



CARIBBEAN FINANCIAL ACTION TASK FORCE

Guyana 11th Follow-Up Report

Follow-up report to exit the 3rd Round of Mutual Evaluations

November 2016

Providenciales, Turks and Caicos Islands

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GUYANA – ELEVENTH FOLLOW-UP REPORT

I. Introduction

1. The third round Mutual Evaluation Report of Guyana was adopted by the CFATF Council of Ministers in May 2011 in Honduras. Since Guyana had all sixteen Core and Key Recommendations rated partially compliant (PC)/non-compliant (NC), Guyana was placed on expedited follow-up and required to report every Plenary. Guyana was also subject to the ICRG process. Guyana submitted follow-up reports beginning in November 2011 every six months to May 2016. 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.

2. As a consequence of the formal CFATF statement, Guyana enacted several pieces of key legislation comprising statutes and regulations in 2015. These legislative measures resulted in a significantly improved level of compliance in the Ninth Follow-Up Report. Due to continuing measures, Guyana was assessed as having addressed all issues in the sixteen key and core Recommendations originally rated PC/NC and a significant number of other similarly rated Recommendations in the Tenth Follow-Up Report and recommended to apply to exit the follow-up process once it had exited the FATF ICRG process. As Guyana has successfully exited the FATF ICRG in October 2016 it is applying to exit the CFATF follow-up and ICRG process.

3. This report is based on the follow-up removal procedure as stated in the CFATF Mutual Evaluation Procedures (amended in 2012) and as further explained by the decision of the Miami Plenary (May 2014)¹. The report contains a detailed description of the measures taken by Guyana to address the deficiencies in their Core and Key Recommendations that were rated PC or NC in the mutual evaluation report. A brief description and analysis of the non-Core and Key recommendations rated PC/NC is also being presented, but will not be considered as part of the exit process.

4. Guyana was rated PC or NC on the following Recommendations.

¹ See CFATF-plen-XL-a-iii-annex-i-updated



Core Recommendations ² rated NC
R. 13 (Suspicious transaction reports)
Core Recommendations rated PC
R. 1 (Criminalisation of money laundering) R. 5 (Customer due diligence) R. 10 (Record keeping) SR. II (Criminalizing terrorist financing) SR. IV (Terrorist financing suspicious transaction reports)
Key Recommendations ³ rated NC
R. 23 (Regulation, supervision and monitoring) R. 26 (The FIU) R. 36 (Mutual legal assistance) SR. III (Freeze and confiscate terrorist assets) SR. V (International co-operation)
Key Recommendation rated PC
R. 3 (Confiscation and provisional measures) R. 4 (Financial institution secrecy laws) R. 35 (Conventions) R. 40 (Other forms of co-operation) SR. I (Implement UN instruments)
Other Recommendations rated PC
R. 6 (Politically exposed persons) R. 9 (Third parties and introducers) R. 15 (Internal controls, compliance & audit) R. 17 (Sanctions) R. 28 (Powers of competent authorities) R. 29 (Supervisors) R. 27 (Law enforcement authorities) R. 29 (Supervisors) R. 33 (Legal persons – beneficial owners) R. 39 (Extradition) SR. VI (AML requirements for money value transfer services) SR. IX (Cross-border Declaration and Disclosure)
Other Recommendations rated NC
R. 8 (New technologies and non-face-to-face business) R. 12 (DNFBPs – R.5, 6, 8-11) R. 16 (DNFBPs – R.13-15 & 21) R. 19 (Other forms of reporting) R. 21 (Special attention for higher risk countries) R. 22 (Foreign branches & subsidiaries) R. 24 (DNFBPs – regulation, supervision and monitoring)

² The FATF Core Recommendations are: R.1, R.5, R.10, R.13, and SR.II and SR.IV

³ The FATF Key Recommendations are R.3, R.4, R.23, R.26, R.35, R. 36, R.40, SR.I, SR.III and SR.V.



R. 25 (Guidelines and feedback)
R.27 (Law enforcement authorities)
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 transfers)
SR. VIII (Non-profit organizations)

5. The review of Guyana’s progress towards exiting the follow-up process is a desk-based review and as such is not as detailed and thorough as a mutual evaluation report. The analysis focuses on the Recommendations that were rated PC/NC and as such only part of the AML/CFT system is being reviewed. The analysis consists of looking at the main laws, regulations, guidelines and other materials to verify technical compliance with the FATF Recommendations. The level of effectiveness is taken into account through consideration of data provided by Guyana. The conclusions in this report do not prejudice the results of any future assessments as they are based on information that was not verified through an onsite process.

II. Main Conclusions and Recommendations to the Plenary

Core Recommendations

6. **Recommendation 1:** The legislative deficiencies were addressed by amendments of the Anti-Money Laundering and Countering the Financing of Terrorism Act No. 13 of 2009 (AMLCFTA 2009) and provisions of the Criminal Law (Offences) Act Cap 8:01. While effective implementation of the AMLCFTA 2009 has not been demonstrated, measures have been put in place to address the issue. Compliance has been brought to a level comparable at a minimum to an LC.

7. **Recommendation 5:** The deficiencies were addressed by amendments to the AMLCFTA 2009 and enactment of the Anti-Money Laundering and Countering the Financing of Terrorism Regulations 2010 (AMLCFTR 2010). These measures resulted in a level of compliance at a minimum to an LC.

8. **Recommendation 10:** The deficiency was addressed by provisions of the AMLCFTR 2010. The level of compliance is comparable at a minimum to an LC.

9. **Recommendation 13:** The first three deficiencies were addressed by amendments to the AMLCFTA 2009. The last deficiency has been rectified by appropriate measures. Compliance has been brought to a level comparable to an LC.



10. **Special Recommendation II:** The first three deficiencies have been rectified by amendments to the AMLCFTA 2009. With regard to the last deficiency, while effective implementation of the AMLCFTA 2009 has not been demonstrated, measures have been put in place to address the issue. The level of compliance is comparable to an LC.
11. **Special Recommendation IV:** The first two deficiencies were addressed by amendments to the AMLCFTA 2009. The last deficiency has been rectified by appropriate measures. Compliance has been brought to a level comparable to an LC.

Key Recommendations

12. **Recommendation 3:** The first deficiency has been addressed by amendment to the AMLCFTA 2009. Measures have been put in place to deal with the last deficiency. The overall level of compliance is comparable to an LC.
13. **Recommendation 4:** The first deficiency has been addressed by an amendment to the AMLCFTA 2009 and the second by an administrative measure. The level of compliance is comparable to an LC.
14. **Recommendation 23:** The first deficiency was dealt with by the appointment of a designated AML/CFT supervisory authority. The second and third deficiencies were addressed by amendments to the AMLCFTA. Measures were put in place to resolve the last deficiency. The level of compliance is comparable to an LC.
15. **Recommendation 26:** Deficiencies have been addressed by measures increasing the technical and human resources of the FIU. Functions of the FIU have been strengthened with improved security arrangements. Guidelines on STRs have been issued to financial institutions and other reporting entities. Annual reports have been published together with periodic reports and typologies. Consequently the level of compliance is comparable to an LC.
16. **Recommendation 35:** The deficiency was the lack of legislation to fully implement Articles 7, 8, 10 and 11 of the Vienna Convention, Articles 7, 18, 19, 20, 24, 25, 29 of the Palermo Convention and Article 1(1) of the Terrorist Financing Convention. Provisions stipulated in the Mutual Assistance in Criminal Matters Act No 38 of 2009 (MACMA) and the Anti-Terrorism and Terrorist Related Activities Act No. 15 of 2015 (ATTRAA, 2015) together with other measures have addressed the deficiency. The level of compliance is comparable to an LC.
17. **Recommendation 36:** The deficiencies have been addressed by amendment to the AMLCFTA and procedural measures. The level of compliance is comparable to an LC.
18. **Recommendation 40:** Provisions of the AMLCFTAA No. 1 of 2015 and documented procedures address the first two deficiencies while statistics demonstrate implementation regarding the last deficiency. The level of compliance is comparable to an LC.
19. **Special Recommendation I:** The deficiency has been addressed by amendments to the AMLCFTA 2009 and the AMLCFTR. The level of compliance is equivalent to an LC.



20. **Special Recommendation III:** The deficiencies were lack of implementation of the obligations of UNSCR 1267 and 1373 as required by Special Recommendation III. Amendments in the AMLCFTA 2009 and the AMLCFTR No. 4 of 2015 address all of the deficiencies except two. Of the remaining two one was dealt with by issuing guidelines while measures have been put in place to address the other. The overall level of compliance is comparable to an LC.

21. **Special Recommendation V:** The addressing of the deficiencies of SR. V depends on the rectifying the shortcomings of Recs. 36 to 40. These were dealt with by amendments to the AMLFTA and provisions of the Mutual Assistance in Criminal Matters Act No 38 of 2009 (MACMA). The level of compliance is comparable to an LC.

Other Recommendations

22. Guyana has made significant progress in addressing the deficiencies in the non-core and key Recommendations that were rated PC/NC to the extent that a high level of compliance has been achieved in all. However, Guyana's application for removal from the follow-up process is based on compliance with the Core and Key Recommendations that were rated PC/NC. Accordingly, this report will not provide a detailed analysis of the other Recommendations. A brief overview of the progress made with these other Recommendations is included in section VI of this report for information purposes only.

Conclusion

23. This report provides an analysis of Guyana's Core and Key Recommendations that were rated PC/NC in its 2011 Mutual Evaluation Report. The analysis indicates that Guyana has addressed the deficiencies noted in the Core and Key Recommendations rated PC/NC (R. 1, 4, 5, 10, 13, 23, 35, 40, SR. I – V) to a level of compliance that is comparable to at least an LC. It is therefore recommended to Plenary that Guyana should be allowed to exit the third round follow-up process.

III. OVERVIEW OF GUYANA'S PROGRESS

Overview of the main changes since the adoption of the Mutual Evaluation Report (MER)

24. Since the adoption of the MER in 2011, Guyana has sought to correct the deficiencies identified in its AML/CFT regime in the MER through the enactment and amendment of legislation, the provision of additional technical and human resources, appropriate stakeholder AML/CFT training and implementation of relevant AML/CFT systems. The authorities advised that since the on-site visit the Anti-Money Laundering and Countering the Financing of Terrorism Regulations No. 4 of 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 No. 1 of 2015 (AMLCFTAA No. 1 of 2015) was passed in June 2015 and addresses the legislative amendments required in the core and key Recommendations and a majority of the remaining outstanding Recommendations. This was followed by the Anti-Money



Laundering and Countering the Financing of Terrorism Regulations No. 4 of 2015 (AMLCFTR No. 4 of 2015) in August 2015 which deals mainly with implementation measures regarding SR. III. Further legislation was enacted in January 2016 – the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) (No.2) Act No. 10 of 2015 (AML/CFT (Amendment) No.2 Act 2015), the Anti-Terrorism and Terrorist Related Activities Act No. 15 of 2015 (ATTRA, 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).

25. 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).

26. 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

The Legal and Regulatory Framework

27. Guyana's AML/CFT legal and regulatory framework is based on several pieces of legislation including regulations which have been enacted by its National Assembly. Guidelines have also been issued by competent authorities such as the BOG and the FIU. These laws and guidance will be discussed as necessary in detail in section IV of the report.

IV. DETAILED ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS

Recommendation 1 - PC

R.1 (Deficiency 1): ML offences in the AMLCFTA are not consistent with the requirements of the Vienna and the Palermo Convention

28. The above deficiency was due to the absence in the ML offences defined in the AMLCFTA 2009 of "assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions," as required by the Vienna and Palermo Conventions. This was dealt with by section 3(b) of the AMLCFTAA No. 1 of 2015 which inserts paragraph (cA) in section 3 of the AMLCFTA. Paragraph (cA) includes the additional required offences. This provision addresses the deficiency.

R. 1 (Deficiency 2): 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.

29. Illicit trafficking in stolen and other goods is criminalized under section 236 of the Criminal Law (Offences) Act Cap 8:01 with a penalty of fourteen years imprisonment. Smuggling



is criminalized under section 218(d)(e) of the Criminal Law (Offences) Act Cap 8:01 with a penalty of one year imprisonment. The penalties make the offences serious offences and therefore predicate offences for money laundering as defined in section 3(5) of the AMLCFTA 2009. These provisions address the deficiency.

R. 1 (Deficiency 3): The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation.

30. As a result of the deficiency it was recommended that systems should be put in place to effectively implement the AMLCFTA 2009 and relevant Government entities made aware of the legislation and its applicability. In complying with the recommendation the FIU advised on its effort to continue 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 May 2016 in the follow-up reports. While effective implementation of the AMLCFTA has not been demonstrated, measures have been put in place to address the issue.

Recommendation 1 – Overall Conclusion

31. The two deficiencies in the legislative framework have been addressed by enactment of the AMLCFATA No. 1 of 2015 and provisions in the Criminal Law (Offences) Act Cap 8:01. While the implementation deficiency is still outstanding, measures have been put in place to address it. The level of compliance is comparable to an LC.

Recommendation 5 - PC

R.5 (Deficiency 1): Threshold for the application of CDD measures for occasional transactions has not been prescribed, leaving such determination to the discretion of the reporting entity.

32. The FATF standards require a threshold of above US\$15,000 for occasional transactions. Regulations 4(2) and 4(3) of the AMLCFTR No. 4 of 2010 require reporting entities to ensure proper customer identification by identifying and verifying the identity of customers when carrying out among other instances, one or more occasional transactions that equal or exceed one million Guyana dollars which is equivalent to US\$4,880. This requirement is more stringent than the FATF standard of US\$15,000. These provisions address the deficiency.

R.5 (Deficiency 2): No requirement for reporting entities to obtain information on the ownership of customers who are legal persons or legal arrangements.

33. Regulation (4) subsection (5) of the AMLCFTR No. 4 of 2010 requires reporting entities to obtain and verify CDD on legal persons and arrangements in accordance with FATF standards. Additionally subsection 15(4) (c) of the AMLCFTA 2009 requires reporting entities to ascertain the identification of the beneficial ownership and control structure of legal entities. These provisions address the deficiency.



R.5 (Deficiency 3): No requirement for reporting entities to determine who are the natural persons that ultimately own or control the customer.

34. Section 15 (4) (c) of the AMLCFTA 2009 requires the identification and verification of the beneficial ownership and control structure of legal entities at the start of a relationship or when conducting transactions. The definition of beneficial ownership specifies natural persons who ultimately owns or controls a customer as required. While it is not clear if the above is applicable to legal arrangements since legal entities are not defined section 15 (5) of the AMLCFTA 2009 requires reporting entities to identify any person on whose behalf a trustee, nominee agent or otherwise is acting. This provision should cover legal arrangements. These provisions address the deficiency.

R.5 (Deficiency 4): No requirement for the verification of legal status of specific legal arrangements such as trusts.

35. Regulation 4 sub section (5) of the AMLCFTR No. 4 of 2010 requires that a reporting entity obtain and verify from legal arrangements, the customer's name and legal form, including obtaining the trust instrument. Additionally, the reporting entity is required to obtain and verify the names and addresses of the trustees. This addresses the deficiency.

R.5 (Deficiency 5): No definition of beneficial ownership with regard to legal entities.

36. Section 15 (4) (c) of the AMLCFTA 2009 requires the identification and verification of the beneficial ownership and control structure of legal entities at the start of a relationship or when conducting transactions. The definition of beneficial ownership which was included in the AMLCFTAA No. 10 of 2015 specifies natural persons who ultimately owns or controls a customer as required. The above measure addresses the deficiency.

R.5 (Deficiency 6): No requirement for reporting entities to perform enhanced due diligence for higher risk categories of customers.

37. Section 10 of the AMLCFTAA No. 1 of 2015 amended section 16 of the AMLCFTA 2009 to require reporting entities to perform enhanced due diligence for higher risk categories of customers. This provision addresses the deficiency.

R.5 (Deficiency 7): 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.

38. Section 15(2) of the AMLCFTA 2009 provides for reporting entities to establish and verify the identity of any customer by requiring the applicant to produce an identification record or such other reliable, independent source document as the FIU may request. Additionally, section 15(3) of the AMLCFTA 2009 stipulates that the above requirements are applicable when a reporting entity establishes a business relationship or during a transaction and section 15(4) extends these requirements to include beneficial owners. A similar obligation is also stated in regulation 4 subsection 3 of the AMLCFTR No. 4 of 2010. These provisions address the deficiency.

R.5 (Deficiency 8): 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.

39. Subsection 2(A) stipulates satisfactory evidence of identity required under the AMLCFTA 2009 as the determining factor for proceeding with a potential customer. The action item 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. Identification requirements under the Act include most of the CDD requirements with the identification and verification of beneficial ownership set out in section 15 (4) (c). The requirement for information on the purpose and nature of the business relationship is set out in section 15(4) (a) of the AMLCFTA 2009. As such the reference in subsection 2A to satisfactory evidence of identity required under the AMLCFTA 2009 would include obligations of criteria 5.3 to 5.6. These measures address the deficiency.

R.5 (Deficiency 9): 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.

40. Since Guyana does not allow for accounts to be opened before verification of the customer or beneficial owner the situation the deficiency is concerned with is the reviewing of existing accounts. Subsection 11 of the AMLCFTA 2009 requires a reporting entity to terminate a business relationship (i.e. an existing account) and consider making a suspicious transaction report when it is unable to obtain the information required by the Act. The provision rather than specifying the requirements of criteria 5.3 to 5.6 refers to the information required by the Act. The requirements of criteria 5.3 to 5.6 include 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. Section 15 of the AMLCFTA and regulation 4 of the AMLCFTR No. 4 of 2010 sets out CDD requirements for customers that comply with criteria 5.3, 5.4 and 5.6. With regard to criterion 5.5 which concerns beneficial ownership this is set out in section 15 (4) (c). Subsection 11 in section 15 of the AMLCFTA 2009 in referring to the information as required under this Act includes requirements of criteria 5.3 to 5.6. These provisions address the deficiency.

Recommendation 5 – Overall Conclusion

41. Amendments to the AMLCFTA 2009 and enactment of the AMLCFTR No. 4 of 2010 addressed the outstanding deficiencies resulting in a level of compliance comparable to an LC.



Recommendation 10 - PC

R.10 (Deficiency 1): 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

42. Regulation 9(1) of the AMLCFTR No. 4 of 2010 requires a reporting entity to ensure that any records required to be maintained under the AMLCFTR are capable of retrieval in legible form without undue delay. The records referred to are identification and transaction records as set out in regulations 6 and 7 of the AMLCFTR. This provision addresses the deficiency.

Recommendation 10 – Overall Conclusion

43. The deficiency was addressed by provisions of the AMLCFTR No. 4 of 2010. The level of compliance achieved is comparable to an LC.

Recommendation 13 - NC

R.13 (Deficiency 1): 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

44. Illicit trafficking in stolen and other goods is criminalized under section 236 of the Criminal Law (Offences) Act Cap 8:01 with a penalty of fourteen years imprisonment. Smuggling is criminalized under section 218(d)(e) of the Criminal Law (Offences) Act Cap 8:01 with a penalty of one year imprisonment. The penalties make the offences serious offences and therefore predicate offences for money laundering as defined in section 3(5) of the AMLCFTA 2009. Consequently the requirement to make a STR extends to funds from these offences. These measures address the deficiency.

R.13 (Deficiency 2): 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 organization.

45. Section 11(d) of the AMLCFTAA No. 1 of 2015 revises section 18(4) of the AMLCFTA by extending the reporting obligation for terrorist financing in the AMLCFTA 2009 to include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organizations. This provision addresses the deficiency.

R.13 (Deficiency 3): 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.

46. Section 18(4) of the AMLCFTA 2009 requires suspicious transaction reporting of funds connected to the proceeds of criminal activity which is defined in section 2 of the AMLCFTA to include property from a serious offence which as amended in the Second Schedule includes tax evasion. This provision addresses the deficiency.

R.13 (Deficiency 4): Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting.



47. The authorities submitted statistics on STRs for the follow-up reports. A review of the statistics show that a significant majority of the STRs come from money transfers entities suggesting that the reporting of other financial institutions may be ineffective. This measure addresses the deficiency.

Recommendation 13 – Overall Conclusion

48. The first three deficiencies have been addressed by relevant legislation. The last deficiency has been rectified by appropriate measures. The overall level of compliance is comparable to an LC.

Special Recommendation II - PC

SR.II (Deficiency 1): Definition of property does not include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind.

49. Section 2(e) of the AMLCFTAA No. 1 of 2015 revises the definition of property in section 2(1) of the AMLCFTA 2009 to include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind. This amendment addresses the deficiency.

SR.II (Deficiency 2): No provision in the legislation extending terrorist financing to funds whether from a legitimate or illegitimate source.

50. Section 2(g) of the AMLCFTAA No. 1 of 2015 revises the definition of terrorist financing in section 2(1) of the AMLCFTA 2009. The revised definition extends terrorist financing offences to any funds whether from a legitimate or illegitimate source. This provision addresses the deficiency.

SR.II (Deficiency 3): No specific provision allowing for terrorist financing offences to apply regardless of whether the person alleged to have committed the offence is in the same country or a different one from where the terrorist(s)/terrorist organisation is located or the terrorist act(s) occurred/will occur.

51. Section 7 of the AMLCFTA 2009 provides for offences created by the said Act to be tried, judged and sentenced in Guyana regardless of whether the offence occurred in Guyana or in another jurisdiction. This provision provides for extra-territorial jurisdiction and addresses the deficiency.

SR.II (Deficiency 4): The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation.

52. With regard to the above mentioned deficiency the examiners recommended that the competent authorities should ensure that the relevant entities are aware and trained as to their obligations under the AML/CFT to report and investigate SARs and where applicable prosecute



those in breach of FT. There are still no FT prosecutions, however the authorities have advised in the follow-up reports on providing relevant training to reporting entities, financial investigators and prosecutors. While effective implementation of the AMLCFTA 2009 has not been demonstrated, measures have been put in place to address the issue.

Special Recommendation II - Overall Conclusion

53. The first three deficiencies have been rectified by legislative provisions. With regard to the last deficiency, while effective implementation of the AMLCFTA 2009 has not been demonstrated, measures have been put in place to address the issue. The level of compliance is comparable to an LC.

Special Recommendation IV - PC

SR.IV (Deficiency 1): 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.

54. Section 11(d) of the AMLCFTAA No. 1 of 2015 revises section 18(4) of the AMLCFTA by extending the reporting obligation for terrorist financing in the AMLCFTA 2009 to include funds suspected of being linked, or related to, or to be used for terrorism, terrorist acts or by terrorist organizations. This provision addresses the deficiency.

SR.IV (Deficiency 2): 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.

55. Section 18(4) of the AMLCFTA 2009 requires suspicious transaction reporting of funds connected to the proceeds of criminal activity which is defined in section 2 of the AMLCFTA to include property from a serious offence which as amended in the Second Schedule includes tax evasion. This provision addresses the deficiency.

SR.IV (Deficiency 3): Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting

56. The authorities submitted statistics on STRs for the follow-up reports. A review of the statistics show that a significant majority of the STRs come from money transfers entities suggesting that the reporting of other financial institutions may be ineffective. This measure addresses the deficiency.

Special Recommendation IV – Overall Conclusion

57. The first two deficiencies have been addressed by relevant legislation. The last deficiency has been rectified by appropriate measures. The overall level of compliance is comparable to an LC.



V. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS

Recommendation 3 - PC

R.3 (Deficiency 1): The definition of property liable for confiscation does not include assets of every kind, whether tangible or intangible, or indirect proceeds of crime including income, profits or other benefits from proceeds of crime or property held by third persons.

58. Section 2(e) of the AMLCFTAA No. 1 of 2015 defines property liable for confiscation to include indirect proceeds of crime including income, profits or other benefits from proceeds of crime and property held by third persons and assets of every kind, whether tangible or intangible. This provision addresses the deficiency.

R.3 (Deficiency 2): 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

59. With regard to the above mentioned deficiency the examiners recommended that the competent authorities should provide resources to ensure the requisite agencies are trained under the recent legislation in order to enable effective implementation. In complying with the recommendation the authorities advised on its effort to train the relevant Government agencies on the legislation and its applicability. This was demonstrated by the submission of information on meetings and training sessions with relevant Government agencies held during the period 2010 to May 2016 in the follow-up reports. While effective implementation of the AMLCFTA 2009 has not been demonstrated, measures have been put in place to address the issue.

Recommendation 3 – Overall Conclusion

60. The first deficiency has been addressed by amendment to the AMLCFTA 2009. Measures have been put in place to deal with the last deficiency. The overall level of compliance is comparable to an LC.

Recommendation 4 - PC

R.4 (Deficiency 1): No provision for the GSC to access information relevant to AML/CFT matters from registrants of the SIA.

61. Section 14(bB) of the AMLCFTAA No. 1 of 2015 provides for the supervisory authority to request and obtain information relevant to ML and TF matters from its reporting entities. As set out in section 22(1) of the AMLCFTA 2009 the GSC is a designated a supervisory authority for the AMLCFTA and as such has the power under section 14(bB) to access information relevant to AML/CFT matters from registrants of the Securities Industry Act (SIA). This provision addresses the deficiency.

R.4 (Deficiency 2): No provision for the CCDO to share information from a society registered under the CSA with local and international competent authorities



62. The authorities advised that the Chief Co-operative Development Officer (CCDO) was appointed the designated AML/CFT supervisory authority for co-operative societies and as such has the power under section 22(2) (c & d) of the AMLCFTA 2009 as a designated authority to share information with local and international competent authorities. This measure addresses the deficiency.

Recommendation 4 – Overall Conclusion

63. The first deficiency has been addressed by an amendment to the AMLCFTA 2009 and the second by an administrative measure. The level of compliance is comparable to an LC.

Recommendation 23 - NC

R.23 (Deficiency 1): No designated supervisory authority has been assigned to ensure that co-operative societies adequately comply with AML/CFT requirements.

64. The authorities officially designated the CCDO as the AML/CFT supervisory authority for co-operative societies on December 20, 2012. The above measure addresses the deficiency.

R.23 (Deficiency 2): 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.

R.23 (Deficiency 3): 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

65. The Schedule attached to the AMLCFTAA No. 10 of 2015 includes amendments to the IA, the SIA and the CSA. The amendments dealing 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 criteria are specified in sections 47A of the SIA, section 7A of the CSA and section 23A of the IA. The fit and proper criteria provide a means for the prevention of criminals or their associates from holding or being the beneficial owners of a significant or controlling interest or holding a management function in an insurance company, a securities entity, a co-operative society or credit union. Additionally, failure to comply with the decision of the evaluation undertaken for change in ownership, management or control of the company is liable to general penalties for non-compliance with the respective legislation in sections 19 and 79 of the IA and section 142(2) of the SIA and section 60 of the CSA. The above provisions address deficiencies 2 and 3.

R.23 (Deficiency 4): 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.



66. Amendments to the SIA and the CSA set out in the Schedule of the AMLCFTAA No. 10 of 2015 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. Section 8 of the AMLCFT (Amendment) (No.2) Act 2015 amends the SIA and the CSA to incorporate specific fit and proper criteria for evaluation.. The criteria are specified in sections 47A of the SIA, and section 7A of the CSA. Failure to comply with the decision of the evaluation undertaken for change in ownership, management or control of the company is liable to general penalties for non-compliance with the respective legislation in section 142(2) of the SIA and section 60 of the CSA. The above measures address the deficiency.

R.23 (Deficiency 5): Neither the COI, the GSC or the DCFS have implemented AML/CFT supervision for their relevant financial institutions.

67. 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 follow-up reports. The BOG advised that no on-site examination could be conducted on insurance companies since the BOG is not empowered to do so under the present IA. However, insurance companies continued 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 has continued with sixteen (16) being completed during the period January to July 2016. 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.

68. 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. The authorities advised that the GSC conducted two (2) AML/CFT on-site examinations during the period August to December 2014. On-site examinations on four securities companies were conducted in 2015. While no sanctions were imposed, recommendations were made in the examination reports and follow-up actions taken to ensure compliance. The GSC has reported that for the period January to July 2016, no on-site/off site examinations were conducted for securities companies. However, the Council plans to conduct on-site examinations of its reporting entities during September to November 2016.

69. 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 DNFBPs Supervisors and provided further guidance on the uses of the Guideline. The above measures begin the implementation of AML/CFT supervision by the BOG, GSC and DCFS.

Recommendation 23 – Overall Conclusion

70. The first deficiency was dealt with by the appointment of a designated AML/CFT supervisory authority in December 2012. The second and third deficiencies were addressed by amendments to the AMLCFTA. Measures were put in place to resolve the last deficiency. The level of compliance is comparable to an LC.

Recommendation 26 - NC

R.26 (Deficiency 1): No guidelines regarding the manner of STRs reporting have been issued to financial institutions and other reporting entities

71. The FIU issued Guidelines on Suspicious Transaction Reporting to financial institutions in January 2013. An advisory to the wider public concerning money laundering and the financing of terrorism was issued by the FIU in February 2014. Reporting entities were advised to post the advisory in a prominent location at their place of business and the advisory was also posted on the FIU website. These measures address the deficiency.

R.26 (Deficiency 2): Minimal security arrangements for custody of information with the main vulnerability being IT support provided by personnel not in the employ of the FIU.

72. With regard to the above deficiency the FIU advised that it had on staff a well-qualified database administrator who is responsible for the FIU's information technology needs. The FIU has its own office building equipped with modern security cameras in and around the office and fire proof safes to secure and safeguard information. Measures to reduce the vulnerability of the database, include limiting direct internet access to two (2) desktop computers in the FIU. These computers are independent of the network connected to the FIU database. The network with access to the FIU database comprises six (6) desktop computers.

73. The database is housed on a server located in a separate room equipped with security cameras and accessed only by the Database Administrator and Director of the FIU. The server is prohibited internet access. Access to the database is controlled by means of login credentials which are assigned for the sole purpose of data input by the entry operators. Access to historical data is only granted to the Director of the FIU and the Database Administrator. Network policies have been established and implemented through programming the server and each of the desktop computers connected to the database to deny access to storage devices such as flash drives for data transfer.

74. All events are recorded on a log file which can only be viewed by the Director of the Database Administrator. As already mentioned the server, database and network are isolated with no connection to any other system or the internet. All database backup copies are stored on tapes



in an encrypted format and stored offsite at one of the country's most secure sites by the Database Administrator. The above arrangements address the deficiency.

R.26 (Deficiency 3): No requirement to publicly release periodic reports to include statistics, typologies and trends

75. The FIU commenced releasing public reports including statistics, typologies and trends. Statistics on STRs, foreign currency reports and threshold reports were published on FIU's website on January 31, 2013. The FIU has published its Annual Reports for 2011 to 2013 on its website. The FIU has also published reports on ML/TF Trends and Typologies the most recent being "ML Typology on the use of fictitious Agreement of Sale for non-existing precious minerals to validate large cash deposit" in August 2016. The above measures address the deficiency.

R.26 (Deficiency 4): While lack of statistics limits assessment of effectiveness, the operations of the FIU are adversely affected by lack of resources.

76. 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. Recently, a new Director and Deputy Director have assumed duties. The above measures address the deficiency.

Recommendation 26 – Overall Conclusion

77. Deficiencies have been addressed by measures increasing the technical and human resources of the FIU. Functions of the FIU have been strengthened with improved security arrangements. Guidelines on STRs have been issued to financial institutions and other reporting entities. Annual reports have been published together with periodic reports and typologies. Consequently the level of compliance is comparable to an LC.

Recommendation 35 - PC

R.35 (Deficiency 1): The Vienna, Palermo and Terrorist Financing Conventions have not been fully implemented.

78. The basis for the deficiency of the Vienna, Palermo and Terrorist Financing Convention not being fully implemented 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.

79. All of the above listed Articles have been made law in section 58 of the ATTRAA 2015.

80. Articles 7 of the Vienna Convention and Article 18 of the Palermo Convention are concerned with the requirements of mutual legal assistance. These have been incorporated in the Mutual Assistance in Criminal Matters Act No 38 of 2009 (MACMA) which was assented to in June 2010. However, deficiencies under recommendations 36, 37 and 38 which deal with mutual legal assistance are relevant to fully comply with the designated articles. Measures to deal with deficiencies concerning mutual legal assistance under recommendations 36 and 37 have been put in place as indicated in relevant sections of this report. The outstanding deficiency for recommendation 38 deals with arrangements regarding coordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters and therefore does not concern mutual legal assistance as set out in the above Articles 7 and 18. As such, these articles have been met.

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

82. Article 11 of the Vienna Convention and 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.

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

84. 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.

85. 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.

Recommendation 35 – Overall Conclusion

86. The measures as detailed above which include legislative provisions and administrative arrangements implement the identified outstanding articles of the Vienna Convention, the Palermo Convention and the Terrorist Financing Convention. The level of compliance is comparable to an LC.

Recommendation 36 – NC

R.36 (Deficiency 1): 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.

87. This deficiency was addressed by section 38(1)(b) of MACMA which provides for mutual legal assistance between Guyana and *any* country that is a party to the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substance, 1988, as if it were a Commonwealth country. This provision therefore provides the widest possible range of mutual legal assistance and addresses the deficiency.

R.36 (Deficiency 2): Range of possible mutual legal assistance does not include freezing, seizure or confiscation of assets of corresponding value.

88. Section 19 of the AMLCFTAA No. 1 of 2015 amends section 76(2) of the AMLCFTA which now provides for mutual legal assistance to include freezing, seizure or confiscation of assets of corresponding value. This provision addresses the deficiency.

R.36 (Deficiency 3): No clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delay.

89. The authorities submitted a letter from the Ministry of Home Affairs (now Ministry of Public Security) the Central Authority of Guyana outlining the processes for the execution of mutual legal assistance which includes the various functions of the relevant agencies and gives



approximate timelines for the completion of each stage of the process. The authorities have submitted information which demonstrate timely response for those parts of the mutual legal process which are under their control. These measures address the deficiency.

R.36 (Deficiency 4): Unable to assess effectiveness due to lack of statistics and the recent enactment of the AMLCFTA

90. The above deficiency deals with effectiveness regarding mutual legal assistance provisions in the AMLCFTA. The Minister of Home Affairs (now Ministry of Public Security) is designated as the Central Authority for receiving and transmitting requests for mutual legal assistance under section 3(1) of the MACMA. As such, the Ministry of Home Affairs (now Ministry of Public Security) is responsible for and maintains records on mutual legal assistance requests and other related international requests for cooperation. Statistics on mutual legal assistance made and received by the Ministry of Home Affairs (now Ministry of Public Security) have been submitted for the follow-up reports. The most recent for the period January to July 2016 include six requests for mutual legal assistance, four of which were satisfactorily resolved and three requests which were made to other countries and are pending resolution. These statistics demonstrate implementation.

Recommendation 36 – Overall Conclusion

91. The measures as detailed above which include legislative provisions and administrative arrangements have addressed the deficiencies. The level of compliance is comparable to an LC.

Recommendation 40 – PC

R.40 (Deficiency 1): No procedure for spontaneous exchange of information.

92. The FIU submitted formal documented procedures outlining steps for the spontaneous exchange of information. These procedures address the deficiency.

R.40 (Deficiency 2): The COI does not have confidentiality requirements that include exchanged information.

93. Section 25 of the AMLCFTAA No. 1 of 2015 provides for amendments of specific statutes as listed in the attached Schedule. As indicated in the Schedule the IA was amended by inserting section 23B which imposes a confidentiality requirement on the COI and members of staff with regard to all information received concerning the affairs of licencees. This provision addresses the deficiency.

R.40 (Deficiency 3): 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.



94. The authorities submitted statistics on formal requests for assistance made or received by the FIU or the supervisory authorities and spontaneous referrals for the follow-up reports. The most recent figures for the first six months of 2016 indicated that the FIU received two requests for information and made one request itself. There were no spontaneous referrals to or by the FIU or the supervisory authorities. These statistics demonstrate implementation.

Recommendation 40 – Overall Conclusion

95. Provisions of the AMLCFTAA No. 1 of 2015 and documented procedures address the first two deficiencies while statistics demonstrate implementation regarding the last deficiency. The level of compliance is comparable to an LC.

Special Recommendation I - PC

SR.I (Deficiency 1): The Guyana Authorities have not implemented S/RES/1267(1999) and S/RES/1373(2001)

96. As indicated in the section under Special Recommendation III in this report Guyana has addressed the deficiency dealing with the implementation of S/RES/1267(1999) and S/RES/1373(2001). Consequently, this deficiency has been addressed.

Special Recommendation I – Overall Conclusion

97. The deficiency has been addressed by amendments to the AMLCFTA 2009 and the enactment of AMLCFTR No. 4 of 2015. The level of compliance is equivalent to an LC.

Special Recommendation III - NC

SR.III (Deficiency 1): The legislation does not include provisions for freezing funds of persons designated by the UN Al-Qaida and Taliban Sanctions Committee (S/RES/1267) or in the context of S/RES/1373.

98. Provisions addressing the above deficiency are set out in section 18 of the AMLCFTAA No. 1 of 2015 which inserted sections 68A, 68B and 68C after section 68 of the AMLCFTA 2009. This was further amended by AMLCFTAA No. 10 of 2015 and AMLCFTAA No. 15 of 2016. 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 include 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 No. 4 of 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.

99. 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 No. 4 of 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 No. 4 of 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.

100. Procedures set out in amended subsection 68A provide for the DPP to obtain a freezing order from a judge no later than five days. Subsection 68 (6A) of the AMLCFTA 2009 as amended 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 1373 and its successor resolutions. 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.

101. With regard to designations under UNSCR 1373 paragraph 2 of section 2 of the AMLCFTA 2009 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 or a person a specified entity or person respectively in effect a locally designated terrorist entity or terrorist. 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. The above measures address the deficiency.

SR.III (Deficiency 2): There are no procedures in place for delisting requests, unfreezing of funds or providing access to frozen funds in relation to S/RES/1267 or S/RES/1373.

102. Procedures for delisting requests, unfreezing funds and providing access to frozen funds is addressed in regulations 8-10 of the AMLCFTR No. 4 of 2015 as amended by AMLCFTR (Amended) No. 7 of 2015. De-listing and unfreezing procedures are stipulated in regulation 8 of the AMLCFTR No. 4 of 2015. Regulation 8(1) of the AMLCFTR No. 4 of 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 UNSCR 1267. 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. 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.



103. 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)] 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. 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. The above measures address the deficiency.

SR.III (Deficiency 3): No guidance has been issued to FI's or the regulated sector in respect of obligations to comply with or implement measures concerning the freezing mechanisms required under S/RES/1267(1999) and S/RES/1373(2001).

104. Guidelines to FIs on freezing, de-listing and access to frozen funds were issued by the FIU on December 21, 2015. This measure addresses the deficiency.

SR.III (Deficiency 4): The AMLCFTA as it relates to freezing, seizing and forfeiture of funds of terrorists or terrorists' organizations has not been implemented.

105. This deficiency remains outstanding since Guyana has not had an instance to freeze, seize and forfeiture funds of terrorists or terrorists' organizations.

Special Recommendation III – Overall Conclusion

106. Amendments in the AMLCFTA 2009 and the enactment of AMLCFTR No. 4 of 2015 and AMLCFTR (Amendment) No. 7 of 2015 address all of the deficiencies except two. Of the remaining two one was dealt with by issuing guidelines while measures have been put in place to address the other. The overall level of compliance is comparable to an LC.

Special Recommendation V - NC

SR. V (Deficiency 1): The deficiencies noted with regard to Recs. 36, 37 and 38 are applicable in relation to terrorist financing

107. The above deficiencies are specific to Recs 36 to 38 which were all rated NC. With regard to Rec. 36 measures addressing the deficiencies have been covered in the section of this report dealing with Rec.36. The overall level of compliance was an LC.

108. The deficiencies regarding Rec. 37 include as follows:



- No provisions which allow for the granting of mutual legal assistance in the absence of dual criminality for less intrusive and non-compulsory measures.
- No measures for technical differences in categorization and denomination of offences in laws of other countries not to impede the provision of mutual legal assistance.
- No provisions which allow for extradition in the absence of dual criminality for less intrusive and non-compulsory measures.

109. The first two deficiencies were addressed by section 25 of the AMLCFTAA No. 1 of 2015 which provides for amendments of statutes as specified in the attached Schedule. As stipulated in the Schedule, MACMA was amended by inserting subsections 2 and 3 in section 6 of MACMA. Subsection 6(3) of MACMA 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. Section 23(3) of MACMA was amended in paragraph (k) to stipulate that technical differences in categorization and denomination of offences in laws of other countries cannot be the sole reason for refusing the provision of mutual legal assistance. The third deficiency was addressed by 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. The above measures will result in a level of compliance of an LC.

110. The deficiencies regarding Rec. 38 include the following:

- No guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA.
- No provisions dealing with requests relating to property of corresponding value.
- No arrangements regarding coordinating seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters.
- Unable to assess effectiveness due to lack of statistics and the recent enactment of the AMLCFTA.

111. With regard to first deficiency above the authorities submitted a letter from the Ministry of Home Affairs the Central Authority of Guyana outlining the processes for the execution of mutual legal assistance which includes the various functions of the relevant agencies and gives approximate timelines for the completion of each stage of the process. The authorities have submitted information which demonstrate timely response for those parts of the mutual legal process which are under their control.



112. Sections 34 and 35 of MACMA which provide for the acceptance of requests for assistance relating to restraining and confiscation/forfeiture orders of 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 ground to be in Guyana. These sections as noted above in particular the reference to any property available address the second deficiency.

113. The deficiency regarding arrangements to co-ordinate seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters remains outstanding. The deficiency relating to lack of statistics and inability to assess effectiveness of MLA has been addressed in the section of this report dealing with Rec. 36. The above measures will result in a level of compliance of an LC.

SR. V (Deficiency 2): The deficiencies noted with regard to Recs. 39 and 37 are applicable in relation to terrorist financing.

114. Rec. 39 was rated PC with the only deficiency being the inability to assess effectiveness due to the lack of statistics on extradition. 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 (now Ministry of Public Security) submitted in a letter extradition procedures that the Central Authority in the Ministry of Home Affairs (now Ministry of Public Security) 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.

115. The authorities submitted statistics in previous follow-up reports 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. No requests were received from January to July 2016. 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. These measures demonstrate implementation of extradition procedures. The overall level of compliance is an LC.

116. The deficiencies under Rec. 37 have been already been dealt with in this section.

SR. V (Deficiency 3): The deficiencies noted with regard to Rec. 40 are applicable in relation to terrorist financing.

117. The deficiencies regarding Rec. 40 have been addressed in the relevant section of this report. The overall level of compliance is an LC.

Special Recommendation V – Overall Conclusion

118. The addressing of the deficiencies of SR. V depends on the rectifying the shortcomings of Recs. 36 to 40. Since these deficiencies have been sufficiently addressed the level of compliance is comparable to an LC.



VI. OVERVIEW OF MEASURES TAKEN IN RELATION TO OTHER RECOMMENDATIONS RATED PC/NC

119. Guyana has taken the following measures to address the other Recommendations that were rated PC/NC. The information in this section is presented for information purposes only and is not to be taken into consideration for Guyana's application to exit the follow-up process.

Legal System and Related Institutional Measures

Recommendations 27 rated NC and Recommendations 28, 29 and SR. IX rated PC

120. All deficiencies regarding Recs. 27, 28, 29 and SR.IX have been addressed either by legislation i.e. amendments to the AMLCTA or procedural measures and practices.

Preventive Measures – Financial Institutions

Recommendations 8, 19, 21, 22, 25 and SR, VII rated NC, Recommendations 6, 9, 15, 17, and SR. VI rated PC

121. The legislative deficiencies of Recs. 6, 8, 9, 15 and 19 were all addressed by amendments to the AMLCFTA 2009 and the enactment of AMLCFTR No. 4 of 2015. With regard to Rec.17 the shortcoming concerning the sanctions of supervisory authorities not being dissuasive, proportionate or effective has been addressed by amendments to section 23(1) (f) of the AMLCFTA. The remaining deficiency concerning fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA not being dissuasive is to be dealt with in a review of the AML/CFT legislation and further amendments.

122. Two deficiencies of Rec. 21 have been addressed by amendments to the AMLCFTA and the third concerning the lack of publication to financial institutions about AML/CFT weaknesses in other countries has been dealt with by the FIU publishing relevant circulars. Two of the shortcomings of Rec. 22 have been addressed by legislative amendments while deficiencies concerning the supervisory authorities having not imposed the requirements for foreign branches and subsidiaries of section 22(2) of the AMLCFTA on their respective reporting entities and financial institutions not 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 are outstanding.

123. The deficiencies of Rec.25 have been addressed by amendment to the AMLCFTA 2009 and the issuing of relevant guidelines to financial institutions and DNFbps. With regard to the shortcomings of SR.VI, two of the three deficiencies were dealt with by the BOG monitoring of money transfer agencies while the remaining one concerning penalties under the Money Transfer Agencies (Licensing) Act not being dissuasive or proportionate and not extending to the directors or senior management of money transfer agencies has been largely addressed. Four of the five shortcomings of SR.VII have been addressed by amendments to the AMLCFTA 2009 and the last one concerning the proportionality of sanctions which was largely dealt with will be completely resolved by a proposed amendment.



DNFBPS and Non-profit Organizations

Recommendations 12, 16, 24 and SR. VIII were rated NC

124. The shortcoming of Rec. 12 regarding the deficiencies identified in Recs. 5, 6 and 8-11 being applicable to DNFBPs was addressed when the deficiencies of these Recs were dealt with as indicated in the sections of this report dealing with these Recs. Rec. 16 deficiency is similar to Rec. 12 in that deficiencies identified in other Recs in this instance Recs. 13 to 15 and 21 are also applicable to DNFBPs. The deficiencies of Recs. 13, 15 and 21 were addressed as indicated in the sections of this report dealing with these Recs. Rec. 14 was rated LC.

125. In relation to Rec. 24 the deficiency of casinos not being subject to a comprehensive regulatory and supervisory regime to ensure effective implementation of AML/CFT measures was 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. Plans to commence an AML/CFT supervisory regime were submitted in previous follow-up reports. The deficiency regarding the Gaming Authority's function to assess the integrity of an applicant being discretionary, limited to licensing, and not including beneficial owners, and not specifying fit and proper criteria was addressed by amendment to the AMLCFTA 2009. Supervisory Authorities were also appointed for dealers in precious and semi-precious stones, dealers in gold bullion and trust and company service providers on December 20, 2012. The deficiency of sanctions of designated supervisory authorities under the AMLCFTA not being dissuasive, proportionate and effective and applicable to directors and senior management of DNFBPs was addressed by amendments to the AMLCFTA.

126. With regard to SR.VIII, six deficiencies were identified of which two have been partially implemented. One of these includes ineffective supervision of the NPOs under the Friendly Societies Act (FSA). This has been addressed by the appointment of the Registrar of Friendly Societies as the supervisory authority for all charities registered under section 11 of the FSA in December 2012. Registered charities include all friendly societies/NPOs, benevolent societies, working men's clubs and other authorized societies. Implementation of a supervision regime began in 2014 with audits and on-site examinations of friendly societies as reported in the follow-up reports. The resources of the supervisory authority have been increased and training provided by the FIU. These measures are a start in implementing the necessary supervision regime. The other deficiency the lack of outreach to the NPO sector has been partially addressed by the holding of AML/CFT awareness sessions with NPOs. The authorities have advised that the other four deficiencies will be dealt with during the national risk assessment exercise which is currently underway and due for completion by December 2016.

Legal Persons and Arrangements and National Co-operation

Recommendation 39 and 33 were rated PC, Recommendations 31 and 34 was rated NC

127. The deficiency of Rec. 31 was the lack of 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. This was addressed by the formation in July 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 including the main AML/CFT Government agencies. The Committee as reported in follow-up reports met on a regular basis and was responsible for the creation of the Special Organized Crime Unit and development of national AML/CFT strategy. Along with the above, mechanisms for consultations between competent authorities were established.

128. With regard to Rec. 33, section 25 of the AMLCFTAA No. 1 of 2015 amends the Companies Act 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. The second deficiency has been addressed by section 470A(2) of the CA as set out in Schedule of the AMLCFTAA No. 1 of 2015 which requires that the particulars of all nominee shareholders should be disclosed to the Registrar in the manner and with the full particulars that primary shareholders are required to disclose

129. The shortcomings of Rec.34 include no legal requirement under the AMLCFTA 2009 for the verification of the legal status of trusts, no standard requirement for the recording of beneficial ownership information on trusts, so the nature of information collected will vary and lawyers and accountants not being subject to monitoring for their AML/CFT obligation. No recommendation was made with regard to the last deficiency in the MER. With regard to the remaining deficiencies, while some measures have been implemented these deficiencies are still largely outstanding. There are plans to amend the Company Act to address them.

130. Measures implemented to address the shortcomings of Rec. 39 have already been dealt with under the second deficiency of SR.V in this report.

Resources and Statistics

Recommendations 30 and 32 were rated NC

131. Increased technical and human resources have been provided to the FIU, GSC and DFSC and AML/CFT training provided to the BOG, DPP, GSC, GPF, CANU and the DFSC. With regard to Rec. 32, statistics have been submitted in the follow-up reports on formal requests for assistance made or received by the FIU or the supervisory authorities or spontaneous referrals, mutual legal assistance or other international requests for co-operation, extradition, the number of STRs received or disseminated by the FIU or the number of times information was exchanged with authorities in other countries and cross-border declarations.



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

Forty Recommendations	Rating	Summary of factors underlying rating	Undertaken Actions	Remaining Actions To Be Taken
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. 	<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</p>	<p><i>None – Recommendation fully met – see paragraph 16 of Guyana’s 9th FUR; paragraph 9 of Guyana’s 1st FUR; paragraphs 5 and 6 of Guyana’s 3rd FUR and paragraph 18 of Guyana’s 10th FUR.</i></p>



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			<p>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 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</p>	
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			<p>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 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>	
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			<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 Authorities, Reporting Entities, and the Registrar of Deeds on August 26, 2014.</p> <p>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</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. 	<p>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 ARR. (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 (1) "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</p>	
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			<p><i>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><i>(2) 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</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. 	<p><i>imprisonment for one year and all goods in respect of which any such offence shall be committed shall be forfeited.”</i></p> <p>As evident from the above, the penalties for the above offences are imprisonment for fourteen years, and a fine of treble the value of the goods or ten thousand dollars ...and to imprisonment for one year and all 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; (b) any offence listed in Second Schedule ; or (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><i>(This recommendation was met – see paragraph 9 Guyana 1st Follow up Report).</i></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. <i>(This recommendation was met – see paragraphs 5 and 6 Guyana 3rd Follow up Report).</i></p> <p>The FIU continues to provide training for the relevant Government entities on the AMLCFT legislation and the FATF Standards and their</p>	
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			<p>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 and the BOG on Advanced AMLCFT Investigative Techniques. - 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)</p>	
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			<p>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 1(iii)).</i></p>	
2. ML offence – mental element and corporate liability	LC	<p>i. The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation and minimal resources limit implementation.</p>		<i>None – LC – Guyana’s MER of July 25, 2011</i>
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 income, profits or other benefits from proceeds of crime or property held by third persons. • 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>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 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.</p>	<i>None – Recommendation fully met – see paragraph 16 of Guyana’s 9th FUR; and paragraph 19 of Guyana’s 5th FUR.</i>



			<p><i>This recommendation was met – see paragraph 19 of Guyana’s 5th Follow-up Report.</i></p> <p><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 	<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></p> <p><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 as recommended with local and international competent authority.</p> <p><i>(This recommendation was met – see paragraph 19 Guyana 4th Follow up Report).</i></p>	<p><i>None – Recommendation fully met – see paragraph 35 of Guyana’s 9th FUR; and paragraph 19 of Guyana’s 4th FUR</i></p>
5. Customer due diligence	PC	<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. 	<p>i. Regulation 4(2) (b) already makes provision for this recommendation. It stipulates “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.”</p>	<p><i>None – Recommendation fully met – see paragraphs 19 - 25 of Guyana’s 10th FUR.</i></p>



		<ul style="list-style-type: none"> No requirement for reporting entities to obtain information on the ownership of customers who are legal persons or legal arrangements. 	<p><i>(This recommendation was met – see paragraph 10 Guyana 1st Follow up Report).</i></p> <p>ii. S. 15(4)(a-c) of the AMLCFTA already makes provision for REs to obtain information on the ownership of customers who are legal persons or legal arrangements. This section provides “Without limiting the generality of subsection (2), a reporting entity shall-</p> <p>(a) when establishing a business relationship, obtain information on the purpose and nature of the business relationship;</p> <p>(b) if the transaction is conducted by a natural person, ...</p> <p>(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-</p> <p>(i) the customer's name, legal form, address and directors;</p> <p>(ii) the principal owners and beneficiaries and control structure;</p> <p>(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.”</p> <p><i>(This recommendation was met – see paragraph 12 Guyana 1st Follow up Report).</i></p> <p>iii. <i>This recommendation was addressed by providing a definition of beneficial</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. 	<p><i>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.</i></p> <p><i>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>	
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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. 	<p>v. <i>This recommendation was addressed by providing a definition of beneficial ownership at section 2(1)(a) – page 5 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 No. 10 of 2015. 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 AMLCFTA provides “Reporting entities shall establish and verify the identity of any customer of the reporting entity by requiring the applicant to produce an</p>	
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		<ul style="list-style-type: none"> 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. No requirement prohibiting reporting entities from opening an account or commencing a business relationship or performing a transaction in the absence 	<p><i>identification record or such other reliable, independent source document as the Financial Intelligence Unit may request”</i></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 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).</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.</i></p>	
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		<p>of satisfactory evidence of identity as stipulated in criteria 5.3 to 5.6 and being required to consider making a suspicious transaction report.</p> <ul style="list-style-type: none"> 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. 	<p><i>(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>	
6. Politically exposed persons	PC	<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. 	<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><i>None – Recommendation fully met – see paragraph 63 of Guyana’s 9th FUR; and paragraph 45 of Guyana’s 4th FUR.</i></p>



			<p>It should be noted that the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013 also addressed this recommendation. See Section 5.3.8, page 55 of the attached AML/CFT Guidelines.</p>	
7. Correspondent banking	LC	<ul style="list-style-type: none"> 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. No requirement for financial institutions to ascertain for themselves that the AML/CFT controls of a respondent institution are adequate and effective. 	<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> <p>ii. Same action as above. It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.4.1, page 60 of the attached AML/CFT Guidelines.</p> <p><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>	<i>None – LC – Guyana’s MER of July 25, 2011</i>



<p>8. New technologies & non face-to-face business</p>	<p>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. 	<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 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).</p> <p><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></p> <p><i>This recommendation was met - see paragraph 64 of Guyana’s 9th Follow up Report.</i></p> <p>ii. Same action as above. It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.3.5, page 50 of the attached AML/CFT Guidelines. (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)</i></p>	<p><i>None – Recommendation fully met – see paragraphs 57-58 of Guyana’s 10th FUR.</i></p>
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			<p><i>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>	
9. Third parties and introducers	PC	<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. 	<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</p>	<p><i>None – Recommendation fully met – see paragraph 67 of Guyana’s 9th FUR; and paragraph 60 of Guyana’s 8th FUR.</i></p>



		<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. 	<p>despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.3.6, 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</p>	
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			<p>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 is updated following every publication of the FATF Public Statement.- Rec. 9(ii)</i></p>	
10. Record keeping	PC	<p>i. No requirement for financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority.</p>	<p>i. Regulation 9(1) of the Regulations made under AMLCFTA makes provision for reporting entities to ensure that any records required to be maintained under these Regulations are capable of retrieval in legible form without undue delay.</p> <p>In addition, the FIU has since 2006, implemented a system whereby when requesting information from reporting entities, such information is required within seven (7) days from the date of request.</p> <p>Further, s. 9(4)(o) of the AMLCFTA provides “<i>The Financial Intelligence Unit- shall, in respect of the entities for which it has been designated, exercise the powers set out in section 18 and in relation to this, may enter the premises of any reporting entity during ordinary business hours to inspect any record kept by the reporting entity, and ask any question relating to such record, make notes</i></p>	<p><i>None – Recommendation fully met – see paragraph 21 of Guyana’s 1st FUR.</i></p>



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			<p>and take copies of whole or any part of the record.”</p> <p><i>(This recommendation was met – see paragraph 21 Guyana 1st Follow up Report).</i></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. <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.</i></p>	<p><i>None – LC – Guyana’s MER of July 25, 2011</i></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>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 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 	<p><i>None – Recommendation fully met – see paragraph 59 of Guyana’s 10th FUR.</i></p>



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			<p>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> <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 manuals, policies, procedures and systems for DNFbps/REs; overseeing the AML/CTF staff training program by DNFbps/REs; examining and supervising DNFbps/REs, and regulating and overseeing effective compliance with the obligations under the AMLCFT Act and Regulations and any other</p>	
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			<p>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 DNFBPs and an Examination Manual for DNFBPs 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 DNFBPs 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 DNFBPs. The Guyana Revenue Authority (GRA) which is the licensing authority for Betting Shops, Used Car Dealers, Pawnbrokers and Real Estate</p>	
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			<p>Agents, was appointed as the AMLCFT supervisory authority for these DNFBBs. (See attached appointment letters – R. 12(i))</p> <p>Notwithstanding the appointment of SAs for a number of DNFBBs, the FIU continues to provide guidance and support to the DNFBBs which include training and mentoring. The FIU also monitors the supervisors' implementation of the AMLCFT supervisory obligations.</p> <p>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 DNFBBs 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 DNFBBs – R. 12(i), R. 22(i), R. 23(v), R. 24(i).</p>	
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			<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> <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>	
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			<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. 	<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><i>None – Recommendation fully met – see paragraph 9 of Guyana’s 1st FUR; paragraphs 25-26 of Guyana’s 9th FUR.</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</p>	<p>i. <i>This recommendation was addressed at section 8(1) – page 17 of the AMLCFT (Amendment) Act No. 1 of 2015 which</i></p>	<p><i>None – LC – Guyana’s MER of July 25, 2011</i></p>



		<p>institutions did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.</p>	<p><i>amends section 11(1) and (2) of the Principal Act .</i></p>	
<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. 	<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 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>None – Recommendation fully met – see paragraph 73 of Guyana’s 9th FUR; and paragraphs 60-62 of Guyana’s 10th FUR.</i></p>



		<ul style="list-style-type: none"> The training obligation of financial institutions is not ongoing and does not include new developments, including information on current ML and FT techniques, methods and trends; clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD. 	<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 .</i> <i>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. (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> <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>	
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			<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> <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</p>	
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			<p>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)). <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> <i>This recommendation was addressed by inserting a provision at section 22 of the Principal Act</i> <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> <i>Also see attached update from the BOG – R. 15(v)</i></p>	
16. DNFBP – R.13-15 & 21	NC	i. The deficiencies identified in section 3 in relation to Recs. 13, to 15, and 21 are also applicable to DNFBPs.	i. 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).	<i>None – Recommendation fully met – see paragraph 63 of Guyana’s 10th FUR.</i>



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. 	<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 .</i></p> <p><i>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>	<p><i>Guyana to review the fines throughout the AMLCFT legislation and make further amendments to make fines applicable to corporate bodies for breaches of AML/CFT obligations under the AMLCFTA dissuasive and proportionate.</i></p>
18. Shell banks	LC	<p>i. No requirement that financial institutions satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</p>	<p>i. This recommendation was reviewed – We are of the opinion that s.15(7)(c) of the AMLCFT Act satisfies this recommendation. It states “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.”</p>	<p><i>None – LC – Guyana’s MER of July 25, 2011</i></p>



			<p>It should be noted that despite being included in the Amendment Bill this recommendation was addressed in the AML/CFT Guidelines which was issued to Licensed Financial Institutions by the Bank of Guyana on June 28, 2013. See Section 5.3.9, page 58 of the attached AML/CFT Guidelines.</p> <p><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>	
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			Note: We observed that no mention of the above submission was made in Guyana's 2nd or 3rd Follow-up Reports.	
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.	<p>i. There was no decision not to implement a system for the reporting of all currency transactions above a fixed threshold to a national central agency. For example, Regulation 12 of the Regulations made under the AMLCFTA (which was enacted after the MEV) provides:</p> <p><i>(3) Without prejudice to the generality of the foregoing provisions, a reporting entity shall report to the Financial Intelligence Unit as soon as practicable -</i></p> <p><i>(a) where the reporting entity is a money transfer agency, any money transfer over two hundred thousand dollars;</i></p> <p><i>(b) where the reporting entity is a cambio, a purchase over four hundred thousand dollars and a sale over one million dollars; and</i></p> <p><i>(c) any cash transaction over two million dollars. (This recommendation was met – see paragraph 57 Guyana 1st Follow up Report).</i></p>	<i>None – Recommendation fully met – see paragraph 57 of Guyana's 1st FUR.</i>
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. 	<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. <i>(This recommendation is ongoing – see</i></p>	<i>Two of the three sub-recommendations are fully met while measure is ongoing for one - The FIU continues to notify financial institutions by Circulars about AML/CFT weaknesses in other countries. See attached – R. 21(i) – FIU Circulars</i>



		<ul style="list-style-type: none"> • 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. • 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 	<p><i>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).</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 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). <i>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 . 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. <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. 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 	<p>i. Notice was sent to all supervisory authorities informing them of the requirement to impose the obligations stipulated in section 22(2) of</p>	<p><i>Two of the four sub-recommendations are fully met while two remains outstanding.</i></p>



		<p>AMLCFTA on their respective reporting entities.</p>	<p>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 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</p>	<p><i>Need guidance from CFATF to address the recommendation for</i></p> <p>(i) <i>Supervisory authorities to impose the requirements for foreign branches and subsidiaries of section 22(2) of the AMLCFTA on their respective reporting entities; and</i></p> <p>(ii) <i>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.</i></p>
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			<p>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 continue monitoring compliance by the Friendly Societies.</p>	
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			<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>	
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			<p>LFI</p> <ul style="list-style-type: none"> - <i>Bank of Guyana (BOG) – Supervisory Authority for banks, Money Transfer Agencies, Cambios and Insurance Companies</i> <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</i></p>	
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			<p><i>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> <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</i></p>	
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			<p><i>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> <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> 	
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			<p>(iv) <i>To develop/update supervisory manuals for insurance companies, pension plans, cambios and money transfer agencies.</i></p> <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> <ol 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> <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>	
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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. 	<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> <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). <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. 	<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 	<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>Four of the five sub-recommendation are fully met while one is ongoing – Guyana to continue to provide update on the implementation of AML/CFT supervision by BOG, GSC and DCFS. See attached R. 23(v) – Updates on AMLCFT Supervision by BOG and GSC.</i></p>



		<p>management function in financial institutions.</p> <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 	<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 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>iii. This recommendation was addressed at paragraph 4 of the AMLCFT Guideline issued to reporting entities on August 28, 2014. (See above)</p> <p><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. 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</i></p>	
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		<p>financial institution to be evaluated on the basis of “fit and proper” criteria.</p> <ul style="list-style-type: none"> Neither the COI, the GSC or the DCFS have implemented AML/CFT supervision for their relevant financial institutions 	<p><i>(Amendment) Act No. 1 of 2015 which amends section 7 of the Cooperative Societies Act and section 47 of the Securities Industry Act.</i></p> <p><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></p> <p><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 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 DNFBBPs and a number of AMLCFT Supervision awareness sessions were held with these SAs.</p>	
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			<p>GSC 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>Cooperative Societies 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> <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</p>	
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			<p>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)) <i>Please refer to updated comments at 22(i) above.</i></p>	
24. DNFBP – regulation, supervision and monitoring	NC	<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. 	<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> <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</i></p>	<p><i>Three of the four sub-recommendation are fully met while one is ongoing - To continue to submit information on the implementation of a comprehensive regulatory & supervisory regime by the Gaming Authority. See attached R. 24(i) – Examination Questionnaire used by Gaming Authority to examine the Casino.</i></p>



		<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. 	<p><i>AML/CFT 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 AML/CFT 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>	
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		<ul style="list-style-type: none"> Sanctions of designated supervisory authorities under the AMLCFTA are not dissuasive, proportionate or effective and are not applicable to directors and senior management of DNFBPs. 	<p>iv. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p><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></p> <p><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></p>	
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. 	<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></p>	<p><i>None -Recommendation fully met – see paragraph 88 of Guyana’s 9th FUR and paragraph 73 of Guyana’s 10th FUR.</i></p>



		<ul style="list-style-type: none"> No guidelines to assist financial institutions and DNFBS to implement and comply with their respective AML/CFT requirements have been issued 	<p><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> <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>	
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			<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. 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. • Minimal security arrangements for custody of information with the main vulnerability 	<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 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. 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> ii. The FIU currently has in its employ an IT Specialist; hence the vulnerability of its database is no longer at risk. 	<p><i>None - Recommendation fully met – see paragraph 34 of Guyana’s 6th FUR, paragraph 34 of Guyana’s 2nd FUY and paragraph 43 of Guyana’s 9th FUR.</i></p> <p><i>The FIU to continue to</i></p> <ul style="list-style-type: none"> (i) <i>Provide statistics on STRs, Threshold Reports and Foreign Currency Declarations. See Re. 26(i)</i> (ii) <i>Publish ML/TF Trends and Typologies. See attached R. 26(i) - ML Typology on the use of fictitious Agreement of Sale for non-existing precious minerals to validate large cash deposit. Published in August 2016</i>



		<p>being IT support provided by personnel not in the employ of the FIU.</p>	<p>Please find below information on safeguards implemented to reduce the vulnerability of the database.</p> <p>Internet Security 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 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. 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>	
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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. 	<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). <i>In July 2015 the FIU published a ML typology on Gold Jewellery Trade. See copy attached – Rec 26(iii.)</i> <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. 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><i>None - Recommendation fully met – see paragraph 80 of Guyana’s 6th FUR.</i></p>
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			<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 of Arrest or Seizure of Money. The SOP became effective from May 6, 2014.</p> <p><i>(This recommendation is now met – see paragraph 80 of Guyana’s 6th Follow-up-Report)</i></p>	
28. Owners of competent authorities	PC	<p>i. No written law or measure for the taking of witnesses’ statements for use in investigations and prosecutions of ML, FT and other underlying predicate offences or in related actions.</p>	<p>i. <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></p>	<p><i>None - Recommendation fully met – see paragraph 73 of Guyana’s 5th FUR.</i></p>
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. 	<p>i. This recommendation was reviewed - The GSC being a AML/CFT supervisory authority has such powers under s.22(2) of the AMLCFT Act. This recommendation will also be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p><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></p> <p><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</p>	<p><i>None - Recommendation fully met – see paragraph 90 of Guyana’s 9th FUR and paragraph 73 of Guyana’s 5th FUR.</i></p>



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		<ul style="list-style-type: none"> • CCDO does not have enforcement or sanctioning powers for failure of co-operatives to comply with AML/CFT obligations 	<p>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>	
<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. 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 counter narcotics 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</p>	<p><i>Four of the nine sub-recommendations are fully met while five are ongoing.</i></p> <p><i>See attached R. 30(i) – Update on training provided to financial investigators; and R. 30(iv) – Update on complaints received and dealt with by OPR.</i></p>



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			<p>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> <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</p>	
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			<p>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 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</p>	
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			<p>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 investigating ML and TF. Under this Agreement</p>	
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			<p>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.</p>	
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		<p>ii. No ML training of staff of the DPP</p>	<p>(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 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>	
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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>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) <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 –</p>	
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		<p>v. GSC and DCFS do have adequate staff and resources to carry out their functions.</p> <p>vi. Staff of GSC and DFSC have not received AML/CFT training.</p>	<p>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> <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). Another Workshop on AML/CFT Supervision for DNFBPs was held on April 10-11, 2014 for SAs of</p>	
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		<p>vii. The FIU is inadequately staffed.</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 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</p>	
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		<p>viii. Insufficient AML/CFT training of staff of BOG.</p>	<p>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.</p> <p>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). (This recommendation was partly met – see paragraph 83 of Guyana’s 5th Follow-up Report).</p> <p><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</i></p>
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			<p><i>the three (3) locations (Charity and Parika). 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(iii)).</i></p>	
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31. National co-operation	NC	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>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 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 	<i>None - Recommendation fully met – see paragraph 86 of Guyana's 6th FUR and paragraph 95 of Guyana's 8th FUR.</i>



			<p>other sectors represented on the Committee.</p> <ol style="list-style-type: none"> 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. 5. Review the AML/CFT systems in Guyana. <p><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. 	
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			<ul style="list-style-type: none"> - 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> <ul style="list-style-type: none"> (i) Development of laws and regulations in line with international standards; (ii) Preventative measures for the financial sectors and related businesses and professions; (iii) Effective combating measures of law enforcement agencies, prosecution authorities and the FIU; and 	
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			<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 reason(s) for the request should be sent in writing as soon as possible.</i> 	
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			<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</p>	
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			<p>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>	
32. Statistics	NC	<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 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</p>	<p>Recommendation is ongoing – See attached update as follows:</p> <p>(i) R. 32(i) - formal requests for assistance made or received by the FIU or SAs or spontaneous referrals;</p> <p>(ii) R. 32(ii) - MLA or other international requests for cooperation;</p> <p>(iii) R. 32(iii) - Extradition; and</p> <p>(iv) R. 32(iv) - Number of declarations collected and the number of false declaration detected and the amounts of currency involved or resultant cash seizures.</p>



		<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>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 – <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> <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</p>	
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		<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>December, 2013 included in Statistics submitted for Rec. 26(iii) above.)</p> <p><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.</p> <p><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></p> <p><i>This function will however, now be formally carried out by the AMLCFT Authority established under section 4 of the AMLCFT Amendment Act No. 1 of 2015.</i></p>	
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>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 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.</i></p>	<p><i>None - Recommendation fully met – see paragraph 113 of Guyana’s 9th FUR and paragraph 94 of Guyana’s 10th FUR.</i></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>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.</p> <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 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>ii. No standard requirement for the recording of beneficial ownership information on trusts, so the nature of information collected will vary.</p>	<p>i. These recommendations were reviewed by the Attorney General ‘s office which has advised as follows:</p> <p>“The compendium of the Companies Act 1990 (Cap 89:01), the Deeds Registry Act (Cap 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</p>	<p><i>Recommendation is outstanding – see paragraphs 95 – 96 of Guyana’s 10th FUR – Guyana to further amend the Companies Act to include a provision requiring that information on beneficial ownership and the control of trusts or other legal arrangements are maintained in the Companies register.</i></p>



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		<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>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</p>	
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			<p>recommendation will be satisfied with the with the issuance of the above Guidelines.</p> <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 (1A).</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.	<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</p>	<i>None - Recommendation fully met – see paragraphs 34-41 of Guyana’s 10th FUR.</i>



			<p>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 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.</p> <p>(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.</i></p> <p><i>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>	
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<p>36. Mutual legal assistance (MLA)</p>	<p>NC</p>	<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>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>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 19 – page 30 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 76(2) of the Principal Act.</i></p> <p><i>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 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. 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</p>	<p><i>None - Recommendation fully met – see paragraph 46 of Guyana’s 6th FUR and paragraph 50 of Guyana’s 9th FUR.</i></p>
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			<p>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> <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</p>	
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			<p>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 comments on this recommendation (in letter of January 22, 2014 which is also attached)</p>	
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			<p>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. 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.</i></p>	<p><i>None - Recommendation fully met – see paragraph 116 of Guyana’s 9th FUR and paragraph 97 of Guyana’s 10th FUR.</i></p>



			<p><i>See Clause 10 (Schedule) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p>	
<p>38. MLA on confiscation and freezing</p>	<p>NC</p>	<p>i. No guidelines or procedures in regard to timelines to facilitate an expeditious response to MLA.</p> <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>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 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</p>	<p><i>Four of the five sub-recommendations are fully met while one remains outstanding. To submit information evidencing the co-ordination of seizure and confiscation actions with other countries/jurisdictions in relation to ML or FT matters.</i></p>



			<p>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 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</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>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 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>	
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39. Extradition	PC	i. Unable to assess effectiveness due to the lack of statistics on extradition.	<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.)</p> <p>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> <p><i>(This recommendation is largely met – see paragraph 111 of Guyana’s 6th Follow-up-Report)</i></p>	<i>Recommendation largely met – see paragraph 99 of Guyana’s 10th FUR.</i>
40. Other forms of co-operation	PC	i. No procedure for spontaneous exchange of information.	<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</p>	<i>None - Recommendation fully met – see paragraph 40 of Guyana’s 5th FUR and paragraph 51 of Guyana’s 10th FUR.</i>



		<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>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.</p> <p><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></p> <p><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. 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 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></p> <p><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>	<p><i>None - Recommendation fully met – see paragraph 53 of Guyana’s 9th FUR and paragraph 42 of Guyana’s 10th FUR.</i></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.</p> <p><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></p> <p><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></p> <p><i>This recommendation was met - see paragraph 53 of Guyana's 9th Follow up Report.</i></p>	
SR.II Criminalise terrorist financing	PC	<p>i. Definition of property does not include assets of every kind, whether tangible or intangible, legal documents or instruments in any form, including electronic or digital evidencing title to, or interest in assets of every kind.</p> <p>ii. No provision in the legislation extending terrorist financing to funds whether from a legitimate or illegitimate source.</p>	<p>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 Principal Act with a new definition of property.</i></p> <p><i>This recommendation was met - see paragraph 28 of Guyana's 9th 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</p>	<p><i>None - Recommendation fully met – see paragraphs 26-27 of Guyana's 10th FUR.</i></p>



		<p>iii. No specific provision allowing for terrorist financing offences to apply regardless of whether the person alleged to have committed the offence is in the same country or a different one from where the terrorist(s)/terrorist organisation is located or the terrorist act(s) occurred/will occur.</p> <p>iv. The recent enactment of the AMLCFTA precludes assessment of effective implementation of the legislation.</p>	<p>at recommendation 1 above and the same comments apply. <i>This recommendation is addressed at section 2(g)- page 5 of the AMLCFT (Amendment) Act No. 1 of 2015 by substituting the definition of property at section 2 of the Principal Act. This recommendation was met - see paragraph 28 of Guyana's 9th Follow up Report.</i></p> <p>iii. We believe that s. 7 of the AMLCFTA adequately provides for this recommendation. It states "Notwithstanding anything to the contrary contained in any other law, the offences created by this Act shall be tried, judged and sentenced by a court in Guyana regardless of whether or not the serious offence occurred in Guyana or in another territorial jurisdiction, but without prejudice to extradition when applicable in accordance with the law." (<i>This recommendation was met – see paragraph 29 Guyana 1st Follow up Report</i>).</p> <p>iv. <i>There are still no FT prosecutions however, reporting entities, financial investigators and prosecutors are provided with the relevant training. See Appendix for R. 1(ii)</i></p>	
SR.III Freeze and confiscate terrorist assets	NC	<p>i. The legislation does not include provisions for freezing funds of persons designated by the UN Al-Qaida and Taliban Sanctions Committee (S/RES/1267) or in the context of S/RES/1373;</p>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to as recommendation 1 above and the same comments apply. It should be noted that the Bank of Guyana currently issues Circulars to Licenced Financial Institutions, Licenced Money Transfer Agencies and Non Bank Foreign</p>	<p><i>None - Recommendation fully met – see paragraphs 44-55 of Guyana's 10th FUR.</i></p>



		<p>ii. There are no procedures in place for delisting requests, unfreezing of funds or providing access to frozen funds in relation to S/RES/1267 or S/RES/1373;</p>	<p>Exchange Dealers informing them of the list established and maintained by the 1267 Committee with respect individuals, groups, undertakings and other entities associated with Al-Qaida. The Circular further require these entities to (a) identify and freeze all financial assets belonging to terrorists, terrorist organisations and individuals and entities associated with terrorists and their organisations; (b) prohibit payments to and from terrorists, terrorist organisations and individuals and entities associated with terrorists and their organisations; (c) report to the Bank promptly any assets identified as per (a) above; and (d) report to the Bank promptly any request for payment in relation to (b) above. (See recent Circulars issued by the Bank of Guyana attached).</p> <p><i>This recommendation is addressed at section 18- pages 26-28 of the AMLCFT (Amendment) Act No. 1 of 2015 by the insertion of section 68A after section 68 of the Principal Act. 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> <p>ii. <i>This recommendation is addressed at regulations 8-10 of the AMLCFT Regulations No. 4 of 2015 which was laid in the National Assembly for Negative Resolution on August 17, 2015.</i></p>	
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		<p>iii. No guidance has been issued to FI's or the regulated sector in respect of obligations to comply with or implement measures concerning the freezing mechanisms required under S/RES/1267(1999) and S/RES/1373(2001).</p>	<p><i>This recommendation was addressed by further amendments to the AMLCFT Regulations No. 4 of 2015. The AMLCFT (Amendment) Regulations No. 7 of 2015 inserts regulation 9A which allows for the unfreezing and removal of prohibitions on funds or other assets of persons or entities delisted by the UNSCR 1267 committee. While regulation 3 provide for the unfreezing of the funds or other assets of persons or entities under UNSCR 1373. According to the notes by FATF/ICRG's Assessors at Item 6(d) in Guyana's Action Plan which was published on February 10, 2016, the provision complies with the recommendation. Regarding the issue identified by the ARRG Co Chairs about regulation 10 being limited to funds and other assets frozen under section 68A of the AMLCFT Act as amended and that the section only deals with UNSCR 1267, please note that section 68A of the AMLCFT as amended already deals with both UNSCR 1267 and UNSCR 1373. As listing done by the Minister of Finance under section 2(2) of the AMLCFT Act are in accordance with UNSCR 1373. Nonetheless, for clarity, further amendments were made to this provision. See clause 9(1) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p> <p><i>iii. This recommendation was addressed by the issuance of a Practical Guide on Targeted Financial Sanctions on August 19, 2015. (See copy attached)</i></p> <p><i>This recommendation was met - see paragraph 61 of Guyana's 9th Follow up Report.</i></p> <p><i>Another Guideline on Targeted Financial Sanctions relating to freezing, unfreezing and</i></p>	
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		<p>iv. The AMLCFTA as it relates to freezing, seizing and forfeiture of funds of terrorists or terrorists' organisations has not been implemented.</p>	<p><i>access to frozen funds was issued to REs in December 2015. See attached Guidelines - SRIII(iii)</i> <i>According to the notes by FATF/ICRG's Assessors at Item 6(d) in Guyana's Action Plan which was published on February 10, 2016, the provision complies with the recommendation.</i></p> <p>iv. The undertaken action at SR1(iii) above applies to this recommendation as well. <i>(This recommendation was met – see paragraph 40 of Guyana's 4th Follow up Report).</i></p>	
SR.IV Suspicious transaction reporting	PC	<p>i. 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.</p> <p>ii. 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.</p> <p>iii. Unable to assess effectiveness of the reporting system due to the unavailability of statistics on suspicious transaction reporting</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 11(d) - pages 20-21 of the AMLCFT (Amendment) Act No. 1 of 2015 by amending section 18(4) of the Principal Act.</i> <i>This recommendation was met - see paragraph 31 of Guyana's 9th 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. 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</p>	<p><i>None - Recommendation fully met – see paragraphs 31 and 32 of Guyana's 9th FUR.</i></p>



			<p>paragraph 13 of Guyana’s 5th Follow-up Report).</p> <p><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 32 of Guyana’s 9th Follow up Report.</i></p>	
SR.V International co-operation	NC	<p>i. The deficiencies noted with regard to Recs. 36, 37 and 38 are applicable in relation to terrorist financing.</p> <p>ii. The deficiencies noted with regard to Recs. 39 and 37 are applicable in relation to terrorist financing.</p> <p>iii. The deficiencies noted with regard to Rec. 40 are applicable in relation to terrorist financing.</p>	<p>i. The objectives of the AMLCFT Act of 2009 are:</p> <ul style="list-style-type: none"> • to provide for the establishment and management of a Financial Intelligence Unit; • to provide for unlawful proceeds of all serious offences to be identified, traced, frozen, seized and forfeited; • to provide for comprehensive powers for the prosecution of money laundering, terrorist financing and other financial crimes, and the forfeiture of the proceeds of crime and terrorist property; • to provide for civil forfeiture of assets and for matters connected therewith; and • to require reporting entities to take preventative measures to help combat money laundering and terrorist financing. <p>As such, any provision in AMLCFT Act and/or Amendment Bill that deal with money laundering also applies to terrorist financing and other financial crimes.</p> <p><i>The comment at R. 1(i) above is also applicable for this recommendation.</i></p>	<p><i>This Recommendation will be fully met once recommendations 38 and 39 and fully met.</i></p>



<p>SR VI AML requirements for money/value transfer services</p>	<p>PC</p>	<p>i. No requirement for licensed or registered money transfer agencies to maintain a current list of their agents which must be made available to the BOG.</p> <p>ii. No system for monitoring money transfer agencies/agents for compliance with AML/CFT requirements.</p> <p>iii. Penalties under the MTALA are not dissuasive or proportionate and do not extend to the directors or senior management of money transfer agencies.</p>	<p>i. This recommendation was referred to the Bank of Guyana and the Bank has responded as follows - The BOG has implemented a system since 2011 to monitor money transfer agencies (MTAs) and has since examined/inspected all of the MTAs and a few of their agents. The BOG has indicated that none of its inspections done in accordance with Section 22(2)(a) of the AMLCFT Act revealed any breaches, as such no sanctions were necessary. (See response attached and marked 'Appendix L' for further details). <i>(This recommendation was met – see paragraph 99 Guyana 3rd Follow up Report)</i>. (Please refer to attachment an update on examinations of MTAs by BOG).</p> <p>ii. This recommendation was referred to the Bank of Guyana and the Bank has responded as follows - The MTAs are required to submit a current list of agents to the BOG when applying for renewal of their licences. <i>(This recommendation was met – see paragraph 81 Guyana 2nd Follow up Report)</i>. 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 1.9, page 101, paragraph 2 of the attached AML/CFT Guidelines.</p> <p>iii. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to as recommendation 1 above and the same comments apply.</p>	<p><i>Recommendation partially met – see paragraph 101 of Guyana’s 10th FUR –</i></p> <p><i>Guyana to further amend the Money Transfer Agency Licensing Act to distinguish penalties for natural persons and corporate entities.</i></p>
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			<p><i>This recommendation was addressed at section 25 – page 35 of the AMLCFT (Amendment) Act No. 1 of 2015 which amends section 17 of the Money Transfer Agencies (Licensing) Act. This recommendation was addressed by further amendments to section 17 of the Money Transfer Agencies (Licensing) Act. See Clause 10 (Schedule) of the Draft AMLCFT (Amendment) Bill of 2016.</i></p>	
SR VII Wire transfer rules	NC	<p>i. No definition of originator information in the AMLCFTA.</p> <p>ii. No requirement for a receiving intermediary financial institution to keep a record of all the information received from an ordering financial institution in a situation where technical difficulties prevent the full originator information accompanying a cross-border wire transfer from being transmitted along with a related domestic wire transfer.</p>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to as recommendation 1 above and the same comments apply.</p> <p><i>This recommendation is addressed at section 2(c) - pages 3-4 of the AMLCFT (Amendment) Act No. 1 of 2015 by including a definition of “originator information” in the definition section of the Principal Act. This recommendation was met - see paragraph 123 of Guyana’s 9th 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 as recommendation 1 above and the same comments apply.</p> <p><i>This recommendation is addressed at section 13(a) - page 22 of the AMLCFT (Amendment) Act No. 1 of 2015 by amending section 20 of the Principal Act. This recommendation was met - see paragraph 124 of Guyana’s 9th Follow up Report.</i></p>	<p><i>Five of the six sub recommendations are fully met, while one is largely met. The amendment to the Money Transfer Agency Licensing Act referred to at SR VI above will also address the recommendation that is largely met.</i></p>



		<p>iii. No requirement for financial institutions to have effective risk-based procedures in place to identify wire transfers lacking complete originator information.</p> <p>iv. No measures in place to effectively monitor compliance with the requirements of SR VII.</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 5.4.3.2, page 66, paragraph 2 of the attached AML/CFT Guidelines. (This recommendation was partly met – see paragraph 106 of Guyana’s 5th Follow-up Report).</p> <p><i>This recommendation is addressed at section 13(b) - page 22 of the AMLCFT (Amendment) Act No. 1 of 2015 by amending section 20 of the Principal Act.</i></p> <p><i>This recommendation was met - see paragraph 125 of Guyana’s 9th Follow up Report.</i></p> <p>iv. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to as 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 5.4.3, page 61, paragraph 1 of the attached AML/CFT Guidelines. (This recommendation was partly met – see paragraph 106 of Guyana’s 5th Follow-up Report).</p> <p><i>This recommendation was addressed by amendment to section 20 to the Principal Act See</i></p>	
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		<p>v. Sanctions for breaches of wire transfer provisions in section 20 of the AMLCFTA are neither dissuasive or proportionate and are not applicable to directors and senior management of reporting entities.</p>	<p><i>Clause 5 of the Draft AMLCFT (Amendment) Bill of 2016.</i></p> <p>v. The recommended measures are in place by the BOG –(Please refer to Appendix D) <i>This recommendation was met – see paragraph 94 – Guyana 4th Follow up Report.</i> BOG is the sole supervisory authority for cross-border and domestic transfer between financial institutions.</p> <p>vi. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to as recommendation 1 above and the same comments apply.</p> <p><i>This recommendation is addressed at section 15 - page 24 of the AMLCFT (Amendment) Act No. 1 of 2015 by amending section 23(1) of the Principal Act.</i></p> <p><i>This recommendation was addressed by amendment to section 20 to the Principal Act See Clause 5 of the Draft AMLCFT (Amendment) Bill of 2016.</i></p>	
SR.VIII Non-profit organisations	NC	<p>i. No review of the adequacy of laws and regulations that relate to NPOs or of the activities, size and other relevant features of NPOs in order to identify features and types of NPOs at risk of being misused for terrorist financing.</p> <p>ii. No outreach to NPO sector with a view to protecting the sector from terrorist financing abuse.</p>	<p>i. On December 20, 2012, the Registrar of the Friendly Society was appointed AML/CFT supervisory authority for Registered Charities. Registered Charities include all friendly societies/NPOs, benevolent societies, working men’s clubs and specially authorised societies and registered under the Friendly Societies Act Cap. 36:04. Sections 22 and 23 of the AMLCFT Act set out the role and authority of the supervisory authorities.</p>	<p><i>Two of the six sub recommendations are partially met while four are outstanding. This recommendation will be addressed during Guyana’s ML/TF NRA exercise which commenced in February 2016. The NRA exercise is scheduled to be completed by December 2016.</i></p>



		<ul style="list-style-type: none"> iii. Supervision and monitoring of NPOs under the FSA is not effective. iv. No requirement for NPOs other than registered charities to maintain for a period of at least five years, records of domestic and international transactions and make them available to appropriate authorities. v. Limited measures for authorities to gather information and investigate NPOs; vi. No appropriate points of contact and procedures to respond to international requests for information regarding particular NPOs that are suspected of terrorist financing or other forms of terrorist support. 	<p>Further, the AMLCFT Act and Regulations sets out the requirements and obligations of all reporting entities. NPOs as reporting entities that are now being supervised in accordance with the Act and Regulations will be required to act in compliance therewith.</p> <p>Given the above all the recommendations in relation to NPOs will be addressed accordingly.</p> <p>The FIU continues to provide training to the CCDO and team and to conduct follow-up meetings with the aim of equipping the CCDO with the necessary resource and skill to carry out its functions. To this effect, another follow-up meeting was held on February 17, 2014 with the CCDO and Assistant CCDO who has responsibility for the NPOs. They have reported that they are in the process or regularizing the NPOs for AML/CFT purposes. In this regard approximately 898 of 1400 friendly societies/NPOs were identified for cancellation for violation of the Friendly Society Act. They have increased the number of staff from 5 to 8 between August 2013 and February 2014 and have plans to further increase these numbers. They have plans for training and awareness sessions for NPOs for later this year. They were urged to prepare a Work Plan outlining future plans for bringing the NPOs into compliance with their obligations as reporting entities. A copy of the FATF Best Practices on Combating the abuse of NPOs was also shared with the SAs of the NPOs. Follow up training for all SAs are scheduled for late March 2014.</p>	
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			<p>(Please also refer to comments at Rec. 12 above)</p> <p>The FIU continues to work with the SA for Registered Charities/NPOs which we refer to as Friendly Societies. The SA was included among the SAs that benefitted from the Workshop on AML/CFT Supervision for DNFBPs held on April 10 to 11, 2014 and guidance and information on AMLCFT supervision..</p> <p>Between January and June, 2014, there were forty-two audits of Friendly Societies. No breaches were found.</p> <p>One AML/CFT awareness session was held for seventeen (17) new Friendly Societies registered in 2014.</p> <p>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. The FIU continues to work with the DFCS, to provide guidance in implementing effective supervision and monitoring of NPOs/Friendly Societies.</p> <p>Please refer to appendices for R. 1(iii), R. 12(i), R. 22(i), R. 23(v) and R. 24((i).</p> <p><i>For the period January to June 2015 the DCFS which is the SA for Friendly Societies/NPOs conducted 23 off-site AMLCFT examinations of registered Friendly Societies/NPOs. In March 2015 the DCFS also conducted its first in-house AMLCFT training which focused on the use of the Supervision Manual issued by the FIU. The DCFS reported that two (2) additional officers were employed with responsibility for Friendly</i></p>	
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			<p><i>Societies/NPOs in the remote regions and the Division has also received additional equipment. The DCFS also reported that its Friendly Society Manual on AMLCFT is approximately ninety percent completed.</i></p> <p><i>For the period July to December 2015 the DCFS conducted 27 on-site AML/CFT examinations of Friendly Societies/NPOs. No sanctions were issued.</i></p>	
SR.IX Cross Border Declaration & Disclosure	PC	<p>i. Requirements for cross-border declarations being implemented do not include bearer negotiable instruments</p> <p>ii. Sanctions for false declarations do not extend to legal persons and are not dissuasive or proportionate.</p>	<p>i. This recommendation will be addressed by legislative amendment. It was included in the AMLCFT (Amendment) Bill 2013 referred to at recommendation 1 above and the same comments apply.</p> <p><i>This recommendation is addressed at (a) section 2(b) - page 3 of the AMLCFT (Amendment) Act by expanding the definition of currency in the Principal Act to include bearer negotiable instruments; and (b) section 25 – page 35 of the AMLCFT (Amendment) Act by inserting in section 6 of the Foreign Exchange (Miscellaneous Provisions) Act, the words “or bearer negotiable instruments” wherever the words “foreign currency” are used.</i></p> <p><i>This recommendation was met - see paragraph 130 of Guyana’s 9th 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 is addressed at section 25 - page 35 of the AMLCFT (Amendment) Act No. 1 of 2015 by amending section 6 of the Foreign Exchange (Miscellaneous Provisions)</i></p>	<p><i>None - Recommendation fully met – see paragraphs 130-131 of Guyana’s 9th FUR and paragraph 106 of Guyana’s 10th FUR.</i></p>



		<p>iii. Deficiencies with regard to the absence of provisions for freezing of funds of persons pursuant to S/RES/1267(1999) and S/RES/1373(2001) as noted in section 2.4 are applicable.</p> <p>iv. Unable to assess effectiveness due to lack of relevant statistics.</p>	<p><i>Act to extend the sanctions for false declarations to legal persons, their directors and senior management.</i> <i>This recommendation was met - see paragraph 131 of Guyana's 9th Follow up Report.</i></p> <p>iii. After the enactment of the Amendment Bill that includes a provision to address SRIII, Directives will be issued by the Minister to address this recommendation among other requirements as stipulated in FATF Recommendations 6.</p> <p><i>This recommendation is addressed at section 18- pages 26-28 of the AMLCFT (Amendment) Act No. 1 of 2015 by the insertion of section 68A after section 68 of 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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