



Fifth Follow-Up Report

Dominica

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DOMINICA FIFTH FOLLOW-UP REPORT

I. INTRODUCTION

1. This report represents an analysis of Dominica's report back to the CFATF Plenary concerning the progress that it has made towards correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The November 2012 Plenary considered Dominica's progress since the publication of the MER in July of 2009 and concluded that the Jurisdiction had not made substantial progress. Dominica was then graduated to the second stage of the CFATF Enhanced Follow-up process and a high-level mission was undertaken to the Jurisdiction on March 11, 2013. Based on the positive action taken by Dominica since November 2012, the Plenary issued a Public Statement on the Jurisdiction and recommended that Dominica bring into force mechanisms to address its AML/CFT deficiencies by November 2013.
2. Dominica received ratings of PC or NC on thirteen (13) of the sixteen (16) Core and Key Recommendations as follows:

Table 1: Ratings for Core and Key Recommendations

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

3. With regard to the other non-core or key Recommendations, Dominica was rated partially compliant or non-compliant as indicated below:

Table 2: 'Other' Recommendations rated as PC and NC

Partially Compliant (PC)	Non—Compliant (NC)
R. 9 (Third parties and introducers)	R. 6 (Politically exposed persons)
R. 11 (Unusual transactions)	R. 7 (Correspondent banking)
R. 15 (Internal controls, compliance & audit)	R. 8 (New technologies & non face-to-face business)
R. 20 (Other NFBP & secure transaction techniques)	R. 12 (DNFBP – R.5, 6, 8-11)
R. 22 (Foreign branches & subsidiaries)	R. 16 (DNFBP – R.13-15 & 21)
R. 27 (Law enforcement authorities)	R. 17 (Sanctions)
R. 28 (Powers of competent authorities)	R. 18 (Shell banks)
R. 29 (Supervisors)	R. 19 (Other forms of reporting)
R. 31 (National co-operation)	R. 21 (Special attention for higher risk countries)
R. 33 (Legal persons – beneficial owners)	R. 24 (DNFBP - regulation, supervision and monitoring)
R. 38 (MLA on confiscation and freezing)	R. 25 (Guidelines & Feedback)
SR. IX (IX Cross Border Declaration & Disclosure)	R. 30 (Resources, integrity and training)
	R. 32 (Statistics)
	R. 34 (Legal arrangements – beneficial owners)
	SR. VI (AML requirements for money/value transfer services)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organisations)

4. The following table is intended to assist in providing an insight into the level of risk in the main financial sector in Dominica.

Table 3: Size and integration of Dominica's financial sector as at 30 December 2012

		Banks	Other Credit Institutions*	Securities	Insurance	TOTAL
Number of institutions	Total #	7	11	Nil	17	35
Assets	US\$	717,242	271,413	Nil	61,489	1,050,144
Deposits	Total: US\$	590,817	181,852	Nil	88,681	861,350
	% Non-resident	% of deposits	Nil	N/A	N/A	18
International Links	% Foreign-owned:	% of assets	% of assets	% of assets	% of assets	% of assets
		N/A	N/A	N/A	N/A	N/A
	#Subsidiaries abroad	N/A	N/A	N/A	N/A	N/A

II. SUMMARY OF PROGRESS MADE BY DOMINICA

5. On February 21, 2013, Dominica Gazetted the Money Laundering (Prevention) Regulations ML(P)R 2013. Additionally, on March 11, 2013, the Money Laundering (Prevention) (Amendment) Act 2013, ML(P)(A)2013 and Suppression of the Financing of Terrorism (Amendment) Act 2013 (SFT(A)2013) were passed by the Dominica Parliament.

ML(P)R 2013 as Other Enforceable Means

6. The ML(P)R 2013 were made by the Minister of Legal Affairs in accordance to **s.54 (1)** of the Money Laundering Prevention Act, 8 of 2011 (MLPA). The ML(P)R 2013 are subject to negative resolution of Dominica's Parliament. Following gazetting on February 21, 2013 they were presented to Parliament on February 28, 2013. Consequently, pursuant to Section 30(2) &(3), Chapter 3:01, of Dominica Revised Laws 1990, the ML(P)R 2013 is part of the laws of Dominica.
7. The mandatory language used in the ML(P)R 2013 clearly sets out customer due diligence provisions which a person carrying on a 'relevant business' is bound to comply with. The mandatory language is supported by Regulation 3 (2) where it is an offence for a person, whilst conducting a relevant business, forming a business relationship or carrying out any transaction with or for another person, to not have:
- Identification procedures in accordance with regulations 8, 9, 10 and 15;
 - Record-keeping procedures in accordance with regulation 24 ;
 - Internal reporting and internal controls procedures for preventing money laundering, in accordance with regulation 24 and 26 ;
 - An audit function to test compliance with AML measures;

- e. Screening of employees when hiring; and
 - f. Training of staff
8. The penalty for a breach of **r.3 (2)** has been set at a forty thousand dollar fine or imprisonment not exceeding two years. These criminal sanctions are predicated on **s.54 (2)** of the MLPA which empowers the Minister to make regulations prescribing penalties to be imposed, on summary conviction, for contravention of a regulation. The Minister is confined to sanctions of either a fifty thousand dollar fine or three-year imprisonment. The sanctions are not proportional in that there is a one-size-fit-all approach irrespective of the nature of the breach. Additionally, whilst there may be some measure of dissuasiveness on the part of individuals or the smaller persons, in terms of asset size, carrying on relevant business activities, the applicable fine may not be dissuasive for corporate or larger relevant businesses. Notwithstanding, all of the above the ML(P)R 2013 is part of the laws of Dominica and is therefore enforceable.

Core Recommendations

9. For **Recommendation 1**, Dominica's third follow-up report ([Dominica 3rd Follow-up Report](#)) had noted that the wording of the MLPA at **s.3 (1)** had "*Made it unclear as to the conduct that a person must engage in at (a) (b) (c) and (d) for the offence of money laundering to be committed*" Dominica has responded by enacting the Money Laundering (Prevention) (Amendment) Act 2013, (ML(P)(A)2013). At **s.4** of the ML(P)(A)2013 **s.3 (1)** of the MLPA is amended and now correctly lists the conduct which can render a person liable to money laundering proceedings. This Recommendation is **closed**.
10. As for **Recommendation 5**, at the time of the onsite CDD measures were primarily contained in the ML(P)R 2001 and the 2008 Guidance Notes. The 2008 Guidance Notes however failed the OEM test resulting in several CDD obligations being unenforceable. The examiners had made eight (8) recommendations intended as cures to the shortcomings noted in the Mutual Evaluation Report (MER)The following analyses refers:
- i. *The legislation should entail requirement to undertake CDD measures according to recommendation 5 – The requirement to undertake CDD measures are contained in the ML(P)R 2013. This gap is **closed**.*
 - ii. *The requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up to date should be enforceable - Dominica has proffered five (5) regulations (8, 10, 11, 12 & 22) of the ML(P)R 2013 as having addressed this shortcoming. **R.8** is concerned with the timing of identification procedures; **r.10** is concerned with the further CDD information to be obtained when establishing a business relationship; **r.11** is concerned with ongoing due diligence; **r.12** is concerned with enhanced due diligence and ongoing enhanced due diligence; and **r.22** is concerned with retrospective due diligence. This gap remains **open**.*
 - iii. *Requirement for ongoing due diligence on the business relationships should be enforceable.- As noted above **r.11** of the ML(P)R 2013 clearly addresses this shortcoming. The obligation at r.11 is for relevant businesses to employ ongoing due diligence measures with respect to every business relationship and the transactions thereto. This gap is **closed**.*
 - iv. *Requirement to take reasonable measures to determine who are the ultimate beneficial owners or exercise the ultimate effective control should be enforceable. - At **r.10** a person carrying on a relevant business is obligated to*

identify the beneficial owner and take reasonable identification verification measures when conducting a transaction on behalf of a legal person. At **r.16** a person carrying on a relevant business is obligated to establish the true identity of any person on whose behalf for whose ultimately benefit an applicant for business is acting. This gap is **closed**.

- v. *The Guidance Notes should include additional guidance with regards to identification and verification of the underlying principals, persons other than the policyholders with regards to insurance companies.* – Not yet taken on board by Dominica. This gap is **open**.
 - vi. *Financial institutions should to perform enhanced due diligence for higher risk customers* – As noted above **r.12** is concerned with enhanced due diligence and ongoing enhanced due diligence in any situation which presents a higher risk of money laundering. This gap is **closed**.
 - vii. *Financial institutions are not required to perform CDD measures on existing clients if they have anonymous accounts.* Even though no explicit mandatory obligation prohibiting the keeping of anonymous accounts exists, the CDD measures prescribed in the ML(P)R 2013 makes it impossible for someone to establish a business relationship anonymously. Additionally, **r.22** of the ML(P)R 2013 has mandated that retrospective due diligence be conducted on existing customers, within six (6) months from Gazetting the said regulations, and where the identity of a customer cannot be verified, the relevant business must terminate the business relationship. This action on the part of Dominica has the effect of fully implementing this recommendation. This gap is **closed**.
 - viii. *The bank should not keep an exempted list for business clients so that they do not require filling out a source of fund declaration form for each deposit* – This recommendation has its genesis at paragraphs 300 and 327 of the MER where it was noted that Dominican financial institutions kept business customers on an exempted list which precluded such customers having to declare their source of funds for deposits above the threshold. By letter dated March 15, 2013, the Director of the FSU wrote to the commercial banks in the Jurisdiction and drew the provisions of **r.11** of the ML(P)R 2013 (ongoing due diligence) to the attention of the relevant Managers of the said banks and advised them that business clients were not exempted from completing source of funds declaration forms for their deposits. In the context that the Director of the FSU is the AML/CFT Supervisory Authority in Dominica this action demonstrates the implementation of **r.11**. This gap is **closed**.
11. The enactment of the of the ML(P)R 2013 has had the effect of closing many of the deficiencies noted by the examiners and thus significantly improved Dominica’s legislative infrastructure for Recommendation 5. Notwithstanding, the preceding analyses has discerned that there are still gaps which continue to remain open. Consequently, Recommendation 5 remains **outstanding**.
 12. For **Recommendation 13** the status remains as was reported in the fourth follow-up report. This Recommendation remains **outstanding**.
 13. **Special Recommendation II** was rated as being PC. The examiners made eight (8) recommendations aimed at closing the deficiencies they noted in the MER. Dominica’s action to close those gaps are analysed below:

- i. *State that Terrorist financing offences do not require funds be linked to a specific terrorist act(s)* – The combined effect of **s.4 (2)** of the SFTA No. 2 of 2003 and **s.4** of the SFT(A)2013 has the effect of clearly providing that it is not necessary for funds to be actually used in the commission of a terrorist act for a terrorist financing offence to be committed. This gap is **closed**.
 - ii. *State that Terrorist financing offences apply, regardless of whether the person alleged to have committed the offence(s) is in The Commonwealth of Dominica or a different country from the one in which the terrorist(s)/terrorist organisation(s) is located or the terrorist act(s) occurred/will occur* – **S.3** of the Suppression of the Financing of Terrorism (Amendment) Act 2011 (SFT(A)2011) has amended the **s.2** of the SFTA by including a new definition of “terrorist act”. This new definition includes conduct, whether occurring inside or outside Dominica, as conduct which can constitute a terrorist act in Dominica. This gap is **closed**.
 - iii. *Permit the intentional element of the Terrorist financing offence to be inferred from objective factual circumstance* – The third follow-up report ([Dominica 3rd Follow-up Report](#)) has already noted the positive action taken by Dominica to cure this deficiency. This gap is **closed**.
 - iv. *To permit the possibility of parallel criminal, civil or administrative proceedings where more than one form of liability is available* – Here Dominica has indicated that this is “Not in accordance with normal jurisprudence in our jurisdiction”.
 - v. *To address civil or administrative penalties* – Dominica has pointed to **s.17** of SFT(A)2011 as a cure for this deficiency. **S.17** does not in any way address sanctions related to the offence of terrorist financing but is actually concerned with the sanctions applicable for breaches of the guidance notes issued by the FSU. In fact, the provisions for sanctions in relation to terrorist financing offences can be found at **s.5** and **s.7** of the SFT(A)2011. **S.5** is concerned with the criminal sanctions applicable to terrorist financing offences committed by individuals whilst **s.7** is concerned with a range of sanctions applicable to financial institutions committing any offence under the SFTA. All of these penalties become applicable following conviction by a Dominican court and are thus considered to be criminal. This gap is **closed**.
 - vi. *Ensure that the definition of terrorist, terrorist act and terrorist organization are in line with the term terrorist act as defined by the FATF* – The third follow-up report ([Dominica 3rd Follow-up Report](#)) has already noted the positive action taken by Dominica to cure this deficiency. This gap is **closed**.
14. The two (2) amendments to the SFTA have had the combined effect of significantly affecting the legislative infrastructure for SR.II in a positive way. As noted in the related analyses above, the remaining issue is related to a typographical error, but the legislative intent is quite clear. Given all of the above, Special Recommendation II is **closed**.
15. The status of **Special Recommendation IV** is as was noted in fourth follow-up report. This Special Recommendation remains **outstanding**.

Key Recommendations

16. For **Recommendation 3** the comments of the third follow-up report ([Dominica 3rd Follow-up Report](#)) and the fourth follow-up report ([Dominica 4th Follow-up Report](#)) are still relevant. The issue remains that Dominica has

not demonstrated that the existing confiscation measures can be exercised on property held or owned by a third party where that third party has not been charged for a criminal offence. This Recommendation remains *outstanding*.

17. The fourth follow-up report has already noted the action which resulted in **Recommendation 4** being *closed*.
18. For **Recommendation 23**, the examiners had applied a NC rating and noted that there was no competent authority responsible for monitoring and ensuring compliance with AML/CFT requirements and no specific body entrusted with the responsibility for conducting onsite examinations and regular offsite monitoring. The recommended action and Dominica's responses thus far are analysed below:
19. *The FSU should be entrusted with the legal authority to ensure compliance with the MLPA, its Regulations and the Anti-Money Laundering Guidance Note and these measures should be applicable to all institutions under the regulation and supervision of the FSU* – According to the third follow-up report, “The FSU Act was enacted to, among other things, give effect to and establish the Financial Services Unit. **S. 6** of the FSU(A)A 2011 has endowed the Director of the FSU with the function of monitoring, through on site examinations, the compliance of *regulated persons* with the MLPA, such other Acts, Regulations, Guidelines or the Codes relating to the ML(P)A 2011 or the Suppression of the Financing of Terrorism Act. The FSU(A)A 2011 has defined *regulated person* to mean a financial institution or person carrying out a ‘scheduled business’. At Part I of the ML(P)A, schedule business includes both financial institutions and DNFBPs. Here DNFBPs are referred to as ‘Other Business Activities’. The term *regulated business* is thus all encompassing. These gaps are *closed*.”
20. *As well the Unit should implement a structured work programme, approved by the Financial Director to ensure ongoing on-site and off-site monitoring* – Here the Director of the FSU is also empowered to conduct inspections which will enable the monitoring and assessing of licensee's or former licensee's compliance with his obligations under the ML(P)A Regulations and Guidelines or Codes. As for the regulation of credit unions, at **s.5 (2)** of the Co-operatives Society Act, the Registrar of co-operatives societies is the Director of the FSU and so he also has the responsibility of carrying out the functions mentioned above. In acknowledging this action by Dominica the third follow-up report had noted that the “*FSU Act makes no mention of offsite monitoring*”. Dominica is now contending that “*As obtains with other jurisdictions, offsite surveillance is not legislated as it is not necessary to legislate offsite surveillance*” Notwithstanding, the Jurisdiction has indicated that it will make a legislative amendment to address this issue. The comment about the FSC Act not mentioning offsite monitoring was made in the context that Dominica provided a direct citation which referred specifically to s.6 of the FSU Act and s.6 makes no mention of offsite monitoring. It must be noted however that Dominica has in fact already legislated for offsite monitoring. By virtue of **s.10 (c)** of the FSU Act, the Director, for the purpose of carrying out his *functions*, has the power to demand periodic reports from his licensees in a form determined by him and with information which he, as the Director of the FSU, decides. The Director's functions in this regard include monitoring regulated persons for AML/CFT compliance. The basis for offsite monitoring is clearly already legislated in Dominica legislation.
21. Dominica has reported that “Institutions” AML/CFT compliance programmes were submitted to the FSU during August to December 2012 for offsite evaluations to determine their risk profile, volume of business, nature of business, customer base, product and services offered, training programme, effectiveness of compliance officer, reporting and record keeping, customer due diligence, know your employees and customer identification programs. No information was provided on the status and results of the evaluations, the

numbers and types of institutions involved, and the types of corrective actions/sanctions imposed etc.

22. The outstanding issue is related to the structured work programme recommended by the examiners. Dominica had previously reported that, "*The FSU has established a structured work programme in August of 2012 which includes onsite monitoring and offsite surveillance of scheduled entities*". Notwithstanding, in the agreed Action Plan submitted by Dominica in 2013 the Jurisdiction indicated that the structured work programme was to be developed and implemented in June 2013. On March 18, 2013, Dominica submitted the 'further developed' structured work programme. This document is incomplete in that several areas either contained incomplete information or was left blank. The introduction of the document which referred to the authority of the FSU as covering the financial sector in Dominica, "*With the exception of the Commercial Banks and Securities Business*" appears to be inconsistent with s.1(3) of the FSA Act which says that the FSC Act is applicable to Commercial Banks in order to ensure compliance with the MLPA, SFTA, and their Regulations, Codes or Guidelines. Also, there is nothing in the document to demonstrate that it has been approved by the Director. Dominica has also not provided any details to demonstrate that the FSU, as the sole AML/CFT Supervisory Authority, is sufficiently resourced in terms of manpower, financial and technical resources, and also has adequate capacity and expertise in terms of the background and training of its examiners. According to Dominica the on-site examinations of the Money Services Businesses involved evaluating the AML/CFT compliance programmes of the entities to assess their adherence to legislation related to Money Laundering and Terrorism Financing. The FSU uses for guidance a Compliance Examination Handbook which was provided by the Financial Transactions and Reports Analysis Centre of Canada. The examination was done by the examiners of the FSU during normal working hours on examination dates. Among the many areas reportedly examined were the functions and effectiveness of the compliance officer, evaluation of the risk profile of the institutions, identification and record keeping procedures, as well as the concentration base of the clientele of the various money services businesses. For the commercial and offshore banks as well as the credit unions a similar approach was taken whereby compliance with the legislation was of great importance to the inspection team. The effectiveness of the AML/CFT compliance programmes of the institutions were reviewed to assess identification and record keeping procedures, effectiveness of the compliance officer, continuous and on-going staff training. The FSU has identified from the examinations that the Money Services Businesses were still in the early stages of developing their AML/CFT compliance programmes. The FSU embarked on a sensitization drive to bring to the attention of the practitioners the need to have an effective compliance programme at their institution and the obligation to comply with all legislation related to AML/CFT in the Commonwealth of Dominica.
23. With respect to Essential Criteria (EC) 23.3 and 23.3.1, Dominica has reported that the FSU examiners are guided by Section 27 of the Financial Services Unit Act, 18 of 2008 which states the fit and proper requirements for directors, controlling shareholder or manager of a licenced financial institution. This gap remains *open*.

24. *The Unit should also be legally entrusted with the responsibility to license or register DNFBP'S and those financial institutions not under the purview of the ECCB-* Dominica has placed the responsibility for licensing MVTs with the Minister of Finance. At **s.4 (1)** of the Money Service Business Act of 2010 (MSBA) there is a prohibition for anyone to carry on a money service business without a licence. Such licences are granted following an application in accordance with **s.6 (1)**. According to **s.6(2)**, before a licence can be granted the Minister must request the FSU to conduct an investigation to determine, among other things, whether the applicant is fit and proper to be licensed. Co-operative Societies must be registered pursuant to **s.4 (1)** of the Co-operatives Societies Act of 2010. Section 5(1) of the Insurance Act, 4 of 2012, states that the Director of the FSU is the Registrar of Insurance. Applications for licensing and registration are submitted to the FSU. Applications for the licensing and registration of Offshore Banks are submitted to the FSU as per Section 5(1) of the Offshore Banking Act, 8 of 1996, amended as per Schedule V of the Financial Services Unit Act, 18 of 2008. This gap is **closed**.
25. Dominica has submitted the following information in relation to Rec. 23

Table 4: Onsite supervisory inspections covering AML/CFT issues

DATE	TYPE OF INSTITUTION	DURATION	INSP. TYPE
May 06, 2012	Money Services Business	4hrs & 30 Minutes	AML/CFT
May 18,2012	Money Services Business	4 hrs.	AML/CFT
May 24, 2012	Money Services Business	4 hrs.	AML/CFT
June 07, 2012	Money Services Business	5 hrs.	AML/CFT
June 13, 2012	Money Services Business	3 hrs.	AML/CFT
June 14,2012	Money Services Business	3 hrs	AML/CFT
July 14, 2012	Money Services Business	4 hrs.	AML/CFT
August 8, 2012	Commercial Bank	4 hrs.	AML/CFT
August 13, 2012	Commercial Bank	4 hrs.	AML/CFT
August 20, 2012	Commercial Bank	4 hrs.	AML/CFT
August 21, 2012	Commercial Bank	4 hrs.	AML/CFT
January 14, 2013	Credit Union	4 hrs	AML/CFT
March 18, 2013	Credit Union	4 hrs	AML/CFT

26. Based on the data contained in Table 4, on average, the FSU takes 238 minutes or just under four (4) hours to conduct an inspection, irrespective of the type of institution being inspected. However based on the information provided by Dominica at paragraphs 22 and 23 it is yet unclear how the scope of work detailed there can be conducted within this short time. Additionally based on the analyses detailed above there are still open gaps in Dominica's AML/CFT supervisory regime. Consequently this Recommendation is still *outstanding*.
27. For **Recommendation 26**, during 2012, the FIU received 87 STRs resulting in 10 investigations and four (4) money laundering cases. The status of Recommendation 26 is the same as was noted in the fourth follow-up report. This Recommendation remains *outstanding*.

Statistics received from the FIU

28. In 2012, the FIU received 87 STRs, 15 requests from the Police Service, 6 requests from Regional FIUs and 6 requests from non-regional Members of the Egmont Group. The FIU made two requests of Egmont Members. All requests were fulfilled. The FIU has an active case portfolio of 22 cases with 9 cases at the Magistrate's Court.
29. **Recommendation 35** is as was noted during the onsite. This Recommendation is *outstanding*.
30. **Special Recommendation I** is as was noted during the onsite. This Special Recommendation is *outstanding*.
31. As for **Special Recommendation III**, Dominica was rated as PC and the examiners made four (4) recommendations to close the gaps they discerned.
- i. *Strengthen their legislation to enable procedures which would examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions* – The third follow-up report ([Dominica 3rd Follow-up Report](#)) noted the action by Dominica through the enactment of **s.10** of the SFTAA. That report however concluded, *"It appears however that this amendment falls short of the requirement because even though it refers to the accounts, funds or property that was the subject of the freezing mechanism of the requesting State, there seems to be a discretionary obligation as to whether the court may "receive" the application from the competent authority. Additionally it is quite unclear as to what is intended by "receive a request". Further, no procedures are outlined which will give effect to any such action by the court"* This issue has not as yet been addressed by Dominica and as such this gap is *open*.
 - ii. *Implement effective mechanisms for communicating actions taken under the freezing mechanisms* – This deficiency has not as yet been taken by Dominica. This gap is *open*.
 - iii. *Create appropriate procedures for authorizing access to funds or other assets that were frozen pursuant to S/RES/1267 (1999)* – No procedures has as yet been created by Dominica. This gap is *open*.

- iv. *Issue clear guidance to financial institutions and persons that may be in possession of targeted funds or assets or may later come into possession of such funds or assets.* Dominica has amended the SFTA of 2003 by enacting a new **s.47**. At **s.47 (1)** there is now an obligation for the FSU to issue guidelines to financial institutions or persons in possession of funds related to a terrorist or terrorist group, including funds which are the subject of a freezing order. The FSU has not as yet issued such guidelines. This gap is *open*.
- 32. Action by Dominica has not resulted in any of the deficiencies noted by the examiners being closed. Consequently **Special Recommendation III** remains *outstanding*.
- 33. With regards to **Special Recommendation V** the examiners applied a PC rating and noted four (4) deficiencies for which corrective action were required.
- 34. The first deficiency where the examiners reported that they could find no reason that requests for cooperation would not be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP has been specifically addressed through s.14 of the SFT(A) 2011 here requests for information under must be fulfilled notwithstanding any obligation to secrecy confidentiality or any other legal restriction except where legal professional privileges exists. This gap is *closed*.
- 35. The second deficiency was related to the examiners determination that Dominica's laws in relation to MLA requests by foreign countries were unclear where the request was related to property of corresponding value. Dominica has pointed to s.14 of the POCA-where the Court is can order a person to pay to the state an equal amount, part or interest to the value of property where the state is satisfied that that a forfeiture should be made in respect of such property, of a person who is convicted of a scheduled offence, but the property in question cannot be made subject to such an order because it cannot be located; has been transferred to a third party in circumstances which do not give rise to any inference that such a transfer was done to avoid forfeiture; is located outside Dominica; the value was significantly diminished; or was comingled to the extent that division would be inherently difficult. According to **s.28 (1)** of Dominica's MACMA where the Central Authority for a Commonwealth country transmits to the Central Authority for Dominica a request for assistance to the effect that in the requesting country an order has been made or is likely to be made which will have the effect of confiscating property derived or obtained directly or indirectly from the commission of a specified serious offence or imposing on that named person a pecuniary penalty calculated by reference to the value of the property so derived, the Attorney General shall cause an order to be made as he deems necessary to secure the making of an order of the kind required. Even though the reference here is to a Commonwealth country **s.30 (1)** of the MACMA allows Regulations to made to give effect to Regulations for bilateral mutual assistance with countries specified in the said regulations and such Regulations may in particular direct that the MACMA shall apply in relation to the country named in the Regulation as though it was a Commonwealth country. This gap is *closed*.
- 36. The third deficiency where the examiners discerned that there were no measures or procedures adopted to allow extradition requests and proceedings relating to terrorist acts and the financing of terrorism offences to be handled without undue delay does not appears to have as yet been taken on board by Dominica. This gap is *open*.
- 37. Based on the SFT(A) and the existing provision of the POCA and MACMA the noted deficiencies are in fact substantially addressed but for the absence of the procedures noted at 37. This Recommendation is outstanding.

38. Relative to **Recommendations 6**, the NC rating was applied because at the time of the onsite, the PEP obligations were outlined in the Guidance Notes and the MER had concluded that the Guidance Notes “*are not other enforceable means as defined or envisaged under the FATF Methodology*”. Dominica has addressed this deficiency through the ML(P)R 2013, which as has already been noted in this report, is part of the laws of Dominica. PEP obligations are found at Regulation 19 of the ML(P)R 2013. At **r.19 (2) (d)** there is the obligation for a person carrying on a relevant business to conduct regular enhanced monitoring of the PEP business relationship. This action by Dominica has the effect of fully closing the two (2) gaps for this Recommendation and as such Recommendation 6 is now **closed**.
39. **Recommendation 7** was rated NC and the examiners made five (5) recommendations to cure the gaps they discerned. These recommendations and Dominica’s action aimed at closing them are analysed below:
- i. *The specific requirement to understand and document the nature of the respondent bank’s business and reputation, supervision of the institution and if they have been subjected to money laundering or terrorist financing activities or regulatory action.* – This gap has been closed through **r.20 (1) (a) and (c)** of the ML(P)R 2013 where a bank, in relation to a cross-border correspondent banking and other similar relationships, has a responsibility to identify and verify the respondent institution and determine from publicly available information the reputation of the said respondent institution and the quality of its AML/CFT supervision including whether it has been subject to either a money laundering or other supervisory action. This gap is **closed**.
 - ii. *Financial institutions should be required to assess all the AML/CFT controls of respondent.* At **r.20 (1) (d)** of the ML(P)R 2013 a bank is now required to assess the anti-money laundering controls of its respondent and ascertain that they are adequate and effective. This gap is **closed**.
 - iii. *The financial institutions should document the AML/CTF responsibility of each institution in a correspondent relationship* - At **r.20 (1) (f)** of the ML(P)R 2013 a bank is required to document the responsibilities of both parties involved in the correspondent/respondent relationship. This gap is **closed**.
 - iv. *Financial institutions should require senior management approval before establishing new correspondent relationships.* At **r.20 (1) (e)** of the ML(P)R 2013 senior management approval is a pre-requisite to the establishment of a new correspondent relationship. This gap is **closed**.
 - v. *Financial institutions should ensure that the correspondent relationships if involved in payable through accounts that they normal CDD obligations as set out in R5 have been adhered to and they are able to provide relevant customer identification upon request.* Dominica has addressed this deficiency through **r.20 (2) (a) and (b)** of the ML(P)R 2013. The obligation here is almost directly in line with EC 7.5 but with the added requirement that the CDD obligation on the part of the respondent be ongoing. The necessity for ongoing CDD here seems to go beyond the requirement envisaged by EC 7. Notwithstanding, this gap is **closed**.
40. **R.20** of the ML(P)R 2013 has closed all the deficiencies in the MER noted by the examiners. Consequently, Recommendation 7 is **closed**.

41. For **Recommendation 8**, Dominica has pointed to **r.11** of the ML(P)R 2013 as the cure for the deficiency where the examiners had concluded that there were, “*No provisions which require the financial institutions to have measures aimed at preventing misuse of technology developments in money laundering and terrorist financing*”. R.11 is concerned with ongoing due diligence. The partial cure is actually found at **r.23** which clearly mandates the establishment of policies and “measures necessary” to prevent the misuse of technological development in money laundering and also to address specific risks associated with non-face to face relationships or transactions. Dominica appears to not have addressed this issue specifically as it relates to terrorism financing. This recommendation remains **outstanding**.
42. At **Recommendation 9**, Dominica was rated as being PC and the examiners made three (3) recommendations aimed at closing the deficiencies in the MER. Dominica’s has pointed to the regulation 13 of the ML(P)R 2013 as the cure for these deficiencies. The related analyses are as follows:
- i. *Financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning the elements of the CDD process detailed in Recommendation 5.3 to 5.6.* – This deficiency has not as yet been addressed by Dominica. The cited regulation is related to the obligation at EC 9.2. This gap remains **open**.
 - ii. *The requirement that financial service providers be ultimately responsible for obtaining documentary evidence of identity of all clients should be made enforceable.* - This deficiency has not as yet been addressed by Dominica. The cited regulation is related to Rec. 7. This gap remains **open**.
 - iii. *Competent authorities should take into account information on countries which apply FATF Recommendations in determining in which country the third party can be based.* – This deficiency has not as yet been addressed by Dominica. This gap remains **open**.
43. Dominica has not as yet taken the necessary action which would redound to the deficiencies for Recommendation 9 being addressed. Consequently, Recommendation 9 remains **outstanding**.
44. With regards to **Recommendation 11**, Dominica has amended the MLPA by adding **s.19 (1A)** and **(1B)**. At 19 (1A) the obligation to examine as far as possible the background and purpose of all specified transactions, and to keep a written record of the finding of such examinations, is imposed on a financial institution or person carrying on a scheduled business. At 19(1B) the obligation to keep such records for seven (7) years and to make them available to ‘its auditors’ has been imposed. This amendment has the effect of closing the gap discerned by the examiners and as such this Recommendation is **closed**.
45. For **Recommendation 12**, the analyses and conclusions noted for Recs. 5, 6, and 8-11 are also relevant here. This Recommendation remains **outstanding**.

46. **Recommendations 15** continues to be in abeyance. The examiners had made two (2) recommendations aimed at improving the PC rating which they had applied. The first recommendation requiring financial institutions to maintain independent audit functions to test compliance with procedures, policies and controls has only been partially addressed through **r.3 (1) (a) (v)** of the ML(P)R 2013 because there is obligation that the audit function being referred to must be independent and adequately resourced. The noted gap therefore remains *open*. The second recommendation requiring financial institutions to also have internal procedures relative to terrorist financing has not as yet been addressed thereby also leaving this gap *open*. This Recommendation continues to remain *outstanding*.
47. **Recommendation 16** was rated as NC because at the time of the onsite there was neither the effective application of R 13-14, R 15 and 21 nor was there a competent body to impose sanctions if breaches were found. The third follow-up report ([Dominica 3rd Follow-up Report](#)) has already credited Dominica for significantly closing these gaps through the establishment of the FSU but lamented the fact that no statistics to demonstrate that the FSU had been carrying out its functions were provided. Dominica still has not provided any information to demonstrate the effective application of R 13-14, 15 and 21 thereby still leaving this gap *open*.
48. Relative to the designation of a competent body to impose sanctions/fines, Dominica has indicated that **s.11, 12 and 13** of the MLPA authorizes the FSU to apply administrative sanctions on DNFBPs. Section 11 of the MLPA is concerned with administrative sanctions where:
1. The managers of financial institution or scheduled business is not fit and proper;
 2. Non-compliance with the FSU's guidance;
 3. Failure to comply with a directive issued by the FSU;
 4. Contravention of the MLPA.
49. Section 12 of the MLPA is concerned with the power of the FSU to order the suspension of activities or the suspension and revocation of licences for any of the breaches at **s.11**. Finally, Section 13 is concerned with the power of the FSU to impose the pecuniary penalty of five thousand dollars for any of the breaches at **s.11**. The establishment of the FSU and the sanctioning powers of these sections of the MLPA have had the effect of ensuring that this specific gap is *closed*. Notwithstanding, owing to the fact that Dominica's still has not demonstrated the effective application of R 13-14, 15 and 21. This Recommendation remains *outstanding*.
50. With regards to **Recommendation 17**, the third follow-up report has already noted the action by Dominica and concluded that, "*This action has the effect of significantly closing the gap noted in the MER*". A further review of Dominica's action against the examiners recommendations has now determined that Dominica has in fact fully closed the noted deficiency thereby resulting in this Recommendation being *closed*.
51. **Recommendation 18** is as was noted during the onsite. This Recommendation is *outstanding*.
52. **Recommendation 19** is as was noted during the onsite. However Dominica has reported that the FIU is, "*Currently conducting a critical analysis of a cash reporting system*". This Recommendation is *outstanding*.

53. **Recommendation 20** is as was noted during the onsite. This Recommendation is *outstanding*.
54. **Recommendation 21** is as was noted during the onsite. This Recommendation is *outstanding*.
55. **Recommendation 22** is as was noted during the onsite. This Recommendation is *outstanding*.
56. With regards to **Recommendation 24**, the third follow-up report has already noted the action by Dominica and concluded that, “*This action has the effect of significantly closing the gap for Recommendation 24*”. In the context of the examiners recommendation that, “*There is no comprehensive regulatory and supervisory regime that ensures compliance by casinos and other DNFBPs with the AML/CFT regime that is in place*”, Dominica is yet to demonstrate that its casinos and other DNFBPs are being effectively regulated and supervised for AML/CFT. The comments noted for Recommendation 23 is are also relevant here. This Recommendation remains *outstanding*.
57. **Recommendation 25** is as was noted during the onsite. This Recommendation is *outstanding*.
58. For **Recommendation 27** Dominica is yet to consider the examiners recommendation for legislative provisions to be enacted which would allow authorities investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in such activities or for evidence gathering. The other examiners recommendation on the training of officers will be addressed under Recommendation 30. The recommendation about investigative techniques is misplaced because it refers to an additional element and is thus irrelevant for the follow-up process. This Recommendation remains *outstanding*.
59. Relative to **Recommendation 28**, the examiners made two (2) recommendations aimed at closing the gaps they discerned. The first recommended action that the “*SFTA should be amended to provide investigators with the ability to compel the production of business transaction records*” has not as yet been taken on board by Dominica and as such this gap remains *open*. Relative to the second recommended requiring that, “*There should be explicit legal provisions for the investigators of predicate offences to be able to obtain search warrants which would enable them seize and obtain business transaction records*”, Dominica has proffered that s.46 (1) (b) of the **POCA** satisfies this recommended action. Section 46 of the POCA is concerned with search warrants to facilitate investigations is applicable to scheduled offences. Scheduled offences, according to the POCA amendment No. 10 of 2010, does not appear to include the offences of piracy (pirates at sea) which was originally not covered in Dominican legislation as a predicate offence to money laundering but which were subsequently captured through the Piracy Act of 2010.
60. It can be therefore seen that because all the offences listed as predicates in Dominica are not captured there is the minor shortcoming where an investigator pursuing the predicate offence which is not scheduled would not benefit from the provisions of s.46. Another deficiency in s.46 is the fact that it only permits a police officer to apply for a warrant where the subject of the search has been convicted of one of the schedule offences. Based on all of the above, **Recommendation 28** remains *outstanding*.
61. For **Recommendation 29**, the third follow-up report has already noted the positive action taken by Dominica which resulted in the gap being significantly closed. A further review of Dominica’s action against the examiners recommendation has now determined that

Dominica has in fact fully closed the noted deficiency thereby resulting in this Recommendation being **closed**.

62. With regards to **Recommendation 30**, the examiners made ten (10) recommendations aimed at closing the gaps in the MER. The analysis of Dominica action in this regard is detailed below:

- i. *The staff of the Unit (FIU) should be expanded to include a database administrator* – The FIU now reportedly has a complement of (6) officers and one of them doubles as the database administrator. This gap is **closed**.
- ii. *The FSU is not adequately staffed. The Unit's request for additional staff should be adhered to. It is also recommended that a restructuring of the Unit should be considered so that its regulatory and supervisory functions can be discharged effectively* – No information was provided to demonstrate that this has been done. This gap remains **open**.
- iii. *The FSU should consider the establishment of databases to allow for effective off-site supervision* – Not yet taken on board. This gap remains **open**.
- iv. *Technical resource- The Police Force should be provided with better communication equipment* – Not yet taken on board by Dominica. This gap remains **open**.
- v. *With the increased demand on the Police the numbers in the police contingent should be increased* - The establishment of the Commonwealth of Dominica Police Force was increased to five (500) hundred by a Cabinet decision dated March 2, 2010 by the creation of fifty (50) new Police Constables positions. The present strength is four hundred and sixty with forty (40) vacancies which is mostly due to attrition. Some thirty eight (38) Police Recruits commenced training at the Police Training School on March 1, 2013 and are expected to join the ranks of the Police Force by September 2013. The Government of Dominica has given a commitment to further increase the establishment of the Police Force by the creation of an additional one hundred (100) new positions. No information has been provided to substantiate this action. This gap is **open (pending the receipt of information to substantiate this claim)**
- vi. *Special training in money laundering and terrorist financing should be provided to magistrates and judges to ensure they are familiar with the provisions for dealing with the seizure, freezing and confiscation of property* - Not yet taken on board by Dominica. This gap remains **open**.
- vii. *There should be a group of officers who would be trained in investigating the proceeds of crime, perhaps in the NJIC, who would supplement the efforts of the FIU* - The CDPF has reportedly trained a cadre of police officers in financial investigations, money laundering, terrorist financing and cyber-crime investigations. No information has been provided to substantiate this action. This gap is **open**.
- viii. *There should be regular inter agency meetings among all the agencies that are charged with ensuring the effectiveness of the AML/CFT regime* – Not yet taken on board by Dominica. This gap is **open**.
- ix. *There should be put in place some measures to vet the officers in these agencies to ensure that they maintain a high level of integrity*- In 2011 The Dominica

Police Force introduced polygraph testing as part of its vetting process of persons who work in sensitive or specialized sections such as the CID, Anti-crime Task Force, Drug Squad, Special Branch, and NJIC. The polygraph testing of the ranks of the Police Force is being done on a voluntary basis. The vetting process is coordinated by the Regional Security System (RSS) and funded by the US Embassy in Barbados. The US only provides funding for the vetting of persons in specialized sections or areas. Between November 2012 and February 2013 some sixty eight (68) police officers were vetted comprising of senior managers, middle managers and lower ranks. Other sensitive personnel and other ranks will be vetting if funding is available. Outside funding will have to be sourced for personnel not in specialized or sensitive areas and new entrants into the Police Force. This gap is **closed**.

- x. *Databases should be established which can be shared by all authorities responsible for monitoring and ensuring compliance with the AML/CFT regime in Dominica* – Not as yet taken on board by Dominica. This gap is **open**.

- 63. Based on the action noted above Recommendation 30 remains **outstanding**.
- 64. For **Recommendation 31** Dominica has reported that, “*There are effective cooperation / coordination among local agencies such as the Customs, Police, FIU in regards to money laundering terrorism financing and other designated category of offences*”. Dominica has also pointed to the Technical Working Group which has been established to advance work on its AML/CFT reform. This group is comprised of the CDPF, FIU, FSU, and legal representatives from the AGs Office. Finally, Dominica has pointed to “*frequent coordination*” between the CDPF, Customs and FIU. In light that none of the examiners recommendations have as yet been taken on board by Dominica, this Recommendation remains **outstanding**.
- 65. As for **Recommendation 32**, the data provided by Dominica relative to the onsite inspections carried out by the FSU has already been addressed at Recommendation 23. Dominica has also provided data on Customs currency seizures which will be addressed at Special Recommendation IX. None of the examiners two (2) recommendations have been addressed to deal with the nine (9) deficiencies noted for this Recommendation. This Recommendation remains **outstanding**.
- 66. **Recommendation 33** is as was noted during the onsite. This Recommendation is **outstanding**.
- 67. **Recommendation 34** is as was noted during the onsite. This Recommendation is **outstanding**.
- 68. For **Recommendation 38**, the third follow-up report has already noted Dominica’s legislative action which closed the gaps in relation to the establishment of the asset forfeiture fund and the sharing of confiscated assets. The third deficiency about clarification of the laws in relation to foreign requests **has not as yet been addressed**. The fourth deficiency about *whether the Commonwealth of Dominica could have arrangements for co-ordinating seizure and confiscation actions with other countries* has been addressed through s.39 of the MLPA. Here the Court or the Central Authority may receive a request from the court of another State to identify, trace, freeze, seize, confiscate or forfeit property, proceeds or instrumentalities connected to ML offences. This gap is **closed**. This Recommendation is **outstanding**.
- 69. For **Special Recommendation VI** the examiners had made four (4) recommendations to close the noted deficiencies. [Paragraph 24](#) is relevant here because it relates to the Minister

of Finance being responsible for licensing MVTs pursuant to **s.4 (1)** of the MSBA. Consequently the first gap is **closed**. With regards to the second recommendation about no specific regulator authority being charged with the responsibility of monitoring and ensuring compliance with the provisions of the AML/CFT regime, [paragraph 19](#) of this report is relevant here resulting in this gap being **closed**. The comments for Recommendation 23 are relevant here as it relates to the FSU being entrusted with the responsibility for ensuring monitoring and compliance with the requirements of the AML/CFT regime. The third gap is **closed**. The fourth recommendation requiring the FSU to institute a programme of offsite and onsite monitoring for other regulatory and supervisory purposes has been addressed. Here the second and third follow-up reports are relevant. This Special Recommendation is **closed**.

70. **Special Recommendation VII** is as was noted during the onsite. This Special Recommendation is **outstanding**.
71. **Special Recommendation VIII** is as was noted during the onsite. This Special Recommendation is **outstanding**.
72. For **Special Recommendation IX** the legislative infrastructure is exactly as it were during the onsite thus leaving the eight (8) deficiencies noted by the examiners in abeyance. Notwithstanding, Dominica has provided the following statistics to support their implementation of the existing provisions:

Table 5 Currency seizures by Customs

PERIOD	TOTAL \$EC SEIZED	FINES IMPOSED
2010/2011	\$20,158.50	\$239,701.40
2011/2012	\$736,375.70	\$461,467.33
2012 to date	\$269,038.93	\$413,874.25

73. Special Recommendation IX remains **outstanding**.

III. CONCLUSION

74. Since the November 2012 plenary meeting Dominica has taken legislative action which has positively affected several Recommendations. Core Recommendations 1 and SR II are now closed whilst Recommendation 5 now only has a minor deficiency. For the Other Recommendations 6, 7, 11 17, and 29 and SRVI are also now closed.
75. In spite of this improvement Core Recommendations 5, 13 and SR. IV are still outstanding as are Key Recommendations 3, 23, 26, 35, SR. I, SR. III and SR. V.
76. The Plenary's attention is again drawn to Dominica's continuing persistent non-compliance with the CFATF follow-up procedures. It was by letter dated December 17, 2012 that Dominica was asked to submit its updated matrix to the Secretariat by Thursday February 28, 2013. Dominica's updated matrix was received at the Secretariat on Friday 15, March 2013 following the Jurisdiction's February 26, 2013 request for an extension of the deadline.
77. The November plenary meeting decision that countries in the Expedited Follow-up process achieve full compliance with the Core and Key Recommendations by May 2013, and the recommendations of the high level mission Report that "*Dominica should be mindful of the following upcoming events, dates and requirements that are automatic and must be adhered to - CFATF Plenary Meeting, May 2013 – All outstanding deficiencies in the Key and Core*

must be addressed. A decision will be made at that time as to whether the Dominica had complied with the mandate of November 2012 Plenary. If Dominica is found to be non-compliant, the next step would be the consideration of a formal CFATF statement in the context of Recommendation 21 ”, are relevant here. At the date of the conclusion of this 5th follow-up report, Dominica had not as yet taken all the steps required to achieve the full compliance anticipated by the November plenary meeting. Dominica has however indicated that it is aiming to achieve the outstanding specified targets which primarily relate to the enactment of legislative amendments and demonstration of effective implementation before the May 2013 Plenary.

78. On May 26, 2013, Dominica forwarded several pieces of legislation which were gazetted on May 16 and 23, 2013. Additionally, on May 27, 2013, the Jurisdiction submitted several documents and recently developed procedures to the Secretariat. The initial analyses of these new laws determined that they positively affected many of the outstanding Core and Key Recommendations. Based on this positive action the Plenary issued a Public Statement on Dominica and recommended that the Jurisdiction bring into force mechanisms to address its AML/CFT deficiencies by November 2013.

CFATF Secretariat
May 30, 2013

Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
The Commonwealth of Dominica – March 2013

Forty Recommendations	Rating	Summary of Factors Underlying Rating	Recommended Actions	Action Undertaken
Rec. 1 ML offence	PC	<ul style="list-style-type: none"> The physical and material elements of the money laundering offence in the Commonwealth of Dominica do not cover conversion or transfer. Designated categories of offences, Piracy (Pirates at Sea) and Extortion not criminalized. 	<p>The laws of the Commonwealth of Dominica should be amended to:</p> <ul style="list-style-type: none"> i. Cover conversion or transfer as two additional physical and material elements of the money laundering offence; ii. Criminalize all the designated categories of offences and in particular Piracy (Pirates at Sea) and Extortion. 	<p>Sec. 3(1) (c) MLP Act No. 8 of 2011</p> <p>Section 3 of Piracy Act No. 11 of 2010</p> <p>Section 22A of the Theft Act Chap: 10:33 of the D.R.L. of 1990 as amended by Section 3 of the Theft (Amendment) Act No. 12 of 2010</p> <p>Section 3(1) (e) will be amended to exclude <i>‘property that is the proceeds of crime, knowing or believing the property to be the proceeds of crime commits an offence’</i>. This excluded phrase will be captured at the end of Section 3(1) to clearly indicate that it applies to Section 3(1) a, b, c, d and e. This amendment will be presented to Parliament as part of a Draft Bill.</p> <p>Section 4 of the Money Laundering (Prevention) (Amendment) Act 2013 corrects the error cited at Section 3 (1) of the Money Laundering (Prevention) Act No. 8 of 2011.</p>

<p>Rec. 2</p> <p>ML offence – mental element and corporate liability</p>	<p>LC</p>	<ul style="list-style-type: none"> • The Money Laundering (Prevention) Act, 2000 (Chapter 40:07), does not adequately detail what administrative proceedings that may be employed in dealing with legal persons who have been found criminally liable. • No civil or administrative sanctions are provided for ML. • No powers are given to administer administrative sanctions. 	<ul style="list-style-type: none"> i. Adequately detail what administrative proceedings may be employed in dealing with legal persons who have been found criminally liable; ii. Provide for civil and administrative sanctions; iii. Adopt an approach that would result in more effective use of existing legislation 	<p>Section 12 (1) of the MLP Act No. 8 of 2011</p>
<p>Rec. 3</p> <p>Confiscation and provisional measures</p>	<p>PC</p>	<ul style="list-style-type: none"> • In the Commonwealth of Dominica the laws do not allow the initial application to freeze or seize property subject to confiscation to be made ex-parte or without prior notice. • Law enforcement agencies, the FIU or other competent authorities in the Commonwealth of Dominica do not have adequate powers to identify and trace property that is, or may become subject to confiscation or is suspected of being the proceeds of crime. 	<ul style="list-style-type: none"> i. The laws or measures in the Commonwealth of Dominica should allow an initial application to freeze or seize property subject to confiscation to be made ex-parte or without prior notice, unless this is inconsistent with fundamental principles of domestic law. ii. There should be authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be 	<p>Sec. 29 (2) of the MLP Act No. 8 of 2011</p> <p>Sec. 11 of the Proceeds of Crime Act No. 4 of 1993</p> <p>Sec. 38A of the SFTA 3 of 2003 as amended by Section 16 of the SFT (Amendment) Act No. 9 of 2011</p> <p>Section 34 of the MLP Act No. 8 of 2011</p>

		<ul style="list-style-type: none"> There is little authority in The Commonwealth of Dominica to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation. 	prejudiced in their ability to recover property subject to confiscation.	<p>N. B. The provision can be exercised on property being held or owned by a third party. Since the DPP can provide evidence to the Court by way of an application that the property is related to a person charged or who is about to be charged with or is being investigated with a money laundering offence, the DPP may make an application to the Court for an Order to freeze the property. Rights of bona fide third parties are captured at Section 35 of Act No. 8 of 2011</p> <p>In July 2010, the FIU secured a Freeze Order on a House, its contents and motor vehicles. In the same case, in August 2012, the FIU secured a supplementary Freeze Order on Bank Accounts and other assets. Copies of the Freeze Orders are submitted herewith.</p> <p>If the property held by the third party satisfies the broad definition of money laundering as stated in Section 3 of the Money Laundering (Prevention) Act No. 8 of 2011 that third party will be charged for money laundering and the property will be subject to a Freeze Order.</p> <p>Section 35 of Act No. 8 of 2011 requires the DPP to publish Freeze Orders. This Section also provides for bona fide third parties to apply to the Court for recourse.</p>
Rec. 4 Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> Inability of the competent authorities to share information without an MOU or court order 	i. Dominica should enact provisions allowing the ECCB, FSU, the MLSA, the registered agents to share	Sec. 32 of the FSU Act No. 18 of 2008 as amended by Section 11 of the FSU (Amendment) Act No. 10 of 2011.

			information with other competent authorities	There are two competent authorities performing AML/CFT functions viz. the FSU (regulatory functions) and the FIU (analytical and investigative functions). The FSU's regulatory functions are captured at Section 9 (1) (b) of Act No. 18 of 2008, as amended by Section 6 (a) of Act No. 10 of 2011 and Section 8 of Act No. 8 of 2011. As per Section 7 of Act No. 8 of 2011, the FSU is established as the MLSA. The FIU's analytical and investigative functions are captured at Section 4 (1) (a) of Act No. 7 of 2011.
Rec. 5 Customer due diligence	NC	<ul style="list-style-type: none"> • The requirements that documents, data or information collected under the CDD process should be kept up to date by the financial institution is not enforceable. • The obligation that financial institutions should perform ongoing due diligence on the business relationships is not enforceable. • The determination by the financial institution as to who are the ultimate beneficial owners is not enforceable. • No guidance for the insurance companies with regards to identification and verification of the underlying principals, 	<ul style="list-style-type: none"> i. The legislation should entail requirement to undertake CDD measures according to recommendation 5. ii. The requirement for financial institutions to ensure that documents, data or information collected under the CDD process is kept up to date should be enforceable. iii. Requirement for ongoing due diligence on the business relationships should be enforceable. iv. Requirement to take reasonable measures to determine who are the ultimate beneficial owners or 	<p>Part III of the Money Laundering (Prevention) Regulations of 2012</p> <p>Section 8, 10, 11, 12 & 22 of the Money Laundering (Prevention) Regulations of 2012</p> <p>Section 11 and 12 of the Money Laundering (Prevention) Regulations of 2012 Section 15 and 16 of the Money Laundering (Prevention) Regulations of 2012</p>

		<p>persons other than the policyholders.</p> <ul style="list-style-type: none"> • Financial institutions do not perform enhanced due diligence for higher risk customers. • Financial institutions are not required to perform CDD measures on existing clients if they have anonymous accounts. • The business clients on the exempted list of the banks do not submit a source of fund declaration for each transaction. 	<p>exercise the ultimate effective control should be enforceable.</p> <p>v. The Guidance Notes should include additional guidance with regards to identification and verification of the underlying principals, persons other than the policyholders with regards to insurance companies.</p> <p>vi. Financial institutions should to perform enhanced due diligence for higher risk customers</p> <p>vii. Financial institutions are not required to perform CDD measures on existing clients if they have anonymous accounts.</p> <p>viii. The bank should not keep an exempted list for business clients so that they do not require to fill out a source of fund declaration form for each deposit</p>	<p>Section 12 of the Money Laundering (Prevention) Regulations of 2012</p> <p>Anonymous accounts are not permitted in Dominica due to the identification requirements mandated by the MLP Regulations (current and proposed). Sections 3, 5, 6, 7, 8 & 9 of S.R.O. 14 of 2001 implicitly prevents the opening of anonymous accounts (current regulations). These provisions are carried forward in the new MLP Regulations at section 3 and Part III of the MLP S.R.O.</p> <p>The exempt list has been eliminated. The exempt list in fact consisted of low risk customers.</p> <p>Regulations to be presented to the Parliament. These Regulations are subject to negative resolution of the Parliament.</p> <p>Part III of the Money Laundering (Prevention) Regulations No. 4 of 2013 provides for <i>inter alia</i> the mandatory requirement for the production of sufficient evidence of identity with respect to both natural and legal persons. The absence of the production of that information by the applicant for business the</p>
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				<p>Regulations mandates that the relation should not proceed.</p> <p>In addition, information is required on the purpose and nature of the business relationship.</p> <p>Additional CDD control measures can be found at section 3 of the Money Laundering (Prevention) Regulations which makes it mandatory for FIs and DNFBPs to maintain identification procedures in accordance with regulations 8, 9, 10 and 15; as well as record keeping, internal reporting (regulation (26), internal controls and communication procedures, an audit function to test compliance, screening procedures when hiring customers and initial and refreshers training policies. A penalty of forty thousand dollars and a term of imprisonment not exceeding two (2) years.</p> <p>Non-compliance with the Money Laundering (Prevention) Act and Regulations made thereunder will invoke the powers of the Money Laundering Supervisory Authority established at section 7 of the Money Laundering (Prevention) Act No. 8 of 2011.</p> <p>A range of sanctions are at the disposal of the said Authority at section 8, 10, 11, 12 and 13 of the Money Laundering (Prevention) Act for non-compliance</p>
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				<p>These sanctions range from warning letters, issuance of directives and guidelines with regards to measures to be implemented by FIs and DNFBPs, imposition of pecuniary penalties, suspension of activities, revocation of license or issuance of a reprimand.</p> <p>Sections 10, 11, 12 and 22 An additional element of the required CDD measures is captured at section 10 of the Money Laundering (Prevention) Regulations regarding certain activities a FIs or DNFBP must do when establishing a business relationship. They include obtaining information on the purpose and nature of the business relationship; evidence of identity when the transaction is carried by either a natural or legal person.</p> <p>Mandatory on-going due diligence measures captured at section 11 of the Regulations provides for the execution of due diligence measures by financial institutions and DNFBPs with regards to every transaction conducted during the course of the business relationship.</p> <p>Existing customers are captured at section 22 where a period of six (6) months is given to the financial institution and DNFBPs to verify the identity of the customers failing which, the relationship should be terminated. An extension of time may be granted only on application to the Financial Services Unit, the Supervisory Authority with oversight over these matters, for a period of six (6) months.</p>
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				<p>However, failure by the financial institution or DNFBP to obtain the necessary data to sufficiently identify the identity of its customers, the regulation mandates that the relationship shall be terminated.</p> <p>Section 12 mandates that enhanced due diligence be conducted on a risk-sensitive basis in any situation which by its nature could pose a higher risk of money laundering. This requirement forces the continuous updating of the records held by financial institutions and DNFBPs.</p> <p>Reference is made to CDD requirements to be obtained by the financial institution and DNFBPs on the identity of the beneficial owners of legal persons sufficient to identify the ownership and control structure of same. This includes incorporation documents, the identities of directors, the principal owners and beneficial owners and any authorised to act on behalf of the company including their identities.</p> <p>These sections i.e. 3, 8, 9, 10, 11 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of S.R.O. 4 of 2013 <i>inter alia</i> addresses the following Section 3. Systems and training; Section 8. Identification procedures, business relationships and transactions; Section 9. Identification and verification of customer identity; Section 10. Further information to be obtained and measures to be taken when establishing a business relationship; Section 11. On-going due diligence;</p>
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				<p>Section 12. Enhanced customer due diligence measures and ongoing due diligence; Section 13. Identification measures where reliance placed on intermediary; Section 14. Identification procedure where payment by post, delivered by hand or electronically; Section 15. Identification procedure where transaction is conducted on behalf of another; Section 16. Obligation where business is conducted on behalf of another; Section 17. Persons exempted from identification procedures; Section 18. Evidence of identity not required in certain circumstances; Section 19. Measures in relation to politically exposed persons; Section 20. Measures in relation to cross border correspondent banking and similar relationships; Section 21. Electronic funds transfer to include originator information; Section 22. Existing customers.</p> <p>With regards to sections 17 and 18 where identifications procedures may not be required when conducting a transaction, this exemption is only applicable where during a previous transaction sufficient evidence of identity was presented by the customer who is a legal person and the customer is licensed and or registered, and supervised by the Authority, who is satisfied as to the adequacy of measures by that customer to prevent money laundering.</p>
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				<p>Hence, it is explicitly implied due to the range of CDD measures that FIs and DFBPS have to comply with when establishing or on previously established business relationships, that anonymous accounts are not allowed within the jurisdiction.</p> <p>All clients of FIs and DNFBPs, including existing clients are required to produce sufficient information as relates to their identity. This is mandated in particular in regulations 8 and 22 – Existing Clients. All FIs and DFBPs are given at a maximum one (1) year to update all records of existing clients. Six (6) months in the first instance and an additional six (6) months on application approved by the Authority. The regulations further states that failure to update these records should result in the termination of the business relationship.</p>
<p>Rec. 6</p> <p>Politically exposed persons</p>	NC	<p>It should be enforceable on the financial institutions that they apply enhanced and ongoing due diligence on their PEPs.</p>	<p>i. Recommendation 6 should be enforceable on the financial institutions.</p> <p>ii. Financial institutions should apply risk based approach on their PEPs clients, and continue to do enhanced due diligence on them.</p>	<p>Section 19 of the Money Laundering (Prevention) Regulations of 2012. Presentation of Regulations to Parliament as per Section 54 (3) of Act No. 8 of 2011</p> <p>Section 19 of the Money Laundering (Prevention) Regulations SRO No. 4 of 2013 requires relevant business to put appropriate risk management systems in place to deal with PEPs. This Section states actions that should be taken inclusive of enhanced due diligence when dealing with PEPs.</p>

<p>Rec. 7</p> <p>Correspondent banking</p>	<p>NC</p>	<p>No requirement to determine the nature of business reputation of a respondent and the quality of supervision.</p> <p>No assessment of a respondent AML/CFT controls and responsibilities.</p> <p>No provision to obtain senior management approval before establishing new correspondent relationships.</p> <p>No condition to document respective AML/CFT responsibilities in correspondent relationships.</p> <p>No requirement for financial institutions with correspondent relationships involving “payable</p>	<p>i. The specific requirement to understand and document the nature of the respondent bank’s business and reputation, supervision of the institution and if they have been subjected to money laundering or terrorist financing activities or regulatory action.</p> <p>ii. Financial institutions should be required to assess all the AML/CFT controls of respondent.</p> <p>iii. The financial institutions should document the AML/CTF responsibility of each institution in a correspondent relationship</p> <p>iv. Financial institutions should require senior management</p>	<p>Section 20 (1) (a), (b) and (c) of the Money Laundering (Prevention) (MLP) Regulations of 2012</p> <p>Section 20 (1) (d) of the MLP Regulations of 2012</p> <p>Section 20 (1) (f) of the MLP Regulations of 2012</p> <p>Section 20 (1) (e) of the MLP Regulations of 2012</p>

		<p>through accounts” to be satisfied that the respondent.</p> <p>Financial institutions have not performed all normal CDD obligations on its customers that have access to the accounts.</p> <p>No requirement for the financial institution to satisfy themselves that the respondent institution can provide reliable customer identification data upon request.</p>	<p>approval before establishing new correspondent relationships.</p> <p>v. Financial institutions should ensure that the correspondent relationships if involved in payable through accounts that they normal CDD obligations as set out in R5 have been adhered to and they are able to provide relevant customer identification upon request.</p>	<p>Section 20 (2) of the MLP Regulations of 2012.</p> <p>Presentation of Regulations to Parliament as per Section 54 (3) of Act No. 8 of 2011</p> <p>Section 20 (1) (a) (b) and (c) of the MLP Regulations SRO No. 4 of 2013 requires banks to adequately identify and verify respondent banks, gather sufficient information and determine the reputation, quality of supervision including whether the respondent bank has been subject to a money laundering investigation or regulatory action.</p> <p>Section 20 (1) (d) of SRO No. 4 of 2013 requires banks to assess a respondent bank anti money laundering controls and ascertain that they are adequate and effective.</p> <p>Section 20 (1) (e) of SRO No. 4 of 2013 requires banks to obtain approval from senior management before establishing a new correspondent banking relationship.</p> <p>Section 20 (1) (f) of SRO No. 4 of 2013 requires banks to document the responsibilities of financial institutions in correspondent banking relationships.</p> <p>Section 20 (2) of SRO No. 4 of 2013 provides for necessary measures related to payable through accounts.</p>
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Rec. 8 New technologies & non face-to-face	NC	There are no provisions which require the financial institutions to have measures aimed at preventing misuse of technology developments in money laundering and terrorist financing.	i. Financial institutions should be required to have measures aimed to prevent the misuse of technological developments.	New Section 11 of the MLP Regulations of 2012. Presentation of Regulations to Parliament as per Section 54 (3) of Act No. 8 of 2011
Rec. 9 Third parties and introducers	PC	<p>No requirement for financial institutions to immediately obtain from all third parties necessary information concerning certain elements of the CDD process referenced in Recommendation 5.3 to 5.6</p> <p>The requirement that financial service providers be ultimately responsible for obtaining documentary evidence of identity of all clients is not enforceable.</p> <p>Competent authorities should give guidance with regards to countries in which the third party can be based.</p>	<p>iv. Financial institutions relying on a third party should be required to immediately obtain from the third party the necessary information concerning the elements of the CDD process detailed in Recommendation 5.3 to 5.6.</p> <p>v. The requirement that financial service providers be ultimately responsible for obtaining documentary evidence of identity of all clients should be made not enforceable.</p> <p>vi. Competent authorities should take into account information on countries which apply FATF Recommendations in determining in which country the third party can be based.</p>	<p>New Section 13 (1) of the MLP Regulations of 2012</p> <p>New Section 13 (1) of the MLP Regulations of 2012</p> <p>New Section 13 (2) of the MLP Regulations of 2012. Presentation of Regulations to Parliament as per Section 54 (3) of Act No. 8 of 2011 Section 13 (a) of SRO No. 4 of 2013 requires financial institutions to be satisfied that the third party is able to provide copies of identification data and other documents relating to the obligations of due diligence without delay. Section 13 (b) of SRO No. 4 of 2013 requires financial institutions to be satisfied that the third party or intermediary is regulated and supervised and has measures in place to comply with the necessary requirements.</p>

				As part of the FSU SWP pertinent guidance will be given to financial institutions.
Rec. 10 Record keeping	C			
Rec. 11 Unusual transactions	PC	No requirement for financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions and to set their findings in writing.	<p>i. The Commonwealth of Dominica should consider amending its legislation so as to mandate financial institutions to examine the background and purpose of all complex, unusual or large business transactions whether completed or not, all unusual patterns of transactions which have no apparent or visible economic or lawful purpose.</p> <p>ii. The Commonwealth of Dominica should consider amending its legislation so that the financial institutions would be mandated to examine the background and purpose of all complex, unusual or large business transactions whether completed or not, all unusual patterns of transactions which have no apparent or visible</p>	<p>New Section 19 (2) and (3) of the MLP Act No. 8 of 2011</p> <p>Section 19 of MLP Act No. 8 of 2011 to be amended to include new sections (2) and (3). Presentation of Bill to Parliament to amend Act No. 8 of 2011.</p> <p>Section 6 (b) of the Money Laundering (Prevention) (Amendment) Act 2013 inserts Section 19 (1A) and (1B) into the MLP Act No. 8 of 2011 requiring financial institutions to examine the background and purpose of pertinent transactions and to maintain accessible records</p>

			economic or lawful purpose and set forth their findings in writing and to make such findings available to competent authorities and auditors.	
Rec. 12 DNFBP – R.5, 6, 8-11	NC	The requirements of Recommendations 5, 6, 8 to 11 are not adequately enforced on DNFBPs.	<p>i. The deficiencies identified for all financial institutions for R.5, R.6, and R.8-11 in the relevant sections of this report are also applicable to DNFBPs. The implementation of the specific recommendations in the relevant sections of this report will also be applicable to DNFBPs.</p> <p>ii. While Dominica has passed legislation capturing DNFBPs under its AML/CFT regime, there is no competent authority that ensures these entities are subject to monitoring and compliance with the requirements of the MPLA or the Guidance Notes.</p>	<p>Section 7 of the MLP Act No. 8 of 2011</p> <p>Section 9 (1) (b) of the FSU Act No. 18 of 2008 as amended by section 6 of Act No. 10 of 2011</p> <p>Part II and III of the MLP Regulations 2012</p> <p>DNFBPs are a subset of ‘relevant business’ as captured at Section 2 (1) in SRO No. 4 of 2013. Thus the SRO is applicable to DNFBPs.</p> <p>The FSU SWP addresses data capture during the year.</p>

			<p>iii. The licensed agents should be subject to ongoing monitoring and compliance given the role that they play in the keeping of and maintenance of beneficial owners' information for IBC's and other companies that they register.</p> <p>iv. There should be some form of data capture during the year by the FSU outside of the reporting of STRs as required by the MPLA to the MLSA.</p>	
<p>Rec. 13</p> <p>Suspicious transaction reporting</p>	NC	<p>The requirement to report suspicious transactions should be linked to all transactions and not only to complex, large, unusual.</p> <p>No requirement to report attempted transactions.</p> <p>The reporting of an STR does not include transactions that are linked to terrorism financing, terrorism, terrorism acts, and terrorist organizations.</p> <p>The legislation does not require the STR be reported to the FIU.</p>	<p>i. The financial institutions should be required to report STRs to the FIU.</p> <p>ii. The requirement for financial institutions to report suspicious transactions should also be applicable to attempted transactions.</p> <p>iii. The obligation to make a STR related to money laundering should apply to all offences to be included as predicate offences under Recommendation 1.</p>	<p>Sec. 19 (2) of the MLP Act No. 8 of 2011</p> <p>Sec. 19 (2) of the MLP Act No. 8 of 2011</p> <p>Criminalization of Extortion and Piracy as per cited Acts. (<i>Piracy Act No. 11 of 2010 and Theft (Amendment) Act No. 21 of 2010.</i>)</p>

			iv. The reporting of STRs should also include the suspicious transactions that are linked to terrorism, the financing of terrorism, terrorist organizations and terrorist acts.	<p>Sec. 19 A (2) of SFTA 3 of 2003 as amended by Section 11 of the SFT (Amendment) Act No. 9 of 2011.</p> <p>Presentation of Bill to Parliament to correct typographical error in Act No. 9 of 2011</p> <p>Section 6 of the Suppression of the Financing of Terrorism (Amendment) Act of 2013 was intended to correct this typographical error at Section 19 A (2) (b) of the SFTA No 3 of 2003. Unfortunately, this Section contains a simple error which will be corrected before the May Plenary.</p>
<p>Rec. 14</p> <p>Protection & no tipping-off</p>	LC	The prohibition against tipping-off does not extend to the directors, officers and employees of financial institutions.	i. The offence with regards to tipping-off should be extended to directors, officers and employees of financial institutions.	<p>Sec. 5 of the MLP Act No. 8 of 2011</p> <p>Section 21 of MLP Act No. 8 of 2011</p> <p>The ‘tipping off’ provision in Section 5 of the MLP Act No. 8 of 2011 references ‘a person’ which is broadly defined at Section 2 (1) of the said Act and specifically refers to directors, officers and employees at Section 21 of Act No. 8 of 2011.</p>
<p>Rec. 15</p> <p>Internal controls, compliance & audit</p>	PC	<p>Financial institutions do not maintain an independent audit function to test compliance with policies, procedures and controls</p> <p>Internal procedures do not include terrorist financing.</p>	i. The requirement to maintain independent audit functions to test compliance with procedures, policies and controls should be adhered to.	<p>MLP Regulations 2012 to be amended to include new section 3 (1) (a) (v) & (vi)</p> <p>Development of CFT Regulations.</p> <p>Presentation of Regulations to Parliament as per Section 54 (3) of Act No. 8 of 2011</p> <p>Section 3 (1) (a) (v) of SRO No. 4 of 2013 requires a person carrying on a relevant</p>

			<p>ii. Requirement of the financial institutions to have internal procedures with regards to money laundering should also include terrorist financing.</p>	<p>business to maintain an audit function to test compliance with its anti-money laundering procedures, policies and controls. Section 3 (1) (a) (vi) of the cited SRO requires the maintenance of screening procedures to ensure high standards when hiring employees</p>
<p>Rec. 16 DNFBP – R.13-15 & 21</p>	NC	<p>No effective application of R 13-14, R 15 and 21.</p> <p>No competent body to impose sanctions/fines.</p>	<p>i. There is no specific body charged with the duty of applying sanctions to DNFBPs without requiring a court order.</p> <p>ii. As well the FSU does not conduct ongoing monitoring and compliance checks on these entities or persons to ensure that the requirements of R 13-14, R 15 and 21 are complied with, particularly as regards the money remitters and licensed agents. It is recommended that a competent authority (FSU) be entrusted with the legal responsibility of imposing sanctions or fines as well as conducting ongoing monitor and compliance.</p>	<p>Section 7 of the MLP Act No. 8 of 2011</p> <p>Section 11 and 12 of the MLP Act No. 8 of 2011</p> <p>Section 9(1) (b) of the FSU Act No. 18 of 2008 as amended by Section 6 of the FSU (Amendment) Act No. 10 of 2011</p> <p>The FSU has established a structured work programme in August 2012, which includes onsite monitoring and offsite surveillance of scheduled entities. The FSU has conducted onsite inspections of the commercial banks and two offshore banks. Section 7 of the MLP Act No. 8 of 2011 and Section 9 (1) (b) of the FSU Act No. 18 of 2008 establishes the FSU as the Regulatory / Supervisory Authority for scheduled entities. DNFBPs are scheduled entities. The FSU SWP of August 2012 focused on inspections. A further developed SWP is forwarded herewith.</p>

				Sections 11, 12 and 13 of the MLP Act No. 8 of 2011 authorizes the FSU to apply administrative sanctions on DNFBPs
Rec. 17 Sanctions	NC	Lack of a designated regulatory body to apply sanctions/fines and the absence of a clearly defined process in the law or guidance notes.	i. There should be a competent body designated to impose administrative and civil sanctions/fines for non-compliance with the requirements of the AML/CFT legislation/regime. As well the legislation should define the process for applying these sanctions.	<p>Section 7 of the MLP Act No.8 of 2011</p> <p>Section 11 and 12 of the MLP Act No. 8 of 2011</p> <p>Sec. 47 (1) of the SFTA No. 3 of 2003 as amended by Section 17 of the SFT (Amendment) Act No. 9 of 2011.</p> <p>Section 7 of the MLP Act No. 8 of 2011 and Section 9 (1) (b) of the FSU Act No. 18 of 2008 establishes the FSU as the Regulatory / Supervisory Authority for scheduled entities.</p> <p>The FSU SWP of August 2012 focused on inspections. A further developed SWP is forwarded herewith.</p> <p>Sections 11, 12 and 13 of the MLP Act No. 8 of 2011 authorize the FSU to apply administrative sanctions on scheduled entities.</p> <p>Section 47 (1) of the SFTA No. 3 of 2003 as amended by Section 17 of Act No. 9 of 2011 provides for administrative sanctions related to terrorist financing.</p>

<p>Rec. 18</p> <p>Shell banks</p>	<p>NC</p>	<p>The requirement for domestic and offshore banks not to enter into correspondent banking relationship with shell banks is not enforceable.</p> <p>No requirement for financial institution to satisfy themselves that the respondent financial institutions do not permit their accounts to be used by shell banks.</p>	<p>i. Financial institutions should not be permitted to enter into, or continue correspondent banking relationship with shell banks</p> <p>ii. Financial institutions should be required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</p>	
<p>Rec. 19</p> <p>Other forms of reporting</p>	<p>NC</p>	<p>No evidence that Dominica has considered the feasibility and utility of implementing a fixed threshold currency reporting system.</p>	<p>i. The Commonwealth of Dominica is advised to consider the implementation of a system where all (cash) transactions above a fixed threshold are required to be reported to the FIU. In this regard the Commonwealth of Dominica should include as part of their consideration any possible increases in the amount of STRs filed, the size of this increase compared to resources available for analyzing the information.</p>	<p>The FIU is currently conducting a critical analysis of a cash reporting system. A document will be generated by June 2013</p>

Rec. 20 Other NFBP & secure transaction techniques	PC	Procedures adopted for modern secure techniques are ineffective	<p>i. More on-site inspections are required.</p> <p>ii. Modern secured transaction techniques should be scheduled under the Money Laundering (Prevention) Act, 2000 (Chapter 40:07),</p>	
Rec. 21 Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • There are no measures that require competent authorities to ensure that financial institutions are notified about AML/CFT weaknesses in other countries. • There are no provisions that allow competent authorities to apply counter-measures to countries that do not or insufficiently apply the FATF Recommendations. 	<p>i. Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries.</p> <p>ii. There should be requirements to allow for the application of counter-measures to countries that do not or insufficiently apply the FATF Recommendations.</p>	
Rec. 22 Foreign branches & subsidiaries	PC	<ul style="list-style-type: none"> • Requirement to inform the home country supervisor when local laws and guidelines prohibit the implementation. 	<p>i. Inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CTF measures because this is prohibited by local laws, regulations and measures.</p>	

<p>Rec. 23</p> <p>Regulation, supervision and monitoring</p>	<p>NC</p>	<ul style="list-style-type: none"> • No competent authority assigned the responsibility of monitoring and ensuring compliance with AML/CFT requirements. No specific body entrusted with the responsibility for conducting on-site examinations and regular off-site monitoring. 	<p>i. The FSU should be entrusted with the legal authority to ensure compliance with the MLPA, its Regulations and the Anti-Money Laundering Guidance Notes. As well the Unit should implement a structured work programme, approved by the Financial Director to ensure ongoing on-site and off-site monitoring. These measures should be applicable to all institutions under the regulation and supervision of the FSU. The Unit should also be legally entrusted with the responsibility to license or register DNFBP'S and those financial institutions not under the purview of the ECCB.</p>	<p>Sec. 9 (1) (b) of the FSU Act as amended by Section 6 of the SFT (Amendment) Amendment Act No. 10 of 2011</p> <p>Section 6 (2) Money Services Business Act No. 8 of 2010</p> <p>Section 39 of the IBC Act No. 10 of 1996. Schedule V the Financial Services Unit Act No. 18 of 2008 (item 4)</p> <p>Sections 4 and 5 (2) of the Cooperatives Societies Act No. 2 of 2011</p> <p>The FSU has established a structured work programme in August 2012, which includes onsite monitoring and offsite surveillance of scheduled entities. The FSU has conducted onsite inspections of the commercial banks and two offshore banks.</p> <p>Bill to be presented to Parliament for the amendment of Section 6 (a) of Act No. 10 of 2011 to include '<i>offsite surveillance</i>'.</p> <p>The FSU Structured Work Program (SWP) established in August 2012 focused essentially on inspections. A further developed FSU SWP is submitted herewith. As obtains with other jurisdictions, offsite surveillance is not legislated as it is not necessary to legislate offsite surveillance. However, Dominica intends to make the legislative amendment before the May Plenary.</p>
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				<p><u>Examinations</u></p> <p>The FSU has conducted onsite examinations of the various financial institutions set out in Part 1 of the Schedule to Act No. 8 of 2011 and Schedule 2 of Act No. 9 of 2011 to examine compliance with the MLPA/CFTA and the guidance notes and to satisfy itself that there is sound compliance by the sector with the legislative requirements. The following is a list of the onsite examination which was done:</p> <ol style="list-style-type: none"> 1. National Bank of Dominica; August 8,2012; evaluation of the AML/CFT risk 2. Scotia Bank; August 13,2012; evaluation of the AML/CFT risk 3. Royal Bank of Dominica; August 20,2013; evaluation of the AML/CFT risk 4. Kensington Bank; August 21,2012; evaluation of the AML/CFT risk 5. First Caribbean International Bank; August 21,2012; evaluation of the AML/CFT risk 6. Commonwealth Bank; October; 18,2012; evaluation of the AML/CFT risk 7. Easy Money Financial Corporation; October 23,2012; evaluation of the AML/CFT risk
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				<p>8. Western Union; May 30,2012; evaluation of the AML/CFT risk</p> <p>9. Archipelago Trading; June 14,2012; evaluation of the AML/CFT risk</p> <p>10. Financial Services Inc. (Fast Cash); July 3,2012; evaluation of the AML/CFT risk</p> <p>11. Suncard; June 19,2012; evaluation of the AML/CFT risk</p> <p>12. Ready Credit; August 2,2012; evaluation of the AML/CFT risk</p> <p>13. Big Edge Financial Corporation; July 19,2012;evaluation of the AML/CFT risk</p> <p>14. Credit Union Managers and Compliance Officers; November 14,2012; evaluation of the AML/CFT risk</p> <p><u>Offsite Examinations</u></p> <ul style="list-style-type: none"> The Institutions AML/CFT compliance programe was submitted to the Financial Services Unit during the period August 2012 to December 2012 where an offsite evaluation has been conducted to assess the level of prudence and compliance that exists at various institutions as it relates to combating money laundering and terrorist financing. During this evaluation the following areas were ;
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				<p>the institutions risk profile, volume of business, nature of business, customer base, product and services offered, training programme, effectiveness of compliance officer, reporting and record keeping, customer due diligence, know your employees and customers and customer identification programs.</p> <p>As part of the structured work programme of the Financial Services Unit, it is expected that during the quarter ending June, 2013 the follow up process of bot onsite and offsite evaluation of all the Schedule entities will be conducted and emphasis placed on continued evaluation of these institutions.</p>
<p>Rec. 24</p> <p>DNFBP - regulation, supervision and monitoring</p>	NC	<ul style="list-style-type: none"> No regulatory/supervisory measure are in place to ascertain compliance with AML/CFT laws and guidelines nor, is the FSU charged with the responsibility of monitoring and ensuring compliance with AML/CFT requirements. 	<p>i. There is no comprehensive regulatory and supervisory regime that ensures compliance by casinos and other DNFBPs with the AML/CFT regime that is in place. As well, there is no designated regulatory body to discharge that function as well as to apply relevant sanctions/fines for non-compliance.</p> <p>ii. It is recommended that a competent body, the FSU be charged with the</p>	<p>Section 7 and 8 of the MLP Act No. 8 of 2011</p> <p>Section 9 (1) (b) of the FSU Act No. 18 of 2008 as amended by section 6 of the FSU (Amendment) Act No. 10 of 2011</p> <p>Sec. 47 of the SFTA No. 3 of 2003 as amended by Section 17 of the SFT (Amendment) Act No. 9 of 2011.</p>

			<p>responsibility of monitoring and ensuring compliance with the requirements of the regime as well as imposing sanctions.</p> <p>i. The AML/CFT legislation should also detail the process to be adopted when applying sanctions.</p>	
<p>Rec. 25</p> <p>Guidelines & Feedback</p>	NC	<ul style="list-style-type: none"> • Non issuance of specific guidelines to assist DNFBPs and other financial institutions with implementing the requirements of the AML/CFT regime. • Non issuance of guidelines by SROs and other competent authority (FSU) for DNFBPs. • The authority has not provided the financial sector with adequate and appropriate feedback on the STRs 	<p>i. The Authority should provide financial institutions and DNFBPs with adequate and appropriate feedback on the STRs.</p> <p>i. The FSU in addition to the MLSA should issue specific guidance notes or other targeted guidelines that can assist financial institutions other than domestic commercial banks, as well as DNFBPs to effectively apply the provisions of the MPLA, and its Regulations.</p>	
Institutional and other measures				

<p>Rec. 26</p> <p>The FIU</p>	<p>PC</p>	<ul style="list-style-type: none"> • The FIU is not the central authority for the receipt of STRs from reporting entities. • In practice STRs are filed with the MLSA and copies are made available to the FIU. • The FIU does not have total control over the STRs it maintains on behalf of the MLSA. • Although the FIU has almost immediate access to the STRs submitted by the Financial Institutions and other scheduled entities, the MLPA charges that the STRs should be sent to the Money Laundering Supervisory Authority (MLSA) who is then charged with sending it to the FIU. At the same time the legislation requires that STRs relating to the TF should be sent to the Commissioner of Police. • The data held by the FIU however, all backup data are housed on site which effectively defeats the purpose of having the backup done. 	<p>i. The FIU should be made the central authority for the receipt of STRs from reporting entities as it relates to both Money Laundering and Terrorist Financing.</p> <p>ii. The FIU should have more control over its budget since the control currently maintained by the Ministry could impact the Unit's operation and to some extent its independence.</p> <p>iii. Although the security of the database seems adequate, backup data should be housed off-site to ensure that in the event of a catastrophe at the Unit there would be the</p>	<p>Sec. 4 (1) (a) of the FIU Act No. 7 of 2011</p> <p>Sec. 19 (2) of the MLP Act No. 8 of 2011</p> <p>Section 19A (2) of the SFT Act No. 3 of 2003 as amended by Section 11 of the SFT (Amendment) Act No. 9 of 2011.</p> <p>It is an accepted international standard that FIUs can be located in the Ministries of Legal Affairs or Finance and as such, would have to comply with the accounting procedures of the Ministry. Budgeting is addressed at Sections 10 and 11 of Act No. 7 of 2011. The FIU is allocated a yearly budget which is under the direct control of the Director.</p> <p>Analysis of an appropriate backup storage system. This system will be implemented in the near future.</p>
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		<ul style="list-style-type: none"> • To the extent that the budget of the FIU is controlled by the Ministry this could impact on its ability to be operationally independent. • The annual report prepared by the Unit is not made public. 	<p>opportunity for the recovery of data.</p> <p>iv. The FIU should prepare annual reports which they would be able to disseminate to the public which would enhance awareness.</p>	<p>Sec. 9 of the FIU Act No. 7 of 2011. Analysis of available Annual Reports.</p> <p>Production of Annual Report to include requisite information.</p> <p>It must be noted that the FIU can apply for Seizure and Restraint Orders under the aegis of Section 37 (1) of Act No. 3 of 2003 and Forfeiture Orders under the aegis of Section 8 of Act No. 3 of 2003 in relation to property of terrorists and terrorist groups.</p> <p>The FIU continues to maintain comprehensive and secured databases on the Microsoft SQL Platform in accordance with essential criteria 32.2 of Recommendation 32.</p> <p>In 2012, the FIU received 87 STRs, 15 requests from the Police Service, 6 requests from Regional FIUs and 6 requests from Members of the Egmont Group. The FIU made two requests of Egmont Members. All requests were fulfilled. The FIU has an active case portfolio of 22 cases with 9 cases at the Magistrate's Court.</p>
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<p>Rec. 27</p> <p>Law enforcement authorities</p>	<p>PC</p>	<ul style="list-style-type: none"> • No consideration of taking measures providing for the postponement or waiving of arrest of suspects or seizure of money for the purpose of identifying suspects or for evidence gathering. • There is no group specialized in investigating the proceeds of crime. 	<ul style="list-style-type: none"> i. Provisions should be made in domestic legislation that allow authorities investigation ML cases to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in such activities or for evidence gathering. ii. Legislation should be put in place to provide investigators of Money Laundering and Terrorist Financing cases with a wide range of investigative techniques including controlled delivery. iii. There should be a group of officers who would be trained in investigating the proceeds of crime, perhaps in the NJIC, who would supplement the efforts of the FIU. 	<p>As part of its strategic approach to assist in the efforts to deter, prevent and thwart money laundering, the CDPF has trained a cadre of police officers in financial investigations, money laundering, terrorist financing and cyber-crime investigations. Between 2008 and 2012 some twenty eight (28) police officers have been trained to facilitate the detection, prevention and deterrence of money laundering and the financing of terrorist activities.</p> <p>As part of our the mandate of the Money Laundering Supervisory Authority, the FSU is responsible for providing training and assisting the sector in efficiently structuring and educating its staff and those directly involved in the financial services sector. The following training has been provided, both internally and externally;</p> <ul style="list-style-type: none"> 1. May 2012, In house education on Money Laundering and Terrorist Financing by Mr. Artherton Nesty, Senior Examiner 2. July 2012, Training provide to the Money Services Business Sector, on Combating Money laundering and Terrorist Financing and familiarization with the various pieces of legislation. 3. September 10,17 and 24 2012, training provided to Financial Services
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				<p>Inc. (Fast Cash), Money laundering and Terrorist Financing by Mr. Artherton Nesty</p> <p>4. October 2012, Training provided to Easy Money Financial Corporation on Combating Money Laundering.</p> <p>5. November 2012, Training provided to the Credit Union Sector on Terrorist Financing and Money Laundering</p> <p>6. February 2013, training provided to Archipelago Trading/Cambio Man; Money Gram on the familiarization with the AML/CFT Act and the combating of Money Laundering.</p> <p>The Financial Services Unit continue to ensure that the financial sector is properly educated as it relates to combating money laundering and terrorist financing and in this drive have put in place a structured work programe for 2013 which will place much emphasis on Training, offsite and onsite examination and prudential benchmarks related to AML/CFT in the Commonwealth of Dominica.</p>
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<p>Rec. 28</p> <p>Powers of competent authorities</p>	<p>PC</p>	<ul style="list-style-type: none"> • No provision in the SFTA which affords the FIU or the Commissioner of Police the ability to compel the production of business transaction records, in pursuit of TF investigations. • No explicit legal provision for predicate offences investigators to obtain search warrants to seize and obtain business transaction records. 	<ul style="list-style-type: none"> i. The SFTA should be amended to provide investigators with the ability to compel the production of business transaction records. ii. There should be explicit legal provisions for the investigators of predicate offences to be able to obtain search warrants which would enable them seize and obtain business transaction records. 	<p>Section 46 of POCA #4 of 1993 makes provisions where a person is convicted of a scheduled offence for a police officer to apply to the Judge of the High Court for a search warrant to facilitate an investigation.</p>
<p>Rec. 29</p> <p>Supervisors</p>	<p>PC</p>	<ul style="list-style-type: none"> • FSU does not have the authority to conduct inspections of financial institutions, including on-site inspections to ensure effective monitoring and compliance. 	<ul style="list-style-type: none"> i. The FSU should be legally entrusted with the authority to monitor and ensure compliance with the AML/CFT requirements. As well the Unit should be able to conduct on-sites, request off site information and should be entrusted also with adequate powers of enforcement against its licensees and registrants that are not subject to the Off Shore Banking Act or the Banking Act. 	<p>Section 1 (3) of the FSU Act No. 18 of 2008 as amended by Section 3 of the FSU (Amendment) Act No. 10 of 2011</p> <p>Section 7 of the MLP Act No. 8 of 2011</p> <p>Section 9 of the FSU Act No. 18 of 2008</p> <p>Section 9 (1) (b) of the FSU Act No. 18 of 2008 as amended by Section 6 of the FSU (Amendment) Act No. 10 of 2011</p>

<p>Rec. 30</p> <p>Resources, integrity and training</p>	<p>NC</p>	<ul style="list-style-type: none"> • The staff of the FIU consists of only four persons where the Senior investigator functions as the systems administrator who in the absence of the Director also has to take on those duties. • There is not a sufficient staff compliment in the Police, the FIU and the Supervisory Authority to be able to completely deal with issues relating to ML, FT and other predicate offences. • There is also only limited continuous vetting of officers to ensure that the highest level of integrity is maintained. • The FSU should be adequately staffed to discharge its functions. • The staff, and budget and Anti-money laundering/combating of terrorist financing training of the staff in the DPP Office is in adequate 	<ul style="list-style-type: none"> i. The staff of the Unit should be expanded to include a database administrator. ii. The FSU is not adequately staffed. The Unit's request for additional staff should be adhered to. It is also recommended that a restructuring of the Unit should be considered so that its regulatory and supervisory functions can be discharged effectively. iii. The FSU should consider the establishment of databases to allow for effective off-site supervision. iv. Technical resource- The Police Force should be provided with better communication equipment. v. With the increased demand on the Police the numbers in the police contingent should be increased. vi. Special training in money laundering and terrorist financing should be provided to magistrates and judges to ensure they are familiar with the provisions for dealing 	<p>As at August 1, 2012; the FIU has a permanent staff of 6 officers. A primary responsibility of one of these officers is data base management. The FIU continues to maintain comprehensive and secured data bases on the Microsoft SQL Server Platform in accordance with essential criteria 32.2 of Recommendation 32. In 2012, The FIU received technical assistance from ECFIAT in case management and capacity building and from NAS of the US Embassy in capacity building. OAS CICAD and CICTE and UNODC had given the FIU technical assistance in October 2011 and is considering the delivery of further technical assistance</p> <p>Custom and Excise personnel is also an important part of the law enforcement apparatus. There are several units in this department that are responsible for investigations into money laundering, terrorism financing and FATF 20 designated categories of offences. This units are the Intelligence Unit, Investigation Unit, Mobile Unit Risk Management Unit, Canine Unit</p>
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			<p>with the seizure, freezing and confiscation of property</p> <p>vii. There should be a group of officers who would be trained in investigating the proceeds of crime, perhaps in the NJIC, who would supplement the efforts of the FIU.</p> <p>viii. There should be regular inter agency meetings among all the agencies that are charged with ensuring the effectiveness of the AML/CFT regime.</p> <p>ix. There should be put in place some measures to vet the officers in these agencies to ensure that they maintain a high level of integrity</p> <p>x. Databases should be established which can be shared by all authorities responsible for monitoring and ensuring compliance with the AML/CFT regime in Dominica.</p>	<p>The establishment of the Commonwealth of Dominica Police Force was increased to five (500) hundred by a Cabinet decision dated March 2, 2010 by the creation of fifty (50) new Police Constables positions. The present strength is four hundred and sixty with forty (40) vacancies which is mostly due to attrition. Some thirty eight (38) Police Recruits commenced training at the Police Training School at Morne Bruce on March 1, 2013 and are expected to join the ranks of the Police Force by September 2013. The Government of Dominica has given a commitment to further increase the establishment of the Police Force by the creation of an additional one hundred (100) new positions.</p> <p>The Dominica Police Force introduced polygraph testing as part of its vetting process of persons who work in sensitive or specialized sections such as the CID, Anti-crime Task Force, Drug Squad, Special Branch, and NJIC in 2011. The polygraph testing of the ranks of the Police Force is being done on a voluntary basis.</p> <p>The vetting process is coordinated by the Regional Security System (RSS) and funded by the US Embassy in Barbados. The US only provides funding for the vetting of persons in specialized sections or areas.</p> <p>Between November 2012 and February 2013 some sixty eight (68) police officers</p>
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				<p>were vetted comprising of senior managers, middle managers and lower ranks. Other sensitive personnel and other ranks will be vetting if funding is available. Outside funding will have to be sourced for personnel not in specialized or sensitive areas and new entrants into the Police Force.</p> <p>The permanent staff of the Office of the Director of Public Prosecutions consists of the Director of Public Prosecutions and two State Attorneys.</p> <p>As part of Dominica Police Force's approach to effective criminal intelligence gathering, the NJIC is charged with the responsibility to deal with intelligence gathering as it pertains to national security issues and not the investigations of money laundering and terrorist financing cases.</p> <p>As part of its strategic approach to assist in the efforts to deter, prevent and thwart money laundering, the CDPF has trained a cadre of police officers in financial investigations, money laundering, terrorist financing and cyber-crime investigations. Between 2008 and 2012 some twenty eight (28) police officers have been trained to facilitate the detection, prevention and deterrence of money laundering and the financing of terrorist activities.</p>
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				<p>Recently, some of these trained police officers were able to provide support for the FIU during a major money laundering investigations.</p>
<p>Rec. 31</p> <p>National co-operation</p>	<p>PC</p>	<ul style="list-style-type: none"> • There are no joint meetings dedicated to developing policies and strategies relating to AML/CFT • The Supervisory Authority does not adequately supervise the DNFBPs and other entities in the financial sector at this time. • There should be measures in place so that the authorities can There are, coordinate with each other concerning the development and implementation of policies and activities to combat ML and FT. 	<p>i. There should be regular inter agency meetings among all the agencies that are charged with ensuring the effectiveness of the AML/CFT regime.</p> <p>ii. The Supervisory Authority needs to expand its activity so as to ensure that all entities who may be susceptible to be used for Money laundering or Terrorist Financing are aware of these dangers and take the necessary precautions.</p> <p>iii. There should be established and maintained regular inter-agency meetings where policies and actions are developed.</p>	<p>Section 15 (1) of the MLP Act No. 8 of 2011</p> <p>There are effective cooperation / coordination among local agencies such as the Customs, Police, FIU in regards to money laundering, terrorism financing and other designated category of offences. The Customs is part of the Technical Working Group which also comprises of Police, FIU, FSU, Legal. There are frequent coordination between the police, Customs and FIU as is highlighted in Recommendation 32 where exercises were carried out between the Customs and various units in the Police Force</p>

			<p>iv. There should be a closer link between the Supervisory Authority and the DNFBPs.</p> <p>v. There should be measures to allow the authorities to coordinate in Dominica with each other concerning developments with regards to money laundering and terrorist financing.</p>	
<p>Rec. 32</p> <p>Statistics</p>	NC	<ul style="list-style-type: none"> Competent authorities appear to have limited opportunity to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing specifically in relation to Money Laundering & Financing of Terrorist investigations- prosecutions and convictions- and on property frozen; seized and confiscated. Competent authorities appear to have limited opportunity to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing specifically in relation 	<p>i. The competent authorities should maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing.</p> <p>ii. With respect to MLA and other international request the Commonwealth Dominica should maintain statistics on the nature of such requests and the time frame for responding.</p>	<p>In 2012, the FIU has commenced two new cases in the Magistrate's Court under the aegis of the Proceeds of Crime Act No. 4 of 1993 in collaboration with the Dominica Police Force and conducted to cash seizure investigations in consonance with the Customs and Excise Division. Currently, the FIU has six cases involving fourteen persons before the Magistrate's Court. An application for Paper Committal has been made at the Magistrate's Court for one of these cases.</p> <p>The FIU continues to maintain comprehensive and secured databases on the Microsoft SQL Server Platform in accordance with essential criteria 32.2</p> <p>The Statistics for Customs as maintain and generated from their ASYCUDA world computer program system indicates the following: 2010/2011 the currency seizure amounted to EC\$20,158.50 for that same period there were fines imposed by Custom</p>

		<p>to Terrorist financing freezing data.</p> <ul style="list-style-type: none"> • In the Commonwealth of Dominica the Competent authorities do not maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing. Annual statistics are however maintained on Mutual legal assistance or other international requests for co-operation and all mutual legal assistance and extradition requests (including requests relating to freezing, seizing and confiscation) that are made or received, relating to ML, the predicate offences and FT, including whether it was granted or refused but no statistics maintained on the nature of the request and the time frame for responding. • While the examiners found that statistics were kept, the examiners finds that the competent authorities should maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money 	<p>for various offences amounted to \$239,701.40. In the period 2011/2012, there were currency seizures amounted to \$736,375.70. For that same period, a total of EC\$461,467.33 was received as fines imposed for various offences. For the period 2012 to date there have been currency seizures amounted to \$269,038.93 and fines imposed for various offences for that period amounted to \$413,874.25.</p> <p>The statistics compiled by the Canine Unit of the Customs which was established in April 2011 indicates that, from July 2011 to present there have been twenty two (22) joint operations with the police which resulted in over ninety (90) kilograms of cocaine, Two Thousand One Hundred and Sixty Two (2162) pounds of Cannabis, Two Thousand Seven Hundred and Eighty Five (2785) Cannabis trees, seven firearms and large quantities of ammunition have been detained.</p>
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		<p>laundering and terrorist financing.</p> <ul style="list-style-type: none"> • There are no statistics kept on formal requests made or received by law enforcement authorities relating to ML and FT, including whether the request was granted or refused. • No statistics are kept on on-site examinations conducted by supervisors relating to AML/CFT and the sanctions applied. • There is no statistics available on formal requests for assistance made or received by supervisors relating to or including AML/CFT including whether the request was granted or refused. • Lack of databases to facilitate sharing of information between authorities responsible for discharging AML/CFT requirements. • The Supervisory Authority is not effective in relation to some entities in the financial sector. • The effectiveness of the money laundering and terrorist 		
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		<p>financing system in Dominica should be reviewed on a regular basis.</p> <ul style="list-style-type: none"> • No comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing. 		
<p>Rec. 33</p> <p>Legal persons – beneficial owners</p>	PC	<ul style="list-style-type: none"> • Lack of ongoing monitoring and compliance. The FSU should implement such a programme for AML/CFT purposes as well as general supervision and regulation. • Measures should be in place to make sure that the bearer shares are not misused for money laundering 	<ul style="list-style-type: none"> i. There is a need to ensure that licensed agents are subjected to ongoing monitoring and supervision in such areas as maintenance of up-to-date information on beneficial owners, licensing and registration, particularly for IBC's incorporated by the agent. ii. It is recommended that the FSU institute the process of ongoing monitoring and compliance for both AML/CFT purposes and for general supervisory and regulatory purposes. iii. There should be measures to ensure that bearer shares are not misused for money laundering. 	

<p>Rec. 34</p> <p>Legal arrangements – beneficial owners</p>	<p>NC</p>	<ul style="list-style-type: none"> • The Authorities should include current and accurate information of the beneficial ownership and control as part of the register information on international trusts. • Registration of Trusts does not include information of the settler and other parties to a Trust. • Competent Authorities do not have access to information on the settler, trustees or beneficiaries of a Trust. 	<ul style="list-style-type: none"> i. Information on the settlors, trustees and beneficiaries of Trusts should be made available to the Registrar or if not recorded there should be available from the registered agent on request without the written consent of the Trustee. ii. Competent Authorities should be able to gain access to information on beneficial ownership of Trusts in a timely fashion. iii. Even though currently there are no trust activities in Dominica, the authorities in Dominica should include adequate, accurate and current information on the beneficial ownership and control of legal arrangements as part of the register information on international trust. 	
<p>International Co-operation</p>				
<p>Rec. 35</p> <p>Conventions</p>	<p>PC</p>	<ul style="list-style-type: none"> • The Commonwealth of Dominica is not a party to The 2000 UNC Against Transnational Organized 	<ul style="list-style-type: none"> i. The Commonwealth of Dominica should become a party to The 2000 United Nation Convention Against Trans-national Organized 	<p>Consideration of becoming a party to the Palermo Convention and analysis of domestic legislation to determine deficiencies in the satisfaction of the</p>

		<p>Crime – (The Palermo Convention).</p> <ul style="list-style-type: none"> • In The Commonwealth of Dominica many but not all of the following articles of the Vienna Convention (Articles 3-11, 15, 17 and 19) have been fully implemented. • In The Commonwealth of Dominica some but not all aspects of Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention have been implemented. • In The Commonwealth of Dominica many but not all of Articles 2- 18 of the Terrorist Financing Convention are fully implemented. • In the Commonwealth of Dominica, S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001) are not fully implemented. 	<p>Crime – (The Palermo Convention) and fully implement article Articles 3-11, 15, 17 and 19) of the Vienna Convention, Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention, Articles 2- 18 of the Terrorist Financing Convention and S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001)</p>	<p>Palermo, Vienna and Terrorist Financing Conventions</p>
<p>Rec. 36</p> <p>Mutual legal assistance (MLA)</p>	<p>LC</p>	<ul style="list-style-type: none"> • The Commonwealth of Dominica has not considered devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject 	<p>i. To avoid conflicts of jurisdiction, the Commonwealth of Dominica should consider devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in</p>	<p>Administrative Consideration</p> <p>Determined by court practice</p>

		to prosecution in more than one country.	cases that are subject to prosecution in more than one country.	
Rec. 37 Dual criminality	C			
Rec. 38 MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • Unclear legislation regarding request relating to property of corresponding value. • Unclear legislation regarding arrangements for co-ordinating seizure and confiscation actions with other countries. • No consideration of the establishment of an asset forfeiture fund into which all or a portion of confiscated property will be deposited. • No consideration of authorising the sharing of assets confiscated when confiscation is directly or indirectly a result of co-ordinate law enforcement actions. 	<p>i. Commonwealth of Dominica should consider establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes.</p> <p>ii. The Commonwealth of Dominica should consider authorising the sharing of confiscated assets between them when confiscation is directly or indirectly a result of co-ordinate law enforcement actions.</p>	<p>Sec. 36 of the MLP Act of No. 8 of 2011</p> <p>Sec. 37 of the MLP Act No. 8 of 2011</p> <p>Sec. 39 of the MLP Act No. 8 of 2011</p>

			<p>iii. The laws should clarify whether the requirement in Criterion 38.1 is met where the request relates to property of corresponding value.</p> <p>iv. The laws should clarify whether the Commonwealth of Dominica could have arrangements for co-ordinating seizure and confiscation actions with other countries.</p>	
<p>Rec. 39</p> <p>Extradition</p>	<p>LC</p>	<ul style="list-style-type: none"> The Commonwealth of Dominica do not have specific measures or procedures adopted to allow extradition requests and proceedings relating to Money Laundering to be handled without undue delay 	<p>i. There should be in the Commonwealth of Dominica measures or procedures adopted to allow extradition requests and proceedings relating to money laundering to be handled without undue delay.</p> <p>ii. In the Commonwealth of Dominica the laws should not prohibit the extradition of nationals.</p> <p>iii. There should be measures or procedures adopted in the Commonwealth of Dominica that will allow extradition requests and proceedings</p>	<p>Sections 43 and 44 of the MLP Act No. 8 of 2011</p> <p>Sections 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Extradition Act Chap. 12:04 (Act No. 6 of 1981) of the Revised Laws of Dominica address the Extradition Procedure.</p> <p>Sec. 27 of the SFTA 3 of 2003 as amended by Section 13 of the SFT (Amendment) Act No. 9 of 2011</p>

			relating to terrorist acts and the financing of terrorism offences to be handled without undue delay.	
Rec. 40 Other forms of co-operation	LC	<ul style="list-style-type: none"> There is no evidence that in The Commonwealth of Dominica requests for cooperation would not be refused on the sole ground that the request is also considered to involve fiscal matters. 	i. In the Commonwealth of Dominica it should be made clear that a request for cooperation would not be refused on the sole ground that the request is also considered to involve fiscal matters.	Section 40 of Act No. 8 of 2011 provides for international cooperation and states that the FIU shall not refuse a request on the ground that it involves matters of a fiscal nature. Section 19 (2) of the Mutual Assistance in Criminal Matters Act No. 9 of 1990 states the conditions where requests for cooperation can be refused. Fiscal matters are not cited in this Section.
Nine Special Recommendations	Rating			
SR. I Implementation UN instruments	PC	<ul style="list-style-type: none"> The Commonwealth of Dominica is not a party to The 2000 UNC Against Transnational Organized Crime – (<i>The Palermo Convention</i>). In the Commonwealth of Dominica many but not all of the following articles of the Vienna Convention (Articles 3-11, 15, 17 and 19) have been fully implemented. In The Commonwealth of Dominica some but not all aspects of Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention have been implemented. 	i. The Commonwealth of Dominica should become a party to The 2000 United Nation Convention Against Trans-national Organized Crime – (<i>The Palermo Convention</i>) and fully implement article Articles 3-11, 15, 17 and 19) of the Vienna Convention, Articles 5-7, 10-16, 18-20, 24-27, 29-31, & 34 of the Palermo Convention, Articles 2- 18 of the Terrorist Financing Convention and S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001)	Consideration of becoming a party to the Palermo Convention and analysis of domestic legislation to determine deficiencies in the satisfaction of the Palermo, Vienna and Terrorist Financing Conventions

		<ul style="list-style-type: none"> • In The Commonwealth of Dominica many but not all of Articles 2- 18 of the Terrorist Financing Convention are fully implemented. • In the Commonwealth of Dominica, S/RES/1267(1999) and its successor resolutions and S/RES/1373(2001) are not fully implemented. 		
SR. II Criminalise terrorist financing	PC	<ul style="list-style-type: none"> • The law is not clear that Terrorist financing offences apply, regardless of whether the person alleged to have committed the offence(s) is in The Commonwealth of Dominica or a different country from the one in which the terrorist(s)/terrorist organisation(s) is located or the terrorist act(s) occurred/will occur . • The law does not specifically permit the intentional element of the Terrorist financing offence to be inferred from objective factual circumstance. • The law does not specifically speak to the possibility of parallel criminal, civil or administrative proceedings where more than one form of liability is available. 	The laws should be amended to: <ol style="list-style-type: none"> i. State that Terrorist financing offences do not require funds be linked to a specific terrorist act(s); ii. State that Terrorist financing offences apply, regardless whether the person alleged have committed the offence(s) in The Commonwealth of Dominica or a different country from the one in which the terrorist(s)/terrorist organisation(s) is located or the terrorist act(s) occurred/will occur ; iii. Permit the intentional element of the Terrorist financing offence to be inferred from objective factual circumstance; 	Sec. 4 of SFTA Act No. 3 of 2003 as amended by Section 4 of the SFT (Amendment) Act . Sec. 2 (b) (b) of the SFTA 3 of 2003 as amended by Section 3 of the SFT (Amendment) Act No. 9 of 2011. Sec. 2 (3) of the SFTA 3 of 2003 as amended by Section 3 of the SFT (Amendment) Act No. 9 2011. Not in accordance with normal jurisprudence in our jurisdiction

		<ul style="list-style-type: none"> • No civil or administrative penalties are defined in law. • The effectiveness of the regime has not been tested by actual cases. • The definition of terrorist, terrorist act and terrorist organization are not in line with the Glossary of Definitions used in the Methodology as the terms does not refer to the Convention for the Suppression of Unlawful Seizure of Aircraft (1970) and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971) 	<p>iv. To permit the possibility of parallel criminal, civil or administrative proceedings where more than one form of liability is available.</p> <p>v. To address civil or administrative penalties; and;</p> <p>vi. Ensure that the definition of terrorist, terrorist act and terrorist organization are in line with the term terrorist act as defined by the FATF</p>	<p>Section 47 of Act No. 3 of 2003 as amended by Section 17 of Act No. 9 of 2011.</p> <p>Sec. 2 of the SFTA 3 of 2003 as amended by Section 3 of the SFT (Amendment) Act No. 9 of 2011</p> <p>The definition of terrorist act and terrorist organization is under review. FSU is developing appropriate Guidance Notes.</p> <p>The SFT (Amendment Act has gone through all three (3) readings in the House of Assembly.</p> <p>The sections referenced, both in the parent Act and the Amendment Act penalises terrorism financing activities by a person who directly or indirectly, unlawfully and wilfully provides or collects funds with the intention or in the knowledge that such funds shall be used in full or part</p> <ul style="list-style-type: none"> • in order to commit a terrorist act • by a terrorist group; or • by a terrorist. <p>This amendment removes the previous limitation of section 4 of the parent Act No. 3 of 2003 and criminalises the activity of providing funding to a terrorist group or terrorist, irrespective of whether the funds were used to carry out a terrorist act.</p>
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				<p>The cited section references acts or omissions whether committed in or outside of Dominica but constitutes an offence within the scope of the counter terrorism convention. These acts or omissions can be fully investigated at section 20 (4) of the SFTA No. 3 of 2003 as amended by the Suppression of Financing of Terrorism Act No. 9 of 2011.</p> <p>A new subsection 4 has been inserted that allows for the investigation by the Unit (Financial Intelligence Unit) of a person authorised by the Unit of an offence under this SFTA whether it occurred in Dominica or in any other territorial jurisdiction.</p> <p>This amendment states that knowledge, intent purpose required as an element of an offence under this Act may be inferred from objective, factual circumstances.</p> <p>The Financial Services Unit (FSU), having been designated as the regulator for terrorism financing at section 9 of the the Financial Services Unit Act No. 18 of 2008, have been given additional regulatory enforcement powers under the Suppression of Financing of Terrorism (Amendment) Act No. 9 of 2011.</p> <p>Section 47 of the parent Act the SFTA No. 3 of 2003 has been repealed and replaced with a new section 47. This amendment is found at section 17 of the SFT (A) Act No. 9 of 2011. Some of the sanctions now available</p>
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				<p>to the FSU includes issuance of written warnings, issuance of specific instructions to institutions or persons who may in possession targeted funds and the suspension or revocation of the institution's licence.</p> <p>In addition to the new SFTA enforcement powers given to the FSU, additional inherent powers from the FSU Act are still available to the FSU when carrying out its functions. Some of the powers include a requisition for the production of documents, inspections, requiring the FIs and DNFBPs to submit periodic reports in the form and with the content to be determined by the Director of the FSU.</p> <p>The definition given to "terrorist" in the parent Act No. 3 of 2003 has been deleted and replaced with a new definition that is consistent with the definition found in the Glossary of Definitions in the FATF 2009 Methodology. The same approach has been taken for "terrorist act".</p> <p>However, the term "terrorist organisation" is not as referenced by the Examiners. This term is not used throughout our SFTA and amendments thereto. Instead, the term "terrorist group" is used but is given a definition consistent with the definition of "terrorist organisation" found in the Glossary of Definition of the FATF 2009 Methodology.</p>
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				<p>This new term and definition thereto can be found at section 2 of the SFTA as amended by section 3 of the Act No. 9 of 2011. It means a group of terrorist that (a) commit, or attempt to commit terrorist acts by any means, directly or indirectly, unlawfully and wilfully; (b) participates as an accomplice in terrorist acts; (c) organizes or directs others to commit terrorist acts; or (d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act with knowledge of the intention of the group to commit a terrorist act.</p> <p>Hence, the substance of the definition of terrorist group is the same as per the definition of terrorist organisation.</p>
<p>SR. III</p> <p>Freeze and confiscate terrorist assets</p>	<p>PC</p>	<ul style="list-style-type: none"> • The Commonwealth of Dominica has limited and need adequate laws and procedures to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions. • The laws of the Commonwealth of Dominica do not speak to having an effective system for communicating actions taken under the freezing mechanisms 	<p>The Commonwealth of Dominica should:</p> <ol style="list-style-type: none"> i. Strengthen their legislation to enable procedures which would examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions ii. Implement effective mechanisms for communicating actions taken under the freezing mechanisms 	<p>Sec. 12C of the SFTA 3 of 2003 as amended by Section 10 of the SFT (Amendment) Act No. 9 of 2011</p> <p>Sec. 12 (1) and (2) of the SFTA 3 of 2003 as amended by Section 9 of the SFT (Amendment) Act No. 9 of 2011.</p> <p>Sec. 12B of the SFTA No. 3 of 2003 as amended by Section 10 of the SFT (Amendment) Act No. 9 of 2011.</p>

		<ul style="list-style-type: none"> • The Commonwealth of Dominica do not have appropriate procedures for authorising access to funds or other assets that were frozen pursuant to S/RES/1267(1999) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses. • No guidance has been issued. 	<p>iii. Create appropriate procedures for authorizing access to funds or other assets that were frozen pursuant to S/RES/1267 (1999)</p> <p>iv. Issue clear guidance to financial institutions and persons that may be in possession of targeted funds or assets or may later come into possession of such funds or assets.</p>	<p>Sec. 47 (1) of the SFTA No. 3 of 2003 as amended by Section 17 of the SFT (Amendment) Act No. 9 of 2011.</p> <p>Sec. 36 (1) and (2) of the SFTA No. 3 of 2003</p> <p>Section 19A (2) of the SFTA 3 of 2003 as amended by Section 11 of SFT (Amendment) Act No. 9 of 2011</p> <p>N.B. Section 47 of Act No. 3 of 2003 as amended by Section 17 of Act No. 9 of 2011 applies to funds and assets inclusive of funds and assets related to the freezing regime.</p> <p>Section 10 of the Suppression of the Financing of Terrorism (Amendment) Act 2013 amends Section 47 (a) (ii) of the Suppression of the Financing of Terrorism Act to make it applicable to funds which are subject to the Freezing regime</p>
<p>SR. IV</p> <p>Suspicious transaction reporting</p>	NC	<ul style="list-style-type: none"> • The reporting of STRs does not include suspicion of terrorist organizations, terrorism, terrorist acts or those who finance terrorism. 	<p>i. The reporting of STRs with regard to terrorism and the financing of terrorism should include suspicion of terrorist organizations or those who finance terrorism.</p>	<p>Section 19A (2) of the SFTA No. 3 of 2003 as amended by Section 11 of SFT (Amendment) Act No. 9 of 2011</p> <p>Presentation of Bill to Parliament to correct typographical error at 19 A (2) (b)</p> <p>Section 6 of the Suppression of the Financing of Terrorism (Amendment) Act of 2013 was intended to correct this typographical error at Section 19 A (2) (b) of the SFTA No 3 of 2003. Unfortunately, this Section contains a simple error which will be corrected before the May Plenary</p>

<p>SR. V</p> <p>International co-operation</p>	<p>PC</p>	<ul style="list-style-type: none"> • Factors in Recommendations 37 and 38 are also applicable. 	<p>i. The examiner could find no evidence that a requests for cooperation would not be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP (except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies).</p>	<p>Sec. 35 (2) of the SFTA 3 of 2003 as amended by Section 14 of SFT (Amendment) Act No. 9 of 2011.</p> <p>Section 14 of Proceeds of Crime Act No. 4 of 1993.</p> <p>Section 12C of the SFTA 3 of 2003 as amended by Section 10 of the SFT (Amendment) Act No. 9 of 2011</p> <p>Section 27 of the SFTA 3 of 2003 as amended by Section 13 of the SFT (Amendment) Act No. 9 of 2011</p> <p>Sec. 35 (2) of the SFTA 3 of 2003 as amended by Section 14 of SFT (Amendment) Act No. 9 of 2011.</p> <p>N. B. Section 27 and 28 of the Mutual Assistance in Criminal Matters Act Chap.</p>
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				<p>12:19 together with Section 14 of the Proceeds of Crime Act No. 4 of 1993 as amended by Act No. 10 of 2010 addresses requests by foreign countries where the requests relate to property of corresponding value.</p> <p>Act No. 10 of 2010 includes terrorism and financing of terrorism as Scheduled Offences falling within the ambit of the Proceeds of Crime Act No. 4 of 1993.</p> <p>Sections 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Extradition Act Chap. 12:04 (Act No. 6 of 1981) of the Revised Laws of Dominica address the Extradition Procedure.</p>
<p>SR. VI</p> <p>AML requirements for money/value transfer services</p>	NC	<ul style="list-style-type: none"> • Lack of an effective supervisory or regulatory regime. • No requirements for licensing and registration by the authorities. 	<p>i. With the exception of MVT service providers that are supervised and regulated under the Baking Act, the Off Shore Banking Act and the Cooperative Societies Act, there is no specific requirement for these entities to be licensed or registered. The FSU is charged with the responsibility of supervising and regulating these institutions, however the Unit has no legal basis to enforce or discharge its functions.</p> <p>ii. There is no specific regulatory authority charged with the responsibility of monitoring and ensuring compliance</p>	

			<p>with the provisions of the AML/CFT regime.</p> <p>iii. The FSU does not license or register these entities, nor does it provide ongoing supervision or monitoring. It is recommended that the FSU be entrusted with the responsibility of ensuring monitoring and compliance with the requirements of the AML/CFT regime.</p> <p>iv. The FSU should be required to institute a programme of on-going onsite and off site monitoring for other regulatory and supervisory purposes.</p>	
<p>SR. VII</p> <p>Wire transfer rules</p>	NC	<ul style="list-style-type: none"> • No measures in place to cover domestic, cross-border and non-routine wire transfers. • There are no requirements for intermediary and beneficial financial institutions handling wire transfers. • No measures in place to effectively monitor compliance with the requirements of SR VII. 	<p>i. It is recommended that the review of Dominica's legislative and regulatory provision take consideration of all requirements of the Recommendation and appropriate legislation be enacted as soon as possible.</p>	

<p>SR. VIII</p> <p>Non-profit organisations</p>	<p>NC</p>	<ul style="list-style-type: none"> • NPOs not subject to AML/CFT regime. • There is no proper supervision of NGOs. • There are no sanctions in place for non-compliance with the reporting requirements. • There are no guidelines to aid the NGO in selecting its management. • There are no requirements for the NGO to report unusual donations. • The NGOs have not been sensitized in issues of AML/CFT. • No review of the laws and regulations that relate to NPOs by the authorities. • No measures for conducting reviews of or capacity to obtain timely information on the activities, size and other relevant features of non-profit sectors for the purpose of identifying NPOs at risk of being misused for terrorist financing. 	<ul style="list-style-type: none"> i. The Social Welfare Department should be charged with the supervision of the NGOs and be adequately staffed to take on this task. ii. Sanctions should be put in place for non-compliance as it relates to the annual reporting requirements. iii. NGOs should be required to report unusual donations to the Supervisory Authority iv. NGOs should be sensitized to the issues of AML/CFT including how they could be used for terrorist financing. v. NGOs should be encouraged to apply fit and proper standards to officers and persons working in and for the NGO. vi. The requirements of the MLPA, its Regulations and the Guidance Notes should be extended to NPOs and their activities. vii. The Authorities should undertake a review of the domestic laws and 	
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		<ul style="list-style-type: none"> • No assessments of new information on the sector's potential vulnerabilities to terrorist activities are conducted. • No efforts at raising the awareness in the NPO sector about the risks of terrorist abuse and any available measures to protect NPOs from such abuse. • No sanctions for the violations of the rules in the NPO sector. • No monitoring of NPOs and their international activities. 	<p>regulations that relate to Non-profit organizations.</p> <p>viii. Measures for conducting domestic reviews of or capacity to obtain timely information on the activities, size and other relevant features of non-profit sectors for the purpose of identifying NPOs at risk of being misused for terrorist financing should be implemented.</p> <p>ix. Reassessments of new information on the sector's potential vulnerabilities to terrorist activities should be conducted.</p> <p>x. The Authorities should monitor the NPOs and their international activities.</p> <p>xi. Training sessions should be implemented to raise the awareness in the NPO sector about the risks of terrorist abuse.</p> <p>xii. There should be measures to protect NPOs from terrorist abuse.</p>	
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			xiii. There should be sanctions for violation rules in the NPO sector	
SR. IX Cross Border Declaration & Disclosure	PC	<ul style="list-style-type: none"> • No authority to conduct further investigations pursuant to false declaration. • No dissuasive criminal civil or administrative sanctions are available for application where persons make false declarations. • No dissuasive criminal civil or administrative sanctions are available for application where persons are carrying out a physical cross-border transportation of currency or bearer negotiable instruments related to ML or TF. • The declaration system does not allow for the detention of currency or bearer negotiable instruments and the identification data of the bearer 	<ul style="list-style-type: none"> i. Customs should be given the authority to request further information relative to the origin of currency or bearer negotiable instruments. ii. Some formal arrangements should be entered into for the sharing of information on cross border transportation and seizures with International counter-parts and other competent authorities. iii. Provide the legislative provisions that would allow cash or bearer negotiable instruments and the identification data of the bearer to be retained in circumstances involving suspicion of ML of TF. 	

		<p>where there is suspicion of ML or TF.</p> <ul style="list-style-type: none"> • There is no evidence that there are formal arrangements in place for the sharing of information with international counterparts in relation to cross border transactions. 	<p>iv. Make available a range of effective proportionate and dissuasive criminal, civil or administrative sanction, which can be applied to persons who make false declarations.</p> <p>v. Make available a range of effective proportionate and dissuasive criminal, civil or administrative sanctions, which can be applied to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments related to ML or TF.</p>	
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