



CARIBBEAN
FINANCIAL ACTION
TASK FORCE

Third Follow-Up Report

Haiti

May 2012

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HAITI: THIRD FOLLOW-UP REPORT

I. INTRODUCTION

1. This is Haiti's third follow-up report. The second follow-up report for Haiti was presented at the May 2011 Plenary in Honduras. Haiti's matrix, which would have formed the basis for what would have been its third follow-up report, was received during plenary week, on November 21st, 2011. As a result, no written follow-up was presented and Haiti gave a verbal account of its progress towards fixing the shortcomings in its third round MER.
2. The mutual evaluation of Haiti was adopted by Council in November of 2008 and based on the review of action taken by Haiti to close the gaps discerned in its MER since then, Plenary is being asked to decide on the way forward for Haiti.
3. Haiti received ratings of PC or NC on fourteen (14) of the sixteen (16) Core and Key Recommendations as follows:

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

4. With regard to the other non-core or key Recommendations, Haiti was rated partially compliant and non-compliant, as follows:

Partially Complaint	Non-Compliant
R.2 (Money laundering offence)	R.6 (Politically exposed persons)
R.15 (Internal controls and compliance)	R.7 (Correspondent banking)
R.18 (Shell banks)	R.8 (New Technologies and non-face-to-face banking)
R.27 (Law enforcement authorities)	R.9 (Third parties and business introducers)
R.28 (Powers of competent authorities)	R.12 (DNFBPs 6, 8-11)
R.29 (Supervisors)	R.16 (DNFBPs 13-15 & 21)
R.31 (National cooperation)	R.17 (Sanctions)
R.38 (Mutual legal assistance on confiscation an freezing)	R.20 (Other non-financial businesses and professions and secure transaction techniques)
SR.IX (Reporting/communication of cross border transactions.	R.21 (Special attention for higher risk countries)
	R.22 (Foreign Branches and subsidiaries)
	R.24 (DNFBPs regulation supervision and monitoring)
	R.25 (Guidelines and feedback)
	R.30 (Resources, integrity and training)
	R.32 (Statistics)
	R.33 (Legal persons – beneficial owners)
	SR.VI AML/CFT requirements for money/value transfer services
	SR.VII (Wire transfer rules)
	SR.VIII (Non-profit organizations)

5. The following financial information table is intended to assist in providing insight into the level of risk in the main financial sector in Haiti.

Size and integration of the jurisdiction's financial sector (As of February, 2012)

		Banks	Other Credit Institutions*	Securities	Insurance	TOTAL
Number of institutions	Total #	9	144	1	11	224
Assets	US\$	3 782 324 400	195 722 485**	N/A	N/A	
Deposits	Total: US\$	3 275 675 970	90 521 649.35**	N/A	N/A	
	% Non-resident	0.74%	0%**	N/A	N/A	
International Links	% Foreign-owned:	0%	0%**	N/A	N/A	% of assets
	#Subsidiaries abroad	5	0**	0	0	5

**these amounts concern only 141 microfinance institutions

II. SUMMARY OF PROGRESS MADE BY HAITI

6. Haiti's matrix was received at the Secretariat on March 1st, 2012. Haiti's position now appears to be a little different to what it was when its second follow-up report (Appendix 1), was presented at last May's Plenary. The jurisdiction has reported that many of the provisions which will give effect to the examiners recommendations are contained in two draft legislations. One of them, the bill on the banks has been voted in March 13th, 2012 by the Senate. On February 18th 2012 a presidentially appointed commission on justice reform was installed to address issues relating to Recommendation 28 and other pending legal issues.
7. The Central Bank of Haiti in collaboration with the OTA has been organizing regular training for bank examiners, compliance officers, management directors and parliamentarians. Additionally, specific AML visits have been conducted for all the banks. In other part, the Ministry of Justice in collaboration with the American Bar Association Rule of Law Initiative has organized training sessions for Magistrate and Police.
8. The Bill on banks voted in October 2009 by the Chamber of Deputies has been voted in March 13th, 2012 by the Senate. Regarding the changes that have been made by the Senate, the draft law is currently in front of the Lower Chamber for the approbation of the amendments before May 2012.
9. The electronic communication between the FIU (UCREF) and the banks was severely damaged during the earthquake, but the system has been restored. Actually, UCREF with the support of OTA will put in place new software to enhance the electronic communication system.

Implementation Statistics (Rec. 1, 13, 26 and 27)

10. The following statistics reflects Haiti's ongoing implementation of its existing AML legislation:

- STRs Received by UCREF 53
- Cases transmitted to the judiciary 8
- Completed awaiting submission to the judiciary 4
- Active Investigations 11
- Convicting cases: 1

III. CONCLUSION

11. Haiti has shown some improvement towards strengthening its AML/CFT infrastructure in line with the recommendations of its 3rd round MER. Plenary is being asked to consider and then decide on the way forward for Haiti and whether Haiti should be placed into the first stage of enhanced follow up, or given that a new government is now in place, whether Haiti should be given until the November 2012 plenary to show some commitment towards the implementation of the FATF Recommendations..

CFATF Secretariat
May 2012

**Matrix with Ratings and Follow-up Action Plan 3rd Round Mutual Evaluation
Haiti November 2011-May 2012**

Forty Recommendations	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
Legal systems				
1. Money laundering offence	NC	<ul style="list-style-type: none"> The criminalization of money laundering does not cover all of the serious offences listed by the FATF, such as corruption, smuggling, arms exports, counterfeiting, migrant smuggling, sexual exploitation, and terrorist financing. The criminal law policy on combating money laundering and terrorist financing is currently ineffective. 	i. Adopt a criminal law policy with regard to serious offences that takes account more systematically of the laundering of the proceeds from the offences being prosecuted, by raising the awareness of prosecutors, investigative magistrates, and the police.	<ul style="list-style-type: none"> This recommendation is addressed in the bill on money laundering and financing of terrorism. Since 2009, the Ministry of Justice and Public Security (MJSP) in conjunction with Office of Technical Assistance (OTA) raise the awareness of prosecutors [Department of the West principally at the public prosecutor's department as well as at the criminal investigation department]. In September and November 2011, January 2012, training sessions were held for Magistrate and Police Since 2009, training sessions were held on money laundering, fraud, corruption by OTA and others governmental agencies
			ii. Take a census of the cases where money laundering is considered from the outset of the preliminary investigation or when criminal proceedings are started. <ul style="list-style-type: none"> 	Authorities are fully aware of the need to collect statistics regarding AML crimes. Political instability of the last years had prevented creation of the required structures. Now, MJSP is in the process of accelerating the creation of Statistical body.
			iii. In a subsidiary move, provide that, where the proceeds of crime are derived from conduct that occurred in another country, which is not an offence in that other country, but which would have constituted an offence in Haiti, this constitutes a money laundering offence in Haiti.	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.

¹ These factors are only required to be set out when the rating is less than Compliant.

2. Money laundering offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> The requirements for invoking the criminal liability of legal persons are too restrictive, notwithstanding the inherent weaknesses of the predicate offences and the offence of money laundering (see Recommendation 1). 	<ul style="list-style-type: none"> Reword the sentence about the liability of legal persons and lower the threshold for invoking legal persons' liability by removing the reference to the commission of an offence by a structure or a representative of the legal person. 	The article on the liability of legal persons has been revised in the Bill on money laundering and terrorist financing.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> System is ineffective due to confusion in the implementation and management of conservatory measures and seizures. 	i. Ensure that the funds seized by the competent authorities (Police, Customs) are managed by those same authorities pending a final court decision on whether the funds are to be released or confiscated by the State. <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. Creation of BAFOS in June 2009: specialized unit for the management of seized funds. Adoption of guidelines on seized and forfeited assets.
			ii. Require courts, Government agencies, and departments concerned to keep accurate statistics about the conservatory measures taken and confiscations made by each of them. One authority should be designated to centralize the statistics.	CNLBA initiated an intersectorial monitoring committee monthly, now quarterly meeting. As results following agencies: BAFE, BAFOS, BRH, AGD, & UCREF do provide statistics.
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> Bank secrecy too broad in scope and excessively restrictive, thus undermining the effectiveness of the anti-money laundering mechanism Excessive access to bank information by UCREF, apt to result in defiance by informant entities and create legal risks harmful to judicial proceedings 	Revise the obligations pertaining to bank secrecy so that the current restrictions, which pose a potential impediment to the fight against money laundering (scope and depth of banking supervision, domestic and international cooperation), are lifted. In addition, ensure that UCREF's practices regarding access to banking information are performed in full compliance with the letter and spirit of the law of 2001	<p>This is reflected in the Bill on Banks voted on October 2009 by the Chamber of Deputies and currently in front of the Finance Committee of the Senate.</p> <p>This recommendation address through operational changes made in UCREF with the technical assistance of OTA.</p>
5. Customer due diligence	NC	<ul style="list-style-type: none"> Too limited scope of the ban on anonymous accounts and accounts in fictitious names; 	i. Strengthen the bans on anonymous accounts and accounts in fictitious names	This recommendation is addressed in the Bill on

		lack of risk-based identification mechanism for customers predating 2001 (or 1994 for bank deposit accounts) • Identification threshold too high for customers performing wire transfers • Legal uncertainties about the identification threshold for occasional customers • Absence of an identification requirement, independent of the threshold, when there is a suspicion of money laundering or terrorist financing • Absence of requirements to identify and verify the identity of beneficial owners and to understand the way in which the ownership and control of a legal person are organized • Absence of a requirement to collect information on the purpose and nature of the business relationship, and to ensure due diligence (including the updating of identification data) • Absence of a requirement of enhanced diligence for high risks • Lack of objective data on the effectiveness of the requirements of due diligence	•	Money Laundering and Financing of Terrorism.
			ii. Lower the customer identification threshold for wire transfers to US\$1,000	Already done
			iii. Clarify the legal identification threshold for occasional transactions in forms consistent with the anti-money laundering law of 2001	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
			•	
			iv. Clarify the customer identification requirement in occasional transactions, independent of the threshold, when there is a suspicion of money laundering or terrorist financing	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
			v. Institute a requirement to identify and to verify the identity of beneficial owners, based in particular on a requirement that financial institutions understand the way in which ownership and control of a legal person are organized	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
			vi. Establish a requirement to collect information on the purpose and nature of the business relationship and to update identification data on a regular basis	The Central Bank will address this recommendation by circular.
			vii. Implement a risk management approach for the highest risks	The Central Bank will address this recommendation by a guideline.
			viii. Based on a risk analysis, consider adopting flexible requirements for demonstrably low risks	The Central Bank will address this recommendation by a guideline.
6. Politically exposed persons	NC	• Absence of a requirement of enhanced diligence toward foreign politically exposed	ix. Set in place a risk-based customer identification mechanism for business relationships predating 2001, in connection with a stronger and more direct requirement regarding anonymous accounts and accounts in fictitious names	The Central Bank will address this recommendation by circular.
			•	
			i. Institute requirements of enhanced diligence toward politically exposed	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.

		persons		
7. Correspondent banking	NC	<ul style="list-style-type: none"> Absence of requirements pertaining to the establishment of correspondent banking or equivalent relationships 	i. Institute specific and enhanced requirements for establishing correspondent banking or equivalent relationships	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
8. New technologies and non face-to-face business	NC	<ul style="list-style-type: none"> Absence of requirements pertaining to business relationships conducted at a distance or risks associated with new technologies 	i. Institute requirements proportional to risk for business relationships conducted at a distance and with no face-to-face contact	The Central Bank will address this recommendation by circular.
9. Third parties and business introducers	NC	<ul style="list-style-type: none"> Absence of obligations on the part of intermediaries and business introducers; lack of certainty regarding the ultimate responsibility of the financial institution to meet the requirements of due diligence. 	i. Clarify the requirements of due diligence in situations where a financial institution provides a role to third parties or business introducers, specifically by indicating the conditions (regarding obligations to fight money laundering) that must be met by the intermediary and by affirming the principle that responsibility for the customer identification process always falls to the financial institution	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
10. Record keeping	LC	<ul style="list-style-type: none"> Lack of a legal basis for authorities to request an extension of the length of time that records must be held Lack of objective data on the effectiveness of the system in place, and delays in transmitting records 	i. Ensure that it is possible for competent authorities to request an extension of the length of time that records must be held.	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
11. Unusual transactions	LC	<ul style="list-style-type: none"> Existence of a (monetary) threshold that triggers requirements for unusual or complex transactions Uncertain implementation of the requirements 	i. Revise the requirements pertaining to unusual and complex transactions to eliminate the threshold of 200,000 gourdes, below which there is no requirement at present.	This recommendation is addressed in the draft law on money laundering and terrorist financing.
12. Designated non-financial businesses and professions – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> Absence of coverage, under the mechanism to fight money laundering and terrorist financing, of many of the designated non-financial businesses and professions, and (except for casinos) identification of 	i. Expand the anti-money laundering and anti-terrorist financing obligations to include other designated non-financial businesses and professions, especially notaries,	1. This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.

		<p>activities that are covered, and not of professions that are covered for a given range of activities.</p> <ul style="list-style-type: none"> Absence of enforcement of existing legal provisions for non-financial businesses and professions covered by the law. Absence of awareness-raising efforts and lack of monitoring of the enforcement of prevention and detection obligations for casinos and real estate transactions. 	<p>accountants, independent legal professionals, lawyers, traders of precious metals and stones, art dealers – for all the activities listed by FATF (for each of these professions). Consideration should be given, based on an analysis of the gravity of money laundering risks, to the possibility of including other non-financial professionals, such as traders of assets of value (luxury automobiles in particular).</p> <p>ii. Enforce the obligations already stipulated by law for casinos and real estate transactions, specifically through a major effort to mobilize and train the professionals involved.</p>	<p>2. The obligations for casinos and real estate entities stipulated in the law on money laundering (2001) has been reinforced in the new draft law.</p>
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> Absence of suspicious transaction reporting regarding terrorist financing Virtual absence of implementation of the system of suspicious transaction reporting by financial institutions 	i. Expand the scope of suspicious transaction reporting to include terrorism and its financing	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
			ii. Make all persons covered by the 2001 law aware of suspicious transaction reporting and automatic transaction reporting	<p>Progress has been made since the last assessment. Since 2008, awareness sessions were held with financial institutions. The last ones have been executed by BRH in conjunction with OTA in July 2011 and October 2011.</p> <p>Since 2009, the Supervision Department of the Central Bank does onsite visits to all Currency Exchange Agents in order to make them sensitive about the need to file STR.</p>
14. Protection and no tipping-off	C			
15. Internal controls and compliance	PC	<ul style="list-style-type: none"> Lack of information regarding internal control obligations, both general and specific to anti-money laundering efforts, on the following points: access to customer 	i. Clarify internal control obligations, based on the 2001 law and the circular on internal controls, especially as regards: access to	1. The Central Bank will address this recommendation by circular.

		information by compliance auditors; capacity of internal auditors to undertake verification of samples; verification of staff backgrounds prior to recruitment; minimum content of compulsory training	<p>customer information by compliance auditors; capacity of internal auditors to undertake verification of samples; verification of staff backgrounds prior to recruitment; minimum content of compulsory training.</p> <p>ii. Adopt stronger administrative sanctions as a way to enhance the effectiveness of internal control obligations.</p>	2. This recommendation is addressed in the Bill on banks and other financial institutions.
16. Designated non-financial businesses and professions – R.13-15 & 21	NC	<ul style="list-style-type: none"> Weaknesses of the suspicious transaction reporting mechanism (cf. Recommendation 13) Overly restrictive coverage of designated non-financial businesses and professions Absence of suspicious transaction reporting by non-financial professions Absence of enforcement of existing legal provisions 	i. Make sure that non-financial businesses covered by the anti-money laundering law meet their obligations with respect to detecting and reporting suspicious transactions. In addition, they should expand the suspicious transaction reporting obligation to include all designated non-financial businesses and professions	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
17. Sanctions	NC	<ul style="list-style-type: none"> Absence of a dissuasive, proportionate, and effective system of sanctions Lack of implementation of the current system of sanctions 	<p>i. Revise the system of sanctions for breaches of anti-money laundering and anti-terrorist financing obligations, particularly by (a) rebalancing criminal and administrative sanctions and (b) establishing a wider scale of (administrative) sanctions and a broader definition of breaches triggering these sanctions;</p> <p>ii. Adopt a more proactive approach in supervising these obligations, especially in the case of non-bank financial institutions.</p>	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
18. Shell banks	PC	<ul style="list-style-type: none"> Absence of any obligation for Haitian financial institutions to ascertain that their correspondent banks are not shell banks and 	i. Require Haitian financial institutions to ascertain that their correspondent banks are not shell	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.

		that their correspondent banks do not allow shell banks to use their correspondent accounts	banks and that their correspondent banks do not allow shell banks to use their correspondent accounts	On another part, the Central Bank will address this recommendation by circular.
19. Other forms of reporting	LC	<ul style="list-style-type: none"> No access to the computerized database by authorities other than UCREF 	i. Provide for access to the UCREF data base for other authorities involved in the fight against money laundering and terrorist financing	Already done
20. Other non-financial businesses and professions and secure transaction techniques	NC	<ul style="list-style-type: none"> Absence of attention given to expanding the anti-money laundering and anti-terrorist financing system to include non-financial businesses and professions based on the specific risk level in Haiti Ineffective mechanisms for promoting the use of other payment instruments besides cash 	i. Consider expanding (based on risk) the anti-money laundering and anti-terrorist financing system to include other non-financial businesses and professions (cf. also the recommendation under Recommendation 12) ii. Review the provisions aimed at promoting the use of other payment instruments besides cash, in view of the present ineffectiveness of such provisions	This recommendation was taken into account in the draft law on money laundering and terrorist financing.
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> Absence of a legal framework and operational mechanism enabling Haiti to guard against countries with weak systems for combating money laundering 	i. Develop mechanisms to inform financial institutions about the shortcomings of certain systems to combat money laundering and terrorist financing, as well as a legal framework that will enable them to enforce countermeasures against countries that continue to not adequately implement the FATF Recommendations	This recommendation will be addressed this issue in a guideline
22. Foreign branches and subsidiaries	NC	<ul style="list-style-type: none"> Absence of obligations aimed at foreign branches and subsidiaries of Haitian financial institutions, relative to their capacity to implement satisfactory measures to fight money laundering and terrorist financing 	i. Establish obligations aimed at the foreign branches and subsidiaries of Haitian financial institutions, relative to their capacity to implement satisfactory anti-money laundering mechanisms in their host country.	This recommendation will be addressed this issue in a guideline
23. Regulation,	NC	<ul style="list-style-type: none"> Absence of requirements of integrity and 	i. Strengthen the obligations of	This recommendation is addressed in the Bill on

supervision, and monitoring		<p>competence for many pillars of the financial sector, particularly money changers, insurance companies, and microfinance institutions</p> <ul style="list-style-type: none"> • Absence of coverage of beneficial owners under the obligations of integrity and competence for the banking sector and savings and loan cooperatives • Existence of an unregulated, informal sector of money/value transfer services 	<p>integrity and competence for the entire financial sector and for beneficial owners, business introducers, shareholders, and senior officials of financial institutions, by incorporating, in particular, professional disqualification in the event of a conviction for money laundering or terrorist financing;</p>	the banks.
24. Designated non-financial businesses and professions – regulation, supervision, and monitoring	NC	<ul style="list-style-type: none"> • Inadequate framework of supervision for non-financial businesses and professions • Lack of monitoring and oversight of legal obligations of non-financial professions at present covered by the mechanism 	i. Set in place the necessary mechanisms to ensure the execution of obligations related to money laundering prevention by non-financial professions, especially casinos, and provide oversight of proper implementation of these mechanisms.	Changes have been made in the bill on money laundering and terrorist financing.
25. Guidelines and feedback	NC	<ul style="list-style-type: none"> • BRH guidelines not widely distributed and not well known to the financial professions; no feedback from UCREF to the financial professions • Absence of guidelines issued for the entire financial sector • Absence of guidelines for designated non-financial businesses and professions • Absence of any mechanism for feedback from UCREF (DNFPBs) 	i. Provide information to, and raise the awareness of, financial and non-financial entities subject to the legal obligations of the anti-money laundering law, by issuing guidelines and particularly money laundering typologies, so as to enable these entities to fulfill their obligations under optimal conditions. Similarly, strengthen the training of private and public actors involved in preventing and cracking down on money laundering	The Central bank's guidelines will be modified to reinforce the obligations of the financial entities
Institutional and other measures				
26. Financial Intelligence Unit	PC	<ul style="list-style-type: none"> • Ambiguities (especially in practice) as regards the operational independence and autonomy of UCREF • Lack of mobilization of all professions subject to the law • Absence of status reports and reliable 	i. Clearly redefine UCREF's scope of action in line with the anti-money laundering law of 2001	Since 2008, changes have been made in the UCREF administration and it clearly addresses this recommendation.
			ii. Build awareness on the part of professions subject to the suspicious	Since 2009, UCREF discusses with the financial institutions on this matter. Six Meetings have been

		<ul style="list-style-type: none"> statistics Ambiguity in the practices followed for exchanging information with foreign authorities Absence of a policy on employee integrity and appropriate training Ineffectiveness of the Financial Intelligence Unit due to its atypical functioning, pursuant to a broad interpretation of its legal framework 	transaction reporting requirement	organized between the administration of UCREF and the compliance officers.
			iii. Ensure that UCREF exchanges information only with persons authorized to receive same (foreign counterparts)	After the mutual evaluation, measures have been taken to correct this situation. In June 2010, UCREF has signed a MOU with Dominican Republic.
			iv. Reinforce UCREF's operational independence in relation to CNLBA and establish real functional autonomy in relation to BRH	Actually, the UCREF occupies an area seized by the Haitian State.
			v. Charge UCREF with publishing a periodic status report	Steps have been already taken for this recommendation.
			vi. Bring Haitian law in line with the conditions required for membership in the Egmont Group	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> Lack of mobilization and utilization of police services in criminal investigations of money laundering Lack of implementation of specific investigative techniques appropriate to the fight against money laundering, particularly delivery surveillance, undercover operations, and interception of communications Absence of a group devoted to investigations of personal property or assets suspected to be of criminal origin 	<ul style="list-style-type: none"> i. Equip the Financial and Economic Investigation Bureau (BAFE) of DCPJ with a sufficient number of investigators and offer specialized training in the fight against money laundering. Examine the total or partial reassignment of original BAFE investigators attached to UCREF since its creation. ii. Create a specialized jurisdiction of national scope to fight against money laundering and terrorist financing. iii. Provide DCPJ with adequate financial and material resources, as well as pre-service and in-service training to implement special techniques for investigating money laundering, such as interception of 	<p>1. All BAFE investigators that were seconded to the UCREF are exclusively related to BAFE since May 2008. Now, the numbers of BAFE investigators are 20. These investigators have received training in special's techniques of economic and financial investigations.</p> <p>2. Bill on Money Laundering and Financing of Terrorism addresses this recommendation.</p>

			<p>telephone calls, delivery surveillance, and infiltration of criminal groups to track their management of funds from their activities.</p> <p>iv. Perform a property investigation for investigations of drug trafficking and other crimes falling within the scope of enforcement of the crime of money laundering.</p> <p>v. Undertake a rigorous monitoring and centralization of legal actions and results of money laundering investigations within the Ministry of Justice, along with the development of statistics. Centralize and work up reliable statistics on money laundering investigations.</p>	
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • Impossibility of assessing the effectiveness of the existing legal framework because of the absence of money laundering investigations completed to date. • Current laws relating to criminal procedure are vague with respect to procedures for submitting matters other than crimes <i>in flagrante delicto</i> to the police for investigation, and with respect to providing support to cases being investigated by the investigative magistrate. 	<p>i. Clarify the Criminal Investigation Code in order to expand and strengthen the legal bases for submitting cases to the DCPJ that involve money laundering, drug trafficking, and other crimes and offences sanctioned by law. Redefine and regulate more strictly, in relation to the functions of the national police officers who are officers of the court, the various frameworks for investigation, and in particular investigations of cases other than crimes <i>in flagrante delicto</i> or those providing support to the investigative magistrate.</p> <p>ii. Reconsider, in terms of how legal action is organized, the role of specialized police agencies as sole point of interface with magistrates in money laundering investigation.</p>	The President has taken action to create a presidential commission on justice reform to address these and other pending legal issues. The commission was installed on January 18 2012 and has submitted to the Prime Minister's office through the Ministry of Justice a penal procedure code project that will address these issues.

29. Supervisors	PC	<ul style="list-style-type: none"> Excessive restrictions on the ability of financial sector supervisors to gain access to all necessary records Weaknesses in the ability of supervisors to impose sanctions on financial institutions, their directors, and their shareholders 	<ul style="list-style-type: none"> i. Lift bank secrecy for inspectors involved in banking supervision; ii. Adopt a less formalistic approach to compliance with obligations related to the prevention and detection of money laundering and terrorist financing, particularly by placing greater emphasis on obligations regarding suspicious transaction reporting; 	<p>1. This recommendation is addressed on the Bill on banks.</p> <ul style="list-style-type: none"> 2. This recommendation has been addressed during the inspection of the financial institutions by the bank examiners of the Central Bank.
30. Resources, integrity, and training	NC	<ul style="list-style-type: none"> Insufficient human and budget resources overall, and less than optimal use of same Overly generalized training 	<ul style="list-style-type: none"> i. Regularly ensure the integrity of UCREF employees and see to their training 	<p>UCREF employees training</p> <p>June 2008:</p> <ul style="list-style-type: none"> - Financial investigative techniques, organized by OTA - Financial analyst training, organized by OTA. <p>June 2009:</p> <ul style="list-style-type: none"> - Prevention and Investigation (fight against corruption) organized by BASEL institute on governance - Fight against money laundering organized by BASEL institute on governance <p>October 2009</p> <ul style="list-style-type: none"> - Money laundering and seized criminals assets, organized by CIFAD <p>September 2010:</p> <ul style="list-style-type: none"> - Anticorruption procurement fraud training course organized by OTA. <p>February 2011:</p> <ul style="list-style-type: none"> - Training for technology unit
31. National cooperation	PC	<ul style="list-style-type: none"> Ineffectiveness of the coordinating body Lack of operational coordination between Haitian actors involved in the fight against money laundering and the fight against terrorist financing 	<ul style="list-style-type: none"> i. Ensure that the CNLBA fully plays its role 	<p>After the mutual evaluation, CNLBA put serious emphasis on:</p> <ul style="list-style-type: none"> - Awareness of all the stakeholders concerned by the fight against money laundering; - Coordination between all the entities fighting against money laundering; - Monitor all the improvement made in the legal

				aspects.
32. Statistics	NC	<ul style="list-style-type: none"> Absence of a reliable mechanism for collecting statistical data 	i. Develop reliable statistics on UCREF activities	Since 2010 a unit of Statistics has been created in the UCREF. Periodical reports are available at UCREF.
33. Legal persons – beneficial owners	NC	<ul style="list-style-type: none"> Ineffective system of transparency for legal persons, which does not allow for rapid access to reliable, up-to-date beneficial ownership and control information 	i. Enable the authorities to monitor effectively and record any changes in the bearers of bearer shares of corporations.	This recommendation is addressed in the Bill on Banks.
34. Legal arrangements – beneficial owners	NA	<ul style="list-style-type: none"> Absence of the concept of trusts in Haiti 		
International cooperation				
35. Conventions	NC	<ul style="list-style-type: none"> No implementation of the Vienna, Palermo, and Merida Conventions 	i. Take measures to implement the Vienna Convention;	<p>1) The adoption of the law of August 7, 2001 which confers the criminal nature of trafficking narcotics</p> <p>2) The adoption of measures for the confiscation of proceeds related to offenses punishable by law.</p> <p>3) The legal provisions for extradition and mutual legal assistance</p>
			ii. Ratify and implement the Palermo Convention;	<p>The Palermo Convention has been ratified by Haiti in September 2009</p> <p>1. The Bill on money laundering and financing of terrorism addresses all the measures in the Palermo Convention related to the fight against money laundering.</p> <p>2. ULCC (entity fighting against corruption) has been working on a draft law on corruption.</p>
			iii. Sign, ratify, and take measures to implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.	<p>Ratified by Haiti in January 2010</p> <p>Implementation will be done with the bill on Money Laundering and Financing of Terrorism.</p>
36. Mutual legal assistance	LC	<ul style="list-style-type: none"> Ineffectiveness of the legal system in place 	i. Set up a framework for mutual legal assistance concerning offences in the area of terrorist financing.	With the assistance of the OTA, Haiti is working on a model treaty to be signed with countries interesting in pursuing ALM matters. In the

				meantime, the legal framework provides for assistance to be given on a reciprocal basis, without the existence of a treaty.
37. Dual criminality	LC	<ul style="list-style-type: none"> • Ineffectiveness of international mutual assistance on criminal matters • Dual criminality required, but “similar” offences taken into account; absence of data on effective implementation 		While Haiti, though various mechanisms, is fully cooperating with countries requesting MLAs and Extraditions, a more clarified legal framework is being implemented in the new draft AML/CFT legislation.
38. Mutual legal assistance on confiscation and freezing	PC	<ul style="list-style-type: none"> • Absence of effective implementation of legal provisions and lack of a mechanism to coordinate seizure and confiscation actions with foreign jurisdictions 	i. Set up a mechanism for coordinating seizure and confiscation initiatives with other countries.	With the assistance of the OTA, Haiti is preparing a mechanism to coordinate confiscation initiative with all the countries. The collaboration is already ongoing with the US.
39. Extradition	LC	<ul style="list-style-type: none"> • Insufficient effectiveness of the legal mechanism in place 		While Haiti, though various mechanisms, is fully cooperating with countries requesting extradition, a more clarified legal framework is being implemented in the new draft AML/CFT legislation.
40. Other forms of cooperation	NC	<ul style="list-style-type: none"> • Restrictions on international cooperation due to excessive requirements for lifting bank secrecy • Incapacity of financial sector supervisory bodies to participate in international cooperation • Absence of strict oversight of the exchange of financial information reserved for foreign counterpart intelligence units 	i. Clarify the possibility of exchanging financial information with UCREF non-counterpart foreign agencies. ii. Authorize all the financial sector supervisory bodies to participate actively in international cooperation between supervisors.	1. The Bill on UCREF’s administration will be introduced by the Executive to Parliament. 2. Awaiting the enactment of the law on banks and other financial institutions
Nine Special Recommendations	Rating	Summary of factors underlying rating		
SR.I Implement UN instruments	NC	<ul style="list-style-type: none"> • No signature of the United Nations International Convention for the Suppression of the Financing of Terrorism 	i. Sign, ratify, and take measures to implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism	The Bill on Money Laundering and Financing of Terrorism will be introduced by the Executive to Parliament.

SR.II Criminalize terrorist financing	NC	<ul style="list-style-type: none"> No legislation on the financing of terrorism No signature or ratification of the International Convention for the Suppression of the Financing of Terrorism 	<ul style="list-style-type: none"> i. Criminalize terrorist financing, in compliance with the Convention on the Financing of Terrorism. ii. Ensure that the future criminalization of terrorist financing and the sanctions meet the standards set by the Convention 	The Bill on Money Laundering and Financing of Terrorism will be introduced by the Executive to Parliament.
SR.III Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> No legal framework for freezing assets used for terrorist financing 	<ul style="list-style-type: none"> i. Introduce measures to provide for the freezing of assets used for terrorist financing, in accordance with the requirements of Resolutions 1267 and 1373. 	The Bill on Money Laundering and Financing of Terrorism will be introduced by the Executive to Parliament.
SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> The scope of suspicious transaction reporting does not cover terrorist financing 	<ul style="list-style-type: none"> i. Expand the scope of suspicious transaction reporting to include terrorism and its financing 	The Bill on Money Laundering and Financing of Terrorism will be introduced by the Executive to Parliament.
SR.V International cooperation	NC	<ul style="list-style-type: none"> Absence of criminalization of terrorist financing, blocking participation in international cooperation Restrictions on international cooperation due to excessive requirements for lifting bank secrecy Incapacity of financial sector supervisory bodies to participate in international cooperation 	<ul style="list-style-type: none"> i. Authorize all the financial sector supervisory bodies to participate actively in international cooperation between supervisors. ii. Expand the existing mechanism for extradition to include the offence of terrorist financing, once it has been criminalized. 	<p>1. Awaiting the enactment of the law on banks and other financial institutions</p> <p>2. The Bill on Money Laundering and Financing of Terrorism will be introduced by the Executive to Parliament.</p>
SR.VI AML/CFT requirements for money/value transfer services	NC	<ul style="list-style-type: none"> See the summary of weaknesses of the Haitian system for Recommendations 4-11, 13-15, 21-23, and 17 and Special Recommendation VII 	<ul style="list-style-type: none"> i. Adopt a more proactive approach toward money transfer services currently provided in the informal sector. 	Aware of the risk of high use of cash in the Haitian economy, measures have been taken to encourage the use of other payment instruments, such as debit card, for the entire financial system and also to stimulate the access to the formal sector.
SR.VII Wire transfer rules	NC	<ul style="list-style-type: none"> Identification threshold set too high Absence of requirements regarding wire transfers (conveyance of identification data) 	<ul style="list-style-type: none"> ii. Implement wire transfer regulations concerning the conveyance of identification data on the originator, in accordance with Special Recommendation VII – with 	This recommendation will be addressed in a circular.

			specific attention (in view of the pattern of wire transfers in Haiti, where virtually all transfers are received, not sent) focused on the obligations of banks receiving cross-border wire transfers.	
SR.VIII Nonprofit organizations	NC	<ul style="list-style-type: none"> • Absence of legal framework to combat terrorist financing • Ineffective supervision of nonprofit organizations from the perspective of the fight against terrorist financing • Absence of any assessment of the risks of Haitian nonprofit organizations being misused for terrorist financing purposes 	<ol style="list-style-type: none"> i. Strengthen the oversight of the identity of founding members and directors, their operations in terms of implementation of their projects, and their financial position, in order to guarantee that this sector cannot be used for money laundering or terrorist financing purposes ii. Undertake a study of the risks of charitable organizations being misused for terrorist financing purposes should be conducted. iii. Raise awareness of the NGO Coordination Unit (UCAONG) on the problems of money laundering and terrorist financing and develop a preventive program of oversight in these areas. 	<ol style="list-style-type: none"> 1. This recommendation will be addressed in the new bill related to the nonprofit organizations. 2. Seeking technical assistance for the realization of a study as recommended by the evaluators. 3. Awareness meetings will be scheduled by the CNLBA with the Ministry of Planning
SR.IX Reporting/communication of cross-border transactions	PC	<ul style="list-style-type: none"> • Ineffectiveness of the system due to its unsuitability to the Haitian context and, as a result, deficiencies in implementation • Absence of proportionate, deterrent, and effective penalties • Lack of coordination among authorities in charge of implementing the mechanism currently in place 	<ol style="list-style-type: none"> i. Establish either a declaration system or a reporting system; ii. Incorporate this law into the customs code so as to ensure the legal basis for seizures and subsequent investigations; iii. Implement reporting arrangements among and between customs, the police, and UCREF concerning information gathered after funds are seized; 	These recommendations are addressed in the Bill on Money Laundering and Financing of Terrorism.

			<div>iv. Establish penalties that tie the severity of punishment to the absence or presence of evidence of an illicit origin or destination for the funds.</div> <div>•</div>	
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Appendix I

HAITI: SECOND FOLLOW-UP REPORT

II. INTRODUCTION

1. This report is an analysis of Haiti's report to the CFATF Plenary concerning the action taken that it has taken to correct the deficiencies that were identified in its third round mutual evaluation. The mutual evaluation of Haiti was adopted by Council in November of 2008. Based on the review of action taken by Haiti to close the gap discerned in its MER a recommendation would be made as whether Haiti would be placed into the first stage of enhanced follow up.
2. Haiti received ratings of PC or NC on fourteen (14) of the sixteen (16) Core and Key Recommendations as follows:

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

3. With regard to the other non-core or key Recommendations, Haiti was rated partially compliant and non-compliant, as follows:

Partially Complaint	Non-Compliant
R.2 (Money laundering offence)	R.6 (Politically exposed persons)
R.15 (Internal controls and compliance)	R.7 (Correspondent banking)
R.18 (Shell banks)	R.8 (New Technologies and non-face-to-face banking)
R.27 (Law enforcement authorities)	R.9 (Third parties and business introducers)
R.28 (Powers of competent authorities)	R.12 (DNFBPs 6, 8-11)
R.29 (Supervisors)	R.16 (DNFBPs 13-15 & 21)
R.31 (National cooperation)	R.17 (Sanctions)
R.38 (Mutual legal assistance on confiscation an freezing)	R.20 (Other non-financial businesses and professions and secure transaction techniques)
SR.IX (Reporting/communication of cross border transactions.	R.21 (Special attention for higher risk countries)
	R.22 (Foreign Branches and subsidiaries)
	R.24 (DNFBPs regulation supervision and monitoring)
	R.25 (Guidelines and feedback)
	R.30 (Resources, integrity and training)
	R.32 (Statistics)
	R.33 (Legal persons – beneficial owners)
	SR.VI AML/CFT requirements for money/value transfer services
	SR.VII (Wire transfer rules)
	SR.VIII (Non-profit organizations)

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

Size and integration of the jurisdiction's financial sector (As of September 30, 2010)

		Banks	Other Credit Institutions*	Securities	Insurance	TOTAL
Number of institutions	Total #	10	178	N/A	N/A	
Assets	US\$	3,453,571,823.08	94,000,000.00	N/A	N/A	
Deposits	Total: US\$	2,985,759,872.81	67,000,000.00	N/A	N/A	
	% Non-resident	% of deposits 0.85%	-	N/A	N/A	
International Links	% Foreign-owned:	% of assets 6.33%	% of assets -	% of assets	% of assets	% of assets
	#Subsidiaries abroad	2	-			

II. SUMMARY OF PROGRESS MADE BY HAITI

5. Since the first follow up report, Haiti, on 24th April, 2010, enacted a new Customs Code. It must be immediately noted here that this new Customs Code in no way affects the current status of SRIX. Also, with technical assistance from the UNODC, The World Bank and the US Treasury Office of Technical Assistance (OTA), Haiti has drafted new legislation aimed at criminalising terrorism the financing of terrorism. This draft is currently awaiting adoption by Haiti's new Parliament, when it is constituted. Haiti has also signed and ratified the Palermo Convention and the 1999 UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Trans-national Organized Crime.
6. The Central Bank of Haiti in collaboration with the OTA has been organising regular training for bank examiners of the Central bank. These examiners have been conducting missions to evaluate the AML structures of Money Transfer Agencies. Additionally, specific AML visits have been conducted for Haiti's three (3) largest banks and as part of the Central Bank's internal procedures for its bank supervision, a comprehensive manual for on-site and off-site inspections have been developed for use by both the bank supervisors and compliance officers.
7. A two year project for the revision and amendment of the Criminal Code and the Criminal Procedure Code is reportedly in the final stages and will culminate with draft being handed over to the new government and new parliament.

Implementation Statistics (Rec. 1, 13, 26 and 27)

8. The following statistics reflects Haiti's ongoing implementation of its existing AML legislation:
 - STRs Received by UCREF 9
 - Cases transmitted to the judiciary 1

- Completed awaiting submission to the judiciary 6
- Active Investigations 17

III. Conclusion

9. Haiti has shown no concrete improvement towards strengthening its AML/CFT infrastructure in line with the recommendations of its 3rd round MER. The Authorities have reported that the events of 12th January, 2010 have not only had a debilitating effect on Haiti efforts in this regard, but have rolled back many of the previous gains. By way of an example, they have pointed out that the electronic communication between the FIU (UCREF) and the banks was so severely damaged, that only one bank can now submit information electronically. Added to this is Haiti's protracted presidential election efforts which is expected culminate in the swearing in of a new President on 14th May, 2011.
10. Given all of the above the plenary is being asked to consider and then decide on whether Haiti should be placed into the first stage of enhanced follow up, or given that a new government is soon anticipated, whether Haiti should be given until the November 2011 plenary to show some commitment towards the implementation of the FATF Recommendations.

CFATF Secretariat
May 2011