



Fourteenth Follow-Up Report

Barbados

June 2016

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BARBADOS – FOURTEENTH FOLLOW-UP REPORT

I. Introduction

1. This report is the fourteenth follow-up report by Barbados to the Caribbean Financial Action Task Force (CFATF) Plenary on the measures taken to implement the recommended action listed in the third mutual evaluation report (MER) of Barbados which was adopted in May 2008. Barbados has submitted thirteen previous follow-up reports in May and October 2009 and May and November of each year from 2010 to 2014 and May 2015 respectively. In accordance with present procedures the following is a report on measures taken by Barbados since May 2014 to deal with the recommended actions in those Financial Action Task Force (FATF) Recommendations rated partially compliant (PC) or non-compliant (NC). Information on measures taken since the Mutual Evaluation are outlined in Annex 1 of this report.

2. Barbados received ratings of PC or NC on nine (9) of the sixteen (16) Core and Key Recommendations and largely compliant (LC) or compliant (C) on the remaining seven (7) Core and Key Recommendations as follows:

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	PC	PC	NC	LC	PC	LC	LC	PC	LC	PC	C	PC	LC	PC

3. With regard to the other non-core or key Recommendations, Barbados was rated partially compliant or non-compliant on eighteen (18), as indicated below.

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

Partially Compliant (PC)	Non-Compliant (NC)
R. 6 (Politically exposed persons)	R. 12 (DNFBP – R.5,6,8-11)
R. 8 (New technologies & non face-to-face business)	R. 16 (DNFBP – R.13-15 & 21)
R. 9 (Third parties and introducers)	R. 21 (Special attention for higher risk countries)
R. 11 (Unusual transactions)	R. 24 (DNFBP – regulation, supervision and monitoring)
R. 14 (Protection & no tipping off)	SR. VI (AML requirements for money value transfer services)
R. 15 (Internal controls, compliance & audit)	
R. 22 (Foreign branches & subsidiaries)	
R. 25 (Guidelines & Feedback)	
R. 30 (Resources, integrity and training)	
R. 33 (Legal persons – beneficial owners)	

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R. 34 (Legal arrangements – beneficial owners)	
R. 38 (MLA on confiscation and freezing)	
SR. VII (Wire transfer rules)	

4. The following table is intended to provide insight into the size and risk of the main financial sectors in Barbados.

**Table 3: Size and integration of Barbados' financial sector
As at December 31, 2014**

		Banks (Commercial) US\$000's	Other Credit Institutions (Deposit Taking) US\$000's	Securities (Mutual Funds including sub- funds) US\$000's	Insurance US\$000's	TOTAL US\$'000's
Number of institutions	Total #	6	42	25	*26	99
Assets	US\$000's	6,167,373	876,543,727	3,162,865,513	**1,482,566,087	5,528,924,218
Deposits	Total: US\$000's	4,265,345	735,565,597	N/A	N/A	739,830,942
	% Non- resident	4.7 % of deposits	0.6 %	N/A	N/A	
Internation al Links	% Foreign- owned:#	100 % of assets	62.1 % of assets	^70.77 % of assets	37 % of assets (approx)	% of assets
	#Subsidiaries abroad	3	0	N/A		5

Foreign owned refers to the complete or majority (>50%) ownership by companies whose headquarters are not in Barbados

* The number of institutions registered as at December 31, 2014. 23 companies wrote business during this period.

**The information presented in this report is provisional and is subject to change as audited financial statements have not been submitted for the 2014 year end for most companies. These figures were retrieved from the 4th quarter management accounts of 2014.

^Assets held by the foreign funds only. The domestic funds also have foreign assets which are not captured in the 70%

Summary of progress made by Barbados

5. As noted in previous follow-up reports, the enactment of various pieces of legislation in particular the Money Laundering and Financing of Terrorism (Prevention and Control) Act (MLFTA 2011) resulted in substantial improvement in the level of compliance with the examiners' recommendations i.e. Recs. 3, 4, 5, 10, 12, 14, 15, 16, 23, 33, 36, 38, SR I, SR V which includes eight (8) key and core Recommendations. Additional measures improved the level of compliance of Recs. 6, 8, 9, 11, 21, 22 and 40. Some of the measures included the establishment of the Financial Services Commission (FSC) which issued the Anti-Money Laundering/Combating Terrorist Financing (AML/CFT) Guidelines in October 2012. In the report of May 2013, as a result of minimal improvement in the level of compliance of outstanding Recommendations, Barbados was placed in the first stage of enhanced follow-up.

6. In the follow-up report of May 2015 it was noted that Barbados fully complied with six Key and Core Recommendations (Recs. 3, 4, 10, 36, 40 and SR. IV), and there were nine (9) Key and Core Recommendations (Recs. 1, 5, 13, 23, 26, 35, SR. I, SR. III, and SR. V) which still had outstanding recommended actions. The majority of the outstanding recommended actions are minor. The authorities were advised that the timeframe for proposed measures should be reconsidered particularly those involving enactment of legislation to ensure that measures are in place for Barbados to exit the follow-up process.

7. Since the previous follow-up report the authorities have implemented the following:

- The International Business Unit (IBU) Guidelines were issued in accordance with section 26 of the MLTFA for all licensees and registrants of the IBU..
- The Criminal Assets Recovery Fund Bill of 2015 was drafted and presented in Parliament. The enactment of this legislation will repeal the Transnational Organised Crime (Prevention and Control) Act, 2011-3.
- The Anti-Terrorism (Amendment) Act 2015-28 (ATAA 2015) became enforceable on the publication of the November 5, 2015 Official Gazette and includes consequential amendments to the Mutual Assistance in Criminal Matters Act, Cap. 140A, Proceeds of Crime Act, Cap. 143, and the Money Laundering and Financing of Terrorism (Prevention and Control Act, 2011 (Act 2011-23). The Bill was passed in both Houses and assented to by the Governor-General. This Act enables the freezing/restraint of assets owned or controlled by persons/entities designated by the UN Sanctions Committee in keeping with the UN Security Resolutions 1267 and 1373

8. The IBU Guidelines were issued in accordance with section 26 of the MLFTA for all licensees and registrants of the IBU. Section 22 of the MLFTA obligates all financial institutions to comply with guidelines. Additionally, administrative sanctions for non-compliance with the guidelines can be imposed pursuant to section 34 of the MLFTA. As a result of the above measures, the IBU Guidelines are enforceable in accordance with FATF requirements. The following report evaluates the above measures with regard to the effect on the level of compliance of the relevant Recommendations .

Core Recommendations

Recommendation 5

9. As noted in the Follow-Up Report of November 2014, the majority of the examiners' recommended actions were implemented via provisions in the MLFTA 2011. Outstanding recommended actions include a legislative requirement for financial institutions to determine the natural persons that ultimately control the customer, and defining the term "beneficial ownership" in the MLTFA with regard to the level of ownership. No new measures have been implemented to deal with this recommended action for this report.

10. The other outstanding recommended measure requires the extension of the enforceability of specific CDD requirements from the licensees of the CBB and the Supervisor of Insurance (SOI) to all financial institutions. These CDD requirements include the scrutiny of transactions and updating of data or documents collected under the CDD process, measures for high and low risk categories of customers, and timing of verification and failure to complete CDD and application of CDD requirements to existing customers. As noted in the Follow-Up Report of May 2013, these requirements are included in the Anti-Money Laundering/Combating Terrorist Financing Guidelines for financial institutions regulated by the FSC (FSC AML/CFT Guidelines). With regard to entities under the supervision of the International Business Unit of the Ministry of International Business and International Transport, the IBU Guidelines were designed to incorporate the above CDD measures. The requirements for the updating of data or documents collected under the CDD process and the application of CDD requirements to existing customers are included in section 9.1 of the IBU Guidelines in items (e) and (f) of the list of systems that institutions are required to have to perform their duty of vigilance. Requirements concerning the timing of verification and failure to complete CDD in accordance with the recommended actions are set out in section 13.2 of the IBU Guidelines. With regard to measures for high and low risk categories of customers section 9.1 of the IBU Guidelines requires institutions to include risk assessment as part of their policies and procedures. Section 12 sets out CDD requirements for particular customers and section 13 details reduced due diligence for specific customers. While mention is made of enhanced due diligence there is no specific obligation outlined with regard to high risk categories of customers. Given the above, this recommended measure is largely compliant.

11. Section 13 of the IBU Guidelines states that where an institution knows or suspects that laundering is or may be occurring or has occurred, reduced/simplified concessions as set out in the Guidelines do not apply and the case should be treated as one requiring refusal and reporting. This measure clarifies the provision of section 17(2) of the MLFTA which complies with the examiners' recommendation and requires financial institutions not to reduce or simplify their procedures for identification and verification of the identity of the customer nor their procedures for ongoing due diligence where there is a suspicion of money laundering or financing of terrorism. As such the requirement of section 13 of the IBU Guidelines has already been addressed by section 17(2) of the MLFTA.

Key Recommendations

Special Recommendation I

12. The outstanding recommended action requires the authorities to fully implement the Palermo Convention by specifically legislating for human trafficking and updating the corruption/bribery laws and in relation to UN S/RES/1373(2001) to explicitly legislate a mechanism to freeze assets of UN designated entities. As already noted in a previous report legislation dealing with human trafficking and corruption/bribery has been enacted. With regard to a legislated mechanism to freeze assets of UN designated entities as per UN S/RES/1373(2001) the analysis and conclusion with regard to SR.III in this report is also applicable As such one recommendation is remains partially met.

Special Recommendation III

13. Three of the four examiners' recommended actions remain outstanding. These recommended actions include;

- a) incorporating into legislative requirements a special mechanism to enable the freezing/restraint of assets owned or controlled by persons/entities designated by the UN Sanctions Committee in keeping with the UN Security Resolution 1267 of 1999,
- b) critically reviewing the freezing/restraint and forfeiture regimes under the ATA and POCA with a view to amending the legislation to provide for a uniform approach, and
- c) reviewing the grounds needed to support an application for a freezing order under section 8(1) of the ATA, so as to ensure consistency between local cases and those arising from mutual legal assistance requests.

14. The authorities have cited the enactment of the ATAA 2015 as complying with the recommendation for legislative requirements incorporating a special mechanism to enable the freezing/restraint of assets owned or controlled by persons/entities designated by the UN Sanctions Committee in keeping with the UN Security Resolution 1267 of 1999. Section 3 of the ATAA 2015 replaces Part IV of the Anti-Terrorism Act (ATA) covering the freezing and forfeiture of funds with Part IV dealing with the designation of persons as terrorists or terrorist entities. The relevant sections 8 -10 of amended Part IV allows for the court to grant to the DPP on application an order designating a person as a terrorist or terrorist entity on the basis of the person being listed by the United Nations Security Council as a terrorist or terrorist entity. Procedures for the designated person to appeal the order and for regular reviews of the listing are also set out in Part IV.

15. In addition to the above, sections 31 and 32 of the Proceeds of Crime Act (POCA) as amended by section 6 of the ATAA 2015 and set out in the attached Schedule provide for the granting of a restraining order on the property of a designated person without delay.

16. The above measures provide for the initial freezing of property of designated persons as per 1267 of 1999. It is noted that there are no measures in the above provisions requiring financial institutions to report on the existence of assets being held in the name of a designated person. While the granting of the restraining order is required to be done without delay it is noted that the process as outlined will require two applications to the court before freezing can occur. First an application for a designation order and then an application for a restraining order. The obligations of UNSCR 1267 require that freezing of the property of a designated person occurs without delay i.e. no more than a matter of hours after the authorities in a country are aware of the existence of property of the designated person in their country. Given the process outlined above, the authorities will have to provide satisfactory assurance that this can be done in a matter of hours as already indicated.

17. Further the above measures do not outline a procedure for delisting and unfreezing of property in accordance with UNSCR 1267. It should be noted that delisting and unfreezing can only be done by approval of the 1267 Committee. As such, the recommendation has been partially met.

18. With regard to the recommendation for reviewing the freezing/restraint and forfeiture regimes under the ATA and POCA with a view to amending the legislation to provide for a uniform approach it is noted that the freezing/restraint and forfeiture regime under the ATA was removed with the replacement of Part IV of the ATA as indicated above, As such freezing/restraint and forfeiture are now addressed solely under POCA thereby complying with the recommendation.,

19. The final recommendation mandated reviewing the grounds needed to support an application for a freezing order under section 8(1) of the ATA, so as to ensure consistency between local cases and those arising from mutual legal assistance requests. This recommendation was based on the observation that foreign requests for freezing through mutual legal assistance had the flexibility to be based on reasonable suspicion while local applications had to be on a charge already laid or imminent. (Paragraph 227 of Barbados MER). Subsection 32(1) of the ATA as amended by the ATAA 2015 provides for the DPP to apply for a restraining order on the basis of reasonable grounds for believing or suspecting that a scheduled offence has been committed. This is consistent with foreign requests for freezing as outlined above and complies with the recommendation. Consequently, two recommendations have been met and one is partially met.

Special Recommendation V

20. The examiners' recommendations stipulated with regard to Recommendations 36 and 38 are applicable along with the current compliance status. As indicated in the last follow-up report the recommended actions for Recommendation 36 have been met. With regard to Recommendation 38, the outstanding examiners' recommendation is for consideration of the extension of the existing statutory coverage of asset sharing with other countries so that the facility is available in cases of all serious crimes. The Criminal Assets Recovery Fund Bill of 2015 was drafted in August 2015 and is due to be enacted by Parliament. Given the above, the recommended action remain outstanding and this Recommendation remains partially outstanding

Other Recommendations

Recommendation 8

21. The only recommendation is for the authorities to make the requirements for non-face to face customers in the AML/CFT Guidelines enforceable on all financial institutions. As noted in a previous report, section 6.4.3 of the FSC AML/CFT Guideline includes the exact requirements for non-face to face customers as stated in the CBB AML/CFT Guidelines. Section 13.1 of the IBU Guidelines also replicates the exact requirements thereby imposing the obligations on the licensees and registrants of the International Business Division. This measure will make these requirements enforceable on all financial institutions. As such this recommendation is met

Recommendation 9

22. With regard to the outstanding recommended measure for the authorities to consider advising financial institutions on countries from which third parties that meet the conditions of being regulated and supervised and comply with CDD requirements can be based, the authorities cited section 7.4 of the CBB AML/CFT Guidelines which requires licensees to observe Public Statements issued by the FATF and CFATF as it relates to business relationships and transactions with natural and legal persons and financial institutions from listed countries. However, the above provision is more applicable to the requirements of Recommendation 21 dealing with business relationships and transactions from countries which do not or insufficiently FATF Recommendations rather than the recommended action. Consequently, the recommended action remains outstanding.

Recommendation 11

23. As noted in a previous report the first recommendation stipulated that requirements dealing with complex, unusual large transactions in the AML/CFT Guidelines should be enforceable on all financial institutions. These requirements were set out in section 7 of the FSC AML/CFT Guideline. The authorities have cited section 17 of the IBU Guidelines as satisfying this recommendation. However, section 17 deals with record keeping requirements which are more relevant to Recommendation 10 rather than monitoring requirements for complex, unusual large transactions. As such this recommendation remains partially met.

24. The second recommendation required that AML/CFT guidelines specifically mandate the retention of the findings of the internal examinations of all transactions for at least five years. This requirement was specified in section 10.1 of the CBB AML/CFT Guidelines and section 9.0 and 9.1 of the FSC AML/CFT Guideline. Section 17 of the IBU Guidelines mandates licensees to maintain records on internal and external reports. These reports include internal written findings of investigated transactions. However, there is no stipulated period of retention for these records. Consequently, this recommendation remains partially met.

Recommendation 12

25. The sole recommendation was for the authorities to enact measures to apply the requirements of Recommendations 5, 6, 8 to 11 and 17 to DNFBPs not licensed by the Central Bank. It was noted in a previous report that Section 4 of the MLFTA 2011 explicitly states that the

Act applies to non-financial business entities and professions as set out in the Third Schedule. The list of non-financial business entities and professionals in the Third Schedule includes all categories of the FATF DNFBPs except for notaries and other independent legal professionals. The authorities advise that in the local context, other independent legal professionals, such as paralegals, solely provide clerk service and do not and cannot conduct financial transactions on behalf of clients/customers. Additionally, in Barbados, the post of notary differs from that in many jurisdictions. The notaries are notaries public, that is, government officers and do not provide the type of financial services as defined by the FATF. In keeping with the Methodology, the FATF requirements do not apply. The activities of the relevant DNFBPs subject to the MLFTA 2011 also comply with FATF standards.

26. It was indicated in a previous report that in the cases of dealers in precious metals or precious stones and a person who operates a gaming institute, the MLFTA 2011 applies when they engage in financial transactions equal to or above the value to be set out in guidelines of the AMLA. These guidelines have not been issued to date. As such, the CDD requirements as set out in section 15 of the MLFTA 2011 are applicable. These requirements have no threshold limit and are therefore applicable to all occasional transactions and business relationships. All non-financial business entities and professions as set out in the Third schedule of the MLFTA 2011 are subject to the other requirements of Recs. 5, 6, 8 to 11 and 17 as enacted by the MLFTA 2011 and the deficiencies identified under the relevant Recommendations are also applicable. It should also be noted that the requirements of Recs. 5, 6, 8 to 11 and 17 which are addressed in the CBB Guidelines would also have to be imposed on the DNFBPs for full compliance. At present, the only DNFBP which would have the requirements of the CBB Guidelines imposed are service providers who are required under section 35 of the CTSPA to comply with guidelines issued by the Director of International Business i.e. the IBU Guidelines. Given the above, the recommended action is partially met.

Recommendation 15

27. The outstanding recommended action is for the requirements of an independent audit function, training in new techniques and trends in money laundering and terrorist financing, and screening procedures for new employees to be extended from the licensees of the CBB and the SOI to all financial institutions. The above requirements are set out in section 20.2.1, section 10 and section 11 of the IBU Guideline respectively. Similar requirements are set out in sections 5, 8, 10 and 11 of the FSC AML/CFT Guidelines. As such this recommendation is met.

Recommendation 16

28. All non-financial business entities and professions as set out in the Third Schedule of the MLFTA 2011 are subject to the requirements of Recs. 13 to 15, 17 and 21 as enacted by the MLFTA 2011 and the deficiencies identified under the relevant Recommendations are also applicable. Similar to what was noted under Recommendation 12, the requirements of Recs. 13 to 15, 17 and 21 which are addressed in the CBB Guidelines would also have to be imposed on the DNFBPs for full compliance. At present, the only DNFBP which would have the requirements of the CBB Guidelines imposed are service providers who are required under section 35 of the CTSPA to comply with guidelines issued by the Director of International Business i.e. the IBU Guidelines. Given the above, the recommended action is partially met.

Recommendation 21

29. The other two outstanding recommended actions include requiring the authorities to put in place measures to ensure that financial institutions are advised of concerns about the weaknesses in the AML/CFT systems of other countries and to consider issuing instructions regarding countermeasures for transactions and business relationships with countries that do not apply or insufficiently apply the FATF Recommendations. No information has been provided regarding these recommended actions which therefore remain outstanding.

Recommendation 22

30. The recommendation which is outstanding requires financial institutions to pay particular attention that their foreign branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations observe AML/CFT measures consistent with requirements in Barbados and the FATF Recommendations. This requirement should be extended to entities under the supervision of the International Business Unit of the Ministry of International Business and International Transport. Section 8 Group Practice (c) of the IBU Guidelines requires groups to ensure that special attention is paid to foreign branches and subsidiaries in countries that do not or insufficiently apply the FATF Recommendations such that they observe AML/CFT measures consistent with requirements in Barbados and the FATF Recommendations. Consequently, this recommendation is met

Recommendation 24

31. The recommendation required that the authorities take measures to ensure that the requirements of Recommendations 24 should apply to DNFBPs not licensed by the Central Bank. It was noted in a previous report that the MLFTA 2011 extends the application of AML/CFT obligations to non-financial business entities and professionals. There is no direct designation of a supervisory agency with appropriate authority to implement an effective system of monitoring and ensuring compliance by the DNFBPs with AML/CFT obligations in the MLFTA 2011. It is noted that section 31 of the MLFTA 2011 empowers the AMLA to conduct inspections of financial institutions to determine compliance with the Act.

32. The enactment of the CTSPA establishes a registrations and licensing regime and a supervisory regime for service providers and pursuant to Part IV of the CTSPA the Director of International Business is responsible for ensuring that service providers observe AML/CFT requirements of the MLFTA 2011 and has the authority to access necessary information and conduct on-site investigations of service providers and apply sanctions for breaches of the MLFTA.. While the CTSPA establishes a supervisory framework for service providers, information on the implementation of such a regime will have to be submitted in future reports. It is noted that similar regimes will have to be established for the remaining DNFBPs. Given the above, the recommended action is partially met.

Recommendation 33

33. The recommended actions require that the authorities should consider improving the present system for access to beneficial ownership information by establishing a complementing national registry and enacting legislative requirements for legal persons to disclose beneficial ownership information. With regard to the first recommendation all service providers engaged in the business of providing corporate and/or trust services are subject to penalties under section 28 of the CTSPA for failure to comply with the MLFTA. Sections 15(4) and 18 of the MLFTA require

the obtaining and keeping of records of beneficial ownership information. As such all service providers are required to maintain beneficial ownership information.

34. With regard to enacting legislative requirements for legal persons to disclose beneficial ownership information the CMPA amends section 15A of the Companies Act to require a director or an authorized officer of a company to certify in an annual return filed with the Registrar of Companies that information relating to shareholders and beneficial ownership is maintained at the registered office of the company. Additionally the CMPA amends section 170 (c) of the Companies Act to require companies to keep a record of beneficial ownership of companies incorporated or registered in Barbados. Section 24(1) of the SRLA is also amended by the CMPA to require societies with restricted liabilities to maintain a record of beneficial ownership. The above measures would require legal persons to maintain records on beneficial ownership information. The authorities have advised that each competent authority has powers of access and enforcement for failure of persons to provide information upon request, however no legislative references were provided with regard to accessing information held by legal persons as outlined above. As such one recommended action remains partially outstanding.

Recommendation 34

35. The recommended measure requires that the authorities should implement measures for monitoring and ensuring compliance of international trusts supervised by the Ministry of Economic Affairs and Development, lawyers and accountants with AML/CFT requirements i.e. retention of beneficial ownership and control information. In a previous report it was indicated that the FSC and the International Business Unit were discussing a monitoring regime pursuant to section 4(1) (e) of the FSCA which includes as one of the functions of the FSC, the provision of technical assistance and advice to the International Business Unit or any other government agency with regard to legislative responsibilities to supervise, regulate or monitor any business operating in Barbados. The CTSPA makes the Director of International Business responsible for ascertaining compliance of service providers with the CTSPA and the MLFTA and provides a framework for a monitoring system. . No information has been provided as to whether the Director of International Business has formulated a monitoring regime with the FSC for ascertain compliance of service providers in accordance with the recommended action. Consequently the recommended action has been partially met.

Recommendation 38

36. The outstanding recommended action is the extension of the existing statutory coverage of asset sharing with other countries so that the facility is available in cases of all serious crime. The authorities have advised that Cabinet approved in April 2015 matters relating to asset sharing, and a forfeiture fund. The Criminal Assets Recovery Fund Bill of 2015 was drafted in August 2015 and is due to be enacted by Parliament. Until the implementation of this measure, the recommended action remains outstanding. .

Conclusion

37. Since the last follow-up report Barbados' overall level of compliance with the recommended actions of the MER has improved with the enactment of the ATAA 2015. The authorities have fully complied with the examiners' recommended actions for Recs. 6, 8, 15 and 22. The level of compliance has improved in Recs. 15, SR.I and SR. III.. At present, Barbados fully complies with six Key and Core Recommendations (Recs. 3, 4, 10, 36, 40 and SR. IV), and there are nine (9) Key and Core Recommendations (Recs. 1, 5, 13, 23, 26, 35, SR. I, SR. III, and

SR. V) which still have outstanding recommended actions. The outstanding recommended actions are minor. Barbados is scheduled to undergo the 4th Round mutual evaluation in the second half of 2016 with the on-site visit due from December 5 – 16, 2016. As such, in accordance with procedures Barbados has requested that the outstanding issues of the 3rd Round follow-up process be incorporated in the 4th Round mutual evaluation thereby terminating their 3rd Round follow-up process. It is recommended that Plenary approve the transferal of Barbados' outstanding issues in the 3rd Round follow-up process to the 4th Round mutual evaluation thereby ending the 3rd Round follow-up process.

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

	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
Legal systems				
1.ML offence	LC	<ul style="list-style-type: none"> The crimes of human trafficking, corruption and bribery provisions falling within the designated categories of offences have not been adequately addressed in legislation. Extraterritoriality of predicate offences is not clearly defined. 	<ul style="list-style-type: none"> The authorities should review the adequacy of the legislative coverage of human trafficking, corruption and bribery to ensure coverage of all designated categories of offences. . The different <i>mens rea</i> elements of money laundering offences under the MLFTA and section 19 of DAPCA should be harmonized. The language of section 4 of the MLFTA should be reviewed with a view to removing the current limitation which requires that there be an intention for the extraterritorial act to be also committed in Barbados 	<ul style="list-style-type: none"> Section 8 of the Transnational Organised Crime (Prevention and Control) Act creates the offence of trafficking in persons. Section 9 creates the offence of smuggling of persons. The Transnational Organised Crime (Prevention and Control) Act was passed in Parliament as No. 3 of 2011. <p>Part VI of the Prevention of Corruption Bill 2010 provides for the offences of bribery, solicitation and related offences. The Bill is under review by a Joint Select Committee of Parliament after having received feedback from several stakeholders.</p> <p>The Prevention of Corruption Act, 2012-31 was recently enacted and will shortly be proclaimed.</p> <p>An amendment to the DAPCA has been provided for in the MLFTA 2011 in the Fourth Schedule of the latter Act. . In section 19, delete subsection (1) and substitute the following: "(1) Subject to subsection (2), if a person enters into or is otherwise concerned in an arrangement whereby (a) the retention or control by or on behalf of another "X", of X's benefits</p>

¹ These factors are only required to be set out when the rating is less than Compliant.

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

	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>of drug trafficking is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise);</p> <p>or (b) X's benefits of drug trafficking are used to secure that funds are placed at X's disposal or are used for X's benefit to acquire property by way of investment,. Either</p> <p>(i) knowing or having reasonable grounds to suspect that X is a person who carries on or has carried on drug trafficking;</p> <p>(ii) being an individual, failing without reasonable excuse to take reasonable steps to ascertain whether X is a person who carries on or has carried on drug trafficking; or</p> <p>(iii) being a financial institution or a non-financial business entity or professional within the meaning of the Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011, failing to take reasonable steps to implement or apply procedures to control or combat money laundering, the person is guilty of an indictable offence under this Act."</p> <p>Section 7 of the MLFTA 2011 states "any act done by a person outside of Barbados, which would be an offence if done within Barbados, is an offence for the purposes of this Act."</p>

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

	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
2.ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> Ineffective use of ML provisions. 		The defect has been remedied in the MLFTA 2011.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> Forfeiture/restraint orders only limited to proceeds of money laundering, predicate offence of drug-trafficking, terrorist acts and financing of terrorism. No specific provision for forfeiture of instrumentalities under the MLFTA. No provision for ex parte application for freezing or seizing property subject to confiscation under the MLFTA No provision for production/inspection orders under MLFTA. Lack of integrated approach to forfeiture/restraint detracts from effectiveness. 	<ul style="list-style-type: none"> The authorities should consider reviewing the forfeiture/confiscation regime to ensure that all serious offences are covered; the various statutes are rationalized as far as possible to provide greater certainty in application. Specific attention should be given to adjusting the MLFTA forfeiture scheme so as to incorporate appropriate balancing features in keeping with recent case law. Further there should be greater particularity on various aspects of any approach, including factors to be taken into account by the court before issuing orders; coverage of instrumentalities; bona fide third party rights; variation/discharge of orders. The coverage of instrumentalities under POCA should be extended to ensure property intended for use in the commission of the offence is caught. The definition of “scheduled offence” under POCA should be extended to incorporate the serious offences contemplated by the FATF’s “designated 	<ul style="list-style-type: none"> This has been achieved by the passage of the MLFTA 2011 and the amendments to the POCA as stated in the Fourth Schedule of the MLFTA 2011. The forfeiture regime is now harmonized under the POCA. The Fourth Schedule of the MLFTA 2011 refers to the amendments to the POCA. Section 2 (b) of POCA has been amended to read “The principal objects of this Act are to provide for the forfeiture of property including instrumentalities, used in or intended to be used in, or in connection with, or for the purpose of facilitating, the commission of scheduled offences.”

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

	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
			<p>categories of offences”</p> <ul style="list-style-type: none"> • A specific provision should be enacted for the forfeiture of instrumentalities in MLFTA • Appropriate powers of production and inspection should be introduced in the MLFTA. For those offences under DAPCA falling outside the scope of the POCA “scheduled offences”, similar powers should also be incorporated. • The definitions of “financial institutions” under POCA and the MLFTA should be harmonized. • Section 60 of POCA should be amended to enable government departments/entities, on appropriate grounds, to lodge objections to the disclosure of information. The scheme under section 57 in respect of the Commissioner of Inland Revenue may provide a useful precedent. <p>Section 6A (4) of the MLFTA should be amended to enable Government Departments to object to the release of information to the FIU Director on</p>	<p>Additionally, the Fourth Schedule of the MLFTA 2011 amends the definition of “tainted property” in the POCA to include instrumentalities, used in or intended to be used, or in connection with, or for the purpose of facilitating the commission of scheduled offences”.</p> <ul style="list-style-type: none"> • The Fourth Schedule of the MLFTA 2011 amends the definition of “scheduled offence” under POCA to include the FATF” designated categories of offences”. This list includes statutory offences & common law offences. • With respect to the powers of production & inspection, this is now dealt with under the POCA and its amendments as stated in the Fourth Schedule of the MLFTA. As mentioned above, the scheduled offences under the POCA have been widened. • The definition of “financial institutions” in the POCA and MLFTA has been harmonized. The Fourth Schedule of the MLFTA 2011 reflects that the current sections 53 & 54 of POCA have been deleted and section 54 of the latter Act now states that with respect to section 48 to 52, the definition of financial institution under

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			<p>appropriate grounds. Section 57 of POCA as a guide requires the FIU Director to access data from Government departments only on the authority of a court order, as under sections 55 and 60 of POCA in relation to the DPP.</p> <ul style="list-style-type: none"> • The standard of proof under sections 9 and 17 of POCA (abscondence) should be adjusted to explicitly require the civil standard. • The civil forfeiture scheme under section 47 of the DAPCA should be amplified to address such matters as the procedures to be followed and standard of proof. 	<p>POCA now has the meaning given to it as under the MLFTA.</p> <ul style="list-style-type: none"> • The Fourth Schedule of the MLFTA 2011 has amended section 60 of POCA to insert section 60 (1) to read, “ Section 57 shall, with such modifications and adaptations as the circumstances may require, apply in respect of an order made under subsection (1).” • Section 49 of the MLFTA 2011 makes provision for the objection to disclosure of information to the FIU on specific grounds. • With respect the standard of proof, the Fourth Schedule of the MLFTA 2011 amends Section 17 of the POCA, to read,”(3) any question of fact to be decided by the Court in proceedings pursuant to section 9 and this section shall be decided on a balance of probabilities.” • Section 47 DAPCA has been deleted. This is stated in the Fourth Schedule of MLFTA. As already stated, the standard of proof is dealt with in the new section 17(3) of POCA.

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				<ul style="list-style-type: none"> The procedures to be followed are those in POCA- sections 10-17. The new POCA schedule refers to drug and drug-trafficking offences. This is laid out in the Fourth Schedule. The Cabinet has recently approved the establishment of the civil forfeiture regime in Barbados. The drafting of the relevant legislation will commence shortly. <p>Barbados is now deemed fully compliant with this Recommendation.</p>
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> The CBB cannot share information with other domestic financial sector supervisory agencies. Under the CSA, the Registrar of Cooperatives can only share information pursuant to a court order; 	<ul style="list-style-type: none"> The MLFTA should be amended to specify the reason for inspections by the AMLA i.e. review of compliance with MLFTA and AML/CFT guidelines generally The FIA should be amended to allow the CBB to share information with domestic regulators The CSA should be amended to permit the Registrar of Cooperative Societies to share information with domestic and foreign regulators without having to obtain a Court 	<ul style="list-style-type: none"> With respect to the underlined outstanding issue in the Recommended Actions column relating to the rationale for inspections, the guidelines lend clarity to the obligations placed on financial institutions in the MLFTA. They “set out the expectations of the Bank and the Authority in relation to the minimum standards for anti-money laundering and the combating of the financing of terrorism (AML/CFT) practices by all licensees and, together with the MLFTA, “form an integral part of the framework used by the Bank in assessing how licensees implement their AML/CFT policies.”

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		<ul style="list-style-type: none"> The Ministry of Economic Affairs and Development does not have the authority to compel information from licensees or to disclose information to domestic or foreign counterparts. 	<p>Order</p> <ul style="list-style-type: none"> An explicit legal provision allowing the Supervisor of Insurance to share information with other regulators should be enacted. The Ministry of Economic Affairs and Development should be authorized to access information from its licensees and be able to share information appropriately with other competent authorities. 	<p>Section 22 MLFTA states that financial institution shall comply with Guidelines.</p> <ul style="list-style-type: none"> Section 31 of the MLFTA, 2011 specifies that inspections to be conducted are to determine whether a financial institution is in compliance with the Act. Section 44 (2) of the Financial Institutions Act CAP344A has been amended to allow the Central Bank, without the permission of a licensee, to share information with any other supervisory or regulatory authority of financial institutions in Barbados. The Fourth Schedule of the MLFTA, 2011 amends section 71 of the CSA, by inserting a new subsection (3A) permitting the Registrar to share information with the AMLA and other domestic and foreign supervisory or regulatory authorities without a court order. The Fourth Schedule of the MLFTA, 2011 amends section 54 of the

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				<p>Insurance Act by inserting a new provision (2A), permitting the Supervisor to share information with the AMLA and other domestic and foreign supervisory or regulatory authorities. Section 35 of the Exempt Insurance Act is similarly amended.</p> <ul style="list-style-type: none"> • The Fourth Schedule of the MLFTA, 2011 amends section 24 of International Business Companies Act by inserting Section 24A, requiring a licensee to deliver any books, records, documents that are required to be kept, to the Minister at such time as required; and provide the Minister with such information as the Minister may require for the proper administration and enforcement of the Act. • Sections 25(3) of the IBC Act; section 49(3) of the SRL Act; and section 28 of the ITA were also amended to permit the disclosure of information. • In addition, the Fourth Schedule of the MLFTA, 2011 amends section 8 of the Securities Act adding subsection (2A) to permit the Commission to share information with the AMLA and other

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				<p>domestic and foreign supervisory or regulatory authorities.</p> <p>Section 50(3) of the Mutual Funds Act Cap.320B is also similarly amended.</p> <p>Barbados is now deemed fully compliant with this Recommendation.</p>
5.Customer due diligence	PC	<ul style="list-style-type: none"> • There are no legislative requirements for financial institutions to <ul style="list-style-type: none"> ❖ undertake CDD measures for occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII, or where there is a suspicion of money laundering or terrorist financing, or where the financial institution has doubts about the veracity or adequacy of previously obtained CDD; ❖ verify that any person purporting to act on behalf of the customer is so authorized and identify and verify the identity of that person; ❖ determine who are the natural persons that ultimately own or control the customer; 	<ul style="list-style-type: none"> • Financial institutions should be legislatively required to; <ul style="list-style-type: none"> ○ undertake CDD measures for occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII, or where there is a suspicion of money laundering or terrorist financing, or where the financial institution has doubts about the veracity or adequacy of previously obtained CDD; ○ verify that any person purporting to act on behalf of the customer is so authorized and identify and verify the identity of that person; ○ determine who are the natural persons that ultimately own or control the 	<ul style="list-style-type: none"> • With respect to the underlined outstanding issue of control in the Recommended Actions column, the authorities are considering an appropriate amendment to the MLFTA. <p>Recommendation 10 of the revised FATF Recommendations states “The principle that financial institutions should conduct CDD should be set out in law. Each country may determine how it imposes specific CDD obligations, either through law or enforceable means. Such flexibility is further supported in the Interpretative Note to Recommendation 10 where there is no explicit requirement for the legislation to address the issue of control. As such, no legislative amendment will be pursued.</p> <p>A consolidated enforceable AML/CFT Guideline was issued by the FSC in October 2012. The FSC Guideline was issued in accordance with subsections 53 (1)(d) and (e) of the FSCA. Section 22 of the MLFTA obligates all financial institutions to comply with the guideline.</p>

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		<ul style="list-style-type: none"> ❖ conduct on-going due diligence on business relationships; ❖ verify individual customer identity using reliable, independent source documents, data or information (identification data); • No express prohibition against reduced CDD measures where there is a risk of ML and FT 	<p>customer;</p> <ul style="list-style-type: none"> ○ conduct on-going due diligence on business relationships; ○ verify individual customer identity using reliable, independent source documents, data or information (identification data); • Simplified CDD measures should not be acceptable whenever there is a suspicion of ML or TF. 	<p>Administrative sanctions for non-compliance with the guideline can be imposed pursuant to section 34 of the MLFTA.</p> <ul style="list-style-type: none"> • With respect to the underlined outstanding issue relating to updating data collected during the CDD process, this matter is being dealt with in the revised AML guidelines • MLFTA 2011 defines “business transaction” to include a business arrangement and an occasional transaction. An occasional transaction is defined as a financial or other relevant transaction other than one conducted or to be conducted in the course of an existing business arrangement and includes a wire transfer. <p>Section 15 (1)(b) of the MLFTA, 2011 requires a financial institution to verify the identity of a customer by means of reliable documents data or information from an independent source where</p> <p>(i) the customer requests the institution to enter into a business arrangement or conduct an occasional transaction with the customer;</p>

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		<ul style="list-style-type: none"> The following requirements are only enforceable on the licensees of the CBB and the Supervisor of Insurance; <ul style="list-style-type: none"> Scrutiny of transactions and updating of data or documents collected under the CDD process Measures for high and low risk categories of customers Timing of verification and failure to complete CDD and application of CDD requirements to existing customers. 	<ul style="list-style-type: none"> The enforceability of the following requirements should be extended from the licensees of the CBB and the Supervisor of insurance to all other financial institution; <ul style="list-style-type: none"> Scrutiny of transactions and updating of data or documents collected under the CDD process Measures for high and low risk categories of customers Timing of verification and failure to complete CDD and application of CDD requirements to existing customers. 	<p>(ii) doubt exists about the veracity or adequacy of customer identification data previously obtained in respect of the customer; or</p> <p>(iii) there is a suspicion of money laundering or financing of terrorism in connection with the customer.</p> <ul style="list-style-type: none"> Section 15 states at subsection: <p>(2) A financial institution shall take reasonable measures to establish whether a customer is acting on behalf of another person.</p> <p>(3) Where it appears to a financial institution that a customer is acting on behalf of another person, the institution shall take reasonable measures to</p> <p>(a) establish the true identity not only of the customer but also of the person on whose behalf or for whose ultimate benefit the customer may be acting;</p> <p>(b) verify the identity of both the customer and the person on whose behalf or for whose ultimate benefit the customer may be acting by means of reliable documents, data or information from an independent source; and</p> <p>(c) establish whether the customer is authorised to act on behalf of the person in the capacity and in the proposed business arrangement or</p>

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				<p>occasional transaction, in which he acts or seeks to act.</p> <ul style="list-style-type: none"> Section 16 of the MLFTA, 2011 states: “A financial institution shall exercise ongoing due diligence with respect to every business arrangement and closely examine the transactions conducted in the course of such an arrangement to determine whether the transactions are consistent with its knowledge of the relevant customer, his commercial activities, if any and risk profile and, where required, the source of his funds.” Section 17(2) of the MLFTA, 2011 states: “Where a suspicion of money laundering or financing of terrorism exists in connection with a customer, a financial institution shall not reduce or simplify its procedures for identification and verification of the identity of the customer nor its procedures for ongoing due diligence in respect of the customer pursuant to sections 15 and 16, respectively.” Section 17 (1) of the MLFTA, 2011 states:

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				<p>“The Authority may, subject to subsection (2), issue in accordance with section 26, guidelines as to the circumstances in which procedures for identification and verification of the identity of customers or for ongoing due diligence pursuant to sections 15 and 16, respectively</p> <p>(a) may be reduced or simplified by a financial institution; and</p> <p>(b) shall be enhanced.</p> <ul style="list-style-type: none"> Section 5 of the SA is amended to grant the Commission powers to conduct inspections and examinations of registrants under that Act to include self-regulatory organisations, securities companies, brokers, dealers, traders, underwriters, issuers and investment advisers as may be necessary for giving effect to that Act. <p>Section 54 of the SA has been amended to provide the Commission with powers of enforcement regarding market actors for reasons including failure to comply with a condition of registration, or engaging in an unsound financial practice.</p> <p>Section 133 of the SA has been amended to allow the Commission to,</p>

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				<p>by instrument in writing, appoint a person to conduct such investigations as may be necessary for the proper administration of this Act and in particular to determine the validity of any allegation that</p> <p style="padding-left: 40px;">(a) a person has contravened, is contravening or is about to contravene this Act; or</p> <p style="padding-left: 40px;">(b) any of the circumstances set out in section 54 exist in respect of a registrant.”</p> <p>Section 135 of the SA is amended to provide that “where an examination reveals that any of the circumstances set out in section 54 exists in respect of a registrant, the Commission may, where it considers it appropriate to do so, order the registrant, within such period as the Commission may specify, to take such remedial measures or action as the Commission directs.”</p> <ul style="list-style-type: none"> • Section 37 of the MLFTA, 2011 states at subsections: <p>(2)“Without prejudice to the powers and functions of a regulatory authority under any other law, for the purpose of discharging its responsibility under subsection (1) in respect of persons that the regulatory authority regulates, sections 29, 31 and 33 to 36 apply to the regulatory authority, with such modifications and adaptations as may be necessary, as</p>

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				<p>those sections apply to the Authority.</p> <p>(3) Where a person is regulated by more than one regulatory authority, the regulatory authorities shall consult and identify from among them, the regulatory authority to assume the primary responsibility under subsection (1).</p> <p>(4) For the avoidance of doubt, notwithstanding (a) any other enactment and in particular, any primary enabling enactment; and (b) any power or function of a regulatory authority under any primary enabling enactment, where it is suspected that a financial institution is contravening or has contravened this Act, any action to be taken by a regulatory authority in respect of the financial institution shall be so taken under this Act.</p> <p>The FSC Guideline is enforceable. The FSC has commenced onsite AML/CFT examinations all of which cover CDD, the risk based approach and the timing of verification.</p> <p>Since the last Plenary, amendments were prepared for the FSC Guidelines as follows:</p> <p>Section 6.0 - to clarify that where there is a suspicion that a transaction relates to money laundering or the financing of terrorism, financial institutions should be cognizant of tipping off a customer when conducting due diligence. The</p>

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				<p>financial institution should make a business decision whether to execute the transaction as the case may be, but a suspicious report should be submitted to the Authority.</p> <p>Section 6.8 - to clarify that notwithstanding the circumstances which may warrant reduced due diligence, financial institutions must not apply reduced due diligence where there is a suspicion of money laundering or terrorist financing. The revised FSC Guideline will be finalized shortly.</p> <p>The FSC Guideline was finalized and gazetted in January 2014. Kindly see www.fsc.gov.bb for the updated Guidelines.</p> <p>The IBU Guidelines were revised and approved by the Anti-Money Laundering Authority. Section 22 of the MLFTA requires all financial institutions licensed by the IBU to comply with the guideline. Sanctions for non-compliance can be imposed pursuant to Section 34 of the said Act.</p> <p>In keeping with section 17(2) of the MLFTA, Section 13 of the IBU Guidelines state “where an institution knows or suspects that laundering is or may be occurring or has occurred, reduced/simplified concessions as set out below do not apply and the case should be treated as a case requiring refusal and, more important,</p>

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				<p>reporting.” This measure clarifies the provision of section 17(2) of the MLFTA which complies with the examiners’ recommendation and requires financial institutions not to reduce or simply their procedures for identification and verification of the identity of the customer nor their procedures for ongoing due diligence where there is a suspicion of money laundering or financing of terrorism. As such the requirement of section 13.2 of the IBU Guidelines has already been addressed by section 17(2) of the MLFTA.</p> <p>In keeping with Section 16 of the MLFTA, Section 9.1 of the Guidelines requires licensees to “conduct ongoing due diligence on the business relationship, control structure, ownership and transaction undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution’s knowledge of the customer, their business and risk profile, including, where necessary, the source of funds.”</p> <p>In keeping with Sections 15-17 of the MLFTA, the duty of vigilance placed on licensees includes a requirement for a risk assessment. Section 12 discusses requirements relevant to the following verification subjects – individuals, beneficial ownership of trusts, partnerships, companies, and intermediaries: professional service providers. Section 13.2 allows for reduced due diligence where the verification subject is a financial institution listed in the Third Schedule of the MLFTA.</p>

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				<p>Section 13.2 of the Guidelines states “The best time to undertake verification is not so much at entry as prior to entry. Verification should, whenever possible, be completed before any transaction is completed, subject to the provisions above. If it is necessary for sound business reasons to open an account or carry out a significant one-off transaction before verification can be completed, this must be subject to stringent controls which should ensure that any funds received are not passed to third parties. Alternatively, a senior manager and the compliance officer may give appropriate authority. This authority should not be delegated. Any such decision must be recorded in writing.</p> <p>Verification, once begun, should normally be pursued either to a conclusion or to the point of refusal. If a prospective customer does not pursue an application, key staff may (or may not) consider that this is in itself suspicious. In the event that the attempted or aborted transaction is reasonable considered to be suspicious, the transaction must be reported to the Reporting Officer.</p>
6. Politically exposed persons	PC	<ul style="list-style-type: none"> Requirements for politically exposed persons are only enforceable on the licensees of the CBB and the Supervisor of Insurance. 	<ul style="list-style-type: none"> The authorities should make the requirements for politically exposed persons as stated in the CBB and Supervisor of Insurance’s AML/CFT Guidelines enforceable on all financial institutions. 	<p>The relevant regulators have commenced discussions of the proposed guidelines in order to ensure compliance with the Recommendation</p> <p>The Financial Services Commission (FSC) has issued a consolidated Guideline (modeled on the Central Bank Guideline) for its stakeholders, namely:</p>

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				<p>(i) a person who engages in relevant insurance business;</p> <p>(ii) a market actor, self-regulatory organisation, participant and issuer of securities within the meaning of the Securities Act;</p> <p>(iii) a mutual fund and mutual fund administrator within the meaning of the Mutual Funds Act or any person who manages a mutual fund; and</p> <p>(iv) a credit union within the meaning of the FSC Act.</p> <p>Section 6.4.6 of the Guideline requires financial institutions, in relation to foreign politically exposed persons (PEPs) (whether as customer or beneficial owner), in addition to performing normal customer due diligence measures, to:</p> <p>i. Have appropriate risk managements systems to determine whether the customer or the beneficial owner is a politically exposed person;</p> <p>ii. Obtain senior management approval for the establishing (or continuing, for existing customers) such business relationships;</p> <p>iii. Take reasonable measures to establish the source of wealth and source of funds; and</p> <p>iv. Conduct enhanced ongoing monitoring</p>

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				<p>of the business relationship.</p> <p>Financial institutions are further required to take reasonable measures to determine whether a customer or beneficial owner is a domestic PEP or a person who is or has been entrusted with a prominent function by an international organisation. In cases of a higher risk business relationship with such persons, financial institutions are required to apply the measures referred to in paragraphs (b), (c) and (d). Importantly, the requirements for all types of PEP should also apply to family members or close associates of such PEPs.</p> <p>The FSC Guideline is enforceable. The FSC has commenced onsite examinations which address CDD and PEPs.</p> <p>In keeping with its practice of periodically revising Guidelines in order to keep pace with international developments, since the last Plenary, the CBB revised its AML/CFT Guideline to reflect FATF Recommendation 12 and the FATF Guidance Note on PEPs. Section 7.4.6 of the Guideline has been refined to better reflect the requirements for foreign and domestic PEPs, and persons who are or have been entrusted with the prominent function by an international organization. Definitions of family members and close associates are included. A provision was also added to Section 11.1 requiring licensees to incorporate in their training programmes, effective ways of determining</p>

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				<p>whether clients are PEPs and to understand, assess and handle the potential associated risks.</p> <p>Refinements to this effect were included in the draft revised FSC Guideline which will be finalized shortly.</p> <p>The FSC Guideline was finalized and gazetted in January 2014. Kindly see www.fsc.gov.bb for the updated Guidelines.</p> <p>The International Business Unit is revising its AML/CFT guideline which should be finalized by year-end.</p> <p>A new Section 11.4 on PEPs in the IBU revised Guideline contains similar provision to the requirements in the CBB Guideline.</p>
7. Correspondent banking	LC	<ul style="list-style-type: none"> No specific requirement for financial institutions to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action. 	<ul style="list-style-type: none"> Financial institutions in gathering information about the quality of a respondent's supervision should ascertain whether it has been subject to a money laundering or terrorist financing investigation or regulatory action. 	<p>This has been addressed at Section 7.4.8 of the revised Central Bank Guideline which will come into effect with the proclamation of the MLFTA.</p>
8. New technologies & non face-to-face business	PC	<ul style="list-style-type: none"> The requirements for non-face to face customers are only enforceable on the licensees of the CBB and the Supervisor of Insurance. 	<ul style="list-style-type: none"> The authorities should make the requirements for non-face to face customers in the AML/CFT Guidelines enforceable on all financial institutions. 	<p>The relevant regulators have commenced discussions of the proposed guidelines in order to ensure compliance with the Recommendation</p> <p>This is addressed in the FSC Guideline which is enforceable. The FSC has commenced onsite examinations which address CDD, the risk based approach and non face to face business.</p>

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				See Section 13.1 on non-face to face customers which now addresses this recommendation.
9.Third parties and introducers	PC	<ul style="list-style-type: none"> Requirements for third parties and introduced business are only enforceable on the licensees of the CBB and the Supervisor of Insurance. No requirement for financial institutions to satisfy themselves that the third party is regulated and supervised in accordance with Recommendations 23, 24 and 29. No indication of authorities determining in which countries third parties that satisfy the conditions of being regulated and supervised and comply with CDD requirements can be based. 	<p>The authorities should consider making the requirements for third party and introduced business as stipulated in the CBB AML/CFT Guidelines enforceable on all other financial institutions.</p> <p>Financial institutions should be required to satisfy themselves that the third party is regulated and supervised in accordance with Recommendation 23, 24 and 29.</p> <p>Authorities should consider advising financial institutions about countries from which third parties that meet the conditions of being regulated and supervised and comply with CDD requirements can be based.</p>	<p>The relevant regulators have commenced discussions of the proposed guidelines in order to ensure compliance with the Recommendation</p> <p>This is addressed in the revised FSC Guideline. The FSC's AML/CFT Guideline now refers to the FATF's high risk and non-cooperative jurisdictions list and the UN Security Council's sanctions list. E.g. see section 6.8.</p> <p>The FIU circulates information on FATF listed countries to financial institutions.</p> <p>Since the last Plenary, Section 7.4.4 of the CBB AML/CFT Guideline was revised to require licensees to satisfy themselves about the quality and effectiveness of supervision and regulation in the introducer's country of domicile (refer to FATF Recommendations 26, 27 and 28); and satisfy themselves that the introducer is regulated, and supervised or monitored for, and has measures in place for compliance with CDD and record-keeping requirements in line with the FATF Recommendations¹⁰.</p> <p>Section 7.4 of the Guideline requires licensees to observe the Public Statements issued by the FATF and CFATF as it relates to business relationships and transactions with natural and</p>

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				<p>legal persons, and financial institutions from listed countries.</p> <p>The FSC has adopted similar provisions in their updated AML/CFT Guideline which will be finalized shortly.</p> <p>The FSC Guideline was finalized and gazetted in January 2014. Kindly see www.fsc.gov.bb for the updated Guidelines.</p> <p>The International Business Unit is revising its AML/CFT guideline which should be finalized by year-end.</p> <p>Section 13.3 of the revised IBU Guidelines states “A licensee may rely on other regulated third parties to introduce new business in whole or in part but ultimately the licensee remains responsible for customer identification and verification. As a safeguard the licensee should:</p> <ul style="list-style-type: none"> (a) Have a written agreement that clearly outlines the respective responsibilities of the two parties; (b) Ensure that the regulated entity or introducer has established Know Your Customer (KYC) practices at least equivalent to those required by Barbados law and the licensee itself;

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				<p>(c) Be satisfied that the quality and effectiveness of supervision and regulation in the introducer's country of domicile meets the standard set by FATF Recommendations 26, 27 and 28; and satisfy itself that the introducer is regulated, and supervised or monitored for, and has measures in place for compliance with CDD and record-keeping requirements in line with FATF Recommendations ;</p> <p>(d) Obtain copies of the due diligence documentation provided to the introducer prior to the commencement of the business relationship;</p> <p>(e) Conduct periodic reviews to ensure that the introducer continues to conform to the criteria set out above;</p> <p>(f) Consider termination of the relationship where an introducer fails to provide the requisite customer identification and verification documents; and</p>

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				<p>(g) Consider termination of the relationship with an introducer who is not within the licensee's group, where there are persistent deviations from the written agreement.</p> <p>When a prospective customer is introduced from within a licensee's group, provided the identity of the customer has been verified by the introducing regulated parent company, branch, subsidiary or associate in line with the standards set out in the Guideline, it is not necessary to re-verify the identification documents unless doubts subsequently arise about the veracity of the information. The licensee should however, retain copies of the identification records in accordance with the requirements in the MLFTA. Licensees should obtain written confirmation from a group member confirming completion of verification."</p>
10.Record keeping	NC	<ul style="list-style-type: none"> Only records of business transactions exceeding \$10 000 are legislatively required to be retained for five years after termination of a transaction; No requirement in law or regulations for account files and business 	<ul style="list-style-type: none"> The MLFTA should be amended to require the retention of all necessary records on all transactions for a period of five years after termination of the transaction; Financial institutions should be legislatively required to maintain records of account files and business 	<ul style="list-style-type: none"> Section 18 of the MLFTA, 2011 requires financial institutions to establish and maintain business transaction records of all business transactions for at least 5 years from termination of the business arrangement or the transaction, where the transaction is an occasional transaction; or such longer period as

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		<p>correspondence to be retained for at least five years after the termination of the business relationship;</p> <ul style="list-style-type: none"> No direct legal requirement for financial institutions to ensure that records available on a timely basis to domestic competent authorities. 	<p>correspondence for at least five years following the termination of an account or business relationship or longer if requested by a competent authority.</p> <ul style="list-style-type: none"> Financial institutions should be legislatively required to ensure that all customer and transaction records and information are available on a timely basis. 	<p>the Authority may, in any specific case, direct.</p> <p>Section 2 of the MLFTA, 2011 defines “business transaction record” to include inter alia account files and business correspondence files in respect of the transaction.</p> <ul style="list-style-type: none"> Section 30 of the MLFTA, 2011 states that the FIU Director may: <ul style="list-style-type: none"> (b) instruct financial institutions to take such steps within such time as may be appropriate to facilitate any investigation by the Director; (c) require from a financial institution the production of any information, except information subject to legal professional privilege, that the Director considers relevant to fulfil its functions; <p>Further, subsection 4 states “For the avoidance of doubt, a financial institution shall, within such time as may be specified by the Director, or in the absence of a specified time, within a reasonable time, comply with any instruction issued or request made to the institution by the Director under this section.</p> <p>Barbados is now deemed fully compliant with this Recommendation.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
11.Unusual transactions	PC	<ul style="list-style-type: none"> Monitoring requirements specified in the AML/CFT guidelines are only enforceable on the licensees of the Central Bank and the Supervisor of Insurance The retention of the written findings of internal examinations of transactions is limited to transactions exceeding BD\$10,000. 	<p>The requirements in the AML/CFT Guidelines should be enforceable on all financial institutions;</p> <ul style="list-style-type: none"> The AML/CFT guidelines should specifically require the retention of the findings of the internal examinations of all transactions for at least five years 	<p>The relevant regulators have commenced discussions of the proposed guidelines in order to ensure compliance with the Recommendation See actions undertaken regarding enforcement as listed at Recommendation 5.</p> <p>Further, section 18(4) of the MLFTA, 2011 states “Where a financial institution does not maintain business transaction records as required under subsections (1), (2) or (3) as the case may be, the directors of the institution are guilty of an offence and are liable on conviction on indictment to a fine of \$100 000.</p> <p>The revised Central Bank Guideline is in effect and the other Guidelines are in the revision process.</p> <p>Section 9.0 of the FSC’s AML/CFT Guideline states that financial institutions must establish a document retention policy that provides for the maintenance of a broad spectrum of records, including those related to customer identification, business transactions, internal and external reporting and training.</p> <p>Financial institutions must maintain these records for a minimum of five years, in accordance with Section 18 (2) (a) of the MLFTA, after the termination of the business transaction, or the business relationship, whichever is applicable.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>However, it may be necessary for financial institutions to retain records, until such time as advised by the FIU or High Court, for a period exceeding the date of termination of the last business transaction where:</p> <ul style="list-style-type: none"> i. There has been a report of a suspicious activity; or ii. There is an on-going investigation relating to a transaction or client. <p>The FSC has also commenced onsite examinations which address unusual and suspicious transactions.</p> <p>The requirements dealing with complex, unusual large transactions in the CBB AML/CFT Guidelines are now set out in Sections 13 & 14 of the revised IBU Guideline.</p> <p>Section 17 of the revised IBU Guidelines states “Licensees should also maintain records on internal and external reports. Where an investigation into a suspicious customer or a suspicious transaction has been initiated, the Reporting Authority may request an institution to keep records until further notice, notwithstanding that the prescribed period for retention has elapsed. Even in the absence of such a request, where an institution knows that an investigation is proceeding in respect of its customer, it should not, without the prior approval of the Reporting Authority, destroy any relevant records even</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>though the prescribed period for retention may have elapsed.”</p> <p>Section 20 of said Guidelines requires a service provider to “retain records for a period of five (5) years following the discontinuation of the service.”</p>
12.DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> The requirements of Rec. 5, 6, 8 to 11, and 17 are not adequately enforced on DNFBPs not licensed by the CBB. 	<ul style="list-style-type: none"> It is recommended that the authorities enact measures to apply the requirements of Recommendations 5, 6, 8 to 11, and 17 to DNFBPs not licensed by the CBB. 	<p>Section 4 of the MLFTA, 2011 explicitly states that the Act applies to non-financial business entities and professions as set out in the Third Schedule. Part IV establishes duties of financial institutions and non-financial business entities and professionals as it relates to the specified Recommendations.</p> <p>Additionally, the International Corporate and Trust Service Providers Act, 2011 (ICTSPA) establishes a regime for registration and licensing of international service providers. The ICTSPA was passed as No. 5 of 2011.</p> <p>Among the objectives stated at Section 4(c) are to provide for the establishment of procedures and policies to be followed by international service providers to enable international service providers to</p> <ul style="list-style-type: none"> (i) know and be able to identify their clients; and (ii) exercise due diligence in the provision of international services; their clients;

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>Section 21 of the ICTSPA states “An international service provider shall comply with the Code of Practice set out in the Second Schedule. The Code includes mandatory provisions relating inter alia to customer due diligence.</p> <p>Part IV of the ICTSPA, 2011 grants the Director a range of powers of enforcement, including pecuniary penalties, suspension and revocation of a license.</p> <p>Further, as explained in the comments at Recommendations 5, the Director of International Business is among the regulatory authorities in the Second Schedule of the MLFTA, 2011 and therefore can exercise powers by virtue of 35(1) of the MLFTA, 2011.</p> <p>There is also a reference in the Code of Practice for International Service Providers in the Second Schedule of the ICTSPA. The Code refers to the fact that the international service provider shall know and be able to identify & verify its clients. The ICTSPA was passed as No. 5 of 2011.</p> <p>A DNFBPs sub-working group of the Anti-Money Laundering Authority has been recently created to make proposals to government for the formulation and supervision of the DNFBP regime generally and the drafting of guidelines.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>The ICTSPA 2011 has been repealed and replaced by the Corporate and Trust Service Providers Act (CTSPA), which was proclaimed May 1. The CTSPA broadens the regime to capture all service providers engaging in certain activities. The CTSPA serves the same purpose as the ICTSPA except that a service provider “means a person who engages in the business of providing corporate services or trust services”. Such services are defined in the First Schedule and refer to:</p> <ul style="list-style-type: none"> • acting as agent for the formation, registration or licensing of a specified entity; • providing the services of a registered office or otherwise acting as a person authorized to accept service or correspondence for the specified entity; • filing statutory forms, resolutions, returns and notices on behalf of the specified entity; • acting as, or fulfilling the function of, or arranging for another person to act as or fulfil the function of, an officer, a director or a secretary, alternate, assistant or deputy secretary, of the specified entity or in a similar relationship to the specified entity; • acting as a shareholder or a quota holder of the specified entity;

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<ul style="list-style-type: none"> providing other services involving the control of the whole or a substantial part of the assets of the specified entity.” <p>Section 35 states “The Director may issue guidelines in respect of the standards to be observed and measures to be implemented by a service provider in connection with his obligations under this Act; and the service provider shall comply with the guidelines.” CTSP licensees must therefore observe the revised AML IBU Guidelines.</p> <p>The list of non-financial business entities and professionals in the Third Schedule includes all categories of the FATF DNFBPs except for notaries and other independent legal professionals. In the local context, other independent legal professionals, such as paralegals, solely provide clerk service and do not and cannot conduct financial transactions on behalf of clients/customers. Additionally, in Barbados, the post of notary differs from that in many jurisdictions. The notaries are notaries public, that is, government officers and do not provide the type of financial services as defined by the FATF. In keeping with the Methodology, the FATF requirements do not apply. The activities of the relevant DNFBPs subject to the MLFTA 2011 also comply with FATF standards.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>The CTSPA makes the Director of International Business responsible for ascertaining compliance of service providers with the CTSPA and the MLFTA and provides a framework for a monitoring system. Regulation 2 to the First Schedule of the CTSPA was issued on the <i>Application For Corporate and Trust Service Providers</i> and establishes comprehensive requirements on particulars of the applicant and details on the provision of services (including fit and proper tests and ultimate beneficial ownership information).</p> <p>At present, the only DNFBPs which would have the requirements of the CBB Guidelines imposed are service providers who are required under section 35 of the CTSPA to comply with guidelines issued by the Director of International Business i.e. the IBU Guidelines.</p>
13.Suspicious transaction reporting	LC	<ul style="list-style-type: none"> No requirement in law or regulations to report attempted or aborted suspicious transactions. Human trafficking, corruption and bribery are not adequately addressed in legislation as predicate offences. 	The MLFTA should be amended to require the reporting of attempted or aborted transactions suspected of being involved in ML or FT.	<p>The MLFTA, 2011 defines “transaction” to include an attempted or aborted transaction.</p> <p>A "business arrangement" (a) means an arrangement, between 2 or more parties, the purpose of which is to facilitate a financial or other relevant transaction between the parties; and (b) includes (i) any related transaction between any of the parties and another person; (ii) the making of a gift; and (iii) the opening of an account;</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>"business transaction" includes a business arrangement and an occasional transaction;</p> <p>Section 23 (1)(a) states “ A financial institution shall monitor and report to the Director</p> <p style="padding-left: 40px;">(a) any business transaction where the identity of the person involved, the transaction or any other circumstance concerning the transaction gives the institution or any officer or employee of the institution reasonable grounds to suspect that the transaction</p> <p style="padding-left: 80px;">(i) involves proceeds of crime; (ii) involves the financing of terrorism; or (iii) is of a suspicious or an unusual nature;”</p> <p>See response at Recommendation 1 dealing with human trafficking, corruption and bribery.</p>
14. Protection & no tipping-off	PC	<ul style="list-style-type: none"> MLFTA establishes inconsistent mandatory and voluntary reporting provisions; immunity provision under MLFTA is not referable to mandatory reporting provisions. 	Section 22A(5) of the MLFTA should be amended to remove the reference to voluntary reporting by financial institutions, and section 22A(6) should be revised to make it clear that immunity against liability applies to the financial institutions reporting under sections 8(1)(b) and (h) of the Act.	Section 48(5) of the MLFTA, 2011 has been amended to establish mandatory reporting requirements on financial institutions to give information to the FIU; and provide for immunity for financial institutions that share said information with the FIU and report suspicious and unusual activity to the FIU, as per Section 23(2).

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15.Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> The legislative provisions for internal controls, compliance and audit do not include the imposition of penalties and sanctions for failure to comply with the provisions. No enforceable requirement for the designation of an AML/CFT compliance office at management level or development of policies and procedures for record retention. Requirements for an independent audit function, training in new techniques and trends in ML and FT, and screening procedures for new employees are only enforceable on the licensees of the CBB and the Supervisor of Insurance. 	<p>All legislative requirements for internal controls, compliance and audit should include the imposition of penalties and sanctions for failure to comply.</p> <p>All financial institutions should be required to designate an AML/CFT compliance officer at management level and develop policies and procedures for record retention.</p> <p>Requirements for an independent audit function, training in new techniques and trends in ML and FT, and screening procedures for new employees should be extended from the licensees of the CBB and the Supervisor of Insurance to all financial institutions.</p>	<p>The relevant regulators have commenced discussions of the proposed guidelines in order to ensure compliance with the Recommendation</p> <ul style="list-style-type: none"> With respect to internal policies, audit and compliance requirements, Section 19 (2) states that “Where a financial institution contravenes subsection (1), the Authority may impose on the institution a pecuniary penalty in accordance with section 36”, which deals with pecuniary penalties. Section 19(1) places a requirement on a financial institution to develop and implement internal policies, procedures and controls to combat money laundering and financing of terrorism. Policies and procedures relate to all aspects of the AML/CFT program, including record retention. <p>Powers of onsite inspection to determine compliance with the MLFTA are found at section 31.</p> <p>See actions undertaken regarding enforcement as listed at Recommendation 5.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>Since the last Plenary, the CBB revised Section 9.0 of its AML/CFT Guideline and requires licensees to appoint a person at the management level as compliance officer.</p> <p>A similar revision has been adopted in the draft revised FSC Guidelines, which will be finalized shortly. The FSC Guideline was finalized and gazetted in January 2014.</p> <p>The International Business Unit is revising its AML/CFT guideline which should be finalized by year-end. The guideline will apply to all registrants.</p> <p>Section 10.2 of the revised IBU Guidelines requires all institutions are required to appoint a Reporting Officer as the point of contact with the Reporting Authority in the handling of cases of suspicious customers and transactions. The <i>Reporting Officer</i> must be a senior member at the management level with the necessary authority and independence to ensure compliance with these Guidelines.</p> <p>The revised IBU Guidelines place a duty of vigilance to maintain records. Section 17 states “licensees should establish a document retention policy that provides for the maintenance of a broad spectrum of records including the following:</p> <p style="padding-left: 40px;">(a) Entry records: institutions must keep all account opening</p>

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				<p>records, including verification documentation and written introductions, for a period of at least 5 years after termination or, where an account has become dormant, 5 years from the last transaction.</p> <p>(b) Ledger records: institutions must keep all account ledger records for a period of at least 5 years following the date on which the relevant transaction or series of transactions is completed.</p> <p>(c) Supporting records: institutions must keep all records in support of ledger entries, including credit and debit slips and cheques, for a period of at least 5 years following the date on which the relevant transaction or series of transactions is completed.”</p> <p>Consistent with the requirements in the MLFTA, the revised Guidelines require training in new techniques and trends in money laundering and financing of terrorism (Section 10); the undertaking of due diligence on prospective staff</p>

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				members (Section 11); a service provider to obtain a separate report on its compliance with the client acceptance and other procedures from an independent person. (Section 20.2.1)
16.DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> The requirements of Recommendations 13 to 15, 17 and 21 are not adequately applied to DNFBPS not licensed by the CBB. 	<ul style="list-style-type: none"> The authorities should take measures to ensure that the requirements of Recommendations 13 to 15, 17 and 21 are applied to DNFBPS not licensed by the CBB. 	<ul style="list-style-type: none"> Section 4 of the MLFTA, 2011 explicitly states that the Act applies to non-financial business entities and professions as set out in the Third Schedule. Part IV establishes duties of financial institutions and non-financial business entities and professionals as it relates to Recommendations 13, 14, 15 and 17. <p>Also, see response to Recommendation 12, regarding international corporate and trust service providers. The ICTSPA was passed as No. 5 of 2011.</p> <p>A DNFBPs sub-working group of the Anti-Money Laundering Authority has been recently created to make proposals to government for the formulation and supervision of the DNFBP regime generally and the drafting of guidelines.</p> <p>The ICTSPA has been replaced by the CTSPA and broadens the regime to capture all service providers engaging in certain activities.</p>
17.Sanctions	LC	<ul style="list-style-type: none"> The Securities Commission and the Registrar of Co-operative Societies have no administrative power to 	<ul style="list-style-type: none"> The Securities Commission and the Registrar of Co-operative Societies should be given the administrative power to institute sanctions for AML/CFT breaches. 	<ul style="list-style-type: none"> Section 37 of the MLFTA, 2011 states at subsections: <p>(2)“Without prejudice to the powers and functions of a regulatory authority under any</p>

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		<p>institute sanctions for AML/CFT breaches.</p> <ul style="list-style-type: none"> The Securities Commission and the Registrar of Co-operative Societies have no general powers of sanctions to effectively address breaches by licensees. 	<ul style="list-style-type: none"> All regulators except for the CBB and the Supervisor of Insurance should have general powers of sanctions to effectively address breaches by licensees 	<p>other law, for the purpose of discharging its responsibility under subsection (1) in respect of persons that the regulatory authority regulates, sections 29, 31 and 33 to 36 apply to the regulatory authority, with such modifications and adaptations as may be necessary, as those sections apply to the Authority.</p> <p>(3) Where a person is regulated by more than one regulatory authority, the regulatory authorities shall consult and identify from among them, the regulatory authority to assume the primary responsibility under subsection (1).</p> <p>(4) For the avoidance of doubt, notwithstanding</p> <p style="padding-left: 40px;">(a) any other enactment and in particular, any primary enabling enactment; and</p> <p style="padding-left: 40px;">(b) any power or function of a regulatory authority under any primary enabling enactment,</p> <p>where it is suspected that a financial institution is contravening or has contravened this Act, any action to be taken by a regulatory authority in respect of the financial institution shall be so taken under this Act.</p> <ul style="list-style-type: none"> Section 5 of the SA is amended to grant the Commission powers to conduct inspections and examinations of registrants under that Act to include self-regulatory organisations, securities companies, brokers, dealers, traders,

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				<p>underwriters, issuers and investment advisers as may be necessary for giving effect to that Act.</p> <p>Section 53(4) states “In addition to the reasons set out in section 54, the Commission may suspend or revoke the registration of a securities company where the Commission is satisfied that</p> <ul style="list-style-type: none"> (a) the company has defaulted in any obligation undertaken in its capacity as a securities company; or (b) a receiving order has been made against the company.” <p>Section 54 of the SA has been amended to provide the Commission with powers of enforcement regarding market actors for reasons including failure to comply with a condition of registration, or engaging in an unsound financial practice.</p> <p>Section 133 of the SA has been amended to allow the Commission to, by instrument in writing, appoint a person to conduct such investigations as may be necessary for the proper administration of this Act and in particular to determine the validity of any allegation that</p>

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				<p>(a) a person has contravened, is contravening or is about to contravene this Act; or</p> <p>(b) any of the circumstances set out in section 54 exist in respect of a registrant.”</p> <p>Section 135 of the SA is amended to provide that “where an examination reveals that any of the circumstances set out in section 54 exists in respect of a registrant, the Commission may, where it considers it appropriate to do so, order the registrant, within such period as the Commission may specify, to take such remedial measures or action as the Commission directs.”</p> <p>Section 138 (2A) reads “Notwithstanding subsection (1)</p> <p>(a) a person who contravenes this Act or any rule solely by reason of his failure to file a document or instrument with the Commission within the time prescribed shall be liable to a penalty of \$1 000 for every month or part thereof that the document or instrument remains outstanding after the expiration of the time prescribed; and</p> <p>(b) the Commission may, without conducting a hearing, make an order imposing a penalty pursuant to paragraph (a) for the period beginning</p>

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				<p>on the day following the expiration of the prescribed period and ending on the day that the document or instrument is filed."</p> <ul style="list-style-type: none"> • Section 192B of the CSA was amended to make provision for making directives and issuing cease and desist orders, where (a) after an examination of an credit union or the receipt of any other information, the Registrar is of the opinion that the funds of the credit union are not being properly managed or protected and (b) the Registrar has reason to believe that a credit union is likely to take any action that would affect the financial soundness of the credit union. <p>Section 266 of the CSA makes provision for suspension and cancellation of registration. Subsection (e) includes failure to comply with any direction given by the Registrar under section 192B, as a reason for suspension of registration.</p> <p>The Act also makes provision for the appointment of a receiver-manager (section 136) or an Advisor (section 192B).</p>

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				Part IV of the ICTSPA, 2011 grants the Director a range of powers of sanction, including pecuniary penalties, suspension and revocation of a license. The ICTSPA was passed as No. 5 of 2011.
21.	NC	<ul style="list-style-type: none"> Financial institutions are not required to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. No effective measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. Written findings of internal examinations of transactions is limited to transactions exceeding BD\$10,000. No countermeasures issued for transactions and business relationships with countries that do not apply or insufficiently apply the FATF Recommendations. 	<p>The AML/CFT guidelines should provide specific guidance with regard to requiring special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations;</p> <p>Written findings of all transactions with no apparent economic or lawful purpose from countries that do not or insufficiently apply the FATF Recommendations should be available for competent authorities;</p>	<p>The relevant regulators have commenced discussions of the proposed guidelines in order to ensure compliance with the Recommendation</p> <ul style="list-style-type: none"> The AML/CFT Guideline issued by the Financial Services Commission now refers to the FATF's high risk and non-cooperative jurisdictions list and the UN Security Council's sanctions list. E.g. section 6.8 and 12.2.3. Further, "red flag" scenarios include references to such countries e.g. section 12.3.2. The BDS 10,000 threshold has been removed from the new Act. See Recommendation 10. Additionally, the revised FIU website will seek to keep financial institutions advised of developing issues.

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
			<p>Authorities should put in place measures to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries;</p> <p>Authorities should consider issuing instructions regarding countermeasures for transactions and business relationships with countries that do not apply or insufficiently apply the FATF Recommendations.</p>	<ul style="list-style-type: none"> Further, section 7 of the FSC AML/CFT Guideline goes on to state - a pre-requisite to identifying unusual and suspicious activity is the profiling of customers and determination of consistent transaction limits. Unusual transactions are not necessarily suspicious, but they should give rise to further enquiry and analysis. In this regard, financial institutions must examine, to the extent possible, the background and purpose of transactions that appear to have no apparent economic or visible lawful purpose, <u>irrespective of where they originate</u>. Financial institutions are required to document their internal enquiries (section 7.1) and report forthwith to the FIU (section 7.2). Financial institutions are required to maintain records of internal and external reporting (section 9.0), which include internal written findings of transactions investigated irrespective of whether a suspicious report was made. <p>Since the last Plenary, the CBB revised its AML/CFT Guideline to require licensees to observe the Public Statements issued by the FATF and CFATF as it relates to business relationships and transactions with natural and legal persons, and financial institutions from listed countries.</p>

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				<p>The FSC has adopted a similar provision in their updated AML/CFT Guideline which will be finalized shortly.</p> <p>The FSC Guideline was finalized and gazetted in January 2014.</p> <p>The International Business Unit is revising its AML/CFT guideline which should be finalized by year-end. The guideline will apply to all registrants.</p> <p>The revised IBU Guidelines require institutions to: Observe the Public Statements issued by the FATF and CFATF as it relates to business relationships and transactions with natural and legal persons, and financial institutions from listed countries. Where a decision is taken to apply enhanced due diligence measures these should be effective and proportionate to the risks (Section 9.1); Examine, to the extent possible, the background and purpose of transactions that appear to have no apparent economic or visible lawful purpose, irrespective of where they originate (Section 14) and maintain records on internal and external reports (Section 17). Section 18 stipulates that institutions should keep all relevant records in readily retrievable form and be able to access record without undue delay</p>
22.Foreign branches & subsidiaries	PC	<ul style="list-style-type: none"> The requirement for financial institutions to ensure that their foreign branches and subsidiaries observe 	The requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with the requirements of	The relevant regulators have commenced discussions of the proposed guidelines in order to ensure compliance with the Recommendation.

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
		<p>AML/CFT measures consistent with the requirements of Barbados is only enforceable on the licensees of the CBB and the Supervisor of Insurance.</p> <ul style="list-style-type: none"> No requirement for financial institutions to pay particular attention that their foreign branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations observe AML/CFT measures consistent with requirements in Barbados and the FATF Recommendations No requirement for branches and subsidiaries in host countries to apply the higher standard where the minimum AML/CFT requirements of the home and host countries differ to the extent that host country laws and regulations permit. The requirement for financial institutions to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local laws, regulations or other 	<p>Barbados and the FATF should be extended from the licensees of the CBB and the Supervisor of Insurance to all financial institutions.</p> <p>Financial institutions should be required to pay particular attention that their foreign branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations observe AML/CFT measures consistent with requirements in Barbados and the FATF Recommendations.</p> <p>Branches and subsidiaries in host countries should apply the higher standard where the minimum AML/CFT requirements of the home and host countries differ to the extent that host country laws and regulations permit.</p> <p>The requirement for financial institutions to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local laws, regulations or other measures should be extended from the licensees of the CBB and the Supervisor of Insurance to all financial institutions.</p>	<p>Refer to earlier comments regarding Recommendations 5 and 17 on enhanced enforcement powers of regulators.</p> <ul style="list-style-type: none"> The FSC's AML/CFT Guideline now refers to the FATF's high risk and non-cooperative jurisdictions list and the UN Security Council's sanctions list. E.g. section 6.8 and 12.2.3. Further, "red flag" scenarios include references to such countries e.g. section 12.3.2. Section 2 of the FSC's AML/CFT Guideline obligates financial institutions to ensure that, at a minimum, the guideline is also implemented in their branches and subsidiaries abroad and where permitted in the host country, ensure that these operations apply the higher of local and host standards. As is the case with the CBB Guideline, the aforementioned is without exception and therefore applies in both cases where the country sufficiently or insufficiently applies the FATF Recommendations. This section further states - In accordance with section 37 of the MLFTA the regulator holds primary

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		measures is only enforceable on the licensees of the CBB and the Supervisor of Insurance.		<p>responsibility for ensuring compliance with the Act and financial institutions must inform the FSC if the local applicable laws and regulations prohibit the implementation of this Guideline.</p> <p>The International Business Unit is revising its AML/CFT guideline which should be finalized by year-end. The guideline will apply to all registrants.</p> <p>Section 8 of the revised IBU Guideline requires licensees to:</p> <ul style="list-style-type: none"> ○ Ensure that such branches or subsidiaries observe this Guideline and apply the higher of local and host standards ○ keep all such branches and subsidiaries informed as to current group policy; ○ Ensure that special attention is paid to foreign branches and subsidiaries in countries that do not or insufficiently apply the FATF Recommendations such that they observe AML/CFT measures consistent with the Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011-23, these Guidelines and the FATF Recommendations;

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<ul style="list-style-type: none"> ○ Inform the IBD and the Reporting Authority when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures due to prohibitions by local laws, regulations or other measures; and ○ Ensure that each branch or subsidiary informs itself as to its own local reporting point equivalent to the Reporting Authority (<u>Financial Intelligence Unit</u>) in Barbados and that it is conversant with procedures for disclosure.
23.Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> • The Securities Commission has no power of approval over ownership of significant or controlling interests of its registrants. • The Registrar of Co-operatives has no power of approval over senior management of its licensees. • The Securities Commission is not required to use fit and proper criteria in approving directors, senior management and ownership of significant or controlling interests of their licensees. 	<ul style="list-style-type: none"> • The Securities Commission should have power to approve ownership of significant or controlling interests of their registrants. • The Registrar of Co-operatives should have power to approve senior management of their licensees. • The Securities Commission should be required to use fit and proper criteria in approving directors, senior management and ownership of significant or controlling interests of their licensees. • There is need for the development and 	<p>With respect to the outstanding issue relating to approving ownership of the controlling interests, an appropriate amendment is being considered to the Financial Services Commission Act.</p> <ul style="list-style-type: none"> • With respect to the Registrar of Cooperatives and the approval of senior management, The FSC has confirmed that for cooperatives, the fit and proper process is executed at the time of appointment of the officers and the approval for senior management will occur at that time. The fit and proper form is included. • With respect to the outstanding issue relating to Securities Commission and the fit and proper criteria, Section 6(3) of the

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
		<ul style="list-style-type: none"> Stand alone MVT service providers are not subject to effective systems for monitoring and ensuring compliance with national AML/CFT requirements. 	implementation of a framework for regulating and supervising MVT services that are not licensees of the Central Bank.	<p>Financial Services Commission Act states that “Where an application is made to the Commission under subsection (1), the Commission shall issue a certificate of registration or a licence, as the case may be, if it is satisfied that the requirements for the registration or the grant of a licence under any of the specified enactments are fulfilled and that the person is a fit and proper person to operate a financial services business.” The fit and proper form is enclosed.</p> <ul style="list-style-type: none"> With respect to MVTs, the Barbadian authorities are engaged in on-going discussions with respect to the regulation framework for this sector. The Fourth Schedule of the MLFTA 2011 amends section 126 (1) of the Securities Act by making provision for “prescribing the format and content of filings and applications and the filing of copies of documents filed with any government agency, including with respect to electronic filing of matters;” <p>Section 54 makes the following grounds for suspension and revocation of registration –</p>

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				<p>(k) the market actor is otherwise financially unsound; (l) the market actor has been convicted of an offence involving fraud or dishonesty; (m) the market actor has been guilty of any other type of misconduct;</p> <p>It is also now an offence to knowingly or recklessly make: “(i) a misrepresentation in any filing, application, notification, or other document required to be filed, delivered or notified to the Commission under this Act; or (ii) any other misrepresentation in contravention of this Act or any regulation;”</p> <p>Revision to 142(1) of the SA.</p> <ul style="list-style-type: none"> • The Fourth Schedule of the MLFTA 2011 amends section 7 of the Cooperatives Act to make it a condition of a license that the directors and other officers of the society are fit and proper to hold their respective office. • Further, the Fourth Schedule of the MLFTA 2011 amends section 4 of the EIA and section 12(1) of the IA to

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				<p>insert a similar provision relating to fitness and propriety.</p> <ul style="list-style-type: none"> Further, section 7. (1) of the ICTSPA, 2011 states: “A person may, in the prescribed form, apply to the Director for a licence to provide <ul style="list-style-type: none"> (a) an international corporate service; or (b) an international trust service. <p>(2) An applicant shall submit with the application such information and documents as the Director may require to determine whether a license should be issued to the applicant.</p> <p>(3) Where the Director is satisfied that an applicant <ul style="list-style-type: none"> (a) is a fit and proper person to provide an international service; (b) has the financial standing necessary to operate the business;..” </p> <p>Amendments to banking legislation have been drafted to bring stand-alone MVTs under the regulation and supervision of the CBB.</p>
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> No measures to monitor and ensure compliance of DNFBPs with AML/CFT requirements except those licensed by the CBB. 	<ul style="list-style-type: none"> It is recommended that the authorities take measures to ensure that the requirements of Recommendations 24 and 25 should apply to DNFBPs not licensed by the CBB. 	Section 4 of the MLFTA, 2011 explicitly states that the Act applies to non-financial business entities and professions as set out in the Third Schedule. Part IV establishes duties of financial institutions and non-financial business entities

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>and professionals as it relates to Recommendations 24 and 25.</p> <p>Additionally, the ICTSPA, 2011 establishes a regime for registration and licensing of international service providers. The ICTSPA was passed as No. 5 of 2011.</p> <p>Among the objectives stated at Section 4(c) are to provide for the establishment of procedures and policies to be followed by international service providers to enable international service providers to</p> <ul style="list-style-type: none"> (iii) know and be able to identify and verify their clients; and (iv) exercise due diligence in the provision of international services; their clients; <p>Section 21 of the ICTSPA states “An international service provider shall comply with the Code of Practice set out in the Second Schedule. The Code includes mandatory provisions relating inter alia to customer due diligence.</p> <p>Part IV of the ICTSPA, 2011 grants the Director a range of powers of sanction, including pecuniary penalties, suspension and revocation of a license.</p>

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				<p>A DNFBP sub-working group of the Anti-Money Laundering Authority has been recently created to make proposals to government for the formulation and supervision of the DNFBP regime generally.</p> <p>The ICTSPA 2011 has been repealed and replaced by the Corporate and Trust Service Providers Act (CTSPA), which was proclaimed May 1. The CTSPA broadens the regime to capture all service providers engaging in certain activities. The CTSPA serves the same purpose as the ICTSPA except that a service provider “means a person who engages in the business of providing corporate services or trust services”. Such services are defined in the First Schedule and refer to:</p> <ul style="list-style-type: none"> • acting as agent for the formation, registration or licensing of a specified entity; • providing the services of a registered office or otherwise acting as a person authorized to accept service or correspondence for the specified entity; • filing statutory forms, resolutions, returns and notices on behalf of the specified entity; • acting as, or fulfilling the function of, or arranging for another person to act as or fulfil the function of, an officer, a director or a secretary, alternate, assistant or deputy

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				<p>secretary, of the specified entity or in a similar relationship to the specified entity;</p> <ul style="list-style-type: none"> • acting as a shareholder or a quota holder of the specified entity; • providing other services involving the control of the whole or a substantial part of the assets of the specified entity.” <p>Section 35 states “The Director may issue guidelines in respect of the standards to be observed and measures to be implemented by a service provider in connection with his obligations under this Act; and the service provider shall comply with the guidelines.” CTSP licensees must therefore observe the revised AML IBU Guidelines.</p> <p>The enactment of the CTSPA establishes a registrations and licensing regime and a supervisory regime for service providers and pursuant to Part IV of the CTSPA the Director of International Business is responsible for ensuring that service providers observe AML/CFT requirements of the MLFTA 2011 and has the authority to access necessary information and conduct on-site investigations of service providers and apply sanctions for breaches of the MLFTA. Regulation 2 to the First Schedule of the CTSPA was issued on the <i>Application For Corporate and Trust Service Providers</i> and establishes comprehensive</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				requirements on particulars of the applicant and details on the provision of services (including fit and proper tests and ultimate beneficial ownership information). It is noted that similar regimes will have to be established for the remaining DNFBPs.
25. Guidelines & Feedback	PC	<ul style="list-style-type: none"> The FIU does not provide feedback on STRs to financial institutions. No specific guidelines have been issued for DNFBPs to implement and comply with AML/CFT requirements except those regulated by the CBB. 	The FIU should provide feedback to financial institutions with regard to suspicious transaction reports.	<p>The FIU currently provides specific feedback to financial institutions with respect to ongoing STRs. This is done in a manner that will not compromise the investigation process. As matters are completed or closed, the financial institutions will be given a short summary of basic findings.</p> <p>A DNFBP sub-working group of the Anti-Money Laundering Authority has been recently created to make proposals to government for the formulation and supervision of the DNFBP regime generally.</p> <p>The FIU met with Compliance Officers from varying sectors including domestic banks, insurance, international banks, credit unions, finance companies, money service businesses, company & trust service providers to provide feedback on local and regional typologies and trends for money laundering. This meeting occurred in February 2014.</p>
Institutional and other measures				

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26.The FIU	LC	<ul style="list-style-type: none"> No annual report released by the FIU since the 2000/2001 report. There was no information on typologies and trends with regard to SUTRs in the report. 	<ul style="list-style-type: none"> The FIU should publicly release all outstanding annual reports and include in such reports, statistics, typologies and trends as well as information regarding its activities. The FIU should seek to enhance the level of AML/CTF awareness within the local financial services sector with a view to providing more detailed guidance to reporting institutions as to their reporting obligations under Section 8 (b) of the MLFTA. This would seek to address concerns of possible under-reporting by financial institutions. The FIU should seek to follow through on its plans to further upgrade its IT capabilities. This would diminish its reliance on manual processes and the older and less reliable electronic storage systems (Microsoft access) currently being utilized to handle and store information. While the FIU was able to produce adequate statistics relating to SUTRs, it should seek to broaden these statistics so as to include prescribed predicate offences linked to SUTRs filed by reporting 	<p>The outstanding annual reports have been completed and sent to Parliament.</p> <p>The 2009-2012 outstanding Annual Reports were approved by the Anti-Money Laundering Authority at the February 2014 meeting and will shortly be forwarded to the Ministry and laid in Parliament.</p> <p>The FIU provides more detailed guidance to financial institutions via discussions and meetings with compliance officers as well as detailed training for the staff. This training includes the analysis of key factors that will trigger the reporting obligation.</p> <p>The FIU has upgraded its IT system through the acquisition of additional research tools and a more robust database system. Security has been increased with the installation of additional firewalls.</p>

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			institutions	
29.Supervisors	LC	<ul style="list-style-type: none"> The Securities Commission does not have the authority to conduct inspections of financial institutions, including on-site inspections to ensure compliance. 	<ul style="list-style-type: none"> The Securities Commission should have the authority to conduct inspections of financial institutions, including on-site inspections to ensure compliance. 	<ul style="list-style-type: none"> Section 5 of the SA is amended to grant the Commission powers to conduct inspections and examinations of registrants under that Act to include self-regulatory organisations, securities companies, brokers, dealers, traders, underwriters, issuers and investment advisers as may be necessary for giving effect to that Act. <p>As mentioned previously, amendments at sections 133 and 135 also speak to the Commission's powers in this regard.</p>
30.Resources, integrity and training	PC	<ul style="list-style-type: none"> The FIU lacks sufficient resources (human and technological) to allow it to properly carry out all its functions in its mandate. Law enforcement and prosecutorial authorities are inadequately resourced. 	<ul style="list-style-type: none"> Authorities should consider giving the FIU greater access or control of its finances so as to enhance its current structure. This would allow the FIU to maintain and where possible increase its current level of staffing and further develop its IT capabilities so as to conduct more detailed analysis and investigation of SUTRs. 	<ul style="list-style-type: none"> The FIU has upgraded its IT system through the acquisition of a more robust database system and increased protection through the installation of additional firewalls and research tools. <p>Between 2006 until present, the Royal Barbados Police Force has recruited approximately 200 additional persons.</p> <p>Staffing is being strengthened with the establishment of the Financial Services</p>

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		<ul style="list-style-type: none"> The Registrar of Co-operative Societies has inadequate number of staff 		<p>Commission, under whose umbrella will sit the regulation and supervision of cooperatives. The Financial Services Commission Act was passed as No. 21 of 2010 and the Commission came into effect on April 1, 2011.</p> <p>The FIU recruited another Senior Analyst in 2012.</p> <p>The FSC is now also responsible for credit unions and the staff complement currently stands at 60.</p> <p>The Financial Crimes Investigations Unit of the Royal Barbados Police Force has recruited a policeman who is also an Attorney-at-Law to assist with financial crime investigations</p>
32.Statistics	LC	<ul style="list-style-type: none"> No statistics on the following; <ul style="list-style-type: none"> Cross-border declaration reports Spontaneous referrals made by the FIU to foreign authorities Insufficient details on mutual legal assistance requests. 	<ul style="list-style-type: none"> The competent authorities should seek to broaden the type of statistical data maintained in relation to the cross-border declaration system. Apart from assisting the authorities in measuring the effectiveness of the cross-border declaration system, it will also assist in identifying existing weaknesses thus allowing the competent authorities to enhance the system where necessary so as to facilitate and ensure stricter compliance. 	<p>The Customs Department now maintains statistics with respect to cross-border declarations.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
			<ul style="list-style-type: none"> The authorities should maintain statistics on spontaneous referrals made by the FIU to foreign authorities. 	The FIU now maintains statistics on spontaneous referrals of information to foreign authorities.
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> There is no legislative requirement for legal persons to disclose beneficial ownership information. 	<ul style="list-style-type: none"> The authorities should consider improving the present system for access to beneficial ownership by establishing a complementing national registry. The authorities should enact legislative requirements for legal persons to disclose beneficial ownership information. 	<p>The onus has been placed on the service providers to capture this information under the International Corporate and Trust Service Providers legislation.</p> <p>A Cabinet Paper has been drafted by the Ministry of International Business and International Transport (International Business Unit) to progress the Regulations to the International Corporate and Trust Service Providers legislation and is currently before Cabinet.</p> <p>The Cabinet Paper has been approved and the draft legislation is with the Chief Parliamentary Counsel for review.</p> <p>Further revisions were drafted by the CPC to the CA and the SRLA for the filing of prescribed annual returns. A new Amendment was drafted to Section 170 of the CA to make provision for registered offices to maintain details pertaining to beneficial owners. In addition, enforcement provisions have been strengthened. The Bill will be finalized shortly.</p> <p>The CTSPA now replaces the ICTSPA.</p> <p>The commencement date of the Corporate (Miscellaneous Provisions) Act (CMPA) was February 09, 2015. This Act amends Section</p>

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				<p>15A of the Companies Act by requiring that “A director or an authorized officer of a company shall certify in an annual return filed under subsection (1), that information related to shareholders and beneficial ownership is maintained at the registered office of the company.” The foregoing does not apply to exempt insurance companies, IBCs, international SRLs. (These entities must comply with the AML Guidelines which addresses beneficial ownership requirements).</p> <p>Section 170 (c) of the Companies Act is amended to include “a record of the beneficial ownership of companies incorporated or registered in Barbados.”</p> <p>Section 24(1) of the SRLA is amended to include a “record of the beneficial ownership of the society.”</p> <p>It is noted that the FATF Recommendation requires that such information can be obtained or accessed in a timely fashion by competent authorities. In this regard each competent authority has powers of access and enforcement for failure of persons to provide information upon request. Section 48 of the MLFTA provides for information sharing between competent authorities, which would capture any legal and beneficial ownership information held by the Registrar of Companies, Tax Authority and Regulators.</p>

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				<p>The CMPA also strengthens penalties at e.g. Sections 175, 432 and 434 of the Companies Act; Section 29 of the SRLA.</p> <p>All service providers engaged in the business of providing corporate and/or trust services are subject to penalties under section 28 of the CTSPA for failure to comply with the MLFTA. Sections 15(4) and 18 of the MLFTA require the obtaining and keeping of records of beneficial ownership information. As such all service providers are required to maintain beneficial ownership information.</p>
34. Legal arrangements – beneficial owners	PC	<ul style="list-style-type: none"> International trusts supervised by the Ministry of Economic Affairs and development, lawyers and accountants are not subject to measures for monitoring and ensuring compliance with AML/CFT requirements i.e. retention of beneficial ownership and control information. 	<ul style="list-style-type: none"> It is recommended that the authorities should implement measures for monitoring and ensuring compliance of international trusts supervised by the Ministry of Economic Affairs and Development, lawyers and accountants with AML/CFT requirements i.e. retention of beneficial ownership and control information. 	<p>The onus is placed on the service provider to obtain and maintain beneficial ownership information in accordance with ICTSPA. The FSC and the International Business Unit are negotiating an arrangement with respect to the monitoring regime for international trusts.</p> <p>Supervision will be strengthened with the establishment of the Financial Services Commission–The Financial Services Commission Act was passed as No. 21 of 2010 and the Commission came into effect on April 1, 2011.</p> <p>The International Business Unit and the FSC are discussing a monitoring regime. Section 4 (1) (e) of the Financial Services Commission Act states that one of the purposes of the Commission is to provide technical assistance and advice to the International Business Unit or</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>to any other government agency in relation to its responsibilities under any law to supervise, regulate or monitor any business operating in Barbados.</p> <p>Since last Plenary, the draft ICTSP Regulations were revised, approved by Cabinet and are now being redrafted by the CPC.</p> <p>Revisions to the Corporate and Trust Service Providers Bill are at an advanced stage of completion.</p> <p>The CTSPA now replaces the ICTSPA and captures international trusts to which the <i>International Trusts Act</i>, Cap. 245 applies. The services listed in subparagraph (2) of the First Schedule are treated as trust services, where provided to an international trust or a private trust company. As stated earlier the onus is placed on the service provider to obtain and maintain beneficial ownership information. Providers must observe the revised AML Guidelines issued by the IBU.</p> <p>The CTSPA makes the Director of International Business responsible for ascertaining compliance of service providers with the CTSPA and the MLFTA and provides a framework for a monitoring system. Regulation 2 to the First Schedule of the CTSPA was issued on the <i>Application For Corporate and Trust Service Providers</i> and establishes comprehensive requirements on particulars of</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>the applicant and details on the provision of services (including fit and proper tests and ultimate beneficial ownership information).</p> <p>The CMPA also strengthens penalties at e.g. Sections 175, 432 and 434 of the Companies Act; Section 29 of the SRLA.</p>
International Co-operation				
35. Conventions	LC	<ul style="list-style-type: none"> All designated categories of offences are not adequately addressed in the range of predicate offences Instrumentalities intended for use in the commission of an offence are not subject to restraint/forfeiture measures. The custodial definition of serious crime under the restraint/forfeiture regime is narrower than the Palermo Convention 	<ul style="list-style-type: none"> The authorities should fully implement; (i) the Palermo Convention by specifically legislating for human trafficking and updating the corruption/bribery laws; (ii) UN Resolutions S/RES/1373(2001) by explicitly legislating a mechanism to freeze assets of UN designated entities. 	<p>The Transnational Organised Crime (Prevention and Control) Act was passed in Parliament as No. 3 of 2011</p> <p>Part VI of the Prevention of Corruption Bill 2010 provides for the offences of bribery, solicitation and related offences. The Bill is under review by a Joint Select Committee of Parliament after having received feedback from several stakeholders.</p> <p>The Prevention of Corruption Act, 2012-31 was recently enacted and will shortly be proclaimed.</p>
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> Range of mutual legal assistance does not include the instrumentalities of ML and FT. Compulsory evidence gathering and forfeiture powers under POCA are not available to the Central Authority. The custodial element of serious crime under the restraint/forfeiture regime is narrower than the Palermo Convention. 	<ul style="list-style-type: none"> The definition of “serious offences” under MACMA should be revised to make it applicable to offences attracting at least a 4-year custodial penalty, in accordance with the Palermo Convention. The MACMA provisions dealing with restraint, forfeiture and confiscation should be amended to ensure 	<p>With respect to the underlined outstanding aspects of this Recommendation, the local authorities are in the process of reviewing the measures in light of existing regimes and the requirements of this Recommendation.</p> <p>The Fourth Schedule of the MLFTA amends section 2 of the MACMA to reduce the definition of “serious offences” to 4 years. The new Section 2(6) also refers to instrumentalities.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
		<ul style="list-style-type: none"> • No mechanism to deal with dual jurisdictional conflict. • Not possible to assess effectiveness of mutual legal assistance measures due to limited number of MLAT's. 	<p>instrumentalities of, or intended for use in, the relevant offences are covered.</p> <ul style="list-style-type: none"> • The range of evidence-gathering powers available for the satisfaction of mutual assistance requests should be reviewed. In particular, monitoring order and other powers under POCA should be examined with a view to extending their application to serious offences committed locally or abroad. • The authorities should consider devising and applying mechanisms for dealing with dual jurisdictional conflict. • The authorities should consider increasing their capacity for information exchange under section 6C of the MLFTA by seeking to negotiate bilateral agreements or MOU's with foreign states. • The authorities should consider negotiating with the UK Government for another MLAT covering areas outside drugs dealing; and generally seek opportunities to progressively conclude MLAT's with a broader range of countries. 	<p>MACMA has also been amended to include section 16A and section 27A relating to assistance in obtaining a forfeiture or confiscation order.</p> <p>The new Section 31A of the MACMA states that sections 42-46 (production and inspection orders); section 47(search warrants) and Section 48-9 (monitoring orders) of the POCA apply to MACMA.</p> <p>The FIU is in the process of negotiating several MOUs and has signed MOUs with St. Vincent and the Grenadines, Bermuda and Nigeria.</p> <p>The authorities have reviewed the mutual legal assistance framework. The authorities are firmly of the view that the MACMA complements the drug trafficking agreement with the UK as it was purposely drafted to cover all serious offences including those other than drug offences. The agreement was purposely drafted to relate to specific matters with the UK relating to drug offences but the MACMA provides the broadest basis for cooperation. The Act is based on the Harare scheme however it was amended in 2001 to cover both Commonwealth and non-</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>Commonwealth countries. The authorities state that they have yearly instances with countries in providing mutual legal assistance under the MACMA without any challenges.</p> <p>With respect to dual jurisdictional conflict, the authorities have advised that the principle to be applied is that the best venue for the prosecution of defendants should be determined by the country which has the best chance of a successful prosecution. This is usually based on the preponderance of the evidence gathered against the defendants. The authorities state that it is not uncommon for there to be a mere exchange of notes between the countries in this regard. This occurred with one fugitive who was wanted for murder in Barbados but held in Barbados for arson. The authorities wrote to the authorities in Trinidad and Tobago requesting his arson. The countries agreed and the fugitive was successfully prosecuted in Barbados. This is one mere instance of the regular practice with countries.</p> <p>Barbados is now deemed fully compliant with this Recommendation.</p>
38.MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> No provision for foreign states to request local authority to apply for forfeiture/confiscation orders or vice versa except in limited circumstances under section 16 of the ATA. 	<ul style="list-style-type: none"> MACMA should be amended to enable Barbados or foreign states to seek reciprocal assistance in obtaining forfeiture/confiscation orders in the jurisdiction of the other country, where the suspect has been convicted of a serious 	Part V of the Transnational Organised Crime (Prevention and Control) Act, 2011 establishes the Fund. The authorities are reviewing the assets sharing capacity in order to accord with the requirements of this Recommendation.

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
		<ul style="list-style-type: none"> • No provision for the freezing, seizure or confiscation of instrumentalities of ML and FT. • No arrangements for co-coordinating seizure and confiscation actions with other countries. • No evidence of consideration of establishing an asset forfeiture fund 	<p>offence in the requesting state. In particular, where Barbados's assistance is being sought, the forfeiture/confiscation powers under POCA should be made available.</p> <ul style="list-style-type: none"> • The establishment of a dedicated forfeiture fund whose proceeds should be earmarked for law enforcement or other deserving purposes should be considered. • Extension of the existing statutory coverage of asset sharing with other countries so that the facility is available in cases of all serious crimes should be considered. 	<p>MACMA has also been amended to include section 16A and section 27A relating to assistance in obtaining a forfeiture or confiscation order. The new Section 31A of the MACMA states that sections 42-46 (production and inspection orders); section 47 (search warrants) and Section 48-9 (monitoring orders) of the POCA apply to MACMA.</p> <p>In reviewing the criminal confiscation and civil forfeiture regime, the Cabinet approved the development of asset sharing abilities between countries through formalized agreements.</p> <p>With respect to asset sharing, section 4 of the Criminal Assets Recovery Fund Bill, 2016 states that</p> <p>There shall be paid into the Fund</p> <p>(a)the proceeds of any seized assets recovered under a forfeiture or confiscation order pursuant to the (i)Proceeds of Crime Act, Cap. 143; (ii)the Money Laundering and Financing of Terrorism (Prevention and Control) Act, Cap. 129;</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>(iii)the Anti-Terrorism Act, Cap. 158; the Trafficking in Persons Prevention Act, 2016 (Act 2016-);</p> <p>(iv) and the proceeds of any seized assets <u>recovered under a forfeiture or confiscation order pursuant to any other Act; any moneys voted for the purpose by Parliament;</u></p> <p>(v)any sums paid to the Government of Barbados by a foreign state recovered from seized assets whether under a treaty or a bilateral agreement which makes provision for the sharing of such assets; and any moneys received from any other source for the purposes specified in section 6. The Bill is currently in the House.</p> <p>The Proceeds of Crime and Instrumentalities Bill, 2015 has been drafted. This Bill provides, inter alia, for civil forfeiture. Comments are currently being solicited from the various local stakeholders.</p>
40.Other forms of co-operation	LC	<ul style="list-style-type: none"> The Ministry of Economic Affairs and Development cannot share information with foreign counterparts The Registrar of Co-operative Societies can only share information by Court Order. 	<ul style="list-style-type: none"> The Ministry of Economic Affairs and Development should be authorized to share information with foreign counterparts. The Registrar of Co-operative Societies should be empowered to share information with foreign counterparts without a Court 	<p>The Fourth Schedule of the MLFTA 2011 amends section 25(3) of the IBC Act to permit the disclosure of information under the MLFTA 2010.</p> <p>The Fourth Schedule of the MLFTA 2011 amends section 71 of the CSA by making provision for the sharing of information with foreign counterparts. See comments at Recommendation 5.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
			Order	Barbados is now deemed fully compliant with this Recommendation.
Nine Special Recommendations		Summary of factors underlying rating		
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> No requirement to freeze terrorist funds or other assets of persons designated by the UN Al-Qaida and Taliban Sanctions Committee. Overlap between ATA and POCA respecting freezing/forfeiture and ambiguous aspects to ATA forfeiture power, both detracting from effectiveness 	<ul style="list-style-type: none"> The authorities should fully implement; (i) the Palermo Convention by specifically legislating for human trafficking and updating the corruption/bribery laws; (ii) UN Resolutions S/RES/1373(2001) by explicitly legislating a mechanism to freeze assets of UN designated entities. 	<p>As mentioned at Recommendations 1 and 3, The Transnational Organised Crime (Prevention and Control) Act was passed in Parliament as No. 3 of 2011. The Prevention of Corruption Bill has been discussed and approved by Cabinet. The ATA Cap. 158 is absolute in that it does not provide any restriction whatsoever relating to the freezing of assets.</p> <p>The Prevention of Corruption Bill is presently before a Joint Select Committee of Parliament. Stakeholders from the public and private sectors have provided their comments on the Bill to the Select Committee. The Committee will shortly review these comments and indicate its course of action.</p> <p>The Prevention of Corruption Act, 2012-31 was recently enacted and will shortly be proclaimed.</p> <p>A Cabinet paper has been prepared for the amendments to the Anti-Terrorism Act to ensure that there is compliance with SR I.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>The developments relating to Recommendation 38 relating to confiscation and forfeiture are reiterated here for this Special Recommendation 1.</p> <p>The Anti-Terrorism (Amendment) Act 2015-28 became enforceable on the publication of the November 5, 2015 Official Gazette. This Act enables the freezing/restraint of assets owned or controlled by persons/entities designated by the UN Sanctions Committee in keeping with the UN Security Resolutions 1267 and 1373. The freezing & forfeiture regimes under the ATA were removed and are placed under POCA. The Schedule to the AT(A) amends the POCA in this regard.</p>
SR III	PC	<ul style="list-style-type: none"> No requirement to freeze terrorist funds or other assets of persons designated by the UN Al-Qaida and Taliban Sanctions Committee. Divergent policy re forfeiture/restraint under ATA and POCA. 	<ul style="list-style-type: none"> The authorities incorporate into legislation requirements, a special mechanism to enable the freezing/restraint of assets owned or controlled by persons/entities designated by the UN Sanctions Committee, in keeping with UN Security Council Resolution 1267 of 1999. The requirements should also confer power to authorise the release of funds required to be frozen, for the purpose of meeting basic expenses associated with, e.g., the accused's reasonable subsistence or defence of criminal proceedings. The 2002 Commonwealth Model Legislative 	<p>The POCA schedule has been amended to include sections 3 to 6 of the ATA. The MLFTA 2011 refers to both ML & TF.</p> <p>The authorities are currently reviewing the provisions relating to the freezing of terrorist funds and assets of persons designated by the UN Al-Qaida Sanctions Committee.</p> <p>A Cabinet paper has been prepared for the amendments to the Anti-Terrorism Act to ensure that there is compliance with SR III.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
			<p>Provisions on the “specified (listed) entity” regime provide a useful guide.</p> <ul style="list-style-type: none"> • The authorities should critically review the freezing/restraint and forfeiture regimes under the ATA and POCA, with a view to amending the legislation to provide for a uniform approach to these measures. • The authorities should review the grounds needed to support an application for a freezing order under section 8(1) of the ATA, so as to ensure consistency between local cases and those arising from mutual legal assistance requests. • Expand the scope of the MLFTA to incorporate FT in sections 9-11. 	<p>The Anti-Terrorism (Amendment) Act 2015-28 became enforceable on the publication of the November 5, 2015 Official Gazette. This Act enables the freezing/restraint of assets owned or controlled by persons/entities designated by the UN Sanctions Committee in keeping with the UN Security Resolutions 1267 and 1373. The freezing & forfeiture regimes under the ATA were removed and are placed under POCA. The Schedule to the AT(A) amends the POCA in this regard.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				The equivalent sections 9-11 in the previous Act are section 20-21 and 39 of the MLFTA 2011.
SR.IV Suspicious transaction reporting	LC	<ul style="list-style-type: none"> No requirement in law or regulations to report attempted or aborted suspicious transactions. 	The MLFTA should be amended to require the reporting of attempted or aborted transactions suspected of being involved in ML or FT.	<p>Refer to previous comments relating to Recommendation 13.</p> <p>Barbados is now deemed fully compliant with this Recommendation.</p>
SR.V International co-operation	PC	<ul style="list-style-type: none"> Factors in Recs. 36 and 38 are also applicable. 	<ul style="list-style-type: none"> The definition of “serious offences” under MACMA should be revised to make it applicable to offences attracting at least a 4-year custodial penalty, in accordance with the Palermo Convention. The MACMA provisions dealing with restraint, forfeiture and confiscation should be amended to ensure instrumentalities of, or intended for use in, the relevant offences are covered. The range of evidence-gathering powers available for the satisfaction of mutual assistance requests should be reviewed. In particular, monitoring order and other powers under POCA should be examined with a view to extending their application to serious offences committed locally or abroad. 	This has been dealt with in Recommendation 36 and 38.

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
			<ul style="list-style-type: none"> • The authorities should consider devising and applying mechanisms for dealing with dual jurisdictional conflict. • The authorities should consider increasing their capacity for information exchange under section 6C of the MLFTA by seeking to negotiate bilateral agreements or MOU's with foreign states. • The authorities should consider negotiating with the UK Government for another MLAT covering areas outside drugs dealing; and generally seek opportunities to progressively conclude MLAT's with a broader range of countries. • MACMA should be amended to enable Barbados or foreign states to seek reciprocal assistance in obtaining forfeiture/confiscation orders in the jurisdiction of the other country, where the suspect has been convicted of a serious offence in the requesting state. In particular, where Barbados's assistance is being sought, the forfeiture/confiscation powers under POCA should be made available. 	<p>In reviewing the criminal confiscation and civil forfeiture regime, the Cabinet approved the development of asset sharing abilities between countries through formalized agreements.</p> <p>Cabinet has approved the creation of a dedicated confiscated assets fund.</p> <p>The authorities are in the process of preparing the relevant Cabinet Paper with respect to the development of the current mutual legal assistance framework.</p> <p>The Cabinet approved in April 2015 the matters relating to asset sharing, forfeiture fund. The CPC will commence drafting shortly.</p> <p>The Criminal Assets Recovery Fund Bill, 2016 is before the House.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
			<ul style="list-style-type: none"> The establishment of a dedicated forfeiture fund whose proceeds should be earmarked for law enforcement or other deserving purposes should be considered. Extension of the existing statutory coverage of asset sharing with other countries so that the facility is available in cases of all serious crimes should be considered. 	
SR VI AML requirements for money/value transfer services	NC	<ul style="list-style-type: none"> Stand alone MVT providers are not regulated or supervised for compliance with AML/CFT requirements No requirement for MVT service operators to maintain a current list of agents. 	<ul style="list-style-type: none"> It is recommended that the authorities proceed in developing a framework for the regulation and supervision of MVT services not provided by licensees of the CBB. 	<p>The authorities are in discussions with respect to the framework for the MVTs.</p> <p>Amendments to banking legislation have been drafted to bring stand-alone MVTs under the regulation and supervision of the CBB.</p>
SR VII Wire transfer rules	PC	<ul style="list-style-type: none"> Stand-alone money-remitters are not subject to any regulatory oversight except for exchange control purposes. 	<ul style="list-style-type: none"> Stand-alone money remitters should be monitored for compliance with the requirements of SR VII. 	<p>The authorities are in discussions with respect to the framework for the MVTs.</p> <p>Amendments to banking legislation have been drafted to bring stand-alone MVTs under the regulation and supervision of the CBB.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
SR.VIII Non-profit organisations	LC	<ul style="list-style-type: none"> Sanctions for breaches of Charities Act are not dissuasive. 	<ul style="list-style-type: none"> The authorities should carefully consider the FATF's 2002 Best Practices Paper on Special Recommendation VIII, which advocates a number of measures for tightening the regime for NPO's, including the incorporation of mechanisms to verify the actual allocation of charitable funds to the intended beneficiaries. Revise the sanctions for breaches of the Act to make them appropriately dissuasive in effect. 	<p>The Fourth Schedule of the MLFTA amends the Section 41(1) Charities Act as follows:</p> <ul style="list-style-type: none"> "(6A) Where there is a change in the composition of trustees of a charity registered under this section, the trustees shall, within 15 days of the date of the change, file with the Registrar a notice containing particulars of the change. <p>(6B) Where charity trustees fail to comply with subsection (6A), the Registrar may impose on the charity trustees a penalty of \$100.</p> <p>(6C) Where a penalty imposed pursuant to subsection (6B) is not paid, the Registrar may recover the amount as a debt due to the Crown in civil proceedings before the Magistrate's Court for District "A".</p> <ul style="list-style-type: none"> Delete section 6 and substitute the following: <p>6. (1) A charity trustee of a charity who without reasonable excuse fails to register the charity in accordance with section 5 is guilty of an offence and is liable on summary conviction to a fine of \$ 5 000 or to imprisonment for 6 months or to both and to an additional fine of \$500 for everyday or part thereof that the offence continues after a conviction is first obtained.</p>

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>(2) Without prejudice to subsection (1), where a charity trustee of a charity fails to register the charity in accordance with section 5, the charity trustee shall not be entitled to claim any tax exemptions under any enactment in respect of the charity for the income year during which the charity remained unregistered."</p> <ul style="list-style-type: none"> • In section 8, delete the words "Income Tax Commissioner" and substitute the words "Commissioner of Inland Revenue". • In section 19(4), delete the words "\$250" and "\$25" and substitute the words "\$5 000" and "\$500", respectively. • In section 38(4), <ul style="list-style-type: none"> (a) delete the word "\$500" and substitute the word "\$5 000"; (b) delete the word "3" and substitute the word "6"; and (c) delete the word "\$50" and substitute the word "\$500". • In section 41(1), delete the word "15" and substitute the word "12". • In section 42, delete subsection (6) and substitute the following: "(6) Any person who fails to

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
				<p>(a) transmit to the Registrar any statement of account required by subsection (1);</p> <p>(b) afford an auditor any facility to which he is entitled under subsection (4); or</p> <p>(c) make full disclosure to the Registrar of all material facts required to be disclosed under this Act or knowingly makes a false statement of a material fact or makes a statement containing information that is misleading in light of the circumstances in which it was made, is guilty of an offence and is liable on summary conviction to a fine of \$5000 or to imprisonment for 6 months or to both and to a further fine of \$500 for every day or part thereof that the offence continues after a conviction is first obtained."</p> <ul style="list-style-type: none"> In section 47(2), insert after the word "received", the words "and penalties imposed and collected". <p>The Companies (Amendment) Act was passed as No. 8 of 2011 and further strengthens the regulation of NPOs.</p>
SR.IX Cross Border Declaration & Disclosure	LC	<ul style="list-style-type: none"> Suspicion of money laundering or terrorist financing or making a false declaration do not provide basis for stopping and seizure of currency and negotiable instruments. Effectiveness of system to detect cross-border transfer of currency and 	<ul style="list-style-type: none"> Suspicion of money laundering or terrorist financing or making a false declaration should provide grounds for stopping and seizure of currency and negotiable instruments. The competent authorities should consider including penalties for the making of false declarations in accordance with the 	The Customs Department currently maintains statistics with respect to cross-border declarations.

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	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
		negotiable instruments cannot be evaluated due to lack of statistics.	relevant section of the Customs Act on the Passenger Embarkation/Disembarkation card.	