



Fifth Follow-Up Report

Haiti

May 30, 2013

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HAITI: FIFTH FOLLOW-UP REPORT**I. INTRODUCTION**

1. This is the Jurisdiction's fifth follow-up report. Haiti has not shown any concrete progress since the November 2012 Plenary and as a result, based on the current status of progress, the Plenary moved Haiti to the first step in enhanced follow-up.
2. Haiti received ratings of PC or NC on fourteen (14) of the sixteen (16) Core and Key Recommendations as follows:

Table 1: Ratings for Core and Key Recommendations

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

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

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 and 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.

Table 3: Size and integration of Haiti's financial sector (as at April 2013)

**these amounts concern only 196 microfinance institutions of which only 100 are regulated. It is also worthwhile noting that there are more than 1000 informal microstructures (village banks,

		Banks	Other credit institutions	Securities	Insurance	Total
Number of institutions	Total	9	198	2	12	221
Assets	US \$	4,173,797,147.00	263,647,409.42**	NA	NA	4,437,444,556.42
Deposits	Total : US \$	3,487,254,310.00	108,761,859.83**	NA	NA	3,596,016,169.83
	% Non-resident	1.27%	NA	NA	NA	1.27%
International Links	% Foreign-owned	NA	N/A	NA	NA	N/A
	# Subsidiaries Abroad	2	N/A	N/A	N/A	2

mutual solidarity structures, etc.) financing the activities of the unbanked populations.

II. SUMMARY OF PROGRESS MADE BY HAITI

- On February 28, 2013 the Haitian Senate voted on the Bill on money laundering and terrorist financing and was to have sent it to the Lower Chamber. At that same time the draft Bill on corruption was also being debated.

Core Recommendations

Recommendations 1, 5, 13, SRII and SRIV

- All of the **Core Recommendations** are the subject of Bill on money laundering and terrorist financing and are thus still *outstanding*.

Key Recommendations

Recommendations 3, 4, 23, 26, 35, 40, SRI, SRIII & SRV

- Recommendations 3, 26, 35, and Special Recommendations I, III and V** are the subject of the Bill on money laundering and terrorist financing.
- For **Recommendation 26** Haiti was rated as PC and the examiners made six (6) recommendations aimed at closing the gaps they discerned. The following is an analysis of Haiti's action thus far:

- Clearly redefine UCREF's scope of action in line with the anti-money laundering law of 2001-* This recommendation was in relation to paragraph 181 of the DAR which noted the law makers intention that UCREF be an administrative type FIU without investigative powers or responsibilities. It was however noted that UCREF had exercised investigative powers on several occasions. To address this deficiency Haiti replaced the Director of UCREF and has reported that, "Ever since, UCREF is compelled to operate in the legal framework of the Act of February 21st, 2001 pending the enactment of the new draft law" Additionally, as a monitoring body, CNLBA has the ability to oppose any inappropriate actions carried out by UCREF, if necessary. This gap remains *open*.

- ii. *Build awareness on the part of professions subject to the suspicious transaction reporting requirement* – Since 2009 UCREF has reportedly been organizing meetings with compliance officers. The most recent meetings were held in December 2012 and February 2013.
 - iii. *Ensure that UCREF exchanges information only with persons authorized to receive same (foreign counterparts)* - The National Anti-Money Laundering Committee (CNLBA) has been addressing this recommendation by looking at the periodic reports, which UCREF submits, to ensure that information is only being shared with authorized bodies in compliance with the law and MOUs.
 - iv. *Reinforce UCREF's operational independence in relation to CNLBA and establish real functional autonomy in relation to BRH* – In the second follow-up report Haiti reported that UCREF had held discussions with CNLBA so that it could be independent from the BRH in terms of water, electricity and accommodation. In the third follow-up report Haiti reported that UCREF was actually occupying an 'area' seized by the Haitian State. In now reporting that this action was "Already done" Haiti is further reporting that, "During the mutual evaluation of Haiti, UCREF occupied a building owned by BRH. At that time, BRH also provided the FIU with logistics and some human resources. Currently, UCREF occupies its own building, and has a real functional autonomy along with a financial autonomy insofar that UCREF has its own budget, established in the Finance Act. Indeed, as a self-governing body, budgetary credits are granted to the FIU as from the budget of the Ministry of Justice and Public Security which is the supervisory authority in accordance to the Act of February 21st, 2001". Haiti has not provided any information to substantiate any of these actions whilst the issues on UCREF's operational independence in relation to CNLBA appear to be unresolved. This gap remains *open*.
 - v. *Charge UCREF with publishing a periodic status report* – Here Haiti has reported that pursuant to a CNLBA October 2012 resolution, UCREF submits quarterly reports. UCREF's Periodic Statistics Report for the first quarter (2012-2013) was submitted to the Secretariat on April 4, 2013. This report contains statistics on source of funds declarations; STRs; inter-agency requests for information; and training. The report also contains information on the activities of UCREF as well as the challenges it currently experiences in gathering reports from banks and identifying the subjects of investigations. The report contains no typologies and it is unclear whether it is publicly available. This gap remains *open*.
 - vi. *Bring Haitian law in line with the conditions required for membership in the Egmont Group* - This recommendation is the subject of pending legislation and as a result this gap remains *open*.
9. As noted above, Haiti has not as yet closed all the gaps noted by the Assessors. Consequently, Recommendation 26 remains *outstanding*.
 10. **Recommendation 35** is the subject of of the pending legislation on money laundering and terrorist financing and corruption.
 11. **Recommendation 40** is the subject a Bill on the administration of UCREF. This Bill is currently being revised by CNLBA. This Recommendation remains *outstanding*.

12. For **Special Recommendation V** the recommended action to “*expand the existing mechanism for extradition to include the offence of terrorist financing, once it has been criminalized*” is the subject of of the Bill on money laundering and terrorist financing.

Other Recommendations

13. **Recommendations 2, 6, 7, 9, 12, 16, 17, 18, 20, 21, 22, 24, 27, and SR.IX** are the subject of the Bill on Money Laundering and Financing of Terrorism and are all *outstanding*.
14. At **Recommendation 8**, the Examiners applied a NC rating owing to Haiti not having the requisite provisions for non-face-to-face transactions and transactions involving the use of new technologies. The fourth follow-up report had noted the action the Jurisdiction had taken to close this gap and concluded that the requirements were only partially addressed. Haiti is now incorrectly reporting that the action required to close this gap is “Already done”. This Recommendation remains *open*.
15. At **Recommendation 21**, the BRH issued a notice on December 4, 2012, advising financial institutions about the FATF October 19, 2012 public statement. The other recommendation requiring Haiti to develop the legal framework which would enable financial institutions to take countermeasures pursuant to such public statements is the subject of the Bill on money laundering and terrorism. This Recommendation remains *outstanding*.
16. For **Recommendation 25**, UCREF has not as yet implemented a system that would result in appropriate feedback to financial institutions and DNFBPs. This Recommendation remains *outstanding*.
17. For **Recommendation 28** Haiti has drafted a penal code and criminal investigations code. Both codes are currently being revised. This Recommendation remains *outstanding*.
18. **Recommendation 29** is as was reported in the 4th follow-up report. This Recommendation is *outstanding*.
19. For **Recommendation 30** the Examiners recommended that Haiti “*Regularly ensure the integrity of UCREF’s employees and see to their training*”. In pursuant of this, Haiti has reported that UCREF must ensure integrity of its employees on an annual basis and provide an annual training calendar. It is not clear how this statement by Haiti closes this gap. This Recommendation remains *outstanding*.
20. No update has been reported with respect to the specific Examiners recommended action for **Recommendation 31**.
21. No update has been reported with respect to the specific Examiners recommended action for **Recommendation 32**, specifically, no statistics have been provided.
22. For **Recommendation 33**, the fourth follow-up report is instructive here. Even though Haiti has reported that the necessary action to close the gap was “Already done” it is unclear how the steps taken by Haiti has cured the shortcoming noted where the Examiners noted that there was an “*Ineffective system of transparency for legal persons, which does not allow for rapid access to reliable, up-to-date beneficial ownership and control information*”.

23. No updated action was reported for **Special Recommendation VI**.
24. For **Special Recommendation VII**, the provisions of Circular 99 have had the effect of closing the gaps noted by the Examiners and as a result this Special Recommendation is *closed*.

III. CONCLUSION

25. Haiti has shown limited improvement for this reporting period and the status of the Core and Key Recommendations are exactly as they were in the December 2012 fourth follow-up report. The Bill on ML and TF has now been voted on by the Haitian Senate and is expected to be enacted before April 2013. Haiti expects this law to substantially improve the outstanding recommendations.
26. Based on the current status of progress, the Plenary moved Haiti to the first step in enhanced follow-up which is a letter from the CFATF Chairman to the relevant minister(s) in Haiti drawing their attention to the non-compliance with the FATF Recommendations.

CFATF Secretariat
May 30 2013

Matrix with Ratings and Follow-up Action Plan 3rd Round Mutual Evaluation
Haiti February 2013

Follow Up Report

Forty Recommendations	Rating	Summary of factors underlying rating ¹	Recommended Actions	Undertaken Actions
LEGAL SYSTEMS				
I. 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.	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
			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.	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. Please find enclosed a memorandum sent by MJSP on January 31st, 2013 to the prosecutors.
			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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.

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 I). 	<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"> This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber. 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 intersectoral 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>The obligations pertaining to bank secrecy were revised and are reflected in Article 179 of the law governing banks and other financial institutions.</p> <p>Since 2008, UCREF ensures to collect all the necessary information through the financial institution via officials (Managing directors and/or compliance officers). Information is exchanged only by registered mail. To ensure that the information</p>

				collected is treated with full confidentiality requirements, training sessions were held by OTA. In addition, meetings were held with banks more particularly around this issue.
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; 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 	i. Strengthen the banks on anonymous accounts and accounts in fictitious names	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
			ii. Lower the customer identification threshold for wire transfers to US\$1,000	Already done
			i. 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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
			vi. 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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
			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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
			ii. Establish a requirement to collect information on the purpose and nature of the business relationship and to update identification data on a regular basis	Already Done

			<p>i. Implement a risk management approach for the highest risks</p> <p>i. Based on a risk analysis, consider adopting flexible requirements for demonstrably low risks</p> <p>k. 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</p>	<p>Already Done</p> <p>This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.</p> <p>Already Done</p>
6. Politically exposed persons	NC	<ul style="list-style-type: none"> Absence of a requirement of enhanced diligence toward foreign politically exposed persons 	i. Institute requirements of enhanced diligence toward politically exposed persons	<p>This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.</p>
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	<p>This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.</p>
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	<p>Already Done</p>
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	<p>This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.</p>

			financial institution	
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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
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 activities that are covered, and not of professions that are covered for a given range of activities. • 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. 	i. Expand the anti-money laundering and anti-terrorist financing obligations to include other designated non-financial businesses and professions, especially notaries, 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). 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.	1. This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber. 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.
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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.

			i. Make all persons covered by the 2001 law aware of suspicious transaction reporting and automatic transaction reporting	Progress has been made since the last assessment. The last awareness sessions were held on September 12 and 13, 2012 and November 14 and 15 2012 for the banks and Money Services Business.
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 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 	i. Clarify internal control obligations, based on the 2001 law and the circular on internal controls, especially as regards: access to 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. i. Adopt stronger administrative sanctions as a way to enhance the effectiveness of internal control obligations.	1. Already Done by Circular (Central Bank) 2. Already Done By Law on Banks and 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. This Bill has been voted by the Senate on February 28 th 2013 and will shortly convey to the Lower Chamber.
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 	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	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28 th 2013 and will shortly convey to the Lower Chamber.

			definition of breaches triggering these sanctions; i. Adopt a more proactive approach in supervising these obligations, especially in the case of non-bank financial institutions.	
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 that their correspondent banks do not allow shell banks to use their correspondent accounts 	i. Require Haitian financial institutions to ascertain that their correspondent banks are not shell banks and that their correspondent banks do not allow shell banks to use their correspondent accounts	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
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 is addressed by note issued by Central Bank (the last one was issued in December 4th 2012) – Please find enclosed a copy of the note. This recommendation was also taken into account in the draft law on money laundering and terrorist financing.
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 was taken into account in the draft law on money laundering and terrorist financing.

23. Regulation, supervision, and monitoring	NC	<ul style="list-style-type: none"> Absence of requirements of integrity and competence for many pillars of the financial sector, particularly money changers, insurance companies, and microfinance institutions 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 	i. Strengthen the obligations of 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;	Already Done
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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
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 ii.	Done
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 statistics 	i. Clearly redefine UCREF's scope of action in line with the anti-money laundering law of 2001	Indeed, since 2008, some major administrative changes have been made as shown: the appointment of a new Managing Director at the end of the mandate of previous director; the reorganization of UCREF at organizational level; reinforcement of staff (hiring new analysts); improvement of institutional relations with the

		<ul style="list-style-type: none"> 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 		financial institutions; operational independence towards the central bank; complete takeover of the staff.
			i. Build awareness on the part of professions subject to the suspicious transaction reporting requirement	Meetings have been organized between the administration of UCREF and the compliance officers on this matter. In December 12 th 2012 and February 21 th 2013, meetings have been organized on this issue.
			i. Ensure that UCREF exchanges information only with persons authorized to receive same (foreign counterparts)	In terms of measures taken to ensure that the information shared by UCREF with authorized persons, the CNLBA particular scrutiny based on the law. In fact, UCREF submits to the committee periodic reports which show the details of the activities of the Unit. As form those reports, the CNLBA ensures that information is being shared with authorized bodies in compliance with the law and the MOUs.
			v. Reinforce UCREF's operational independence in relation to CNLBA and establish real functional autonomy in relation to BRH	Already Done
			v. Charge UCREF with publishing a periodic status report	Given a resolution of CNLBA issued on October 11 th 2012, UCREF actually edits report on a quarterly basis.
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 	i. 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. This Bill has been voted by the Senate on February 28 th 2013 and will shortly convey to the Lower Chamber.
			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.	1. All BAFE investigators that were seconded to the UCREF are exclusively related to BAFE since May 2008. These investigators have received training in special's techniques of economic and financial investigations.

		<ul style="list-style-type: none"> Absence of a group devoted to investigations of personal property or assets suspected to be of criminal origin 	<p>ii. Create a specialized jurisdiction of national scope to fight against money laundering and terrorist financing.</p> <p>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 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>	<p>2. Bill on Money Laundering and Financing of Terrorism addresses this recommendation. This Bill has been introduced by the Executive to Parliament in July 2012. It is currently before the Lower Chamber.</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>The draft Penal Code and the draft Criminal Investigation Code are currently in revision to be sent to Parliament in the shortest time.</p>

			i. 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.	
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 	i. Lift bank secrecy for inspectors involved in banking supervision; i. 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;	1. Already Done 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 	i. Regularly ensure the integrity of UCREF employees and see to their training	Following instructions CNLBA, UCREF must ensure the integrity of its employees on an annual basis and provide an annual training calendar.
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 	i. Ensure that the CNLBA fully plays its role	After the mutual evaluation, CNLBA put serious emphasis on: <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.	Already done
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>
			i. 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. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.</p> <p>2. The draft bill on Corruption is currently being debated in the Senate.</p>
			i. 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 through 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.	<p>With the assistance of the OTA, Haiti is working on a model treaty to be signed with countries interesting in pursuing AML matters. In the meantime, the legal framework provides for assistance to be given on a reciprocal basis, without the existence of a treaty.</p>
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 		<p>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</p>

		on effective implementation		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, through 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 is currently in revision to sent to the Executive by CNLBA. 2. Already Done
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 implementation will be done through the Bill on Money Laundering and Financing of Terrorism.
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 	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	This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
SR.III Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> No legal framework for freezing assets used for terrorist financing 	i. Introduce measures to provide for the freezing of assets used for terrorist financing, in accordance with the requirements of Resolutions 1267 and 1373.	This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
SR.IV Suspicious transaction reporting	NC	<ul style="list-style-type: none"> The scope of suspicious transaction reporting does not cover terrorist financing 	i. Expand the scope of suspicious transaction reporting to include terrorism and its	This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to

			financing	the Lower Chamber.
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 	i. Authorize all the financial sector supervisory bodies to participate actively in international cooperation between supervisors. i. Expand the existing mechanism for extradition to include the offence of terrorist financing, once it has been criminalized.	1. Already Done 2. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.
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 	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) 	i. Implement wire transfer regulations concerning the conveyance of identification data on the originator, in accordance with Special Recommendation VII – with 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.	Already done
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 	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 i. Undertake a study of the risks of charitable organizations being misused for terrorist financing purposes should be conducted. i. Raise awareness of the NGO Coordination Unit (UCAONG) on the problems of money	1. This recommendation will be addressed in the new bill related to the non profit organizations. 2. Seeking technical assistance for the realization of a study as recommended by the evaluators.

			laundering and terrorist financing and develop a preventive program of oversight in these areas.	
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 	<ul 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; 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. 	<p>These recommendations are addressed in the Bill on Money Laundering and Financing of Terrorism. This Bill has been voted by the Senate on February 28th 2013 and will shortly convey to the Lower Chamber.</p>

