



Fourth Follow-Up Report

ARUBA
May 2012

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ARUBA – FOURTH FOLLOW-UP REPORT

I. Introduction

1. The third mutual evaluation report (MER) of Aruba was adopted by the FATF Plenary in October 2009. Aruba is presently required to report to the FATF Plenary every year. As a member of CFATF, and in order to keep abreast of Aruba’s progress in the FATF’s follow-up process relevant updates are presented to the CFATF Plenary. The last report to the CFATF Plenary was in May 2011. This report presents a summary of the measures Aruba has implemented since its last report to the CFATF Plenary. No analysis or assessment of compliance of these measures with the recommendations in Aruba’s FATF MER is provided. Aruba was rated partially compliant or non-compliant on 13 Core and Key Recommendations and 25 other Recommendations. The Core and Key Recommendations are indicated in italics in the table below.

Table 1; Ratings of Core and Key Recommendations

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

2. With regard to the remaining Recommendations, Aruba was rated partially compliant or non-compliant on twenty-five (25) as indicated below:

Table 2: Non Core and Key Recommendations rated Partially Compliant and Non-Compliant

Partially Compliant (PC)	Non-Compliant (NC)
R. 11 (Unusual transactions)	R. 6 (Politically exposed persons)
R. 14 (Protection & no tipping-off)	R. 7 (Correspondent banking)
R. 25 (Guidelines & Feedback)	R. 8 (New technologies & non face-to-face business)
R. 27 (Law Enforcement authorities)	R. 9 (Third parties and introducers)
R. 31 (National co-operation)	R. 12 (DNFBP – R.5,6,8-11)
R. 38 (MLA on confiscation and freezing)	R. 15 (Internal controls, compliance & audit)
	R. 16(DNFBP – R.13-15 & 21)
	R. 17 (Sanctions)
	R. 18 (Shell banks)
	R. 21 (Special attention for higher risk countries)
	R. 24 (DNFBP – regulation, supervision and monitoring)
	R. 29 (Supervisors)

	R. 30 (Resources, integrity and training)
	R. 30 (Resources, integrity and training)
	R. 32 (Statistics)
	R. 33 (Legal persons – beneficial owners)
	SR. VI (AML requirements for money value transfer services)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organizations)
	SR. IX (Cross-border Declaration & Disclosure)

II. Summary of measures implemented by Aruba

3. The AML/CFT State Ordinance was introduced in June 2011 replacing the State Ordinance Identification when Providing Services (SOIPS) and the State Ordinance Reporting of Unusual Transactions (SORUT). The AML/CFT State Ordinance established new rules for financial institutions and DNFBPs covering the requirements of R. 5 – 12 as well as 13-16 and 26. Under the AML/CFT State Ordinance the MOT is no longer tasked with the supervision of financial institutions and DNFBPs as this has been relegated to the Central Bank of Aruba (CBA).

4. The introduction of the AML/CFT State Ordinance was accompanied by the following secondary legislation:

- 1) The State Decree Wire Transfers (per June 1, 2011)
- 2) The Regulation Recognised Stock Exchanges (per October 25, 2011)
- 3) The Regulation Recognised Countries for Introduction of Business (October 22, 2011)
- 4) The State Decree Principles Administrative Enforcement (per January 1, 2012)
- 5) The Regulation Verification Documents (per February 29, 2012)

5. In addition to the above, the Implementation State Ordinance containing transitional provisions for existing service providers was also introduced. The CBA also issued on June 1, 2011 the AML/CFT Handbook for supervised institutions (the AML/CFT Handbook) for the institutions under its supervision.

6. In April 2012, the Parliament of Aruba approved a new Penal Code addressing the criminalization of various FATF designated categories of offences. A separate state ordinance is being drafted to implement the new Penal Code.

7. MOT continues working on the introduction of a new IT system. The MOT Advisory Committee no longer has a say in MOT's budget and staff recruitment policy. The MOT holds regular meetings with other AML/CFT related agencies and has a permanent feedback system in place.

8. Extensive modifications of the Code of Penal Procedures were enacted on February 17, 2012, which *inter alia* regulate special investigative techniques for criminal investigations and enable confiscation of property held by third parties.

9. On February 1, 2012, important changes were introduced in the Code of Commerce of Aruba with respect to the limited liability company (“*naamloze vennootschap*” or “*nv*”) and the Aruba Exempt Company (“*Aruba vrijgestelde vennootschap*” or “*AVV*”). These changes include the prohibition of bearer shares issuance by these entities and the introduction of mandatory deposition at the Chamber of Commerce of yearly accounts and updated shareholders registers.

10. Aruba has also drafted an extensive State Ordinance for the amendment of the regulatory State Ordinances, namely the State Ordinance for the Supervision of the Credit System (SOSCS), the State Ordinance for the Supervision of the Insurance Business (SOSIB), the State Ordinance for the Supervision of Money Transfer Companies (SOSMTC) and the State Ordinance for the Supervision of Trust and Company Services Providers (SOSTCSP). These amendments will strengthen the licensing requirements (especially in the area of senior management testing), the sanctions system by bringing it on the same level as that of the AML/CFT State Ordinance (entailing also the introduction of cross references to the AML/CFT State Ordinance) and the introduction of new provisions on information exchange with foreign regulators and supervisors. Originally slated for introduction on January 1, 2012, the introduction date has been moved to September 1, 2012, in order to include the latest developments in the areas mentioned above.

III. Conclusion

8. Based on the above and in line with FATF reporting requirements for Aruba it is recommended that Aruba submit a report to Plenary in May 2013.