

CFATF



GAFIC

CARIBBEAN FINANCIAL
ACTION TASK FORCE

Tenth Follow-Up Report

Guyana
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GUYANA – TENTH 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 had not made sufficient progress in addressing the deficiencies and required Guyana to take specific steps to address these deficiencies by November 2013. As a result of the assessment of measures in the Fifth Follow-Up Report, Plenary in November 2013, agreed that Guyana be identified in a formal CFATF statement as not taking sufficient steps to address its AML/CFT deficiencies and that CFATF Members be called upon to consider implementing counter measures to protect their financial systems from the ongoing money laundering and terrorist financing risks emanating from Guyana. Guyana has submitted information in the attached matrix (updated on March 11, 2016) 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

Partially Compliant (PC)	Non-Complaint (NC)
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)

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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 December, 2015**

(US\$ Million)

		Banks	Other Credit Institutions*	Securities**	Insurance#	TOTAL
Number of institutions	Total #	6	4	2	17	29
Assets	US\$M	2,145	339	144	246	2,874
Deposits	Total: US\$	1,726	264	NIL	NIL	1,990
	% Non-resident	% of deposits	% of deposits	% of deposits	% of deposits	% of deposits
		4	10	0	0	4
International Links	% Foreign-owned:	% of assets	% of assets	% of assets	% of assets^	% of assets
		53	0	0	19	19
	#Subsidiaries abroad	Nil	Nil	Nil	Nil	Nil

* Includes merchant banks, trust companies, building society

** Includes stockbrokers and investment company

^ Includes local parents and overseas subsidiary data since separate balance sheet data is not available

#Insurance figures as at September 2015

Exchange Rate: US\$1.00 = G\$206.50. (BOG mid-rate at 31.12.15)

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) Act 2015 (AMLCFTAA 2015) was passed in the National Assembly on June 26, 2015 and became enforceable on July 10, 2015. The AMLCFTAA 2015 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

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Recommendations. This was followed by the Anti-Money Laundering and Countering the Financing of Terrorism Regulations 2015 (AMLCFTR 2015) being laid in the National Assembly for negative resolution on August 17, 2015. The AMLCFTR 2015 deals mainly with implementation measures regarding SR. III. In order to address outstanding issues, further legislation was enacted in January 2016 – the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) (No.2) Act 2015 (AML/CFT (Amendment) No.2 Act 2015), the Anti-Terrorism and Terrorist Related Activities Act 2015 (ATTRAA, 2015) and in May 2016, the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No. 15 of 2016 (AML/CFT (Amendment) Act No. 15 of 2016).

5. 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).

6. 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 since Guyana's MER in 2011, the examiners' recommended actions for Recommendations 1, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 15, 16, 19, 21, 23, 25, 26, 27, 28, 29, 31, 33, 35, 36, 37, 40, SR.II, SR.II, SR. III, SR. IV, SR.VII and SR.IX have been fully met.

7. Substantial improvement has been reported in the level of compliance with Recs. 21, 38, 39 and SR. V.

8. Guyana has issued AMLCFT Directives and AMLCFT Guideline in an attempt to implement some of the outstanding measures of certain Recommendations. The AMLCFT Directives were issued by the Attorney General and Minister of Legal Affairs under Regulation 20 of the AMLCFT Regulations and the AMLCFT Guideline was issued by the Supervisory Authorities under Section 22 of the AMLCFT Act.

9. Regulation 20 of the AMLCFT Regulations states that the Minister "may, for the purposes of these Regulations, issue directives as he considers necessary". Section 22(2) (b) of the AMLCFT Act provides for the supervisory authority "to issue instructions, guidelines or recommendations."

10. Regulation 21 of the AMLCFT Regulations states that "In the preparation of procedures required to be maintained in accordance with the provisions of these Regulations, a reporting entity may adopt or have regard to the provisions of the Guidelines issued from time to time by a supervisory authority." This phrase appears to make guidelines discretionary.

11. Regulation 19 of the AMLCFT Regulations stipulates that any person who fails to comply with any directive or guidelines issued under the AMLCFT Regulations commits a summary offence. Liability for such an offence is extended to include directors of a corporate body. Penalty for the offence is not specified.

12. The authorities have advised that section 15(2) of the AMLCFTAA 2015 which amends section 23(1) of the AMLCFTA by inserting a revised subsection (2) provides penalties for breach of guidelines. Subsection (2) stipulates a penalty for a reporting entity or in the case of a corporate body, any of its directors, managers and officers for breaches of obligations under the AMLCFTA for which no penalties had been provided. It is noted that while section 22(2) of the AMLCFTA provides for the supervisory authorities to issue guidelines, failure to comply with these guidelines is only stipulated as an offence in

regulation 19 of the AMLCFT Regulations. As already noted there is no penalty for such an offence. While revised subsection (2) refers to the AMLCFTA, section 23(2) of the Interpretation and General Clauses Act stipulates that in any written law a reference to an Act shall be deemed to include a reference to any subsidiary legislation made under the Act. Consequently the penalty in subsection (2) is applicable to the offence of breach of guidelines or directives as set out in regulation 19 of the AMLCFT Regulations. .

13. The above provisions raise concerns about the enforceability of the Directives and Guidelines and their applicability for compliance with the Recommendations. First, regulation 21 appears to give reporting entities discretion to comply with Guidelines. Secondly revised subsection 23(2) of the AMLCFTA imposes a penalty applicable to corporate entities, their directors, managers and officers for breach of guidelines. The requirements for OEM measures include that they be legal obligations i.e mandatory, legally enforceable either by criminal, civil or administrative means and have dissuasive, proportionate and effective sanctions. In considering the above criteria, while guidelines have met the last two criteria, the first regarding that guidelines be legal obligations is contradicted by regulation 21 of the AMLCFT Regulations which states “In the preparation of procedures required to be maintained in accordance with the provisions of these Regulations, a reporting entity may adopt or have regard to the provisions of the Guidelines issued from time to time by a supervisory authority.” This measure makes implementing the guidelines discretionary. Consequently, guidelines are not OEM.

14. Additionally, it is noted that the BOG AML/CFT Guidelines was accepted as OEM in previous reports on the basis that the BOG could impose regulatory action for breaches of the AML/CFT Guidelines. It was erroneously assumed that the power to impose regulatory action was based on a safety and soundness provision in the governing statute of the BOG. However, as stated in the AMLCFT Guidelines regulatory action is based on section 23(1) of the AMLCFTA which allows for the imposition of such action only for breaches of specific sections of the AMLCFTA and does not include AMLCFT Guidelines. As such the BOG Guidelines are subject to the same penalties as those of the AMLCFT Directives and Guideline. Consequently, as noted above the discretionary provision of regulation 21 of the AMLCFT Regulation results in the BOG AML/CFT Guidelines not being considered fully OEM.

15. In accordance with present procedures the following is a report on measures taken by Guyana since May 2015 to deal with the recommended actions in those Financial Action Task Force (FATF) Recommendations rated partially compliant (PC) or non-compliant (NC).

Core Recommendations

Recommendation 1

16. 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 implemented in section 3(b) of the AMLCFTAA 2015 which inserts paragraph (cA) in section 3 of the AMLCFTA. Paragraph (cA) includes the additional offences as required by the examiners’ recommendation. Consequently this recommendation has been met.

17. 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 continues 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 during the period 2010 to June 2015 in previous follow-up reports. As submitted for this report, during the period July to December 2015, the FIU conducted a number of training sessions and one meetings. Three (3) training sessions on AML/CFT obligations were held with DNFBPs (i.e. betting shops and used car dealers).. One (1) training session was held for customs officers stationed at the various ports of entry/exit on foreign currency declaration systems. A meeting to provide guidance and feedback on STRs was held with the compliance officer of a financial institution.

18. Given the above, all of the examiners' recommendations have been met.

Recommendation 5

19. As noted in previous Follow-Up Reports five 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 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.
- d) 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.

20. With regard to the first recommendation for reporting entities to be required to determine the natural persons that ultimately own or control the customer, section 2(1)(a) of the AMLCFTAA 2015 has defined beneficial ownership as ownership by a natural person or persons who ultimately exercise individually or jointly voting rights representing at least twenty-five per cent of the total shares, or otherwise have ownership rights of a legal entity Section 15 (4) (c) of the AMLCFTA requires reporting entities to identify and verify beneficial ownership and control structure of legal entities conducting transactions. The definition of beneficial ownership will provide for the determination of the natural persons who own legal entities. While section 15 (4) (c) requires the identification and verification of the control structure of legal entities the obligation does not specify the natural persons who may exercise ultimate control. The requirement in subsection 15(4)(c)(ii) for information relating to the "principal owners and beneficiaries" and control structure of a legal entity would include the main person who may exercise ultimate control over the customer. However, this provision does not specify natural persons who may exercise ultimate control and the words "principal owners and beneficiaries" are not defined to include this requirement. Legal entities are not defined in the AMLCFT Act and it is not clear if legal arrangements are included. Additionally section 15(4)(c) is specific to transactions and does not include establishing a business relationship.

21. Section 3 of the AMLCFT (Amendment) (No.2) Act 2015 amends section 15 (4) (c) of the AMLCFT Act to extends its obligations to include establishing a business relationship as required. As previously noted section 15 (4) (c) of the AMLCFTA requires reporting entities to identify and verify beneficial ownership. Section 2 of the AMLCFT (Amendment) (No.2) Act 2015 replaces the definition of beneficial ownership in the AMLCFT Amendment Act No.1 of 2015 with one which specifies natural persons who may exercise ultimate control as required.

22. The above provisions will be applicable to establishing a business relationship or conducting a transaction with a legal entity. As indicated above, legal entities are not defined in the AMLCFTA. And it is not clear if legal arrangements are included. However section 15 (5) of the AMLCFTA requires reporting entities to identify any person on whose behalf a trustee, nominee agent or otherwise is acting. This provision should cover legal arrangements. Consequently, this recommendation is met.

23. In relation to the second recommendation for a definition of beneficial ownership in relation to legal entities, the definition as set out in section 2 of the AMLCFT (Amendment) (No.2) Act 2015 replaces the definition of beneficial ownership in the AMLCFT Amendment Act No.1 of 2015 with one which specifies natural persons who may exercise ultimate control as required by FATF standards. As such, this recommendation is met.

24. The recommendation for reporting entities to 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 has been addressed by section 9(a) of the AMLCFTAA 2015 which inserts subsection 2(A) in section 15 of the AMLCFTA. Subsection 2(A) stipulates satisfactory evidence of identity required under the AMLCFTA as the determining factor for proceeding with a potential customer. The recommendation refers specifically to criteria 5.3 to 5.6 which include CDD requirements for all customers, identification and verification of beneficial owners and information on purpose and intended nature of the business relationship. While identification requirements under the Act include most of the CDD requirements, there appears to be a deficiency regarding determining the natural persons who exercise control over legal entities as already indicated. Additionally the inserted provision does not include information on purpose and nature of the business relationship as part of the determining factor. Information on the purpose and nature of the business relationship is set out in section 15(4) (a) of the AMLCFTA. The reference in subsection 2A to satisfactory evidence of identity required under the AMLCFTA should include this requirement. As noted above the amendment in section 2 of the AMLCFT (Amendment) (No.2) Act 2015 replacing the definition of beneficial ownership in the AMLCFT Amendment Act No.1 of 2015 addresses the remaining deficiency regarding determining the natural persons who exercise control over legal entities. Consequently this recommendation has been met

25. The recommendation for reporting entities to 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 was addressed in section 9(j) of the AMLCFTAA 2015 which inserts subsection 11 in section 15 of the AMLCFTA. This recommendation is applicable when reviewing existing accounts and those which are permitted to be opened before verification of the customer or beneficial owner in accordance with FATF standards. Guyana does not allow the latter situation at present. As such the recommendation is applicable to the review of existing accounts. Subsection 11 as set out does not specify existing accounts or the requirements of criteria 5.3 to 5.6. While section 15(10) of the AMLCFTA requires the termination of existing business relationships if a reporting entity is unable to verify the identity of the customer this provision does not specify the requirements of criteria 5.3 to 5.6 which includes customer identification and verification, verification of legal persons and legal arrangements, identification and verification of beneficial ownership and information on the purpose and nature of the relationship. The authorities have further cited the obligations of section 15 of the AMLCFTA, regulation 4 of the AMLCFTR and section 2 of the AMLCFT (Amendment) Act as complying with the requirements of criteria 5.3 to 5.5. Section 15 of the AMLCFTA and regulation 4 of the AMLCFTR sets out CDD requirements for customers that comply with criteria 5.3, 5.4 and 5.6. Section 2 of the AMLCFT (Amendment) Act 2010 does not deal with any of the requirements of the criteria and mandates termination of an existing business relationship if a reporting entity is unable to verify the identity of a customer after the period prescribed by the relevant Minister for such verification. With regard to criterion 5.5 which concerns beneficial ownership the replacement of the definition of beneficial ownership in section 2 of the AMLCFT (Amendment) (No.2)

Act 2015 in accordance with FATF standards as noted above satisfies the requirement. Subsection 11 in section 15 of the AMLCFTA in referring to the information as required under this Act includes requirements of criteria 5.3, 5.4, 5.5 and 5.6. Consequently, this recommendation has been met. Given the above all recommendations have been met.

Special Recommendation II

26. There is one outstanding recommendation requiring 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 provided AML/CFT training to DNFBPs and customs officers during the period July to December 2015.

27. Given the above, all recommendations have been met.

Key Recommendations

Recommendations 23

28. There are four outstanding recommendations, three of which are as follows:

1. Amend the SIA and the Co-operative Societies Act (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

29. . The authorities have advised that the first and second recommendations have been addressed by section 25 of the AMLCFTAA 2015 which provides for the amendment of listed statutes in the Schedule attached to the AMLCFTAA 2015. As stated in the Schedule the SIA CSA and IA were amended by inserting sections 47A, section 7A and section 23A respectively in the already mentioned Acts. The amendments require the relevant supervisory authorities to evaluate the integrity of any applicant for registration under the respective Acts together with any partner, shareholder, and director, beneficial owner of a significant or controlling interest or office holder of the applicant for the granting of registration. The evaluation is to be done on the basis of fit and proper criteria and also carried out whenever there is a change in ownership, management or control of the company. The above measure while establishing the framework for complying with the recommendations does not specify the fit and proper criteria to be utilised. The factors listed on pages 33 to 34 for the GSC, pages 36 to 37 for the DCFS and pages 38 to 39 for the SOI in the AMLCFTAA 2015 as the criteria for evaluation are the same measures outlined above and in particular the evaluation of integrity on the basis of fit and proper criteria which, as already indicated is not specified. Additionally, while registration is contingent on the evaluation, the consequence of failure to comply with the decision of the evaluation undertaken for change in ownership, management or control of the company is not indicated. General penalties for non-compliance with the respective legislation is provided in sections 19 and 79 of the IA and section 142(2) of the SIA and section 60 of the CSA. As such the remaining issue is specifying fit and proper criteria.

30. Section 8 of the AMLCFT (Amendment) (No.2) Act 2015 amends the Insurance Act, the Securities Industry Act and the Co-operative Societies Act as specified in the Schedule of Amendments to Other Acts. The amendments require the evaluation of the integrity of any applicant for registration under the respective Acts on the basis of fit and proper criteria. The criteria are specified in sections 47A of the Securities Industry Act, section 7A of the Co-operatives Societies Act and section 23A of the Insurance Act as required by the recommendations. These recommendations are met.

31. With regard to the third recommendation the amendments to the SIA and the CSA set out in the Schedule of the AMLCFTAA 2015 as indicated in the preceding paragraph require relevant supervisory authorities to evaluate on the basis of “fit and proper” criteria the integrity of any shareholder, director, beneficial owner of a significant or controlling interest or office holder of any company under the SIA or CSA whenever there is a change in ownership, management or control of the company. As indicated above, section 8 of the AMLCFT (Amendment) (No.2) Act 2015 amends the Securities Industry Act and the Co-operative Societies Act to incorporate specific fit and proper criteria for evaluation as required by the recommendation. Consequently, this recommendation is met

32. 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. As indicated in a previous report the BOG was designated supervisory authority for insurance companies in December 2012 and had begun implementing AML/CFT supervision of insurance companies. Details on this supervision were submitted in previous reports. The BOG has advised that no on-site examination can be conducted on insurance companies since the BOG is not empowered to do so under the present IA. However, insurance companies continue to submit quarterly AML/CFT reports to the BOG in accordance with the commencement of off-site surveillance. The BOG has reported that off-site examinations of insurance companies continued for the period July to December 2015. No sanctions were instituted during the reporting period. Given the above, AML/CFT supervision by the BOG of the insurance sector has only partially commence with off-site examination since on-site examination are not legally possible at this time.

33. 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. In May 2014, the GSC adopted an AMLCFT Supervisory Examination Policies and Procedures manual for the supervisory examinations of securities dealers. This manual along with the Guide for Registered Securities Companies Policies and Procedures were issued to all registered securities companies and a training session on the usage of the manual was conducted by the GSC on July 3, 2014. The authorities advised that the GSC conducted two (2) AML/CFT on-site examinations during the period August to December 2014. No on-site/off-site examinations were conducted for the period January to June 2015. During the period July to December 2015 the GSC conducted on-site examinations on four securities companies. While no sanctions were imposed, recommendations were made in the examination reports and follow-up actions taken to ensure compliance. In October 2015, the GSC also held an AML/CFT training program for securities companies.

34. Between January and June 2014, the Cooperative Division made twenty-four (24) visits to cooperatives to monitor compliance with the AMLCFT legislation. Sixteen (16) cooperatives were audited for the period but no breaches were found. Meanwhile the Division of Friendly Societies conducted forty-two (42) audits of friendly societies between January and June 2014. No breaches were found. One AML/CFT awareness session was held for seventeen (17) new friendly societies registered in 2014. The authorities reported that according to the Societies Work Plan submitted for January to June 2016, the Cooperative and Friendly Societies plan to continue to visit the societies to educate them on their AML/CFT obligations, create and distribute AML/CFT Awareness pamphlets, and conduct AML/CFT training

sessions. During the period January to June 2015 the FIU issued an Examination Guideline for DNFBP Supervisors and provided further guidance on the uses of the Guideline.

35. Given the above, three of the examiners' recommendations have been met and one is partially met.

Recommendation 26

36. As indicated in the last report only one recommendation was partially outstanding requiring 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. As noted in the last report the FIU issued its first statistical reports on its website on January 31, 2013. Statistical reports for 2011 and 2012 and the Annual Report of the FIU for the same years were also posted on the website. Information on typologies and trends were not included. The FIU has since published on the website a trend analysis of foreign cash movements as at September 2014 and a Trend Analysis of STRs for 2013 and 2014 as at April 1, 2015. In July 2015, a ML typology on gold jewelry trade was published. It is noted since the last follow-up report that the last Annual Report issued on the FIU website was for 2013. While the authorities have submitted a typology report on cash couriers dated November 2015, this is not available on the FIU website. The FIU should continue to issue period reports providing information on typologies and trends and report on the same to remain compliant. Given the above and the need for continued compliance this recommendation is rated partially met for this report.

Recommendations 35

37. 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.

38. As indicated in a previous report Articles 7 of the Vienna Convention and 18, 19 and 20 of the Palermo Convention were met. . All of the above listed Articles have been made law in section 58 of the ATTRAA 2015.

39. 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. As indicated in a previous report details on the above mentioned assistance with regard to dates and the relevant agencies in Guyana should be provided.

40. 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. Sections 58(1) and 58(3) of the ATTRAA 2015 gives Article 11 of the Vienna Convention and Article 20 of the Palermo Convention the force of law. Consequently, these Articles have been implemented.

41. 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. 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. The enactment of Article 24 in section 58(3) of the ATTRAA 2015 establishes a requirement for the protection of witnesses in Guyana. Consequently, the Article has been met. While the enactment of the Articles complies with the recommendation, Guyana should provide for the practical implementation of section 58 of the ATTRAA 2015. As such, this Recommendation is met.

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 are dealt with under SR.III of this report. The recommendation relating to UNSCR 1267 and UNSCR 1373 and the recommendation dealing with guidance to financial institutions have been met. .

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, all recommendations have been met.

Special Recommendation III

44. The recommendation 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 was addressed in section 18 of the AMLCFTAA 2015 which inserted sections 68A, 68B and 68C after section 68 of the AMLCFTA. Section 68A as inserted by the AMLCFTAA 2015 establishes a framework for freezing of terrorist assets. Subsection 68A (2) establishes prohibitions for all persons and entities against dealing with property or funds of “listed persons or entities”. Listed persons and entities as defined will included those under UNSCR 1267 and UNSCR 1373. Subsections 68A (3) and (4) require persons and entities to monitor and report to the FIU the possession or control of any property owned or controlled by or on behalf of a listed person or entity. The above provisions are supported by the AMLCFTR 2015. Regulation 3(1)(a) of the AMLCFTR 2015 requires the Director of the FIU to publish the UN Sanctions list on the FIU’s website. Regulations 3(2) and 5(1) of the AMLCFTR 2015 require all persons and entities to check the list to determine whether they are holding funds or other assets for designated persons and immediately report such to the Director of the FIU.

45. Subsection 68A (5) provides for the seizure and detention of the property of any person or entity designated by the United Nations. Regulations 6(1) and 6(2) (a) of the AMLCFTR 2015 requires the FIU to immediately verify the reported UN designated person or entity and upon confirmation the Director of the FIU is immediately required to instruct the reporting person or entity by telephone to be followed up in writing not to deal with the funds or other assets of the designated person or entity for a period not exceeding five (5) days. Regulation 6(2) (b) of the AMLCFTR 2015 requires the Director of the FIU to immediately notify the Director of Public Prosecutions (DPP) of the funds or other assets in the possession of the

reporting person or entity. Procedures set out in subsection 68A (6) provide for the DPP to obtain a freezing order from a judge no later than seven days.

46. Under section 71(2) of the AMLCFTA the Court can issue the freeze order as soon as possible if satisfied on the balance of probabilities that the assets are being held. The above measures creates a mechanism to stop reporting persons and entities dealing with terrorist assets as soon as possible once a designated entity or person has been identified and reported to the FIU. It is noted that while the reporting person or entity cannot deal with the funds or other assets of the designated person or entity for five days, the DPP has up to seven days to apply for a freezing order for the assets. Therefore there is a gap of two days during which the assets of the designated person or entity can be dissipated. Additionally there is no indication as to the period of time to obtain a freezing order. Freezing of terrorist assets needs to be completed “without delay” which is accepted as no more than hours between listing by the UN and the freezing of funds for completion.

47. Section 4 of the AMLCFT (Amendment) (No.2) Act 2015 amends subsection 68A of the AMLCFT Act to apply specifically to persons or entities designated by UNSCR 1267 and reduce the time for the DPP to apply *ex parte* for a freezing order from seven to five days. Additionally, the amended subsection 68A (6) provides for the Court to immediately issue the freezing order once it is satisfied on a balance of probabilities that the property is held by or on behalf of a terrorist or terrorist organisation. The above provision addresses the referenced discrepancy of two days.

48. The authorities have enacted further amendments to deal with the above items. Section 9(2) of the AMLCFT (Amendment) Act No.15 of 2016 replaces the text of former subsection 68 (6A) of the AMLCFT Act. The provision requires the Court to grant a freezing order on the basis of a person or entity being listed under UNSCR 1267 and its successor resolutions or listed or specified by the Minister of Finance in accordance with UNSCR 1371 and its successor resolutions

49. . With regard to designations under UNSCR 1371 paragraph 2 of section 2 of the AMLCFTA provides for the Minister of Finance on the basis of evidence supporting a recommendation from the Director of the FIU as set out in subsection 2 (1) to declare an entity a specified entity in effect a locally designated terrorist entity. Subsection 2(1) provides for the Director of the FIU on the basis of reasonable grounds to make recommendations to the Minister of Finance regarding domestic terrorist designation. The designation criteria in subsection 2(1) are in accordance with UNSCR 1373. Additional measures set out in subsections 2 (3) to 2 (8) provide for legal recourse for locally designated entities. It is noted that while subsection 2 (1) refers to a person or entity conducting terrorist activities the Minister of Finance can only designate entities. This has been addressed by subsection (2)(1)A(3) of the AMLCFTAA 2015 which amends paragraph 2 to enable the Minister of Finance to designate a person as a specified person. Consequently this recommendation is met.

50. The recommendation for the development and implementation of procedures for delisting requests, unfreezing funds and providing access to frozen funds is addressed in regulations 8-10 of the AMLCFTR 2015. Procedures for the freezing of assets and ongoing prohibitions under both UNSCRs including delisting requests, and gaining access to frozen funds for necessary expenses are outlined in the AMLCFTR 2015. Procedures for freezing of assets have been dealt with under the first recommendation Ongoing prohibitions regarding nationals or any persons and entities making funds or other assets, economic resources or financial or other related services available directly or indirectly to designated persons and entities are set out in section 68A(2) of the AMLCFTA. A mechanism for communicating designations requiring the Director of the FIU to publish the UN lists on the FIU website and obligation of persons and entities to consult published lists are stipulated in regulations 3, 4(2) and 4(3) of the AMLCFTR 2015.

51. Sections 68A (3) and (4) of the AMLCFTA, and regulation 5 of the AMLCFTR 2015 outline reporting obligations of persons and entities which are required to advise the Director of the FIU if any funds or other assets are being held for designated persons and entities. As already indicated freezing procedures have been addressed. De-listing and unfreezing procedures are stipulated in regulation 8 of the AMLCFTR 2015. Regulation 8(1) of the AMLCFTR 2015 provides for the Director of the FIU to inform the Minister of Legal Affairs of any person or entity who no longer meets the criteria of UNSCR 1373 and UNS CR 1267. Further measures in regulation 8 include the Minister of Legal Affairs advising those persons and entities who had reported holding assets of designated persons and entities that they can recommence dealing with those assets. Additionally the Director of the FIU is required to direct the DPP to apply to the court for a revocation order of the previous freeze order. Regulation 9 of the AMLCFTR provides for the submission of a de-listing request to the Office of the Ombudsman of the 1267 Committee.

52. While the above measures include delisting and unfreezing for both UNSCR 1257 and UNSCR 1373, it is noted that designated persons and entities under UNSCR 1267 can only be de-listed by the UN which can then lead to unfreezing of related assets and funds. Consequently the removal of prohibitions and unfreezing of assets of designated persons and entities under UNSCR 1267 as set out in regulations 8(2) and (3) of the AMLCFTR 2015 without taking into account the 1267 Committee is void. Regulation 10 of the AMLCFTR 2015 deals with authorising access to frozen funds. Regulation 10(1) permits access for the payment of basic expenses, certain types of fees, expenses and service charges. Assets and funds frozen under UNSCR 1267 require notification of the Committee and absence of a decision to prohibit access to the assets and funds [Regs. 10(2) and 10(3)]. Funds and assets can also be accessed for extraordinary expenses with the approval of the Committee. [reg. 10(4)] While the above measures are in accordance with the requirements of 1267 and 1373 the types of fees, expenses and service charges need to be specified. Based on the above, Guyana should amend the de-listing and unfreezing procedures in the AMLCFTR 2015 in accordance with the requirements of UNSCR 1267. The types of fees, expenses and service charges permitted for access to frozen funds should be specified.

53. Regulation 4 of the AMLCFT (Amendment) Regulations No. 7 of 2015 inserts Regulation 9A in the AMLCFTR 2015 which allows for the unfreezing and removal of prohibitions on funds or other assets of persons or entities delisted by the UNSCR 1267 Committee. Regulation 3 of the AMLCFT (Amendment) Regulations No. 7 of 2015 amends regulation 8 of the AMLCFTR 2015 to provide for the unfreezing of the funds or other assets of persons or entities under UNSCR 1373. These provisions are in accord with requirements of UNSCRs 1267 and 1373. Regulation 5 of the AMLCFT (Amendment) Regulations No. 7 of 2015 amends regulation 10 of the AMLCFTR 2015 to stipulate the types of expenses which persons or entities listed under UNSCR 1267 can apply for in accordance with the requirements of UNSCR 1267.

54. It is noted that access to frozen funds and other assets can only be granted under regulation 10 of the AMLCFTR 2015. However, regulation 10 is limited to funds and other assets frozen under section 68A of the AMLCFTA which as amended only deals with UNSCR 1267. Therefore there is no provision dealing with access to frozen funds and other assets under UNSCR 1373. Guidelines to FIs on freezing, de-listing and access to frozen funds were issued by the FIU on December 21, 2015. Section 10 of the AMLCFT (Amendment) Act No.15 of 2016 inserts section 68D in the AMLCFTA. Section 68D sets out procedures for designated persons and entities under UNSCR 1373 to access frozen funds and other assets in accordance with UNSCR 1373.

55. 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) was addressed by the issuance of a Practical Guide on Targeted Financial Sanctions on August 19, 2015. This recommendation is met. 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, all recommendations have been met.

Special Recommendation V

56. 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 measures as implemented for Recs. 36, 37, 38, 39 and 40 would also be applicable to TF and the level of compliance as reported for each individual recommendation is also applicable to SR. V. As indicated in the relevant sections of this report Recs. 36, 37 and 40 have met all their recommended actions while Recs. 38, and 39 still have some recommended actions outstanding. Consequently, this recommendation is partially met.

Other Recommendations

Recommendations 8

57. The outstanding recommendations include requiring financial institutions to have policies and procedures in place to address specific risks associated with non-face to face business relationships or transactions and have measures for managing risks including specific and effective CDD procedures that apply to non-face to face customers. The first recommendation was addressed in section 9(h) of the AMLCFTAA 2015 which inserts subsection 7A (a) in section 15 of the AMLCFTA. Subsection 7A (a) requires a financial institution to establish in writing and maintain policies and procedures to address the specifications associated with non-face-to-face business relationships and transactions, when establishing customer relationships and conducting due diligence. The above provision is limited to financial institutions since the definition of financial institution in the AMLCFTA does not include DNFBPs. Additionally, the provision refers to "specifications associated with non-face-to-face business relationships" whereas the recommendation stipulates "specific risks". Section 3 of the AML/CFT (Amendment) Act No.15 of 2016 amends subsections 7A (a) and (b) to impose the requirements on all reporting entities thereby including DNFBPs as required. Additionally, the word "specifications" has been amended to "specific risks" to comply with the recommendation. Consequently, this recommendation has been met.

58. The last recommendation has also been addressed in section 9(h) of the AMLCFTAA 2015 by inserting subsection 7A(b) in section 15 of the AMLCFTA. Subsection 7A (b) requires financial institutions to establish in writing and maintain measures to manage the specific risks including specific and effective customer due diligence that apply to non-face-to-face customers. While the above provision complies with the recommendation it does not include DNFBPs as indicated above with the second recommendation. As noted above section 3 of the AML/CFT (Amendment) Act No.15 of 2016 amends subsection 7A (b) by imposing the requirement on all reporting entities thus including DNFBPs as required. Accordingly, this recommendation is met.

Recommendation 12

59. As noted in previous follow-up reports 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 addressed by the appointment of several designated authorities. As indicated in previous reports, the FIU provided guidance and support to the DNFBPs which include training and monitoring and also monitored the supervisors' implementation of AML/CFT supervisory obligations. Supervisory authorities are required to and continue to submit to the

FIU, semiannual updates on the implementation of their AMLCFT supervisory obligations. For the period July to December 2015, the DNFBPs Supervisory Authorities continued to submit semi-annual reports to the FIU on the implementation of their obligations under the AMLCFT legislation and the FIU continued to work with the DNFBPs Supervisory Authorities to provide clarity and guidance where necessary. The Friendly Society Department conducted twenty-seven (27) on site examinations of registered friendly societies while the Co-operatives Society Department conducted two (2) onsite examinations. The Gaming Authority conducted one (1) on-site examination of the Casino. For the period the FIU held three training sessions for DNFBPs (Betting Shops and Used Car Dealers). The FIU also issued letters to the used car dealers to have these DNFBPs registered with the FIU and issued the DNFBPs Compliance Regime Guidelines No. 1 of 2016. Further information on the operations of the designated authorities in overseeing the compliance of the DNFBPs should be submitted in future follow-up reports to ensure continued implementation. Given the above this recommendation has been met for this report.

Recommendation 15

60. The authorities have advised that 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 has been addressed by section 6 of the AML/CFT (Amendment) Act No.15 of 2016. Section 6 amends section 22(2) of the AMLCFTA to require designated supervisory authorities to ensure that their respective reporting entities update their current AML/CFT policies on the basis of AML/CFT legislation. The BOG has advised that all licensed financial institutions had updated AML/CFT policies and procedures at various times during 2014 and 2015. Similarly, all money transfer agencies and cambios except for one and all insurance companies except for five. The exceptions are in the process of updating their AML/CFT policies and procedures. As such this recommendation is met.

61. 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. The authorities have advised that the outstanding requirement has been addressed by section 12(b) of the AMLCFTAA 2015 which amends subsection 19(1)(d) of the AMLCFTA. Subsection 19(1)(d) as amended requires reporting entities to train their officers, employees and agents to recognize suspicious transactions on an on-going basis. This provision does not include information on current ML and FT techniques, methods and trends as required. Section 4 of the AML/CFT (Amendment) Act No.15 of 2016 revises subsection 19(1)(d) of the AMLCFTA to include information on current ML and FT techniques as required. Consequently this recommendation is met.

62. The authorities advise 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 addressed at section 12(a) of the AMLCFTAA 2015 which amends subsection 19(1)(c) of the AMLCFTA. Subsection 19(1) (c) as revised requires the establishment of an independent audit function with adequate resources to test AML/CFT procedures and systems. This provision does not stipulate that testing include sample testing as required. Section 4 of the AML/CFT (Amendment) Bill Act No.15 of 2016 revises subsection 19(1)(c) of the AMLCFTA to include sample testing as required. This recommendation is met. . Given the above, all recommendations have been met.

Recommendation 16

63. As noted in a previous 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. As noted in the section of this report under Recommendation 12 arrangements have been put in place to implement oversight of the compliance of DNFBPs with AML/CFT requirements and information demonstrating implementation has been submitted. 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 continued implementation. Given the above, this recommendation has been met for this report.

Recommendations 17

64. The authorities have advised that the first recommendation for fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA to be dissuasive has been addressed by amendments to subsection 23(2) of the AMLCFTA as set out in subsection 7(b) of the AML/CFT (Amendment) Act No.15 of 2016. Subsection 23(2) provides for penalties for breaches of obligations under the AMLCFTA where no penalty has been defined. The penalty for corporate bodies as amended is a fine of not less than fifteen million Guyanese dollars (US\$72,000.) nor more than forty million Guyanese dollars (US\$192,000.). It should be noted that the fines for corporate bodies for ML offences in the AMLCFTA range from fines of two hundred million Guyanese dollars to five hundred million Guyanese dollars (US\$976,000 – US\$2,440,000). The above provision deals only with those obligations under the AMLCFTA for which there were no penalties and appear disproportionate to the fines for ML. The examiners' recommendation was based on concerns about existing penalties in the AMLCFTA for particular offences [i.e. tipping off – subsections 3(5) (2) and 18(15) of the AMLCFTA and failure to comply with a production or a monitoring order or provide false documentation under sections 26 and subsection 31(5)] . as indicated in paragraphs 438 and 440 of Guyana's mutual evaluation report which have not been addressed by the above provision. Consequently this recommendation remains outstanding.

65. The second recommendation requires sanctions of designated supervisory authorities under the AMLCFTA to be dissuasive, proportionate and effective and should be applicable to directors and senior management of reporting entities. The authorities have advised that the recommendation has been addressed by section 15(1) of the AMLCFTAA 2015 which inserts paragraph (f) in section 23(1) of the AMLCFTA. Paragraph (f) requires a reporting entity to remove directors and senior management to whom default is attributable. Paragraph (f) has been amended by subsection 7(a) of the AML/CFT (Amendment) Act No 15 of 2016 and allows for the supervisory authorities to impose a fine of not less than five million Guyanese dollars (US\$24,000) nor more than fifteen million Guyanese dollars (US\$72,000.). The amendment would comply with the recommendation. As such, this recommendation has been met.

Recommendation 21

66. 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 from June 2012 to June 2015 which were issued to reporting entities from August 2012 to August 2015. This measure is ongoing.

Recommendation 22

67. 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. Additionally, the BOG AML/CFT Guidelines are not fully OEM. While the authorities have provided information regarding implementation by the supervisory authorities of their respective AML/CFT supervision regimes, this does not include the requirement of the recommendation which remains outstanding.

68. 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 addressed in section 14(c) of the AMLCFTAA 2015 which inserts paragraph (eA) in section 22(2) of the AMLCFTA. It is noted that section 22(2) (e) of the AMLCFTA requires supervisory authorities to oblige 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. The examiners' recommendation required that measures also be consistent with FATF Recommendations and not only those of the Act. The authorities have cited subsection 6(2)(a) of the AML/CFT (Amendment) Act No. 15 of 2016 which amends subsection 22(2) (eA) of the AMLCFTA as meeting the recommendation. Subsection 22(2)(eA) as amended requires a reporting entity to ensure that where requirements of the host country are less strict than those under the AMLCFTA and the FATF Recommendations, that branches and majority owned subsidiaries implement the higher standard. This does not deal with the recommendation. Section 1.5 of the BOG AML/CFT Guidelines, 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 or the FATF Recommendations. As already noted the BOG AML/CFT Guidelines are not fully OEM. The authorities have cited paragraph 3 of the AMLCFT Directives as addressing the recommendation. However the paragraph mandates the supervisory authority to impose a requirement on a reporting entity rather than directly subjecting a financial institution to the requirement in the recommendation. Additionally, the AMLCFT Directives are not OEM. As such this recommendation remains outstanding.

69. The authorities have advised that 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 addressed by section 14(c) of the AMLCFTAA 2015 which inserts paragraph (eA) in section 22(2) of the AMLCFTA. While paragraph (eA) sets out requirements for financial institutions with regard to their branches and subsidiaries these do not include financial institutions being 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. The authorities have cited subsection 6(2) (d) of the AML/CFT (Amendment) Act No.15 of 2016 which amends subsection 22(2)(eA) of the AMLCFTA by inserting a subparagraph (iii) which includes the requirements of the recommendation. While the requirement is set out in section 1.5 of the BOG AML/CFT Guidelines, the concerns as noted above with regard to AML/CFT Guidelines being not OEM are applicable. This recommendation is met. Given the above, one recommendations is met and two remain outstanding.

Recommendations 24

70. As indicated in a previous report, one recommendation was outstanding and two were partially met. The recommendation that casinos be subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures was 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. As noted in a previous report the FIU had started training the newly appointed supervisory authorities on their roles and obligations under the AMLCFTA and the AMLCFTR. Additionally, the Government of Canada was providing technical assistance to help supervisory authorities develop operational capacity to carry out their functions. The authorities advised that during the period January to June 2015, the FIU held a training session on the STR and LCTR reporting formats with the Gaming Authority and the manager of the lone casino. While the Gaming Authority did not conduct any on-site/off-site examinations of the lone casino nor provide AML/CFT training for its staff or the casino for the period there were plans to conduct AML/CFT training for the staff of the Gaming Authority and key stakeholders in relation to casino regulations by September 2015. An on-site examination of the casino's AML/CFT policies and procedures was scheduled for October 2015. The Gaming Authority further reported that there were also plans to employ at least two additional staff to focus specifically on AML/CFT issues for the Authority by September 2015. No information has been submitted for this report regarding the status of the above plans. 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 is ongoing.

71. 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, section 25 of the AMLCFTAA 2015 provides for amendments in Acts listed in the attached Schedule. As listed in the Schedule, the Gambling Prevention Act was amended by inserting section 29A which requires the Gaming Authority to assess the integrity of an applicant, partner, shareholder, directors, office holders of an applicant and beneficial owner on a regular basis and whenever there is a change in ownership or management. Additionally section 32(1) has been amended by inserting paragraph (eA) stipulating that the responsible Minister can make regulations prescribing the criteria to be considered in assessing the integrity of any person or firm in the above provision. The authorities have advised that section 11 of the AML/CFT (Amendment) Act No 15 of 2016 revises section 29A of the Gambling Prevention Act to require the Gaming Authority to evaluate whether an applicant for a licence is fit and proper on the basis of specific listed criteria. Such process involves also assessing the partners, shareholders, directors, office holders of an applicant and beneficial owners as required by the recommendation. This requirement is also applicable whenever there is a change in ownership, management or control of the licensee. Consequently this recommendation is met.

72. The authorities have advised that the recommendation for sanctions of designated supervisory authorities under the AMLCFTA should be dissuasive, proportionate and effective and applicable to directors and senior management of DNFBPs has been addressed by section 15 (1) of the AMLCFTAA 2015 which amends section 23(1) of the AMLCFTA. As noted in the section of this report dealing with R. 17 section 15(1) of the AMLCFTAA 2015 inserts paragraph (f) in section 23(1) of the AMLCFTA. Paragraph (f) requires a reporting entity to remove directors and senior management to whom default is attributable. Paragraph (f) has been amended by subsection 7(a) of the AML/CFT (Amendment) Act No 15 of 2016 and allows for the supervisory authorities to impose a fine of not less than five million Guyanese dollars (US\$24,000) nor more than fifteen million Guyanese dollars (US\$72,000.). The amendment complies with the recommendation. As such one of the examiners' recommended actions has been met and two remain met.

Recommendation 25

73. The outstanding 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. AMLCFT Guidelines for the insurance companies were issued on March 26, 2013. The authorities have advised that the GSC issued an AMLCFT

Guide based on the AMLCFTA covering AMLCFT obligations, reporting of suspicious transactions and an examination guide. A copy of this Guide was provided for a previous report. The FIU has advised that it has issued Examination Guidelines for AMLCFT Supervisory Authorities and Practical Guide for the implementation of measures for Targeted Financial Sanctions. It is noted that the Examination Guidelines are for supervisory authorities and not financial institutions. The practical guide was issued to all financial institutions and DNFBPs. In March 2016, the FIU issued a guideline to DNFBPs entitled “Compliance Regime DNFBPs” dealing with most aspects of DNFBPs’ AML/CFT obligations. This guideline was issued for the FATF categories of DNFBPs together with pawn brokers, friendly societies, used car dealers, and co-operative/credit unions. Given the above, this recommendation is met.

Recommendation 30

74. 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. As indicated in a previous report the FIU had in its employ, one Director, one Legal Adviser, two Financial Analysts, one Database Administrator and one Administrative Officer. The FIU has employed another person since March 2014 as the legal adviser responsible for the newly appointed supervisory authorities for DNFBPs. The functions of the position include ensuring compliance by DNFBPs/reporting entities with the AML/CFT legal obligations, contributing to the implementation and maintenance of AML/CFT supervision and compliance manuals, policies, procedures and systems for DNFBPs/reporting entities, overseeing AML/CFT staff training programs by DNFBPs/reporting entities and examining and supervising DNFBPs/reporting entities.

75. 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 that an agreement was signed in September 2014 between the Governments of Guyana and the United Kingdom for the provision of training and mentoring of the GPF and SOCU officers in the recovery of the proceeds of crime and investigating ML and TF. As noted in a previous report SOCU was established in the GPF to be exclusively responsible for the investigation of financial/economic crime, particularly ML and TF. SOCU became operational from September 1, 2014. The Unit is under the command of the Commissioner of Police (COP), and has commenced operation out of its own building from March 26, 2015. The Unit has a staff of five (5) including a Head – an Assistant Commissioner of Police, and three (3) investigators. The FIU submits reports to the Head of SOCU and consults on investigation targets. During the period January to December 2015 the FIU referred thirteen (13) files to SOCU for investigation. To date a total of nineteen files have been referred to the SOCU. These investigations are ongoing. The Head of the SOCU has attended two overseas conferences during the period January to June 2015 while members of staff have attended four overseas training courses in areas of financial investigation, basic investigation, proceeds of crime, border protection and prosecution.

76. Under the above agreement, the UK with financial assistance from the US conducted a financial investigative training for officers of SOCU, GPF, DPP, GRA, Attorney General’s Chambers, FIU and the BOG during November 17-28 2014. Training and mentoring of the GPF and the SOCU have been ongoing since September 2014. In addition, a criminal or terrorist cash awareness training was also conducted in November 2014 for officers of the GRA, CANU and GPF who are involved in cash seizures at the ports of entries and exits. Customs officers of the GRA were provided training on cross border transportation of currency in May 2015 and October 2015.

77. With regard to the recommendations for the authorities to consider measures to deal with the integrity problems of the GPF, as noted in a previous report the GPF 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.

78. As indicated in previous reports, the OPR was decentralized and provided with increased staff and appropriate training. Additionally, the GPF carried out training as part of a capacity building exercise to improve the level of professionalism of the officers of the GPF.

**Table 4: Complaints received and dealt with by the Office of Professional Responsibility
for the period 2011 – June 2015**

Year	No. of complaints received	Charged & Dismissed	Departmental Discipline	Warned
2011	244	6	20	37
2012	291	6	18	52
2013	628	10	53	44
2014	481	10	107	53
2015	718	9	185	160

79. The figures in the above table record a significant increase of 49.3% in complaints in the year 2015. Additionally, departmental discipline actions increased by 73% and warnings by 202% for 2015. These figures would suggest that while there is still a problem with integrity, the OPR appears to be attempting to deal with it. Figures should be submitted in future reports to demonstrate whether problem of integrity is resolved.

80. With regard to the recommendation for the staff of the DPP to be provided with ML training, as indicated above staff of the DPP attended a financial investigative training during November 17-28, 2014. No information on training has been provided for this report. In relation to the recommendation for relevant AML/CFT training for the staff of the GSC, BOG and the DCFS, staff of the BOG also participated in the above mentioned financial investigative training, while the GSC, BOG and the DCFS attended a workshop on the AML/CFT National Strategic Plan held by the FIU in collaboration with the Canadian International Development Agency (CIDA) in November 2014. No information on AML/CFT training has been provided for this report.

81. With regard to the recommendation that adequate staff and resources should be provided to the GSC and the DCFS, the authorities advised in a previous report that the staff of the DCFS was increased from five to eight and there were plans for additional staff before the end of 2014. Presently, both the GSC and the DCFS have established AML/CFT departments. The GSC has appointed an AML/CFT Surveillance Officer/Examiner, while the DCFS has appointed an AML/CFT Compliance Officer. The role of these officers is to monitor compliance by their respective reporting entities.

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. It was noted in a previous report that the GRA was awaiting approval of the Government for the establishment of another outpost at Morawhanna. At present, the GRA has reported that Cabinet has approved the establishment of three (3) additional outposts at Charity, Parika and Eteringbang. While the necessary works are on-going at these locations to prepare the outposts for occupancy, GRA has already commenced operations in rental buildings at two (2) of the three (3) locations (Charity and Parika).

83. In relation to the recommendation for relevant staff of the GRA to be provided with AML/CFT training, as already indicated GRA officers benefitted from the financial investigative training held in November 2014 as well as the cash awareness training held in the same month. Customs officers of the GRA were provided training on cross border transportation of currency in May 2015. As a result of the above, two recommendations have been met, and seven are partially outstanding (ongoing).

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 and to provide advice to Government and guidance to private entities in relation to AML/CFT obligations. As noted in a previous report the authorities 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 functions and activities of the Committee were noted in the last report. The authorities advised that the Committee continues to meet regularly. Results of these meetings are as follows:

- The conception and establishment of a Special Organized Crime Unit (SOCU).
- The establishment of a sub-committee to oversee the operations of SOCU.
- The identification of a location for SOCU.
- The approval of funding for the renovations of the location and resourcing of SOCU.
- Commencement of interviewing applicants for employment with SOCU.
- Establishment of a mechanism within all relevant agencies to maintain and report statistics related to AML/CFT.
- Appointment of focal points (persons) within all the relevant agencies to respond to requests for information related to AML/CFT matters.
- Plans initiated to establish a committee to focus on the National Risk Assessment.
- Consideration of a National Strategy for Combating ML/TF – 2014 – 2019.
- Monitoring Guyana's compliance with the FATF Standards.

85. At present, the Committee continues to meet regularly having held three (3) meetings between August and December 2014. The last meeting was April 2015 at which it was decided that the FIU should be provided with AML/CFT reports from relevant agencies, a standard operating procedure for interagency

operations at ports of entry/exit and a MOU for information sharing should be prepared, relevant agencies should be formally informed of SOCU's operations at ports of entry/exit and the FIU agreed to share information in urgent circumstances however a formal request must be submitted as soon as possible. The authorities advise that section 4 of the AMLCFTAA 2015 provides for the establishment of an AMLCFT Authority to ensure among other things, that the performance of the FIU accords with international obligations and commitments and to monitor and review compliance with all relevant legislation, policies and measures. Additionally, the AMLCFTAA 2015 requires the FIU and the AMLCFT Authority to liaise with each other and work in collaboration. Reports on the activities and outcomes of the Committee should be submitted in future follow-ups to ensure ongoing compliance. No information on the activities of the Committee was submitted for this report.

86. 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. As indicated in a previous report, the authorities advised that the Committee was in the process of establishing mechanisms for consultation between competent authorities. 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. The authorities have advised that the process of consultation with the financial sector and other including the DNFBPs has commenced. This was evidenced by a five (5) year (2014-2019) National Strategy for Combating ML and TF which was prepared in consultation and collaboration between the competent authorities including the financial sector and DNFBPs.

87. In addition to the above, in October 2014, the SOCU-GPF and the FIU signed an MOU enabling cooperation in the exchange of information relating to suspicious transactions, investigations, prosecutions and other matters related to ML/TF and proceeds of crime. The Committee has agreed to establish mechanisms for consultations/information sharing among other relevant sectors. Technical assistance is being sought to facilitate the establishment of these mechanisms. No further information on the establishment of the above mechanisms has been provided for this report. Given the above, both of the examiners' recommended actions (the establishment of a national AMLCFT Oversight Body) and (the establishment of explicit mechanisms for consultation between competent authorities, the financial sector and DNFBPs) are partially met for this report.

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. No figures on the number of declarations collected has been provided for this report. However figures on the value of the currency declarations collected during the period from July to December 2015 have been submitted as shown in the table below.

Table 5: Value of Monthly Foreign Currency Declarations for July – December 2015 – GRA

Month	USD	CAN	TTD	GB	EURO
July	2,468,625.	393,257.	224,921.	105,030.	10,005
August	1,509,636.	104,057.	935,117.	19,850.	9,115.
September	3,664,034.	86,710.	1,440,182.	131,055.	NIL
October	2,718,524.	628,900.	1,616,597.	109,480.	40,060.

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November	2,431,528.	234,400.	652,217.	75,485.	14,050.
December	1,963,160.	585,290.	1,114,723.	124,370.	25,390.
Total	14,755,507.	2,032,614.	5,983,757.	565,270.	98,620.

89. The GRA reported that there were no false declarations or cash seizures during July to December 2015. The authorities have reported that between September 2014 and April 1, 2015 the SOCU made seven (7) cash seizures involving currency totaling approximately US\$410,000 equivalent. These matters are currently before the courts pending hearing and determination. During the period April to June 2015 there were two (2) additional cases of cash detention/seizure involving currency totaling approximately US\$400,000 equivalent. To date, four (4) of the nine (9) cases of cash seizure are still before the courts. Five (5) cases were discontinued and cash of approximately US\$600,000 was returned since the court decided that there was no evidence that the accused was involved in ML, TF or any other predicate offence. No further information on the above has been provided for this report.

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 advised that no formal requests or spontaneous referrals were made or received during the period July to December 2015.

91. In relation to the recommendation for the maintenance of statistics on mutual legal assistance or other international requests for co-operation, as indicated in a previous report the authorities advised that the Ministry of Public Security (formerly Ministry of Home Affairs) is responsible for and does maintain these statistics. The Ministry of Public Security has advised that during the period from July to December 2015 two (2) mutual legal assistance requests were received and are still being dealt with. Guyana sent two (2) requests during the period which are still pending.

92. In response to the recommendation for the maintenance of statistics on extradition the Ministry of Home Affairs has advised that two (2) extradition requests were received for the period July to December 2015 and are pending. No extradition requests have been made by Guyana.

93. With regard to the recommendation for the authorities to implement a regular review of the AML/CFT systems in Guyana, the authorities advised in a previous report that this function was to be performed by the Committee as set out in the section of this report dealing with Recommendation 31. The authorities 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. At present, the authorities have advised that Guyana has already implemented a non-traditional review system whereby the AML/CFT systems are constantly reviewed as new DNFBPs are brought on stream and as new AMLCFT regulations and guidelines are drafted. The function will now be formally carried out by the AMLCFT Authority established under section 4 of the AMLCFTAA 2015. As such this recommendation is outstanding. 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

94. The authorities have sought to implement the outstanding recommendation for the Company Act (CA) to 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 by section 25 of the AMLCFTAA 2015 which provides for the insertion of 470A in the CA. Section 470A(1) requires the Registrar to ascertain the

beneficial ownership of any company and ensure that the information about beneficial ownership in the Register is adequate, accurate and current. Beneficial ownership is defined to have the same meaning as in the AMLCFTA. The above provision was amended by section 11 of the AML/CFT (Amendment) Act No. 15 of 2016 which replaced section 470A (1) of the CA with subsections (1) and (1A). Subsection (1) had the same requirements as the former section 470A (1) and subsection (1A) requires all registered companies to provide relevant beneficial ownership information to Registrar on a regular basis or on demand from the Registrar. Failure to comply with the obligation can make any of the directors of the relevant company liable on summary conviction to a fine of not less than ten million Guyanese dollars (US\$48,000) nor more than forty million Guyanese dollars (US\$192,000) and to imprisonment for not more than three years. The above provisions fully comply with the recommendation.

Recommendation 34

95. 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. With regard to the first recommendation the authorities have cited subsection (1) which replaced former section 470A (1) of the CA as set out in section 11 of the AML/CFT (Amendment) Act No. 15 of 2016. Subsection (1) requires the Registrar to ensure in a timely manner that the information about beneficial ownership and the control of trusts or other legal arrangements in the Register is adequate, accurate and current. The above measure refers to information about beneficial ownership and the control of trusts or other legal arrangements in the Register. The authorities have not provided any references in the CA requiring that such information be provided to or maintained in the Register. The above measure is not viable without such provision. In the absence of information about such provision the recommendation remains outstanding.

96. In relation to the second recommendation that adequate, accurate and timely information is available to law enforcement authorities concerning the beneficial ownership and control of trusts, the authorities have also referenced subsection (1) as above. However the same observation as noted with the first recommendation is applicable. Consequently this recommendation remains outstanding.

Recommendations 37

97. With regard to the outstanding recommendation requiring provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures the authorities have referred to subsection 6(3) of MACMA which provides for the relevant Minister by order to specify the less intrusive and non-compulsory measures for which mutual legal assistance can be granted in the absence of dual criminality. However, the provision addresses mutual legal assistance while the examiners' recommendation under consideration deals with extradition. Additionally, section 5 of the MACMA states that nothing in the MACMA authorizes the extradition, arrest or detention with a view to extradition of any person. The authorities have cited section 11 of the AML/CFT (Amendment) Act No. 15 of 2016 which inserts at the end of section 5 of MACMA a provision allowing for less intrusive and non-compulsory measures for extradition in the absence of dual criminality. This provision complies with the recommendation.

Recommendation 38

98. The outstanding recommendation requires the authorities to put in place arrangements regarding coordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters. In a previous report the authorities submitted a letter from the Ministry of Home Affairs which set out procedures and probable timelines for seizure and confiscation actions at the request of other

countries/jurisdictions. There was no reference to the type of measures taken to coordinate these actions with the requesting country if necessary. The Minister of Home Affairs in another letter advised that existing legislation prescribes strict legal requirements and conditions that inform any coordinating measures agreed to between Guyana and the requesting state. The authorities cited the provisions of AMLCFTA which stipulates the procedures to be followed to satisfy a request from another country to identify, freeze, seize or forfeit property, proceeds or instrumentalities. While the provisions prescribes the procedures for acceding to requests there is no mention of what arrangements are in place for coordinating seizure and confiscation actions in Guyana with those in a requesting country if necessary. In the last report, the authorities advised that the Ministry of Public Security (former Ministry of Home Affairs) reported that all seizures in and outside of Guyana will be coordinated by SOCU. However, to date there have been no precedents since seizures have been local and unilateral. At present the authorities have indicated that they have further reviewed the existing laws with the aim of addressing the recommendation and submitted a legal opinion on the matter. While the opinion details the legal requirements for requests from another country for seizure and confiscation actions there is no information about arrangements for coordinating such actions. Consequently this recommendation remains outstanding.

Recommendation 39

99. 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. As indicated in the last report the authorities advised 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 submitted in a letter extradition procedures that the Central Authority in 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 was 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. The authorities advised that no request for extradition was made or received for August 2013 to December 2014. Two (2) extradition requests were received for the period July to December 2015 and are pending. The authorities further advised that the administrative elements of the process i.e. receipt and processing of request and submission of necessary applications do not exceed one month from the date of receipt of a request. Consequently, this recommendation has been largely met.

Special Recommendations VI

100. The first outstanding 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. Information on the numbers of money transfer agencies and agents inspected by the BOG and AML/CFT breaches detected from December 2010 to end of 2014 was submitted in previous reports. During the period January to June 2015 five (5) money transfer agencies were inspected by the BOG and no sanctions were instituted. The above demonstrates continuing compliance with the examiners' recommendation.. The authorities should seek to ensure ongoing implementation for future Follow-Up Reports.

101. 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 this recommendation has been addressed by section 25 of the AMLCFTAA 2015 which provides for amendments of statutes as detailed in the attached Schedule. As stipulated in the Schedule, section 17 of the MTALA has been amended in subsection (1) by revising the

penalty for a licensee of the MTALA, money transfer agent, or any of their directors, managers, or employees failing to comply with the on-site obligations of section 16 or obstructing authorized persons in performing on-site examinations. The new penalty is a fine of five million Guyanese dollars (US\$24,000) and imprisonment for three years. Further, subsection (2) of section 17 imposes a penalty on any licensee, money transfer agent or any of their directors, managers or employees who contravenes any provision of the MTALA, any regulation, notice, guideline or any conditions of a licence for which no penalty has been specified. The penalty for natural persons is a fine of five million Guyanese dollars (US\$24,000) and imprisonment for three years and for corporate entities a fine of not less than one million five hundred thousand Guyanese dollars (US\$7,200) nor more than twenty million Guyanese dollars (US\$96,000). While the above penalties are dissuasive for natural persons it is noted that the fine in subsection (2) of section 17 for a natural person is five million Guyanese dollars (US\$24,000) while a corporate entity can be fined as low as one million five hundred thousand Guyanese dollars (US\$7,200) which is lower than the fine for a natural person. As such, the fines in subsection (2) are not proportionate. At present, the authorities have cited section 11 of the AML/CFT (Amendment) Act No. 15 of 2016 which has revised the lower range of the fine for corporate entities in subsection (2) of section 17 to ten million Guyanese dollars (US\$48,000) thus making the penalty proportionate to that for a natural person. However, in section (1) one penalty is applicable to both natural persons and corporate entities with similar fines and in the case of a natural person a term of imprisonment. The sanction is disproportionate in relation to its application to natural persons. Consequently this recommendation is partially met. Given the above, one recommendation remains partially met.

Special Recommendation VII

102. As indicated in a previous report the recommendation 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 of the AML/CFT (Amendment) Act No.15 of 2016 has amended section 20 of the AMLCFTA by inserting subsection (6) which requires all financial institutions to have effective risk-based procedures in place to identify wire transfers lacking complete originator information. Consequently, this recommendation is met.

103. The last recommendation required sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA to be dissuasive and proportionate and applicable to directors and senior management. The authorities have advised that this recommendation has been addressed by section 5 of the AML/CFT (Amendment) Act No. 15 of 2016 which has amended section 20 of the AMLCFTA by inserting subsection 7 which establishes a penalty for contravention of section 20. The penalty is a fine of not less than five million Guyanese dollars (US\$24,000) nor more than fifteen million Guyanese dollars (US\$72,000) and imprisonment for a term of not more than three years. This sanction is applicable to both licensed financial institutions or any director, manager, officer or employee of a licensed financial institution. While the sanctions are dissuasive, they are not proportionate since the same sanction is applicable to both natural persons and corporate entities. Consequently this recommendation is largely met. . Given the above, one recommendation has been met and one largely met.

Special Recommendation VIII

104. As indicated in a previous report with regard to the six outstanding recommendations concerning NPOs, the authorities had 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 (FSA). Registered charities include all friendly societies/NPOs, benevolent societies, working men's clubs and other authorized societies. The authorities advised that with the appointment of the supervisory authority all of the recommendations in relation to NPOs would be dealt with accordingly. It was indicated

in a previous report that the FIU had started training the newly appointed supervisory authorities on their roles and obligations under the AMLCFTA and the AMLCFTR. Additionally, through technical assistance being received from the Government of Canada, a supervisor's manual for supervisory authorities was 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.

105. The authorities advised that the FIU continues to provide training to the CCDO and team with the aim of equipping the CCDO with the necessary resource and skill to carry out its functions. A follow-up meeting was held with the CCDO on February 17, 2014 and the CCDO and Registrar benefitted from an AML/CFT Supervision training held for supervisory authorities on April 10-11, 2014. It was reported that the process of regularizing NPOs for AML/CFT purposes had started and approximately 898 of 1,400 friendly societies/NPOs were identified for cancellation for violation of the FSA. The number of staff with the CCDO increased from 5 to 8 between August 2013 and February 2014 and there were plans for further staff increases. The CCDO was urged to complete a work plan outlining measures for bringing NPOs in compliance with their obligations as reporting entities. A copy of the FATF Best Practices on Combating the Abuse of NPOs was distributed to NPOs. Between January and June 2014, there were forty-two (42) audits of friendly societies with no breaches being found. Fifty-two (52) on-site AML/CFT awareness sessions were conducted with groups registered as friendly societies in 2014. For the period January to June 2015 the DCFS conducted 23 off-site AMLCFT examinations of registered friendly societies/NPOs. In March 2015, the DCFS conducted its first in-house AMLCFT training. The DCFS employed two additional officers for responsibility for friendly societies/NPOs in remote regions and the Division received additional equipment. The DCFS' Friendly Society Manual on AMLCFT was approximately ninety percent complete. At present, the authorities have advised that for the period July to December 2015 the DCFS conducted 27 on-site AML/CFT examinations of friendly societies/NPOs and no sanctions were issued. While the above measures addresses to some extent the recommendations for the implementation of a system of effective supervisions and monitoring of all NPOs and outreach to the NPOs, information on measures dealing with the remaining four outstanding recommendations should be submitted in future reports. Consequently, two recommendations are partially met and four are outstanding.

Special Recommendation IX

106. 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 is dealt with under SR.III of this report. The recommendation relating to UNSCR 1267 and UNSCR 1373 is met.

III. Conclusion

107. The major new developments in Guyana were the enactment in January 2016 of the AML/CFT (Amendment) No.2 Act 2015 and the ATTRAA, 2015 and in May 2016, the AML/CFT (Amendment) Act No. 15 of 2016. These statutes fully address the legislative amendments required by the examiners' recommended actions in the outstanding core and key Recommendations (5, 23, 35, SR.I and SR.III) and a majority of the remaining outstanding Recommendations.

108. The overall level of compliance has improved with Recs. 1, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 15, 16, 19, 21, 23, 25, 26, 27, 28, 29, 31, 33, 35, 37, 40, SR. I, SR. II, SR. III, SR. IV, SR. VII and SR. IX having met all recommended actions. There has also been substantial improvement in the compliance of Recs. 21, 38, 39, SR. V and SR. VI. Guyana should be commended for the improvement in compliance.

109. To demonstrate continued implementation the authorities should continue to submit information for each report regarding the provision of training both to the competent authorities and the financial

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institutions, the on-site AML/CFT inspection activity of the BOG, GSC and CCDO and the various statistical information required under Rec. 32.

110. As indicated above, Guyana has significantly improved its overall level of compliance and most importantly Guyana has fully addressed the core and key Recommendations. While Guyana satisfies the criteria for application to exit the follow-up process, it is still in the FATF ICRG process which it needs to complete first. As such it is recommended that Guyana stay in enhanced follow-up and be required to report on continuing implementation to the next Plenary in November 2016.

**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
Legal systems				
1. ML offence	PC	<ul style="list-style-type: none"> ML offences in the AMLCFTA are not consistent with the requirements of the Vienna and the Palermo Conventions. 	<ul style="list-style-type: none"> 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. 	<p><i>i. This recommendation was addressed at section 3(b) – page 7 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 3(1) of the Principal Act.</i></p> <p>The AMLCFT (Amendment) Bill No. 12 of 2013 was published, introduced in the National Assembly 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 (see matrix with these amendments attached). At the 15th 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. 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 (see copy of Draft Report attached). It is anticipated that the Special Select Committee will complete its deliberations on the Bill and make recommendations to Parliament when it reconvenes in October 2013. While we cannot predict the decisions of our democratic Parliament we anticipate that the Bill will be reviewed and concluded in Parliament before November 30, 2013. We will update</p>

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				<p>ICRG and CFATF on a weekly basis or as needed on all developments pertaining to the Bill. Also attached hereto is a copy of the Draft Minutes of the 15th Meeting of the SSC.</p> <p>The AMLCFT Amendment Bill No. 12 of 2013 which contained modifications that were reviewed by CFATF was rejected by Parliament on November 14, 2013. This Bill was again published on December 10, 2013 and re-introduced in the National Assembly as AMLCFT (Amendment) Bill No. 22 of 2013. The Bill was read a first time on December 12, 2013. It was then debated and read a second time on December 19, 2013. Following the second reading, the Bill was committed to a Parliamentary Special Select Committee (PSSC), by the National Assembly, for consideration. Members to comprise the PSSC to consider the Bill were nominated at a meeting held on December 20, 2013. The PSSC met on 15 occasions between January 19, 2014 and February 27, 2014.</p> <p>At its 9th meeting held on February 9, 2014 the PSSC concluded its work on the AMLCFT Amendment Bill and the Bill with minor amendments were approved by the Committee. Further amendments to the Principal AMLCFT Act 2009 were then proposed at subsequent meetings. These proposed amendments were conveyed to the Chief Parliamentary Council (CPC) for drafting.</p> <p>At the 14th meeting of the Committee held on February 26, 2014 the CPC sought further clarification on several issues related to the proposed amendments. These were provided and the CPC was asked to prepare the draft amendments and submit to the Committee for consideration on February 27, 2014.</p> <p>At the 15th meeting of the Committee held on February 27, 2014, the Committee received a letter from the CPC requesting more time to draft the proposed amendments. The next meeting of</p>
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				<p>the Committee was then scheduled for March 5, 2014, where the Committee will review the draft amendments.</p> <p>The work of the committee was therefore not completed in time for the Bill to be brought back to the main Parliament which convened on February 27, 2014.</p> <p>We will update CFATF on all developments pertaining to the Bill as they occur. See attached the PSSC Chairman's Draft Report of the AMLCFT Amendment Bill.</p> <p>Between February 27 and June 11, 2014 the PSSC had nine (9) additional meetings. However, the Bill remains with the PSSC as the Committee continues its review. The Bill can only be returned to the National Assembly for passage upon the completion of the work of the Committee.</p> <p>The National Assembly is currently in a two (2) month recess (August 14 to October 10, 2014).</p> <p>We have further examined the CFATF assessor's recommendations that are the subject of the Amendment Bill and we have addressed a number of these recommendations by administrative and executive methods (the issuance of Guidelines and Directives).</p> <p>In this regard, thirty-eight (38) of the fifty-nine (59) assessor's recommendations which are already included in the Bill have been addressed as follows:</p> <p>Twenty-six (26) addressed in AMLCFT Guidelines issued by Supervisory Authorities to their respective reporting entities on August 28, 2014.</p> <p>Thirteen (13) addressed in an AMLCFT Directives issued by the Attorney General and Minister of Legal Affairs to the Supervisory</p>
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				<p>Authorities, Reporting Entities, and the Registrar of Deeds on August 26, 2014. The Directives and Guidelines were published in the Official Gazette and on the FIU’s website on August 29, 2014.</p> <p>(See attached copy of Guidelines and Directives) Rec. 1(i))</p> <p>The AMLCFT Amendment Bill 2014 was terminated by the Proroguing of the 10th Parliament of Guyana on November 10, 2014. A new AMLCFT Amendment Bill will be introduced in the 11th Parliament following General and Regional Elections which are scheduled for May 11, 2015. As a new Amendment Bill will be introduced, the authorities have decided to further amend the Bill to provide for penalties for breaches of the AMLCFT Regulations which also applies to breached of Guidelines and Directives issued thereunder. The provision of this penalty should make R. 15(v), R 21(ii), R 22(ii), R 22(iii) and R 25(ii) compliant, as these are currently rated ‘partly met’ due to the Guidelines not being fully OEM. Further amendments are also made with regard to SRIII to provide for the freezing of terrorist assets without delay. This Bill is expected to be passed and enacted by September 2015, as per Action Plan agreed with the ARRG. (See copy of Amended Bill attached – R. 1(i)).</p> <p><i>The AMLCFT (Amendment) Act No. 1 of 2015 was passed in the National Assembly on June 26, 2015 and was assented to by His Excellency President Brigadier David A. Granger and Gazetted on July 10, 2015.</i> <i>This recommendation was met - see paragraph 16 of Guyana’s 9th Follow up Report.</i></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</p>
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		<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • Illicit trafficking in stolen and other goods and smuggling should be criminalized as a serious offence and a predicate offence to ML. 	<p>(1) <i>“Everyone who receives any chattel, 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</i></p>
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		<ul style="list-style-type: none"> The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation. 	<ul style="list-style-type: none"> Systems should be put in place to effectively implement the AMLCFTA and relevant Government entities made aware of the legislation and its applicability. 	<p><i>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 goods in respect of the offence being forfeited, respectively. These are therefore serious offences under the AMLCFTA which states ““serious offence” 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”.</p> <p>(This recommendation was met – see paragraph 9 Guyana 1st 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 3rd Follow up Report).</p> <p>The FIU continues to provide training for the relevant Government entities on the AMLCFT legislation and the FATF Standards and their applicability. For the period April to August 2014 the FIU held five (5) training sessions and one (1) Workshop with Government agencies as follows:</p> <ul style="list-style-type: none"> - One (1) training session for Customs officers stationed at the ports of entries on foreign currency declaration to effectively monitor cash couriers. - One (1) training session for officers of GRA, GPF, AG’s Chambers, DPP, FIU
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				<p>and the BOG on Advanced AMLCFT Investigative Techniques.</p> <ul style="list-style-type: none"> - One (1) training session for the sub-Agents of a Money Transfer Agency. - One (1) training session for the frontline employees of a LFI (Bank) on CDD, KYC and STR. - One (1) training session for Gold Dealers on their obligations under the AMLCFT legislation. - One (1) workshop on AMLCFT Supervision for the SAs of Money Transfer Agencies, Cambios, Insurance, Banks, Securities Dealers, Cooperatives, Charities, Casinos, and Gold and Diamond Dealers. <p>For the same period the FIU held three (3) advisory/awareness sessions (provision of information and guidance on AMLcFT obligations) with SAs for Registered Charities, Cooperatives and Gold Dealers.</p> <p>Additionally, the FIU has commenced supervision of Pawnbrokers. For the reporting period the FIU held one (1) training session on the obligations of pawnbrokers as reporting entities under the AMLCFT legislation and one (1) advisory/awareness session where information and guidance on AMLCFT compliance was provided to the pawnbrokers.</p> <p>The FIU continues to provide AMLCFT training to the relevant entities.</p> <p><i>(See attach Summary of training/meetings held for the period July to December 2015 – Rec I(iii).</i></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"> • The definition of property liable for confiscation does not include assets of every kind, whether tangible or intangible, or indirect proceeds of crime including 	<ul style="list-style-type: none"> • 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 	i. <i>This recommendation is addressed at section 2(e) - page 5 of the AMLCFT (Amendment) Act No. 1 of 2015 by substituting the definition of property at section 2 of the</i>

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		<p>income, profits or other benefits from proceeds of crime or property held by third persons.</p> <ul style="list-style-type: none"> • 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 	<p>and property held by third persons and assets of every kind, whether tangible or intangible.</p> <ul style="list-style-type: none"> • The competent authorities should provide resources to ensure the requisite agencies are trained under the recent legislation in order to enable effective implementation. 	<p><i>Principal Act with a new definition of property.</i> <i>This recommendation was met - see paragraph 33 of Guyana's 9th Follow up Report.</i></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, Magistrates, Judges and police prosecutors. <i>This recommendation was met – see paragraph 19 of Guyana's 5th Follow-up Report).</i> <i>As indicated at Rec. 1(iii) above the FIU continues to provide training to Government entities.</i></p>
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • No provision for the GSC to access information relevant to AML/CFT matters from registrants of the SIA. • No provision for the CCDO to share information from a society registered under the CSA with local and international competent authorities 	<ul style="list-style-type: none"> • The GSC should have the power to access information relevant to AML/CFT matters from registrants of the SIA. • The CCDO should be able to share information from a society registered under the CSA with local and international competent authorities. 	<p>i. <i>This recommendation was addressed at section 14(bb) – page 23 of the AMLCFT Amendment Act No. 1 of 2015 which amends section 22(2) of the Principal Act. The amendment includes provisions giving SAs access to information relevant to ML/TF from their REs at any time.</i> <i>This recommendation was met - see paragraph 35 of Guyana's 9th Follow up Report.</i></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 & d) of the AMLCFT Act to share information</p>

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				<p>as recommended with local and international competent authority. <i>(This recommendation was met – see paragraph 19 Guyana 4th Follow up Report).</i></p>
<p>5. Customer due diligence</p>	<p>PC</p>	<ul style="list-style-type: none"> • Threshold for the application of CDD measures for occasional transactions has not been prescribed, leaving such determination to the discretion of the reporting entities. • No requirement for reporting entities to obtain information on the ownership of customers who are legal persons or legal arrangements. 	<ul style="list-style-type: none"> • A threshold for the application of CDD measures for occasional transactions should be prescribed in accordance with the FATF standard. • Reporting entities should be required to obtain information on the ownership of customers who are legal persons or legal arrangements. 	<ul style="list-style-type: none"> 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 1st Follow up Report).</i> 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> <ul style="list-style-type: none"> <i>(a) when establishing a business relationship, obtain information on the purpose and nature of the business relationship;</i> <i>(b) if the transaction is conducted by a natural person,</i> <i>(c) 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> <ul style="list-style-type: none"> <i>(i) the customer's name, legal form, address and directors;</i> <i>(ii) the principal owners and beneficiaries and control structure;</i> <i>(iii) 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.”</i> <p><i>(This recommendation was met – see paragraph 12 Guyana 1st Follow up Report).</i></p>

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		<ul style="list-style-type: none"> • No requirement for reporting entities to determine who are the natural persons that ultimately own or control the customer. • No requirement for the verification of legal status of specific legal arrangements such as trusts. 	<ul style="list-style-type: none"> • Reporting entities should be required to determine who are the natural persons that ultimately own or control the customer. • Reporting entities should be required to verify the legal status of specific legal arrangements such as trusts. 	<p>iii. <i>This recommendation was addressed by providing a definition of beneficial ownership at section 2(1)(a) – page 3 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 2 of the Principal Act. This recommendation was addressed by further amendments (substitution of the definition of beneficial ownership) see section 2 of the AMLCFT Amendment No. 2 Act of 2015. According to the notes by FATF/ICRG’s Assessors at Item 4(a) in Guyana’s Action Plan which was published on February 10, 2016, the provision complies with the recommendation.</i></p> <p>iv. Regulation 4(5)(a) &(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 “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 –</p> <ul style="list-style-type: none"> (a) 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.” (b) ... (c) the legal provisions that set out the power to bind the customer such as the memorandum and articles of association or trust instrument...” <p><i>(This recommendation was met – see paragraph 15 Guyana 1st Follow up Report).</i></p> <p>v. <i>This recommendation was addressed by providing a definition of beneficial ownership at section 2(1)(a) – page 5 of the</i></p>
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		<ul style="list-style-type: none"> No definition of beneficial ownership with regard to legal entities. No requirement for reporting entities to perform enhanced due diligence for higher risk categories of customers. 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. 	<ul style="list-style-type: none"> A definition of beneficial ownership with regard to legal entities should be set out in the AMLCFTA. Reporting entities should be required to perform enhanced due diligence for higher risk categories of customers. 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. 	<p><i>AMLCFT Amendment Act No. 1 of 2015 which amends section 2 of the Principal Act.. This recommendation was addressed by further amendments (substitution of the definition of beneficial ownership) see section 2 of the AMLCFT (Amendment) No. 2 Act No. 10 of 2015.</i></p> <p><i>According to the notes by FATF/ICRG’s Assessors at Item 4(b) in Guyana’s Action Plan which was published on February 10, 2016, the provision complies with the recommendation.</i></p> <p>vi. 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 5.2, page 41 of the attached AML/CFT Guidelines. (This recommendation is partly met – see paragraph 11 of Guyana’s 5th Follow-up Report).</p> <p><i>This recommendation is addressed at section 10 – page 20 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 16 of the Principal Act by including a subsection 6. This recommendation was met - see paragraph 22 of Guyana’s 9th Follow up Report.</i></p> <p>vii.S.15(2) of the AMLCTFA provides “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”</p> <p>The phrase “establish and verify the identity of any customer 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 “Customers shall include persons, whether</p>
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		<ul style="list-style-type: none"> 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. 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. 	<ul style="list-style-type: none"> 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. 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. 	<p><i>natural, legal, or legal arrangements, who are or who seek to be engaged in one or more occasional transactions with the reporting entity.” (This recommendation will be fully satisfied once the term “beneficial ownership” is defined in the AMLCFT Act No. 1 of 2015. This was done as stated at Rec 5(v) above).</i></p> <p><i>This recommendation was addressed by further amendments (substitution of the definition of beneficial ownership) see sections 2 and 3 of the AMLCFT (Amendment) No. 2 Act No. 10 of 2015. According to the notes by FATF/ICRG’s Assessors at Item 4(a) in Guyana’s Action Plan which was published on February 10, 2016, the provision complies with the recommendation!</i></p> <p>viii. <i>This recommendation was addressed at section 9 (a) – page 18 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 15(2) of the Principal Act. According to the notes by FATF/ICRG’s Assessors at Item 4(d) in Guyana’s Action Plan which was published on February 10, 2016, the provision complies with the recommendation. (Please also refer to attached matrix on R. 5 CDD and Record Keeping criteria 5:3 to 5:5 and 5:15)</i></p> <p>ix. <i>This recommendation was addressed at section 9 (j) – page 19 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 15 of the Principal Act by inserting a subsection 11. According to the notes by FATF/ICRG’s Assessors at Item 4(e) in Guyana’s Action Plan which was published on February 10, 2016 the provision complies with the recommendation. (Please also refer to attached matrix on R. 5 CDD and Record Keeping criteria 5:3 to 5:5 and 5:15)</i></p>
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<p>6. Politically exposed persons</p>	<p>PC</p>	<ul style="list-style-type: none"> • 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. • Limited awareness by financial institutions about the legal requirements concerning PEPs. 	<ul style="list-style-type: none"> • 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. • The supervisory authorities should ensure that all financial institutions are aware of the legal requirements concerning PEPs 	<p>i. <i>This recommendation was addressed at section 9 (b) - page 18 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 15(4) of the Principal Act. This recommendation was met - see paragraph 63 of Guyana's 9th Follow up Report.</i></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. <i>(This recommendation was met – see paragraph 45 of Guyana's 4th Follow-up Report).</i> The FIU has circulated the FATF Guidance Note on PEPs as well as a Circular on PEPs to reporting entities. See copy of Circular attached.</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>
<p>7. Correspondent banking</p>	<p>LC</p>	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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. 	<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><i>This recommendation was addressed at section 9 (c) – page 18 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 15(7) of the Principal Act.</i></p>

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		<ul style="list-style-type: none"> No requirement for financial institutions to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective. 	<ul style="list-style-type: none"> Financial institutions should have to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective. 	<ul style="list-style-type: none"> 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. <i>This recommendation was addressed at section 9 (d) – page 18 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 15(7) of the Principal Act.</i>
<p>8. New technologies & non face-to-face business</p>	<p style="text-align: center;">NC</p>	<ul style="list-style-type: none"> No requirement for financial institutions to have policies in place or take such measures to prevent the misuse of technological developments in ML or TF schemes. 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. 	<ul style="list-style-type: none"> 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 schemes. 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. 	<ul style="list-style-type: none"> 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 6.3, page 81 of the attached AML/CFT Guidelines. (This recommendation was partly met – see paragraph 50 of Guyana’s 5th Follow-up Report). <i>This recommendation was addressed at section 12(c) – page 21 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 19(1) of the Principal Act.</i> <i>This recommendation was met - see paragraph 64 of Guyana’s 9th Follow up Report.</i> 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. (This recommendation was partly met – see paragraph 50 of Guyana’s 5th Follow-up Report).

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			<ul style="list-style-type: none"> 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. 	<p><i>This recommendation was addressed at section 9(h) – page 19 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 15(7) of the Principal Act by inserting a subsection 7A (a).</i></p> <p><i>This recommendation was addressed by further amendments to section 15(7) of the Principal Act (substitution of the words ‘financial institution’ with the words ‘reporting entity’) see Clause 3(i) of the Draft AMLCFT (Amendment) Bill of 2016.</i></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. (This recommendation was partly met – see paragraph 50 of Guyana’s 5th Follow-up Report).</p> <p><i>This recommendation was addressed at section 9(h) – page 19 of the AMLCFT Amendment Act No. 1 of 2015 which amends section 15(7) of the Principal Act by inserting a subsection 7A(b)).</i></p> <p><i>This recommendation was addressed by further amendments to section 15(7) of the Principal Act (substitution of the word ‘specifications with the words ‘specific risks’) see Clause 3(ii) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p>
<p>9. Third parties and introducers</p>	<p>PC</p>	<ul style="list-style-type: none"> Authorities have issued no guidance in relation to which countries third parties that meet FATF conditions can be based. 	<ul style="list-style-type: none"> 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. 	<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,</p>

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		<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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 	<p>page 51 of the attached AML/CFT Guidelines. (This recommendation was partly met – see paragraph 51 of Guyana’s 5th Follow-up Report).</p> <p><i>This recommendation was addressed at section 9(i) – page 19 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 15(8) of the Principal Act by substituting for paragraph (c) a new paragraph as paragraph (c).</i></p> <p><i>This recommendation was met - see paragraph 67 of Guyana’s 9th Follow up Report.</i></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. Please note that the FIU has commenced the practice of informing financial institutions of Reports and Reviews concerning AML/CFT published by FATF. This is done by the issuance of Circulars to financial institutions. See copy of most recent Circular on this matter attached.</p> <p>In addition, on August 22, 2014, the Bank of Guyana issued Circular No. 36/2014 to all Licensed Financial Institutions (LFIs) that are permitted to rely on intermediary or third parties to perform some of the elements of the CDD process, informing them of the jurisdictions that adequately apply the FATF Recommendations. An updated list will be circulated to LFIs within one (1) week of FATF Public Statements which are issued three (3) times per year. The BOG has amended the Circular No. 36/2014 in accordance with the guidance provided at paragraph 59 of Guyana’s 7th Follow-up Report.</p> <p>See attached copy of Amended Circular. Rec. 9(ii). <i>This recommendation was met -see paragraph 60 of Guyana’s 8th Follow-up Report). See attached copy of Circular which</i></p>
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				<i>is updated following every publication of the FATF Public Statement.- Rec. 9(ii)</i>
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 “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.”</p> <p>(This recommendation was met – see paragraph 21Guyana 1st Follow up Report).</p>
11. Unusual transactions	LC	<ul style="list-style-type: none"> • 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. • No requirement that findings on background and purpose of transactions should be kept available for at least five years. 	<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 was addressed at section 11(b) and (c) – page 20 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 18(2) (b)of the Principal Act.</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"> - Casinos - Dealers in precious and semi precious stones

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				<ul style="list-style-type: none"> - Dealers in gold bullion - Trust or company service providers. <p>Supervisory Authorities were also appointed on the same date for the following</p> <ul style="list-style-type: none"> - Registered Charities - Cooperatives - Financial Leasing - Money Transfer Agencies - Insurance Companies <p>(See copy of appointment letter attached and marked Appendix B).</p> <ul style="list-style-type: none"> • The FIU has commenced sensitizing the newly appointed supervisory authorities on their roles and obligations under the AMLCFT Act and Regulations. 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. 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 approaches for compliance examinations, onsite reviews techniques, preparing reports and implementing sanctions. (This recommendation was partly met – see paragraph 53 of Guyana’s 5th Follow-up Report). <p>The FIU has employed another person (Legal Adviser – AMLCFT Compliance) to be responsible for the newly appointed supervisory authorities for DNFBPs. The person will commence work from March 3, 2014. Her functions will include ensuring continuing compliance by DNFBPs/REs with the obligations of the AML/CFT Act and Regulations; contributing to the, implementation and maintenance of AML/CTF supervision and compliance</p>
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				<p>manuals, policies, procedures and systems for DNFBBs/REs; overseeing the AML/CTF staff training program by DNFBBs/REs; examining and supervising DNFBBs/REs, and regulating and overseeing effective compliance with the obligations under the AMLCFT Act and Regulations and any other preventive measures in relation to combating money laundering and terrorist financing. With assistance from the Canadian Government, an AML/CFT Directive for all reporting entities including DNFBBs and an Examination Manual for DNFBBs Supervisors were drafted. The Authorities are awaiting the passage of the AMLCFT Bill before issuing these as some of their contents are based on provisions of the Amendment Bill.</p> <p>During the period April to August, 2014 the FIU held 3 advisory sessions (provision of information and guidance on AMLCFT obligations) with the SAs for:</p> <ul style="list-style-type: none"> - Registered Charities - Cooperatives - Gold Dealers <p>The FIU in collaboration with two Canadian AML/CFT Consultants also held a Workshop on AML/CFT Supervision for DNFBBs for the SAs of the following reporting entities.</p> <ul style="list-style-type: none"> - Casinos - Dealers in Precious and Semi Precious Stones - Dealers in Precious Metals - Friendly Societies - Cooperative Societies - Security Dealers (Please refer to the summary of training attached for Rec. 1(iii) above. <p>On September 8, 2014, supervisory authority was appointed for four (4) additional DNFBBs. The Guyana Revenue Authority (GRA) which is the licensing authority for Betting Shops, Used Car Dealers, Pawnbrokers and Real Estate Agents, was appointed as the AMLCFT</p>
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				<p>supervisory authority for these DNFBPs. (See attached appointment letters – R. 12(i))</p> <p>Notwithstanding the appointment of SAs for a number of DNFBPs, the FIU continues to provide guidance and support to the DNFBPs which include training and mentoring. The FIU also monitors the supervisors’ implementation of the AMLCFT supervisory obligations. For the period September to December 2014, the FIU conducted two (2) AMLCFT training sessions for Pawnbrokers and Gold Dealers , one (1) AMLCFT Workshop for the DNFBPs Supervisors and one (1) AMLCFT awareness meeting for Dealers in Precious and Semi-precious stones.</p> <p>From December 2014 Pawnbrokers and Gold Dealers were required to and have commenced submitting reports (LCT/STR) to the FIU.</p> <p>During the reporting period as well, the FIU provided guidance to the Casino and the Guyana Gold Board in the preparation of their respective AMLCFT Policy and Procedures documents.</p> <p>The FIU continues to monitor SAs to ensure that they continue to oversee compliance with the requirements of the AMLCFTA in keeping with their obligations. In this regard SAs are required to and do submit to the FIU, semi annual updates on the implementation of their AMLCFT supervisory obligations.</p> <p>See attached a summary of reports by the supervisory authorities of DNFBPs – R. 12(i), R. 22(i), R. 23(v), R. 24(i).</p> <p><i>The DNFBPs Supervisory Authorities continues to submit semi-annual reports to the FIU on the implementation of their obligations under the AMLCFT legislation and the FIU continues to work with the DNFBPs Supervisory Authorities to provide clarity and guidance where necessary.</i></p>
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			<p><i>For the period January to June 2015 the FIU issued an Examination Guideline for DNFBPs Supervisors and provided further guidance (one-on-one and in groups) on the uses of the Guideline. The Supervisory Authorities are in the process of putting measures in place to facilitate the conducting of on-site examination in keeping with their obligations under the AMLCFT legislation.</i></p> <p><i>For the same period the FIU provided training for the Casino on the filing of STRs and LCTRs and advisory meetings for the SAs on their obligations under the AMLCFT legislation.</i></p> <p><i>For the period July to December 2015, the DNFBPs Supervisory Authorities continue to submit semi-annual reports to the FIU on the implementation of their obligations under the AMLCFT legislation and the FIU continues to work with the DNFBPs Supervisory Authorities to provide clarity and guidance where necessary.</i></p> <p><i>The Friendly Society Department conducted twenty-seven (27) on site examinations of registered friendly societies while the Co-operatives Society Department conducted two (2) onsite examinations.</i></p> <p><i>The Gaming Authority conducted one (1) on-site examination of the Casino.</i></p> <p><i>For the period the FIU held three training sessions for DNFBPs (Betting Shops and Used Car Dealers).</i></p> <p><i>The FIU also issued letters to the used car dealers to have these DNFBPs registered with the FIU and issued the DNFBPs Compliance Regime Guidelines No. 1 of 2016. See copy attached – R. 25(ii)</i></p>
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<p>13. Suspicious transaction reporting</p>	<p>NC</p>	<ul style="list-style-type: none"> • 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. • 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 • 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. • Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting. 	<ul style="list-style-type: none"> • Illicit trafficking in stolen and other goods and smuggling should be criminalized as a serious offence and a predicate offence to ML. • 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. • The requirement to report suspicious transactions should apply regardless of whether they are thought, among other things, to involve tax matters. 	<p>i. <i>Already dealt with at Rec. 1(ii) above. (This recommendation was met – see paragraph 9 Guyana 1st Follow up Report).</i></p> <p>ii. <i>This recommendation was addressed at section 11(d) - page 21 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 18(4) of the Principal Act. This recommendation was met - see paragraph 25 of Guyana’s 9th 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. 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. (This recommendation was partly met – see paragraph 13 of Guyana’s 5th Follow-up Report). <i>This recommendation was addressed at section 23 – page 30 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends the Second Schedule of the Principal Act by inserting “tax evasion” as a predicate/serious offence. This recommendation was met - see paragraph 26 of Guyana’s 9th Follow up Report.</i></p>
<p>14. Protection & no tipping-off</p>	<p>LC</p>	<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. <i>This recommendation was addressed at section 8(1) – page 17 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 11(1) and (2) of the Principal Act .</i></p>

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<p>15. Internal controls, compliance & audit</p>	<p>PC</p>	<ul style="list-style-type: none"> • No requirement for individuals who carry on business solely or with a staff and management of less than five persons to comply with the requirements of Rec. 15. • 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. • 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. • The training obligation of financial institutions is not ongoing and does not include new developments, including information on current ML and FT 	<ul style="list-style-type: none"> • The requirements of Rec. 15 should be applicable to individuals who carry on business solely or with a staff and management of less than five persons. • 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. • 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. • The training obligation of financial institutions should be ongoing and include new developments, including information on current 	<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><i>This recommendation was addressed at section 12(e) – page 21 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 19 of the Principal Act by deleting subsection 4. This recommendation was met - see paragraph 73 of Guyana’s 9th Follow up Report.</i></p> <p>ii. <i>This recommendation was addressed at section 12(d) – page 21 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 19(2)(a) of the Principal Act. This recommendation was met - see paragraph 73 of Guyana’s 9th Follow up Report.</i></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. (This recommendation was partly met – see paragraph 57 of Guyana’s 5th Follow-up Report).</p> <p><i>This recommendation was addressed at section 12(a) – page 21 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 19(1)(c) of the Principal Act . This recommendation was addressed by further amendments to section 19(1)(c) of the Principal Act (by including the words ‘sample testing’) see Clause 4(a) of the Draft AMLCFT (Amendment) Bill of 2016.</i></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>
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		<p>techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD.</p>	<p>ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD.</p> <ul style="list-style-type: none"> • The competent authorities should ensure that all financial institutions update their current policies and that the updated versions are based on the AMLCFTA. 	<p>(This recommendation was partly met – see paragraph 57 of Guyana’s 5th Follow-up Report).</p> <p><i>This recommendation was addressed at section 12(b) – page 21 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 19(1)(d) of the Principal Act .</i></p> <p><i>This recommendation was addressed by further amendments to section 19(1)(d) of the Principal Act (by requiring reporting entities to train its officers on an on-going basis) see Clause 4(b) of the Draft AMLCFT (Amendment) Bill of 2016.</i></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. (This recommendation was partly met – see paragraph 57 of Guyana’s 5th Follow-up Report).</p> <p>The Guyana Securities Council, SA for Securities Dealers has on June 13, 2014 issue an AMLCFT Guide to Registered Securities Companies. This Guide deals with:</p> <ul style="list-style-type: none"> - Obligations of reporting entity; - Requirements of Reporting entity; - Reporting of suspicious behaviour; - On-site/off-site Examination by SA; <p>The registered securities companies are required to submit to the GSC a manual prepared in keeping with the principles of the AMLCFT Act, specifying the internal operational guidelines implemented to fulfil their obligations under the AMLCFT Act.</p> <p>It should be noted that with the issuance of this Guide by GSC, all of financial institutions are now informed of this requirement. Both the BOG and GSC will be checking to ensure that the policies are in keeping with the AMLCFT Act during examinations of their respective reporting entities.</p>
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			<p>As stated at Rec. 1(i) above, penalty for breaches of the Guidelines and Directives was included in the New AMLCFT Amendment Bill. Note – The Chief Parliamentary Counsel attached to the AG’s Chambers , has advised that a breach of Guidelines or Directives issued under the AMLCFT Regulations is a breach of the Regulations and therefore the penalties included in the Amendment Bill for breach of Regulations would also apply to a breach of Guidelines and Directives issued thereunder.</p> <p>Notwithstanding, the fact that the Guidelines issued to date are not fully OEM, it should be pointed out that the financial institutions are complying with these Guidelines. The BOG has reported that all commercial banks currently have AML/CFT policies in place. It was further reported that four (4) of the six (6) banks have already updated their AML/CFT policies in conformity with the AMLCFT Act and the other two (2) institutions are currently in the process of bringing their policies in line with the provisions of the Act.. (See attached correspondence from the BOG to this effect - R. 15(v)).</p> <p><i>This recommendation was further addressed at section 15(2) – page 24 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 23 of the Principal Act by providing penalties for breach of Guidelines.</i></p> <p><i>Further, the BOG has been ensuring that the LFIs update their AMLCFT policies based on the AMLCFT legislation.</i></p> <p><i>This recommendation was addressed by inserting a provision at section 22 of the Principal Act</i></p> <p><i>See Clause 6(i) of the Draft AMLCFT (Amendment) Bill of 2016 which requires supervisory authorities to ensure that reporting entities update their AMLCFT policies.</i></p> <p><i>Also see attached update from the BOG – R. 15(v)</i></p>
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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. (This recommendation was partly met – see paragraph 58 of Guyana’s 5th Follow-up Report). Please also refer to comments at Rec. 12(i) above).
17. Sanctions	PC	<ul style="list-style-type: none"> • Fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA are not dissuasive. • 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 entities. 	<ul style="list-style-type: none"> • Fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA should be dissuasive. • 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. 	<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><i>This recommendation was addressed at section 15(2) – page 24 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 23 of the Principal Act by the insertion of subsection (2)</i></p> <p><i>This recommendation was addressed by further amendments to section 23 of the Principal Act (by increasing the fines applicable to corporate bodies)</i></p> <p><i>See Clause 7(b) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p> <p>ii. <i>This recommendation was addressed at section 15(1) – page 24 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 23(1) of the Principal Act . This recommendation was addressed by further amendments to section 23 of the Principal Act (by providing administrative fines to be instituted by supervisory authorities)</i></p> <p><i>See Clause 7(a) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p>
18. Shell banks	LC	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.	• 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.	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> ” It should be noted that despite being included in the Amendment Bill this recommendation

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			<ul style="list-style-type: none"> 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. 	<p>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><i>This recommendation was addressed at section 9(g) – page 18, section 2(1) – page 5 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 15(7)(a) and section 2 of the Principal Act respectively.</i></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>Note: We observed that no mention of the above submission was made in Guyana’s 2nd or 3rd Follow-up Reports.</p>
19. Other forms of reporting	NC	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.	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.	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 MEV) provides:

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				<p>(3) Without prejudice to the generality of the foregoing provisions, a reporting entity shall report to the Financial Intelligence Unit as soon as practicable -</p> <p>(a) where the reporting entity is a money transfer agency, any money transfer over two hundred thousand dollars;</p> <p>(b) where the reporting entity is a cambio, a purchase over four hundred thousand dollars and a sale over one million dollars; and</p> <p>(c) any cash transaction over two million dollars. (This recommendation was met – see paragraph 57 Guyana 1st Follow up Report).</p>
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> There are no measures in place to ensure that financial institutions are notified about AML/CFT weaknesses in other countries. 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. 	<ul style="list-style-type: none"> Effective measures should be established to ensure that financial institutions are advised of concerns about AML/CFT weaknesses in other countries. 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. 	<p>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. See copy of most recent Circular sent to financial institutions advising of concerns about AML/CFT weaknesses in other countries. (This recommendation is ongoing – see paragraph 60 of Guyana’s 5th Follow-up Report). The FIU continues to advise reporting entities of concerns about AML/CFT weaknesses in other countries. (See attached copy of most recent Circulars issued to reporting entities– Rec. 21(1)).</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 7.1, page 85 of the attached AML/CFT Guidelines. (This recommendation was partly met – see paragraph 62 of Guyana’s 5th Follow-up Report). This recommendation was addressed at section 11(b) – page 26 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 18(2)(b) of the Principal Act.</p>

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		<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • There should be provisions to allow for the application of countermeasures to countries that do not or insufficiently apply the FATF Recommendations. 	<p><i>This recommendation was met - see paragraph 79 of Guyana's 9th 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><i>This recommendation was addressed at section 10 – page 20 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 16 of the Principal Act.</i></p> <p><i>This recommendation was met - see paragraph 80 of Guyana's 9th Follow up Report.</i></p>
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> • Supervisory authorities have not imposed the requirements for foreign branches and subsidiaries of section 22(2) of the AMLCFTA on their respective reporting entities. 	<ul style="list-style-type: none"> • Designated supervisory authorities should impose the obligations stipulated in section 22(2) of the AMLCFTA on their respective reporting entities. 	<p>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 stipulated in s. 22(2) of the AMLCFTA. 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.</p> <p>With regards to the other designated supervisory authorities please refer to the comment at Rec 12 above. (<i>This recommendation was partly met – see paragraph 63 of Guyana's 5th Follow-up Report</i>).</p> <p>The FIU continues to work with the appointed Supervisory Authorities (SAs) including the Bank of Guyana (BOG), Guyana Securities Council (GSC) and the Department of Cooperative and Friendly Societies (DCFS). In this regard another workshop on AMLCFT Supervision for DNFBPs</p>

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				<p>and a number of AMLCFT Supervision awareness sessions were held for these SAs. Updates on the implementation of supervision by the respective SAs are as follows:</p> <ul style="list-style-type: none"> • Guyana Securities Council <p>In May 2014, the GSC adopted an AMLCFT Supervisory Examination Policies and Procedures manual for the supervisory examinations of Securities dealers. This manual along with the above mentioned Guide for Registered Securities Companies Policies and Procedures were issued to all registered Securities Companies and a training session on the usage of the Manual was conducted by the GSC on July 3, 2014. There are plans for the commencement of on-site/off-site examinations and further awareness and training sessions for this sector.</p> <ul style="list-style-type: none"> • Cooperative Society <p>Between January and June, 2014, the Cooperative Division made twenty-four visits to Cooperatives to monitor compliance with the AMLCFT legislation. Sixteen Cooperatives were audited for the period but no breaches were found. For the period July to December, 2014, The Cooperative Society plans further AML/CFT awareness sessions, training/workshops, and field visits to continue monitoring compliance by the Cooperatives.</p> <ul style="list-style-type: none"> • Friendly Society <p>Between January and June, 2014, there were forty-two audits of Friendly Societies. No breaches were found. One AML/CFT awareness session was held for seventeen (17) new Friendly Societies registered in 2014. For the period July to December, 2014, the Division of Friendly Society plans a number of AML/CFT awareness sessions, and field visits to</p>
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				<p>continue monitoring compliance by the Friendly Societies.</p> <ul style="list-style-type: none"> • Bank of Guyana – Insurance Supervision Department <p>For the period March to June 2014, the Insurance Supervision Department conducted off-site examination of fifteen (15) insurance companies. The Insurance companies continue to submit quarterly AML/CFT reports to the Insurance Supervision Department. No sanctions were instituted for the reporting period.</p> <ul style="list-style-type: none"> • Bank of Guyana – Bank Supervision Department <p>The Bank of Guyana continues to discharge its supervisory obligations in keeping with the AMLCFT legislation. In this regard there were two (2) on-site examinations of Licensed Financial Institutions for the reporting period. Following these examinations, the Bank issued recommendations for corrective actions based on the findings in the respective Reports of Examination. Off-site monitoring of all financial institutions is ongoing. (See attach updates from the Supervisory Authorities – Rec. 22 (i))</p> <p>The FIU continues to monitor Supervisory Authorities to ensure that S. 22(2) of the AMLCFTA is being implemented. The FIU requests and receives semi-annual updates from SAs on the implementation of their AMLCFT obligations. Based on these updates the FIU is able to provide guidance and technical assistance to the SAs where necessary. (Please refer to appendix for Rec. 12(i) above)</p> <p><i>LFIs</i></p> <ul style="list-style-type: none"> - <i>Bank of Guyana (BOG) – Supervisory Authority for banks, Money Transfer Agencies, Cambios and Insurance Companies</i>
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				<p><i>The BOG has reported that it conducted on-site examinations as follows:</i></p> <ul style="list-style-type: none"> • <i>Banks – three (3)</i> • <i>Money Transfer Agencies - five (5)</i> • <i>Cambios - six (6)</i> <p><i>Off-site examinations for all the reporting entities are ongoing. No sanctions were instituted for the period January to June 2015; however recommendations were made according to the BOG's findings during the on-sites. A Summary of the findings and recommendations was submitted to the FIU.</i></p> <p><i>The BOG has also reported that it continues to provide guidance to its reporting entities during on-site examinations.</i></p> <p><i>The BOG continues to advise LFIs of countries in which third parties that meet the FATF conditions (i.e. third parties who are regulated and supervised in accordance with Recommendations 23, 24 and 29 and have measures in place to comply with Customer Due Diligence requirements of Recommendation 5) can be based.</i></p> <p><i>The FIU is currently working with the BOG to establish a reporting format and setting threshold limits for insurance companies to commence report large cash transactions to the FIU.</i></p> <ul style="list-style-type: none"> - <i>Guyana Securities Counsel (GSC) – Supervisory Authority for Securities Companies</i> <p><i>The GSC has reported that for the period January to June 2015 no on-site/off-site examination was conducted, however according to its Work Plan for the second half of 2015 there are plans to conduct a number of on-site examinations.</i></p>
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			<p><i>The FIU is currently working with the GSC to establish a reporting format and setting threshold limits for securities companies to commence report large cash transactions to the FIU.</i></p> <p><i>LFIs - Bank of Guyana (BOG) – Supervisory Authority for banks, Money Transfer Agencies, Cambios and Insurance Companies</i></p> <p><i>The BOG has reported that for the period July to December 2015 it conducted on-site examinations as follows:</i></p> <ul style="list-style-type: none"> <i>• Banks – two (2)</i> <i>• Money Transfer Agencies - Nil</i> <i>• Cambios - five (5)</i> <i>• Insurance Companies - Nil</i> <p><i>Off-site examinations for all the reporting entities are continuous. No sanctions were instituted for the period July to December 2015; however recommendations were made in the Reports of Examination and follow up actions are taken to ensure compliance with the recommendations in a timely manner. A Summary of the findings and recommendations was submitted to the FIU.</i></p> <p><i>The BOG has also reported that it continues to provide guidance to its reporting entities during on-site examinations.</i></p> <p><i>The BOG continues to advise LFIs of countries in which third parties that meet the FATF conditions (i.e. third parties who are regulated and supervised in accordance with Recommendations 23, 24 and 29 and have measures in place to comply with Customer Due Diligence requirements of Recommendation 5) can be based.</i></p> <p><i>The FIU continues to work with the BOG supervision division to finalize the reporting format for insurance companies to commence reporting large cash transactions to the FIU.</i></p>
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			<p><i>The BOG has also reported that a formal request for assistance was made to the World Bank since September and October 2014. The areas in which the BOG needs assistance are as follows:</i></p> <ul style="list-style-type: none"> <i>(i) Strengthening the capacity of the BOG to supervise financial institutions and to develop a framework for financial consumer protection.</i> <i>(ii) To build supervisory capacity of the BOG on banking, insurance and AML.</i> <i>(iii) To build supervisory capacity of BOG staff via training on implementation of the FATF Standards.</i> <i>(iv) To develop/update supervisory manuals for insurance companies, pension plans, cambios and money transfer agencies.</i> <p><i>- Guyana Securities Counsel (GSC) – Supervisory Authority for Securities Companies</i></p> <p><i>The GSC has reported that for the period July to December 2015 it conducted on-site examinations for four (4) Securities Companies. While no sanctions were instituted for the period July to December 2015, recommendations were made in the Reports of Examination and follow up actions are taken to ensure compliance with the recommendations in a timely manner. A Summary of the findings and recommendations was submitted to the FIU.</i></p> <p><i>During October 12 - 23, 2015, the GSC in collaboration with the Guyana Association of Securities Companies and Intermediaries facilitated an AMLCFT Training Program for Securities Companies. The topics covered during the training are as follows:</i></p> <ul style="list-style-type: none"> <i>1. Understanding ML</i> <i>2. Transaction Monitoring – Understanding the systems and scope</i> <i>3. Customer and Client Due Diligence</i> <i>4. Reporting obligation</i> <i>5. Overview of the implications of the Foreign Account Tax Compliance Act.</i>
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		<ul style="list-style-type: none"> • 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. • 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. 	<ul style="list-style-type: none"> • 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. • 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. 	<p><i>The FIU continues to work with the GSC to finalize the reporting format for securities companies to commence reporting large cash transactions to the FIU.</i></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. (This recommendation was partly met – see paragraph 64 of Guyana’s 5th Follow-up Report). <i>This recommendation was addressed at section 14(c) – page 24 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 22(2) of the Principal Act .</i></p> <p><i>This recommendation was addressed by further amendments to section 22(2) of the Principal Act (by including the words ‘the FATF Recommendations)</i> <u><i>See Clause 6(2) of the Draft AMLCFT (Amendment) Bill of 2016.</i></u></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. (This recommendation was partly met – see paragraph 65 of Guyana’s 5th Follow-up Report).</p> <p><i>This recommendation was further addressed at section 15(2) – page 24 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 23 of the Principal Act by providing penalties for breach of Guidelines.</i> <i>This recommendation was addressed by further amendments to section 22(2) of the Principal Act (by including a new provision)</i> <u><i>See Clause 6(2)(d) of the Draft AMLCFT (Amendment) Bill of 2016.</i></u></p>
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		<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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. 	<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. (This recommendation was partly met – see paragraph 66 of Guyana’s 5th Follow-up Report). This recommendation was addressed at section 14(c) – page 23 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 22(2) of the Principal Act.</p> <p><i>This recommendation was met - see paragraph 84 of Guyana’s 9th Follow up Report.</i></p>
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> No designated supervisory authority has been assigned to ensure that co-operative societies adequately comply with AML/CFT requirements. 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 significant or controlling interest or holding a management function in financial institutions. 	<ul style="list-style-type: none"> A designated supervisory authority should be assigned to ensure that co-operative societies adequately comply with AML/CFT obligations. 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 significant or controlling interest or holding a management function in financial institutions. 	<p>i. A supervisory authority for Co-operatives was appointed on December 20, 2012. (See comment at Rec. 12 above) <i>(This recommendation was met – see paragraphs 22 and 26 of Guyana’s 5th Follow-up Report).</i></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><i>This recommendation was addressed at section 25 – pages 33 and 36 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 6 of the Securities Industry Act and section 7 of the Cooperative Societies Act. This recommendation was addressed by further amendments to the Securities Industry Act and the Cooperative Societies Act (the fit and proper criteria to be used when assessing applicants for registration/licencing) see the Schedule of</i></p>

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		<ul style="list-style-type: none"> 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. 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. 	<ul style="list-style-type: none"> 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. 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. 	<p><i>the AMLCFT (Amendment) No. 2 Act No. 10 of 2015.</i> <i>Please also refer to the FATF Assessor’s comments at Item 7 in Guyana’s Action Plan which was published on February 10, 2016.</i></p> <p>iii. This recommendation was addressed at paragraph 4 of the AMLCFT Guideline issued to reporting entities on August 28, 2014. (See above) <i>This recommendation was addressed at section 25 – page 38 of the AMLCFT (Amendment) Act No. 1 of 2015 by the insertion of sections 23A and 23B in the Insurance Act.</i> <i>This recommendation was addressed by further amendments to the Insurance Act (the fit and proper criteria to be used when assessing applicants for registration/licencing) see the Schedule of the AMLCFT (Amendment) No. 2 Act No. 10 of 2015. Please also refer to the FATF Assessor’s comments at Item 7 in Guyana’s Action Plan which was published on February 10, 2016.</i></p> <p>iv. <i>This recommendation was addressed at section 25 – pages 34 and 36 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 7 of the Cooperative Societies Act and section 47 of the Securities Industry Act.</i> <i>This recommendation was addressed by further amendments to the Securities Industry Act and the Cooperative Societies Act (the fit and proper criteria to be used when assessing applicants for registration/licencing) see the Schedule of the AMLCFT (Amendment) No. 2 Act No. 10 of 2015.</i> <i>Please also refer to the FATF Assessor’s comments at Item 7 in Guyana’s Action Plan which was published on February 10, 2016.</i></p> <p>v. The Bank of Guyana (BOG) was designated supervisory authority for Insurance companies</p>
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		<ul style="list-style-type: none"> Neither the COI, the GSC or the DCFS have implemented AML/CFT supervision for their relevant financial institutions 	<ul style="list-style-type: none"> The COI, the GSC and the DCFS should implement AML/CFT supervision for their relevant financial institutions 	<p>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). See attached update on Supervision by the BOG for their respective financial institutions. These include, the number of on-sight AML/CFT Examinations conducted, AML/CFT Training conducted, and AML/CFT Guidelines issued for reporting period.</p> <p>The FIU continues to work with the appointed SAs including the Bank of Guyana (BOG), Guyana Securities Council (GSC) and the Department of Cooperative and Friendly Societies (DCFS). In this regard a workshop on AMLCFT Supervision for DNFbps and a number of AMLCFT Supervision awareness sessions were held with these SAs.</p> <p style="text-align: center;">GSC</p> <p>In May 2014, the GSC adopted an AMLCFT Supervisory Examination Policies and Procedures manual for the supervisory examinations of Securities dealers. This manual along with the above mentioned Guide for Registered Securities Companies Policies and Procedures were issued to all registered Securities Companies and a training session on the usage of the Manual was conducted by the GSC on July 3, 2014. There are plans for the commencement of on-site/off-site examinations and further awareness and training sessions for this sector.</p> <p style="text-align: center;">Cooperative Societies</p> <p>Between January and June, 2014, the Cooperative Division made twenty-four visits to Cooperatives to monitor compliance with the AMLCFT legislation. Sixteen Cooperatives were audited for the period but no breaches were found. For the period July to December, 2014, The Cooperative Society plans further AML/CFT awareness sessions, training/workshops, and field visits to continue monitoring compliance by the Cooperatives.</p>
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				<p>Friendly Societies Between January and June, 2014, there were forty-two audits of Friendly Societies. No breaches were found. One AML/CFT awareness session was held for seventeen (17) new Friendly Societies registered in 2014. For the period July to December, 2014, the Division of Friendly Society plans a number of AML/CFT awareness sessions, and field visits to continue monitoring compliance by the Friendly Societies.</p> <p>Bank of Guyana – Insurance Supervision Department</p> <p>For the period March to June 2014, the Insurance Supervision Department conducted off-site examination of fifteen (15) insurance companies. The Insurance companies continue to submit quarterly AML/CFT reports to the Insurance Supervision Department. No sanctions were instituted for the reporting period. (Please refer to updates from SAs – Rec. 22(i) Please refer to updated comments at 22(i) above.</p>
<p>24. DNFBP – regulation, supervision and monitoring</p>	<p>NC</p>	<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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. 	<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). (This recommendation was partly met – see paragraph 67 of Guyana’s 5th Follow-up Report). Please also refer to appendix for Rec. 12(i), R. 22(i), R. 23(v) and R. 24(i).</p> <p><i>During January to June 2015, the FIU held a training session on the STR and LCTR reporting formats with the Gaming Authority, and the Manager of the Casino.</i></p>

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		<ul style="list-style-type: none"> • 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. • No designated supervisory authority appointed for DNFBPs to oversee compliance with AML/CFT requirements. • Sanctions of designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective and 	<ul style="list-style-type: none"> • 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. • A designated supervisory authority should be appointed for DNFBPs to oversee compliance with AML/CFT requirements as soon as possible. • Sanctions of designated supervisory authorities under the AMLCFTA should be dissuasive, 	<p><i>While the Gaming Authority has reported that there was no AMLCFT examination nor was any training provided for its staff or the Casino for the reporting period, there are plans to organise AMLCFT training for the staff of the Gaming Authority and key stakeholders in relation to the Casino Regulations by September 2015 and on-site examination to test the Casino AML/CFT policies and procedures by October 2015.</i></p> <p><i>The Gaming Authority further reported that there are also plans to employ at least two additional staff to focus specifically on AMLCFT related issues for the Authority by September 2015.</i></p> <p><i>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.</i></p> <p><i>This recommendation was addressed at section 25 – page 32 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends the Gambling Prevention Act by inserting section 29A and amending section 32(1).</i></p> <p><i>This recommendation was addressed by further amendments to section 29A of the Gambling Prevention Act (the fit and proper criteria to be used when assessing applicants for licencing) See Clause 10 (Schedule) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p> <p><i>iii. This issue is already addressed at Rec. 12(i) above.</i></p> <p><i>iv. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to</i></p>
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		are not applicable to directors and senior management of DNFBPs.	proportionate and effective and applicable to directors and senior management of DNFBPs.	at recommendation 1 above and the same comments apply. <i>This recommendation was addressed at section 15 – page 24 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 23(1) of the Principal Act.</i> <i><u>This recommendation was addressed by further amendment to section 23 of the Principal Act (by providing administrative fines to be instituted by supervisory authorities) See clause 7(a) of the Draft AMLCFT (Amendment) Bill of 2016.</u></i>
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> 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. No guidelines to assist financial institutions and DNFBPs to implement and comply with their respective AML/CFT requirements have been issued 	<ul style="list-style-type: none"> 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. Guidelines to assist financial institutions to implement and comply with their respective AML/CFT requirements should be issued. 	<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>Despite the absence of legal provisions addressing the requirement for the FIU to provide feedback to financial institutions and DNFBPs required to file STRs the FIU has been providing feedback to these entities from time to time eg. On June 25, 2014 the FIU meet with the CEO of a LFI to provide feedback and guidance regarding the quality of STRs filed, and on August 14, 2014 the FIU met with the compliance officers of all the LFIs to also provide guidance and feedback on STRs filed with the FIU . Please refer to attachment for Rec. 1(iii) above.</p> <p><i>This recommendation was addressed at section 6 – page 15 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 9(4)(l) of the Principal Act .</i> <i>This recommendation was met - see paragraph 88 of Guyana’s 9th Follow up Report.</i></p> <p>ii. The AML/CFT Guidelines were issued to the Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. (See copy of AML/CFT Guidelines attached). (This recommendation was partly met – see paragraph 71 of Guyana’s 5th Follow-up Report).</p>

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				<p>The Guyana Securities Council, SA for Registered Securities Dealers issued an AMLCFT Guide based on the AMLCFT Act. The Guide covers:</p> <ul style="list-style-type: none"> -Obligations of RE -Requirements of RE -Reporting of Suspicious Behaviour -Examination Guide (General/on-site/off-site and initial interview with Management) -Compliance Checklist <p>With the issuance of this Guide by GSC, all financial institutions have now been issued with Guidelines to assist with the implementation and compliance of their respective AMLCFT requirements.</p> <p><i>This recommendation was further addressed at section 15(2) – page 24 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 23 of the Principal Act by providing penalties for breach of Guidelines.</i></p> <p><i>In addition, the FIU has issued the following Guidelines</i></p> <ul style="list-style-type: none"> (i) <i>Examination Guideline for AMLCFT Supervisory Authorities,</i> (ii) <i>Practical Guide for the implementation of measures for Targeted Financial Sanctions.</i> (iii) <i>Guidelines –Compliance Regime for DNFBPs issued by the FIU to DNFBPs (see attached – R. 25(ii))</i>
Institutional and other measures				
26. The FIU	NC	<ul style="list-style-type: none"> • No guidelines regarding the manner of STRs reporting have been issued to financial institutions and other reporting entities. 	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> i. Guidelines on Suspicious Transaction Reporting were issued to financial institutions and other reporting entities in January 2013. <i>(This recommendation was partly met – see paragraph 27 of Guyana’s 5th Follow-up Report).</i> An Advisory to the wider public concerning money laundering and the

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		<ul style="list-style-type: none"> Minimal security arrangements for custody of information with the main vulnerability being IT support provided by personnel not in the employ of the FIU. 	<ul style="list-style-type: none"> The FIU should urgently implement its plans for new personnel and facilities and consider safeguards to reduce the vulnerability of its database. 	<p>financing of terrorism was issued. Reporting entities were advised to post the Advisory in a prominent location at their place of business. This Advisory was also posted on the FIU’s website. (See copy attached.</p> <p>An advisory to the wider public concerning ML and TF was issued to reporting entities in February 2014 advising them to post the advisory in a prominent location at their places of business. This advisory was also posted on the FIU’s website. <i>(This recommendation is now met – see paragraph 34 of Guyana’s 6th Follow-up-Report .</i></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>Internet Security</p> <p>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>Database</p> <p>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 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.</p>
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		<ul style="list-style-type: none"> • No requirement to publicly release periodic reports to include statistics, typologies and trends. • While lack of statistics limits assessment of effectiveness, the operations of the FIU are adversely affected by lack of resources. 	<ul style="list-style-type: none"> • 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. 	<p>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 not register storage devices such as flash drives for data transfer.</p> <p>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 2nd 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 FIU's website on January 31, 2013. <i>(This recommendation was partly met – see paragraph 29 of Guyana's 5th Follow-up Report).</i> (The FIU has published its Annual Reports for 2011 and 2012. These Reports are also published on the FIU's website) See attached updated statistics on STRs, LCRTs and foreign currency declaration reports. <i>(See attached statistics on STRs, LCTRS and FCDRs for January to June, 2015 – Rec. 26(iii)).</i></p> <p>Regarding the publication of typologies and trends, in September 2014, the FIU published a Trend Analysis on Foreign Currency Cash Movements. In April 2015, the FIU also published trends analysis of STRs for 2013 and 2014. See copy of Trend Analysis attached - Rec. 26(iii).</p> <p><i>In July 2015 the FIU published a ML typology on Gold Jewellery Trade. See copy attached – Rec 26(iii.)</i></p> <p><i>This recommendation was met - see paragraph 43 of Guyana's 9th Follow up Report.</i></p>
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<p>27. Law enforcement authorities</p>	<p>NC</p>	<ul style="list-style-type: none"> • 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. • Lack of trained financial investigators limits effective implementation of ML/FT investigations. 	<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> Attached hereto are a copy of the AG’s letter dated August 21, 2103 and a copy of the <i>Criminal Procedure (Plea 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> <p>A detailed report on these recommendations will be provided by March 21, 2014.</p> <p>The Guyana Police Force have formalized the common law practice of postponing/waiving the arrest of suspected persons and/or seizure of money for the purpose of identifying persons involved in ML or TF or for evidence gathering, by establishing a Standard Operating Procedure of the Police Force on the Postponement or Waiver</p>
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				of Arrest or Seizure of Money. The SOP became effective from May 6, 2014. <i>(This recommendation is now met – see paragraph 80 of Guyana’s 6th Follow-up-Report)</i>
28. Owners of competent authorities	PC	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.	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.	i. <i>This recommendation was satisfied by Section 12 of the Police Standing Order No. 64 (see paragraph 73 of Guyana’s 5th Follow up Report).</i>
29. Supervisors	PC	<ul style="list-style-type: none"> GSC does not have power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance. CCDO does not have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations 	<ul style="list-style-type: none"> GSC should have the power to compel production or obtain access to all records, documents or information relevant to monitoring of compliance. The CCDO should have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations 	<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. <i>This recommendation was addressed at section 14(b) – page 23 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 22(2) of the Principal Act.</i> <i>This recommendation was met - see paragraph 90 of Guyana’s 9th Follow up Report.</i></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. <i>(This recommendation was met – see paragraph 75 of Guyana’s 5th Follow-up Report).</i></p>

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<p>30. Resources, integrity and training</p>	<p>NC</p>	<p>i. Lack of trained financial investigators in the GPF and CANU</p>	<p>i. The authorities should provide trained financial investigators for the GPF and CANU.</p>	<p>i. Through the Caribbean Basin Security Initiative (CBSI), a US and Caribbean partnership designed to advance citizen security in the region, the Guyana Government in April 2011, received a sum US\$98,000 of which \$40,000 is to be spent on AMLCFT and \$58,000 for law enforcement. In May 2012 Guyana again received from the US a sum of \$500,000. \$150,000 to be used for providing training and equipment for the GPF and CANU to improve the capabilities in counter narcotics/terrorism operations; \$100,000 to be used to provide assistance to the FIU, strengthening the rule of law and increasing effectiveness of the judicial system and assisting government entities to enforce the AMLCFT legislation; and \$250,000 to be used to strengthen counternarcotics control capabilities in Guyana.</p> <p>To date a work plan and a draft TOR have been prepared which are currently being reviewed. Based on the approval of the work plan and TOR, it is anticipated that training for GPF and CANU will commence by the end of September, 2012. The TOR was signed on October 25, 2012 and will expire on September 30, 2013. On January 23, 2013, two representatives from the US Department of Treasury Office of Technical Assistance met with the FIU to further discuss and formalize the work plan. One of the objectives of the work plan is training for the relevant staff of GRA, CANU, GPF, DPP, FIU, and the Judiciary/Magistracy. The TOR was signed in September 2013 and is to continue until all Work Plan activities agreed to are completed. Among the activities contained in the Work Plan is training for financial investigators. The first set of training is scheduled to take place from April 28-May 2, 2014. Officers from FIU, DPP, CANU, GRA and GPF are to benefit. See copy of training agenda attached.</p>
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				<p>In addition, under a separate TOR signed with the Canadian Government for technical assistance, officers from DPP, CANU, GRA, FIU, AG Chambers and GPF were trained during September 13-13, 2013 on Financial Investigative Techniques.</p> <p>Further, a Special Organised Crime Unit (SOCU) was established within the Guyana Police Force to be exclusively responsible for investigation of financial/economic crimes, particularly/specifically money laundering and the financing of terrorism. See attached Cabinet Decision creating SOCU. The staff of the Unit will include a Head, a deputy Head and 3 investigators. SOUU will be under the command of the Commissioner of Police. See attached Documents on operationalisation and constituting the SOCU.</p> <p>The FIU will submit reports to the Head of the Unit and consult with the Head on investigation targets to be addressed.</p> <p>To date, advertisements were placed in the daily newspapers for crime investigators for the Unit and a number of applications were received. A sub-Committee of the AMLCFT Oversight Committee was established to be responsible for reviewing applications and interviewing persons for employment with the Unit as well as assessing the effectiveness of the Unit. The relevant staff for the Unit are expected to be in place by March 2014. Policies and guidelines for SOCU will be developed by another sub-committee of the National Oversight Committee. Training of investigators of the SOCU is to commence as soon as the staff are in place.</p> <p>As stated in earlier reports to CFATF the Cabinet has approved the establishment of a Special Organised Crime Unit within the Guyana Police Force to investigate financial/economic crimes, particularly money laundering and the financing</p>
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			<p>of terrorism. The sub-committee of the AMLCFT National Oversight Committee with responsibility for overseeing the operationalisation of the SOCU made recommendations for SOCU to be housed in a separate building given the serious nature of the work the Unit is required to undertake. A separate building was identified and Cabinet has further approved funding for the renovation and furnishing of this building which will commence on September 1, 2014.</p> <p>The building is expected to be completed and occupied by November 15, 2014. In the meanwhile, a temporary location was identified for SOCU and the Head of the Unit will be appointed from September 1, 2014.</p> <p>In addition, an Advanced AMLCFT Investigative Techniques training session was conducted (April 14-16, 2014) for law enforcement officers. Included in that training were also officers of GRA, DPP, FIU and AG's Chambers. These are all entities that will be required to work in collaboration with the SOCU investigators to investigate ML/TF and other related offences.</p> <p>The SOCU became operational from September 1, 2014. The Unit is operating out of a temporary location and currently has a staff of five (5) including a Director/Head - an Assistant Commissioner of Police, three (3) Investigators – Assistant Superintendents of Police and one (1) Administrative Officer.</p> <p>The completion date for the renovation of the SOCU office building has shifted to March 31, 2015. To date approximately 85% of the works have been completed.</p> <p>In September 2014 the Governments of Guyana and the United Kingdom signed a Bilateral Agreement for the provision of training and mentoring of GPF and SOCU officers in the recovery of the proceeds of crime and</p>
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			<p>investigating ML and TF. Under this Agreement the UK with financial assistance from the US conducted a Financial Investigative Training for officers of SOCU, GPF, DPP, GRA, AG Chambers, FIU and the Bank of Guyana during November 17-28, 2014. Training and mentoring of the GPF and SOCU officers are ongoing since September 2014.</p> <p>On October 9, 2014, the FIU and the GPF on behalf of SOCU signed an MOU concerning cooperation in the exchange of information relating to suspicious financial transactions, investigations, prosecutions and other matters related to ML/TF and proceeds of crime.</p> <p>Between September 2014 and March 2015, the FIU referred eleven (11) files to SOCU for investigation. SOCU is also conducting investigations and surveillance operations at the Cheddi Jagan International Airport. Based on these investigations and surveillance operations, there were seven (7) cases of cash seizures involving currency totalling approximately US\$410,000 equivalent). These matters are currently before the courts pending hearing and determination.</p> <p>The DPP has also reported that for the same period there were (i) no prosecutions or conviction for ML/TF and (ii) no property was frozen pursuant to the UN Resolutions relating to TF. However, there was one (1) instance where criminal sanctions were applied to persons convicted under the AMLCFTA for false declaration. (See attached Update from the Head of SOCU – R. 30(i)).</p> <p>The DPP has also reported that for the same period there were (i) no prosecutions or conviction for ML/TF and (ii) no property was frozen pursuant to the UN Resolutions relating to</p>
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		<p>ii. No ML training of staff of the DPP</p>	<p>ii. Staff of the DPP should be provided with ML training.</p>	<p>TF. However, there was one (1) instance where criminal sanctions were applied to persons convicted under the AMLCFTA for false declaration. See attached update from the DPP – R. 30(i).</p> <p><i>The Head of SOCU as well as the Financial Investigators from the Unit continue to receive the relevant training from overseas agencies. Between January and June 2015 the Head and other officers received training in the following areas: Financial Investigation Training, Proceeds of Crime Practitioners Training, Basic Investigation Training, Border Protection Training and Federal Bureau of Investigation in Prosecution Training.</i></p> <p>ii. Staff of the DPP will benefit from training provided to GPF and CANU under the project at Rec. 30 (i) above. (While to date the work plan referred to in Rec 30 (i) above was not agreed upon, staff of the DPP have benefitted from an Workshop held on April 17, 2013 Re: Guyana and the CFATF and FATF ICRG Process, and another Workshop on seizure and confiscation of the proceeds of crime, held on June 19, 2013). <i>(This recommendation was met – see paragraph 83 of Guyana’s 5th Follow-up Report).</i></p> <p>As stated above officers from the DPP benefitted from an Advanced AMLCFT Investigative Techniques training session held April 14-16, 2014.</p> <p>On November 25th and 27th 2014 a Criminal or Terrorist Cash Awareness training was also conducted for officers of GRA, CANU and GPF who are involved in cash seizures at the ports of entries and exits.</p> <p>iii. Staff of the GPF and CANU will benefit under the project at Rec. 30 (i) above. (Staff of the GPF and CANU also benefitted from the AML/CFT Workshop held on April 17, 2013)</p>
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		<p>iii. No ML/FT training of staff of GPF and CANU</p> <p>iv. Integrity of GPF is in doubt</p> <p>v. GSC and DCFS do have adequate staff and resources to carry out their functions.</p>	<p>iii. Staff of the GPF and CANU should be provided with appropriate ML/FT training.</p> <p>iv. The authorities should consider measures to deal with the integrity problems of the GPF.</p> <p>v. Adequate staff and resources should be provided to the GSC and DCFS to carry out their functions.</p>	<p><i>(This recommendation was met – see paragraph 83 of Guyana’s 5th Follow-up Report).</i> As stated above officers from the GPF benefitted from an Advanced AMLCFT Investigative Techniques training session held April 14-16, 2014. <i>(See comments at R. 30(i) above.)</i></p> <p>iv. This recommendation was referred to the Guyana Police Force (GPF) and this Agency has responded as follows – The Police have several measures in place to address integrity problems which include an office of Professional Responsibility and vetted units that acquire intelligence and investigate organised crimes. Efforts will be made to develop the capacity of the Office of Professional of Responsibility. Information on the power and functions of the Office of the Professional Integrity and the results of its operation is attached and marked ‘Appendix H’) (This recommendation was partly met – see paragraph 71 of Guyana’s 5th Follow-up Report). (See statistics on the number of officers charged and dismissed for 2011 to 2013 attached). Please see attached statistics for December 2013 to June 2014 – Rec. 30(iv). <i>The OPR continues to receive reports and discipline officers accordingly. See attached statistics for July to December 2015 – R. 30(iv)</i></p> <p>v. This recommendation is still being reviewed by GSC and DCFS for implementation. Staff of the Friendly Society has been increased from 5 to 8. There are plans for additional staff before the end of 2014. Both the GSC and DCFS have established AMLCFT Departments. The GSC has appointed an AML/CFT Surveillance Officer/Examiner, while the DCFS has appointed an AMLCFT Compliance Officer. The role of these officers is to monitor compliance by their respective reporting entities.</p>
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		<p>vi. Staff of GSC and DFSC have not received AML/CFT training.</p> <p>vii. The FIU is inadequately staffed.</p>	<p>vi. Adequate and relevant AML/CFT training should be provided to the staff of GSC, the DCF and the BOG.</p> <p>vii. The FIU should urgently implement its plans for new personnel and facilities.</p>	<p>vi. The staff of GSC, DCF and the BOG will benefit from AMLCFT training which will be conducted under the CBSI project mentioned at Rec. 30(i) above. (A Workshop on Supervisory Authority’s obligations was held on July 18, 2013 and a Follow-up Workshop is scheduled for September 10-11, 2013. (See Workshop presentation attached). (This recommendation was partly met – see paragraph 83 of Guyana’s 5th Follow-up Report).</p> <p>Another Workshop on AML/CFT Supervision for DNFBPs was held on April 10-11, 2014 for SAs of</p> <ul style="list-style-type: none"> -Money Transfer Agencies, -Cambios, -Insurance, -Banks, -Securities Dealers, -Cooperatives, -Charities, -Casinos, and -Gold and Diamond Dealers. <p>The BOG benefited from the Financial Investigative training referred to at R. 30(i) above. In November 2014 the FIU in collaboration with the CIDA’s –Deployment of Democratic Development (DDD), facilitated a Workshop on the AML/CFT National Strategic Plan for all SAs. The GSC, DCFS and BOG were in attendance. <i>(See attach Summary of training/workshops/advisory sessions held for the period January to June 2015 – Rec. 1(iii)).</i></p> <p>vii. FIU has already commenced implementation of its plans for new personnel and facilities. To date FIU has in its employ, one Director, one Legal Adviser, two Financial Analysts, one Database Administrator and one Administrative Officer. Plans are in place to employ two (2) additional staff by the end of October 2012 as this is an exercise that is an integral part of the appointment of supervisory</p>
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		<p>viii. Insufficient AML/CFT training of staff of BOG.</p>	<p>viii. The authorities should consider increasing the number of Customs outposts to ensure security at borders.</p>	<p>authorities for DNFbps. <i>(This recommendation was met – see paragraph 34 Guyana 2nd Follow up Report)</i>. The FIU has employed another person (Legal Adviser – AMLCFT Compliance) to be responsible for the newly appointed supervisory authorities for DNFbps. The person will commence work from March 3, 2014. Her functions will include ensuring continuing compliance by DNFbps/REs with the obligations of the AML/CFT Act and Regulations, Contributing to the implementation and maintenance of AML/CTF supervision and compliance manuals, policies, procedures and systems for DNFbps/REs, Overseeing the AML/CTF staff training program by DNFbps/reporting entities, Examining and supervising DNFbps/reporting entities, and regulating and overseeing effective compliance with the obligations under the AMLCFT Act and Regulations and any other preventive measures in relation to combating money laundering and terrorist financing. The Legal Adviser-AMLCFT Compliance was appointed on March 3, 2014 and has commenced work in accordance with the above outlined functions.</p> <p>viii. Customs outposts were established at Mabura and Kurupukari are operational. GRA is awaiting the approval of the Government for the establishment of another outpost at Morawhanna. (See copy of letter to this effect attached and marked Appendix G). <i>(This recommendation was partly met – see paragraph 83 of Guyana’s 5th Follow-up Report)</i>. <i>GRA has reported that Cabinet has approved the establishment of three (3) additional outposts at Charity, Parika and Eterinbang. While the necessary works are on-going at these locations to prepare the outposts for occupancy, GRA has already commenced operations in rental buildings at two (2) of the three (3) locations (Charity and Parika)</i>.</p>
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			<p>ix. Relevant staff of the GRA should be provided with AML/CFT training.</p>	<p><i>See update on the Multi Complexes (Charity, Parika and Eteringbang) provided by GRA. R. 30(viii).</i></p> <p>ix. This is ongoing – for 2012 training was conducted for Customs Officers stationed at the Cheddi Jagan International Airport on October 9, 2012. On August 16, 2013 training was conducted for Customs Officers stationed at the Cheddi Jagan International Airport. Eleven officers benefitted from this training. <i>(This recommendation was met – see paragraph 83 of Guyana’s 5th Follow-up Report).</i></p> <p>On April 4, 2014, a training session on foreign currency declaration to effectively monitor cash couriers was also held for Customs Officers stationed at the ports of entries.</p> <p>On April 14-16, 2014 officers from the GRA benefitted from an Advanced AMLCFT Investigative Techniques training session held by the FIU in collaboration with Canadian Consultants.</p> <p>As stated at R. 30(i) above, the GRA officers benefitted from the Financial Investigative Training held in November 2014 as well as the Cash Awareness Training which was held during the same period.</p> <p><i>GRA Customs officers stationed at the various ports of entry/exit continue to receive training in the area of Cross Border Transportation of Currency. (Please refer to Summary of training/workshops/advisory sessions held for the period January to June 2015 – Rec. 1(ii)).</i></p>
<p>31. National co-operation</p>	<p>NC</p>	<p>i. There is no structured coordination and cooperation between the policy makers, the FIU, law enforcement and supervisors and other agencies concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.</p>	<p>i. The authorities should consider the establishment of a national body comprised of relevant AML/CFT agencies to facilitate co-operation and co-ordination in implementing AML/CFT policy and to provide advice to Government and guidance to private entities in relation to AML/CFT obligations.</p>	<p>i. A Task Force Committee on Money Laundering was established comprising representatives from FIU, GPF, DPP, CANU, and GRA. A National Oversight Committee on AMLCFT consisting of members of Cabinet sub-committee on justice and security and other stakeholders as required by FATF was established on July 15, 2013. The</p>

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				<p>Committee is chaired by the Head of the Presidential Secretariat and the Committee members are:</p> <ul style="list-style-type: none"> - 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. <p>The first meeting of the Committee was held on July 30, 2013. The Committee will meet every two months thereafter.</p> <p>The Committee's functions are to:</p> <ol style="list-style-type: none"> 1. Set the national anti-money laundering and terrorist financing strategy for Guyana. 2. Facilitate co-ordination among the competent authorities, financial and other sectors represented on the Committee. 3. Study and follow the 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. 4. Monitor the implementation of legal and institutional framework by competent authorities in the fight against money laundering and terrorist financing.
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				<p>5. Review the AML/CFT systems in Guyana. <i>(This recommendation was met – see paragraph 86 of Guyana’s 5th Follow-up Report).</i></p> <p>The Committee continues to meet regularly. Outcome from these meetings are as follows:</p> <ul style="list-style-type: none"> - The conception and establishment of a Special Organised Crime Unit (SOCU). - The establishment of a sub committee to oversee the operations of SOCU. - The identification of a building for SOCU. - The approval of funding for the renovation of the building and resourcing of SOCU. - Commenced interviewing applicants for employment with SOCU. - The establishment of a mechanism within all relevant agencies to maintain and report on statistics related to AML/CFT. - The appointment of focal points (persons) within all the relevant agencies to respond to requests for information related to AMLCFT matters. - Plans initiated to establish a committee to focus on the National Risk Assessment for Guyana. - Consideration of a National Strategy for Combating ML/TF – 2014-2019. - Monitoring Guyana’s compliance with the FATF Standards. <p>The Oversight Committee continues to meet regularly. Between August and December 2014 there were three (3) meetings. One of the key outputs of the Oversight Committee is the Government’s adoption of a National Strategy for combating ML and TF – 2014 to 2019. This strategy was developed by the Government in consultation with, and supported by, key stakeholders. The Government’s commitment to this strategy includes the following four (4) broad streams:</p>
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				<p>(i) Development of laws and regulations in line with international standards;</p> <p>(ii) Preventative measures for the financial sectors and related businesses and professions;</p> <p>(iii) Effective combating measures of law enforcement agencies, prosecution authorities and the FIU; and</p> <p>(iv) Capacity building for international and domestic co-operation of ML and TF matters.</p> <p>The National Strategy was distributed to the key agencies for implementation. This implementation process will be monitored by the National Oversight Committee. (See attached copy of the National Strategy – R. 31(i))</p> <p><i>For the reporting period the Committee met once (April 14, 2015) where the following decisions were taken:</i></p> <ol style="list-style-type: none"> <i>1. The FIU should be provided with reports and updates relating to AML/CFT from the relevant agencies, since the FIU is the focal point for AML/CFT in Guyana tasked with the responsibility of reporting to the international and regional bodies.</i> <i>2. An SOP outlining a guide for interagency operations at the ports of entry/exit as well as an MOU for information sharing should be prepared. (Dir-FIU, CG-GRA, Head-SOCU and Head-CANU)</i> <i>3. The relevant agencies including the Minister of Home Affairs should be formally informed of SOCU's operations at the ports of entry/exit. (COP-GPF)</i> <i>4. FIU has agreed to share information where there is urgency for that information. However, formal request outlining the predicate offence, and</i>
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			<p>ii. The competent authorities should consider establishing explicit mechanisms for consultation between competent authorities, the financial sector and other sectors (including DNFBP) that are subject to AML/CFT laws, regulations, guidelines or other measures.</p>	<p><i>reason(s) for the request should be sent in writing as soon as possible.</i></p> <p><i>It should be noted however that section 4 of the AMLCFT (Amendment) Act No. 1 of 2015 makes provision for the establishment of an AMLCFT Authority comprising nineteen (19) members (ten (10) appointed and nine (9) ex-officio). Among the powers of the Authority are the powers to ensure, in the national interest, the performance of the FIU accords with international obligations and commitments and the power to monitor and review compliance with all relevant legislation, policies and measures. In addition, the Amendment Act requires the FIU and the Authority to liaise with each other and work in collaboration in an effort to attain maximum coordination of their efforts to achieve the objectives of the AMLCFT Act. (See pages 7-12 of the AMLCFT Amendment Act No. 1 of 2015).</i></p> <p>ii. One of the functions of the AMLCFT National Oversight Committee is to facilitate co-ordination among the competent authorities, financial and other sectors represented on the Committee. This recommendation is partly outstanding- see paragraph 87 Guyana’s 5th Follow up Report) The AMLCFT National Oversight Committee is in the process of establishing mechanisms for consultation between competent authorities.</p> <p>In October 2014 the SOCU-GPF and the FIU signed an MOU concerning cooperation in the exchange of information relating to suspicious financial transactions, investigations, prosecutions and other matters related to ML/TF and proceeds of crime. The Committee has agreed to establish mechanisms for consultations/information sharing among the other relevant sectors. Technical assistance is being sought to facilitate the establishment of these mechanisms.</p> <p><i>(This recommendation was met – see paragraph 95 of Guyana’s 8th Follow-up Report).</i></p>
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<p>32. Statistics</p>	<p>NC</p>	<p>i. No statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals are maintained.</p> <p>ii. No statistics on mutual legal assistance or other international requests for co-operation are maintained.</p>	<p>i. Statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals should be maintained.</p> <p>ii. The authorities should maintain statistics on mutual legal assistance or other international requests for co-operation.</p>	<p>i. Statistics on formal request for assistance made and received by the FIU are maintained. To date no request for information was made or received by supervisory authorities. See attached statistics on (i) Formal request for information made and received by the FIU for the period August to December, 2014 and (ii) Request for Information relating to ML/TF made and received by GPF for the period July to December, 2014 - Rec. 32(i and R. 30(iv) respectively). No request for assistance was made by the FIU neither was there any spontaneous referrals for the period.</p> <p><i>The FIU did not make or receive or request for assistance for the period July to December 2016.</i></p> <p><i>The FIU also did not make or receive any Spontaneous referrals for the period.</i></p> <p>ii. As the Minister of Home Affairs is designated as the Central Authority for receiving and transmitting requests for mutual legal assistance under section 3(1) of the Mutual Assistance in Criminal Matters Act No. 38 of 2009, the Ministry of Home Affairs is responsible for and does maintain records on mutual legal assistance requests and other related international requests for cooperation. (See Appendix I for statistics on MLA for 2012). See attached statistics on Mutual Legal Assistance made and received by the Ministry of Home Affairs for the period August to December, 2013.</p> <p>The Authorities continues to maintain statistics on MLA –</p> <p><i>(This recommendation is now met – see paragraph 102 of Guyana’s 6th Follow-up-Report). See attached statistics for July to December 2015. Two MLA requests were received by Guyana and two requests were sent by Guyana -Rec. 32(ii)</i></p>
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		<p>iii. No statistics on extradition are maintained.</p> <p>iv. No statistics in reference to any of the requirements in SR IX were available.</p> <p>v. No regular review of the effectiveness of the AML/CFT systems.</p> <p>vi. No statistics on the number of STRs received or disseminated by the FIU or the number of times information was exchanged with authorities in other countries were available.</p>	<p>iii. The authorities should maintain statistics on extradition.</p> <p>iv. GRA should 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.</p> <p>v. The authorities should implement a regular review of the AML/CFT systems in Guyana.</p>	<p>(iii) The Ministry of Home Affairs and the DPP maintain records of extraditions. (This recommendation was met – see paragraph 86 Guyana 3rd Follow up Report). (No extradition requests relating to ML and FT were received by Guyana since last report). See attached statistics on extraditions maintained by the Ministry of Home Affairs for the period August to December, 2013. The Chambers of the Director of Public Prosecutions did not deal with any extradition requests for the period January to June 2014 and as such there are no statistics in this regard. <i>There were no extraditions requests made by Guyana for the period July to December 2015 however Guyana received two requests. See Appendix for R. 32(ii) above.</i></p> <p>(iv) The GRA maintains statistics as recommended. (This recommendation was met – see paragraph 82 Guyana 3rd Follow up Report). (See statistics for July to December, 2013 included in Statistics submitted for Rec. 26(iii) above.) <i>The Authorities continue to maintain statistics on foreign currency declarations (See Statistics submitted for Rec. 26(iii) for the period July to December 2015.</i></p> <p>(v) One of the functions of the AML/CFT National Oversight Committee which was established on July 15, 2013 is to conduct regular review of the AML/CFT systems in Guyana. <i>It must be noted Guyana has already implemented a non-traditional review system whereby the AMLCFT systems are constantly reviewed as we continue to bring new DNFBPs on stream, and as we draft new Regulations and Guidelines related to AMLCFT.</i> <i>This function will however, now be formally carried out by the AMLCFT Authority</i></p>
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				<i>established under section 4 of the AMLCFT Amendment Act No. 1 of 2015.</i>
33. Legal persons – beneficial owners	PC	<p>i. The Registrar of Companies does not have legal authority to ensure that adequate, accurate and complete information about beneficial owners is available to them or to law enforcement authorities.</p> <p>ii. No restrictions on the use of nominee shareholders and directors in the Companies Act nor is it possible for the Registrar of Companies to determine if nominees are being used.</p>	<p>i. The CA should 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.</p> <p>ii. The authorities should consider the prohibition of the use 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.</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. <i>This recommendation was addressed at section 25 – page 37 of the AMLCFT (Amendment) Act No. 1 of 2015 by the insertion of section 470A in the Companies Act.</i> <i>This recommendation was addressed by further amendments to section 470A of the Companies Act.</i> <i>See Clause 10 page 10 of the Draft AMLCFT (Amendment) Bill of 2016.</i></p> <p>ii. This recommendation was reviewed by the Attorney General’s office which has advised as follows: The <i>Companies Act 1990 (Cap 89:01)</i> requires the directors, company secretary and shareholders of all companies registered under the act to be filed with the Registrar of Company along with their addresses and a photograph identity. There is no provision in the law for a nominee shareholder. (Please refer to the AG’s letter referred to at Rec. 27 above). 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. <i>This recommendation was addressed at section 25 – page 37 of the AMLCFT (Amendment) Act No. 1 of 2015 by the insertion of section 470A in the Companies Act.</i> <i>This recommendation was met - see paragraph 113 of Guyana’s 9th Follow up Report.</i></p>
34. Legal arrangements – beneficial owners	NC	<p>i. No legal requirement under the AMLCFTA for the verification of the legal status of trusts.</p>	<p>i. It is recommended that Guyana should implement measures to ensure that its commercial laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.</p>	<p>i. These recommendations were reviewed by the Attorney General ‘s office which has advised as follows: “The compendium of the Companies Act 1990 (Cap 89:01), the Deeds Registry Act (Cap</p>

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		<p>ii. No standard requirement for the recording of beneficial ownership information on trusts, so the nature of information collected will vary.</p> <p>iii. Lawyers and accountants are not subject to monitoring for their AML/CFT obligations and it is not clear how reliable their information on trusts would be.</p>	<p>ii. Measures should also be implemented to ensure that adequate, accurate and timely information is available to law enforcement authorities concerning the beneficial ownership and control of trusts.</p>	<p>5:01), the Business Names (Registration) Act(Cap 9:05), the Patent and Designs Act (Cap 90:03), the Bills of Sale Act (Cap 90:12), the Trade Marks Act (Cap 90:01) and the Trade Unions Act (Cap 98:03), provide a legislative network which requires and allows for the documentation of ownership (including beneficial ownership) of, or legal interest in properties of any kind, mortgages, bills of sale, deeds of all kinds, business names, companies and their directors and shareholders and officers, trusts of all types, including the trustees and debentures.</p> <p>The aforementioned information is stored at a singular agency known as the Deeds and Commercial Registry Authority, which is a statutory body corporate. I enclose herein a copy of the Deeds and Commercial Registry Authority Act. All the aforementioned information and much more are all public documents, which can be accessed upon request.”</p> <p>(Please find attached a copy of the Deeds and Commercial Registry Authority Act). A detailed report on these recommendations will be provided by March 21, 2014. These recommendations were reviewed and part of Rec. 34(i) (regarding adequate transparency concerning beneficial ownership) was subsequently included in the Amendment Bill. Further, it was also addressed at paragraph 10(1) of the AMLCFT Directives issued by the Minister of Legal Affairs and Attorney General on August 26, 2014.</p> <p>Regarding Rec. 34(ii), as there are no laws prohibiting members of the GPF from having ready access to information, documents and assistance of whatever kind pursuant to an investigation of any matter, this recommendation will be satisfied with the with the issuance of the above Guidelines.</p>
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				<p><i>This recommendation was addressed at section 25 – page 37 of the AMLCFT (Amendment) Act No. 1 of 2015 by the insertion of section 470A in the Companies Act.</i></p> <p><i>This recommendation was addressed by further amendments to section 470A of the Companies Act (IA)A.</i></p> <p><i>See Clause 10 (Schedule) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p>
International Co-operation				
35. Conventions	PC	i. The Vienna, Palermo and Terrorist Financing Conventions have not been fully implemented.	i. The competent authorities in Guyana should take steps to fully implement the Vienna, Palermo and Terrorist Financing Conventions.	<p>i. Guyana being a party to these Conventions continuously seeks to implement the measures thereunder. Further amendments to be considered.</p> <p>A decision was taken for this recommendation to be reviewed at a policy level as it would require significant legal amendments to major laws in the country. (Please refer to the attached Letter from the Ministry of Home Affairs dated May 24, 2013 which addressed the shortcomings of this Recommendation which were highlighted in the Fourth Follow up Report of Guyana paragraphs 27 – 34.</p> <p>In addition, the Attorney General’s office has advised that the implementation of the Conventions is a ‘Work in Progress’. As can be evidenced from previous submissions on this recommendation there are already in force major pieces of legislation that allow for mutual assistance between Guyana and other countries in respect of the commission of organised and other forms of crimes. Further, there is in forced laws in respect of extradition from Guyana of persons suspected of or charged with organised or other crimes. Only recently amendments were effected to the Extradition Act to correct identified deficiencies revealed by court rulings. In an addendum that will be sent separately, a more detailed examination of aspects of these Conventions will be submitted.</p> <p>A United Nations Convention Bill was prepared to give effect to the United Nations Conventions against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988, the International</p>

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				<p>Convention for the Suppression of the Financing of Terrorism 1999 and the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto 2004. However based on advice from CFATF the legislative drafters responsible for this draft were instructed to conduct thorough research to ensure that there is no duplication of provisions as other legislation may have already addressed some Articles of these Conventions.</p> <p>The relevant articles of Vienna, Palermo and Terrorist Financing Conventions were included in the Anti Terrorism Bill (Clauses 58-59) to give these articles the force of law. This Bill will be introduced in the 11th Parliament and is expected to be passed and enacted before September 2015 as per Action Plan agreed with ARRG. (See Attached Copy of Anti Terrorism Bill – R. 35). <i>This Bill was circulated to the national stakeholders for feedback/comments after which it will be published in the Official Gazette and laid in the 11th Parliament for passage. This recommendation was addressed at sections 58 and 59 of the Anti-Terrorism and Terrorist Related Activities Act No. 15 of 2015 which gives the relevant articles of the relevant Conventions the force of law. See attached – R. 35.</i></p>
36. Mutual legal assistance (MLA)	NC	<p>i. Range of MLA provided for under Part VI of the AMLCFTA only applies to countries that have in force a bi-lateral or multi-lateral MLA Treaty with Guyana, thus Guyana does not provide the widest range of mutual legal assistance.</p> <p>ii. Range of possible mutual legal assistance does not include freezing, seizure or confiscation of assets of corresponding value.</p>	<p>i. Range of possible mutual legal assistance should include freezing, seizure or confiscation of assets of corresponding value.</p> <p>ii. 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.</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. <i>This recommendation was addressed at section 19 – page 30 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 76(2) of the Principal Act. This recommendation was met - see paragraph 50 of Guyana’s 9th Follow up Report.</i></p> <p>ii. Requests for assistance under the Mutual Assistance in Criminal Matters Act is sought on the basis of the existence of a ‘criminal matter’ whether it is an investigation or criminal proceedings in respect of an offence committed or suspected on reasonable</p>

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		<p>iii. No clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delay.</p> <p>iv. Unable to assess effectiveness due to lack of statistics and the recent enactment of the AMLCFTA</p>		<p>grounds to have been committed against the laws of the country in question, including money laundering and terrorist financing. Criminal matter is also defined as including forfeiture proceedings and proceedings to restrain or confiscate property or for the imposition of a pecuniary penalty.</p> <p>Requests for assistance can be transmitted, inter alia, for tracing of property; registering/enforcing confiscation/forfeiture, pecuniary penalty or restraining orders; or obtaining a restraining order.</p> <p>These cases involve the proceeds of a serious offence meaning an offence which is punishable by death or a sentence of imprisonment of twelve months (12) or more; relates to taxation; or the proceeds of the offence are or are likely to be worth not less than equivalent of G\$1,000,000 or such other amount as may be prescribed.</p> <p>The Ministry of Home Affairs has developed clear and efficient processes to ensure that requests for mutual legal assistance are executed without delay. Section 23 (1) of the Mutual Assistance in Criminal Matters Act 2009 provides that the Minister of Home Affairs shall as soon as practicable accept and carry out a request made in accordance with the Act. (See updated comments by the Ministry of Home Affairs in the attached Letter from the Ministry dated August 2, 2013).</p> <p>When the Minister of Home Affairs, in his capacity as the Central Authority for Guyana, receives a request for assistance, the Treaty Officer of the Ministry of Home Affairs performs a preliminary assessment of the request to determine whether it complies with the Mutual Assistance in Criminal Matters Act No. 38 of 2009 and any other relevant legislation. This assessment seeks to ensure that Central Authority for Guyana is legally empowered to execute the request and that the Requesting State has submitted all of the relevant information required by the laws of Guyana to facilitate the execution.</p>
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			<p>Depending upon the request for assistance and the information submitted, this process normally lasts one (1) to two (2) weeks.</p> <p>If the preliminary assessment reveals that the request for assistance can be accepted, the letter of request is then forwarded to the relevant agency for execution; normally (as is dictated by the request for assistance) to the Commissioner of Police of the Guyana Police Force or the Director of Public Prosecutions. At this time, a letter of acknowledgement is dispatched under the aegis of the Minister of Home Affairs to the Central Authority for the Requesting Country indicating that efforts are being made to fulfill the request and advising of the contact information of the competent authorities in respect of any updates on the status of the request.</p> <p>Subsequently, the executing agency will, in most cases within one (1) month of the receipt of the letter of request, advise the Ministry of Home Affairs whether they have been successful in the execution of the request. Again, in some cases the executing agency will state that more documentation is required in order to carry out the request, e.g., for the purposes of applying for a court order. Upon receipt of the response, the information is forwarded to the Central Authority for the Requesting Country. In the instances where more information is required, the executing agency can communicate this directly via email to the Central Authority for the Requesting Country.</p> <p>The Ministry of Home Affairs again wishes to state that the length of the process depends upon the information submitted by the Requesting Country and the particular request for assistance and therefore cannot provided definite timelines for the execution of mutual legal assistance requests.</p> <p>Please also refer to statistics on MLA which were submitted in previous reports as well as updates attached hereto and the Ministry's further</p>
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				<p>comments on this recommendation (in letter of January 22, 2014 which is also attached) which seek to demonstrate further the time taken to respond and resolve MLAs. <i>(This recommendation is met – see paragraph 46 of Guyana’s 6th Follow-up-Report)</i></p>
37. Dual criminality	NC	<p>i. No provisions which allow for the granting of mutual legal assistance in the absence of dual criminality for less intrusive and non-compulsory measures.</p> <p>ii. No measures for technical differences in categorisation and denomination of offences in laws of other countries not to impede the provision of mutual legal assistance.</p> <p>iii. No provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures.</p>	<p>i. There should be provisions which allow for the granting of mutual legal assistance in the absence of dual criminality for less intrusive and non-compulsory measures</p> <p>ii. There should be measures to ensure that technical differences in categorisation and denomination of offences in laws of other countries do not impede the provision of mutual legal assistance.</p> <p>iii. There should be provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures.</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. <i>This recommendation is addressed at section 25– page 32 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 6 of the Mutual Assistance in Criminal Matters Act. This recommendation was met - see paragraph 116 of Guyana’s 9th Follow up Report.</i></p> <p>ii. <i>This recommendation is addressed at section 25– page 33 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 23 of the Mutual Assistance in Criminal Matters Act. This recommendation was met - see paragraph 116 of Guyana’s 9th Follow up Report.</i></p> <p>iii. A detailed report on this recommendation will be provided by March 21, 2014. <i>See Attached Report. Rec. 37(iii)</i> <i>This recommendation is addressed at section 25– page 33 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 6 of the Mutual Assistance in Criminal Matters Act. This recommendation was addressed by further amendments to section 5 of the Mutual Assistant in Criminal Matters Act. See Clause 10 (Schedule) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p>
38. MLA on confiscation and freezing	NC	<p>i. No guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA.</p>	<p>i. Guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA should be developed and implemented.</p>	<p>i. The Ministry of Home Affairs will seek to develop and implement guidelines or procedures in respect of timelines to facilitate an expeditious response to mutual legal</p>

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		<p>ii. No provisions dealing with requests relating to property of corresponding value.</p> <p>iii. No arrangements regarding co-ordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters.</p>	<p>ii. There should be provisions allowing for requests relating to property of corresponding value.</p> <p>iii. The authorities should put in place arrangements regarding co-ordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters.</p>	<p>assistance requests. (Please refer to the last paragraph of letter from the Ministry of Home Affairs dated August 2, 2013). <i>(This recommendation was met – see paragraph 99 of Guyana’s 5th Follow-up Report).</i></p> <p>ii. Under sections 34 and 35 of the Mutual Assistance in Criminal Matters Act 2009 requests for assistance relating to restraining and confiscation/forfeiture orders can be accepted where, inter alia, the proceeds of the serious offence or any property available for the satisfaction of the order or to which the order would apply are or is suspected on reasonable grounds in Guyana. <i>This recommendation was met – paragraph 94 – Guyana 3rd Follow up Report.</i></p> <p>iii. If the request for assistance is accepted under the Mutual Assistance in Criminal Matters Act 2009, there is no hindrance to authorities in Guyana coordinating seizure and confiscation actions with other countries/jurisdictions in relation to money laundering or terrorist financing matter. (See procedures for coordinating seizure and confiscation in Appendix K) (Please also refer to letter from the Ministry of Home Affairs dated May 24, 2013) Please refer to Ministry of Home Affairs letter of Jan 22, 2014 in relation to this recommendation as well as s. 29 of the Mutual Assistance in Criminal Matters Act which outlines the measures required to be taken to coordinate these types of action with requesting countries.</p> <p>Section 76 (2) of the Anti-Money Laundering and Countering the Financing of Terrorism Act No. 13 of 2009, authorises the High Court or the competent authority i.e. the Director of Public Prosecutions (DPP) to receive a request from the Court or competent authority of another state to identify, trace, produce, freeze, seize or forfeit the property, proceeds or instrumentalities connected</p>
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			<p>to money laundering offences, terrorist offences and serious offences. The High Court or the DPP, as the case may be, is allowed to undertake steps towards freezing and forfeiture of the identified assets.</p> <p>However, the above assistance can only be extended to "... countries with whom Guyana has entered into mutual legal assistance treaties on a bilateral or multilateral basis, and all such assistance shall be subject to the terms of such treaties." (vide section 76(6) of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009). An example of a multilateral treaty would be the Inter-American Convention on Mutual Assistance in Criminal Matters.</p> <p>Once a mutual legal assistance treaty is in force between Guyana and that country, section 77 (1) of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009 envisages that the High Court may register and enforce an external confiscation or forfeiture if it is satisfied that the order is not subject to appeal, the affected person was given sufficient notice and it would not be contrary to the interest of justice to enforce the order.</p> <p>The Mutual Assistance in Criminal Matters Act No. 38 of 2009, which allows the transmission of requests between the central authority of Guyana and central authority of any country that has a bilateral or multilateral treaty with Guyana in respect of mutual assistance in criminal matters, regulates the registration of any order concerning confiscating or forfeiting of proceeds in a requesting country in section 34 of the Act.</p> <p>The Ministry of Home Affairs which was renamed Ministry of Public Security has reported that all seizures in and outside of Guyana will be coordinated by the SOCU. However, to date there has been no precedents since seizures have been essentially local and unilateral. See Letter from the Ministry dated July 31, 2015 – R. 38(iii)</p> <p><i>Guyana has further reviewed existing laws and procedures in this area with the aim of fully addressing this recommendation. See attached</i></p>
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		<p>iv. Unable to assess effectiveness due to lack of statistics and the recent enactment of the AMLCFTA.</p>	<p>iv. The authorities in Guyana should consider establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes.</p> <p>v. Authorities should consider a provision under Guyana law that provides for sharing of confiscated assets where confiscation directly or indirectly results from co-ordinated law enforcement efforts between jurisdictions.</p>	<p><i>Legal Opinion from the Attorney General's Chambers – R. 38(iii)</i></p> <p>iv. Section 34 (8) of the Mutual Assistance in Criminal Matters Act 2009 provides that all property confiscated or forfeited under that section shall be distributed between the Consolidated Fund and the requesting country; and may be donated to any person or organisation as agreed between the central authority for Guyana and the central authority for the requesting country. <i>These recommendations (iv and v) were met – paragraph 96 – Guyana 3rd Follow up Report.</i></p>
39. Extradition	PC	<p>i. Unable to assess effectiveness due to the lack of statistics on extradition.</p>	<p>i. Procedures or measures should 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.</p>	<p>i. Measures are in place to facilitate the timely response to requests for extradition and proceedings relating to ML and FT. According to section 108 of the AMLCFT Act, money laundering and the financing of terrorism are offences for the purposes of extradition. Therefore, under the auspices of the Fugitive Offenders Act 1988, Act No. 15 of 1988 (as amended by the Fugitive Offenders (Amendment) Act 2009, Act No. 30 of 2009) adequate arrangements are in place for these requests to be handled expeditiously by the Ministry of Foreign Affairs, Ministry of Home Affairs, Director of Public Prosecutions and the Guyana Police Force in order to ensure timely response and action. (Please refer to Rec 32 (iii) above which was met according to paragraph 86 of Guyana 3rd Follow up Report.) In the Ministry of Home Affairs letter of Jan 22, 2014 see attached it was reiterated that requests for extraditions are handled without undue delay. Administrative elements of the process do not exceed one month from the date of receipt of the request. However, it is difficult to establish a timeline for the process once it enters the court system.</p>

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				<i>(This recommendation is largely met – see paragraph 111 of Guyana’s 6th Follow-up-Report)</i>
40. Other forms of co-operation	PC	<p>i. No procedure for spontaneous exchange of information.</p> <p>ii. The COI does not have confidentiality requirements that include exchanged information.</p> <p>iii. Unable to assess effectiveness of international co-operations due to lack of statistics on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals and the recent enactment of the AMLCFTA.</p>	<p>i. Procedures for spontaneous exchange of information should be developed.</p> <p>ii. The COI should have confidentiality obligations that include exchanged information</p>	<p>i. Formal documented procedures outlining steps for the spontaneous exchange of information was submitted with previous follow-up matrix. <i>This recommendation was met – see para 40 of Guyana Fifth FUR.</i> See statistics on spontaneous exchange of information for the period July to December 2013. For the period January to April, 2014 there were no spontaneous exchange of information.</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. <i>This recommendation is addressed at section 25– page 39 of the AMLCFT (Amendment) Act No. 1 of 2015 which inserts 23B in the Insurance Act.</i> <i>This recommendation was met - see paragraph 51 of Guyana’s 9th Follow up Report.</i></p>
Nine Special Recommendations		Summary of factors underlying rating		
SR.I Implement UN instruments	PC	<p>i. The Guyana Authorities have not implemented S/RES/1267(1999) and S/RES/1373(2001)</p>	<p>i. The AMLCFT legislation should be amended to provide compliance with S/RES/1267(1999) and S/RES/1373(2001) for freezing funds of designated persons/organisations, and also develop and implement procedures for delisting requests and unfreezing of funds.</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. <i>This recommendation was addressed at section 18 – pages 26- 30 of the AMLCFT (Amendment) Act No. 1 of 2015 which include Sections 68A, 68B and 68C in the Principal Act.</i> <i>This recommendation was addressed by further amendments to section 68A, 68B and 71 of the Principal Act see sections 4, 5 and 6 of the AMLCFT (Amendment) No. 2 Act No. 10 of 2015 and Clause 9 of the Draft AMLCFT (Amendment) Bill of 2016.</i></p>

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			<p>ii. The competent authorities should provide or issue guidance to financial institutions with respect to obligations to freeze assets of persons listed by the UNSCR 1267 Committee and the EU.</p> <p>iii. There should be training for the relevant entities so that they are aware of their obligations under the legislation and in order for the legislation to be implemented effectively.</p>	<p>ii. This recommendation will be partially addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply. After the amendments are enacted the recommended guidelines will be issued. <i>The FIU issued a Practical Guide on the implementation of Targeted Financial Sanctions measures for Reporting Entities. The Guide was published on the FIU's website and reporting entities were informed. See attached the Practical Guide as well of the letter informing REs of its publication.</i> <i>This recommendation was met - see paragraph 53 of Guyana's 9th Follow up Report.</i></p> <p>iii. Reporting entities are benefitting from ongoing training under the Anti-Money Laundering & Countering the Financing of Terrorism Act and Regulations. <i>(This recommendation was met – see paragraph 40 of Guyana's 4th Follow up Report).</i> <i>This recommendation was met - see paragraph 53 of Guyana's 9th Follow up Report.</i></p>
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