



# Fifth Follow-Up Report

## Guyana

### November 22, 2013

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## GUYANA – FIFTH FOLLOW-UP REPORT

### I. Introduction

1. This report presents an analysis of Guyana's report to the Caribbean Financial Action Task Force (CFATF) Plenary regarding progress made to correct the deficiencies identified in its third round Mutual Evaluation Report (MER). The third round MER of Guyana was adopted by the CFATF Council of Ministers in May 2011 in Honduras. Guyana was placed on expedited follow-up and required to report every Plenary. In May 2013, the Plenary placed Guyana on a list of jurisdictions with strategic anti-money laundering/combating the financing of terrorism (AML/CFT) deficiencies that have not made sufficient progress in addressing the deficiencies and required Guyana to take specific steps to address these deficiencies by November 2013. Guyana has submitted information in the attached matrix on measures taken since the Mutual Evaluation to comply with the examiners' recommendations. Guyana was rated partially compliant or non-compliant on 16 Core and Key Recommendations and 25 other Recommendations. The Core and Key Recommendations are indicated in *italics* in the table below.

**Table 1; Ratings of Core and Key Recommendations**

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

2. With regard to the remaining Recommendations, Guyana was rated partially compliant or non-compliant on twenty-seven (27) as indicated below:

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

<b>Partially Compliant (PC)</b>	<b>Non-Compliant (NC)</b>
R. 6 (Politically exposed persons)	R. 8 (New technologies & non face-to-face business)
R. 9 (Third parties and introducers)	R. 12 (DNFBP – R.5,6,8-11)
R. 15 (Internal controls, compliance & audit)	R. 16(DNFBP – R.13-15 & 21)
R. 17 (Sanctions)	R. 19 (Other forms of reporting)
R. 28 (Powers of competent authorities)	R. 21 (Special attention for higher risk countries)
R. 29 (Supervisors)	R.22 (Foreign branches & subsidiaries)
R. 33 (Legal persons – beneficial owners)	R. 24 (DNFBP – regulation, supervision and monitoring)
R. 39 (Extradition)	R. 25 (Guidelines & Feedback)
SR. VI (AML requirements for money value transfer services)	R. 27 (Law enforcement authorities)
SR. IX (Cross-border Declaration & Disclosure)	R. 30 (Resources, integrity and training)
	R. 31 (National co-operation)
	R. 32 (Statistics)
	R. 34 (Legal arrangements – beneficial owners)

	R. 37 (Dual criminality)
	R. 38 (MLA on confiscation and freezing)
	SR. VII (Wire transfer rules)
	SR. VIII (Non-profit organizations)

3. The following table gives some idea of the level of risk in the financial sector by indicating the size and integration of the sector in Guyana.

**Table 3: Size and integration of the jurisdiction's financial sector  
As at June, 2013**

		(US\$ Million)				
		<b>Banks</b>	<b>Other Credit Institutions*</b>	<b>Securities**</b>	<b>Insurance+</b>	<b>TOTAL</b>
<b>Number of institutions</b>	Total #	6	6	2	15	29
<b>Assets</b>	US\$M	1,900	304	83	198	2,485
<b>Deposits</b>	Total: US\$	1,611	240	Nil	0	1,851
	% Non-resident	% of deposits 3	22		0	4
<b>International Links</b>	% Foreign-owned:	% of assets 53	% of assets 1	% of assets 0	% of assets^ 22	% of assets 50
	#Subsidiaries abroad	Nil	Nil	Nil	Nil	Nil

\* Includes other non-bank licensed financial institutions (LFIs)

\*\* Includes stockbrokers and investment companies which are also LFIs

+ Insurance data is for March 2013^ includes local parent and overseas subsidiary data since separate balance sheet data is not available

Exchange Rate: US\$1.00 = G\$206. (BOG mid-rate at 30.6.13)

## II. Summary of progress made by Guyana

4. Since the MER, the authorities in Guyana have been assessing various means to achieve compliance. Some of these measures under consideration include the issuing of directives to relevant financial institutions and appropriate training programs. The authorities advised that since the on-site visit the Anti-Money Laundering and Countering the Financing of Terrorism Regulations 2010 (AMLCFTR) was enacted in September 2010. The AMLCFTR was enacted to supplement the legislative provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act (AMLCFTA) and dealt with identification, record keeping, reporting, and training procedures. The Anti-Money Laundering and Countering the Financing of Terrorism (AMLCFT) (Amendment) Bill 2013 was presented in Parliament on April 22, 2013 a week before its deadline of April 30, 2013. The Bill seeks to address the legislative amendments required by the examiners' recommended actions in the core and key Recommendations and a majority of the remaining outstanding Recommendations. In March 2013, the Bank of Guyana (BOG) issued the Anti-Money Laundering (AML) Guidelines for insurance business and the AMLCFT Examinations Manual for the Bank Supervision Division was finalized. In June 2013, the BOG issued the BOG AML/CFT Guidelines to licensed financial institutions under the Financial Institutions Act (FIA), the Money Transfer Agencies (Licensing) Act (MTALA) and the Dealers in Foreign Currency (Licensing) Act (DFCLA).

5. The Financial Intelligence Unit (FIU) has also been involved in providing training to relevant Government agencies, supervisory authorities and reporting entities to increase awareness and understanding of their respective responsibilities and obligations under the AMLCFTA and the AMLCFTR. Additionally, the human and physical resources of the FIU have been substantially increased as part of a plan to improve the capacity of the FIU to fulfill its legislative responsibilities. As a result of measures put in place, the examiners' recommended actions for Recommendations 10 and 19 have been met.

6. The Plenary in November 2012 in the Virgin Islands decided that countries in the International Co-operation Review Group (ICRG) process must ensure full compliance with all outstanding Key and Core Recommendations and substantial progress on outstanding recommendations by November 2013. Given the above, this report will assess whether Guyana has achieved full compliance in the outstanding key and core recommendations and the progress made in the remaining outstanding recommendations. As already mentioned Guyana has fully complied with core Recommendation 10. The remaining Core and Key recommendations are Recs. 1, 5, 13, SR. II, SR. IV, 3, 4, 23, 26, 35, 36, and 40, SR.1, SR. III, and SR. V.

## **Core Recommendations**

### **Recommendation 1**

7. As reported in the Follow-Up Report of May 2012, two of the three recommendations made by the examiners had been met. One of these recommendations is ongoing and requires the submission of data to demonstrate continued implementation. The first recommendation to amend money laundering offences in the AMLCFTA to include "assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions" in accordance with the Vienna and Palermo Conventions has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. Consequently this recommendation remains outstanding.

8. In relation to the last recommendation which stipulates that systems should be put in place to effectively implement the AMLCFTA and relevant Government entities made aware of the legislation and its applicability, the FIU has advised that it has been sensitizing the relevant Government entities on the legislation and its applicability through continuous trainings/discussions and follow-up meetings. This was demonstrated by the submission of information on meetings and training sessions with relevant Government agencies, financial institutions and DNFBPs held in 2010, 2011, and 2012 and up to March 2013 in previous follow-up reports. As submitted for this report, the FIU has been holding meetings and arranging workshops for the DNFBP supervisory authorities appointed in December 2012 and other competent authorities to make them aware of their AML/CFT obligations. Since March 2013, the FIU has held four (4) meetings with various designated supervisory authorities including the Guyana Gold Board, the Guyana Geology and Mines Commission, the Chief Co-operative Development Officer (CCDO) and the Registrar of Friendly Societies. A workshop on supervisory AML/CFT obligations was held in July 2013. A follow-up workshop was held with all supervisory authorities during September 10-11, 2013 and a workshop for reporting entities on September 10, 2013. A workshop for staff of the Office of the Director of Public Prosecutions (DPP), the Attorney General's Chamber, the Guyana Police Force (GPF), the Customs Anti-Narcotics Unit (CANU), the Guyana Revenue Authority (GRA), and the FIU was also held during September 12-13, 2013. Given the above, one of the examiners' recommendations remains outstanding.

## **Recommendation 5**

9. As noted in the Follow-Up Report of November 2011 four of the nine examiners' recommendations were met by legislative provisions. The outstanding recommendations are as follows:

- a) Reporting entities should be required to determine the natural persons that ultimately own or control the customer.
- b) A definition of beneficial ownership in relation to legal entities should be set out in the AMLCFTA
- c) Reporting entities should be required to perform enhanced due diligence for higher risk categories of customers
- d) Reporting entities should be prohibited from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulated in criteria 5.3 to 5.6 and required to consider making a suspicious transaction report.
- e) Reporting entities should be required to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report.

10. The authorities have advised that the above outstanding recommendations have been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

11. The authorities advise that the requirement for reporting entities to perform enhanced due diligence for higher risk categories of customers has also been included in section 5.2 of the AML/CFT Guidelines issued by the BOG in June 2013 to licensed financial institutions under the FIA, the MTALA and the DFCLA. Breaches of the requirements of the AML/CFT Guidelines by the BOG are offences under regulation 19(1) of the AMLCFTR. It should however be noted that the BOG AML/CFT Guidelines are not applicable to the insurance and securities sectors nor to credit unions. . As such, one recommendation has been partially met while the other four remain outstanding.

## **Recommendation 13**

12. As reported in the Follow-Up Report of November 2011, one of the three recommendations made by the examiners had been met. With regard to the other two recommendations that the reporting requirement for terrorist financing in the AMLCFTA should include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organizations, and that the requirement to report suspicious transactions should apply to tax matters, the authorities have advised that the recommendations have been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

13. The requirement that the reporting of suspicious transactions should apply regardless of whether they are thought among other things to include tax matters has also been set out in section 7.2 of the BOG AML/CFT Guidelines. However, as already mentioned these Guidelines are not applicable to the insurance and securities sectors nor to credit unions. As such the one recommendation remains outstanding and the other has been partially met.

## **Special Recommendation II**

14. There are three outstanding recommendations first two of which are as follows:

- i. The definition of property should include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind.
- ii. Terrorist financing offences should be extended to any funds whether from a legitimate or illegitimate source

15. The authorities have advised that the above outstanding recommendations have been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. Consequently these recommendations remain outstanding.

16. With regard to the other recommendation that the competent authorities should ensure that the relevant entities are aware and trained as to their obligations under the AMLCFTA to report and investigate SARs and where applicable prosecute those in breach of financing of terrorism (FT), as noted in the section of this report dealing with Rec. 1 the FIU held workshops for the supervisory authorities and reporting entities during September 10-11, 2013 and for staff of various competent authorities during September 12-13, 2013. These workshops dealt with the obligations under the AMLCFTA including the reporting and investigating of SARs. . Given the above, one recommendation has been met and two are outstanding.

## **Special Recommendation IV**

17. With regard to the two outstanding recommendations for the reporting requirement for terrorist financing in the AMLCFTA to include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organizations, and the requirement to report suspicious transactions to apply regardless of whether they are thought, among other things to involve tax matters, the authorities have advised that the recommendations have been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. As noted in the section of this report under Recommendation 13 the second recommended action has also been set out in section 7.2 of the BOG AML/CFT Guidelines. However, as already mentioned these Guidelines are not applicable to the insurance and securities sectors nor to credit unions. Consequently one recommendation has been partially met and the other is outstanding.

## **Key Recommendations**

### **Recommendation 3**

18. The first recommendation requires the definition of property liable for confiscation in the AMLCFTA to be amended to include indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by third persons and assets of every kind,

whether tangible or intangible. At present, the authorities have advised that this recommendation has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. Consequently this recommendation remains outstanding.

19. The other recommendation requires competent authorities to provide resources to ensure that the requisite agencies are trained under the recent legislation in order to enable effective implementation. The authorities advise that a workshop on the Confiscation of the Proceeds of Crime hosted by the DPP was held on June 19, 2013. The workshop was facilitated by the Caribbean Criminal Asset recovery Programme (CCARP). A Guideline on the Confiscation of the Proceeds of Crime prepared by CCARP was also handed over to the staff of the DPP at the workshop. Participants of the workshop included the staff of the DPP Chambers, magistrates, judges and police prosecutors. . The authorities should continue to submit information on details of the training being provided to all agencies in future follow-up reports. Given the above one of the examiners' recommendations remains outstanding.

#### **Recommendation 4**

20. With regard to the recommendation for the Guyana Securities Council (GSC) to have power to access information relevant to AML/CFT matters from registrants of the Securities Industry Act (SIA), the authorities have advised that this recommendation has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. As such this recommendation remains outstanding. .

21. As noted in the follow-up report of May 2013 the recommendation for the CCDO to be able to share information from a society registered under the Co-operative Societies Act (CSA) with local and international competent authorities has been addressed with the appointment of the CCDO as the designated AML/CFT supervisory authority for co-operative societies. . Given the above, one of the recommended measures remains outstanding.

#### **Recommendations 23**

22. With regard to the first recommendation for a designated supervisory authority to be assigned to ensure that co-operative societies adequately comply with AML/CFT obligations, the authorities officially designated the CCDO as the AML/CFT supervisory authority for co-operative societies on December 20, 2012.

23. The next three outstanding recommendations are as follows:

1. Amend the SIA and the CSA to provide for their relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest or holding a management function in financial institutions.
2. The Insurance Act (IA) should be amended to provide for the relevant authorities to take necessary measures to prevent criminal or their associates from holding or being beneficial owners of a significant or controlling interest in financial institutions
3. Amend the SIA and the CSA to provide for the directors and senior management of financial institutions to be evaluated on the basis of "fit and proper" criteria

24. The authorities have advised that the appropriate amendments implementing the above recommendations have been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

25. The last recommendation requires that the Commissioner of Insurance (COI), the GSC and the Division of Co-operatives and Friendly Societies (DCFS) to implement AML/CFT supervision for their relevant institutions. The BOG was designated supervisory authority for insurance companies in December 2012 and has begun implementing AML/CFT supervision of insurance companies. An AML/CFT work plan for the insurance sector has been submitted. The plan outlines preliminary steps towards the establishment of an AML/CFT supervision regime for insurance companies including the issuance of guidelines which was completed in March 2013, training of stakeholders which was tentatively scheduled for June 2013, the commencement of an off-site surveillance by October 2013 and timelines for the drafting and presentation of an amended Insurance Act to Parliament by September 30, 2013.

26. With regard to whether the GSC or the DCFS have commenced AML/CFT supervision of their licensees, the FIU has been working with these entities to prepare them to commence AML/CFT supervision. A Supervision Manual has already been drafted for these authorities. Further, a decision was taken at the AML/CFT National Oversight Committee in October 2013 to provide all relevant human and financial resources for the newly appointed supervisory authorities to fulfill their obligations under the AMLCFTA and Regulations. Given the above all except one of the examiners' recommendations remain outstanding.

#### **Recommendation 26**

27. As indicated in the last follow-up report a result of the examiners' recommendation for the FIU to issue guidelines in accordance with the AMLCFTA on the manner of STR reporting to all reporting entities and to consider issuing to the wider public, a circular concerning money laundering and the financing of terrorism, the FIU issued Guidelines on Suspicious Transaction Reporting to financial institutions in January 2013. No information with regard to whether consideration was given to issuing a circular to the public has been provided for this report. Given the above, this recommendation has been partially met.

28. The recommendation requiring the FIU to urgently implement its plans for new personnel and facilities and consider safeguards to reduce the vulnerability of its database was dealt with by measures set out in the November 2011 Follow-Up Report. These measures complied fully with this examiners' recommendation.

29. The recommendation for the authorities to reconsider their policy regarding the FIU releasing public reports and allowing for the issuing of periodic reports which include statistics, typologies and trends was agreed by the relevant authority. The FIU issued its first statistical reports on its website on January 31, 2013. Information on typologies and trends were not included. Given the above, one of the examiners' recommendations has been met while the remaining two were partially met.

#### **Recommendations 35**

30. The authorities have advised that with regard to the examiners' recommendation for the competent authorities to take steps to fully implement the Vienna, Palermo and Terrorist Financing Conventions that Guyana continuously seeks to implement the relevant measures. The basis for this particular recommendation as indicated in the text of Guyana's MER was gaps in



the legislative framework in relation to the enactment of various articles of the UN Conventions. These articles as identified in the MER were as follows;

- Articles 7, 8, 10 and 11 of the Vienna Convention
- Articles 7, 18, 19, 20, 24, 25, 29 of the Palermo Convention
- Article 1(1) of the Terrorist Financing Convention.

31. The authorities have advised that Articles 8 of the Vienna Convention and Article 25 of the Palermo Convention and Article 1(1) of the Terrorist Financing Convention requires further deliberations as it is a policy issue.

32. Articles 7 of the Vienna Convention and Article 18 of the Palermo Convention are concerned with the requirements of mutual legal assistance. These have been incorporated in the Mutual Assistance in Criminal Matters Act No 38 of 2009 (MACMA) which was assented to in June 2010. However, it is noted that there are outstanding recommended actions under recommendations 36, 37 and 38 which deal with mutual legal assistance which are relevant to fully comply with the designated articles. The authorities have advised that relevant amendments to the MACMA were included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. As such, these articles are still partially outstanding.

33. Article 10 of the Vienna Convention requires parties to co-operate directly or through competent international or regional organizations to assist and support transit states and in particular developing countries in need of such assistance and support, to the extent possible, through programmes of technical co-operations or interdiction and other related activities. Guyana has advised that being considered a transit state, it has received assistance under the US funded Caribbean Basin Security Initiative (CBSI) through various projects including financial crimes, anti-narcotics training and maritime security and benefitted from the United Nations Office on Drugs and Crime (UNODC) Container Control Programme in relation to port security. Details on the above mentioned assistance with regard to dates and the relevant agencies in Guyana should be provided.

34. Article 11 of the Vienna Convention along with Article 20 of the Palermo Convention deals with controlled delivery. Article 11 addresses controlled delivery at the international level and Article 20 deals with it at both international and domestic levels. The authorities have advised that though there is no legislation dealing with the issue, law enforcement agencies can use controlled delivery at the national and international level on a case-by-case basis. However, the authorities have advised that to date no controlled delivery operations have been conducted by law enforcement agencies in Guyana. As such this issue remains outstanding.

35. Article 19 of the Palermo Convention requires States to consider concluding bilateral or multilateral agreements whereby in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities can establish joint investigative bodies or allow for joint investigations by agreement on a case –by-case basis. The authorities have advised that joint investigations have been facilitated through MACMA and undertaken by agreement on a case-by-case basis. Such cases include two (2) each in 2011 and 2012 and three (3) in 2013 dealing mostly in trafficking in narcotics and included agencies from Jamaica, Canada, The Netherlands and Trinidad and Tobago. This fully complies with the requirements of Article 19.

36. Article 20 of the Palermo Convention in addition to addressing controlled delivery as already mentioned also dealt with other special investigative techniques such as electronic or other forms of surveillance and undercover operations to be used at the international level either through appropriate bilateral or multilateral agreements or on a case-by-case basis. The authorities have advised that electronic or other forms of surveillance is provided for under section 4(1) of the Interception of Communications Act no 21 of 2008 which provides for the application for a warrant to intercept and record via means of public or private telecommunications systems. Additionally, electronic surveillance and undercover operations have been implemented at the international level on a case-by-case basis. This complies with Article 20 of the Palermo Convention.

37. Article 24 of the Palermo Convention requires States to take appropriate measures to provide effective physical protection of witnesses where necessary and to permit witness testimony in a manner that ensured the safety of the witness. The authorities advise that section 73A of the Evidence Act (per Evidence (Amendment) Act No.19 of 2008) allows for the taking of oral evidence and making submissions to the Court by audio visual link. A copy of the Evidence Act with the relevant provision has been submitted for this report. The authorities have advised that there are no specific laws in respect of protection of witnesses but the law enforcement agencies have implemented in-house arrangements that would result in the safety of witnesses, however no data is available to verify this. As such, this article has been partially met. Given the above while two articles have been met, some have been partially met, others need additional information for verification and some are outstanding. The authorities have advised that a bill has been drafted which has incorporated certain of the outstanding articles of the Palermo, Vienna and Terrorist Financing Convention. As such, this Recommendation remains largely outstanding.

### **Recommendation 36**

38. The first recommendation requires that the range of possible mutual legal assistance should include freezing, seizure or confiscation of assets of corresponding value. The authorities have advised that this was addressed by amending MACMA accordingly in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

39. The other recommendation requires clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delay should be developed and implemented. The authorities have submitted a letter from the Ministry of Home Affairs the Central Authority of Guyana outlining the processes for the execution of mutual legal assistance which includes the various functions of the relevant agencies and gives approximate timelines for the completion of each stage of the process. While the process is clear and adequate there is need to demonstrate its implementation by providing information regarding actual mutual legal assistance requests in the last three years and the time taken to respond and resolve these requests. Given the above one recommendation has been partially met while the other is outstanding.

### **Recommendation 40**

40. The first recommendation requires the development of procedures for spontaneous exchange of information. The FIU has submitted formal documented procedures outlining steps for the spontaneous exchange of information. These procedures comply with the examiners' recommendation.

41. The last recommendation that the COI should have confidentiality obligations that include exchanged information has been included in the AMLCFT (Amendment) Bill 2013 which

is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. Given the above, one recommendation has been met and one remains outstanding.

### **Special Recommendation I**

42. The recommendations for the AML/CFT legislation to be amended to comply with S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organizations and for competent authorities to provide or issue guidance to financial institutions with regard to obligations to freeze assets of persons listed by the UNSCR 1267 Committee were included in the AMLCFT (Amendment) Bill 2013 which was presented in Parliament on April 22, 2013. Once the necessary amendments have been enacted, the relevant guidelines will be issued. .

43. With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, information has been provided under Rec. 1 in this report. Given the above, two recommendations remain outstanding.

### **Special Recommendation III**

44. The recommendations for the competent authorities to amend the legislation to comply with the requirements of S/RES/1267/(1999) and S/RES/1373(2001) for freezing funds of designated persons/organizations and for the development and implementation of procedures for delisting requests, unfreezing funds and providing access to frozen funds was included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

45. The recommendation for the issuing of guidance to financial institutions with respect to obligations under the freezing mechanisms required by S/RES/1267/(1999) and S/RES/1373(2001) has also been included in the AMLCFT (Amendment) Bill 2013 mentioned above.. The authorities have submitted copies of circulars issued by the BOG to all licensed financial institutions, money transfer agencies and non-bank foreign exchange dealers under its supervision informing them of the list established and maintained by the 1267 Committee. The circulars require these institutions (a) to identify and freeze all financial assets belonging to persons and entities on the list, (b) prohibit payments to and from listed persons and entities and (c) report to the BOG promptly any assets identified and any requests for payments. It is noted that the circulars refers to Guyana being a signatory of the UN Conventions as the authority for imposing the above mentioned obligation since they are not legislative requirements. Given the above, these circulars are not enforceable. As such this recommendation remains outstanding until the necessary amendment as outlined above has been enacted. With regard to the recommendation for training for the relevant entities to be aware of their obligations under legislation, information has been provided under Rec. 1 in this report. Given the above, three recommendations remain outstanding.

### **Special Recommendation V**

46. The examiners' recommended action stated that the measures noted with regard to Recs. 36, 37, 38, 39 and 40 should also apply to terrorist financing. The authorities have advised that the AMLCFTA and/or Amendment Bill that deal with money laundering is also applicable to terrorist financing. As such, all examiners' recommended measures under Recs. 36, 37, 38, 39 and 40 which will be dealt with by the enactment of the AML/CFT (Amendment) Bill 2013 remain outstanding.

## Other Recommendations

### Recommendation 6

47. The authorities have advised that the examiners' recommendation that reporting entities be required to obtain senior management approval to continue a business relationship with a customer who is subsequently found to be a politically exposed person (PEP) or becomes a PEP has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

48. With regard to the recommendation for supervisory authorities to ensure that all financial institutions are aware of the legal requirements concerning PEPs the authorities advised in the previous follow-up report that programs to ensure that financial institutions are aware of the requirements of the AML/CFT legislation including the provisions dealing with PEPs were ongoing. Information regarding these programs is set out under Rec. 1 of this report. Given the above, one of the examiners' recommendations remains outstanding.

### Recommendations 8

49. The deficiencies as stated in the MER include no requirement for financial institutions to have policies in place to take such measures to prevent the misuse of technological developments in ML or TF schemes and no requirement for financial institutions to have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions. The authorities advise that the examiners' recommendations were included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

50. The authorities have also indicated that the examiners' recommendations have been included in the BOG AML/CFT Guidelines in sections 6.3, and 5.3.5 respectively. While the examiners' recommendations have been included in the BOG AML/CFT Guidelines, as already mentioned these are not applicable to the insurance and securities sectors nor to credit unions. As such, the examiners' recommendations have only been partially met.

### Recommendation 9

51. The authorities have advised that the first recommendation for financial institutions to be required to satisfy themselves that third parties are regulated and supervised in accordance with Recommendation 23, 24 and 29 and have measures in place to comply with customer due diligence requirements set out in Recommendation 5 has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. This recommendation has also been included in section 5.3.6 of the BOG AML/CFT Guidelines which, as already mentioned are not applicable to the insurance and securities sectors nor to credit unions. As such, this recommendation remains partially outstanding.

52. With regard to the recommendation that competent authorities should determine and inform financial institutions in which countries third parties that meet the conditions can be based by taking into account information available on whether these countries adequately apply the FATF Recommendations, the authorities indicate that this has been included in section 5.3.6 of the BOG AML/CFT Guidelines. However, the section only advises that the BOG will make available information on countries that do not adequately apply the FATF recommendations.

However, the recommendation specifically requires that the authorities should inform financial institutions in which countries third parties that meet conditions can be based not just those countries that adequately apply the FATF Recommendations. As such this recommendation remains outstanding. Given the above, one of the examiners' recommendations has been partially met while the other remains outstanding.

## **Recommendation 12**

53. The recommended action with regard to the appointment of a designated supervisory authority to oversee the compliance of designated non-financial businesses and professions (DNFBPs) with the AML/CFT requirements was dealt with by the appointment of designated authorities on December 20, 2012 for casinos, dealers in precious and semi-precious stones, dealers in gold bullion, trust or company service providers. The authorities advise that the FIU has started training the newly appointed supervisory authorities on their roles and obligations under the AMLCFTA and the AMLCFTR as indicated under the section dealing with Rec. 1. Additionally, through technical assistance being received from the Government of Canada, a supervisor's manual for supervisory authorities is currently being drafted for on-site and off-site examinations procedures, processes for identifying and recording reporting entities, file management, issuing compliance questionnaires, applying risk based approach for compliance examinations, on-site review techniques, preparing reports and implementing sanctions. Further information on the establishment and operations of these designated authorities in overseeing the compliance of the DNFBPs should be submitted in future follow-up reports to ensure implementation. Given the above, this recommendation has been partially met.

## **Recommendation 15**

54. The authorities advised in a previous follow-up report that directives to address the recommendation that competent authorities should ensure that all financial institutions update their current policies and that the update versions are based on the AMLCFTA will be addressed by the issuance of guidelines. At present, as already noted the BOG issued their AML/CFT Guidelines in June 2013 to their licensees incorporating all the requirements stipulated in the AMLCFTA. Information on the issuance of similar guidelines by other supervisory authorities should be submitted in future reports to demonstrate implementation of this recommendation.

55. As noted in a previous follow-up report, the recommendation that the training obligation of financial institutions should be ongoing and include new developments, such as information on current ML and FT techniques, methods and trends, clear explanations of all aspects of AML/CFT laws and obligations, and in particular requirements concerning CDD was partially met by regulations 16, 17 and 18 of the AMLCFTR. These provisions include all the examiners' recommendation except for information on current ML and FT techniques, methods and trends. It is noted that the examiners' recommendation has been fully incorporated in section 3.6.1 of the BOG AML/CFT Guidelines and also part of the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

56. The recommendations that the requirements of Rec. 15 should be applicable to individuals who carry on business solely or with staff and management of less than five persons and that the compliance officer and appropriate staff have timely access to customer identification data and other CDD information, transaction records and other relevant information necessary to carry out all their functions have also been included in the AMLCFT (Amendment) Bill 2013.

57. The authorities advised that the recommendation for financial institutions to be required to ensure that their audit function is adequately resourced and independent and compliance testing

of procedures, policies and controls include sample testing is included in section 3.4 of the BOG AML/CFT Guidelines. However, the section while incorporating most of the recommendation does not specify that the audit function must be independent. This recommendation has also been included in the AML/CFT (Amendment) Bill 2013. Given the above, three recommendations are partially met while two are outstanding.

#### **Recommendation 16**

58. As noted in the last follow-up report the recommended action with regard to the appointment of a designated supervisory authority to oversee the compliance of DNFBPs with the AML/CFT requirements was dealt with by the appointment of designated authorities on December 20, 2012 for casinos, dealers in precious and semi-precious stones, dealers in gold bullion, trust or company service providers. Information on the establishment and operations of these designated authorities in overseeing the compliance of the DNFBPs need to be submitted in future follow-up reports to ensure implementation. Given the above, this recommendation has been partially met.

#### **Recommendations 17**

59. The authorities advise that the examiners' recommendations were included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. As such, all examiners' remain outstanding.

#### **Recommendation 21**

60. With regard to the recommendation that effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries, the authorities have submitted copies of circulars based on the FATF public statements published on June 22, 2012, October 19, 2012, February 22, 2013 and June 21, 2013 which were issued to reporting entities on August 17, 2012, November 1, 2012, March 4, 2013 and July 3, 2013.. This measure will be ongoing.

61. The recommendation that the background and purpose of all transactions having no apparent economic or visible lawful purpose with persons from or in countries which do not or insufficiently apply the FATF Recommendations should be examined and written findings made available to assist competent authorities and auditors is included in the requirement for the same obligation to be applicable to all transactions having no apparent economic or visible lawful purpose as set out in section 7.1 of the BOG AML/CFT Guidelines. As already noted, the BOG AML/CFT Guidelines is not applicable to the insurance and securities sectors and credit unions.

62. The recommendation for provisions to allow for the application of countermeasures to countries that do not or insufficiently apply the FATF Recommendations has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. As such, one recommendation is ongoing, and one has been partially met while another one remains outstanding.

#### **Recommendation 22**

63. The first recommendation requires designated supervisory authorities to impose the obligations of section 22(2) of the AMLCFTA on their respective reporting entities. Section 22(2) of the AMLCFTA provides for the imposition of obligations on reporting entities to ensure that

their foreign branches and subsidiaries adopt and enforce measures consistent with the Act to the extent that local laws and regulations so permit. While all supervisory authorities have been informed of the requirement to impose the obligations stipulated in section 22(2) of the AMLCFTA, only the BOG has issued in section 1.5 of the BOG AML/CFT Guidelines, a requirement that its supervised financial institutions ensure that their foreign branches and subsidiaries implement at a minimum the measures in the BOG AML/CFT Guidelines. The referenced section does not include all applicable provisions of the AMLCFTA, the governing statute as stated in the recommendation. While the BOG AML/CFT Guidelines may include all relevant provisions of the AMLCFTA, there is need to specify the Act. Given the above, this recommendation has been partially met.

64. The authorities advise that the recommendation for financial institutions to be required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations to the extent that host country laws and regulations permit is stipulated in section 1.5 of the BOG AML/CFT Guidelines. The referenced section, while outlining the requirement, refers only to the measures in the BOG AML/CFT Guidelines and does not include all applicable provisions of the AMLCFTA, the governing statute. While the BOG AML/CFT Guidelines maybe comprehensive, there is need to include those provisions of the AMLCFTA which are applicable to all financial institutions. Additionally, the BOG AML/CFT Guidelines are only applicable to the licensees of the BOG and does not cover the insurance and securities sectors and credit unions. As such this recommendation has only been partially met.

65. The recommendation for financial institutions to be required to pay particular attention that the principle stated in section 22(2) of the AMLCFTA is observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations has been set out in section 1,5 of the BOG AML/CFT Guidelines. The concerns as noted above with regard to the application of the BOG AML/CFT Guidelines being limited to the licensees of the BOG is also relevant. Consequently this recommendation is partially met.

66. The last recommendation for financial institutions to be required to ensure that branches and subsidiaries in host countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. The recommendation has also been included in section 1.5 of the BOG AML/CFT Guidelines with qualifications already mentioned being applicable. Given the above, all recommendations have been partially met..

## **Recommendations 24**

67. The recommendation that casinos be subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures has been initially addressed by the appointment on December 20, 2012 of the Gaming Authority as the supervisory authority for supervising compliance of casinos with AML/CFT laws and regulations. The authorities have advised that the FIU has started training the newly appointed supervisory authorities on their roles and obligations under the AMLCFTA and the AMLCFTR. Additionally, the Government of Canada is providing technical assistance to help supervisory authorities develop operational capacity to carry out their functions. Information on the implementation of a comprehensive regulatory and supervisory regime by the Gaming Authority should be submitted in future follow-up reports. As such, this recommendation has been partially met.

68. With regard to the recommendation that the Gaming Authority be required to assess the integrity of an applicant, partner, shareholder, directors, office holders of an applicant and beneficial owner on the basis of fit and proper criteria on a regular basis, the authorities advise that this was addressed by legislative amendment and included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

69. The recommended action for the appointment of a designated supervisory authority to oversee the compliance of DNFBPs with the AML/CFT requirements has already been dealt with under Recommendation 12 in this report. With regard to the recommendation for re-examining the sanctions of supervisory authorities with a view to making the sanctions more effective and applicable to directors and senior management of DNFBPs, the authorities have advised that this was included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. As such one of the examiners' recommendations has been met, two are outstanding, and one is partially met.

### **Recommendation 25**

70. The authorities advise that the first recommendation requiring that the AMLCFTA be amended to require either competent authorities or the FIU to provide financial institutions and DNFBPs that are required to report suspicious transactions with adequate and appropriate feedback having regard to the FATF Best Practices Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

71. The other recommendation requires that guidelines to assist financial institutions to implement and comply with their respective AML/CFT requirements be issued. The authorities advise that the BOG AML/CFT Guidelines were issued to licensed financial institutions on June 28, 2013. These guidelines are only applicable to the licensees of the BOG. Guidelines for the insurance and securities sectors, credit unions and DNFBPs should also be issued by their respective supervisory authorities. Given the above, one of the examiners' recommended actions has been partially met while the other remains outstanding.

### **Recommendations 27**

72. With regard to the examiners' recommended action for written laws or measures authorizing the GPF to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in money laundering or for evidence gathering, a letter from the Attorney General's Chambers was submitted dealing with plea bargaining. However, plea bargaining as defined by statute submitted with the letter takes place after arrest and involves the prosecutor, the defense attorney and the accused while the examiners' recommended action was specific to the function of the GPF and involved the waiver or postponing of the arrest of a suspected person.. The authorities have advised that written procedures will be established to codify this common law practice. As such this recommendation remains outstanding.

### **Recommendation 28**

73. With regard to the recommendation for a law or measure to allow for the taking of witnesses' statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions, section 12 of the Police Standing Order no. 64 dealing



with the investigation of crime requires that statements should be taken from all available witnesses of any crime under investigation. This measure complies with the recommendation.

### **Recommendation 29**

74. With regard to the recommendation for the GSC to have the power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance the authorities advise that the GSC being a designated AML/CFT supervisory authority has such powers under section 22(2) of the AMLCFTA. However, while section 22(2) of the AMLCFTA allows for a supervisory authority to examine and supervise reporting entities, to issue instructions, guidelines or recommendations and corporate and share information there is no specific power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance. The authorities have advised that this recommendation has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

75. With regard to the recommendation that the CCDO should have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations, the authorities advise that with the appointment of the CCDO on December 20, 2012 as a supervisory authority to check compliance of co-operatives with AML/CFT obligations, that the CCDO will be able to apply the sanctions that are available under section 23 of the AMLCFTA to designated supervisory authorities. While this meets the requirements of the recommendation it should be noted that one of the deficiencies indicated under Recommendation 17 is that sanctions of the designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective or applicable to directors and senior management of reporting entities. The authorities have advised that this recommendation was included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. Given the above, one of the recommendations remains outstanding.

### **Recommendation 30**

76. The first recommendation is for the FIU to urgently implement its plan for new personnel and facilities. Since the first Follow-Up Report in November 2011, the FIU has been implementing its plan for new personnel and facilities. To date the FIU has in its employ, one Director, one Legal Adviser, two Financial Analysts, one Database Administrator and one Administrative Officer.

77. With regard to the recommendations for the provision of trained financial investigators for the GPF and CANU and appropriate ML/FT training for the staff of the GPF and CANU, the authorities advised in the last follow-up report that funds had been made available through the CBSI to provide training and equipment for the GPF and CANU. A work plan and draft Terms of Reference had been prepared. The Terms of Reference was signed on October 25, 2012 and is due to expire on September 30, 2013. In January 2013 discussions were held between the FIU and the representatives from the US Department of Treasury's Office of Technical Assistance to formalize the work plan. One of the main objectives of the work plan is training for the staff of GRA, CANU, GPF, DPP, FIU and the Judiciary/Magistracy. At present, the authorities advise that the work plan has not yet been agreed. However, staff of the GPF and CANU benefitted from a AML/CFT workshop held in April 2013 and another held from September 12-13, 2013.

78. With regard to the recommendations for the authorities to consider measures to deal with the integrity problems of the GPF, the GPF has advised that measures to address integrity

problems include an Office of Professional Responsibility (OPR) and vetted units that acquire intelligence and investigate organized crime. The functions of the Office of Professional Responsibility include the investigations of alleged misconduct against the members of the GPF, monitor investigations of personnel complaints in divisions and branches and work to increase level of public confidence in the integrity and professionalism of the GPF.

79. As a result of the MER recommendation, the OPR was decentralized from September 2012 with one Head Office with ten (10) officers to include units in other divisions in the GPF with a staff of seventeen (17) bringing the overall staff to twenty-seven (27). A reform program involving integrity testing training and other related training in professional standards is to be undertaken during 2013. Additionally, as part of a capacity building exercise, GPF Standing Orders have been disseminated and lectures on interview techniques, statement taking, report writing, evidence and procedure, judges rule and adhering to the general powers of arrest have been conducted for officers of the GPF. The above measures should help to promote the level of professionalism of the GPF. Statistics about the numbers of officers who have been charged and dismissed for the last three years would help in assessing whether the problem of integrity in the GPF is being dealt with in an effective manner.

80. The recommendation for the staff of the Director of Public Prosecutions (DPP) to be provided with ML training is also expected to be included as part of the technical assistance being negotiated for the GPF and the CANU as indicated above. This also similarly applies for the recommendation for relevant AML/CFT training for the staff of the GSC, BOG and the DCFS. The authorities advise that the staff of the DPP also benefitted from the April AML/CFT Workshop and another workshop on seizure and confiscation of the proceeds of crime conducted in June, 2013 and the workshop held during September 12-13, 2013. . Staff of the GSC, BOG and the DCFS also attended a workshop on supervisory authority's obligations in July 2013 and a follow-up workshop during September 10-11, 2013.

81. The recommendation that adequate staff and resources should be provided to the GSC and the DCFS to carry out their functions is being address by the AMLCFT National Oversight Committee.

82. With regard to the recommendation for the authorities to consider increasing the number of Customs outposts to ensure security at borders, the authorities have advised that the GRA has established two (2) customs outposts, one at Mabura and another at Kurupukari. At present, the GRA is awaiting approval of the Government for the establishment of another outpost at Morawhanna.

83. In relation to the recommendation for relevant staff of the GRA to be provided with AML/CFT training, it was noted in the previous report that follow-up training on currency reporting was provided to customs officers of the GRA in October 2012. Eleven Customs officers stationed at Cheddi Jagan International Airport attended training in August 2013. On September 27, 2013 training on cross border declaration was conducted for nine (9) more Customs officers at the same airport. As a result of the above, four recommendations have been met, two are partially outstanding and one remains outstanding.

### **Recommendation 31**

84. The examiners' first recommendation was for the consideration of the establishment of a national body comprised of relevant AML/CFT agencies to facilitate co-operations and co-ordination in implementing AML/CFT policies. The authorities have advised of the formation on July 15, 2013 of the National Oversight Committee on AML/CFT (the Committee) consisting of

members of the Cabinet sub-committee on justice and security and other stakeholders. The Committee is chaired by the Head of the Presidential Secretariat and the Committee members are:

- Minister of Home Affairs
- Minister of Finance
- Minister within the Ministry of Finance
- Attorney General & Minister of Legal Affairs
- Commissioner General of Guyana Revenue Authority
- Commissioner of Police
- Director of Public Prosecutions
- Governor, Central Bank of Guyana
- Head of FIU
- Head of CANU

85. The first meeting of the Committee was held on July 30, 2013. The Committee will meet every two months thereafter. The functions of the Committee are to:

- a) Set the national AML/CFT strategy for Guyana
- b) Facilitate co-ordination among the competent authorities, financial and other sectors represented on the Committee
- c) Study and follow international developments in the fight against money laundering and terrorist financing, and issue recommendations to the relevant government authorities regarding the improvement of the regulatory instructions and controls issued by the supervisory authorities in Guyana and suggest legislative amendments in line with those developments.
- d) Monitor the implementation of legal and institutional framework by competent authorities in the fight against money laundering and terrorist financing.
- e) Review the AML/CFT systems in Guyana.

86. The above Committee complies with the examiner's recommendation. The Committee held its second meeting on October 31, 2013. At this meeting it was decided that the necessary human and financial resources will be provided for the newly appointed supervisory authorities to enable them to fulfill their obligations under the AMLCFTA and the Regulations. Additionally, it was decided that a post/function with the responsibility for the maintenance of statistics in accordance with Rec. 32 and statistics related to anti-corruption and human trafficking should be established within all relevant agencies and that relevant officers receive AML/CFT training. Similar information on the functioning and accomplishments of this Committee should be submitted in future follow-up reports to assess ongoing compliance. Consequently this examiners; recommendation has been met.

87. The last recommendation was for competent authorities to consider establishing explicit mechanisms for consultation between competent authorities, the financial and other sectors including DNFBPs. As already noted above, one of the functions of the Committee includes facilitating co-ordination among the competent authorities, financial and other sectors represented on the Committee. However while the Committee allows for consultation among the competent authorities represented on the Committee the examiners; recommendations also refers to consultation with the financial sector and others including the DNFBPs subject to AML/CFT obligations. Given the above, one recommendation has been met while the other is partially outstanding.

### **Recommendation 32**

88. The first recommendation requires the GRA to maintain statistics on the number of declarations collected and the number of false declarations detected and the amounts of currency involved or resultant cash seizures. The following tables gives a monthly breakdown of foreign currency declarations received by the GRA during first six months of 2013;

**Table 4: Monthly Foreign Currency Declarations for first six months of 2013 – GRA**

<b>Months</b>	<b>Year 2013 No of Declaration Forms</b>
<b>January</b>	<b>73</b>
<b>February</b>	<b>66</b>
<b>March</b>	<b>75</b>
<b>April</b>	<b>69</b>
<b>May</b>	<b>70</b>
<b>June</b>	<b>83</b>
<b>TOTAL</b>	<b>436</b>

89. No false declarations or cash seizures have been reported for the period.

90. With regard to the recommendation for statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals to be maintained, the FIU submitted the following information for the period January to July 2013.

**Table 5: Request for Information made to FIU for January to July 2013**

<b>DATE OF REQUEST</b>	<b>AGENCY REQUESTING INFORMATION</b>	<b>NATURE OF REQUEST</b>	<b>INFORMATION REQUESTED</b>
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1	May 22, 2013	FIU - Grenada	Investigation purpose	Information regarding subject
2	June 13, 2013	FIU – Trinidad and Tobago	Investigation purpose	Information regarding subject

**Table 6: Request for Information made by FIU – Guyana for 2012**

	<b>DATE OF REQUEST</b>	<b>AGENCY REQUESTING INFORMATION</b>	<b>NATURE OF REQUEST</b>	<b>INFORMATION REQUESTED</b>
1	July 25, 2013	FIU - Bahamas	Investigation purpose	Information regarding subject
2	July 25, 2013	FIU -Barbados	Investigation purpose	Information regarding subject
3	July 25, 2013	FIU – Cayman Islands	Investigation purpose	Information regarding subject

91. Additionally, no requests for assistance were made or received by supervisory authorities nor were there any spontaneous referrals for the period January to July 2013.

92. In relation to the recommendation for the maintenance of statistics on mutual legal assistance or other international requests for co-operation, the authorities have advised that the Ministry of Home Affairs is responsible for and does maintain these statistics. Following on from the figures presented in the last report the Ministry of Home Affairs has advised that during 2012, two mutual legal assistance requests were received and nine were sent. To date for 2013, three requests have been received and one sent. For the period 2013 to date, all three requests were granted, concerned trafficking in narcotics and required assistance in obtaining financial transaction records.

93. In response to the recommendation for the maintenance of statistics on extradition the Ministry of Home Affairs has advised that no extradition requests have been received since the last follow-up report.

94. With regard to the recommendation for the authorities to implement a regular review of the AML/CFT systems in Guyana, the authorities have advised that this function will be performed by the Committee as set out in the section of this report dealing with Recommendation 31. The authorities have advised that at a meeting of the Committee on October 31, 2013 it was decided to establish a post/function within each of the relevant agencies to be responsible for the maintenance of statistics in accordance with Rec. 32 requirements and statistics related to anti-corruption and human trafficking. Information on the first review of the AML/CFT system should be submitted in future follow-up reports. There has been improved compliance with one of the examiners' recommendations. The authorities should note that recommendations relating to statistics require information to be submitted for each follow-up report to demonstrate continuing implementation.

### **Recommendations 33**

95. The recommendation requiring that the Company Act (CA) be amended to provide the Registrar of Companies with the requisite legal authority to ascertain the beneficial ownership of all companies and to ensure that information about beneficial ownership in the register of companies is adequate, accurate and current has been included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

96. With regard to the last recommendation for the authorities to consider prohibition of nominee shareholders and directors unless measures are taken to ensure that adequate, accurate and complete beneficial information is made available to the Registrar of Companies, the Attorney General's Chambers advise that sections 4(3), 5, 287, 288, and 479 of the CA requires that the directors, company secretary and shareholders of all companies registered under the CA be filed with the Registrar of Companies along with their addresses and a photograph identity. Additionally section 126(1) of the CA requires substantial shareholders in a company to notify the company of the names of their nominees. . It was noted in the mutual evaluation report on page 117 paragraph 531 in regard to the CA that there were no restrictions on companies being shareholders or prohibition on the use of nominee shareholders or directors or any requirement that the use of such nominees be disclosed to the Registrar, or indicated in the Company Registry resulting in the recommendation. The Attorney General's response does not address the concern in the recommendation about adequate, accurate and complete beneficial ownership information. However the authorities have advised that the amendment referred to in paragraph 95 above will also address this recommendation since it will require measures to ensure that adequate, accurate and complete beneficial information is made available to the Registrar of Companies. Consequently the two examiners' recommendations remain outstanding.

### **Recommendation 34**

97. Two recommendations were made requiring Guyana to implement measures to ensure that its commercial laws require adequate transparency concerning the beneficial ownership of trusts and other legal arrangements and that adequate, accurate and timely information is available to law enforcement authorities concerning the beneficial ownership and control of trusts. The Attorney General's Chambers asserts that the legislative network requires and provides for the documentation of trusts of all types including trustees and debentures and that this information is stored at the Deeds and Commercial Registry Authority. However, the submitted legislation deals with deeds and legal instruments governing the sale and ownership of land and movable property rather than trust funds. The authorities have advised that these recommendations will be addressed by separate amendments. As such, these recommendations remain outstanding.

### **Recommendations 37**

98. The recommendations will be addressed by amending MACMA accordingly in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. Given the above, this Recommendation remains outstanding.

### **Recommendation 38**

99. As noted in the previous follow-up report three of the examiners' recommendations had been met with two still outstanding. The recommendation for guidelines or procedures in regard to timelines to facilitate an expeditious response to mutual legal assistance to be developed and implemented was outlined in a letter from the Ministry of Home Affairs the Central Authority of Guyana. This set out the various functions of the relevant agencies and the approximate timelines for the completion of each stage of the process. Consequently this recommendation has been met.

100. In relation to the recommendation that the authorities should put in place arrangements regarding coordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters the authorities submitted a letter from the Ministry of Home Affairs which sets out procedures and probable timelines for seizure and confiscation actions at the request of other countries/jurisdictions. There is no reference to what type of measures are taken to coordinate these actions with the requesting country if necessary. Given the above one recommendation remains outstanding.

### **Recommendation 39**

101. The examiners' recommended action requires that procedures or measures be put in place to facilitate the timely response to requests for extradition and proceedings relating to ML and FT and to ensure such requests are handled without undue delay. The authorities advise that under the auspices of the Fugitive Offenders Act adequate arrangements are in place for the expeditious handling of extradition requests and proceedings relating to ML and FT. The Ministry of Home Affairs has submitted in a letter extradition procedures that the Central Authority which is the Ministry of Home Affairs follows. As noted in the letter the parts of the procedures under the control of the Central Authority are handled in a timely fashion while those requiring adjudication of the courts have been lengthy. It is noted that two known cases of extradition were successful only because the persons so accused volunteered to be extradited. The authorities submitted statistics in a previous report regarding extradition for the period 2005 to June 2012. While these statistics demonstrated implementation of the arrangements under the Fugitive Offenders Act, there was no indication as to the time taken to respond to the initial request or the various stages of the process. As such, there is no way to assess whether the requests were handled without undue delay. Consequently, this recommendation remains outstanding.

### **Special Recommendations VI**

102. The first recommendation requires that a system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements be implemented as soon as possible. In the previous follow-up report The BOG advised that a system for monitoring money transfer agencies/agents was implemented since 2011 and that all money transfer agencies and a few agents had been inspected. From December 2010 to March 2012, the BOG inspected 6 money transfer agencies and 8 money transfer agents. The BOG has advised that 5 money transfer agencies and 2 money transfer agents were inspected for the year 2012. For this report, the BOG has advised that 3 money transfer agencies and 12 money transfer agents have been inspected for 2013. No AML/CFT breaches were detected except for one agency which began to comply as instructed before the completion of the examination. The above demonstrates continuing compliance with the examiners' recommendation. The authorities should seek to ensure ongoing implementation for future Follow-Up Reports.

103. As noted in the previous Follow-Up Report the recommendation that money transfer agencies be required to maintain a current list of their agents which must be made available to the designated competent authority has been met.

104. The last recommendation requires the amendment of the penalties in the MTALA to make them dissuasive, proportionate and applicable to directors and senior management of money transfer agencies. The authorities have advised that the recommendation was included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. Given the above, only one recommendation remains outstanding.

## **Special Recommendation VII**

105. The authorities have advised that five of the examiners' recommendations including that originator information be defined in the AMLCFTA in accordance with SR VII, that subsections 20(3) and 20(4) of the AMLCFTA be amended in accordance with the exemptions in SR VII, that record-keeping requirements and effective risk-based procedures for wire transfers be imposed on financial institutions and that sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA be dissuasive and proportionate and applicable to directors and senior management of reporting entities were included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

106. The recommendations for financial institutions to have effective risk-based procedures in place to identify wire transfers lacking complete originator information has also been included in section 5.4.3.2 of the BOG AML/CFT Guidelines in the second paragraph on page 66. Additionally, section 5.4.3 of the BOG AML/CFT Guidelines in the first paragraph on page 61 requires receiving intermediary financial institutions to keep records for seven years of all information received from an ordering financial institution in a situation where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer. While these measures comply with the requirements of two of the five recommendations referred to in the previous paragraph as already mentioned the BOG AML/CFT Guidelines are not applicable to the insurance and securities sectors nor to credit unions. As such these recommendations are partially met.

107. With regard to the recommendation for measures to be put in place to effectively monitor compliance with the requirements of SR VII, as already noted the BOG was appointed the designated supervisory on December 20, 2013 for money transfer agencies. As indicated an inspection regime has been established by the BOG for these entities and its other licensees including the commercial banks. This regime includes checking for compliance with the obligations of the AMLCFTA which include provisions dealing with the requirements of SR VII. As such, the above demonstrates that the BOG has put in place measures to effectively monitor compliance with the requirements of SR VII. The SR. VII requirements as stated in section 20 of the AMLCFTA are applicable only to financial institutions under the FIA and money transfer agencies which are all under the supervision of the BOG. Consequently, this recommendation has been met. Given the above, three recommendations remain outstanding, two have been partially met and one has been met.

## **Special Recommendation VIII**

108. With regard to the recommendations concerning NPOs, the authorities have advised that on December 20, 2012, the Registrar of Friendly Societies was appointed the supervisory authority for all charities registered under section 11 of the Friendly Societies Act. Registered



charities include all friendly societies/NPOs, benevolent societies, working men's clubs and other authorized societies. The authorities advise that with the appointment of the supervisory authority all of the recommendations in relation to NPOs will be dealt with accordingly. The authorities advise that the FIU has started training the newly appointed supervisory authorities on their roles and obligations under the AMLCFTA and the AMLCFTR as indicated under the section dealing with Rec. 1. Additionally, through technical assistance being received from the Government of Canada, a supervisor's manual for supervisory authorities is currently being drafted for on-site and off-site examinations procedures, processes for identifying and recording reporting entities, file management, issuing compliance questionnaires, applying risk based approach for compliance examinations, on-site review techniques, preparing reports and implementing sanctions. Consequently, this recommendation remains largely outstanding.

### **Special Recommendation IX**

109. The recommendation for the extension of the implementation of the cross-border declaration system to include bearer negotiable instruments was included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

110. With regard to the recommendation that sanctions for false declarations should be extended to legal persons, their directors and senior management and should be dissuasive, proportionate and effective, the authorities advise that this recommendation was included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013.

111. The recommendation for Guyana to enhance its ability to freeze the assets of persons designated pursuant to S/RES/1267/(1999) and S/RES/1373/(2001) as recommended in section 2.4 of the MER to ensure that it can do so effectively in the cross-border context was also included in the AMLCFT (Amendment) Bill 2013 which is presently before a Special Select Committee of the National Assembly. Enactment of the legislation is expected before the Plenary in November 2013. The authorities have further advised that once the Amendment Bill is enacted, directives will be issued by the Minister of Finance addressing this recommendation.. Consequently, this Recommendation remains outstanding.

### **III. Conclusion**

112. Since the previous Follow-Up Report there has been minimal improvement in the level of compliance with Recs. 5, 8, 9, 13, 15, 21, 22, 25, 28, 30, 31, 35, 36, 40, SR.IV, SR.VII, and SR. VIII. The authorities in Guyana have continued in their efforts to comply with the recommendations in the MER, the most prominent for the reporting period being the issuance of the BOG AML/CFT Guidelines and Guidelines for Insurance Companies and the preparation of an examination manual for the Bank Supervision Division of the BOG. Most proposed measures include legislative amendments in particular amendments to the AMLCFTA, and issuance of guidelines.

113. It is noted that Guyana is presently debating in Parliament the AMLCFT (Amendment) Bill 2013 which seeks to address the legislative amendments required in the examiners' recommended actions in the Core and Key Recommendations 1, 3, 4, 5, 13, 23, 36, 40, SR. I, SR. II, SR. III, SR. IV and SR. V and the remaining Recommendations 6, 7, 8, 9, 11, 14, 15, 17, 21, 22, 25, 29, 33, 37, SR. VI, SR. VII and SR. IX. The enactment of the AMLCFT (Amendment) Bill 2013 should substantially enhance the level of compliance of a majority of the outstanding Recommendations, particularly the Core and Key Recommendations.

114. There is need for the authorities to demonstrate continued implementation by submitting information for each report regarding the provision of training both to the competent authorities and the financial institutions, the on-site AML/CFT inspection activity of the BOG, GSC and CCDO and the various statistical information required under Rec. 32.

115. With regard to the decision of the November 2012 Plenary concerning full compliance in all outstanding Key and Core Recommendations and substantial compliance with all outstanding recommendations by all jurisdictions in the ICRG process, while Guyana's level of compliance in Key and Core Recs. 5, 13, 35, 36, 40 and SR.IV has improved these Recommendations along with the other nine Key and Core Recommendations have not been fully met. It is noted that these are being addressed as stated above in paragraph 113. While there has been improvement in eleven of the other twenty-five outstanding recommendations as already noted substantial compliance in a majority of the other outstanding recommendations is dependent on the enactment of the AML/CFT Amendment Bill. . Consequently in accordance with the Public Statement of May 2013 it is recommended that Plenary in a formal CFATF statement identify Guyana as not taking sufficient steps to address its AML/CFT deficiencies and call upon its Members to consider implementing counter measures to protect their financial systems from the ongoing money laundering and terrorist financing risks emanating from Guyana and to consider referring Guyana to the Financial Action Task Force International Co-operation Review Group. Given the above, it is also recommended that Guyana remains in enhanced follow-up and be required to report to the next Plenary in May 2014.

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

Forty Recommendations	Rating	Summary of factors underlying rating	Recommended Actions	Undertaken Actions
<b>Legal systems</b>				
1. ML offence	PC	<ul style="list-style-type: none"> <li>ML offences in the AMLCFTA are not consistent with the requirements of the Vienna and the Palermo Conventions.</li> </ul>	<ul style="list-style-type: none"> <li>Amend the ML offences in the AMLCFTA to include “assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions” in accordance with the Vienna and Palermo Conventions.</li> <li>Illicit trafficking in stolen and other goods and smuggling should be criminalized as a serious offence and a predicate offence to ML.</li> </ul>	<p>i. The AMLCFT (Amendment) Bill No. 12 of 2013 was published, introduced in the National Assemble and read a first time on April 22, 2013. It was debated and read a second time on May 7, 2013 following which it was committed for consideration to a Special Select Committee (SSC) by the National Assembly. The SSC consists of 9 members (5 members from the combined opposition and 4 members from the Government). During the period of May 8, 2013 to August 5, 2013 the SSC had 15 meetings to consider the Bill. At these meetings the Bill was reviewed clause by clause and further amendments were made to the Bill based on feedback/comments received from CFATF, and other Stakeholders (<b>see matrix with these amendments attached</b>). At the 15<sup>th</sup> meeting of the SSC held on August 5, 2013 a motion was put and carried by a majority vote, to adjourn the meeting of the SSC to a date in October 2013 to continue consideration of the Bill. Parliament recessed on August 8, 2013 and will reconvene on October 10, 2013. A Draft Report of the SSC was prepared by the Chairperson for approval of the SSC and presentation to Parliament when it reconvenes (<b>see copy of Draft Report attached</b>). The Bill will then be re-submitted to Parliament for the third and final reading before passage into legislation. We expect this will be completed by October 31, 2013. <b>Also attached hereto is a copy of the Draft Minutes of the 15<sup>th</sup> Meeting of the SSC.</b></p> <p>ii.(a) In Guyana, illicit trafficking in stolen and other goods falls under the offence of ‘Receiving where principal is guilty of felony’. The Criminal Law (Offences) Act Cap. 8:01 provides at s.236 (1) <b>“Everyone who receives any chattel,</b></p>

		<ul style="list-style-type: none"> <li>• Illicit trafficking in stolen and other goods and smuggling are not criminalized as a serious offence and are therefore not a predicate offence to ML.</li> <li>• The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation.</li> </ul>	<p><i>money, valuable security, or other property, the stealing, taking, extortion, obtaining, embezzling, or otherwise disposing whereof amounts to a felony, either at common law or by virtue of this Act or of any other written law for the time being in force, knowing it to have been feloniously stolen, taken, extorted, obtained, embezzled, or disposed or, shall be guilty of felony, and may be indicted and convicted wither as an accessory after the fact, or for a substantive felony; and, in the latter case, whether the principal felony has or has not been previously convicted or is or is not amenable to justice.</i></p> <p>(2) <i>Every receiver aforesaid, however convicted, shall be liable to imprisonment for fourteen years.”</i></p> <p>ii.(b) The offence of smuggling falls under the Customs Act Cap. 82:01 of the Laws of Guyana. s.218(d)(e) provides “<i>Every person who knowingly acquires possession of or is in any way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any goods with intent to defraud the revenue of any duties thereon, or to evade any prohibition or restriction of or applicable to such goods; or is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs, or of the laws, and restrictions of the customs relating to the importation, unloading, warehousing, delivery, removal, loading and exportation of goods, shall be liable for each such offence to a fine of treble the value of the goods or ten thousand dollars at the election of the Comptroller; and to imprisonment for one year and all goods in respect of which any such offence shall be committed shall be forfeited.”</i></p> <p>As evident from the above, the penalties for the above offences are imprisonment for fourteen years, and a fine of treble the value of the goods or ten thousand dollars ...and to imprisonment for one year and all</p>
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			<ul style="list-style-type: none"> <li>Systems should be put in place to effectively implement the AMLCFTA and relevant Government entities made aware of the legislation and its applicability.</li> </ul>	<p>goods in respect of the offence being forfeited, respectively. These are therefore serious offences under the AMLCFTA which states “<i>serious offence</i>” means a serious offence against a provision of-</p> <p>(a) any law in Guyana, for which the maximum penalty is death or imprisonment for life or other deprivation of liberty of not less than six months;</p> <p>(b) any offence listed in Second Schedule ; or</p> <p>(c) a law of a foreign state, in relation to an act or omission, which had it occurred in Guyana, would have constituted an offence for which the maximum penalty is death, or imprisonment for life or other deprivation of liberty for a period of not less than six months and includes money laundering and terrorist financing or an offence listed in the Second Schedule”. (This recommendation was met – see paragraph 9 Guyana 1<sup>st</sup> Follow up Report).</p> <p>iii. FIU has been sensitizing the relevant Government entities on the legislation and its applicability through ongoing training/discussions and follow up meetings. (This recommendation was met – see paragraphs 5 and 6 Guyana 3<sup>rd</sup> Follow up Report).</p>
2. ML offence – mental element and corporate liability	LC	i. The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation and minimal resources limit implementation.		
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>The definition of property liable for confiscation does not include assets of every kind, whether tangible or intangible, or indirect proceeds of crime including income, profits or other benefits from proceeds of crime or property held by third persons.</li> <li>Unable to assess effective implementation since there has been no restraint, forfeiture or production orders or search warrants granted under the AMLCFTA due to its recent enactment</li> </ul>	<ul style="list-style-type: none"> <li>The definition of property liable for confiscation in the AMLCFTA be amended to include indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by third persons and assets of every kind, whether tangible or intangible.</li> <li>The competent authorities should provide resources to ensure the requisite agencies are trained under the recent legislation in order to enable effective implementation.</li> </ul>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>ii. On June 19, 2013 a workshop on the Confiscation of the Proceeds of Crime was hosted by the Director of Public Prosecutions. The workshop was facilitated by representatives from the office of the Caribbean Criminal Asset Recovery Programme (CCARP). A Guideline on the Confiscation of the Proceeds of Crime which was prepared by CCARP was also handed over to the staff of the DPP at the workshop. Participants of the workshop were, the staff of the DPP Chambers,</p>

				Magistrates, Judges and police prosecutors.
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> <li>No provision for the GSC to access information relevant to AML/CFT matters from registrants of the SIA.</li> <li>No provision for the CCDO to share information from a society registered under the CSA with local and international competent authorities</li> </ul>	<ul style="list-style-type: none"> <li>The GSC should have the power to access information relevant to AML/CFT matters from registrants of the SIA.</li> <li>The CCDO should be able to share information from a society registered under the CSA with local and international competent authorities.</li> </ul>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>ii. The CCDO was on December 20, 2012 appointed as the AML/CFT supervisory authority for co-operative societies registered under the CSA. By virtue of this appointment the CCDO now has the power under s.22(2) (c &amp; d) of the AMLCFT Act to share information as recommended with local and international competent authority. <i>(This recommendation was met – see paragraph 19 Guyana 4<sup>th</sup> Follow up Report).</i></p>
5. Customer due diligence	PC	<ul style="list-style-type: none"> <li>Threshold for the application of CDD measures for occasional transactions has not been prescribed, leaving such determination to the discretion of the reporting entities.</li> <li>No requirement for reporting entities to obtain information on the ownership of customers who are legal persons or legal arrangements.</li> </ul>	<ul style="list-style-type: none"> <li>A threshold for the application of CDD measures for occasional transactions should be prescribed in accordance with the FATF standard.</li> <li>Reporting entities should be required to obtain information on the ownership of customers who are legal persons or legal arrangements.</li> </ul>	<p>i. Regulation 4(2) (b) already makes provision for this recommendation. It stipulates “<i>Customers shall include persons, whether natural, legal, or legal arrangements, who are or who seek to be engaged in one or more occasional transactions with the reporting entity when the total value of the transactions equals or exceeds one million dollars.</i>” <i>(This recommendation was met – see paragraph 10 Guyana 1<sup>st</sup> Follow up Report).</i></p> <p>ii. S. 15(4)(a-c) of the AMLCTFA already makes provision for REs to obtain information on the ownership of customers who are legal persons or legal arrangements. This section provides “<i>Without limiting the generality of subsection (2), a reporting entity shall-</i></p> <p>(a) <i>when establishing a business relationship, obtain information on the purpose and nature of the business relationship;</i></p> <p>(b) <i>if the transaction is conducted by a natural person, ...</i></p> <p>(c) <i>if the transaction is conducted by a legal entity, adequately identify the beneficial owner, take reasonable measures to identify and verify its beneficial ownership and control structure, including information relating to-</i></p> <p>(i) <i>the customer's name, legal form, address and directors;</i></p>

		<ul style="list-style-type: none"> <li>• No requirement for reporting entities to determine who are the natural persons that ultimately own or control the customer.</li> <li>• No requirement for the verification of legal status of specific legal arrangements such as trusts.</li> <li>• No definition of beneficial ownership with regard to legal entities.</li> </ul>	<ul style="list-style-type: none"> <li>• Reporting entities should be required to determine who are the natural persons that ultimately own or control the customer.</li> <li>• Reporting entities should be required to verify the legal status of specific legal arrangements such as trusts.</li> <li>• A definition of beneficial ownership with regard to legal entities should be set out in the AMLCFTA.</li> </ul>	<p>(ii) <i>the principal owners and beneficiaries and control structure;</i></p> <p>(iii) <i>provisions regulating the power to bind the entity; and to verify that any person purporting to act on behalf of the customer is so authorised, and identify those persons.” (This recommendation was met – see paragraph 12 Guyana 1<sup>st</sup> Follow up Report).</i></p> <p>iii. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>iv. Regulation 4(5)(a) &amp;(c) of the Regulations made under AMLCFTA already makes provision for the verification of legal status of specific arrangements such as trusts. It provides that “<i>A reporting entity shall ensure that it knows the true identity of its customers...For customers who are legal persons or legal arrangements, the reporting entity shall obtain and verify –</i></p> <p>(a) <i>the customer’s name and legal form, including obtaining proof of incorporation or similar evidence of establishment or existence such as a certificate of incorporation or a trust instrument.”</i></p> <p>(b) ...</p> <p>(c) <i>the legal provisions that set out the power to bind the customer such as the memorandum and articles of association or trust instrument...” (This recommendation was met – see paragraph 15 Guyana 1<sup>st</sup> Follow up Report).</i></p> <p>v. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>vi. Same action as above. It should be noted that</p>
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		<ul style="list-style-type: none"> <li>• No requirement for reporting entities to perform enhanced due diligence for higher risk categories of customers.</li> <li>• No requirement that reporting entities verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers.</li> <li>• No requirement prohibiting reporting entities from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulated in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report.</li> <li>• Except in the case of customers at the time of the enactment of the AMLCFTA, there is no requirement for financial institutions to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report.</li> </ul>	<ul style="list-style-type: none"> <li>• Reporting entities should be required to perform enhanced due diligence for higher risk categories of customers.</li> <li>• Reporting entities should be required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers.</li> <li>• Reporting entities should be prohibited from opening an account or commencing a business relationship or performing a transaction in the absence of satisfactory evidence of identity as stipulated in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report.</li> <li>• Reporting entities should be required to terminate a business relationship due to the inability to obtain information set out in criteria 5.3 to 5.6 and consider making a suspicious transaction report.</li> </ul>	<p>despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.2, page 41 of the attached AML/CFT Guidelines.</p> <p>vii. S.15(2) of the AMLCTFA provides “<b><i>Reporting entities shall establish and verify the identity of any customer of the reporting entity by requiring the applicant to produce an identification record or such other reliable, independent source document as the Financial Intelligence Unit may request</i></b>”</p> <p>The phrase “establish and verify the identity of <u>any customer</u> of the reporting entity” is all-inclusive and thereby includes ‘occasional customers conducting transactions.’ Further, Regulation 4(2)(b) of the Regulation made under the AMLCTFA defines a customer thus “<b><i>Customers shall include persons, whether natural, legal, or legal arrangements, who are or who seek to be engaged in one or more occasional transactions with the reporting entity.</i></b>” (This recommendation will be fully satisfied once the term “beneficial ownership” is defined in the AMLCFT Act. This will be done as stated at Rec 5(v) above).</p> <p>viii. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>ix. Same action as above.</p>
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6. Politically exposed persons	PC	<ul style="list-style-type: none"> <li>No requirement for reporting entities to obtain senior management approval to continue a business relationship with a customer or beneficial owner who is subsequently found to be a PEP or becomes a PEP.</li> <li>Limited awareness by financial institutions about the legal requirements concerning PEPs.</li> </ul>	<ul style="list-style-type: none"> <li>Reporting entities should be required to obtain senior management approval to continue a business relationship with a customer who is subsequently found to be a PEP or becomes a PEP.</li> <li>The supervisory authorities should ensure that all financial institutions are aware of the legal requirements concerning PEPs</li> </ul>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>ii. Financial institutions are regularly being sensitized on various sections of the AMLCFT Act (particularly s.15 (4)(d)) which deals with PEPs, as well as the AMLCFT Regulations. These sensitization programmes are ongoing. Reporting entities are reminded of the legal requirements concerning PEPs at every meeting/training. <b>(This recommendation was met – see paragraph 45 of Guyana’s 4<sup>th</sup> Follow-up Report).</b></p> <p>It should be noted that the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013 also addressed this recommendation. See Section 5.3.8, page 55 of the attached AML/CFT Guidelines.</p>
7. Correspondent banking	LC	<ul style="list-style-type: none"> <li>No requirement for financial institutions to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action.</li> <li>No requirement for financial institutions to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective.</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to ascertain whether a respondent institution has been subject to a money laundering or terrorist financing investigation or regulatory action.</li> <li>Financial institutions should have to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective.</li> </ul>	<p>i. This recommendation will be addressed by legislative amendment and the issuance of Guidelines. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.4.1 page 59, of the attached AML/CFT Guidelines.</p> <p>ii. Same action as above. It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.4.1, page 60 of the attached AML/CFT Guidelines.</p>
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> <li>No requirement for financial institutions to have policies in place or take such measures to prevent the misuse of technological</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to have policies in place or take such measures to prevent the misuse of technological developments in ML or TF</li> </ul>	<p>i. This recommendation will be addressed by legislative amendment and the issuance of Guidelines. It was included in the AMLCFT</p>

		<p>developments in ML or TF schemes.</p> <ul style="list-style-type: none"> <li>No requirement for financial institutions to have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions.</li> </ul>	<p>schemes.</p> <ul style="list-style-type: none"> <li>Financial institutions should be required to have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions. These policies and procedures should apply when establishing customer relationships and conducting ongoing due diligence.</li> <li>Financial institutions should also be required to have measures for managing risks including specific and effective CDD procedures that apply to non-face to face customers.</li> </ul>	<p>(Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 6.3, page 81 of the attached AML/CFT Guidelines.</p> <p>ii. Same action as above. It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.3.5, page 50 of the attached AML/CFT Guidelines.</p> <p>iii. Same action as above. It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.3.5, page 50 of the attached AML/CFT Guidelines.</p>
9. Third parties and introducers	PC	<ul style="list-style-type: none"> <li>Authorities have issued no guidance in relation to which countries third parties that meet FATF conditions can be based.</li> <li>Financial institutions are not required to satisfy themselves that third parties are regulated and supervised in accordance with Recommendations 23, 24 and 29 and have measures in place to comply with CDD requirements set out in Recommendation 5.</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to satisfy themselves that third parties are regulated and supervised in accordance with Recommendations 23, 24 and 29 and have measures in place to comply with CDD requirements set out in Recommendation 5.</li> <li>Competent authorities should determine and inform financial institutions in which countries third parties that meet the conditions can be based by taking into account information available on whether these countries adequately apply the FATF Recommendations</li> </ul>	<p>i. This recommendation will be addressed by legislative amendment and the issuance of Guidelines. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply. It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.3.6, page 51 of the attached AML/CFT Guidelines.</p> <p>ii. This recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.3.6, page 51 of the attached AML/CFT Guidelines.</p>

10. Record keeping	PC	<p>i. No requirement for financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.</p>	<p>i. All financial institutions should be required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority</p>	<p>i. Regulation 9(1) of the Regulations made under AMLCFTA makes provision for reporting entities to ensure that any records required to be maintained under these Regulations are capable of retrieval in legible form without undue delay.</p> <p>In addition, the FIU has since 2006, implemented a system whereby when requesting information from reporting entities, such information is required within seven (7) days from the date of request.</p> <p>Further, s. 9(4)(o) of the AMLCFTA provides “<i>The Financial Intelligence Unit- shall, in respect of the entities for which it has been designated, exercise the powers set out in section 18 and in relation to this, may enter the premises of any reporting entity during ordinary business hours to inspect any record kept by the reporting entity, and ask any question relating to such record, make notes and take copies of whole or any part of the record.</i>” (This recommendation was met – see paragraph 21 Guyana 1<sup>st</sup> Follow up Report).</p>
11. Unusual transactions	LC	<ul style="list-style-type: none"> <li>Findings on complex, unusual, large transactions or unusual patterns of transactions with no apparent or visible economic or lawful purpose are available only to the FIU and not all competent authorities and auditors.</li> <li>No requirement that findings on background and purpose of transactions should be kept available for at least five years.</li> </ul>	<p>i. Guyana should amend its legislation so as to require financial institutions to make the findings on complex, unusual, large transactions or unusual patterns of transactions with no apparent or visible economic or lawful purpose available to all competent authorities and auditors for at least five years.</p>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p>
12. DNFBP – R.5, 6, 8-11	NC	<p>i. The deficiencies identified in section 3 in relation to Recs. 5, 6 and 8 – 11 are also applicable to DNFBPs.</p>	<p>i. It is recommended that a designated supervisory authority be appointed as soon as possible for the DNFBPs to oversee compliance with the requirements of the AMLCFTA.</p>	<p>Supervisory Authorities were appointed for the following DNFBPs on December 20, 2012.</p> <ul style="list-style-type: none"> <li>Casinos</li> <li>Dealers in precious and semi precious stones</li> <li>Dealers in gold bullion</li> <li>Trust or company service providers.</li> </ul> <p>Supervisory Authorities were also appointed on the same date for the following</p> <ul style="list-style-type: none"> <li>Registered Charities</li> <li>Cooperatives</li> <li>Financial Leasing</li> <li>Money Transfer Agencies</li> <li>Insurance Companies</li> </ul> <p>(See copy of appointment letter attached and</p>

				<p>marked Appendix B).</p> <p>The FIU has commenced sensitizing the newly appointed supervisory authorities on their roles and obligations under the AMLCFT Act and Regulations. <b>Please see attached a schedule of meetings and workshops held with SAs to date and follow up meetings and workshops planned for the remainder of the 2013.</b> In addition, it should be noted that though technical assistance being received from the Government of Canada, a Supervisor's Manual for supervisory authorities is currently being drafted for on and offsite examinations procedures, processes for identifying and recording reporting entities, file management, issuing compliance questionnaires, applying risk based approach for compliance examinations, onsite reviews techniques, preparing reports and implementing sanctions.</p>
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> <li>Requirement to make a STR does not apply to funds from the designated predicate offence of illicit trafficking in stolen or other goods and smuggling.</li> <li>Reporting requirement for terrorist financing does not include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations</li> <li>No provision specifying that the requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters.</li> <li>Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting.</li> </ul>	<ul style="list-style-type: none"> <li>Illicit trafficking in stolen and other goods and smuggling should be criminalized as a serious offence and a predicate offence to ML.</li> <li>Reporting requirement for terrorist financing in the AMLCFTA should include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organisations.</li> <li>The requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters.</li> </ul>	<p>i. <b>Already dealt with at No. 1(ii) above- offences are criminalized as serious offences in Guyana. (This recommendation was met – see paragraph 9 Guyana 1<sup>st</sup> Follow up Report).</b></p> <p>ii. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>iii. Same action as above. It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 7.2, page 88 of the attached AML/CFT Guidelines.</p>
14. Protection & no tipping-off	LC	<p>i. No specific requirement that the protection of staff of financial institutions for reporting STRs is available even if the staff of financial institutions did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.</p>	<p>i. The protection of staff of financial institutions for reporting STRs should be explicitly available even if the staff of financial institutions did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.</p>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p>
15. Internal controls, compliance	PC	<ul style="list-style-type: none"> <li>No requirement for individuals who carry on</li> </ul>	<ul style="list-style-type: none"> <li>The requirements of Rec. 15 should be applicable to</li> </ul>	<p>i. This recommendation will be addressed by</p>

& audit		<p>business solely or with a staff and management of less than five persons to comply with the requirements of Rec. 15.</p> <ul style="list-style-type: none"> <li>Access to information is restricted to the reporting function and only to compliance officers appointed at management level rather than to all appropriate staff engaged in the compliance function.</li> <li>No requirement for the audit function of financial institutions to be adequately resourced and independent and compliance testing of procedures, policies and controls to include sample testing.</li> <li>The training obligation of financial institutions is not ongoing and does not include new developments, including information on current ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD.</li> </ul>	<p>individuals who carry on business solely or with a staff and management of less than five persons.</p> <ul style="list-style-type: none"> <li>The AMLCFTA should provide that the compliance officer and appropriate staff have timely access to customer identification data and other CDD information, transaction records and other relevant information necessary to carry out all their functions.</li> <li>Financial institutions should be required to ensure that their audit function is adequately resourced and independent and compliance testing of procedures, policies and controls include sample testing.</li> <li>The training obligation of financial institutions should be ongoing and include new developments, including information on current ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD.</li> <li>The competent authorities should ensure that all financial institutions update their current policies and that the updated versions are based on the AMLCFTA.</li> </ul>	<p>legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>ii. Same action as above.</p> <p>iii. Same action as above. It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 3.4, page 19 of the attached AML/CFT Guidelines.</p> <p>iv. Same comment at Rec. 3(ii) above. This recommendation was also addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 3.6.1, page 22 of the attached AML/CFT Guidelines.</p> <p>v. This recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.4.3.5, page 69 of the attached AML/CFT Guidelines.</p>
16. DNFBP – R.13-15 & 21	NC	i. The deficiencies identified in section 3 in relation to Recs. 13, to 15, and 21 are also applicable to DNFBPs.	i. It is recommended that a designated supervisory authority be appointed as soon as possible for the DNFBPs to oversee compliance with the requirements of the AMLCFTA.	i. This recommendation is addressed at recommendation 12(i) above.
17. Sanctions	PC	<ul style="list-style-type: none"> <li>Fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA are not dissuasive.</li> <li>Sanctions of designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective and are not applicable to directors and senior management of reporting</li> </ul>	<ul style="list-style-type: none"> <li>Fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA should be dissuasive.</li> <li>Sanctions of designated supervisory authorities under the AMLCFTA should be dissuasive, proportionate and effective and should be applicable to directors and senior management of reporting entities.</li> </ul>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>ii. Same action as above.</p>

		entities.		
18. Shell banks	LC	<p>i. No requirement that financial institutions satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</p>	<ul style="list-style-type: none"> <li>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.</li> <li>In order to remove any ambiguity with regard to the possible establishment of shell banks in Guyana provision allowing for the registration of shell banks in the Company Act should be repealed.</li> </ul>	<p>i. This recommendation was reviewed – We are of the opinion that s.15(7)(c) of the AMLCFT Act satisfies this recommendation. It states “<i>Banks or financial institutions shall not maintain any business relationship with other banks that do not maintain a physical presence under the laws of which they were established, unless they are part of a financial group subject to effective consolidated supervision.</i>”</p> <p>It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.3.9, page 58 of the attached AML/CFT Guidelines.</p> <p>ii. We are of the opinion that this recommendation is addressed in the provisions of the Companies Act No. 29 of 1991 which requires that both local and external companies should have a physical presence in Guyana. Section 5 (1)(b) requires a registered office to be situated in Guyana and sections 310 (2) (a) and (d) and 316 (1) (l) require an external company to have a principal office in Guyana from which it regularly transacts its business. Section 8(1) of the Financial Institutions Act prohibits the use of the word “bank” in business names, unless an entity is licensed by the Bank of Guyana to conduct banking business and the Registrar of Companies is aware of this. The onsite examination by the Bank of Guyana and ongoing documentary requirements banks are required to satisfy, would not allow for the operation of a shell bank. (see copy of these sections attached and marked ‘Appendix C’).</p> <p><b>Note: We observed that no mention of the above submission was made in Guyana’s 2<sup>nd</sup> or 3<sup>rd</sup> Follow-up Reports.</b></p>
19. Other forms of reporting	NC	<p>i. No documentary evidence of the decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency.</p>	<p>i. The authorities should provide documentation recording the decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency.</p>	<p>i. There was no decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency. For example, Regulation 12 of the Regulations made under the AMLCFTA (which was enacted after the</p>

				MEV) provides:  <i>(3) Without prejudice to the generality of the foregoing provisions, a reporting entity shall report to the Financial Intelligence Unit as soon as practicable -</i> <i>(a) where the reporting entity is a money transfer agency, any money transfer over two hundred thousand dollars;</i> <i>(b) where the reporting entity is a cambio, a purchase over four hundred thousand dollars and a sale over one million dollars; and</i> <i>(c) any cash transaction over two million dollars. (This recommendation was met – see paragraph 57 Guyana 1<sup>st</sup> Follow up Report).</i>
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> <li>There are no measures in place to ensure that financial institutions are notified about AML/CFT weaknesses in other countries.</li> <li>Only complex, unusual large transactions with no apparent economic or visible lawful purpose from countries which do not or insufficiently apply the FATF Recommendations are examined and written findings kept.</li> <li>There are no provisions in place that allow the authorities to apply counter measures to countries that do not or insufficiently apply the FATF Recommendations</li> </ul>	<ul style="list-style-type: none"> <li>Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries.</li> <li>The background and purpose of all transactions having no apparent economic or visible lawful purpose with persons from or in countries which do not or insufficiently apply the FATF Recommendations should be examined and written findings made available to assist competent authorities and auditors.</li> <li>There should be provisions to allow for the application of countermeasures to countries that do not or insufficiently apply the FATF Recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>i. Circulars based on the public statement issued on June 22, 2012 and October 19, 2012 by FATF were issued to reporting entities on August 20, 2012 and November 5, 2012 respectively. The FIU will continue to advise reporting entities of concerns about AML/CFT weaknesses in other countries. <b>(See recent Circular issued by FIU attached)</b></li> <li>ii. This recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 7.1, page 85 of the attached AML/CFT Guidelines.</li> <li>ii. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</li> </ul>
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> <li>Supervisory authorities have not imposed the requirements for foreign branches and subsidiaries of section 22(2) of the AMLCFTA on their respective reporting entities.</li> </ul>	<ul style="list-style-type: none"> <li>Designated supervisory authorities should impose the obligations stipulated in section 22(2) of the AMLCFTA on their respective reporting entities.</li> </ul>	<ul style="list-style-type: none"> <li>i. Notice was sent to all supervisory authorities informing them of the requirement to impose the obligations stipulated in section 22(2) of the AMLCFTA on their respective reporting entities. The Bank of Guyana which is the supervisory authority for Licensed Financial Institutions, Money Transfer Agencies, Cambios, Insurance Companies, and Trust Companies Service providers continues to impose the obligations</li> </ul>

		<ul style="list-style-type: none"> <li>No requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations to the extent that host country laws and regulations permit.</li> <li>No requirement for financial institutions to pay particular attention that the principle stated in section 22(2) of the AMLCFTA is observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations.</li> <li>No requirement for financial institutions to ensure that branches and subsidiaries in host countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ.</li> </ul>	<ul style="list-style-type: none"> <li>Financial institutions should be required to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations to the extent that host country laws and regulations permit.</li> <li>Financial institutions should be required to pay particular attention that the principle stated in section 22(2) of the AMLCFTA is observed with respect to branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations.</li> <li>Financial institutions should be required to ensure that branches and subsidiaries in host countries apply the higher standard where minimum AML/CFT obligations of home and host countries differ.</li> </ul>	<p>stipulated in s. 22(2) of the AMLCFTA. <b>Attached hereto are the Bank of Guyana's Work Plan and Progress Report/Update, AMLCFT Guidelines for Insurance Companies, AMLCFT Work Plan for Insurance and AMLCFT Examination Manual for Bank of Guyana.</b></p> <p>With regards to the other designated supervisory authorities please refer to the comment at Rec 12 above.</p> <p>ii. This recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 1.5, page 7 of the attached AML/CFT Guidelines.</p> <p>iii. This recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 1.5, page 7 of the attached AML/CFT Guidelines.</p> <p>iv. This recommendation will be addressed by legislative amendment and the issuance of Guidelines. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>It should be noted that despite being included in the Amendment Bill, this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 1.5, page 7 of the attached AML/CFT Guidelines.</p>
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>No designated supervisory authority has been assigned to ensure that co-operative societies adequately comply with AML/CFT requirements.</li> <li>The SIA and the CSA do not provide for their relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a</li> </ul>	<ul style="list-style-type: none"> <li>A designated supervisory authority should be assigned to ensure that co-operative societies adequately comply with AML/CFT obligations.</li> <li>The SIA and the CSA should be amended to provide for their relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a</li> </ul>	<p>i. A supervisory authority for Co-operatives was appointed on December 20, 2012. (See comment at Rec. 12 above)</p> <p>ii. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments</p>



		<p>significant or controlling interest or holding a management function in financial institutions.</p> <ul style="list-style-type: none"> <li>The IA does not provide for necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest in financial institutions.</li> <li>The SIA and the CSA do not provide for directors and senior management of financial institution to be evaluated on the basis of “fit and proper” criteria.</li> <li>Neither the COI, the GSC or the DCFS have implemented AML/CFT supervision for their relevant financial institutions</li> </ul>	<p>significant or controlling interest or holding a management function in financial institutions.</p> <ul style="list-style-type: none"> <li>The IA, should be amended to provide for the relevant authorities to take necessary measures to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest in financial institutions.</li> <li>The SIA and the CSA should be amended to provide for directors and senior management of financial institution to be evaluated on the basis of “fit and proper” criteria.</li> <li>The COI, the GSC and the DCFS should implement AML/CFT supervision for their relevant financial institutions</li> </ul>	<p>apply.</p> <p>iii. Same action as above.</p> <p>iv. Same action as above.</p> <p>v. The Bank of Guyana was designated supervisory authority for Insurance companies on December 20, 2012, and has commenced implementing AML/CFT supervision of insurance companies. (Please refer to comments at Recs. 12 and 22(i) above).</p>
24. DNFBP – regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>Casinos are not subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations.</li> <li>The provision for the Gaming Authority to assess the integrity of an applicant is discretionary, limited to licensing, does not include beneficial owners, and does not specify fit and proper criteria.</li> <li>No designated supervisory authority appointed for DNFBPs to oversee compliance with AML/CFT requirements.</li> <li>Sanctions of designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective and are not applicable to directors and senior management of DNFBPs.</li> </ul>	<ul style="list-style-type: none"> <li>Casinos should be subject to a comprehensive regulatory and supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations.</li> <li>The Gaming Authority should be required to assess the integrity of an applicant, partner, shareholder, directors, office holders of an applicant and beneficial owner on the basis of fit and proper criteria on a regular basis.</li> <li>A designated supervisory authority should be appointed for DNFBPs to oversee compliance with AML/CFT requirements as soon as possible.</li> <li>Sanctions of designated supervisory authorities under the AMLCFTA should be dissuasive, proportionate and effective and applicable to directors and senior management of DNFBPs.</li> </ul>	<p>i. The Gaming Authority was appointed supervisory authority for Casinos on December 20, 2012. With this appointment Casinos will be monitored to ensure that they are effectively implementing the AML/CFT measures required under the AMLCFT Act and by extension the FATF Recommendations. (Please refer to comment at Rec. 12 above).</p> <p>ii. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>iii. This issue is already addressed at Rec. 12 above.</p> <p>iv. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p>

25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> <li>No requirement for competent authorities or the FIU to provide financial institutions and DNFBPs that are required to report suspicious transactions with adequate and appropriate feedback.</li> <li>No guidelines to assist financial institutions and DNFBPs to implement and comply with their respective AML/CFT requirements have been issued</li> </ul>	<ul style="list-style-type: none"> <li>The AMLCFTA should be amended to require competent authorities or the FIU to provide financial institutions and DNFBPs that are required to report suspicious transactions with adequate and appropriate feedback having regard to the FATF Best Practices Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.</li> <li>Guidelines to assist financial institutions to implement and comply with their respective AML/CFT requirements should be issued.</li> </ul>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>ii. The AML/CFT Guidelines were issued to the Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. <b>(See copy of AML/CFT Guidelines attached).</b></p>
<b>Institutional and other measures</b>				
26. The FIU	NC	<ul style="list-style-type: none"> <li>No guidelines regarding the manner of STRs reporting have been issued to financial institutions and other reporting entities.</li> <li>Minimal security arrangements for custody of information with the main vulnerability being IT support provided by personnel not in the employ of the FIU.</li> </ul>	<ul style="list-style-type: none"> <li>In accordance with the AMLCFTA requirement the FIU should issue guidelines on the manner of STRs reporting to all reporting entities. A circular to the wider public concerning money laundering and financing of terrorism could also be considered.</li> <li>The FIU should urgently implement its plans for new personnel and facilities and consider safeguards to reduce the vulnerability of its database.</li> </ul>	<p>i. Guidelines on Suspicious Transaction Reporting were issued to financial institutions and other reporting entities in January 2013. <b>(See copy attached and marked Appendix E).</b></p> <p>ii. The FIU currently has in its employ an IT Specialist; hence the vulnerability of its database is no longer at risk.</p> <p>Please find below information on safeguards implemented to reduce the vulnerability of the database.</p> <p><u>Internet Security</u> There are two (2) desktop computers which have direct internet access. These computers are independent of the network which users use to connect to the database. There are six (6) additional desktop computers which are on the network to access the database on a server housed in a separate room equipped with security cameras and accessed only by the Database Administrator and the Director. The server housing the database is strictly prohibited from having internet access hence, a significant reduction of its vulnerability. Further, there is no direct digital input from the internet.</p> <p><u>Database</u> The server housing the database is located in a room equipped with security cameras (only the Director and the Database Administrator have access to this room). There are six (6) desktop computers which access the</p>

		<ul style="list-style-type: none"> <li>No requirement to publicly release periodic reports to include statistics, typologies and trends.</li> <li>While lack of statistics limits assessment of effectiveness, the operations of the FIU are adversely affected by lack of resources.</li> </ul>	<ul style="list-style-type: none"> <li>The authorities should reconsider their policy regarding the FIU releasing public reports and allow for the issuing of periodic reports which include statistics, typologies and trends.</li> </ul>	<p>database. Access to the database is controlled by means of login credentials which were assigned for the sole purpose of data input by the entry operators. Access of historical data is only granted to the Director of the FIU and the Database Administrator.</p> <p>The programming of network policies on server and each of the desktop computers connecting to the database has been implemented to <u>not register</u> storage devices such as flash drives for data transfer. All events are recorded in a log file which is only viewed by the Director or the Database Administrator. In addition, sensitive information is backed up regularly and stored offsite at a secured location. <i>(This recommendation was met – see paragraph 34 Guyana 2<sup>nd</sup> Follow up Report).</i></p> <p>iii. The FIU has commenced releasing public reports and allowing for the issuing of periodic reports which include statistics, typologies and trends. Statistics on STRs, foreign currency reports and threshold reports were published on FIUs website on January 31, 2013. <b>(See attached updated statistics on STRs, foreign currency reports and threshold reports)</b></p>
27. Law enforcement authorities	NC	<ul style="list-style-type: none"> <li>No written laws or measures authorising the GPF to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in money laundering or for evidencing gathering.</li> <li>Lack of trained financial investigators limits effective implementation of ML/FT investigations.</li> </ul>	<p>i. There should be written laws or measures authorising the GPF to postpone or waive the arrest of suspected persons and/or the seizure of money for the purpose of identifying persons involved in money laundering or for evidencing gathering.</p>	<p>i. This recommendation was reviewed by the Attorney General's office which has advised as follows: <i>"The Common Law of Guyana invests in the investigative arm of the State, i.e., the Guyana Police Force, the Prosecution arm of the State, i.e., the Director of Public Prosecutions, with a sufficiently wide latitude of power which allows both agencies in the discharge of their respective functions, to use persons suspected of being involved in criminal activities, to assist, both in the investigation of the alleged crimes which they are suspected of committing and the prosecution of those offences.</i></p> <p><i>The facility of rewarding such persons, in the form of withholding prosecution against them absolutely, or entering in to plea bargaining arrangements exists. In fact, plea bargaining has been codified into statute law."</i> <b>Attached hereto are a copy of the AG's letter dated August 21, 2103 and a copy of the Criminal Procedure (Plea</b></p>

				<p><i>Bargaining and Plea Agreement) Act No. 18 of 2008.</i></p> <p>ii. The Attorney General's office has further advised that the investigation of all crimes is a designated responsibility of the Guyana Police Force under the Police Act (Cap 16:01) and that step are currently being taken to establish a unit, the Serious Organised Crimes Unit (SOCU), within the Guyana Police Force, which will be adequately and separately staffed and resourced, and be assigned the exclusive responsibility of carrying out all investigations under the AMLCFT Act.</p>
28. Owners of competent authorities	PC	<p>i. No written law or measure for the taking of witnesses' statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions.</p>	<p>i. There should be a law or measure to allow for the taking of witnesses' statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions.</p>	<p>i. This recommendation was reviewed by the Attorney General's office which has advised that the taking of statements from witnesses for use in investigations and prosecutions, is a procedure and practice extant in Guyana and hallowed by over one hundred years of longevity. <b>(Please refer to the AG's letter referred to at Rec. 27 above).</b></p>
29. Supervisors	PC	<ul style="list-style-type: none"> <li>GSC does not have power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance.</li> <li>CCDO does not have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations</li> </ul>	<ul style="list-style-type: none"> <li>GSC should have the power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance.</li> <li>The CCDO should have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations</li> </ul>	<p>i. This recommendation was reviewed - The GSC being a AML/CFT supervisory authority has such powers under s.22(2) of the AMLCFT Act. This recommendation will also be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p>ii. On December 20, 2012 the CCDO was appointed the AML/CFT supervisory authority for Co-operatives. The sanctioning powers available to supervisory authorities under s. 23 of the AMLCFT Act are therefore available to the CCDO. The AMLCFT Bill also contains a provision which make sanctions by supervisory authorities dissuasive, proportionate and applicable to directors and senior managers of reporting entities.</p>