June 2010.