



First Follow-Up Report

Curaçao

October 30, 2012

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CURACAO: FIRST FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of Curaçao's report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of Curaçao was adopted by the Plenary at the May 2012 CFATF Plenary meeting in El Salvador. At the time of adoption, the Plenary determined that Curaçao would report back to Plenary in November 2012¹ and then one (1) year later (November 2013) on regular follow-up.
2. Curaçao received ratings of PC on nine (9) of the sixteen (16) Core and Key Recommendations as follows:

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

3. With regard to the other non- Core or Key Recommendations, Curaçao was rated partially compliant or non-compliant, as indicated below.

Partially Compliant (PC)	Non-Compliant (NC)
R. 11 Record Keeping	R. 12 (DNFBPs – R., 6,8-11)
R. 14 Protection & no Tipping-off	R. 16 (DNFBP-R. 13-15 & 21)
R. 17 (Sanctions)	R. 24 (DNFBP-regulation, supervision and monitoring)
R. 21 (Special attention for higher risk countries)	SR. VIII (Non profit organisations)
R. 25 (Guidelines and feedback)	
R. 30 (Resources)	
R. 31 National Co-operation	
R. 32 (Statistics)	
R. 33 Legal Persons	
SR. VI (AML requirements for MVTs)	
SR. IX (Cross border declaration & disclosure)	

4. The following table is indented to assist in providing an insight into the level of risk in the main financial sectors in Curaçao.

Size and integration of Curaçao's financial sector

¹ All Members are required to make an initial FUR at the first Plenary following the adoption of their Report.

		Banks	Other Credit Institutions*	Securities	Insurance	TOTAL
Number of institutions	Total #	8 local and 33 international banks	25	12 local and 8 foreign investment institutions	62 ²	
Assets	US\$	Local banks 7,752,164.00 International banks 24,444,470.00	790,189.00	Local Investment Institutions: approx. 6,000,000,000 Foreign Investment Institutions: approx. 900,000,000	7,311,800,000 ³	
Deposits	Total: US\$	Local banks 6,682,997.00 International banks 23,571,217.00	262,919.00	N/A	1,373,200,000 ⁴	
	% Non-resident	Local banks: 42% International banks: 100%	0%	N/A	45% (4)	

² This total includes:

- Local insurance companies (life and non-life)
- International insurance companies (reinsurers and captive insurance companies)
- Pension funds

³ Amounts as reported by the institutions as per year end 2010

⁴ Represents the investments in (time) Deposits at foreign banks by the institutions in percentage of total investments in (time) Deposits.

International Links	% Foreign-owned:	Local banks: 55% International banks: 15%	0%	100%	67% of Assets ⁵	
	#Subsidiaries abroad	4 of local banks 3 of international banks	0	0	6 ⁶	

II. Summary of progress made by Curaçao⁷

- Since Curaçao's Mutual Evaluation, the new Penal Code entered into force on November 15, 2011. The Penal Code addresses issues such as the criminalisation of terrorist financing, provision of a specific listing of offences occurring abroad, but which may be prosecuted in Curaçao. The listing does not however cover all serious crimes. The Penal Code has also reduced the penalties for money laundering. The Authorities noted that a reconsideration of the penalties will be part of the evaluation of the Penal Code over the next five (5) years. The Authorities have also noted that a revision of the Opium Ordinance (1960) has been presented to Parliament in relation to the ratification of the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (The 1988 Vienna Convention) and the UN Convention on Psychotropic Substances. The Curaçao Authorities have noted that there will be a revision of the Provision and Guidelines (P&G) for Credit Initiations, IC&IB and the MTCs. The revision will affect compliance with R. 5, 7, 10, 12, 21 and SR. VII. The NOIS and the NORUT is also expected to be revised and will impact compliance with R. 10. The Authorities have also provided a detailed narrative on how thematic reviews in the area of ML/FT are conducted by the Central Bank.

Core Recommendations

Recommendation 5

- With regard to the Examiners' recommendation concerning the capturing of insurance agents in the AML/CFT framework, the Authorities have stated that the activities of both brokers and insurance agents fall under the NOIS and the NORUT and that both parties mediate in the conclusion of a life insurance contract as defined in Art. 1 (1)(b) under 5 of the NOIS and Art. 1(1)(a) under 5 of the NORUT. The Authorities have further noted

⁵ Represents the Assets of the institutions with foreign shareholders in percentage of total Assets.

⁶ Represents the number of subsidiaries abroad of local institutions.

⁷ The Summary provides information on new and proposed legislation, amendments to legislation and general updates on Recommendations that were rated LC.

that in the P&G for IC & IB they have added the word ‘insurance brokers’ on the form t page since this word is most commonly used in the jurisdiction. They further assert that ‘insurance agents’ fall under the definition of ‘insurance intermediaries’ and that pursuant to footnote 16 on page 15 of the P&G for IC & IB a reference is made to ‘insurance broker/agents. The Authorities also cite the National Ordinance on the Insurance Brokerage Business (NOIB) N.G. 2003, no 113)⁸ The Authorities further noted that during the period September 5, 2011 – October 12, 2012, the Central Bank performed fifteen (15) examinations or visitations at insurance brokers under its supervision. The Authorities have reiterated that the activities of both the insurance broker and the insurance agent fall under the NOIS and the NORUT and they are both considered the same within our jurisdiction.

Period: September 5, 2011 – October 12, 2012	
Number of examinations/ visitations at insurance intermediaries	Reporting to FIU
15	0

4. While the Examiners are of the view that there remains is a lack of clarity with regard to brokers and agents, they will accept the view presented by the Curacao Authorities. Accordingly, the recommendation has been met.
5. With regard to the issue of the need for clarity between the NORUT and NOIS as it pertains to persons conducting reportable activities and their CDD obligations, the Authorities have agreed that there is a discrepancy between the NORUT and the NOIS in this regard. They have decided to adapt the position in the NORUT since FATF Recommendations do not cover non-life insurance contracts.
6. With regard to clarity in the risk exercise undertaken by the Central Bank (CB) that resulted in the designation and exemption of low risk financial institutions, the Authorities have explained the RBA that has been adopted for dealing with the insurance sector (See attached matrix). The issue is one of evidence of effectiveness. A programme of schematic review does not in itself demonstrate and effective RBA. The jurisdiction needs to clearly speak to profiling based on product, geography, customers and delivery channels, (as per FATF Guidance on the RBA to combat ML and FT June 2007) which would support ratings assigned to types of intuitions and would in turn justify the frequency and scope of examinations. With regard to the other Examiners’ recommendations which pertain to issues with the absence of relevant requirements in the P&Gs and the NOIS, the Authorities have stated that revisions will be made to the relevant guidelines and legislation to address the recommendations. Based on the aforementioned, the Examiners recommendations with regard to R. 5 remain substantially not met.

⁸ The NOIB at relevant part explicitly states ‘that it is desirable in terms of promoting orderly commerce and protecting the interests of potential insurance policy holders to establish rules for insurance brokers and their agents with regard to the exercise of the insurance brokerage trade.’

Recommendations 13 and Special Recommendation IV

7. The Examiners' recommendations have not been addressed as yet. The Authorities have noted that with regard to the prescriptive list of indicators, the actual indicators will be discussed by all organizations/institutions in the reporting system in order to assess their effectiveness. This process will occur in conjunction with other relevant partners within the Dutch Kingdom.

Special Recommendation II

8. With regard to the proper criminalization of the offence of terrorism financing in accordance with the Terrorist Financing Convention as it pertains to compliance with both R. 35 and SR. II, the Authorities have cited Article 2:55 of the Penal Code. A review of the cited section shows that the offence has now been criminalized more in keeping with the requirements of the Convention. The definition of terrorist intent at Article 1:203 of the Penal Code appears to encompass the elements of a terrorist offence or terrorist acts in that it refers to 'the purpose to frighten the public or a section of the population of a country or unlawfully force a government....' Article 1:190 of the Penal Code states that 'where a crime in general or any crime in particular is mentioned, it is understood to include complicity in, attempt or preparation of that crime, unless any provision leads to the contrary.' Based on the size of the document, (i.e. the Penal Code), the Authorities have not provided a complete translation of the document and so while what has been provided appears to meet the requirement for the criminalisation of terrorist financing, a firm determination cannot be made at this time and the recommendation remains partially met. For example, the definition of a terrorist offence is contained in almost thirty different Articles, which have not been provided.

Key Recommendations

Recommendations 4

9. With regard to this Recommendation, the Examiners' recommended that it should be clarified whether the FIU (MOT) in its functions as supervisory authority is able to disclose information with domestic or international supervisory counterparts. Curaçao has noted that the NORUT is being revised and that the issue will be addressed in that revision. Accordingly, the Examiners' recommendation has not been met. The Examiners recommended that clear information gateways should be made in the Ordinance for supervisor to supervisor exchange by the CB to the supervisory arm of the FIU (MOT) and in this regard, the Authorities have stated that the issue has already been addressed in the draft Harmonization of Supervision Ordinances, which are currently in the legislative process. The Examiners' recommendation remains outstanding subject to the enactment of the Ordinances. At present, no action has been taken with regard to the sharing of information by the IOCSC with national and international supervisors and the ease of information exchange between the CB and the Police. Based on the aforementioned, the recommendations have not been met.

Recommendation 26

10. With regard to the Examiners' recommendation for R. 26, the Curaçao Authorities have stated that they will be addressed in the revision of the NORUT. Accordingly, the Examiners' recommendations have not been met.

Special Recommendation I

11. With regard to this Special Recommendation, the Examiners recommended that the laws should be properly enhanced to give effect to paragraph 4(a) of the UNSCR 1267 (denial of aircraft to take off or land or if it is owned, leased or operated by or on behalf of the Taliban as designated...) and that measures should be put in place that would allow for the freezing of assets without delay as they pertain to terrorist designated under UNSCR 1373. The Authorities have noted that the relevant legislation and policy documents will be reviewed and amended where necessary. Accordingly, none of the Examiners' recommendations have been met.

Recommendation 35

12. The Examiners recommended that Curaçao should fully implement the provisions of both the Vienna Convention (Article 15) and Palermo Convention (Articles 18, 23 and 25-28), since these Articles had not been seen by the Examiners during the Evaluation process. Based on documentation subsequently submitted by the Curaçao Authorities, these recommendations have been met.

Special Recommendation III

13. The Examiners' recommendations have not been addressed as yet. The Authorities have noted that the relevant legislation and policy documents will be reviewed and where necessary be revised. The outstanding recommendations pertain to the implementation of UNSCR 1373.

Other Recommendations

Recommendation 11

14. The Curaçao Authorities have stated that the Examiners' recommendation as it pertains to the keeping of findings of examinations on the background and purpose of complex, unusual large and unusual patterns of transactions for at least five (5) years and the making of such findings available to auditors and competent authorities, will be addressed in the revision of the P&Gs and the NOIS. Accordingly, the Examiners' recommendations have not been met.

Recommendations 12

15. With regard to the Examiners' recommendation that lawyers, notaries, accountants or similar profession that carry out transactions for clients dealing with the organisation of contributions for the creation, operation or management of companies and trust and company service providers carrying out transactions for clients dealing with acting as a nominee shareholder should be subject to the AML/CFT obligations under the NORUT and the NOIS, the Authorities have stated that TCSPs are subject to the AML/CFT provisions of the NOIS and the NORUT. They also note that nominee shareholder

services are explicitly addressed in the P&G for company trust service providers. Based on a review however, the cited sections do not pertain to nominee shareholders which is the issue being addressed by the Examiners' as it pertains to TCSPs. See. MEVAL Report at paragraph 1047 (iv) and the resulting conclusion at paragraph 1049. The issue with regard to lawyers, notaries etcetera has not been addressed and accordingly the Examiners' recommendation on these issues remain outstanding.

16. With regard to Internet casinos being subject to the AML/CFT obligations of the NOIS and the NORUT, the Authorities have stated that they are subject to these obligations. However, there are deficiencies with these obligations as noted in paragraph 1059 of the MEVAL Report. The Authorities have also noted that the legislation which will institute a supervisory authority for this sector is still in the legislative process. Accordingly, this recommendation has not been met. The issue with regard to the threshold for identification requirements for casinos has been addressed in the draft revision of the Ministerial Decree of the NOIS. As a result of the draft status, the Examiners' recommendation remains outstanding. With regard to the recommendation that financial institutions should be legislatively required to perform CDD when carrying out occasional wire transfers in circumstances covered by SR. VII, the Authorities have noted that DNFBPs do not qualify as financial institutions and therefore are not allowed to carry out wire transfers as a service provider and that they can only be originators. The Authorities are asked to note that the requirements of R. 5 are applicable to all DNFBPs. This requirement is a deficiency in R. 5 for financial institutions and so by applicability is also a deficiency in R. 12 for DNFBPs. The Examiners' recommendation has not been met.
17. With regard to recommendations pertaining to the conduct of on-going due diligence by service providers on business relationships; the amendment of the NOIS to provide for reduced or simplified CDD measures for exempted institutions, the amendment of the P&G for administrators and company (trust) service providers re the making of a UTR when the requirements of E.C. 5.3 to 5.6 are not met and the deficiencies identified in R. 10 and 11 which are applicable to DNFBPs, the Curacao Authorities have noted that these issues will be addressed in revisions to the NOIS, the NORUT and the P&Gs. With regard to the Examiners' recommendations for the Gaming Control Board (GCB), the Authorities have presented the measures that will be taken to address the recommendations. These measures include regular auditing of the casino sector on compliance with AML/CFT regulations and in that regard the GCB has already audited two (2) new casinos in the first quarter of 2012 on AML/CFT compliance. Additionally, all casinos will undergo their yearly AML/CFT audits (part of their MICS compliance audit) in the last quarter of 2012. The GCB also intends to perform audits of the financial statements of all casinos so that they will get an insight into the overall operation of the casinos. In an effort to ensure effective supervision, the capacity of the audit division has been increased with the hiring of one audit supervisor and one audit senior in the first half of 2012. The Authorities expect that by the end of 2012 three (3) additional auditors will have been recruited. The GCB has also made CAMS certification mandatory for all of their auditors. There are also measures to ensure that non-compliance will be sanctioned in an effective, proportionate and dissuasive manner. Accordingly, a procedure starting with a management letter within sixty (60) days of the audit, followed by a three to six month period to rectify deficiencies; followed by a re-assessment of compliance after which depending on the findings a decision will be made by the GCB as to whether sanctions are required and the extent of those sanctions. The Authorities expect that the sanctions will take the form of a fine, which will be proportional to the violation with the

closure of the casino being the ultimate remedy. It should be noted that the lack of enforceability of the relevant provisions as it pertains to the GCB as the supervisory authority for casinos hinged on the status of the P&Gs not being considered OEM because the sanctions were not considered broad or proportionate and there had been no implementation of any sanctions. Thus, while the implementation of AML/CFT audits on casinos is a positive step in the supervision of casinos, compliance with the Examiners' recommendations should focus on the issue of the sanctions which will need to be addressed in a more definitive way.

Recommendations 14

18. The examiners' recommendations for R. 14 will be addressed through amendment to the NORUT to ensure that there is a correct interpretation of the law with regard to ensuring that directors of legal persons are protected from civil and criminal liability where they breach confidentiality to report in good faith and to address the issue of the tipping-off offence.

Recommendation 16

19. With regard to the Examiners' recommendations, as it pertains to deficiencies noted in R. 13 and 14, the FIU (MOT) is contacting all reporting entities including the DNFBPs with regard to their reporting obligations under the NORUT. Based on the discussions of those Recommendations above, the Examiners' recommendation has not been met. The discussions by the FIU (MOT) with the reporting entities is however a good initiative. The recommendation pertaining to R. 21 for DNFBPs under the CB has not been met. The Authorities note that with regard to DNFBPs supervised by the FIU (MOT) and the GCB, the plan noted above re the GCB is applicable. See. Discussion above. The issue has not been addressed for DNFBPs that are supervised by the FIU (MOT). The recommendation has not been met.

Recommendation 17

20. The Authorities have noted that compliance with the Examiners' recommendations for R.17 will be addressed in the Harmonization Law, which is currently in the legislative process. The Law is expected to address issues pertaining to revocation of licenses, the power to impose administrative fines and the referral for criminal investigation or prosecution by the CB. While this measure may meet the Examiners' recommendation for banks, there is an issue as to whether it will cover non-bank MTCs as exempted persons. See. Paragraphs 920 & 921 of the MEVAL Report.

Recommendation 21

21. With regard to the examination and keeping of written findings for transactions that have no apparent economic or visible lawful purpose, for competent authorities, the Authorities haven noted that this will be addressed in the revision of the P&G. Accordingly, the recommendation is not met. The recommendation with regard to effectively demonstrating the use of instructions regarding countermeasures for transactions and business relationships with countries that do not apply or insufficiently apply the FATF Recommendations has not been addressed as yet.

Recommendation 24

22. With regard to an AML/CFT regime for supervision of and compliance by Internet casinos, the Authorities have indicated that the relevant supervision law is in the legislative process. For the recommendation on the implementation of an effective supervisory regime by the FIU (MOT), the FIU (MOT) is preparing for regular audits pursuant to the NORUT and the NOIS. On the issue of additional resources for the FIU (MOT) to fulfil its supervisory role for the DNFBP sector, the Authorities have noted that the FIU (MOT) has sent a letter to the Minister of Finance requesting additional human resources. The issue with regard to the supervisory function of the CB re: R. 29 as it pertains to DNFBPs is reconciling the exercise of powers and the concerns with the effectiveness of the RBA programme as discussed above at R. 5.

Recommendation 25

23. The Examiners recommended that reporting entities should receive more general and case-by-case feedback on reports that are submitted to the FIU; that the FIU (MOT's) annual report should include more information on ML and FT trends and typologies; that a framework inclusive of a P&G should be implemented for factoring services; that a P&G should be developed for Internet casinos and the FIU (MOT) should provide more ML/FT feedback for the DNFBPs that it supervises. The Authorities have indicated that with regard to the annual reports the FIU (MOT) is reviewing its annual reports to make the trends and typologies more visible. With regard to the implementation of an AML/CFT supervisory regime for factoring, the Authorities have noted that this will be undertaken by the CB. The Authorities have not provided information with regard to the other recommendations. The Examiners' recommendations have not been met.

Recommendation 30

24. The Curaçao Authorities have only addressed one of the Examiners' recommendations as it pertains to the recommendation that the FIU (MOT) should be given more resources to fulfil their supervisory role. In that regard, as noted above a letter has been sent to the Minister of Finance requesting more human resources for the FIU (MOT). The Examiners' recommendations have not been met.

Recommendation 31

25. The Examiners' recommendations have not been addressed; the Authorities have noted however that the actual structure of the CIWG is being thought through with the expectation of a revision of the structure.

Recommendation 32

26. The Authorities have noted that with regard to the Examiners' recommendation that Customs or other relevant competent authority maintain statistics with regard to cross border negotiable instruments, that Customs keeps statistics on everything pertaining to

cross border, to date there has been no case of cross border negotiable instruments. No information has been provided with regard to the other recommendations.

Recommendation 33

27. With regard to the Examiners' recommendation that law or regulation should establish a requirement for all legal persons to register the information on the ultimate beneficial owner (UBO) at the commercial register of the Chamber of Commerce, the Authorities have noted that while the registration of UBO information is a FATF requirement, the FATF leaves the country to decide the mechanism and that for security reasons Curaçao is contemplating other ways than recommended by the Examiners. While there is agreement with the position taken by the Authorities with regard to the freedom to address the issue, the Examiners' recommendation is based on the system of registration (i.e. at the Chamber of Commerce) that it met at the time of the Evaluation. Whatever system is determined by the Curaçao, it must show that there is a proper process to register UBO information. The Examiners' recommendation remains outstanding.
28. With regard to the establishment of procedures to ensure that all information in the Registry is up to date and accurate, the Authorities have provided a detailed narrative on the filing system at the Registry. This system is the same as described during the onsite, but as discussed in paragraphs 1179-1181 and 1183, the Examiners' are of the view that there is an issue with full and updated information with regard to the information that is contained in the Registry. The Examiners' recommendation remains outstanding. The Authorities have not addressed the issue of administrative sanctioning powers for the Chamber of Commerce, but have again noted the power the Court has to impose sanctions. This recommendation has not been met. With regard to the recommendation pertaining to better procedures with regard to the exchange of information in the Commercial Register, the Authorities have noted the public nature of the Register and that all filings are available upon request in accordance with the Trade Registry Decree, 2009. However, the Examiners' concern is that there was no evidence (statistics) with regard to the operation of this procedure, so while it is acknowledged that information is exchanged there is no process that dictates how this occurs. The latter ties in with the deficiency related to the effectiveness of the system.
29. With regard to the issue of the immobilization of bearer shares, the Authorities have stated that supervision on the compliance of the relevant national decree is being exercised. The *National Decree on the obligation to retain securities to bearer* which came into force on June 15, 2010 is aimed at immobilizing bearer securities. This Decree states (article 3) that bearer securities that have been already issued at the time of commencement of the Decree should have been deposited for safe deposit with the Trust Service Provider ("TSP") or another depositary, no later than **six** (6) months after the commencement of this Decree (December 31, 2010).
30. During the on-site examinations conducted at the TSP's that took place during 2011 to present, the on-site examination teams reviewed the TSP's compliance to this Decree. The Central Bank gave seven (7) of the twenty-four (24) visited licensees instructions to take corrective measures within the stipulated timeframe. From the seven (7) visited licensees which were in violation of this Decree to date the majority are in compliance and have provided the Central Bank with a plan of action relative to the immobilization of bearer shares. The outcome of this recommendation is ongoing and is expected to be

updated accordingly by the Authorities as to the level of compliance by the relevant persons.

Special Recommendations VI

31. With regard to the Examiners' recommendations for SR. VI, the Authorities have indicated that the P&G for MTCs will be revised to comply. Consequently, the examiners' recommendations have not been met.

Special Recommendation VIII

32. The Authorities have not provided any information on measures to comply with the Examiners' recommendations. The recommendations remain outstanding.

Special Recommendation IX

33. With regard to compliance with the Examiners' recommendations, the Authorities have stated that there have been consultations with the airport authorities and that the structure of the arrival area will be modified to incorporate more signage and also to ensure the visibility of the signs in order to address the recommendation that there should be further improvement in the way passengers are informed of their obligation in the arrival zone at the airport. Based on the completion of the consultations and an indication of the final changes that have been decided and made an analysis of compliance with the recommendation will be made. As it pertains to the recommendation that Customs be obligated to better monitor the source, destination or purpose of the movement of gold or precious metals and stones, Curaçao has indicated that the draft amended National Ordinance Obligations to Report Cross Border Money Transportation, which is still in the legislative process will address the issue of gold, precious metals and stones. Accordingly, the recommendation is still outstanding. On the issue of Customs having the power to stop or restrain currency where there is a suspicion of ML or FT, the Authorities have noted that in the General Regulation, import, export and transit, Customs have the authority to stop or restrain currency where there is a suspicion of ML, however the power to stop and restrain will be explicitly stated in the amended General Regulation. Subject to the amendment of the General Regulation, this recommendation remains outstanding.

III. Conclusion

34. Since the adoption of its Mutual Evaluation Report, Curaçao has begun the process of review and determination of the pieces of legislation that need to be amended in order to meet the Examiners' recommendations. They have also begun to place some of the new and amended legislation in the legislative process, which it is hoped will result in timely enactment and implementation. (E.g. the draft Harmonization Law, the National Ordinance Obligations to Report Cross Border Money Transportation).

FINAL

35. It is recommended that Curaçao report back to the November 2013⁹ Plenary, with the understanding that there will be substantial compliance with the Examiners' recommendations by that time.

⁹ Following the presentation of Curaçao's Mutual Evaluation Report, the Plenary decided that Curaçao will be placed in regular and report back in November 2013. However, it is a standard practice that each evaluated country must report back initially at the next Plenary after the adoption of its Report.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
Curaçao November 2012 Plenary**

	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
Legal systems				
1. ML offense	LC	<p>The possession of equipment or materials or substances listed in Table I and Table II of the Vienna Convention has not been criminalized.</p> <p>The Penal Code provides for a specific listing of offences occurring abroad which may be prosecuted in Curacao which may not cover all serious crimes.</p> <p>The ancillary offence of preparation would not apply to intentional or culpable money laundering offences</p>	<ul style="list-style-type: none"> • Curaçao should criminalize the possession of equipment or materials or substances listed in the Vienna Convention. • The Authorities should move amendments to extend the powers of prosecution to all crimes committed abroad which would constitute crimes in Curaçao. • The law should provide for the widest range of ancillary offences for all money laundering offences. Currently, the ancillary offence of preparation would not apply to some money laundering offences. 	<p>A revision of the Opium Ordinance 1960 has been presented to Parliament (Statennr. 2321) in connection with the ratification /implementation of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the UN Convention on Psychotropic Substances.</p> <p>The new Penal Code (entered into force by November 15, 2011) also provides for a specific listing of offences occurring abroad, which may be prosecuted in Curacao but the listing doesn't cover all serious crimes. During the following 5 years we will be evaluating the new Penal Code and testing it to applicable Conventions.</p>
2. ML offense—mental element and corporate liability	LC	The effectiveness of the ML prosecution regime could not be properly assessed based on the statistical information provided.	<ul style="list-style-type: none"> • The Authorities should reconsider a reduction in the penalties for money laundering. 	<p>1. Regarding the distinctness of statistical material it is proposed that this topic be handled at the institutional consultation between Prosecuting Attorney and the Police.</p> <p>2. Regarding the reconsideration of penalties for money laundering (as enacted in the new Penal Code): this is also to be part of the evaluation as aforementioned.</p>
3. Confiscation and provisional measures	LC	Examiners had difficulty in assessing the true effectiveness of Curacao's confiscation regime.	<ul style="list-style-type: none"> • Whilst the prosecutor always retains the ultimate discretion as to whether cases should be proceeded with, the Examiners consider that it would be more transparent for the PPO to establish appropriate 	There are Guidelines governing the confiscation regime.

FINAL

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
Curaçao November 2012 Plenary**

	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
			Guidelines to govern such cases to avoid the possibility or appearance of impropriety.	

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
Curaçao November 2012 Plenary**

	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	<p>The Central Bank cannot exchange information with the supervisory arm of the MOT; or GCB.</p> <p>The FIU (MOT), in the conduct of its supervisory function, is not allowed to disclose information with domestic supervisory counterparts.</p> <p>The GCB cannot disclose information to national and international supervisors.</p> <p>There are differences in views between the Police and Central Bank regarding the ready availability of information requests.</p>	<ul style="list-style-type: none"> • It should be made clear whether the MOT, in its functions as a supervisory authority, is allowed to disclose information with domestic or international supervisory counterparts. • The IOCCS should make provision for sharing of information with national and international supervisors • Clear information gateways should be made in the Ordinance for supervisor-to-supervisor exchange by the Central Bank to the supervisory arm of the FIU (MOT). • The Police and Central Bank should resolve any differences in expectations as it relates to how readily information is forthcoming. 	<p>The Norut is being revised. This issue will be addressed in the revision of the Norut.</p> <p>This has already been addressed in the draft Harmonization supervision ordinances which is in the legislative process.</p>
5. Customer due diligence	PC	<p>No legislative requirements for CDD when carrying out occasional wire transfers in the circumstances covered by the Interpretative Note to SR VII</p> <p>No legislative requirement for service providers to conduct on-going due diligence on the business relationship.</p> <p>Clarity is needed on whether non-life activities that are reportable under the NORUT are to be subject to CDD under the NOIS.</p> <p>The NOIS allows for full exemption from CDD rather than reduced or simplified as provided for under the FATF Recommendations.</p> <p>The P&G for CI does not limit simplified and reduced CDD to customers of countries that Curacao is satisfied are in compliance with and effectively implementing the FATF Recommendations.</p>	<ul style="list-style-type: none"> • Insurance agents should be captured in the AML/CFT framework. 	<p>Activities of both brokers and insurance agents fall under the NOIS and the NORUT. They both mediate at concluding a life insurance contract as defined in article 1 paragraph 1 sub b under 5 of the NOIS and article 1 paragraph 1 sub a under 5 of the NORUT.</p> <p>In the P&G for IC & IB, we have added the word insurance brokers in brackets on the front page, since this word is most commonly used in our jurisdiction. For the sake of completeness "Insurance agents" fall under the definition of Insurance intermediaries. Furthermore, on page 15 of the P&G, in foot nr 16, we also refer to insurance broker/agents.</p> <p>The explanatory notes of the National Ordinance on the Insurance Brokerage Business (N.G. 2003, no 113) state explicitly: "that it is desirable in terms of promoting</p>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
Curaçao November 2012 Plenary**

	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
		<p>The risk exercise undertaken to exempt certain financial institutions from CDD based on their designation as low risk, is unclear</p> <p>No explicit requirement in the P&Gs requiring financial institutions to consider making a UTR, where the requirements of E.C. 5.3 to E.C. 5.6 are not met. In addition, no requirement in the P&G for CI to conduct CDD on existing customers on the basis of materiality and risk, and to conduct due diligence on such existing relationships at appropriate times.</p> <p>The sector P&Gs do not conform to the NOIS as it relates to the timing of verification of non-resident clients.</p> <p>No requirement in the P&G for IC & IB requiring financial institutions to undertake CDD when doubts arise about the veracity or adequacy of previously obtained customer identification data.</p>	<ul style="list-style-type: none"> Clarity is needed on whether all persons conducting reportable activities under the NORUT are subject to CDD under the NOIS. Specifically, the NORUT establishes an objective indicator for non-life insurance policies; however, the NOIS only applies to Article 1a of the National Ordinance on the Supervision of the Insurance Industry, i.e. life insurance contracts. The P&G for IC & IB should require financial institutions to undertake CDD when doubts arise about the veracity or adequacy of previously obtained customer identification data. There should be a specific requirement in law or regulation for CDD to be undertaken when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII. The NOIS should clearly establish an obligation on the service provider to conduct on-going due diligence on the business relationship. <p>RISK</p> <ul style="list-style-type: none"> In keeping with the FATF rules of not applying or exempting some or all of the Forty Recommendations to some financial activities in strictly limited and justified circumstances, and based on a proven low risk of money laundering or terrorist 	<p>orderly commerce and protecting the interests of potential insurance policyholders to establish rules for insurance brokers and their agents with regard to the exercise of the insurance brokerage trade.</p> <p>Please refer to the attached copy of the NOIB.</p> <p>At present, there is indeed a discrepancy between the NORUT and the NOIS in this respect. However, since the FATF recommendations do not cover non-life insurance, our approach will be to adapt the NORUT.</p> <p>The P&G will all be revised to implement the recommended actions.</p> <p>The P&G will all be revised to implement the recommended actions.</p> <p>The NOIS is being revised. This will be addressed in the revision of the NOIS.</p> <p>The risk based approach of the Central Bank for credit institutions is primarily based on the nature of the institutions' business. A significant number of the credit institutions (in 2010: credit unions (15), specialized credit institutions (6), savings</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
			<p>financing, clarity is needed on the risk exercise undertaken that resulted in the designation and exemption of low risk financial institutions.</p>	<p>and credit funds (7)) are regarded as low risk due to the nature of their business. Subsequent to eliminating these low risk institutions from the total licensed institutions, all high and medium risk credit institutions have been subjected to onsite reviews for verification of compliance with AML/CFT.'</p> <p>The risk based approach of the Central Bank for insurance sector is as follows:</p> <p>The types of life insurance contracts that are considered vulnerable as a vehicle for laundering money are investment related insurance. Examples of this type of insurance contract are;</p> <ul style="list-style-type: none"> - unit linked or with profit single premium contracts; - purchase of annuities; - lump sum top-ups to an existing life insurance contract, and - lump sum contributions to personal pension contracts. <p>The vulnerability depends on factors such as the complexity and terms of the contract, distribution, payment system and contract law.</p> <p>The life insurance industry in Curaçao characterizes itself amongst other as 1) selling of credit life insurance (risk insurance in relation to mortgage loans). These products do not have a cash value or investment features and as such do not lend themselves to money laundering activities.</p> <p>2) Selling of life insurances of which premiums are being paid in monthly installments.</p> <p>3) Purchase of annuity which are the result of life insurance which have matured.</p> <p>Of the 10 life insurance companies that the Central Bank had under its supervision as of December 31, 2010, the activities of 2 focused mainly on credit insurance.</p>
			<ul style="list-style-type: none"> • Exemptions in the NOIS should allow for 	

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			<p>reduced or simplified CDD for low risk scenarios, rather than no CDD.</p> <ul style="list-style-type: none"> The P&G for CI should limit simplified and reduced CDD to customers of countries that Curacao is satisfied are in compliance with and effectively implementing the FATF Recommendations. <p><u>TIMING OF VERIFICATION</u></p> <ul style="list-style-type: none"> The P&G and the NOIS should be consistent in terms of timing of verification of the identity of non-resident clients. <p><u>FAILURE TO SATISFACTORITY COMPLETE CDD</u></p> <ul style="list-style-type: none"> The P&Gs should explicitly require that a financial institution: considers submitting a UTR where the requirements at E.C 5.3 to 5.6 are not met. Further, the P&G for CI should require the conduct of CDD on existing customers/retrospective CDD, on the basis of materiality and risk, and due diligence on such existing relationships at appropriate times. 	<p>The NOIS is being revised. This will be addressed in the revision of the NOIS.</p> <p>This will be addressed in the abovementioned revisions of the P&G and the NOIS.</p> <p>This will be addressed in the abovementioned revisions of the P&G.</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
6. Politically exposed persons	LC	Effective supervision on factoring service providers cannot be determined in light of recent inclusion under the AML/CFT framework.	<ul style="list-style-type: none"> There should be effective coverage of factoring which was recently included in the NOIS and the NORUT. 	The implementation of AML/CFT supervision on factoring service providers is being prepared by the Central Bank.
7. Correspondent banking	LC	Credit institutions are not required to assess the respondent's AML/CFT controls and ascertain that they are adequate and effective.	<ul style="list-style-type: none"> The Guidelines for CI should explicitly require that credit institutions assess the respondent's AML/CFT controls and ascertain that they are adequate and effective as required under Recommendation 7. 	This will be addressed in the abovementioned revision of the P&G.
8. New technologies & non face-to-face business	C	This Recommendation has been fully observed.		
9. Third parties and introducers	C	This Recommendation has been fully observed.		
10. Record keeping	LC	<p>No explicit requirement in law or regulation for IC & IB and MTCs to maintain business correspondence for at least five (5) years following termination of an account or business relationship (or longer if requested by a competent authority in specific cases upon proper authority. No mandatory provisions in the P&G regarding the above.</p> <p>No explicit requirement in law or regulation requiring financial institutions to ensure that information (business correspondence) is available on a timely basis to the domestic competent authorities.</p>	<ul style="list-style-type: none"> It should be explicitly stated in law or regulation that IC & IB and MTC maintain business correspondence for third parties for at least five (5) years following termination of an account or business relationship (or longer if requested by a competent authority in specific cases upon proper authority. The language in the P&Gs should also reflect a mandatory requirement as it relates to this matter. Provision should be made in law or regulation requiring financial institutions to ensure that all information (business correspondence) is available on a timely basis to the domestic competent authorities. 	<p>This will be addressed in the abovementioned revisions of the P&G and the NOIS.</p> <p>This will be addressed in the abovementioned revisions of the P&G and the NORUT.</p>
11. Unusual transactions	PC	No requirement in the P&Gs for financial institutions to keep their findings of examinations on the background and purpose of complex, unusual large	<ul style="list-style-type: none"> Financial institutions should be required to (1) keep the findings of examinations on the background and purpose of complex, unusual large and unusual patterns of 	This will be addressed in the abovementioned revisions of the P&G and the NOIS.

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		<p>transactions for at least five (5) years.</p> <p>No requirement in the P&Gs for findings of examinations on the background and purpose of complex, unusually large or unusual patterns of transactions to be made available to the auditors and competent authorities.</p>	<p>transactions for at least five (5) years and (2) make such findings available to the auditors and competent authorities.</p>	

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
12. DNFBP–R.5, 6, 8-11	NC	<p>The provision of services dealing with the organisation of contributions for the creation, operation or management of companies and the provision of nominee services are not subject to the AML/CFT obligations of the NOIS and the NORUT.</p> <p>Internet casinos are not subject to the AML/CFT obligations of NOIS and NORUT.</p> <p>The threshold for identification requirements for casinos is too high.</p> <p>Deficiencies with regard to Rec. 5 applicable to all DNFBPs include:</p> <p style="padding-left: 40px;">No legislative requirements for CDD when carrying out occasional wire transfers in the circumstances covered by the Interpretative Note for SR. VII.</p> <p style="padding-left: 40px;">No legislative requirement for service providers to conduct on-going due diligence on the business relationship.</p> <p style="padding-left: 40px;">The NOIS allows for full exemption from CDD rather than reduced or simplified CDD as required under the FATF Recommendations.</p> <p>No requirement in the P&Gs for administrators and company (trust) service providers obligating financial institutions to consider making a UTR when the requirements of E.C. 5.3 to E.C. 5.6 are not met.</p> <p>Criteria 5.5.2, 5.6 to 5.11, 5.16 and 5.17 of Rec. 5 are not enforceable on DNFBPs under the FIU (MOT) and the GCB.</p>	<ul style="list-style-type: none"> Lawyers, notaries, accountants or similar legal professions preparing for or carrying out transactions for clients dealing with the organisation of contributions for the creation, operation or management of companies and trust and company service providers carrying out transactions for clients dealing with acting as (or arranging for another person to act as) a nominee shareholder for another person should be subject to the AML/CFT obligations of the NOIS and NORUT. Internet casinos should be subject to the AML/CFT obligation in the NOIS and NORUT. The threshold for identification requirements for casinos in legislation should be revised in accordance with the FATF standard. Financial institutions should be legislative required to perform CDD when carrying out occasional wire transfers in circumstances covered by SR. VII. Service providers should be legislatively required to conduct on-going due diligence on business relationships. The NOIS should be amended to allow for reduced or simplified CDD measures for exempted institutions or enterprises under 	<p>Trust and company service providers carrying out transactions for clients dealing with acting as (or arranging for another person to act as) a nominee shareholder for another person are subject to the AML/CFT obligations of the NOIS and of the NORUT. Aforementioned services are fiduciary services as referred to in Article 1, paragraph 1, under b, at 14° of the NOIS and in Article 1, paragraph 1, under a, at 14° of the NORUT. Furthermore, nominee shareholder service is explicitly addressed in the P&G for company (trust) service providers on page 14: “All company (trust) service providers that provide nominee shareholder services and/or provide custody of bearer shares must know the true identity of the person/persons (resident or non-resident) for whom assets are held or are to be held, including the (ultimate) beneficial owner(s). The identity of these clients must be established in accordance with the identification procedures previously mentioned.”</p> <p>Internet casinos are at the moment subject to the AML/CFT obligations in the NOIS and NORUT. The legislation which institutes a supervisory authority for this sector is in the legislative process.</p> <p>This has been addressed in the draft revision of the Ministerial Decree of the NOIS.</p> <p><u>DNFBP do not qualify as financial institutions and therefore are not allowed to carry out wire transfers as a service provider. They can only act as an originator.</u></p> <p>This will be addressed in the abovementioned revisions of the NOIS.</p> <p>This will be addressed in the abovementioned revisions of the NOIS.</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
		<p>Deficiencies identified in section 3 for Recs. 10 and 11 are also applicable to DNFBPs under the Central Bank</p> <p>Requirements of Recs. 6, and 11 are not enforceable on DNFBPs under the supervision of MOT and the GCB.</p> <p>Requirements of Rec. 9 are not enforceable on DNFBPs under the supervision of the FIU (MOT).</p> <p>Deficiencies identified in section 3.5 for Rec.10 are also applicable to all DNFBPs. Additionally, the requirement to ensure that transaction records are sufficient to permit the reconstruction of individual transactions is not enforceable on DNFBPs under FIU/MOT and GCB.</p>	<p>Article 2, paragraph 4.</p> <ul style="list-style-type: none"> The P&Gs for administrators and company (trust) service providers should be amended to require financial institutions to consider making a UTR when the requirements of E.C. 5.3 to E.C. 5.6 are not met. Criteria 5.5.2, 5.6 to 5.11, 5.16 and 5.17 of Rec. 5 should be enforceable on DNFBPs under FIU/MOT and the GCB. Deficiencies identified in section 3 for Recs 10 and 11 which are applicable to DNFBPs under the Central Bank should be remedied. Obligations in Recs. 6, 8 and 11 should be enforceable on DNFBPs under the supervision of FIU/MOT and the GCB and company (trust) service providers. Obligations in Recs. 9 should be enforceable on company (trust) service providers and DNFBPs under the supervision of the FIU (MOT). The deficiencies in section 3.5 for Rec. 10 which are applicable to all DNFBPs should be remedied. Additionally, the requirement to ensure that transaction records are sufficient to permit the reconstruction of individual transactions should be enforceable on DNFBPs under the FIU (MOT) and the GCB. 	<p>This will be addressed in the abovementioned revisions of the P&G and the NORUT.</p> <p>This will be addressed in the abovementioned revisions of the P&G and the NOIS.</p> <p>In order to implement the CFATF-recommendations, the Gaming Control Board will effect the following.</p> <ol style="list-style-type: none"> Planning to ensure that the casino sector will be audited regularly and consistently on their compliance with the AML/CFT regulations. <p>Audits on AML/CFT-compliance. In the first quarter of 2012 the GCB has audited two new casinos that opened in August 2011 on AML/CFT-compliance. The management letters, containing the findings, will be sent to the casinos before August 15, 2012. In the last quarter of 2012 all casinos will again undergo their yearly AML/CFT-audit as part of their MICS compliance audit. The casinos are audited on a yearly basis. As of financial year 2012, the GCB will also perform the audits of the financial statements of all casinos, which will give the GCB more insight in the casino's overall operations.</p> <p>Capability of the GCB. To ensure effective supervision of the casinos, the capacity of the audit division is being</p>

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				<p>increased. In the first half of 2012 the division was expanded with one audit supervisor and one audit senior. It is expected that before the end of 2012 three additional auditors will have been recruited.</p> <p>Furthermore, since June 2012 the GCB has made CAMS-certification mandatory for all GCB auditors.</p> <p>2. Planning to ensure that non-compliance will be sanctioned in an effective, proportional and dissuasive manner.</p> <p>Procedure. Within 60 days after the AML/CFT audit of a casino, the casino will receive a management letter, outlining the findings of the audit and recommendations for correction. Depending on the nature of the repairs, the casino will have three to six months in which to implement the recommendations. After that time, the GCB will audit again to assess if the recommendations have been followed. Depending on the findings, the GCB will then decide if sanctions are called for and if so, to what extent. Most probable sanctions will be a fine, proportional to the violations, and the closing down of the casino (although an ultimatum remedium).</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
13. Suspicious transaction reporting	PC	<p>Effective implementation of reporting of suspicious reports is not demonstrated.</p> <p>Subjective indicators for the filing of UTRs are rules based, which hinders the reporting entity's autonomy to decide whether to file a UTR</p> <p>Heavy reliance by the reporting entities on the prescriptive list of indicators provided by the Ministerial Decree.</p> <p>Insufficient flexibility for reporting entities to identify suspicion of ML or FT.</p>	<ul style="list-style-type: none"> The Authorities should ensure that entities from all sectors report UTRs. Mechanisms should be put in place that would require all reporting entities to focus on identifying and reporting on transactions for which they can identify a suspicion. Reporting entities should not rely only on the prescriptive list of indicators provided by the Ministerial Decree. The relevant procedures should be revised to allow developing more flexibility for reporting entities to identify suspicion of ML or FT. 	The actual indicators are going to be discussed by all organizations/institutions within the reporting system in order to assess their effectiveness. This will also occur in conjunction with the other relevant partners within the Dutch Kingdom.
14. Protection & no tipping-off	PC	<p>Directors of legal persons are not protected by law from civil and criminal liability for breach of confidentiality for reporting to the FIU (MOT) in good faith.</p> <p>Tipping-off offence only applicable to employees directly involved in the reporting of any unusual or suspicious transaction to the FIU (MOT).</p>	<ul style="list-style-type: none"> Relevant amendments should be made to ensure that directors of legal persons are protected by law from both civil and criminal liability for breach of confidentiality when reporting to the FIU (MOT) in good faith. The tipping-off offence should cover all the directors, officers and employees of a financial institutions. 	The language of the Norut will be adapted in order to ensure the correct interpretation of the legislation.
15. Internal controls, compliance & audit	C	This Recommendation has been fully observed.		
16. DNFBP– R.13-15 & 21	NC	<p>Deficiencies identified for Rec. 13 and 14 in Section 3.7 are applicable to all DNFBPs.</p> <p>Ineffective reporting of unusual transactions by DNFBPs.</p> <p>Deficiencies identified for Rec. 21 in Section 3.6 of</p>	<ul style="list-style-type: none"> The deficiencies identified for Recs. 13 and 14 in section 3.7 for all DNFBPs should be remedied. The deficiencies identified for Rec. 21 in sections 3.6 for DNFBPs under the Central Bank should be remedied. 	The FIU is contacting all reporting entities, including the DNFBPs, with regard to their reporting obligations under the NORUT.

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		<p>this report also applies to all DNFBPs under the Central Bank.</p> <p>Obligations in Rec. 15 and 21 are not enforceable on the DNFBPs under the FIU (MOT) and the GCB.</p>	<ul style="list-style-type: none"> Obligations in Rec. 15 and 21 should be made enforceable on the DNFBPs under MOT and GCB. 	<p>See actions of GCB under rec. 12.</p> <p>Stricter AML-, MICS- and financial supervision will lead casinos to comply with their reporting obligations.</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
17. Sanctions	PC	<p>The range of administrative sanctions available to the Central Bank under the various Ordinances is uneven.</p> <p>The procedures under the RFETCSM to impose sanctions on non-bank MTCs are unclear and may prove ineffective.</p> <p>Effectiveness of the range of sanctions available for non-compliance with requirements cannot be determined given the limited employ of such.</p>	<ul style="list-style-type: none"> With respect to EC 17.1, the range of sanctions under the various Ordinances should be reviewed with a view to harmonising and ensuring effectiveness, dissuasiveness and proportionality as follows: <ul style="list-style-type: none"> The power to appoint a trustee/administrator should apply under the RFETCSM, NOSTSP, NOSII and NOIB Revocation of the license or dispensation should be available under the NOSSE, NOSII and NOIB. The power to impose administrative fines for AML/CFT violations should be available under the NOIB. Referral for criminal investigation or prosecution by the Central Bank should be available under the NOIB, NOSII The application of conditions and application of sanctions under the RFETCSM to non-bank MTCs should be clarified. 	<p>The power to appoint a trustee/administrator has already been addressed in the Harmonization Law for the NOSTSP, NOSII and NOIB. The appointment of a trustee/administrator is not necessary under the RFETCSM as the aforementioned power will be possible under the abovementioned supervision laws for all institutions supervised by the Central Bank.</p> <p>The revocation of license has already been addressed in the Harmonization Law.</p> <p>The power to impose administrative fines has already been addressed in the Harmonization Law.</p> <p>For insurance companies and insurance brokers referral for criminal investigations or prosecutions is already possible based on article 10 of the NOIS and article 23 of the NORUT. Nevertheless, the referral for criminal prosecution is also being addressed in the Harmonization Law.</p> <p>The abovementioned Harmonization Law is in the legislative process.</p>

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				The application of conditions is based on article 17 paragraph 3 juncto article 21 paragraph 1 of the RFETCSM. Therefore, violations of these conditions will result in the application of the sanctions under the RFETCSM (such as an instruction (article 33 paragraph 1) or revocation of license/dispensation (article 22) or a referral for criminal investigation or prosecution (article 81)) and the sanctions under the NOIS and the NORUT.
18. Shell banks	C	This Recommendation has been fully observed.		
19. Other forms of reporting	C	This Recommendation has been fully observed.		
20. Other NFBP & secure transaction techniques	C	This Recommendation has been fully observed.		
21. Special attention for higher risk countries	PC	<p>No requirement in the P&Gs for IC & IB and MTCs that for transactions that have no apparent economic or visible lawful purpose that their background and purpose should as far as possible, be examined, and written findings should be available to assist competent authorities and auditors.</p> <p>Insufficient instructions issued regarding countermeasures where countries continue not to or insufficiently apply the FATF Recommendations</p>	<ul style="list-style-type: none"> The P&Gs for IC & IB and the MTCs should require that for transactions that have no apparent economic or visible lawful purpose, the background and purpose of such transactions should, as far as possible, be examined, and written findings should be available to assist competent authorities (e.g. supervisors, law enforcement agencies and the FIU (MOT)) and auditors. Authorities should effectively demonstrate employ of instructions regarding countermeasures for transactions and business relationships with countries that do not apply or insufficiently apply the FATF 	This will be addressed in the abovementioned revision of the P&G.

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
			Recommendations.	

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
22. Foreign branches & subsidiaries	C	This Recommendation has been fully observed.		
23. Regulation, supervision and monitoring	LC	Financial institutions engaged in factoring services were only recently subject to the NOIS and NORUTT and subject to supervision by the Central Bank.	<ul style="list-style-type: none"> The new framework for prudential supervision of MTCs should be implemented as soon as possible. 	The information in the columns 'Summary of Factors for Rating' and 'Recommended Actions' do not correlate.
24. DNFBP - regulation, supervision and monitoring	NC	<p>No supervision of internet casinos for compliance with AML/CFT obligations</p> <p>The FIU (MOT) has not implemented an effective supervisory regime.</p> <p>The FIU (MOT) lacks resources to effectively supervise DNFBPs subject to AML/CFT obligations.</p> <p>Deficiencies identified in section 3.10 with regard to R. 17 and 29 are also applicable to DNFBPs under the Central Bank.</p>	<ul style="list-style-type: none"> The Authorities should implement an AML/CFT regime for supervision of and compliance by Internet casinos. The FIU (MOT) should implement and effective supervisory regime as soon as possible. The FIU (MOT) should be given more resources to fulfil their supervisory role for the relevant DNFBP sector. The deficiency identified in section 3.10 (R. 29) with regard to the supervisory function of the Central Bank should be remedied. 	<p>The relevant supervision law is in the legislative process.</p> <p>The FIU is preparing regular audits pursuant to the NORUT and the NOIS.</p> <p>The FIU has also sent a letter to the Minister of Finance requesting additional human resources.</p> <p>Please refer to the response on R.29.</p>
25. Guidelines & Feedback	PC	<p>The FIU (MOT) annual reports do not include adequate information on trends and typologies.</p> <p>P&G for providers of factoring services not in place to assist in implementing and complying with AML /CFT requirements.</p> <p>No P&Gs for Internet Casinos.</p>	<ul style="list-style-type: none"> Reporting entities should receive more general and case-by-case feedback on reports submitted to the FIU. The annual report (or other reports) of the FIU (MOT) should include more information on ML and FT trends and typologies. In light of the recent National Decree Designating Services, Data and Supervisors under the NOIS (when Providing Services), a framework, inclusive of a P&G should be implemented. Provisions and Guidelines should be 	<p>The FIU is reviewing its annual reports to make the trends and typologies more visible.</p> <p>The implementation of AML/CFT supervision on factoring service providers is being prepared by the Central Bank.</p>

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			<p>developed for Internet Casinos.</p> <ul style="list-style-type: none"> The FIU (MOT) should provide the DNFBPs that it supervises with more ML/FT feedback. 	

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
Institutional and other measures				
26. The FIU	PC	<p>Provisions of Articles 4, 16 and 22 of the NORUT present a risk to the proper protection of information.</p> <p>Articles 4, 16 and 22 of the NORUT contain provisions that risk the interference in the operation of the FIU (MOT):</p> <p style="padding-left: 40px;">Possibility of undue influence and interference by the Minister of Finance who can directly manage the FIU (MOT) database under the provisions of the NORUT (Articles 4 and 22).</p> <p style="padding-left: 40px;">Current composition of the Guidance Committee for the FIU (MOT) could lead to undue influence or interference. (Article 16).</p> <p>Insufficient trends and typologies in the FIU (MOT's) annual reports.</p> <p>Effectiveness issues:</p> <p style="padding-left: 40px;">Lack of sufficient human resources is limiting the FIU (MOT's) effectiveness.</p> <p style="padding-left: 40px;">Systems and procedures in place result in a low level of UTRs being analysed.</p> <p style="padding-left: 40px;">The approval process of the FIU (MOT) with regard to cases appears to be burdensome.</p> <p style="padding-left: 40px;">Important limitation to indirect access to law enforcement database (requirement of a letter on a case by case basis).</p>	<ul style="list-style-type: none"> • The Authorities should consider revising the composition and mandate of the Guidance Committee (Article 16 of the NORUT) to avoid any possibility of undue influence or interference. • Article 22 of the NORUT should be revised in order to better protect the access to the database from individuals being the object of UTRs. • The process of having most cases presented by an analyst to the Head of the FIU should be revised with consideration being given to using the process in exceptional circumstances. In addition, other officials than the Head of FIU (MOT) should have the authority to approve the disclosure of cases on a regular basis. • The Curaçao Authorities should consider amending Articles 4, of the NORUT to remove provisions that could potentially lead to the risk of interference or undue interference. ☐ The annual report (or other reports) of the FIU (MOT) should include more information on ML and FT trends and typologies. 	These recommendations will be addressed in the revision of the Norut.

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
27. Law enforcement authorities	LC	<p>Effectiveness:</p> <p>The UFCB is facing important issues with regard to structure, resources and operations.</p> <p>BFO is also facing resources issues as there are six (6) vacant positions out of a total of fifteen (15) positions.</p> <p>Domestic recruitment of officers is an issue for law enforcement authorities in general. The level of experience and knowledge can limit the ability to undertake complex money laundering cases.</p> <p>Limited training on ML to law enforcement authority officers.</p> <p>No specific training is provided to law enforcement authority officers on terrorist financing.</p>	<ul style="list-style-type: none"> The Curacao Authorities should review the functions and method of operation of the UFCB, and depending on the outcome of that review provides the Unit with adequate human and economic resources. The BFO is also facing recruitment challenges. Authorities should deploy efforts to find additional resources domestically that will be able to handle increasingly complex cases of ML and, potentially, FT. 	
28. Powers of competent authorities	LC	<p>Effectiveness: competent authorities can face challenges in obtaining warrants to search persons or premises or Court orders to compel production of documents or information held by reporting entities.</p>	<ul style="list-style-type: none"> The process for obtaining a Court order to compel production of documents or information from reporting entities and warrant for the search of persons and premises should be amended so that it can be more easily available to law enforcement in the investigation of (ML and FT matters). 	
29. Supervisors	LC	<p>Limited number of AML onsite inspections do not definitively demonstrate adequacy of supervisory powers.</p>	<ul style="list-style-type: none"> Albeit the risk-based approach, the onsite supervision programme should cover more licensed financial institutions and include a file review. 	<p>The Central Bank conducts thematic reviews in the area of ML/FT. These thematic reviews are not based on safety/soundness deficiencies identified at the supervised institutions. A bank may very well be selected for an AML/CFT review by the Central Bank if there are AML/CFT deficiencies, despite a low risk classification in the area of safety and soundness. For the international banking sector, for example,</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
				<p>the thematic reviews in the area of ML/FT conducted in 2010 comprised approximately 80% of the total assets of the international banking sector.</p> <p>Factors, such as AML/CFT deficiencies identified during previous examinations and in reporting documentation received and management letters, are also essential elements that are taken into consideration by the Central Bank in the execution of its AML/CFT risk assessment of the supervised institutions. Based on the Central Bank's overall risk assessment conducted in light of the qualitative factors and supervisory concerns, the Central Bank will determine the appropriate supervisory strategies and the intensity of the supervision and on-site examinations to be applied to a particular supervised institution.</p> <p>Although the ratio of the size of the staff of the various supervision departments of the Central Bank compared to the number of conducted on-site examinations is lower for certain sectors under supervision than others, the risk-based approach applied by the Central Bank allows the Central Bank to effectively monitor adherence to the AML/CFT requirements. The application of the risk-based approach allows the Central Bank to allocate and use its resources more efficiently and effectively among supervised institutions, while at the same time it allows the Central Bank to distinguish those institutions that pose a higher risk to the achievement of supervisory objectives. The monitoring of controls to combat ML and FT also forms an integral part of the supervisory risk-based regime applied by the Central Bank.</p> <p>The risk-based approach applied by the Central Bank allows the Central Bank to effectively monitor adherence to the AML/CFT requirements. The Central Bank has given</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao																																																							
				<p>instructions for non-compliance with AML/CFT requirements.</p> <p>The onsite supervision program covers all financial institutions that are licensed by the Central Bank. In addition, the supervision program includes a file review, refer to table 8 of the MER: incomplete files regarding NOIS/P&G, clearly provides an overview of the file reviews that were conducted during onsite examinations.</p> <p>The risk based approach of the Central Bank is primarily based on the nature of the institutions' business. A significant number of the credit institutions (in 2010: credit unions (15), specialized credit institutions (6), savings and credit funds (7)) are regarded as low risk due to the nature of their business. Subsequent to eliminating these low risk institutions from the total licensed institutions, all high and medium risk credit institutions have been subjected to onsite reviews for verification of compliance with AML/CFT.'</p> <table border="1"> <thead> <tr> <th></th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr> </thead> <tbody> <tr> <td>Examinations without AML/CFT components</td><td>0</td><td>0</td><td>6</td><td>4</td></tr> <tr> <td>Examinations with AML/CFT components</td><td>12</td><td>7</td><td>4</td><td>22</td></tr> <tr> <td>Total Examinations conducted</td><td>12</td><td>7</td><td>10</td><td>26</td></tr> <tr> <td>Total licensed credit institutions</td><td>47</td><td>50</td><td>49</td><td>49</td></tr> <tr> <td>Domestic commercial banks</td><td>11</td><td>12</td><td>13</td><td>13</td></tr> <tr> <td>International banks</td><td>34</td><td>36</td><td>34</td><td>34</td></tr> <tr> <td>Credit unions</td><td>1</td><td>1</td><td>1</td><td>1</td></tr> <tr> <td>Specialized credit institutions</td><td>0</td><td>0</td><td>0</td><td>0</td></tr> <tr> <td>Savings bank</td><td>1</td><td>1</td><td>1</td><td>1</td></tr> <tr> <td>Savings and credit funds</td><td>0</td><td>0</td><td>0</td><td>0</td></tr> </tbody> </table> <p>Based on the total examinations with AML/CFT components conducted during 2010 and the total high and medium risk licensed credit institutions as indicated above, these credit institutions have been examined approximately every 2 years by the Central Bank.</p>		2007	2008	2009	2010	Examinations without AML/CFT components	0	0	6	4	Examinations with AML/CFT components	12	7	4	22	Total Examinations conducted	12	7	10	26	Total licensed credit institutions	47	50	49	49	Domestic commercial banks	11	12	13	13	International banks	34	36	34	34	Credit unions	1	1	1	1	Specialized credit institutions	0	0	0	0	Savings bank	1	1	1	1	Savings and credit funds	0	0	0	0
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				$\frac{49}{22} = 2.2$ <p>In light of the risk based approach of the Central Bank, there are high and medium risk licensed credit institutions that have been visited on more than 1 occasion during this time frame.</p> <p>Despite our risk-based approach, all life insurance companies under the supervision of the Central Bank were submitted to an AML/CFT examination. As was indicated before, a file review forms part of the examination program.</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
30. Resources, integrity and training	PC	<p>Lack of adequate resources has resulted in a lower percentage of analysed UTRs.</p> <p>High number of vacant positions in the FIU (MOT) reduces its capacity to analyse and supervise.</p> <p>Insufficient human resources at the BFO.</p> <p>Insufficient lawyers at the Public Prosecutor's Office (PPO).</p> <p>Need to strengthen domestic capacity with regard to specialist prosecutors and judiciary.</p> <p>Insufficient amount of officers in the PPO that are assigned to handle mutual legal assistance requests.</p> <p>Potential challenges with resources available for AML/CFT supervision and regulation of the financial institutions.</p>	<ul style="list-style-type: none"> The human resources of the BFO should be enhanced significantly so that they can properly handle increasingly complex cases of ML. The Curaçao Authorities should give consideration to assigning more lawyers to deal with mutual legal assistance requests. The PPO should continue to build up its specialist prosecutorial resources and the Authorities should continue their efforts to attract more local legal professionals into the prosecutorial and judicial services. The FIU (MOT) should be given more resources to fulfil their supervisory role of the relevant DNFBP sector. The Authorities should review and strengthen as necessary, the resources available to supervise financial institutions. 	<p>A letter has been send to the Minister of Finance requesting more human resources for the FIU.</p>
31. National cooperation	PC	<p>The national committee on AML/CFT measures (CIWG) lacks structure and organization.</p> <p>Important concerns with frequency of meetings of the CIWG.</p> <p>Operational competent authorities are not represented on the CIWG</p> <p>No national committee or working group for competent authorities only.</p>	<ul style="list-style-type: none"> There should be a clear structure, governance and terms of reference in place that would assist with the organization of the CIWG. The composition of the CIWG should include more operational competent authorities such as FIU (MOT), the PPO and other law enforcement authorities. Consideration should be given to having a forum where only competent authorities can work together on policy and legislative changes that will contribute to improve the national AML/CFT regime. An assessment of the adequacy of resources 	<p>The actual structure is being thought through to advice on a revision of the same.</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
			assigned to competent authorities should be undertaken to ensure that they keep pace with a dynamic financial sector.	

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
32. Statistics	PC	<p>No statistics being kept on the exchange of information between law enforcement Authorities other than those related to mutual legal assistance.</p> <p>No segregation of the PPO database with regard to its different activities</p> <p>No statistics on reports filed for cross border bearer negotiable instruments.</p> <p>No statistics kept on the type of legal assistance that was requested and the time required to respond to the request in accordance with E.C.32.2 (c).</p>	<ul style="list-style-type: none"> The PPO must segregate its database with regard to its different activities. Statistics for the exchange of information (other than the mutual legal assistance process) between law enforcement authorities should be kept. Customs or other relevant competent authority should maintain statistics with regard to cross border bearer negotiable instruments. The Curaçao Authorities should keep statistics with regard to the nature of the request made and the time required to respond to mutual legal assistance requests. 	<p>Customs keeps statics of everything regarding cross border. Up till now there was no case of cross border negotiable instruments.</p>
33. Legal persons–beneficial owners	PC	<p>There is no system in place to register the information about the ultimate beneficial owner.</p> <p>The Chamber of Commerce has no administrative sanctioning power against legal persons who fail to provide accurate and up to date information.</p> <p>There is no certainty that the information at the Commercial Register is current or updated on a regular basis.</p> <p>There is no procedure in place to have the UBO available and in a timely manner to all competent authorities.</p> <p>There are still some bearer shares in circulation.</p> <p>Effectiveness has not been demonstrated.</p> <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Law or regulation should establish a requirement for all legal persons to register the information on the UBO at the Commercial Register of the Chamber of Commerce. The Chamber of Commerce should establish procedures to ensure that all the information at the Commercial Register is up to date and periodically reviewed and that the information is complete and accurate. 	<p>Registration of UBO information is a FATF requirement. However registration of such at the Chamber of Commerce is not. FATF leaves it to the country to decide on the mechanism to be used for this purpose. For security reasons other ways to comply with this recommended action are being contemplated by Curaçao.</p> <p>The procedure for filing information with the registry is concise, as required by law (in detail described in the Trade Registry Decree 2009), and is limited to what is necessary for the surety required for participation of businesses in the legal and economic processes in Curaçao. Crucial in this participation is the objective identification of the business and its officials representing it in accordance with its legal goals (and thus boundaries), which since 1945 is done satisfactorily through the public registry of the Chamber of Commerce.</p> <p>The system of this public registry is a so called positive system, meaning that if a required information is not registered or not correctly registered, the civil law sanction is that the third party consulting the registry</p>

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				<p>can rely on the facts that are registered with the registry (a tort), unless he is not acting in good faith, which should be proven in a court of law. This system offers the Chamber the possibility to make sure that the one filing information is the one whom is required to do so by law. Besides that the Chamber is legally allowed to passively check if the information offered for filing is in accordance with the facts or incomplete, while the Chamber is allowed by law to require proof if in that process there is any doubt that the information may not be correct and/or complete, in which latter case the Chamber refuses the registration. If notwithstanding the opinion of the Chamber the specific filing is insisted upon, the Chamber is required to accept the filing and has the possibility to request the Court in First Instance to instruct the company official involved to file the information in accordance with the facts.</p> <p>Moreover, not filing the required information, or willfully file information that is not correct, is punishable under the laws of the registry. (i.a. up to ANG. 50.000,= for intentionally filing incorrect information, up to ANG. 20,000 for not filing a required information, ANG. 50,000 for not filing the business. The first and the latter are considered felonies, while the second a misdemeanor).</p> <p>In view of this system it is stated that the information provided by the Chamber is 100% accurate as registered with the Registry; all records are public records. The information on the website is an excerpt!. The website is a service of the Chamber to its clients and to promote the usage of formal documents through ready availability. The database of the website is the exact same database which is currently being used internally to produce excerpts. Excerpts are issued daily: 23,822 in 2011, while 29,085 updates were filed and processed with the registry (see attachment). Each and every filing is sequentially numbered, dated and certified before processing and filed with the physical dossier of the entities.</p>

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			<ul style="list-style-type: none"> • The Authorities should provide the Chamber of Commerce with administrative sanctioning power against natural and legal persons who fail to provide accurate and up-to-date information. • There should be better procedures with regard to the exchange of information in the Commercial Register. • The Authorities must ensure the immobilization of bearer shares. 	<p>The register held by the Chamber is a public register; the register is accessible to everyone, local and foreign. All filings are available upon request, copied electronically or physically. The provision of information is regulated in the Trade Registry Decree 2009).</p> <p>Supervision on the compliance of the relevant national decree is being exercised.</p>

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
34. Legal arrangements – beneficial owners	LC	<ul style="list-style-type: none"> Not all competent authorities have information on UBOs in a timely fashion. 	<ul style="list-style-type: none"> There should be better procedures to access the information on UBOs in a timely fashion. 	
International Cooperation				
35. Conventions	PC	Terrorism Financing not criminalized in accordance with the TF Convention.	<ul style="list-style-type: none"> The offence of terrorism financing should be criminalized in accordance with the Terrorist Financing Convention. The Vienna Convention should be fully implemented in Curacao law with regard to Article 15 of that Convention, as no measures regarding the Article were seen by the Examiners. 	<p>Article 2:55 of the Penal Code criminalizes the offence of terrorism financing according to article 2 of the Terrorism Financing Convention, while the punishment takes into account the gravity of the offence (see attachment).</p> <p>To improve the security situation in the Netherlands Antilles and to limit the influx of drug traffickers in the Netherlands on flights from the Netherlands Antilles, the Netherlands Antilles and the Netherlands decided in January 2005 to establish a so called common border control teams (GGCT). The cooperation was made within the framework of the Netherlands Antilles Security Plan (PVNA) and was further based on the Joint Declaration of 22 December 2004 and the Feasibility Study. The GGCT has been operational since mid-July 2005.</p> <p>The GGCT were placed at the international airports of the Netherlands Antilles and consist of staff of the Antillean Police and Customs supplemented by staff from the Royal Netherlands Military Police and Customs.</p> <p>The GGCT had two goals. 1. They are aimed at an effective control of goods, passengers and luggage (particularly drugs and related offenses) at least the direct flights from the Netherlands Antilles to the Netherlands. 2. The exchange of expertise between the two countries to ensure that even after termination of the cooperation, an effective and efficient implementation of the control will continue. For the execution of the work on each of the international airports, a special team has been established that had to report to the Task Force: The Flamingo team on Bonaire, on Curaçao, the Hato team</p>

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			<ul style="list-style-type: none"> The Palermo Convention should also be fully implemented in Curacao law with regard to Articles 18, 23 and 25-28 of that Convention as no measures regarding those Articles were seen by the Examiners. 	<p>and the team Juliana on St Maarten. At the moment the Hato team still exists consisting only of Customs officers. In April this year an officer of the Management team of Customs together with the team leader of Hato Team went to Holland to strengthen the cooperation between Curacao and Holland and to discuss new issues. It is the intention that a new MOU will be signed.</p> <p>The Palermo Convention is fully implemented in Curacao. Article 18: Vide art. 555-565 Code of Criminal Procedure on mutual legal assistance. Article 18, paragraph 9-29, of the Palermo Convention however is applicable when no treaty on mutual legal assistance exists between parties. This is important. Thus Parties to the Palermo Convention are bound to grant requests for mutual legal assistance solely on the basis of this article 18 (It is incorrect to state that a Party to the Convention shall take measures to implement article 18). The procedure described in paragraph 10-12, is not common practice in Curaçao. Curaçao makes use of a Rogatory Commission to interview a suspect or witness detained abroad.</p> <p>Article 23: The acts described in article 23 of the Palermo Convention are penalized as crimes according to article 2:132, 2:133 and 2:254 of the Penal Code.</p> <p>Article 25: Article 261, Code of Criminal Procedure, contains measures to protect a witness in criminal proceedings. Articles 374-380, Code of Criminal Procedure, provides access to compensation and restitution to victims. Article 1:78, Penal Code, entitles the government to advance the payment by the criminal in order to ease</p>

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				<p>the burden of the victim. The victim is entitled to bring his case in Civil Court. The Bureau of Assistance to Victims provides necessary guidance and intermediation to victims of crimes.</p> <p>Article 26: Taking into account the discretionary powers of the prosecution it is possible to provide for the encouragement as described in article 26 of the Palermo Convention. Prosecution has the power to abstain from further prosecution (articles 272-283 Code of Criminal Procedure); Prosecution has the power to adapt its demand for punishment according to the contribution of the suspect. The government is considering regulation of a procedure regarding main witness in criminal cases.</p> <p>Article 27: This article in itself can be a basis for cooperation. No additional compliance measure is necessary.</p> <p>Article 28: The implementation of this article is safeguarded by Bureau Interpol Curacao (also the RST and the UFCB collect necessary information).</p>
36. Mutual legal assistance (MLA)	LC	Terrorism Financing not criminalized in accordance with the TF Convention.		
37. Dual criminality	LC	Terrorism Financing not criminalized in accordance with the TF Convention.		
38. MLA on confiscation and freezing	C	This Recommendation has been fully observed		

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39. Extradition	LC	No requirement to commence prosecution against a national of Curacao (who is immune to extradition) where there is request from a foreign state	<ul style="list-style-type: none"> There is no requirement to commence prosecution against a national of Curacao (who is immune to extradition) where there is request from a foreign state. 	
40. Other forms of co-operation	LC	<p>No clear mechanism in place for law enforcement authorities to exchange information with foreign counterparts.</p> <p>No authority for the FIU (MOT) to exchange information with supervisory authorities from other jurisdictions.</p> <p>Inability for the GCB to share information with foreign counterparts.</p> <p>No explicit provision authorizing the Central Bank, supervisory arm of the FIU (MOT) and GCB to conduct enquiries on behalf of foreign counterparts.</p>	<ul style="list-style-type: none"> The Authorities should establish clear mechanisms for the exchange of information between law enforcement and their foreign counterparts. The FIU (MOT) should be given the legal authority to exchange information with supervisory authorities from other jurisdictions. The IOCCS should make provision for the sharing of information with foreign counterparts. Mechanism needed to facilitate all competent authorities (Central Bank, supervisory arm of the FIU (MOT) and GCB) undertaking enquiries on behalf of foreign counterparts. 	
9 Special Recommendations				
SR.I Implement UN instruments	PC	<p>No provisions in law to deal with the requirements of paragraph 4(a) of UNSCR 1267.</p> <p>Freezing of the assets of locally designated terrorists cannot occur without delay as required by UNSCR 1373.</p>	<ul style="list-style-type: none"> The laws should be properly amended to give effect to paragraph 4(a) of UNSCR 1267. Measures should be put in place that would allow for the freezing of assets without delay as they pertain to locally designated terrorists under UNSCR 1373. 	The relevant legislations and policy documents will be reviewed and where necessary revised.
SR.II Criminalize	PC	Offences for participation and financing of terrorism do not meet the requirements of the Terrorist Financing	<ul style="list-style-type: none"> The offences of participation (which would include the financing offences) should be criminalized in keeping with the requirements 	Complied with (see above)

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terrorist financing		Convention. The Examiners could not evaluate effectiveness of the FT sanctions.	of the Terrorism Financing Convention	
SR.III Freeze and confiscate terrorist assets	PC	Freezing of assets of locally designated terrorist cannot occur or be maintained without delay as required by UNSCR 1373. Procedures for de-listing and unfreezing not publicly known. Lack of guidance to non-financial entities and individuals. No structure for monitoring compliance outside of the financial sector No clear criteria for the exercise of the Minister's discretion to protect of third party rights.	<ul style="list-style-type: none"> Measures should be put in place that allow freezing without delay, and the maintenance of such freezes, as required by UNSCR 1373. Curaçao should make the procedures for de-listing publicly known. Curaçao should have a mechanism for the issuance of Guidance to non-financial entities or individuals who may find themselves in possession of property or assets that may belong to terrorist or terrorist entities. Clear criteria for the exercise of the Minister's discretion with regard to the protection of third party rights should be developed. A structure should be put in place for monitoring compliance outside of the financial sector. 	The relevant legislations and policy docs will be reviewed and where necessary revised.
SR.IV Suspicious transaction reporting	PC	Effective implementation of reporting of suspicious reports is not demonstrated. <ul style="list-style-type: none"> ➤ Subjective indicators for the filing of UTRs are rules based, which hinders the reporting entity's autonomy to decide whether to file a UTR ➤ Heavy reliance by the reporting entities on the prescriptive list of indicators provided by the Ministerial Decree. 	<ul style="list-style-type: none"> The Authorities should ensure that reporting entities from all sectors report UTRs. Mechanisms should be put in place that would require all reporting entities to focus on identifying and reporting on transactions for which they can identify a suspicion. Reporting entities should not rely only on the prescriptive list of indicators provided by the Ministerial Decree. The relevant procedures should be revised to allow developing more flexibility for 	See above under R. 13.

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
		<ul style="list-style-type: none"> ➤ Insufficient flexibility for reporting entities to identify suspicion of ML or FT. 	reporting entities to identify suspicion of ML or FT.	

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
SR.V International cooperation	LC	<p>No requirement to commence prosecution against a national of Curacao (who is immune to extradition) where there is request from a foreign state as it pertains to FT matters.</p> <p>No clear mechanism in place for law enforcement authorities to exchange information as it pertains to FT.</p>	<ul style="list-style-type: none"> The Curacao Authorities should have measures in place to ensure the early commencement of prosecution for FT offences against a national of Curacao (who is immune from extradition) where there is a request from a foreign state. The Curacao Authorities should have measures in place to ensure the early commencement of prosecution for FT offences against a national of Curacao (who is immune from extradition) where there is a request from a foreign state. There should be clear mechanisms in place for law enforcement authorities to exchange information as it pertains to FT. 	
SR.VI AML requirements for money and value transfer services	PC	<p>No legislative requirements for CDD when carrying out occasional wire transfers in the circumstances covered by the Interpretative Note to SR VII.</p> <p>No legislative requirements for service providers to conduct on-going due diligence on the business relationship.</p> <p>No explicit requirement in the P&G for MTCs requiring financial institutions to consider making a UTR where the requirements at E.C 5.3 to 5.6 are not met.</p> <p>See factors in sections 3.1 – 3.10 which apply to MTCs.</p> <p>A subjective indicator for identification problems is not specified for MTCs under the NORUT.</p> <p>The sector P&Gs do not conform to the NOIS as it relates to the timing of verification of non-resident clients.</p> <p>The P&G for MTCs should include an explicit requirement for MTCs to maintain a current list of</p>	<ul style="list-style-type: none"> The P&G for MTCs should explicitly require that a financial institution consider making a UTR/STR where the requirements at E.C 5.3 to 5.6 are not met. The Authorities should create or indicate a subjective indicator for identification problems as it relates to MTCs under the NORUT. There should be an explicit requirement for MTCs to maintain a current list of agents. 	<p>The P&G for MTCs will be revised to comply herewith.</p>

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		agents.		

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
SR.VII Wire transfer rules	LC	No explicit mandatory provisions in the P&Gs regarding requirements on beneficiary institutions to apply risk based procedures when identifying and handling wire transfers that are not accompanied by complete originator information. In addition, lack of complete originator information is not included as a subjective indicator in the NORUT in assessing whether a wire transfer or related transaction is suspicious and should be reported to the FIU (MOT).	<ul style="list-style-type: none"> The P&Gs should make it mandatory for beneficiary institutions to apply risk based procedures when identifying and handling wire transfers that are not accompanied by complete originator information. In addition, lack of complete originator information should be included as a subjective indicator to the NORUT in assessing whether a wire transfer or related transaction is suspicious and should be reported to the FIU (MOT). Curaçao should consider disclosing the requirements for cross-border wire transfers in a composite P&G document. 	The P&G will be revised to comply herewith.
SR.VIII Nonprofit organizations	NC	<p>There has been no recent review of the NPO sector and no current identification of its vulnerabilities for FT.</p> <p>There is no supervision or monitoring specifically for the NPO sector.</p> <p>No supervisory programme in place to ensure NPO sector compliance with AML/CFT legal framework</p> <p>No outreach programmes in place.</p> <p>No training in place to the NPO sector or to the financial institutions with regard the risks of the NPO sector.</p> <p>There is no obligation for NPOs to keep financial information on transactions or to submit financial statements to the Chamber of Commerce or any other relevant authority.</p>	<ul style="list-style-type: none"> The Authorities should enact legislation to deal with the AML/CFT responsibilities of NPOs. Curaçao should consider designating a supervisory authority for the NPO sector. Curaçao authorities should conduct a new assessment on the risk with regard to the NPO sector. The authorities of Curaçao should undertake outreach programmes to the NPO sector with a view to protecting the sector from FT abuse. Ensure that training programs are in place for the NPO sector and supervised institutions with regard to the risks of the NPO sector. There should be a requirement for NPOs to keep records of transactions for at least five years and Curaçao Authorities should consider requiring the NPOs to submit that information to a designated competent 	

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	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
			authority periodically.	

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
Curaçao November 2012 Plenary**

	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
SR.IX Cash Couriers	PC	<p>Ad hoc cross-border declaration system. Unexpected change from declaration system (declaration card) to disclosure system. As a result, the requirement to make a truthful disclosure is not clearly identified at the border.</p> <p>No process in place to identify the source, destination and purpose of movement of gold or other precious metal and stones.</p> <p>No power to stop or restrain currency where there is a suspicion of ML or FT.</p> <p>No indication that authorities are monitoring entities or individuals associated with terrorist activities listed by the United Nations.</p>	<ul style="list-style-type: none"> • Authorities should further improve the way they inform travellers of their obligation in the arrival zone or revert to a declaration system by putting back a question on transportation of currency on the card distributed to all passengers. • Customs should be obligated to better monitor the source, the destination or purpose of the movement of gold or precious metal and stones. <p>Curaçao Customs should have the power to stop or restrain currency where there is a suspicion of ML or TF.</p>	<p>There have been consultations with the authorities of the airport. The structure of the arrival area will be modified. As a result thereof more signs will be placed in this area while taking into account an improved visibility of these signs.</p> <p>Customs keeps all the information regarding the source and the destination. In the draft amended National Ordinance Obligation to Report Cross Border Money Transportation gold, precious metal and stone are included. This draft is in the legislative process.</p> <p>In the General Regulation, import, export and transit, it is mentioned that Customs do have the authority and power to stop or restrain currency where there is a suspicion of ML. However, the power to stop or restrain currency will be explicitly stated in the amended General Regulation.</p>

	Rat-ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Curaçao
Other Measures				

FINAL