



First Follow-Up Report

Anti-Money Laundering and Combating the Financing of Terrorism

4 March 2009

Cayman Islands

CAYMAN ISLANDS – FIRST FOLLOW-UP REPORT

Introduction

1. This report is the first follow-up report by Cayman Islands to the CFATF Plenary on the action taken to implement the recommended action listed in the third mutual evaluation report (MER) of Cayman Islands which was adopted on November 23, 2007. The list below details the Recommendations for which the Cayman Islands received a largely compliant (LC), a partial complaint (PC) or a non-compliant (NC) rating.

24 Recommendations rated LC

R. 1 (ML offence)
R. 3 (Confiscation and provisional measures)
R. 6 (politically exposed persons)
R. 8 (New technologies & non face-to-face business)
R. 10 (Record-keeping)
R. 11 (Unusual transactions)
R. 13 (Suspicious transaction reporting)
R. 14 (Protection & no tipping –off)
R. 21 (Special attention for higher risk countries)
R. 22 (Foreign branches & subsidiaries)
R. 23 (Regulation, supervision and monitoring)
R. 24 (Designated non-financial businesses & professions – regulation, supervision and monitoring)
R. 25 (Guidelines & feedback)
R. 26 (The FIU)
R. 29 (Supervisors)
R. 32 (Statistics)
R. 35 (Conventions)
R. 36 (Mutual legal assistance)
SR I (Implementation of UN instruments)
SR II (Criminalize terrorist financing)
SR III (Freeze and confiscate terrorist assets)
SR IV (Suspicious transaction reporting)
SR V (International co-operation)
SR VI (AML requirements for money/value transfer services)

10 Recommendations rated PC

R. 5 (Customer due diligence)
R. 9 (Third parties and introducers)
R. 12 (DNFBPs – R.5, 6, 8-11)
R. 15 (Internal controls, compliance & audit)
R. 16 (DNFBP – R. 13-15 & 21)
R. 18 (Shell banks)
R. 30 (Resources, integrity and training)
SR VII (Wire transfer rules)
SR VIII (Non-profit organizations)
SR IX (Cross-Border Declaration & Disclosure)

1 Recommendation rated NC

R. 7 (Correspondent banking)

2. As a result of the above ratings Cayman Islands was required to report back to the CFATF Plenary in November 2008 on actions it had planned, taken or is taking to deal with the factors/deficiencies resulting in relevant FATF Recommendation being rated LC, PC or NC. The following is a summary of the actions that the Cayman Islands reports to have taken or is being implemented since its mutual evaluation report so as to inform the Plenary in its decision on the next step in the follow-up process. Details on the actions are outlined in Annex 1 of this report.

Summary of progress made by Cayman Islands

3. Since the MER, the Cayman Islands has revised certain of its AML/CFT laws, regulations and guidelines incorporating most of the recommended actions from the MER. The latest revisions include:

- 1) The Proceeds of Crime Law (POCL) which was enacted on June 30, 2008 and became enforceable on August 21, 2008. It repealed and replaced the Proceeds of Criminal Conduct Law.
- 2) The Money Laundering (Amendment) Regulations, 2008 revising the Money Laundering Regulations (2008 Revision) (MLRs) became enforceable on October 24, 2008.
- 3) The Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing (GN) was last revised and issued in September 2008.

4. With regard to the GN, the MER considered them other enforceable means and therefore eligible for compliance with the criteria of the FATF Recommendations.

5. **R.1:** The recommended action has been implemented under the POCL.

6. **R. 3:** Recommendations for civil forfeiture proceedings measures and specific asset tracing provisions have been incorporated in the POCL.

7. **R. 5:** All deficiencies except for one are covered by relevant regulations in the MLRs. The remaining deficiency has been dealt with in the GN which as stated before is other enforceable means. These provisions comply with the FATF requirements.

8. **R. 6:** The deficiency has been addressed in the GN.

9. **R. 7:** An amendment to the GN to incorporate the requirements of R.7 for financial services providers with regard to cross-border correspondent banking relationships is undergoing final approval.

10. **R. 8:** The deficiency has been addressed in the GN.

11. **R. 9:** One deficiency has been addressed by the MLRs. The two remaining deficiencies have been addressed in amendments to the GN. These amendments are currently undergoing final approval.

12. **R. 10:** The deficiencies have been adequately covered by the MLRs.
13. **R. 11:** The deficiency has been adequately addressed in the GN.
14. **R. 12:** The deficiency has been adequately addressed in the GN.
15. **R. 13:** The deficiency has been adequately addressed in the GN.
16. **R. 14:** The deficiency is covered under the POCL.
17. **R. 15:** Three of the four deficiencies are dealt with in the GN and the MLRs. Guidance for the remaining deficiency is currently undergoing final approval.
18. **R. 16:** Deficiencies identified for financial institutions for R.13 and R.21 are covered by the actions detailed for each Recommendation in this report. With regard to R. 15, all deficiencies are addressed except for one which is to be covered in the GN.
19. **R. 18:** One deficiency has been addressed in the MLRs. The other deficiency has been incorporated in an amendment to the GN which is currently undergoing final approval.
20. **R. 21:** The deficiency is addressed under the POCL
21. **R. 22:** Information on effective implementation of requirements is not available.
22. **R. 23:** The Cayman Islands Monetary Authority (CIMA) annually reviews its manpower plan. Staff is projected to reach 143 by June 2009 from 122 at June 2008. A full review of the on-site inspections program is also being conducted to improve effectiveness.
23. **R. 24:** The POCL allows for the assignment of the responsibility of monitoring relevant financial business not otherwise monitored by CIMA. Administrative arrangements are being put in place for the Financial Reporting Authority (FRA) to assume the responsibility for realtors.
24. **R. 25:** The deficiencies are adequately addressed in the GN.
25. **R. 26:** All of the recommended actions except for one have been taken or are being implemented. The issue of the removal of the requirement of the Director of the FRA to seek permission from the AG prior to the dissemination of information to a foreign FIU is under review. While the FRA has set up a website, it is still under construction and has no information at present. There is provision for the FRA to impose administrative penalties; however details regarding these penalties are still to be formulated.
26. **R. 29:** The deficiency has been addressed in the GN.
27. **R. 30:** See response to R. 23 concerning CIMA. The human and financial resources of Customs have been increased.
28. **R. 32:** The FRA, CIMA, and the Legal Department already maintain statistics on request for assistance. The Financial Crime Unit (FCU) also now records these requests.
29. **R. 35:** Extension of UN Conventions by the UK to Cayman Islands was again requested in July 2008

30. **R. 36:** The establishment of an asset forfeiture fund is under review. A legal amendment to facilitate voluntary appearance of persons has been drafted.
31. **SR. I:** See response to R. 35.
32. **SR. II:** There have been no terrorist financing investigations, restraints, prosecutions or confiscations in the Cayman Islands.
33. **SR. III:** The recommended actions are under review to determine appropriate action.
34. **SR. IV:** The deficiency has been adequately addressed in the GN.
35. **SR. V:** No mutual legal assistance or extradition request with respect to terrorism has been received by the Cayman Islands authorities.
36. **SR. VI:** The deficiency has been adequately covered by the MLRs.
37. **SR. VII:** The deficiency has been adequately covered by the MLRs.
38. **SR. VIII:** A new charities law requiring the implementation of an AML/CFT regime for NPOs and supervisory arrangements is in an advanced drafting stage.
39. **SR. IX:** Recommended actions have been implemented. Statistics regarding the implementation of the mandatory declaration system have not been provided.

Conclusion

40. Cayman Islands has implemented a significant number of the recommended actions with the enactment of revisions of the POCL, the MLRs and issuance of revised GN. A small number of recommended actions are either under review to determine appropriate action or amendments to the GN are currently undergoing final approval. Statistics regarding effective implementation in relation to terrorist financing, mutual legal assistance or extradition requests with respect to terrorism, the requirements of R. 22 and the mandatory declaration system still have to be submitted for assessment. It is therefore recommended that Cayman Islands be asked to report in October 2009 on the recommended actions under review and provide information on effective implementation of issues mentioned above.

**Matrix with Ratings and Follow Up Action Plan 3rd Round Mutual Evaluation
Cayman Islands**

Forty Recommendations	Rating	Summary of factors underlying rating	Recommended Actions	Undertaken Actions
Legal systems				
1.ML offence	LC	<ul style="list-style-type: none"> ML offence of concealing, disguising, converting or transferring of property is not defined in accordance with the Vienna Convention 	<ul style="list-style-type: none"> It is recommended that the requirement of intent to avoid prosecution or to avoid the making or enforcement of a confiscation order be removed from the ML offence of concealing, disguising, converting or transferring property. 	The Proceeds of Crime Law, 2008 (POCL) was enacted on 30.6.2008 and became enforceable on 21.8.2008. It repealed and replaced the Proceeds of Criminal Conduct Law. Section 133 of the POCL defines money laundering to include in accordance with the Vienna Convention, concealing, disguising, converting, transferring or removing of criminal property from the Cayman Islands. The previous requirement for intent to avoid prosecution or to avoid the making of a confiscation order has been removed .
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> There are no provisions for asset-tracing. 	<ul style="list-style-type: none"> It is recommended that the proposed revision/consolidation of the MDL and the PCCL which will include specific asset-tracing and comprehensive civil forfeiture provisions be enacted. 	<p>Part IV of the POCL, 2008 provides for civil forfeiture proceedings with respect to property obtained through unlawful conduct. Section 88 in Part IV of the POCL provides for the Attorney-General to apply for a recovery order in the Grand Court against any person whom the Attorney-General thinks holds recovery property i.e. property obtained through unlawful conduct. Section 118 in Part IV of the POCL allows for the Attorney-General to make an application to a summary court for the forfeiture of cash detained by a customs officer or constable.</p> <p>Part VI (which includes a range of AML/CFT investigative tools) now provides for asset-tracing. Section 166 of Part VI of POCL makes provision for a customer information order requiring a financial institution to provide information on the person named in the order subject to a confiscation or money laundering investigation. The order will also specify property subject to a civil recovery investigation. Section 173 of Part VI of POCL provides for account monitoring orders requiring financial institutions to provide specified account information for the period stated in the order.</p>
Preventive measures				

5.Customer due diligence	PC	<ul style="list-style-type: none"> • Requirement for CDD measures for occasional transaction that are wire transfers in the circumstances covered by SR VII is only implemented via GN rather than legislation • Requirement for financial institutions to undertake CDD measures when they have doubts as to the veracity or adequacy of previously obtained customer identification data is only implemented via GN rather than legislation. • No legislative requirement to verify that persons purporting to act on the behalf of a customer is so authorised and identify and verify the identity of that person. • Requirement to determine the natural persons who ultimately own or control the customer is only implemented via GN rather than legislation • Requirement to conduct ongoing due diligence on the business relationship is only implemented via GN rather than legislation • The requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant is triggered by specified risk related events rather than by undertaking routine reviews of existing records. • No requirement for simplified CDD measures to be unacceptable in specific higher risk scenarios. 	<ul style="list-style-type: none"> • Financial institutions should be legislatively required to undertake CDD measures when they have doubts as to the veracity or adequacy of previously obtained customer identification data. • Financial institutions should be legislatively required to verify that persons purporting to act on the behalf of a customer is so authorised and identify and verify the identity of that person. • Financial institutions should be legislatively required to determine the natural persons who ultimately own or control the customer. • Financial institutions should be legislatively required to conduct ongoing due diligence on the business relationship • Financial institutions should be required to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking routine reviews of existing records. 	<p>The Money Laundering (Amendment) Regulations, 2008 revising the Money Laundering Regulations (2008 Revision) (MLRs) became enforceable on 24 October, 2008. Regulation 11 of the MLRs was revised to require all persons carrying on relevant financial business who have doubts as to the veracity or accuracy of any evidence of identity of an applicant for business, to obtain satisfactory additional evidence of identity.</p> <p>Regulation 7 of the MLRs was revised to require satisfactory evidence of the identity of any person acting on behalf of, or with the authority of an applicant for business who is a legal person or a legal arrangement, together with evidence of such authority.</p> <p>Regulation 7 of the MLRs includes a requirement for satisfactory evidence of identity to be obtained of natural persons who ultimately own or control applicants for business who are legal persons or legal arrangements.</p> <p>Regulation 5 of the MLRs requires persons who carry on relevant financial business to maintain procedures for the ongoing monitoring of business relationships or one-off transactions. .</p> <p>The most recent version of the Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands (GN) was issued in September 2008. The mutual evaluation report considered the GN to be other enforceable means. Paragraph 4.2 of the GN requires persons conducting relevant financial business to develop and apply written policies and procedures to ensure that documents, data or information collected during identification are kept up-to-date by undertaking</p>
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6. Politically exposed persons	LC	<ul style="list-style-type: none"> No obligation for FSPs to obtain senior management approval to continue a business relationship once a customer or beneficial owner has been found to be or subsequently becomes a PEP. 	<ul style="list-style-type: none"> Financial institutions should be required to obtain senior management approval to continue a business relationship once a customer or beneficial owner is found to be, or subsequently becomes a PEP. 	Paragraph 3.47 of the GN requires financial services providers (persons who conduct relevant financial business) to obtain senior management approval to continue a business relationship once a customer or beneficial owner is found to be, or subsequently becomes a PEP
7. Correspondent banking	NC	<ul style="list-style-type: none"> No obligations with regard to correspondent banking specifically. 	<ul style="list-style-type: none"> The specific requirements of Recommendation 7 with regard to cross-border correspondent banking and other similar relationships should be imposed on financial institutions in the Cayman Islands. 	Amendments to ch.3 of the GN specifying the requirements for Financial Services Providers with regard to cross-border correspondent banking relationships are currently undergoing final approval .
8. New technologies & non face-to-face business	LC	<ul style="list-style-type: none"> No requirement for financial institutions to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. 	<ul style="list-style-type: none"> Financial institutions should be required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. 	Paragraph 3.7 of the GN requires financial services providers to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions
9. Third parties and introducers	PC	<ul style="list-style-type: none"> No requirement for financial institutions to immediately obtain necessary information on the elements of the CDD process in criteria 5.3 to 5.6 other than the customer's identity and the purpose and intended nature of the business relationship. No requirement that the regulation and supervision of a foreign eligible introducer be in accordance with Recommendations 23, 24 and 29 and that it has measures in place to comply with the CDD requirements of recommendations 5 and 10. 	<ul style="list-style-type: none"> Financial service providers relying on a third party should be required to immediately obtain from the third party the necessary information concerning all relevant elements of the CDD process in criteria 5.3 to 5.6. Financial service providers should take adequate steps to be satisfied that the regulation and supervision of eligible introducers is in accordance with Recommendations 23, 24 and 29. The eligible introducers should have measures in place to comply with the CDD requirements of Recommendations 5 and 10. Guidance should be issued with regard to 	<p>Regulation 10 of the MLRs requires financial services providers to obtain from an introducer, identification information in relation to which the introducer has obtained and recorded evidence of the identity of all third parties introduced by him</p> <p>Amendments to ch.3 of the GN specifying that eligible introducers must be regulated and supervised, and that Financial Services Providers must be satisfied that the CDD procedures of the eligible introducer are satisfactory are currently undergoing final approval.</p> <p>Amendments to ch.3 of the GN providing guidance where the eligible introducer fails or is unable to</p>

			circumstances where an eligible introducer confirms that it is not required to have evidence of identity of its client if the business relationship predated the AML regime of its country of domicile.	provide evidence of identity are currently undergoing final approval. .
10.Record keeping	LC	<ul style="list-style-type: none"> No requirement for financial institutions to maintain records of account files and business correspondence for the same period as identification data. The retention period for identification records for accounts dormant for longer than five years commences from the date of the last transaction rather the termination of the account. 	<ul style="list-style-type: none"> Financial institutions should be required to maintain records of account files and business correspondence for the same period as identification data. The retention period for identification records for accounts dormant for longer than five years as stated in Regulation 12 (4) should be repealed. 	<p>Regulation 12 of the MLRs requires in relation to any business relationship the retention of a record of relevant account files and business correspondence for the prescribed period</p> <p>Regulation 8 (c) of the Money Laundering (Amendment) Regulations, 2008 repealed subregulation 12 (4) in compliance with the mutual evaluation recommended action</p>
11.Unusual transactions	LC	<ul style="list-style-type: none"> No requirement for financial institutions to keep findings regarding enquiries about complex, unusual large transactions or unusual patterns of transactions available for competent authorities and auditors for at least five years. 	<ul style="list-style-type: none"> Financial institutions should be required to keep findings regarding enquiries about complex, unusual large transactions or unusual patterns of transactions available for competent authorities and auditors for at least five years. 	Paragraph 5.13 of the GN requires financial services providers to keep findings regarding enquiries about complex, unusual large transactions and unusual patterns of transactions available for competent authorities and auditors for at least five years
12.DNFBP – R.5, 6, 8-11	PC	<ul style="list-style-type: none"> Deficiencies identified for all financial institutions for R., R.6, R.8-R.11 in sections 3.2.3, 3.3.3, 3.5.3 and 3.6.3 of this report are also applicable to DNFBPs. Dealers in precious metals/stones are effectively not included in the AML/CFT regime until 1 January 2008. 	<ul style="list-style-type: none"> The GN should cover dealers in precious metals and stones. 	Paragraph 1.4 of the GN states that it is expected that all institutions conducting relevant financial business pay due regard to the GN. Paragraph 2.16 of the GN outlines the definition of relevant financial business as detailed in Regulation 4 (1) of the MLRs to incorporate dealers in precious metals and precious stones, when engaging in a cash transaction of fifteen thousand dollars or more, as stated in the Second Schedule of the MLRs. The MLRs with the Second Schedule is attached to the GN as Appendix C
13.Suspicious transaction reporting	LC	<ul style="list-style-type: none"> No clear guidance in GN with regard to treatment of attempted suspicious transactions or consequences of non-reporting. 	<ul style="list-style-type: none"> GN should provide clear and unambiguous guidance as to the treatment of attempted suspicious transactions. 	Paragraph 5.34 of the GN requires financial services providers to report attempted transactions that give rise to knowledge or suspicion of money laundering or terrorist financing to the Financial Reporting Authority (FRA)
14.Protection & no tipping-	LC	<ul style="list-style-type: none"> No law prohibiting disclosing of information in relation to the filing of SARs for drug- related 	<ul style="list-style-type: none"> The proposed revision/consolidation of the PCCL and the MDL prohibiting disclosing of information in 	Section 139 of the POCL creates a tipping off offence for disclosures likely to prejudice any investigation

off		ML.	relation to the filing of SARs for drug-related ML should be enacted as soon as possible.	which might be conducted following the disclosure of activities required by law. Section 136 of the POCL effectively imposes a disclosure requirement on the basis of knowledge, suspicion or reasonable grounds for knowing, or suspecting that another person is engaged in criminal conduct. The above provisions effectively prohibits the disclosing of information in relation to the filing of SARs for drug-related ML
15.Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> No requirement for financial institutions to put in place screening procedures to ensure high standards when hiring employees. AML/CFT compliance officers are only required to be suitably senior, qualified and experienced rather than specifically management. Requirement for internal audit is general with no guidance as to specifics identified in the FATF criteria. Regulation only allows for reasonable access to information by a person responsible for considering submission of an SAR rather than unimpeded access. 	<ul style="list-style-type: none"> Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees. Financial institutions should be required to designate an AML/CFT compliance officer at management level. CIMA should provide detailed guidance on an appropriate AML/CFT internal audit function for all FSPs Regulations should be amended to permit the person responsible for considering whether a SAR should be submitted to have unimpeded access to relevant information. 	<p>Paragraph 6.2 of the GN requires financial services providers to have adequate screening procedures in place to ensure high standards when hiring employees</p> <p>Paragraph 5.2 of the GN requires financial services providers to designate a suitably qualified and experienced person as Money Laundering Reporting Officer (MLRO) at management level, to whom suspicious activity reports must be made by staff</p> <p>Amendments to ch.6 of the GN providing guidance on the scope of the AML/CFT audit function are currently undergoing final approval. .</p> <p>Regulation 14 of the MLRs provides for internal reporting procedures to include requirements for any person charged with considering making a SAR to have access to information which may be of assistance</p>
16.DNFBP – R.13-15 & 21	PC	<ul style="list-style-type: none"> Deficiencies identified for financial institutions for R.13, R.15, and R.21 in sections 3.7.3, 3.8.3, and 3.6.3 of this report are also applicable to DNFBPs. 		Follow-up action on recommended actions relating to R. 13, R.15 and R. 21 are detailed in the relevant sections of this matrix
18.Shell banks	PC	<ul style="list-style-type: none"> No prohibition against FSPs entering into or continuing correspondent banking relationships with shell banks. No requirement for FSPs to be satisfied that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. 	<ul style="list-style-type: none"> Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. 	<p>Regulation 3(e) and (f) of The Money Laundering (Amendment) Regulations, 2008 prohibits dealings with shell banks. .</p> <p>Amendments to ch.3 of the GN requiring Financial Services Providers to satisfy themselves that respondent financial institutions in foreign countries do not permit their accounts to be used by shell banks. are currently undergoing final approval.</p>
21.Special attention for	LC	<ul style="list-style-type: none"> No provision for the authorities to apply 	<ul style="list-style-type: none"> The authorities should be able to apply appropriate 	Section 201(3) of the POCL, 2008 empowers the

higher risk countries		appropriate counter-measures against countries which do not or insufficiently apply the FATF Recommendations.	counter-measures against countries which do not or insufficiently apply the FATF Recommendations.	Governor in Cabinet to designate a jurisdiction as one which has serious deficiencies in its compliance with recognized international AML/CFT standards and to therefore require that no dealings be conducted with that jurisdiction or that enhanced due diligence be applied.
22.Foreign branches & subsidiaries	LC	<ul style="list-style-type: none"> The recent issuance of requirements does not allow for sufficient time to allow or test for effective implementation. 		
23.Regulation, supervision and monitoring	LC	<ul style="list-style-type: none"> Effective supervision by CIMA limited by quantitatively inadequate human resources 	<ul style="list-style-type: none"> CIMA should review present staff complement with a view to improving supervisory coverage. 	<p>CIMA's manpower plan is reviewed annually based on the risk profile of the institutions, additional responsibilities (eg Basel II etc), and also takes into consideration IT resources. As at 30 September 2008, staff complement stood at 125 and is projected to reach 143 by end of June 2009.</p> <p>CIMA is currently conducting an extensive review of its IT unit, which includes the implementation of COBIT (IT governance framework) and an IT strategic plan (ITSP) to create greater efficiencies within CIMA and enhance supervisory coverage.</p> <p>CIMA is also conducting a full review of the on-site inspections programme including a review of the risk rating criteria for licensees as well as an analysis into the various approaches to on-site inspections. This includes looking at outsourcing, the application of IT to inspection processes as well as the establishment of dedicated personnel within regulatory divisions to conduct on-site inspections.</p>
24. DNFBP - regulation, supervision and monitoring	LC	<ul style="list-style-type: none"> No monitoring programme by the authorities to ensure that real estate agents, brokers or lawyers when dealing with real estate transactions comply with AML/CFT measures. 	<ul style="list-style-type: none"> It is recommended that the authorities in Cayman Islands implement a monitoring program to ensure that real estate agents, brokers, dealers in precious metals and precious stones and lawyers when dealing with real estate transactions comply with AML/CFT measures. 	Section 4 (9) of the POCL, 2008 provides that by regulations the FRA may be assigned the responsibility of monitoring relevant financial business not otherwise monitored by CIMA and it is the intention to assign the responsibility for realtors etc to them, and the necessary administrative arrangements are being put in place by the FRA to assume that responsibility
25. Guidelines & Feedback	LC	<ul style="list-style-type: none"> Guidance notes do not fully cover terrorism finance or include dealers in precious metals and precious stones. 	<ul style="list-style-type: none"> The GN should be amended to specifically cover terrorism financing. 	Section 1 of the GN states that it is expected that all institutions conducting relevant financial business pay due regard to the GN in developing responsible anti-money laundering and terrorist financing procedures. Paragraphs 1.10 – 1.15 define terrorist financing. Reference to terrorist financing is included in relevant guidance and sources of information on the financing

			<ul style="list-style-type: none"> The GN should be extended to dealers in precious metals and precious stones. 	<p>of terrorism is included in Appendix L</p> <p>Paragraph 1.4 of the GN states that it is expected that all institutions conducting relevant financial business pay due regard to the GN. Paragraph 2.16 of the GN outlines the definition of relevant financial business as detailed in Regulation 4 (1) of the MLRs to incorporate dealers in precious metals and precious stones, when engaging in a cash transaction of fifteen thousand dollars or more, as stated in the Second Schedule of the MLRs. The MLRs with the Second Schedule is attached to the GN as Appendix C</p>
Institutional and other measures				
26.The FIU	LC	<ul style="list-style-type: none"> FRA has not developed any comprehensive typologies and/or trends for the annual report. 	<ul style="list-style-type: none"> Despite the enhanced level of training, the FRA should take measures to establish a more formalized AML/CFT training program for its employees to ensure that they remain abreast of current trends and typologies. This could be accomplished through the development of partnerships with foreign FIUs, law enforcement, CIMA and representatives from the financial sector. The FRA or CIMA should mandate that all SARs which are filed by reporting entities follow the prescribed format which is outlined in Appendix J of the GN. At the time of the onsite the SAR reporting format was simply a “suggested” format. This would reduce the probability of key information being left out of the SARs and therefore enhance the ability of the FRA analysts in identifying transactions of a criminal nature. The current practice concerning the onward disclosure of SAR information appears to be occurring in a timely manner. In the opinion of the assessment team, consideration should be given to the removal of the requirement that the Director of the FRA seek permission from the AG prior to the dissemination of information to a foreign FIU. This would significant mitigate the risk of any unnecessary delay in exchanging SAR information. 	<p>The FRA has implemented an AML/CFT training program/schedule for each staff member to ensure that they remain abreast of current trends and typologies.</p> <p>Section 143 of the POCL 2008 enables the form and manner of disclosure to be prescribed. Paragraph 5.28 of the GN requires the submission of SARs in a standard form (as outlined in Appendix J of the GN) to the FRA</p> <p>This matter will be kept under review, but no issues arise at this time.</p>

		<ul style="list-style-type: none"> • The FRA should also focus on the development of analytical products/reports in collaboration with its partners (e.g. law enforcement and CIMA) to identify new ML/FT trends and/or typologies. They should also continue to provide feedback to both financial and non-financial reporting entities concerning the submission of SARs and, they should actively seek out opportunities to participate in training seminars and media programs to educate both professionals and the public on AML/CFT matters. • The FRA should also develop a website which would be readily accessible to the general public. The content of this website should include; the mandate and responsibilities of the FRA, all relevant AML/CFT laws and regulations, GN, legal obligations to files SARs, contact information for general inquiries, links to other AML/CFT resources, (e.g. CFATF, FATF, IMF, Egmont Group), as well as, any other information that would be considered useful to educate and inform the general public and AML/CFT investigative partners. • An enhanced outreach program should also be considered by the FRA in order to educate businesses and the general public on various typologies, trends and other matters related to AML/CFT. • In the 2005/2006 FRA Annual Report statistics show that the total number of SARs from 2002 to 2006 has dropped from 443 in 2002 to 221 in 2005/6 (approx. 50% decrease). At the time of the onsite visit the FRA stated that this decrease may be due to one of the following reasons: firstly, that in the wake of the introduction of the MLR in 2002 and the retrospective due diligence requirement, there was a reporting spike. Secondly, that defensive reporting may have been occurring in response to the establishment in 2000 of a direct offence for failure to disclose knowledge or suspicion of money laundering. Cayman Islands authorities should continue to monitor this closely to ensure that the level of 	<p>The FRA completed a trends analysis which was included in the 2006/07 Annual Report. In addition, the FRA has brought together representatives from CIMA and the FCU to identify ML/FT trends and topologies and Customs will also be participating in that group. The FRA will continue to be an active participant in training seminars and conferences both locally and overseas.</p> <p>The FRA website is up but is still under construction and has no content at present. The content of the website will include that recommended by the assessment team.</p> <p>The FRA re-commenced in June 2008 its outreach program to educate and engage MLROs on the trends and typologies that impact their businesses. The general public education process will no doubt have to be geared differently and the website will play an important role in that process.</p> <p>The FRA will continue to monitor the number of SAR filings to ensure that the level of vigilance of the reporting entities is not waning or complacency setting in. The number of SARs filed in 2007/08 has increased 12% over 2006/07.</p>
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			<p>vigilance of the reporting entities is not waning and that complacency is not setting in.</p> <ul style="list-style-type: none"> Consideration should also be given to legislative amendments to the PCCL which would allow the FRA to directly impose administrative sanctions or penalties on those entities who fail to comply with reporting obligations, in addition to the criminal penalty. Currently, CIMA may impose regulatory sanctions against entities that it regulates for failure to have the reporting systems and procedures required by the MLR in place. An FRA sanction would streamline the process and reduce the workload of CIMA. 	<p>Section 143 of the POCL allows for the creation of offences and penalties for failure to comply with the reporting obligations to the FRA. These penalties will be administrative and additional to the criminal penalties imposed in section 141 of the POCL. Due to the recent enactment of the POCL, administrative penalties are still to be designated.</p>
29.Supervisors	LC	<ul style="list-style-type: none"> The GN do not fully incorporate specific requirement for terrorism financing, thereby limiting CIMA's range of enforcement powers 	<ul style="list-style-type: none"> The GN should be amended to specifically cover terrorism financing. 	<p>Section 1 of the GN states that it is expected that all institutions conducting relevant financial business pay due regard to the GN in developing responsible anti-</p>

		via the GN in relation to terrorism financing		money laundering and terrorist financing procedures. Paragraphs 1.10 – 1.15 define terrorist financing. Reference to terrorist financing is included in relevant guidance and sources of information on the financing of terrorism is included in Appendix L
30.Resources, integrity and training	PC	<ul style="list-style-type: none"> Quantitatively inadequate human resources at CIMA limits effectiveness of supervision Insufficient human resources at HM Customs to carry out all functions 	<ul style="list-style-type: none"> CIMA should review present staff complement with a view to improving supervisory coverage. The financial and human resources of the Customs service be increased to enable the Customs service to carry out its duties and functions in an effective manner. 	<p>CIMA's manpower plan is reviewed annually based on the risk profile of the institutions, additional responsibilities (eg Basel II etc), and also takes into consideration IT resources. As at 30 September 2008, staff complement stood at 125 and is projected to reach 143 by end of June 2009.</p> <p>CIMA is currently conducting an extensive review of our IT unit, which includes the implementation of COBIT (IT governance framework) and an IT strategic plan (ITSP) to create greater efficiencies within CIMA and enhance supervisory coverage.</p> <p>CIMA is also conducting a full review of the on-site inspections programme including a review of the risk rating criteria for licensees as well as an analysis into the various approaches to on-site inspections. This includes looking at outsourcing, the application of IT to inspection processes as well as the establishment of dedicated personnel within regulatory divisions to conduct on-site inspections.</p> <p>The staff complement of Customs has been increased by 24 and the positions are under active recruitment, with 12 remaining to be filled. In addition, an assistant collector of customs has been assigned formal responsibility for Customs' AML/CFT functions. The 08/09 budget for Customs is 12% higher than the 07/08 budget in addition to which Customs received significant supplementary funding in 07/08.</p>
32.Statistics	LC	<ul style="list-style-type: none"> HM Customs does not yet maintain statistics on the cross border transportation of currency and bearer monetary instruments, due to recent implementation of SR IX. Cayman Islands authorities do not maintain detailed statistics on the number of requests for assistance made by domestic law enforcement 	<ul style="list-style-type: none"> Cayman Islands authorities should maintain detailed statistics on the number of requests for assistance made by domestic law enforcement authorities and supervisors including whether the request was granted or refused. 	<p>CIMA, the FRA and the Legal Department already maintained such statistics and this is now also in place at the FCU.</p>

		authorities and supervisors		
International Co-operation				
35.Conventions	LC	<ul style="list-style-type: none"> Due extensions of conventions are required 	<ul style="list-style-type: none"> Due extensions of the said conventions are required 	This is under the control of the UK and the extension request by Cayman was repeated most recently in July 2008.
36.Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> Mutual legal assistance is not available for facilitating the voluntary appearance of persons not in lawful custody for the purpose of providing information or testimony to the requesting country. 	<ul style="list-style-type: none"> The CJICL should be amended to include facilitating the voluntary appearance of persons not in lawful custody for the purpose of providing information or testimony to the requesting country as a listed purpose for mutual legal assistance The authorities may also consider an express enactment creating an asset forfeiture fund, with appropriate obligations and applications; rather than the current, but non-binding segregation in practice. 	<p>Amendment to the CJICL to effect has been drafted.</p> <p>Current arrangements function effectively; matter will be kept under review</p>
Nine Special Recommendations		Summary of factors underlying rating		
SR.I Implement UN instruments	LC	<ul style="list-style-type: none"> Due extensions of conventions are required. 	<ul style="list-style-type: none"> Due extensions of conventions are required. 	This is under the control of the UK and the extension request by Cayman was repeated most recently in July 2008.
SR.II Criminalise terrorist financing	LC	<ul style="list-style-type: none"> No statistics available to determine the effectiveness of the CFT regime 		There has been no terrorist financing investigation, restraint, prosecution or confiscation in the Cayman Islands.
SR.III Freeze and confiscate terrorist assets	LC	<ul style="list-style-type: none"> There have been no restraints or confiscations under the CFT legislation, therefore the effectiveness cannot be duly determined There are no legislative provisions for independent domestic listing and delisting. 	<ul style="list-style-type: none"> There is a need for the development of a publicly known listing and delisting process for independent domestic designations, whether by way of s. 60 of the TL or otherwise. There is need for legislative provisions for independent domestic listing and delisting. 	Under review to determine appropriate action
SR.IV Suspicious transaction reporting	LC	<ul style="list-style-type: none"> No clear guidance in GN with regard to treatment of attempted suspicious transactions or consequences of non-reporting. 	<ul style="list-style-type: none"> GN should provide clear and unambiguous guidance as to the treatment of attempted suspicious transactions. 	Paragraph 5.34 of the GN requires financial services providers to report attempted transactions that give rise to knowledge or suspicion of money laundering or terrorist financing to the FRA
SR.V International co-operation	LC	<ul style="list-style-type: none"> There have not been any mutual legal assistance requests with respect to terrorism to duly determine the effectiveness thereof. 		No mutual legal assistance or extradition request with respect to terrorism has been received by the Cayman Islands authorities

		<ul style="list-style-type: none"> • There have not been any extradition requests with respect to terrorism to duly assess the effectiveness thereof. 		
SR VI AML requirements for money/value transfer services	LC	<ul style="list-style-type: none"> • Requirements of SR VII for wire transfer are not enforceable until 2008 		Requirements of SRVII for wire transfers were incorporated in the MLRs in 2007. However, a transitional provision prohibited prosecution for non-compliance with the requirements until January 1, 2008. At the time of the mutual evaluation in June 2007, SRVII requirements were therefore considered not enforceable on money service business providers. These requirements became enforceable on January 1, 2008 when prosecution for non-compliance was permissible
SR VII Wire transfer rules	PC	<ul style="list-style-type: none"> • No requirement covering domestic and inbound cross-border wire transfers. • No requirement for beneficiary financial institutions to consider restricting or even terminating their business relationship with financial institutions that fail to meet SRVII standards. 		At the time of the mutual evaluation in June 2007, all requirements of SRVII were included in Part VII of the MLRs. However, as already mentioned, these were not enforceable until January 1, 2008 when prosecution became permissible. The only wire transfer requirements which were enforceable were the GN which was considered other enforceable means. The GN requirements did not include the SR VII criteria listed as factors for the rating. These factors are incorporated in the MLRs which became enforceable after January 1, 2008. Regulations 19 and 20 of the MLRs stipulate requirements for domestic and inbound cross-border wire transfers in accordance with SRVII respectively. Regulation 22 of the MLRs requires beneficiary financial institutions to consider restricting or even terminating their business relationships with institutions that do not fully meet SRVII standards.
SR.VIII Non-profit organisations	PC	<ul style="list-style-type: none"> • No supervisory programme in place to identify non-compliance and violations of NPOs. • No outreach to NPOs to protect the sector from terrorist financing abuse • No systems or procedures in place to publicly access information on NPOs • No formal designation of points of contacts or procedures in place to respond to international inquiries regarding terrorism related activity of NPOs. 	<ul style="list-style-type: none"> • The authorities should undertake an outreach programme to the NPO sector with a view to protecting the sector from terrorist financing abuse. • A supervisory programme for NPOs should be developed to identify non-compliance and violations. • Systems and procedures should be established to allow information on NPOs to be publicly available. • Points of contacts or procedures to respond to international inquiries regarding terrorism related activity of NPOs. should be put in place. 	<p>A pamphlet outlining the applicable AML/CFT requirements and obligations and sensitizing the sector to the risks is going through final edits and is expected to be issued in a few weeks.</p> <p>It is the intention to bring charities under a statutory charities commission by way of a new charities law which is in the advanced drafting stages. This new law has as an express object the implementation of the required AML/CFT regime for NPOs and will also provide for supervisory arrangements.</p> <p>In the interim, the existing requirements under s.80 of the Companies Law will continue to be applied, and</p>

				efforts are also underway to publish a list of authorised s.80 companies, together with a point of contact for general international enquiries (given that specific requests for assistance would be dealt with under the established contacts and procedures operated by the Legal Department).
SR.IX Cross Border Declaration & Disclosure	PC	<ul style="list-style-type: none"> • Effective implementation of recently enacted regulations in doubt due to inadequate human and financial resources of Customs. • Assessment of effectiveness of system is not possible due to the recent enactment of the regulations 	<ul style="list-style-type: none"> • It is the assessment team's recommendation that Cayman Islands Customs authorities should consider the implementation of new investigative techniques and methods similar to those outlined in the Best Practices Paper for SR IX, e.g. canine units specifically trained to detect currency. • Customs officials should also consider working more closely with the FRA and other law enforcement authorities to develop typologies, analyze trends and share information amongst themselves to more effectively combat cross border ML and FT issues 	<p>Plans are in place for the 08/09 fiscal year to establish a canine unit for currency detection at air and sea ports. Also, an x-ray machine capable of detecting currency has been installed at Owen Roberts International Airport.</p> <p>Customs has been included in the FRA trends/typologies group and is a pre-existing member of the Joint Intelligence Unit (police, customs, immigration).</p>