CARIBBEAN FINANCIAL
ACTION TASK FORCE

Third Follow-Up Report

Cayman Islands

October 28, 2010

CAYMAN ISLANDS – THIRD FOLLOW-UP REPORT

I. Introduction

1. The third mutual evaluation report (MER) of Cayman Islands was adopted on November 23, 2007. 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 first written follow-up report was submitted on March 4, 2009 and a second on May 25, 2010. Cayman Islands indicated at the time that it would report to the Plenary in November 2010 on additional measures taken to address outstanding deficiencies and apply to move from regular follow-up to biennial updates. Cayman Islands has formally applied to move from regular follow-up to biennial updates.

2. The following report is prepared in accordance with CFATF follow-up procedures in relation to an application for removal from regular follow-up to biennial updates. The Cayman Islands has provided the Secretariat with up to date information on its progress. The report contains detailed descriptions and analyses of the actions taken by Cayman Islands with regard to the core and key Recommendations rated PC or NC as well as those other Recommendations rated PC or NC. The procedures for removal to biennial reporting requires that an examined member take significant action to have an effective AML/CFT system in force, under which it has implemented the core and key Recommendations (Recommendations 1, 3 – 5, 10, 13, 23, 26, 35, 36, 40 and Special Recommendations I – V) at a level essentially equivalent to a C or LC, taking into consideration that there would be no re-rating. Additionally, the procedures require that consideration be taken of all other Recommendations rated PC or NC.

3. Cayman Islands received ratings of C or LC on fifteen (15) of the sixteen Core and Key Recommendations and a PC on the remaining Core Recommendation 5 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**	**LC**	**C**	**PC**	**LC**	**LC**	**LC**	**LC**	**LC**	LC	**C**	**LC**	**LC**	**LC**	**LC**	**LC**

4. With regard to the other non-core or key Recommendations, Cayman Islands was rated partially compliant or non-compliant on ten (10), as indicated below.

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

Partially Compliant (PC)	**Non-Complaint (NC)**
R. 9 (Third parties and introducers)	R. 7 (Correspondent banking)
R. 12 (DNFBP – 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)	

5. The following table is intended to provide insight into the size and risk of the main financial sectors in Cayman Islands.

Table 3: Size and integration of the jurisdiction's financial sector
As at June 2010 – Cayman Islands

		Banks	Other Credit Institutions	Securities	Insurance	TOTAL
Number of institutions	Total #	265	4	28 Securities and investment Businesses 9,870 Mutual Funds	789	10,956
Assets	US$	1.739 trillion	270.9 million	3.688 trillion (Aggregate total assets/gross assets based on 7,325 funds that a filed a FAR in 2008). Ending net asset value for the 7,325 funds during the same period was US$1.693 trillion	42.7 billion	5.47 trillion
Deposits	Total: US$	1.672 trillion	203.4 million	N/A	N/A	
	% Non-resident	99% of deposits	N/A	N/A	N/A	
International Links	% Foreign-owned:	99% of assets	N/A	99.9% of assets	85% of assets (Est.)	% of assets
	#Subsidiaries abroad	46[1]	0	N/A	7	

[1] Includes seven nominee companies, four branches and three representative offices

6. In preparing the following report, the Secretariat provided a draft analysis to Cayman Islands (with a list of additional questions) for its review and comments. Requested information and comments have been taken into account in the final draft of the report.

7. It should be noted that all applications to move from regular follow-up to biennial reporting rely on a paper based desk review, which is not as detailed or comprehensive as a mutual evaluation report. The report is limited to Recommendations rated PC or NC and focus on technical compliance of legislation with the FATF standards. Effectiveness of implementation is taken into account primarily through data provided by the country. It is important to note that conclusions in this report are not binding on the results of future assessments since they have not been verified through an on-site process and are not as comprehensive as a mutual evaluation.

II. Main conclusion and recommendations to the Plenary

8. **Core and Key Recommendations:** The Cayman Islands has substantively improved compliance with Recommendation 5 by implementing measures that effectively address all except one of the deficiencies identified in the MER. Nevertheless, the CDD legal framework has been enhanced to a level equivalent to a LC. The Cayman Islands was previously rated either C or LC on all other core and key Recommendations.

9. **Other Recommendations:** Substantive progress has been made addressing deficiencies in other Recommendations, especially R.7, R.12, R.15, and R. 30.

10. **Conclusion:** Since the Cayman Islands has achieved a satisfactory level of compliance with R.5 and all other core and key Recommendations, it is recommended that the Plenary remove the Cayman Islands from the regular follow-up process to biennial updates with the first such update scheduled for November 2012.

III. Summary of progress made by Cayman Islands

11. 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 revisions include:

1) The Proceeds of Crime Law (POCL) which was enacted on June 30, 2008 and came into effect on September 30, 2008. It repealed and replaced the Proceeds of Criminal Conduct Law.

2) The Money Laundering (Amendment) Regulations, 2008(MLRs) revising the Money Laundering Regulations (2008 Revision) became enforceable on October 24, 2008.

3) The Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing (GN) was revised in December 2008 and again in March 2010.

4) Amendments to the Criminal Justice (International Co-operation) Act were passed in February 2010.

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.

Core Recommendations

Recommendation 5 – rating PC

R. 5 (Deficiency 1): Requirement for CDD measures for occasional transactions that are wire transfers in the circumstances covered by SR VII is only implemented via GN rather than legislation.

5. At the time of the mutual evaluation in June 2007, all requirements of SRVII were included in Part VII of the MLRs. Regulation 18 of the MLRs requires the payment service provider of the payer to ensure that all transfers of funds be accompanied by the complete information on the payer and this information be verified on the basis of documents, data or information that meet the requirments of subregulation 11(1). Subregulation 2(2) defines complete information on a payer to consist of –

a) name;

b) i) address; or

ii) date and place of birth;

iii) customer identification number; or

iv) number of Government-issued document evidencing identity, and

c) account number or a unique identifier which allows the transaction to be traced back to the payer.

6. Subregulation 11(1) requires that evidence of identity be reasonably capable of establishing that the prospective customer is the person he claims to be. The above requirements are applicable to all wire transfers while the FATF criterion under Recommendation 5 is only applicable to occasional transactions that are over US$1,000. However, these were not enforceable until January 1, 2008 when prosecution became permissible. The only wire transfer requirements which were enforceable at the time of mutual evaluation were the GN which was considered other enforceable means. However, this did not fully satisfy the obligations of criterion 5.2 under which occasional wire transfers fall. Criterion 5.2 is required to be implemented by laws or regulations and not just other enforceable means. This deficiency was remedied when the MLRs became enforceable after January 1, 2008.

R. 5 (Deficiency 2): 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.

7. The MLRs became enforceable on 24 October, 2008. Regulation 11(1) 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. Relevant financial business has been defined in Regulation 4(1) to include institutions licensed under specific statutes and activities listed in the Second Schedule to the MLRs. This definition covers all financial activities required by the FATF Recommendations.

R. 5 (Deficiency 3): 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.

8. Regulation 7(7)(a) 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.

R. 5 (Deficiency 4): Requirement to determine the natural persons who ultimately own or control the customer is only implemented via GN rather than legislation.

9. Regulation 7(7)(b) 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.

R. 5 (Deficiency 5): Requirement to conduct ongoing due diligence on the business relationship is only implemented via GN rather than legislation.

10. The authorities have cited Regulation 5(1)(a)(iv) of the MLRs as dealing with the deficiency above since it requires persons who carry on relevant financial business to maintain procedures for the ongoing monitoring of business relationships or one-off transactions. However the full context of the regulation obliges a financial service provider (FSP) *inter alia*, not to form a business relationship unless it maintains such other procedures of internal control and communication as may be appropriate for the ongoing monitoring of business relationships or one-off transactions for the purposes of forestalling and preventing money laundering. It was the examiners' view in the report that these regulations are broad and not sufficiently specific to fully satisfy the FATF requirement for ongoing due diligence on the business relationship.

11. Additionally, it was noted in the MER that section 4 of the GN sets out the required regime for the ongoing monitoring of business relationships. This includes monitoring the conduct of the relationship/account to ensure that it is consistent with the nature of business stated when the relationship/account was opened and taking reasonable measures to ensure that documents, data or information collected during the identification process are kept up-to-date and relevant by undertaking routine reviews of existing records. This resulted in the wording of the deficiency as noted above that ongoing due diligence is only implemented via the GN rather than legislation as required by essential criterion 5.7 of the Methodology. As such there has been no change in the cited regulation since the mutual evaluation and this deficiency remains outstanding.

R. 5 (Deficiency 6): 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.

12. 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 routine review of existing records. The most recent version of the GN was issued in March 2010.

R. 5 (Deficiency 7): No requirement for simplified CDD measures to be unacceptable in specific higher risk scenarios

13. Regulation 11(3) of the MLRs disallows simplified procedures in any cases where a person carrying on relevant financial business has reasonable grounds to assess as having a higher risk of ML. This requirement is elaborated in paragraph 3.115 of the GN which states that simplified customer due

diligence is unacceptable for specific higher risk scenarios. Some of these higher-risk scenarios include but are not limited to the following:

- A customer is not physically present for identification purposes: or
- The relevant person proposes to have a business relationship or carry out a one-off transaction with a politically exposed person; or
- The prospective customer holds a deposit-taking licence and proposes to establish a correspondent banking relationship with the financial service provider; or
- The nature of the situation is such, or a risk assessment reveals, that a higher risk of money laundering is likely.

Recommendation 5 – Overall conclusion

14. The Cayman Islands has made significant progress in improving compliance with R.5. The revised MLRs and GN have addressed all deficiencies by the examiners except for the obligation to conduct ongoing due diligence being implemented only by the GN rather than by legislation as required by R.5. Nevertheless, the CDD legal framework has been enhanced to a level essentially equivalent to a LC.

Other Recommendations

Recommendation 7 – rating NC

R. 7 (Deficiency 1): No obligations with regard to correspondent banking specifically

15. Paragraphs 3.116, of the GN specify the requirements for financial services providers with regard to cross-border correspondent banking relationships. These requirements are as follows:

a) Gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been the subject to a money laundering or terrorist financing investigation or regulatory action.

b) Assess the respondent institution's anti-money laundering and terrorist financing controls.

c) Obtain approval from senior management before establishing new correspondent relationships.

d) Document the respective responsibilities of each institution.

16. With respect to "payable-through accounts", be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.

17. The above measures fully comply with all essential criteria of R.7. Since the GN are other enforceable means, these obligations meet the requirements of R.7 and therefore enhances compliance to the level of a LC.

Recommendation 9 – rating PC

R. 9 (Deficiency 1): 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.

18. Subregulation 10(1)(c)(iii) of the MLRs requires financial service 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.

19. The GN specifies in paragraph 3.70 that an eligible introducer is one who meets the criteria of the GN. Paragraph 3.71 of the GN specifies that eligible introducers should have procedures stipulated in regulation 5(1) which include identification measures in line with FATF Recommendation 5. As such the requirement in sub regulation 10(1)(c)(iii) to obtain information in relation to which the introducer has obtained and recorded evidence of the identity of all third parties introduced by him will include the elements of the CDD process in criteria 5.3 to 5.6.

R. 9 (Deficiency 2): 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.

20. Paragraphs 3.67 to 3.94 of the GN cover procedures for introduced business. The GN specifies in paragraph 3.70 that an eligible introducer is one who meets the criteria of the GN and is regulated and supervised for and has measures in place to comply with CDD requirements in line with FATF Recommendations 5 and 10.

21. Additionally, paragraph 3.71 stipulates that an eligible introducer should be a person who acts in the course of a business in relation to which an overseas regulatory authority exercises regulatory function and is based or incorporated in, or formed under the laws of a country specified in the Third Schedule. Overseas regulatory authority is defined in the GN as an authority which exercises a function corresponding to a statutory function of the Cayman Islands Monetary Authority (CIMA) in relation to relevant financial business in the Cayman Islands. The Third Schedule is attached to the MLRs and consist of countries considered by CIMA to have enacted AML/CFT legislation equivalent to that of the Cayman Islands.

22. The above measures address the deficiencies noted in the MER in relation to R. 9 and bring the level of compliance to an LC.

Recommendation 12 – rating PC

R. 12 (Deficiency 1): Deficiencies identified for all financial institutions for R.5, 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.

23. As noted above the deficiencies identified for all financial institutions for R.5, R.6, R.8 – R.11 were also applicable to the DNFBPs. With regard to R.5, the deficiencies and the measures implemented by the authorities in the Cayman Islands are dealt with in the relevant section of this report. Actions taken in relation to the remaining Recommendations are outlined below.

24. Recommendation 6 was rated LC in the MER due to 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 politically exposed person (PEP). This deficiency was remedied by paragraph 3.52 of the GN which requires financial service providers 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.

25. Recommendation 8 was rated LC on the basis of 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. Paragraph 3.7 of the GN requires financial service providers to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions.

26. The deficiencies with regard to Recommendation 9 are dealt with in the relevant section of this report. Recommendation 10 was rated LC on the basis of the following:

- 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 than the termination of the account.

27. The above deficiencies were dealt with by subregulation 12(1)(b) of the MLRs requiring in relation to any business relationship the retention of a record of relevant account files and business correspondence for the prescribed period.

28. Subregulation 8(c) of the Money Laundering (Amendment) Regulations, 2008 repealed the section of subregulation 12(4) which had stipulated that the retention period for identification records for accounts dormant for longer than five years began from the date of the last transaction. This repeal effectively meant that the retention period began with the termination of the account as set out in subregulation 12(4)(a) in compliance with the mutual evaluation recommended action.

29. Regulation 11 was rated LC due to 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.

30. Paragraph 5.14 – 5.15 of the revised GN requires financial service 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.

R. 12 (Deficiency 2): Dealers in precious metals/stones are effectively not included in the AML/CFT regime until 1 January 2008.

31. There was no direct recommendation to deal with the above deficiency since it was due to terminate on January 1, 2008. However, the recommended action for the GN to be applicable to dealers in precious metals and precious stones was implemented by including them in the definition of relevant financial business.

32. 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 subregulation 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.

33. The above measures address the deficiencies noted in the MER in relation to R. 12 and bring the level of compliance to an LC.

Recommendation 15 – rating PC

R. 15 (Deficiency 1): No requirement for financial institutions to put in place screening procedures to ensure high standards when hiring employees.

34. Paragraph 6.6 of the GN requires financial services providers to have adequate screening procedures in place to ensure high standards when hiring employees.

R. 15 (Deficiency 2): AML/CFT compliance officers are only required to be suitably senior, qualified and experienced rather than specifically management.

35. Paragraph 6.3 of the GN requires financial services providers to designate a suitably qualified and experienced person as Compliance Officer at management level.

R. 15 (Deficiency 3): Requirement for internal audit is general with no guidance as to specifics identified in the FATF criteria.

36. Paragraph 6.5 of the GN provides guidance on the scope of the AML/CFT audit function. Financial service providers are required to conduct an AML/CFT audit to:

a) Attest to the overall integrity and effectiveness of the AML/CFT systems and controls;

b) Assess their risks and exposures with respect to size, business lines, customer base and geographic locations;

c) Assess the adequacy of internal policies and procedures;

d) Test compliance with relevant laws and regulations;

e) Test transactions in all areas with emphasis on high-risk areas, products and services;

f) Assess employees' knowledge ;

g) Assess adequacy, accuracy and completeness of training programmes; and

h) Assess adequacy of the process of identifying suspicious activity.

R. 15 (Deficiency 4): Regulation only allows for reasonable access to information by a person responsible for considering submission of an SAR rather than unimpeded access.

37. Subregulation 14 (c) 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. Paragraph 6.3 of the GN allows for unfettered access to information by the Compliance Officer who may also be the MLRO.

38. The above measures address the deficiencies noted in the MER in relation to R. 15 and bring the level of compliance to an LC.

Recommendation 16 – rating PC

R. 16 (Deficiency 1): 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.

39. Actions taken to correct the deficiencies identified in relation to Recommendations 13, 15 and 21 are outlined below. Recommendation 13 was rated LC due to no clear guidance in GN with regard to treatment of attempted suspicious transactions or consequences of non-reporting. This was dealt with in paragraph 5.35 of the GN which 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). While there is no explicit penalty for the non-reporting of attempted transactions, non compliance with GN requirements can result in CIMA taking enforcement action under relevant regulatory laws as noted in the MER.

40. With regard to Recommendation 15, all deficiencies have been addressed as noted above. Recommendation 21 was rated LC due to no provision for the authorities to apply appropriate counter-measures against countries which do not or insufficiently apply the FATF Recommendations. Section 201(3) of the POCL, 2008 empowers the 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.

41. The above measures address the deficiencies noted in the MER in relation to R. 16 and bring the level of compliance to an LC.

Recommendation 18 – rating PC

R. 18 (Deficiency 1): No prohibition against FSPs entering into or continuing correspondent banking relationships with shell banks.

42. Paragraph 3.117 of the GN prohibits financial services providers from doing business with shell banks.

R. 18 (Deficiency 2): 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.

43. Paragraph 3.118 of the GN requires financial service providers to satisfy themselves that respondent financial institutions in foreign countries do not permit their accounts to be used by shell banks.

44. The above measures address the deficiencies noted in the MER in relation to R. 18 and bring the level of compliance to an LC.

Recommendation 30 – rating PC

R. 30 (Deficiency 1): Quantitatively inadequate human resources at CIMA limits effectiveness of supervision.

45. 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.

46. Staffing at CIMA increased from 116 in June 2007 to 150 in December 2009 and 158 in June 2010. There has been a significant increase in the number of professional staff, particularly in the regulatory divisions. The number of staff involved in inspections has risen from 49 in June 2007 to 70 in December 2009.

47. CIMA is to develop an IT strategic plan in 2010. The Authority recognizes the need to increase operational efficiencies by automating its business processes to the greatest extent possible, thereby freeing up supervisory resources.

48. CIMA has embarked on a project for the automation of licensing and registration of mutual funds. Prototype software has been developed and is currently in the testing phase. As part of the IT strategy CIMA is considering the incorporation of an enterprise management system to capture, store and manage documents electronically. This will eliminate the need for manual filing by licensees.

49. CIMA has placed high priority to enhancing its internal effectiveness over the next three years (2010 to 2012). With automation and the streamlining of business processes, special emphasis will be placed on the effective utilization of supervisory staff. CIMA has also appointed an internal Supervisory Harmony Task Force that will recommend ways to enhance supervisory processes and practices. As part of its remit, the Task Force will revise its framework for the identification, measurement, mitigation and monitoring of risks of the Authority's statutory objectives (risk-based approach to supervision).

R. 30 (Deficiency 2): Insufficient human resources at HM Customs to carry out all functions.

50. At the time of the mutual evaluation the staff of Customs totaled 103. The staff complement of Customs has been increased by 12 and the positions are under active recruitment, with 6 remaining to be filled. The 10/11 budget for Customs has been increased by 14% higher than the 09/10 budget. This increase in funding is specifically allocated for meeting the staffing requirements for the Customs Department.

Special Recommendation VII – rating PC

SR. VII (Deficiency 1): No requirement covering domestic and inbound cross-border wire transfers.

51. These factors are incorporated in the MLRs which became enforceable after January 1, 2008. Regulations 19, 21 and 22 of the MLRs stipulate requirements for domestic and inbound cross-border wire transfers in accordance with SRVII respectively. Regulation 19 states that domestic transfers of funds need only be accompanied by the account number of the payer or a unique identifier that allows the transaction to be traced back to the payer once information on the payer can be supplied within three days of a request by the payment service provider of the payee. Regulations 21 and 22 require payment service providers of payees to have effective procedures to detect whether full information on the payer is missing and to either reject the transfer or request complete information on the payer.

SR. VII (Deficiency 2): No requirement for beneficiary financial institutions to consider restricting or even terminating their business relationship with financial institutions that fail to meet SRVII standards.

52. Subregulation 22(2) 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 as stated in the MLRs.

53. The above measures address the deficiencies noted in the MER in relation to SR. VII and bring the level of compliance to an LC.

Special Recommendation VIII – rating PC

SR. VIII (Deficiency 1): No supervisory programme in place to identify non-compliance and violations of NPOs.

54. It is the intention to bring charities under a statutory charities commission by way of a new charities law. This Bill has been issued and is in circulation for the second round of public consultation. 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.

SR. VIII (Deficiency 2): No outreach to NPOs to protect the sector from terrorist financing abuse

55. 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.

SR. VIII (Deficiency 3): No systems or procedures in place to publicly access information on NPOs.

SR. VIII (Deficiency 4): No formal designation of points of contacts or procedures in place to respond to international inquiries regarding terrorism related activity of NPOs.

56. Under s.80 of the Companies Law, information on NPOs is maintained in the General Registry. Specific information in the General Registry is available for public inspection. Efforts are 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).

57. The above measures are yet to be implemented. As such, the deficiencies identified in the MER are still outstanding and the rating of PC for SR. VII remains.

Special Recommendation IX – rating PC

SR. IX (Deficiency 1): Effective implementation of recently enacted regulations in doubt due to inadequate human and financial resources of Customs.

58. It has been determined by the Customs Department that due to the low risk of currency smuggling by passengers at the ports, the purchase and training of K-9s for the detection of currency is not necessary.

59. Along with the x-ray machine capable of detecting currency, Customs has also acquired an x-ray machine which is capable of detecting all types of contraband (ie. guns, illegal drugs etc.) Additionally, funding has been acquired for the purchase of an x-ray scanner as well as a pallet scanner and the process

of inviting tenders for their procurement has begun. It is hoped that the scanners will be in place by the end of 2010.

60. Customs has been included in the FRA trends/typologies group and is a pre-existing member of the Joint Intelligence Unit (Police, Customs, Immigration). Information on increases in the human and financial resources of Customs has been provided in the section of this report dealing with R. 30.

SR. IX (Deficiency 2): Assessment of effectiveness of system is not possible due to the recent enactment of the regulations.

61. Recommended actions have been implemented. With regard to statistics concerning the implementation of the mandatory declaration system, the authorities have provided information on the number and value of declarations and disclosures over $15,000 Cayman Islands dollars for 2009 (Cayman Islands Dollar is equivalent to US$1.25) as shown in the following table.

Table 4: Number and value of declarations and disclosures for 2009

Customs Forms	Number	Value $
Declarations	12	1,376,490
Disclosures	2	765,313
Total	14	2,141,803

Note: Declarations and Disclosures in Table 4 include those of individual, and banking institutions.

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	• ML offence of concealing, disguising, converting or transferring of property is not defined in accordance with the Vienna Convention	• 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 came into effect in September 30,2008. 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	• There are no provisions for asset-tracing.	• 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.	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. 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.
Preventive measures				
5.Customer due diligence	PC	• Requirement for CDD measures for occasional transaction that are wire transfers in the	• Financial institutions should be legislatively required to undertake CDD measures when they have doubts	The Money Laundering (Amendment) Regulations, 2008 revising the Money Laundering Regulations

		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.	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.	(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. Relevant financial business has been defined under legislation to cover all financial activities required by the FATF Recommendations. Regulation 7(7)(a) 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. Regulation 7(7)(b) 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. Regulation 5(1)(a)(iv) 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. 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 routine review of existing records. 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 March 2010.

			• Simplified CDD measures should be unacceptable in specific higher risk scenarios.	Regulation 11(3) of the MLRs disallows simplified identification procedures in any case where a person carrying on relevant financial business has reasonable grounds to assess as having a higher risk of ML Paragraph 3.115of the GN –simplified customer due diligence is unacceptable for specific higher risk scenarios.
6.Politically exposed persons	LC	• 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.	• 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 3.51 of the GN requires financial services providers (persons who conduct relevant financial business) to obtain senior management approval to establish a business relationship with a PEP. Paragraph 3.52 further states that "Financial Service Providers should 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	• No obligations with regard to correspondent banking specifically.	• 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.	Paragraphs 3.116, of the GN specify the requirements for Financial Services Providers with regard to cross-border correspondent banking relationships. These requirements are as follows: a) Gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been the subject to a money laundering or terrorist financing investigation or regulatory action. b) Assess the respondent institution's anti-money laundering and terrorist financing controls. c) Obtain approval from senior management before establishing new correspondent relationships. d) Document the respective responsibilities of each institution.

				e) With respect to "payable-through accounts", be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.
8.New technologies & non face-to-face business	LC	• 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.	• 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	• 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.	• 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 circumstances where an eligible introducer confirms that it is not required to have evidence of identity of its client if the business relationship pre-dated the AML regime of its country of domicile.	Regulation 10(1)(c)(iii) 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 Paragraphs 3.67 to 3.94 of the GN cover procedures for introduced business. Paragraphs 3.70 to 3.73 specify that eligible introducers must be regulated and supervised, while paragraph 3.74 specifies that Financial Services Providers must be satisfied that the CDD procedures of the eligible introducer are satisfactory. Paragraphs 3.81 and 3.82 provide guidance where the eligible introducer fails or is unable to provide evidence of identity. .
10.Record keeping	LC	• 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.	▪ 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.	Regulation 12(1)(b) 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. Paragraph 7.1 of GN requires FSP to maintain records. Regulation 8 (c) of the Money Laundering (Amendment) Regulations, 2008 repealed

				subregulation 12 (4) in compliance with the mutual evaluation recommended action
11.Unusual transactions	LC	▪ 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.	▪ 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 5.14 – 5.15 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	• 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.	• 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	• No clear guidance in GN with regard to treatment of attempted suspicious transactions or consequences of non-reporting.	• GN should provide clear and unambiguous guidance as to the treatment of attempted suspicious transactions.	Paragraph 5.35 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-off	LC	• No law prohibiting disclosing of information in relation to the filing of SARs for drug- related ML.	• The proposed revision/consolidation of the PCCL and the MDL prohibiting disclosing of information in relation to the filing of SARs for drug-related ML should be enacted as soon as possible.	Section 139(1)(b) of the POCL creates a tipping off offence for disclosures likely to prejudice any investigation which might be conducted following the disclosure of activities required by law. Sections 136 and 137of 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	• 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	• 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	Paragraph 6.6 of the GN requires financial services providers to have adequate screening procedures in place to ensure high standards when hiring employees Paragraph 6.3 of the GN requires financial services

		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.	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.	providers to designate a suitably qualified and experienced person as Compliance Officer at management level. Paragraph 6.5 of the GN provides guidance on the scope of the AML/CFT audit function. Financial services providers are required to conduct an AML/CFT audit to: Attest to the overall integrity and effectiveness of the AML/CFT systems and controls a) Assess their risks and exposures with respect to size, business lines, customer base and geographic locations. b) Assess the adequacy of internal policies and procedures c) Test compliance with relevant laws and regulations d) Test transactions in all areas with emphasis on high-risk areas, products and services e) Assess employees' knowledge f) Assess adequacy, accuracy and completeness of training programmes g) Assess adequacy of the process of identifying suspicious activity. Regulation 14(c) 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 Paragraph 6.3 of the GN allows for unfettered access to information by the Compliance Officer, who may also be the MLRO.
16.DNFBP – R.13-15 & 21	PC	• 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	• No prohibition against FSPs entering into or continuing correspondent banking relationships	• Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships	Paragraph 3.117 of the GN prohibits Financial Services Providers from doing business with shell banks. .

		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.	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.	Paragraph 3.118 of the GN requires Financial Services Providers to satisfy themselves that respondent financial institutions in foreign countries do not permit their accounts to be used by shell banks.
21.Special attention for higher risk countries	LC	• No provision for the authorities to apply appropriate counter-measures against countries which do not or insufficiently apply the FATF Recommendations.	• The authorities should be able to apply appropriate counter-measures against countries which do not or insufficiently apply the FATF Recommendations.	Section 201(3) of the POCL, 2008 empowers the 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	• The recent issuance of requirements does not allow for sufficient time to allow or test for effective implementation.		
23.Regulation, supervision and monitoring	LC	▪ Effective supervision by CIMA limited by quantitatively inadequate human resources	■ CIMA should review present staff complement with a view to improving supervisory coverage.	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. Staffing at CIMA increased from 116 in June 2007 to 150 in December 2009 and 158 in June 2010. There has been a significant increase in the number of professional staff, particularly in the regulatory divisions. The number of staff involved in inspections has risen from 49 in June 2007 to 70 in December 2009. CIMA is to develop an IT strategic plan in 2010. The Authority recognizes the need to increase operational efficiencies by automating its business processes to the greatest extent possible, thereby freeing up supervisory resources. CIMA has embarked on a project for the automation of licensing and registration of mutual funds. Prototype software has been developed and is currently in the testing phase. As part of the IT strategy CIMA is considering the incorporation of an enterprise management system to capture, store and manage documents electronically. This will eliminate the need for manual filing by licensees. CIMA has placed high priority to enhancing its internal

				effectiveness over the next three years (2010 to 2012). With automation and the streamlining of business processes, special emphasis will be placed on the effective utilization of supervisory staff. CIMA has also appointed an internal Supervisory Harmony Task Force that will recommend ways to enhance supervisory processes and practices. As part of its remit, the Task Force will revise its framework for the identification, measurement, mitigation and monitoring of risks of the Authority's statutory objectives (risk-based approach to supervision).
24. DNFBP - regulation, supervision and monitoring	LC	• 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.	• 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 régulations the FRA may be assigned the responsibility of monitoring relevant financial business not otherwise monitored by CIMA. Cabinet has approved the assignment on 18 May 2010 as the first step and the FRA currently awaits he provision of the necessary resources including additional staffing to carry out this task.
25. Guidelines & Feedback	LC	• Guidance notes do not fully cover terrorism finance or include dealers in precious metals and precious stones.	• The GN should be amended to specifically cover terrorism financing. • The GN should be extended to dealers in precious metals and precious stones.	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 of terrorism is included in Appendix L 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.
Institutional and other measures				
26.The FIU	LC	• FRA has not developed any comprehensive	• Despite the enhanced level of training, the FRA should take measures to establish a more formalized	The FRA has implemented an AML/CFT training program/schedule for each staff member to ensure that

		typologies and/or trends for the annual report.	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.	they remain abreast of current trends and typologies.
			• 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.	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. A Draft Order was approved by Cabinet on Mar 8, 2010. The Gazettal of the Order is in the process for full implementation. Additionally the industry has been informed of these upcoming changes.
			• 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.	This matter will be kept under review, but no issues arise at this time.
			• 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 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.
			• 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,	The FRA website was launched mid-2008 and includes their mandate and responsibilities, 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.

			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 vigilance of the reporting entities is not waning and that complacency is not setting in. • 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.	CFATF, FATF, IMF, Egmont Group) as well as, other information that would be considered useful to educate and inform the general public and AML/CFT investigative partners. The FRA continues its outreach program to educate and engage MLROs on the trends and typologies that impact their businesses having met twice so far for 2010. It is anticipated that the website will play an important role in the general public education process. Efforts in this regard are continuing. 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 2008/09 has increased 30% over 2007/08. The increase in SARs continued in the 2009/10 reporting period with an increase in 11.8% over the previous year. 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 are criminal penalties and are imposed in section 141 of

				the POCL. There are no administrative sanctions available in relevant legislation empowering the FRA to impose such sanctions.
29.Supervisors	LC	• The GN do not fully incorporate specific requirement for terrorism financing, thereby limiting CIMA's range of enforcement powers via the GN in relation to terrorism financing	• 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 of terrorism is included in Appendix L
30.Resources, integrity and training	PC	• Quantitatively inadequate human resources at CIMA limits effectiveness of supervision ▪ Insufficient human resources at HM Customs to carry out all functions	▪ 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.	See comments under Recommendation 23. The staff complement of Customs has been increased by 12 and the positions are under active recruitment, with 6 remaining to be filled. The 10/11 budget for Customs has been increased by 14% higher than the 09/10 budget. This increase in funding is specifically allocated for meeting the staffing requirements for the Customs Department.
32.Statistics	LC	• HM Customs does not yet maintain statistics on	• Cayman Islands authorities should maintain detailed	HM Customs maintains detailed statistics on cross

		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 authorities and supervisors	statistics on the number of requests for assistance made by domestic law enforcement authorities and supervisors including whether the request was granted or refused.	border transportation of currency and bearer monetary instruments. These are updated on a monthly basis and quarterly reports are generated. CIMA, the FRA and the Legal Department already maintained such statistics and this is now also in place at the FCU.
International Co-operation				
35.Conventions	LC	• Due extensions of conventions are required	• 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 February 2010.
36.Mutual legal assistance (MLA)	LC	• 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.	• 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.	Amendment to the CJICL to effect was passed in the Legislative Assembly on February 24, 2010. Current arrangements function effectively; matter will be kept under review.
Nine Special Recommendations		**Summary of factors underlying rating**		
SR.I Implement UN instruments	LC	• Due extensions of conventions are required.	• 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 February 2010.
SR.II Criminalise terrorist financing	LC	• 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	• 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.	• 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	• No clear guidance in GN with regard to treatment of attempted suspicious transactions or consequences of non-reporting.	• GN should provide clear and unambiguous guidance as to the treatment of attempted suspicious transactions.	Paragraph 5.35 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	• There have not been any mutual legal assistance requests with respect to terrorism to duly determine the effectiveness thereof. • There have not been any extradition requests with respect to terrorism to duly assess the effectiveness thereof.		No mutual legal assistance or extradition request with respect to terrorism has been received by the Cayman Islands authorities
SR VI AML requirements for money/value transfer services	LC	• 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	• 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	• 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	• 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	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. It is the intention to bring charities under a statutory charities commission by way of a new charities law. This Bill has been issued and is in circulation for the second round of public consultation. This new law has

		• No formal designation of points of contacts or procedures in place to respond to international inquiries regarding terrorism related activity of NPOs.	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.	as an express object the implementation of the required AML/CFT regime for NPOs and will also provide for supervisory arrangements. In the interim, the existing requirements under s.80 of the Companies Law will continue to be applied, and 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	• 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	• 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	It has been determined by the Customs Department that due to the low risk of currency smuggling by passengers at the ports, the purchase and training of K-9s for the detection of currency is not necessary. Along with the x-ray machine capable of detecting currency, Customs has also acquired an x-ray machine which is capable of detecting all types of contraband (ie. Guns, illegal drugs etc.) Additionally, funding has been acquired for the purchase of an x-ray scanner as well as a pallet scanner and the process of inviting tenders for their procurement has begun. It is hoped that the scanners will be in place by the end of 2010. Customs has been included in the FRA trends/typologies group and is a pre-existing member of the Joint Intelligence Unit (police, customs, immigration).