CARIBBEAN
FINANCIAL ACTION
TASK FORCE

Ninth Follow-Up Report

Haiti

May, 2015

HAITI: NINTH FOLLOW-UP REPORT

I. INTRODUCTION

1. This report represents an analysis of Haiti's report back to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Detailed Assessment Report (DAR). The DAR of Haiti was adopted by the CFATF Council of Ministers in St. Kitts and Nevis in November of 2008 and Haiti was placed in expedited follow-up. In November 2014 Haiti was placed in the second stage of enhanced follow-up and a high level mission was undertaken to Haiti on April 27th, 2015. Based on a review of actions taken by Haiti a recommendation was made for Haiti to be kept in the second 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:

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 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.

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

		Banks	**Other Credit institutions** [1]	**Securities**	**Insurance**	**Total**
Number of institutions	Total	9	103	2	12	**126**
Assets	US $	4,167,065,333.70	240,787174[2]	NA	NA	**4,407,852,507.70**
Deposits	Total : US $	3,391,848,065.70	105, 029,980[3]			**3,496,878,045.70**
	% Non-resident	1.19%	0%**	NA	NA	
International links	% Foreign owned	0.00 %	0%**	NA	NA	
	Subsidiaries Abroad	2	0**	0	0	**2**

These data concern 90 credit unions and 13 microfinance institutions
[2] The assets of the credit unions amounted to 123,975,991 and those of 13 IMF rise to 116,811,183
[3] The deposits of these 13 IMF are of the order 27,114,565 while those of credit unions encrypt to 77,915,415

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II. SCOPE OF THIS REPORT

5. Pursuant to the decision of Plenary for member countries in regular and expedited follow-up to have full compliance with their Core and Key Recommendations and substantial progress in their other outstanding Recommendations for the current Plenary (i.e. November 2013), Haiti is currently in enhanced follow-up and is required to report to the May 2015 Plenary. This report will review all Core and Key Recommendations rated at PC or NC and the other outstanding Recommendations. Tables 1 and 2 above show Haiti's level of compliance with all Recommendations at the time of the Mutual Evaluation. However, based on actions by Haiti to close the deficiencies noted in their DAR since then, the following Core and Key Recommendations can be considered to be fully compliant: R 4, 10, 23 and SRV. As a result, these Recommendations will not be presented in this report. For the other Recommendations R 2, 8, 21, 22 and SR.VII have been closed. No updates were

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provided for Recommendations 9, 12, 15, 16, 17, 18, 24, 25, 27, 28, 29, 31, 32, 33, 38, SR.VI and SR.IX.

III. SUMMARY OF PROGRESS MADE BY HAITI

6. There is no progress to report for this period.

Core Recommendations

7. For **Recommendation 1** which was rated **NC,** two (2) deficiencies where noted by the Assessors as: *1. 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 and 2. The criminal law policy on combating money laundering and terrorist financing is currently ineffective*. There were three (3) recommended cures which Haiti has addressed as follows :

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* – Haiti has attempted to close this gap through **art.8** of the **LSMLTF** where the origin of money or property is considered to be illegal when such money or property is the product of an offense originating from any of a number of listed offenses. The offenses listed include:

a) terrorism or terrorist financing;
b) organized crime;
c) illegal trafficking in narcotic drugs and psychotropic substances;
d) illegal arms trafficking;
e) illegal trafficking in stolen property and goods;
f) trafficking illegal labour;
g) the smuggling of migrants and trafficking in human beings;
h) sexual exploitation, including that of children;
i) smuggling;
j) kidnapping, illegal restraint and hostage-taking;
k) embezzlement of public funds by persons exercising a public function and corruption;
l) counterfeiting currency or bank notes;
m) counterfeiting goods or property titles;
n) trafficking in human organs;
o) the misuse or exploitation of minors;
p) extortion;
q) looting of the wealth of the people by anyone.

It can be seen that the offenses listed here do not include fraud, piracy, environmental crime, robbery or theft. Haiti has now proffered that the list of offences detailed above falls under a combined approach which does not restrict the scope of money laundering

to these listed offences but allows any evolvement/adjustment in line with the broader national regime (not only AML/CFT Laws and regulations, but also the Penal Code which is currently in draft... This gap is ***open.***

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* – By memorandum dated January 31, 2013, the Minister of Justice asked all prosecutors of the inferior courts of Haiti to provide him with a census of all decisions made relative to money laundering.

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* – Haiti has addressed this deficiency at **art.9** of the **LSMLTF** where the offenses of money laundering and terrorist financing applies to any person, legal entity or organization that is subject to litigation in Haiti irrespective of where the act constitution money laundering or terrorist financing was committed. This gap is ***closed.***

8. The enactment of the LSMLTF has resulted in some improvement the implementation of Rec. 1. However, as noted above Haiti has not as yet closed all the deficiencies noted by the Assessors. For this reporting period Haiti has indicated that a forthcoming revision of the Penal Code will address the noted shortcomings. Recommendation 1 remains ***outstanding.***

9. Relative to **Recommendation 5,** which was rated **NC**, the Assessors made eight (8) recommendations intended to close the deficiencies they noted in the DAR. Haiti's action thus far is detailed below:

i. Strengthen the banks on anonymous accounts and accounts in fictitious name - At **art.13** of the **LSMLTF** financial institutions and listed businesses are prohibited from having anonymous accounts and accounts in fictitious names. This gap is ***closed.***

ii. Lower the customer identification threshold for wire transfers to US$1,000 – Here Haiti has reported that this was "Done by regulations issued by the Central Bank in October 30th, 2008 (Circular 95-1-A)" Haiti first made mention of this circular in its updated matrix which informed the fourth follow-up report of December 2012. The second paragraph of circular 95-1 A stipulates that: "*Transfer companies are required to collect cash transaction statements from all regular or occasional clients for any amount greater than or equal to forty thousand gourdes (Gdes 40,000.00) or its equivalent in foreign currency*". It is relevant to mention that the aforesaid amount in gourdes is equal to US$1,000. This application does not apply to commercial banks to the extent that wire transfers are not made with cash. The money is wired from a bank account to another bank account. As a result of this Haiti has asserted that it is irrelevant that the threshold of *forty thousand gourdes (Gdes 40,000.00)* applies, given that all scrutiny is likely to be done electronically prior to the wire. However this circular applies to all subsidiaries of commercial banks which are constituted in money transfer companies under the law. Section 6 of the Circular 99 sets forth all guidelines related to electronic fund transfers. In light of the fact. Recommendation 5 relates to all financial institutions including commercial banks and not just their subsidiaries. Additionally all wire transfer transactions including cash and non-cash transactions must be covered. Please refer to SR.VII. The obligations must cover occasional transactions irrespective of whether the funds concerned are in cash or not or already within

the financial system. Additionally, the recommended cure comes out of weaknesses discerned for Rec. 5.2 which must be implemented through law or regulations. Circulars issued by the Central Bank are considered to be "Other *Enforceable Means"* and are thus not regulations. This gap is ***open.***

iii. *Clarify the legal identification threshold for occasional transactions in forms consistent with the anti-money laundering law of 2001* – Haiti is relying on **art.17** of the **LSMLTF** to close this deficiency. However, no threshold has been prescribed in the LSMLTF. Second paragraph of circular 95-1 stipulates the following: "*commercial banks and savings and housing banks are required to collect cash transaction statements from all regular or occasional clients for any amount greater or equal to four hundred thousand gourdes (Gdes 400,000.00) or its equivalent in foreign currency.* When a transaction is made by a client for an amount exceeding the threshold and it seems unusual, the cashier has the obligation to ask the source of funds and carries a note on the form that will be sent subsequently to UCREF. Though, Haiti wants to highlight that the wording of art. 17 of the LSMLTF meets the concerns of evaluators and recommendation in the report. Circulars issued by the Central Bank are considered to be "Other *Enforceable Means"* and are thus not regulations. This gap is ***open.***

iv. *Clarify the customer identification requirement in occasional transactions, independent of the threshold, when there is a suspicion of money laundering or terrorist financing* – Haiti is relying on **art.17** of the **LSMLTF** to close this deficiency. At art.17 (d) & (e), once a financial institution suspects money laundering or terrorist financing, identification and verification requirements are required irrespective of the amount of funds involved in the transaction. This gap is ***closed.***

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* –Pursuant paragraph 4 of **1.** of circular 99 "when the client is a legal entity, the identification and verification of identity are based on the corporate name, the legal form, the certificate of existence, the registered address, the names of the directors and knowledge of the provisions governing the right to engage the corporation.

Moreover, ***1.1.2.*** puts forward in details all relevant provisions as to the verification on the basis of ownership and control of legal entities. This gap is ***closed.***

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* and;

vii. *Implement a risk management approach for the highest risks* – For recommended actions *vi* and *vii,* Haiti has pointed to Circulars 99 and 100. Here the conclusions of the fourth follow-up report are still relevant. Circular #99 has addressed the recommended action requiring the collection of information on the nature and intended purpose of the business relationship. At part 1 "*Required Identification Information",* commercial banks and savings and mortgage banks are advised that identification also relates to the purpose and intended nature of the business relationship. Haiti has proffered that part 8 of circular #99 has addressed the issues relating to the updating of information. This part of the circular however only refers to identity information and does not in any way address the type of documentation, data or information that is required to be kept up-to-date by financial institutions nor is there a requirement for all transactions to be scrutinized in order for records to be kept up-to-date. Finally, whilst part 8 has mandated a frequency period of two (2) years for updates for "High risk situations" there is no period noted for lower risk categories of customers or

business relationships. Haiti has referenced Section 9 of Circular 99, which are not yet available in English, as compelling all banks to update customer information every two (2) years. However this Circular was not provided to the Secretariat owing to them not being yet translated to English. These two (2) gaps are ***open.***

viii. *Based on a risk analysis, consider adopting flexible requirements for demonstrably low risks* – According to **art.26** of the **LSMLTF** the Bank of the Banque de la République d'Haïti (BRH) in collaboration with UCREF (the FIU) can determine the situations under which reduced or simplified identification and verification measures may be applied to customers or 'real beneficiaries'. The forerunner to this determination is a risk assessment which has not as yet been conducted. Consequently this gap is ***open.*** Section 4 of circular 100, all banks have to put in place policies and procedures in relation to a risk assessment that they need to conduct periodically. The recommendation to close this deficiency was made in relation to sub-criterion 5.9 which specifically refers to lower risk situations where the identity of the customers and beneficial owners of a customer is publicly known or where checks and controls exists elsewhere in the Haiti's system. The risk analysis being referred to is one which has to be conducted by the individual financial institution. Haiti has made mention of a possible risk assessment jointly between UCREF and the BRH. That future assessment is a necessary element of the fourth round of mutual evaluations and cannot be considered here. Examples of customers, transactions or products where the risks are lower may include:

    1. Financial institutions – provided that they are subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and are supervised for compliance with those requirements.
    2. Public companies that are subject to regulatory disclosure requirements. This refers to companies that are listed on a stock exchange or similar situations.
    3. Government administrations or enterprises.
    4. Life insurance policies where the annual premium is no more than USD/€1000 or a single premium of no more than USD/€2500.
    5. Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral.
    6. A pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme.
    7. Beneficial owners of pooled accounts held by DNFBP provided that they are subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and are subject to effective systems for monitoring and ensuring compliance with those requirements.

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*. This recommendation by the Assessors is referring to retrospective due diligence with an emphasis on anonymous accounts or accounts held in fictitious names. According to part 4 of circular 99, banks are required to apply due diligence

measures to their existing customers as of the date of this circular, depending on how much risk they represent. When this obligation is coupled with the prohibition against anonymous accounts imposed by **art 13** of the **LSMLTF** the resulting effect is the full implementation of the Assessors recommendation. Consequently this gap is ***closed.***

10. Of the nine (9) noted deficiencies the LSMLTF together with part 4 of circulars 99 have closed three (3) of the deficiencies for Recommendation 5. However as six (6) other deficiencies remain open this Recommendation remains ***outstanding.***

11. **Recommendation 13** was rated **NC.** There were two noted deficiencies whilst two recommendations were made to cure them. The first cure was for Haiti to *"Expand the scope of suspicious transaction reporting to include terrorism and its financing"*. **Art 31** of the **LSMLTF** has extended the scope to include terrorism financing by mandating the reporting of an STR where financial institutions and non-financial businesses and professions suspect, or have reasonable grounds to suspect, that funds or assets are the proceeds of criminal activity or are related to terrorism financing. The LSMLTF has provided no definition of the terms '*funds or assets'*. Haiti has asserted that the definition of 'goods' at art 4 has wholly defined the term funds and assets. Whilst it is not clear whether the term *goods* is intended to be used interchangeably with the term *funds or assets,* the definition of goods makes no mention of financial assets. By way of an example however art 46, which is concerned with freezing, appears to separate the two terms by empowering a magistrate to impose preventive measures on *funds and goods.* Also article 19 which is only concerned with clients who are acting on someone else's behalf only captures transactions which were terminated by the financial institutions and not those terminated by the client. The Assessors had noted as a deficiency, the "*virtual absence of implementation of the system of suspicious transaction reporting by financial institutions".* The recentness of the LSMLTF suggests that there is insufficient time for the compilation of implementation data for the new provision, however Haiti has also not provided any information which can attest to the implementation of the existing provisions. The explanation by Haiti regarding the French translation of "bien" is noted. Notwithstanding, the LSMTF has linked suspicious transactions reporting to "funds or assets" that are the proceeds of criminal activity and there is no definition of funds or assets consistent with the FATF Recommendations in the LSMTF. According to Haiti, "The definition of "biens" in the LSMLFT therein is based on the definitions provided in the international conventions, such as the UN Convention on Financing of Terrorism, the Vienna Convention, the Palermo Convention and the CTO Convention." This Recommendation is ***outstanding.***

12. The second recommended cure was for Haiti to *"Make all persons covered by the 2001 law aware of suspicious transaction reporting and automatic transaction reporting"* – This is an ongoing requirement and Haiti has reported having conducted awareness campaigns, training sessions and periodic forums aimed at creating the necessary awareness.

13. For **Special Recommendation II** which was rated NC the two (2) deficiencies noted by the Assessors were: i. *no legislation on the financing of terrorism* and ii. *no signature or ratification for the International Convention for the Suppression of the Financing of Terrorism*. The cures recommended were for Haiti to i. *Criminalize terrorist financing, in compliance with the Convention on the Financing of Terrorism* and ii. *Ensure that the future criminalization of terrorist financing and the sanctions meet the standards set by the Convention.* The legislative provisions of the LSMLTF are detailed below:

SRII.I (a)

14. Terrorism financing has been criminalised pursuant to **art.6** of the **LSMLTF.** Here any individual of legal entity that intentionally provides or assembles goods with the intention of using them, or intentionally provides or assembles goods knowing that they will be used to commit: a. one or more acts of terrorism b. one or more acts of terrorism by a terrorist organisation or c. one or more acts of terrorism by a terrorist or group of terrorists, commits an offence.

SRII.I (b)

15. Even though the 7th follow-up report noted that "the reference is to the assembly or provision of *"goods"*, **art.4** of the LSMLTF has defined goods consistent with the meaning of funds in Article 2 of the Terrorist Financing Convention", the definition at art.4 in fact excludes assets in electronic or digital form. Haiti has attributed this to semantics because the law was translated from French to English.

SRII.I (c)

16. The offense is committed whether the action(s) noted above occurs or not and whether the *assets* were actually used to commit the actions noted above or not. Any attempt in this regard also constitute an offense. The requirement that funds (goods) not be linked to a specific terrorist act does not appear to have been captured.

SRII.I (d)

17. An attempt to commit, aid induce or assist someone to commit or facilitate the implementation of terrorist financing is punishable as though the offence was actually committed.

SRII.I (e)

The types of conduct set out at Article 2(5) of the Convention do not appear to have been covered in that the LSMLTF is silent where a person participates as an accomplice, or organises or directs others to commit any of the offense noted above.

SRII.2

18. **Art.6** of the **LSMLTF** specifically designates terrorist financing as a predicate for money laundering.

19. *SRII.3*

At **art.9** of the **LSMLTF** the terrorism financing offenses created at art.6 are applicable to any person and legal entity or organisation subject to litigation in Haiti irrespective of where the act was committed. The existing shortcoming appears to be in relation to terrorist financing for a terrorist act not yet committed.

SRII.4

20. **Art.6** allows the knowledge and intention, in relation to the offences noted above, to be deduced from objective factual circumstances. However, whilst liability extends to legal entities, the LSMLTF is silent on whether parallel criminal, civil or administrative proceedings is possible.

SRII.5

21. Natural and legal persons are subject to the criminal and administrative sanctions applicable at **art.57, art.58** and **art.59** of the **LSMLTF.**

SRII overall conclusion

Haiti has on January 13, 2010 acceded to the UN International Convention for the Suppression of the Financing of Terrorism. As can be seen from the analysis above, the enactment of the LSMLTF has positively affected the Jurisdiction's implementation

of SR II. However there are noted shortcomings requiring attention. Consequently this Special Recommendation is ***outstanding.***

22. For **Special Recommendation IV** which was rated **NC** the comments relative to Recommendation 13 above are also relevant. This Special Recommendation is ***outstanding.***

Key Recommendations

23. **Recommendation 3** was rated **PC** on account of the lone deficiency relating to the *System being ineffective due to confusion in the implementation and management of conservatory measures and seizures.* Here the Assessors recommended that Haiti *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.* Haiti has provided, at **art.68** of the **LSMLTF,** for all goods confiscated by default to be vested in the state and liquidated according to established procedures. In instances where subsequent court ruling acquits defendants who are the owner of such goods the court is required to order the State to reimburse the value of the confiscated property.

24. **Recommendation 4** was rated **PC.** Please see the fourth follow-up report for the action taken by Haiti which resulted in this Recommendation being ***closed***.

25. **Recommendation 23** was rated **NC**. Please see the fourth follow-up report for the action taken by Haiti which resulted in this Recommendation being ***closed.***

26. For **Recommendation 26** Haiti was rated as PC and the examiners made six (6) recommendations aimed at closing the gaps they discerned. Please see the fifth follow-up report for details of previous actions by Haiti towards rectifying these deficiencies. For this reporting period Haiti's actions are as follows:

    i. Clearly redefine UCREF's scope of action in line with the anti-money laundering law of 2001- Haiti reported having made several administrative changes to the structure of UCREF. New staff has been hired and there is now operational and financial independence from BRH. It is not clear how this action by Haiti closes the deficiency noted. Paragraph 181 of the DAR refers. This gap is ***open.***

    ii. Build awareness on the part of professions subject to the suspicious transaction reporting requirement – This is an ongoing effort by Haiti. The CNLBA is reportedly in the process of defining mechanisms which will lead to greater awareness and coordination by magistrates and LEAs.

    iii. Ensure that UCREF exchanges information only with persons authorized to receive same (foreign counterparts) – Haiti reported that there is a draft bill on UCREF which will create the basis for implementing this recommendation. In the meantime UCREF submits periodic reports to CNLBA on its activities. This gives the CNLBA the opportunity to ensure that information is only exchanged with authorized. Haiti has reported that UCREF is in the process of singing MOUs with the FIUs of Sint Maarten and Suriname on the basis of the Act of February 21, 2001, article 3.1.1 pending the passing of the organic law. This gap remains ***open.***

    iv. Reinforce UCREF's operational independence in relation to CNLBA and establish real functional autonomy in relation to BRH – The closure of this deficiency is dependent on the draft bill on UCREF. This gap remains ***open.***

    v. Charge UCREF with publishing a periodic status report – Haiti has reported that whilst there is no legal requirement for UCREF to publish quarterly reports, a new law which is currently in draft, will enable reports to be published on UCREF's website. UCREF is currently working on typologies in order to include them in its reports for dissemination to the public and regulators. This gap remains ***open.***

vi. Bring Haitian law in line with the conditions required for membership in the Egmont Group - The closure of this deficiency is dependent on the draft bill on UCREF. This gap remains ***open.***

27. As noted above, Haiti has not as yet closed all the gaps noted by the Assessors. Consequently, Recommendation 26 remains ***outstanding.***

28. As for **Recommendation 35** which was rated **NC,** there were three (3) cures prescribed by the Assessors as follows:

i. *Take measures to implement the Vienna Convention* – Haiti has put forward existing 2001 legislation, relating to drug trafficking as an offense, as one of the measures that was utilized to implement Assessors recommendation. This law was not as yet available in English and will be analyzed when a translated version becomes available.

ii. *Ratify and implement the Palermo Convention* – Haiti signed the Palermo Convention on December 13, 2000 and ratified it on April 19, 2011. Haiti has informed the Secretariat that e*x-post* its ratification, the Palermo Convention has been implemented geared to the comprehensive regime built as from : the Act on drugs trafficking of 2001, the Act on the laundering of assets derived from drugs trafficking of 2001, the Act sanctioning money laundering and terrorist financing of 2013. As noted above, the 2001 Drug Trafficking Act is not as yet available in English.

iii. *Sign, ratify, and take measures to implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism* – This Convention was ratified by Haiti on January 13, 2010. Pursuant the Convention for the suppression of the Financing of Terrorism, Articles 6 to 9 of the LSMLTF establish the financing of terrorism as a predicate offense to money laundering. Subsequently, these articles aim various offenses under the scope of the offense of financing of terrorism offense. According to paragraph 511 of the DAR, Haiti had, at the time of the onsite, signed just five (5) of the 13 UN conventions relating to terrorism. It is still unclear whether the eight (8) Conventions that were outstanding have since been signed and implemented.

29. The implementation for Recommendation 35 remains the same way as noted in the 7th follow-up report. This Recommendation is ***outstanding.***

30. **Recommendation 40** which was rated **PC** is the subject of a bill on the administration of UCREF. Haiti reported that a draft bill is now available and will be sent to the Executive. This Recommendation remains ***outstanding.***

31. For **Special Recommendation I** which was rated **NC** the Assessors recommended that Haiti *Sign, ratify, and take measures to implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism* – This Convention was ratified by Haiti on January 13, 2010. In accordance to the Convention for the suppression of the Financing of Terrorism, Articles 6 to 9 of the LSMLTF establish the financing of terrorism as a predicate offense to money laundering. The comments for Recommendation 35 relating to Haiti having signed just five (5) of the 13 UN conventions relating to terrorism are also relevant here. Additionally, there are still no provisions under Haitian laws for freezing assets used for terrorist financing either under UN S/RES/1267 (1999) and S/RES/1373(2001). This Recommendation remains ***outstanding.***

32. **Special Recommendation III** was rated **NC** on account that there was *"No legal framework for freezing assets used for terrorist financing"* The recommended cure was for Haiti to *Introduce measures to provide for the freezing of assets used for terrorist financing, in accordance with the requirements of Resolutions 1267 and 1373.* **Art.47** of the **LSMLTF** provides for the freezing, by ministerial decree, of the *funds* of terrorists, persons, entities or organisations that finance terrorism, or terrorist organisations so designated by the UN Security Council. An order from the Cabinet issued by three (3) government Ministries will define the conditions and duration of the freezing and will be published in the Haitian Gazette. Financial institutions and any other person holding such funds are then required to immediately freeze them following notification of the Ministerial Order. This provision sets the basis for Haiti to freeze terrorist funds. Whilst the LSMLTF has not stated what definition applies to the word '*funds'* Haiti has pointed to the fact that funds refers to goods as defined at art.4 and semantics play an important part because the law was translated from French to English. Additionally, funds is used in many contexts throughout the LSMLTF. For SRIII none of the essential criteria have been addressed consequently, this Special Recommendation is ***outstanding.***

Other Recommendations

33. **Recommendation 6** was rated **NC** on account that there was an absence of any requirements for enhanced due diligence towards foreign PEPs. Haiti has sought to implement this Recommendation through **art.15** of the **LSMLTF.** Here financial institutions are required to have adequate risk management systems to determine whether the customer is a PEP. Once a person is so identified senior management approval is required before establishing the business relationship; all reasonable steps must be taken to determine the source of funds and enhanced and permanent surveillance on the business relationship must be conducted. The sixth follow-up report had noted Haiti's action through Circular 100 which had addressed some aspects of this Recommendation. There is however still no requirement for senior management approval to continue the business relationship where the customer or beneficial becomes a PEP subsequent to the establishment of the business relationship. Additionally, whilst the definition of PEPs is consistent with the FATF Standards, **art.4** creates some doubt about the individuals who may be considered as being PEPs and the applicability of the provisions on article 15 on such individuals because it refers to such persons being *"Subject to provisions covering the actions of certain Haitian public officials".* This Recommendation is ***open.***

34. **Recommendation 7** which was rated **NC** because there was an *absence of requirements pertaining to the establishment of correspondent banking or equivalent relationships*. **Art.24** of the **LSMLTF** is concerned with cross-border correspondent banking relationship. At article 24 b) and c) there are obligations which are intended to implement the requirements of essential criterion 7.1. Article 24 e) implements essential criteria 7.2 by mandating that financial institutions evaluate the ML and TF controls implemented by their client (correspondent) institution. Article 24 f) prescribes the approval from senior management of the financial institution before establishing a new correspondent banking relationship. There appears to be no obligation for the two institutions involved in the relationship to document or at least have a clear understanding as to which institution will perform the required measure. The enactment of these provisions have had the effect of greatly advancing Haiti's implementation of Recommendation. Notwithstanding there still remains a minor deficiency. This Recommendation is ***outstanding.***

35. As for **Recommendation 20** which was rated **NC,** Haiti has now included vehicle dealers thus the recommended action that the Jurisdiction *consider expanding (based on risk) the anti-money laundering and anti-terrorist financing system to include other non-financial businesses and professions has been taken on board.* This gap is ***closed.*** For the other recommended action that a review of the *provisions aimed at promoting the use of other payment instruments besides cash* be undertaken, Haiti is now reporting that *"since the mutual evaluation some measures have been taken to ensure the promotion of other payment instruments besides cash. The central bank focused and supported the financial institutions in the use of debit cards, electronic transfers and mobile banking."* Haiti has not provided any details to substantiate this statement**.** Recommendation 20 remains ***outstanding.***

36. For **Recommendation 30** which was rated **NC** with the two (2) deficiencies being: Insufficient human and budget resources overall, and less than optimal use of same; and overly generalized training. Haiti reported that UCREF runs in-depth scrutiny on its personnel with polygraph testing being conducted during August of 2014. Training concerning drugs trafficking and money laundering was carried out by the French Embassy in February 2015 with additional training expected to be conducted in June 2015. No information was provided on the human and budgetary resources, training details or training for the other UCREF employees. Additionally, the Assessors had noted that the training being provided at the time was overly generalised. Haiti has reported that training was provided by the French Embassy. The main theme of the training: cartography of drugs trafficking in Haiti; seriousness of the scheme of drugs trafficking in the community; how the products of drugs trafficking are laundered; Various techniques for money laundering; Prospective in AML fight. This training was intensively conducted throughout one day. It was organized in a very interactive manner which allows a genuine sharing of best practices. This Recommendation remains ***outstanding.***

IV. CONCLUSION

37. Of the 14 Core and Key Recommendations rated PC or NC in the DAR, R.4, 23 and SR. V have been closed whilst R 1, 3, 5, 13, 26, 35, 40, SR. I, II, III and IV are still outstanding. Based on the above it is recommended that Haiti be kept in the second stage of enhanced follow-up and asked to report to the Novembers 2015 Plenary.

CFATF Secretariat
May, 2015

Matrix with Ratings and Follow-up Action 3rd Round Mutual Evaluation
Haiti May 2015

Forty Recommendations	Rating	Summary of factors underlying rating[4]	Recommended Actions	Undertaken Actions
Legal systems				
1. Money laundering offence	**NC**	• 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 in article 8. **Article 8.-** For the purposes of this law, the origin of money or property is illegal when it is the product of an offense originating from: a) terrorism or terrorist financing; b) organized crime; c) illegal trafficking in narcotic drugs and psychotropic substances; d) illegal arms trafficking; e) illegal trafficking in stolen property and goods; f) trafficking illegal labor; g) the smuggling of migrants and trafficking in human beings; h) sexual exploitation, including that of children; i) smuggling; j) kidnapping, illegal restraint and hostage-taking;

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

				k) embezzlement of public funds by persons exercising a public function and corruption; l) counterfeiting currency or bank notes; m) Counterfeiting goods or property titles. n) trafficking in human organs; o) the misuse or exploitation of minors; p) extortion; q) looting of the wealth of the people by anyone. Following the interpretive note of recommendation 3, predicate offences are determined under Haitian laws as per the offences listed in article 8 of the LSMLTF. This list falls under a combined approach which does not restrict the scope of money laundering to the lone listed offences but allows any evolvement/adjustment in line with the broader national regime (not only AML/CFT Laws and regulations, but also the Penal Code, etc.). In principle, the AML/CFT regime is reflective of the broader penal regime in force in Haiti. Therefore, the penal code, as per its forthcoming revision, shall entail all offenses such as fraud, piracy, environmental crime... Given that b)

				organized crime appears to bear *per se* all unlisted offenses as in the new LSMLTF. Hence, the passing of the revised of the Penal Code shall fulfil any lacuna insofar that the implementation of the latter reflects directly on the special AML/CFT regime.
			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. On January 31st 2013 the Minister of Justice has sent a memorandum to the prosecutors in addressing this issue.
			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 in article 9. In this regard, the **Article 9** of the law refers to the offenses of money laundering and terrorist financing (described in articles 5 and 6) and to that extent the regime of this law shall apply to any person or legal entity and to any organization subject to litigation in Haiti, regardless of the place where the act was committed. **Closed (refer to seventh follow-up report)**

2. Money laundering offence – mental element and corporate liability	**PC**	• 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).	• 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.	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism in article 58. **Article 58.-** Legal entities, for the account or benefit of which the offense of money laundering or financing of terrorism has been committed, shall be liable to a fine equal to five times that specified for individuals, without effect on any sentences given to perpetrators or accomplices. **Closed** (refer to seventh follow-up report)
3. Confiscation and provisional measures	**PC**	• 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.	This recommendation is addressed in **article 68** the Bill on Money Laundering and Financing of Terrorism. **Article 68**.- Confiscated resources or goods shall vest in the state, which shall place them in a fund to combat organized crime. They remain encumbered up to their real, lawfully established value for third parties. In case of confiscation issued by default, the confiscated goods shall vest in the state and be liquidated according to the appropriate established procedures. However, if the court rules for the defendant and he is acquitted, it shall order the State to reimburse the value of the confiscated property.

				A fund has been created under this law called the "Special Fund to Combat Organized Crime." A law will determine the organization and operation of the Fund. Pending the establishment of the Fund, the proceeds of forfeited goods will be deposited into the Deposit and Consignment Fund.
			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**	• 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	The obligations pertaining to bank secrecy were revised and are reflected in Article 179 of the law governing banks and other financial institutions. Since 2008, UCREF ensures to collect all the necessary information through the financial institution via the official staff (Managing directors and/or compliance officers). Information is exchanged only by registered mail. To ensure that the information collected is managed with full

				confidentiality requirements, training sessions were held by OTA in that regard. In addition, meetings were held with banks precisely around this issue. Closed (refer to seventh follow-up report)
5. Customer due diligence	**NC**	• 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	i. Strengthen the banks on anonymous accounts and accounts in fictitious names	This recommendation is addressed in **article 13** (first paragraph) of the Bill sanctioning Money Laundering and Financing of Terrorism. Pursuant to this article**,** "the persons referred to in Article 2 shall exercise constant vigilance on any business relationship and scrutinize transactions to ensure that they are consistent with what they know about their customers, their business, their risk profile and if necessary, the source of their funds. Having anonymous accounts or accounts in fictitious names is prohibited". **Closed (refer to seventh follow-up report)**
			ii. Lower the customer identification threshold for wire transfers to US$1,000	Done by regulations issued by the Central Bank in October 30th, 2008 (Circular 95-1-A) The circular will be translated in an expeditious fashion and be conveyed to the CFATF Secretariat. Following comments made by the CFATF Secretariat, the Central Bank has inserted in Section 7 of Circular 99 a modification

		• 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		in relation to the threshold now set at 40,000 gourdes or its equivalent in foreign currency for all commercial banks when performing wire transfers.
			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 **article 17** of the Bill on Money Laundering and Financing of Terrorism. **Article 17.-** Financial institutions are required to identify their customers and verify information through documents, data sources or independent and reliable information for: .... b) the execution of occasional transactions, when the client wishes to make: 1. a transaction in an amount equal to or greater than the regulatory amount, whether in a single transaction or by means of several transactions that appear to be linked. The identification is also required even if the transaction amount is less than the threshold when the lawful origin of the funds is not certain; 2. a transfer of funds whether nationally or internationally; This legal provision addresses this gap in reference to the Central Bank Circular 95-1-A (referred to in previous recommended action). In accordance to article 11 of the LSMLTF, the threshold can only be

				prescribed through circulars as issued by the Central Bank. In result of this, two considerations are to be made: 1) No prescription can be made in the LSMLTF for such would be precluding any change other than through amendments issued by the Parliament (from another law), not counting the lack of flexibility that would cause. 2) By referring to "the threshold", full compliance to recommended action iii is to be acknowledged as through the regulatory power of the lone Central Bank in this matter. In light of the aforementioned, it appears that the actual wording of article 17 is perfectly in line with recommendation 5 insofar that the law refers to the regulations of the Central Bank. Also, any relevant change may be promptly operated without any legal amendment which is administratively burdensome. In response to comments made by the CFATF Secretariat, it is important to highlight the choice made by Haiti in allowing the Central Bank to determine the threshold by regulations. These regulatory

				instruments, mandatory and gazetted, are applicable to all parties. The threshold has been set to 400,000 gourdes by Circular 95-1.
			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 article 17 of the Bill on Money Laundering and Financing of Terrorism. **Article 17.-** Financial institutions are required to identify their customers and verify information through documents, data sources or independent and reliable information for: a) the establishment of business relationships; b) the execution of occasional transactions, when the client wishes to make: 1. a transaction in an amount equal to or greater than the regulatory amount, whether in a single transaction or by means of several transactions that appear to be linked. The identification is also required even if the transaction amount is less than the threshold when the lawful origin of the funds is not certain; 2. a transfer of funds whether nationally or internationally; c) suspicions about the veracity or adequacy of the customer identification date previously obtained;

				d) suspicion of money laundering; and e) suspected terrorist financing. Closed (refer to 8th follow-up report)
			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 **article 18** of the Bill on Money Laundering and Financing of Terrorism and circular 99 issued by Central Bank in addressing the issues related to client identification. Pursuant to the **article 18**, Identification of a legal entity involves gathering and verifying information on the name, address of the main office, the identity of directors and proof of its legal establishment. Closed (refer to seventh follow-up report) Closed (refer to 8th follow-up report)
			Establish a requirement to collect information on the purpose and nature of the business relationship and to update identification data on a regular basis	This recommendation is addressed in regulatory instruments issued by the Central Bank (Circulars 99 and 100)
			vi. Implement a risk management approach for the highest risks	This recommendation is addressed in regulatory instruments issued by the Central bank (Circulars 99 and 100) Following comments made by the CFATF Secretariat, the Central Bank has inserted into Section 9 of Circular 99 provisions

					geared to compelling all banks to update customer information every two years. For lower risks, the frequency may be drought to three years. Closed (refer to seventh follow-up report)
			vii.	Based on a risk analysis, consider adopting flexible requirements for demonstrably low risks	This recommendation is addressed in **article 26** of the Bill on Money Laundering and Financing of Terrorism. In accordance to **Article 26**, the Bank of the Republic of Haiti in collaboration with the UCREF may, accordingly with a risk assessment and by ruling, define the circumstances under which the obligations (stated in article 18) may be reduced or simplified regarding the identification and the verification of the identity of the customer or real beneficiary. With regard to technical compliance, this legal provision puts forth the possibility for BRH jointly with UCREF to adjust the obligations in relation to the level of risk proffered through the risks assessment approach, complying fully and technically with recommendation 5. Should not the achievement of the risks assessment be taken into consideration within the fourth round of Mutual Evaluations?
			viii.	Set in place a risk-based customer identification mechanism for business relationships predating	This recommendation is addressed in regulations issued by the Central bank (circular 99 and 100)

			2001, in connection with a stronger and more direct requirement regarding anonymous accounts and accounts in fictitious names	**Closed** (refer to seventh follow-up report) **Closed** (refer to 8th follow-up report)
6. Politically exposed persons	NC	• Absence of a requirement of enhanced diligence toward foreign politically exposed persons	i. Institute requirements of enhanced diligence toward politically exposed persons	This recommendation is addressed in **article 15** of the Bill on Money Laundering and Financing of Terrorism. This article stipulates that the financial institutions are required to have adequate risk management systems to determine whether the customer is a politically exposed person and, if applicable: a) obtain approval from senior management before establishing a business relationship with the client; b) take all reasonable steps to identify the source of funds; and c) Provide an enhanced and permanent surveillance of the relationship. Following comments made by the CFATF Secretariat, the Central Bank has inserted into Section 3 of Circular 99 provisions according which banks are required to seek approval in order to continue the business relationship where the customer or beneficial becomes a PEP.
7. Correspondent banking	NC	• Absence of requirements pertaining to the establishment of correspondent	i. Institute specific and enhanced requirements for establishing correspondent	This recommendation is addressed in **article 24** of the Bill on Money Laundering and Financing of Terrorism.

		banking or equivalent relationships	banking or equivalent relationships	**Article 24.-** For cross-border correspondent banking relationships, financial institutions are required to: a) identify and verify the identification of client institutions with which they maintain correspondent banking relationships; b) collect information on the nature of the client institution's activities; c) assess the reputation of the client institution and the degree of supervision to which it is subject, based on publicly available information; d) obtain approval from senior management before establishing a relationship with the correspondent bank; e) evaluate the money laundering and financing of terrorism controls implemented by the client institution; f) obtain approval from senior management before establishing new correspondent banking relationships. They are also responsible for ensuring that their foreign subsidiaries if any, which conduct the same activities, develop and implement the principles and measures consistent with their obligations under this law. Establishing a correspondent banking relationship with a shell bank is forbidden.

				Following comments made by the CFATF Secretariat, the Central Bank has inserted into Section 3 of Circular 99 provisions according which banks are required to seek approval in order to continue the business relationship where the customer or beneficial becomes a PEP.
8. New technologies and non face-to-face business	NC	• 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	This recommendation is addressed in regulations issued by the Central Bank and in **article 14** in the Bill on Money Laundering and Financing of Terrorism. **Article 14.-** The persons referred to in Article 2 shall take all necessary measures to prevent money laundering and the financing of terrorism when they maintain business relations with or perform operations for a client who is not physically present for purposes of identification. **Closed** (refer to seventh follow-up report)
9. Third parties and business introducers	NC	• 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	This recommendation is addressed in **article 19** of the Bill on Money Laundering and Financing of Terrorism. Pursuant to this article, the financial institutions are required, where it is not certain that the client is acting for his own account, to seek the information on the real client by any means at the disposal.

				affirming the principle that responsibility for the customer identification process always falls to the financial institution	This deficiency will be fixed through a circular that will be soon issued by the Central Bank.
10. Record keeping	LC	• 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 **article 23** the Bill on Money Laundering and Financing of Terrorism. **Article 23.-** The financial institutions shall maintain records on the identity of customers for at least five (5) years after the closing of accounts or the termination of the relationship with the customer. They shall also retain records on transactions carried out by customers, on customer due diligence information and the report listed in article 20 for at least five (5) years after completion of the transaction.
11. Unusual transactions	LC	• 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 law addresses this deficiency insofar that its **article 20** draws the obligation for financial institutions to draft a report and to store the following under the terms of article 23. Subsequently, this legal provision eliminates the threshold of 200.000 gourdes and raises the unusual and unjustified complexity of a transaction (within the C.D.D.) as the main criterion for the drafting of such report.

				Article 20.- When a transaction is for an amount greater than or equal to the statutory amount and is carried out under conditions of unusual or unjustified complexity or appears to have no economic justification or lawful purpose, the financial institution is required to obtain information on the origin and destination of the funds as well as on the purpose of the transaction and the identity of the actors.
12. Designated non-financial businesses and professions – R.5, 6, 8-11	NC	• 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	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	1. This recommendation is addressed in article 3 of the Bill on Money Laundering and Financing of Terrorism. **Article 3.-** To the extent that they are expressly stipulated, the provisions of this law shall also apply to the following persons or entities, in the exercise of their business or profession: a) casinos, lotteries, borlette keepers, gaming establishments; b) non-governmental organizations working in development; c) vehicle dealers; d) dealers of precious metals and stones; e) those that carry out, supervise or advise on real estate transactions; f) law (notaries and lawyers) and accounting professionals:

		obligations for casinos and real estate transactions.	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. when assisting their client in the planning or execution of transactions for the: i. purchase or sale of real estate or business entities; ii. management of funds, securities or other assets belonging to the client; iii. opening or management of bank accounts; iv. provision of the support necessary for the creation, management or administration of companies; v. creation, operation or management of entities or legal arrangements, and the buying and selling of business entities; 2. or when acting on behalf of their client as an intermediary in any financial or real estate transaction; g) service providers to trusts and companies when providing a head office, a business address or accommodation, an administrative or postal address to a partnership or any other legal entity or legal arrangement or when they act: 1. as agent for the formation of legal entities; 2. as manager or secretary of a corporation, partner in a partnership or holds a similar function for other types of legal entities; 3. as a shareholder acting on behalf of another person.

				2. The obligations for casinos and real estate entities stipulated in the law on money laundering (2001) have been reinforced in the new law in articles 29 and 30.
13. Suspicious transaction reporting	**NC**	• 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. **Article 31.-** Financial institutions and non-financial businesses and professions who suspect or have reasonable grounds to suspect that funds or assets are the proceeds of criminal activity or are related to or associated with money laundering or terrorist financing or are for these purposes are required to submit a suspicious transaction report promptly to UCREF. This requirement also applies to transactions that were rejected in accordance with article 19 of this law. The terms "*funds* and *assets*" appear to be in line with the recommendation 13 in so that the same wording is used except for some slight change falling short of semantics as from translation. However, in reference to article 4 paragraph 2), the definition of "goods" is proffered as wholly defining both "funds and assets".

				Concerning article 19, it seems that the assessors take onto the implementation of the LSMLTF as a credential of technical compliance whilst it is to be taken into account when assessing effectiveness. The recentness of the law indeed precludes from providing a certain amount of implementation data notwithstanding the usual high flow of STRs concerning money laundering. Following the comments made by the CFATF secretariat, the LSMLTF has provided no definition for the terms "funds" or "assets". The official version of the LSMLTF defines money laundering in relation to the detention of assets. The French term "bien" can be translated by "goods" or "assets" depending of the context. However, the term "asset" is used in LSMLTF. In French, "goods" cannot be assimilated to "asset" for the term "goods" is thereby the synonym of merchandise. Moreover, the definition *per se* is clear: assets of every kind like checks, etc.
			ii. Make all persons covered by the 2001 law aware of suspicious transaction reporting and automatic transaction reporting	In the course of awareness campaign, training was organized in November 2013 on the behalf of the magistrates of the High court, courts of appeal and police officers. The very last training was held on 25-27 February 2014 for the magistrates of

				inferior courts, prosecutors and police officers. In addition, periodical forums are organized by the FIU with the Banks, with the assistance in monitoring of the Central Bank.
14. Protection and no tipping-off	**C**			
15. Internal controls and compliance	**PC**	• 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. ii. 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	**NC**	• Weaknesses of the suspicious transaction reporting	i. Make sure that non-financial businesses covered by the anti-money laundering law	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism.

professions – R.13-15 & 21		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	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	**Article 31** clearly defines the obligation for all financial institutions and DNFPBs to report suspicious transactions to UCREF and even when transactions were rejected accordingly to article 19 of the same legislation.
17. Sanctions	**NC**	• 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 definition of breaches triggering these sanctions; ii. Adopt a more proactive approach in supervising these obligations, especially in the case of non-bank financial institutions.	This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism in articles 57 and 61. **Article 57.-** Any person convicted of money laundering or terrorist financing shall be punished by imprisonment for a term of three (3) to fifteen (15) years and a fine of two million (2,000,000) to one hundred million (100,000,000) gourdes, depending on the seriousness of the case. The attempt to launder money or finance terrorism or to aid, counsel or incite, participate in an association or conspire to launder money or finance terrorism shall be punished by the penalties referred to in the previous paragraph.

				Article 61.- The following shall be punished by imprisonment of three (3) to fifteen (15) years and a fine of twenty million (20,000,000) to one hundred million (100,000,000) gourdes, depending on the seriousness of the case: a) officers or officials of the institutions designated in articles 2 and 3, who have knowingly revealed to the owner of laundered money or to a person who has committed the offences referred to in articles 5 and 6, information about the declaration they are required to make or any follow-up to this declaration; b) those that have knowingly destroyed or removed records or documents for which the storage is required under articles 23, 28 and 29; c) those that have made or attempted to make one of the operations referred to in Articles 5 and 6 using a false identity; d) those who, having knowledge due to their job of a money laundering or terrorism financing investigation, deliberately inform the person or persons under investigation by any means; e) those that have knowingly transferred truncated or erroneous certificates or documents to the judicial authorities or the relevant officials to attest

				to original and subsequent crimes, without informing them of it; f) those that have provided information or documents to anyone other than those specified by this law; g) those who have not made a suspicion transaction declaration under article 31, while the circumstances of the transaction led them to conclude that the funds could come from one of the offenses referred to in this article; h) those who commit the offense of money laundering or terrorist financing within the framework of a criminal organization; or i) those that knowingly violate the provisions of Articles 47 and 48 of this law. Respective to administrative law in force in Haiti, it is clear that administrative sanctions are likely to be applied by superiors. Furthermore, reference is being made to regulations of each financial institution and/or DNFPB, not restricting the authority of the Central Bank as the Supervisory body for the latter
18. Shell banks	**PC**	• Absence of any obligation for Haitian financial institutions to ascertain that	i. Require Haitian financial institutions to ascertain that their correspondent banks are	This recommendation is addressed in **article 24** of the Bill on Money Laundering and Financing of Terrorism.

		their correspondent banks are not shell banks and that their correspondent banks do not allow shell banks to use their correspondent accounts		not shell banks and that their correspondent banks do not allow shell banks to use their correspondent accounts	Pursuant to article 24, Haitian financial institutions can not establish correspondent banking relationship with a shell bank. Most importantly, this article lays down all the drastic requirements for any financial institution that wish to establish cross-border correspondent banking relationship...
19. Other forms of reporting	**LC**	• 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**	• 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. ii.	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) 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 is addressed by **article 3** of the law sanctioning money laundering and terrorist financing. This article expands the AML/CFT system to include a) casinos, lotteries, borlette keepers, gaming establishments; b) non-governmental organizations working in development c) vehicle dealers; d) dealers of precious metals and stones; e) those that carry out, supervise or advise on real estate transactions;

				f) law (notaries and lawyers) and accounting professionals: 1. when assisting their client in the planning or execution of transactions for the: i. purchase or sale of real estate or business entities; ii. management of funds, securities or other assets belonging to the client; iii. opening or management of bank accounts; iv. provision of the support necessary for the creation, management or administration of companies; v. creation, operation or management of entities or legal arrangements, and the buying and selling of business entities; 2. or when acting on behalf of their client as an intermediary in any financial or real estate transaction; g) service providers to trusts and companies when providing a head office, a business address or accommodation, an administrative or postal address to a partnership or any other legal entity or legal arrangement or when they act: 1. as agent for the formation of legal entities; 2. as manager or secretary of a corporation, partner in a partnership or holds a similar function for other types of legal entities;

				3. as a shareholder acting on behalf of another person. i) Closed (8th follow-up report) ii. Since the assessment of Haiti, some measures have been taken to ensure the promotion of other payment instruments besides cash. The central bank focused and supported the financial institutions in the used of debit cards, electronic transfers and mobile banking.
21. Special attention for higher risk countries	**NC**	• 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 taken into account in the law on money laundering and terrorist financing in article 13. Article 13.- ...The persons referred to in Articles 2 and 3 shall give special attention to business relationships and transactions with individuals or entities from countries that do not, or insufficiently apply international standards in the fight against money laundering and the financing of terrorism. Closed – 8th follow-up report
22. Foreign branches and subsidiaries	**NC**	• Absence of obligations aimed at foreign branches and subsidiaries of Haitian financial institutions, relative to their	i. Establish obligations aimed at the foreign branches and subsidiaries of Haitian financial institutions, relative	This recommendation is taken into account in the law on money laundering and terrorist financing in article 24.

		capacity to implement satisfactory measures to fight money laundering and terrorist financing		to their capacity to implement satisfactory anti-money laundering mechanisms in their host country.	Article 24.- They are also responsible for ensuring that their foreign subsidiaries, if any, which conduct the same activities, develop and implement the principles and measures consistent with their obligations under this law. Closed (refer to seventh follow-up report)
23. Regulation, supervision, and monitoring	**NC**	• 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 Closed (refer to seventh follow-up report)
24. Designated non-financial businesses and professions – regulation, supervision, and monitoring	**NC**	• 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.	This recommendation is addressed in article 29 in the AML Bill. **Article 29.-** Casinos and gaming establishments are required to: a) keep proper accounts and related documents for at least five (5) years, following international accounting

				principles, current legislation and the directives of the regulatory authority; b) ensure the identity, by means of an original, current photo identification, of which it makes a copy, of players who purchase, provide or exchange tokens or chips for an amount greater than or equal to the amount established by the Ministry of Economy and Finance or any other organ or institution that it designates for the task; c) record all transactions referred to in paragraph b of this article in chronological order in a register, including their nature and amount, and indicating the names of the players and the identification number of the document presented, and keep said register for at least five (5) years after the last recorded transaction; d) record, in chronological order, all transfers of funds between casinos and gambling clubs in a register and retain such records for at least five (5) years after the last recorded transaction. When the gaming establishment is run by a corporation with several subsidiaries, the chips must identify the subsidiary for which they are issued. In no case may

				chips issued by a subsidiary be refunded in another subsidiary, including one that is abroad.
25. Guidelines and feedback	**NC**	• 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**	• 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 financial

		• 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			institutions; operational independence towards the central bank; complete takeover of the staff. Following the comments made by the CFATF Secretariat, Haiti highlights the fact that the deficiency noted by the Assessors is based on ambiguities, especially in practice, observed in the conduct of UCREF operations. Haiti points out that this ambiguity was specific to the administration of that time and the administrative and organizational changes completed since the assessment of Haiti have major impact in the operation of UCREF. Haiti wants to emphasize that at the time of the assessment, UCREF was in its infancy and was not fully operational. To date, UCREF holds its financial and administrative autonomy.
			ii.	Build awareness on the part of professions subject to the suspicious transaction reporting requirement	Efforts are continued to be made in sensitizing the financial institutions to fulfil the CDD obligations... In the same vein, CNLBA is in the process of putting forth a mechanism prompt to coordinate greater awareness campaign on the behalf of magistrates, law enforcement bodies...
			iii.	Ensure that UCREF exchanges information only with persons authorized to	In terms of measures taken to ensure that the information shared by UCREF with authorized persons, the CNLBA particular

				receive same (foreign counterparts)	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. The draft bill on UCREF shall enforce the modalities under which UCREF exchanges information with foreign counterparts. Besides, UCREF is in the process of signing MOUs geared to information exchange with the FIUs of Sint Maarten, Surinam and Curacao in November 2014 plenary.
			iv.	Reinforce UCREF's operational independence in relation to CNLBA and establish real functional autonomy in relation to BRH	The draft bill of UCREF has provisions for the reinforcement of UCREF autonomy for greater efficiency.
			v.	Charge UCREF with publishing a periodic status report	Given a resolution of CNLBA issued on October 11th 2012, UCREF actually edits report on a quarterly basis. Following the comments made by the CFATF Secretariat in the fifth follow-up report, Haiti specifies that the law does not require UCREF to publish quarterly reports. However, in relation to the draft bill, it has been decided that UCREF will publish the reports on its website. In

				addition, UCREF is working on typologies in order to include them in its reports and disseminate to the public and regulators.
			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. In addition, the law on UCREF makes provisions for the financial intelligence unit in terms of statistics keeping, administrative structure, financial and functional autonomy...
27. Law enforcement authorities	**PC**	• 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	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. •	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. 2. Bill on Money Laundering and Financing of Terrorism addresses this recommendation in article 70. **Article 70.-** One or more substitute government commissioners, specializing in financial crimes, shall be appointed at each Public Prosecutor's office near the Lower National Courts.

			• 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. 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. 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.	

28. Powers of competent authorities	**PC**	• 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 *in flagrante delicto* to the police for investigation, and with respect to providing support to cases being investigated by the investigative magistrate.	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 *in flagrante delicto* or those providing support to the investigative magistrate. 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.	The draft Penal Code and the draft Criminal Investigation Code are currently in revision to be sent to Parliament in the shortest time.
29. Supervisors	**PC**	• Excessive restrictions on the ability of financial sector supervisors to gain access to all necessary records	i. Lift bank secrecy for inspectors involved in banking supervision;	1. Already Done 2. This recommendation has been addressed during the inspection of the

		• Weaknesses in the ability of supervisors to impose sanctions on financial institutions, their directors, and their shareholders	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;	financial institutions by the bank examiners of the Central Bank.
30. Resources, integrity, and training	**NC**	• 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 of CNLBA through resolution dated October 11th, 2012, UCREF must ensure the integrity of its employees on an annual basis and provide an annual training calendar. Concurring with the end of every fiscal year, UCREF runs in-depth scrutiny on its personnel. Last polygraph test was prepared during the period of two weeks, starting from the 18th of August 2014, with the assistance of the OTA, whilst the renewal of employees' contracts will be base on efficiency and routinely background check. Next training is scheduled for the financial analyst on 22nd to 24th of September 2014. The analyst will be trained on the latest techniques for conducting financial analysis.

				Pursuant to recommendation 29 and following the CNLBA resolution of October 11th, 2012, UCREF performed in August 2014 the evaluation of its personnel along with the background check (through the polygraph text, etc). Several designees participated on February 3rd, 2015, to a training concerning the Drugs trafficking Vs money laundering. That training was carried out by the French Embassy. A training is also scheduled for June 2015 regarding money laundering and the mechanisms of prevention and repression with the technical assistance of the French Embassy.
31. National cooperation	**PC**	• 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: - 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**	• 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**	• 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**	• Absence of the concept of trusts in Haiti		
International cooperation				
35. Conventions	**NC**	• No implementation of the Vienna, Palermo, and Merida Conventions	i. Take measures to implement the Vienna Convention;	1) The adoption of the law of August 7, 2001 which confers the criminal nature of trafficking narcotics 2) The adoption of measures for the confiscation of proceeds related to offenses punishable by law. 3) The legal provisions for extradition and mutual legal assistance The Act of August 7th, 2001 on drugs trafficking is being translated and shall be soon conveyed to the CFATF
			ii. Ratify and implement the Palermo Convention;	The Palermo Convention has been ratified by Haiti in September 2009

				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. 2. The law on corruption was voted on March 12th, 2014 and is published in the official Gazette is attached. The law of May 9th, 2014 on corruption is being translated and shall be soon conveyed to the CFATF Secretariat.
			iii. Sign, ratify, and take measures to implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.	Ratified by Haiti in January 2010 Implementation will be done through the bill on Money Laundering and Financing of Terrorism.
36. Mutual legal assistance	**LC**	• 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 AML 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**	• Ineffectiveness of international mutual assistance on criminal matters • Dual criminality required, but "similar" offences		While Haiti, though various mechanisms, is fully cooperating with countries requesting MLAs and Extraditions, a more clarified legal framework is being

		taken into account; absence of data on effective implementation		implemented in the new draft AML/CFT legislation.
38. Mutual legal assistance on confiscation and freezing	**PC**	• 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**	• 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**	• 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. Final draft Bill is available and will be sent to Executive. Notice will be sent to CFATF secretariat in a timely manner. 2. Already Done
Nine Special Recommendations	**Rating**	**Summary of factors underlying rating**		
SR.I Implement UN instruments	**NC**	• No signature of the United Nations International	i. Sign, ratify, and take measures to implement the 1999 United Nations International	The implementation will be done through the Bill on Money Laundering and Financing of Terrorism.

		Convention for the Suppression of the Financing of Terrorism		Convention for the Suppression of the Financing of Terrorism	This has been addressed through articles 6 to 9 of the LSMLTF. And that seems to close the gap. Should there be any ambiguity, please notify.
SR.II Criminalize terrorist financing	**NC**	• No legislation on the financing of terrorism • No signature or ratification of the International Convention for the Suppression of the Financing of Terrorism	i. ii.	Criminalize terrorist financing, in compliance with the Convention on the Financing of Terrorism. Ensure that the future criminalization of terrorist financing and the sanctions meet the standards set by the Convention	Articles 6 to 9 implement the Palermo Convention insofar that the offence of terrorist financing is criminalized in its various aspects...The focus is brought in aligning the provisions of this law to the standards set by the Convention. As to the scope of these provisions of the LSMLTF within time, it is important to appeal on the fact that this law does not have any retroactive effect. As a result of this, the provisions set out are relevant in going forward in the fight against money laundering and terrorist financing. This consideration somewhat impedes comment SRII.3 to the extent that terrorist financing is considered to be an offense as from the time the LSMLTF was enacted. Should the need arises, paragraph 3 of article 6 concerns the attempt to commit, which refers invariably to an offense not yet committed. Besides, Haiti signed and ratified the UN Convention for the suppression of the Financing of Terrorism and such came into force on February 20th, 2010.

				Please follow this link for reference: https://treaties.un.org/doc/Publication/CN/2010/CN.39.2010-Frn.pdf Following the comments made by the CFATF Secretariat, it is not clear that Haiti has not completely addressed all the deficiencies noted by the assessors. Could the Secretariat address more clearly the shortcomings that still require attention?
SR.III Freeze and confiscate terrorist assets	**NC**	• 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.	Article 47 of the new AML/CFT law puts a particular focus upon the mechanism pertained to the freezing of funds associated with terrorism and its financing. This article stipulates that "the funds of terrorists, persons, entities or organizations that finance terrorism and terrorist organizations designated by the Security Council of the United Nations acting under Chapter VII of the UN Charter shall be frozen by ministerial decree. An order from the Cabinet, issued by the Ministries of Economy and Finance, Justice and Public Security and of Planning and External Cooperation, defines the conditions and the duration applicable to the freezing and is published in the official gazette. Financial institutions and any other person or entity holding such funds shall freeze them immediately upon

				notification of the Ministerial Order and until it is rescinded by the United Nations Security Council or by another order of the Minister of Justice and Public Security". In the context of the article 47 , the word "*funds*" clearly refers to "*goods*" as per the definition of the latter provided in article 4 paragraph 2). The semantics plays an important factor as the Law has been translated from French to English.
SR.IV Suspicious transaction reporting	**NC**	• The scope of suspicious transaction reporting does not cover terrorist financing	i. Expand the scope of suspicious transaction reporting to include terrorism and its financing	Pursuant to article 31 of the new AML/CFT law, the STRs now encompass all funds or assets suspicious of being related to criminal activities or associated with money laundering and terrorist financing.
SR.V International cooperation	**NC**	• 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. ii. Expand the existing mechanism for extradition to include the offence of terrorist financing, once it has been criminalized.	1. Already Done Addressed through article 98 of Law on banks. Closed (refer to seventh follow-up report) 2. The articles previously referred to seem to largely close this gap for they criminalize the offence of terrorist financing. Closed (refer to seventh follow-up report) According to article 84 (first paragraph), the persons sought by a foreign state in the context of the offences of money

				laundering and terrorist financing may be the subject of extradition.
SR.VI AML/CFT requirements for money/value transfer services	NC	• 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	• Identification threshold set too high • Absence of requirements regarding wire transfers (conveyance of identification data)	ii. 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 Closed (refer to fifth follow-up report)
SR.VIII Nonprofit organizations	NC	• 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	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	1. This recommendation will be addressed in the new bill related to the non profit organizations.

		Haitian nonprofit organizations being misused for terrorist financing purposes		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.	2. Seeking technical assistance for the realization of a study as recommended by the evaluators.
SR.IX Reporting/communication of cross-border transactions	PC	• 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	i. ii. iii. iv.	Establish either a declaration system or a reporting system; Incorporate this law into the customs code so as to ensure the legal basis for seizures and subsequent investigations; Implement reporting arrangements among and between customs, the police, and UCREF concerning information gathered after funds are seized; Establish penalties that tie the severity of punishment to the absence or presence of	These recommendations are addressed in the Bill on Money Laundering and Financing of Terrorism. In consideration of the significance of the customs in the AML/CFT structure, the article 10 can be seen as the centrepiece of this law. Pending the renewal of the customs code, arrangements are made through article 10 in allowing the customs administration to send CTRs to UCREF on a regular basis, along with STRs under the conditions of the articles 50 to 56.

			evidence of an illicit origin or destination for the funds.	