



CARIBBEAN FINANCIAL ACTION TASK FORCE

Haiti Twelfth Follow-up Report

Summary: Detailed exit report for Haiti

Meeting Date: November 15, 2017

Georgetown, Guyana

© 2017 CFATF. All rights reserved.

No reproduction or translation of this publication may be made without prior written permission. Requests for permission to further disseminate reproduce or translate all or part of this publication should be obtained from the CFATF Secretariat at cfatf@cfatf.org



Table of Contents

I. INTRODUCTION	4
II. MAIN CONCLUSIONS AND RECOMMENDATIONS TO THE PLENARY	6
Core Recommendations:	6
Key Recommendations:	6
Other Recommendations:	7
Conclusion	8
III. Overview of the main changes since the adoption of the Detailed Assessment Report (DAR).....	8
IV. DETAILED ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS	8
Recommendation 1 – NC	8
Recommendation 1 overall conclusion	10
Recommendation 5 - NC	10
Recommendation 5 overall conclusion	12
Recommendation 13 - NC	12
Recommendation 13 overall conclusion	13
Special Recommendation II - NC	13
Special Recommendation II overall conclusion	15
Special Recommendation IV - NC	15
Special Recommendation IV overall conclusion	15
V. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS	15
Recommendation 3 – PC	15
Recommendation 3 overall conclusion	15
Recommendation 4 - NC	15
Recommendation 4 overall conclusion	16
Recommendation 23 - NC	16
Recommendation 23 overall conclusion	17
Recommendation 26 – PC	17
Recommendation 26 overall conclusion	18
Recommendation 35 - NC	18



Recommendation 35 overall conclusion	19
Recommendation 40 - NC	19
Recommendation 40 overall conclusion	20
Special Recommendation I - NC	20
Special Recommendation I overall conclusion.....	20
Special Recommendation III – NC	20
Special Recommendation III overall conclusion.	21
Special Recommendation V - NC.....	21
Special Recommendation V overall conclusion.	22
VI. ANALYSIS OF MEASURES TAKEN IN RELATION TO OTHER	
RECOMMENDATIONS RATED NC OR PC	23
PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS	23
PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND	
PROFESSIONS	26
LEGAL SYSTEMS & RELATED INSTITUTIONAL MATTERS	27
LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS.	27
NATIONAL AND INTERNATIONAL COOPERATION.....	27
OTHER ISSUES.....	27



HAITI: TWELFTH FOLLOW-UP REPORT UPDATE AND FULL ANALYSIS

I. INTRODUCTION

1. The third round [Detailed Assessment Report \(DAR\)](#) 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. Haiti reported back to the CFATF in March 2009 ([first follow-up report](#)); May 2011, ([second follow-up report](#)); May 2012, ([third follow-up report](#)); December 2012, ([fourth follow-up report](#)); May 2013, ([fifth follow-up report](#)); November 2013, ([sixth follow-up report](#)); May 2014, ([seventh follow-up report](#)); November 2014, (eight follow-up report); May 2015, ([ninth follow-up report](#)); June 2016, ([tenth follow-up report](#)); May 2017, ([eleventh follow-up report](#)).
2. This report is based on the CFATF procedure for removal from regular follow-up as agreed¹ by the CFATF plenary in May 2014. Haiti has indicated that it believes it had met the criteria necessary for removal from regular follow-up. It contains a detailed description and analysis of the actions taken by Haiti in respect of the core and key Recommendations rated partially compliant (PC) or non-compliant (NC) in the DAR, as well as a description and analysis of the other Recommendations rated PC or NC.
3. The analyses in this report were predicated on the basis of information provided by Haiti and is a desk evaluation that focused on Recommendations rated PC/NC, which means that only a part of the AML/CFT system was reviewed. The analyses consisted mainly of looking at the main laws, decrees and circulars along with other material provided by Haiti. As this is a desk-based review, the level and nature of information provided and accepted in many instances are inherently different to that which would have been accepted during an onsite visit. Consequently, the conclusions of this report do not prejudice the results of any future assessments as they are based on information that was not verified through an onsite process.

The Legal and Framework

4. Haiti's Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) legal and regulatory framework are based on several laws (including decrees). The main law is the Law Sanctioning Money Laundering and Terrorism Financing (LSMTF). The relevant laws are discussed in detail at section IV of this report.
5. Haiti was rated PC or NC on the following Recommendations:

¹ According to the decisions by the May 2014 Plenary, countries can apply to exit the follow-up process in the following cases:

- a. Countries who have achieved the level of C/LC in all of their Core and Key Recommendations that were rated PC/NC in their MERs to apply to exit the FUP ; or
- b. Countries that have achieved the level of C/LC in all their Core Recommendations, but have one (1) or more Key Recommendations that were rated PC/NC and still have not achieved the level of C/LC in those recommendations to apply to exit once they have achieved **substantial compliance** (the large majority of non-Core and Key Recommendations have been addressed) in their non-Core or Key Recommendations that were rated PC/NC in their MER.



PARTIALLY COMPLIANT (PC)	NON-COMPLIANT (NC)
Core Recommendations	
	R.1 (Criminal Offence of ML) R.5 (CDD) R.13 (Suspicious transactions reporting) SR. II (TF Criminalization) SR. IV (Suspicious transactions reporting)
Key Recommendations	
R. 3 (Confiscation and provisional measures) R. 4 (Secrecy laws) R. 26 (The FIU) R. 40 (Other forms of cooperation)	R. 23 (Regulation; supervision and monitoring) R. 35 (Conventions) SR. I (Implement UN Instruments) SR. III (Freeze and confiscate terrorist assets) SR. V (International cooperation)
Other Recommendations	
R. 2 (ML Offence) R. 15 (Internal controls, compliance & audit) R. 18 (Shell banks) R. 27 (Law enforcement authorities) R. 28 (Powers of competent authority) R. 29 (Supervisors) R. 31 (National Cooperation) R. 38 (MLA on confiscation and freezing) SR. IX (Cross Border Declaration & Disclosure)	R. 6 (Politically exposed persons) R. 7 (Correspondent banking) R. 8 (New technologies & non-face-to-face business) R.9 (Third parties and introducers) R. 12 (DNFBP – R.5, 6, 8-11) R. 16 (DNFBP – R.13-15 & 21) R. 17 (Sanctions) R. 20 (Other NFBP & secure transaction techniques) R. 21 (Special attention for higher risk countries) R. 22 (Foreign branches & subsidiaries) R. 24 (Regulation, supervision and monitoring) R. 25 (Guidelines & Feedback) R. 30 (Resources, integrity and training) R. 32 (Statistics) R. 33 (Legal persons – beneficial owners) SR. VI (AML requirements for money/value transfer services) SR. VII (Wire transfer rules) SR. VIII (Non-profit organisations)



II. MAIN CONCLUSIONS AND RECOMMENDATIONS TO THE PLENARY

Core Recommendations:

6. **Recommendation 1:** At the time of the onsite, all the designated categories were not criminalized. However, Haiti addressed this, in the main, through the enactment of the LSMLTF and its subsequent amendment. However, a gap still exists because of the non-criminalization of piracy (pirates at sea) in the LSMLTF. This is considered to be a minor deficiency in the context of the nature of the offence for this jurisdiction. The compliance with R.1 is up to the level comparable to at minimum an LC.
7. **Recommendation 5:** Haiti has directly addressed seven of the eight noted deficiencies through the enactment of the LSMLTF, and its amendment, together with part 4 of circulars 99 (which has become 99-1). The outstanding deficiency for R.5 about the lack of objective data on the effectiveness of the required due diligence is an implementation issue which, given the newness of the much of the CDD measures, the jurisdiction would need time to accrue the related data and statistics. The jurisdiction therefore still has to demonstrate the implementation of the related measures which would then address this deficiency (deficiency 8). The compliance with R.5 is up to the level comparable to at minimum an LC.
8. **Recommendation 13:** The scope of suspicious transaction reporting was expanded to include terrorism and its financing, through the enactment of the LSMLTF, whilst the awareness, of the reporting entities on their STR reporting obligations, has been and continues to be addressed by Haiti. The compliance with R.13 is up to the level comparable to at minimum an LC.
9. **Special Recommendation II:** SR. II was deficient owing to the non-criminalization of terrorist financing. Now that TF has been criminalized, SR. II has been implemented to a level comparable to an LC.
10. **Special Recommendation IV:** Identical to R. 13 above the scope of suspicious transaction reporting was expanded to include terrorism and its financing, through the enactment of the LSMLTF, whilst the awareness, of the reporting entities on their STR reporting obligations, has been and continues to be addressed by Haiti. The compliance with SR. IV is up to the level comparable to at minimum an LC.

Key Recommendations:

11. **Recommendation 3:** Haiti now has the legal basis to provide for all goods confiscated to be vested in the state and liquidated according to established procedures. This removed the confusion in the implementation and management of conservatory measures and seizures. Now that the lone deficiency has been conclusively addressed through legislative action. R. 3 is now implemented to a level which is equivalent to a LC.
12. **Recommendation 4:** The recommended action has been implemented through legislative action which closed the gap by preventing professional secrecy from being used by the



Central Bank, UCREF, or any other entity, in the context of an investigation into money laundering or terrorist financing. R.4 is now implemented to level equivalent to a LC.

13. **Recommendation 23:** The lone recommended action intended to cure this deficiency was implemented by Haiti through the 2012 enactment of the Law Governing Banks and Financial Institutions. The compliance with R. 23 up to a level comparable at minimum to an LC.
14. **Recommendation 26:** Haiti's primary action to close the noted deficiencies was through the enactment of the Law Bearing on the Organization and Functioning of UCREF the implementation of which is ongoing under the monitoring of the Ministry of Justice and Public Security. Owing to the newness of this law Haiti could not evidence many of the actions required to show implementation. Therefore R. 26 is implemented to a level equal to LC.
15. **Recommendation 35:** Haiti on May 23, 2017 presented information on the Articles of the Vienna Convention which the 2001 law Bearing on the Control and Suppression of Illicit Drug Trafficking addressed. The remaining conventions are to be conveyed to the jurisdiction's Parliament. No timeframe was given for this action. R. 35 is still outstanding.:
16. **Recommendation 40:** The two deficiencies for R. 40 have been addressed through the enactment of the Law Bearing on Banks and Other Financial Institutions and the Law Bearing on the Organization and Functioning of UCREF which together have endowed the jurisdiction with the basis for allowing its supervisory authorities to participate in international cooperation with other supervisory authorities outside of Haiti.
17. **Special Recommendation I:** The lone deficiency has been partially addressed but still in need of action regarding outstanding Conventions. SR. I though significantly improved is still outstanding.
18. **Special Recommendation III:** Haiti now has a framework which will allow it to provide for the freezing of assets used for terrorist financing, in accordance with the requirements of Resolutions 1267 and 1373 as recommended by the Assessors. SR. III has been addressed to a level of compliance comparable to a LC.
19. **Special Recommendation V:** The two recommended actions aimed at closing the gaps discerned have both been taken on board by Haiti through the enactment of the Law governing banks and other financial institutions which now enables the jurisdiction to cooperate with a foreign supervision institution towards exchanging information and the offense of terrorist financing is now criminalized in Haiti (article 6 of the LSMTF). SR. V is now implemented to the level equivalent to LC.

Other Recommendations:

20. Haiti has made some progress in addressing the deficiencies in its non-core and key Recommendations that were rated PC/NC. The Jurisdiction's application for removal from the third-round follow-up process is based on its compliance with the Core and Key Recommendations that were rated PC/NC. Accordingly, this report will only provide a



limited analysis on the 'Other' Recommendations which is detailed at section VI of this report.

Conclusion

21. The detailed analysis of Haiti's actions to close the deficiencies noted in its 2009 3rd round DAR provides an overview of the progress relating to all Core and Key Recommendations that were rated PC/NC. This analysis indicates that Haiti has addressed all the Core recommendations and the majority of the Key Recommendations rated PC/NC (R. 1, 3, 4, 5, 13, 23, 26, 35, 40, SR. I, II, III, IV & V) to a level comparable to at least an LC. It was therefore recommended, and the Plenary agreed that Haiti should be allowed to exit the third round follow-up process.

OVERVIEW OF THE MAIN CHANGES SINCE THE ADOPTION OF THE DETAILED ASSESSMENT REPORT (DAR)

22. Haiti began its legislative reform by enacting, May 14th, 2012, the Law Governing Banks and other Financial Institutions. This law positively affected key Recommendation 23.
23. Haiti began its legislative reform by enacting the Law Sanctioning Money Laundering and the Financing of Terrorism (LSMLTF) on November 13, 2013. Provisions of this law positively affected Core Recommendations 1, 5, 13 SRII and SRIV, and Key Recommendations 3, 26, 35, SRI and SRIII.
24. On August 22, 2016, Haiti issued an Executive Order establishing the procedure for the implementation of measures aimed at freezing the funds and other assets connected with the financing of terrorism. This positively affected Special Recommendation III.
25. On September 28, 2016, Haiti enacted amendments to the 2013 LSMLTF. Provisions of this amendment positively affected Core Recommendations 1, 5, 13, SR. II and SR. IV, and Key Recommendations 3 and 26, 40 and SR. I.
26. On May 8, 2017, Haiti enacted the Law Bearing on the Organization and Functioning of UCREF. This law had a positive effect on Recommendation 26. Haiti has also produced translated copies of the 2001 Law Bearing on the Control and Suppression of Illicit Drug Trafficking which had a positive effect on Recommendation 35.

III. DETAILED ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS

Recommendation 1 – NC

R. 1 (Deficiency 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.

27. 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.
28. It can be seen that the offenses listed here did not include fraud, piracy, environmental crime, robbery or theft. The September 2016, amended the LSMLTF and at art 3 all these missing offenses were included with the exception of piracy. Haiti has advised the Secretariat that piracy has not yet been established in Haitian Criminal Law as an offence, hence its exclusion from the AML/CFT legal framework. It is anticipated that it will be criminalized with the revision of Penal Code. ***R.1 deficiency 1 is significantly improved.***
- R. 1 (Deficiency 2): The criminal law policy on combating money laundering and terrorist financing is currently ineffective.**
29. *The recommended cures for deficiency 2 was for a census to be taken 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. An additional recommended cure was to 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 further 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 deficiency is sufficiently addressed.****



Recommendation 1 overall conclusion

30. The enactment of the LSMLTF and its subsequent amendment has resulted in major improvement in the implementation of Rec. 1. However, as noted above Haiti has not as yet closed all the gaps because of the non-criminalization of piracy (pirates at sea) in the LSMLTF. This is considered to be a minor deficiency in the context of the nature of the offence for this jurisdiction. The compliance with R.1 is up to the level comparable to at minimum an LC.

Recommendation 5 - NC

31. The Assessors had flagged eight deficiencies in the DAR and made eight (8) recommendations intended to close them. Haiti's action thus far is detailed below:

R.5 (Deficiency 1) 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)

32. At **art.13** of the **LSMLTF** financial institutions and listed businesses are prohibited from having anonymous accounts and accounts in fictitious names. ***R.5 deficiency 1 is sufficiently addressed.***

R.5 (Deficiency 2) Identification threshold too high for customers performing wire transfers.

33. Here Haiti has reported that this was "Done by regulations issued by the Central Bank in December 2012 (Circular 95-1-A)" 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. Similarly, at paragraph seven of circular 99-1, as part of the electronic transfer of funds, banks are required to conduct CDD on the principal and beneficiaries of amounts equal to or in excess of Forty Thousand Gourdes (HTG40,000.00), or the equivalent in foreign currency. ***This deficiency is sufficiently addressed.***

R.5 (Deficiency 3) Legal uncertainties about the identification threshold for occasional customers.

34. This clarity was provided through art. 17 (b) of the LSMLTF whereby Financial institutions are required to identify their costumers and verify information for the execution of occasional transactions. ***This deficiency is sufficiently addressed.***

R.5 (Deficiency 4) Absence of an identification requirement, independent of the threshold, when there is a suspicion of money laundering or terrorist financing.

35. 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 deficiency is sufficiently addressed.***



R.5 (Deficiency 5) 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.

36. Pursuant to 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 deficiency is sufficiently addressed.*

R.5 (Deficiency 6) 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).

37. The customer due diligence requirement for banks to obtain information on the purpose and intended nature of the business relationship is now found at section 1 of Circular 99-1. This obligation is applicable to customers who are either natural or legal persons. The regularity at which such information should be updated can be chosen by the bank and depends on the “context of the transaction”, however, the regularity at which such information must be updated cannot exceed three (3) years and in situations of elevated risk cannot exceed two (2) years. *This deficiency is sufficiently addressed.*

R.5 (Deficiency 7) Absence of a requirement of enhanced diligence for high risks.

38. Haiti, through Circular 99-1, now prescribes enhanced due diligence measures for certain situations which are likely to create a high risk of money laundering. These provisions are found at section 5 of Circular 99-1 and include:
- a) If the customer or his/her effective beneficiary is not physically present;
 - b) If the customer or his/her effective beneficiary is a politically exposed person who resides abroad;
 - c) If transactions are performed with individuals or legal entities from countries that do not enforce or that do not sufficiently enforce international anti-money laundering and financing of terrorism norms;
 - d) Correspondent banking relations.
39. There were two other recommended actions not linked to a specific deficiency which the Examiners had suggested as cures to the shortcomings for R. 5. There were as follows:
40. *Based on a risk analysis, consider adopting flexible requirements for demonstrably low risks* – According to art. 26 of the LSMLTF 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 is addressed at section 4 of Circular 100. At 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 exist elsewhere in the Haiti's system.

41. *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.

R.5 (Deficiency 8) Lack of objective data on the effectiveness of the requirements of due diligence.

42. Haiti has not produced any data which would specifically address this deficiency.

Recommendation 5 overall conclusion

43. Haiti has directly addressed seven of the eight noted deficiencies through the enactment of the LSMLTF and its amendment together with part 4 of circulars 99 and 99-1. The jurisdiction now has to demonstrate the implementation of the related measures which would then address deficiency 8. The compliance with R.5 is up to the level comparable to at minimum an LC.

Recommendation 13 - NC

44. The Assessors had noted two deficiencies and two recommended actions to cure them.

R.13 (Deficiency 1) Absence of suspicious transaction reporting regarding terrorist financing.

45. For this deficiency the recommended action was for Haiti to *expand the scope of suspicious transaction reporting to include terrorism and its financing*. The LSMLTF and its subsequent amendment addressed this issue. Art 31 of the 2013 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. There was an outstanding issue whereby the LSMLTF had not provided a clear definition of *'funds or other assets'*. This has however since been addressed by the 2016 amendment to the LSMLTF. At art. 1 funds has now been clearly defined to include: assets of all nature, material and non-material, movable and real, tangible and intangible, or intangibles acquired by any means whatsoever, as well as documents and juridical instruments in any form whatsoever, including in electronic or numerical format, attesting of the ownership or vested interest in such assets, including but not limited to bank loans, travelers' checks, bank checks, Powers-of-Attorney, shares, securities, bonds, drafts and letters of credit, as well as eventual interest, dividends, or other



income or values drawn from, or generated by such assets. *This deficiency has been sufficiently addressed.*

R.13 (Deficiency 2) Virtual absence of implementation of the system of suspicious transaction reporting by financial institutions.

46. The recommended action 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 even though Haiti has not provided any evidence of the action taken the Authorities have nevertheless reported having conducted awareness campaigns, training sessions and periodic forums aimed at creating the necessary awareness, commencing from 2013. *This deficiency continues to be addressed.*

Recommendation 13 overall conclusion

47. For the two noted deficiencies, Haiti has conclusively addressed one whilst the other, which has a training focus, is the subject of ongoing implementation. The compliance with R.13 is up to the level comparable to at minimum an LC.

Special Recommendation II - NC

48. The Assessors had noted two deficiencies and two recommended actions to cure them. Haiti's implementation of the recommended actions is detailed below.

SR. II (Deficiency 1) no legislation on the financing of terrorism.

49. The recommended action was for Haiti to *Criminalize terrorist financing, in compliance with the Convention on the Financing of Terrorism*. Haiti achieved this through the enactment of the LSMTF the legislative provisions of which are detailed below:

SR.II.I (a)

- i. Terrorism financing has been criminalized 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 one or more acts of terrorism by a terrorist or group of terrorists, commits an offence.

SR.II.I (b)

- ii. The LSMLTF has referenced TF offences to the provision of *goods*. At art.4 of the LSMLTF however there was the deficiency whereby the definition of goods excluded assets in electronic or digital form. This has now been addressed by the 2016 amendment of the LSMLTF. Here art. 1 has amended art. 4 and to include assets 'in electronic or numerical format.

SR.II.I (c)

- iii. 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. Additionally, the infraction is committed whether



the act targeted by the foregoing article is perpetrated or not, or whether or not the use of funds generally whatsoever could be determined in the perpetration of that that act.

SR.II.1 (d)

- iv. 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.

SR.II.1 (e)

- v. The types of conduct set out at Article 2(5) of the Convention have been covered at Article 6 of the LSMLTF. Here where a person participates by as an accomplice or organizes or incites others to do, such a person would have committed the offence. Pursuant to article 6, paragraph 5, of the LSMLTF of 2013, the offence is committed if the action under this article occurs or not and whether the assets have been used to commit this action or not. The offence is also committed by any individual or legal entity that participates as an accomplice or organizes or incites others to commit these actions.

SR.II.2

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

SR.II.3

- vii. At art.9 of the LSMLTF the terrorism financing offenses created at art.6 are applicable to any person and legal entity or organization subject to litigation in Haiti irrespective of where the act was committed.

SR.II.4

- viii. 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*. Haiti has noted that the AML/CFT regime falls under the broad penal regime in force in the Civil Law System of Haiti. This system operates *inter alia* on the basis of principles of law generally accepted. As such, the AML/CFT regime applies the following principle: “*criminal proceedings take precedence over civil proceedings*”. That means a civil proceeding can be undertaken only on the basis of a proven criminal offence. Natural and legal persons are subject to the criminal and administrative sanctions applicable at art.57, art.58 and art.59 of the LSMLTF.

- 50. SR. II Deficiency 1 *is sufficiently addressed*.

SR. II (Deficiency 2) no signature or ratification for the International Convention for the Suppression of the Financing of Terrorism.

- 51. Haiti has on January 13, 2010 acceded to the UN International Convention for the Suppression of the Financing of Terrorism. *This deficiency is sufficiently addressed*.



Special Recommendation II overall conclusion

52. As can be seen from the analysis above, the enactment of the LSMLTF and Haiti's accession to the UN International Convention for the Suppression of the Financing of Terrorism has positively affected the Jurisdiction's implementation of SR II. This Special Recommendation is implemented to the level equivalent of LC.

Special Recommendation IV - NC

53. For SR. IV, the comments and analyses relative to Recommendation 13 are relevant because the two recommended actions here and those for R. 13, which were aimed at curing the noted deficiencies, were identical.

Special Recommendation IV overall conclusion

54. For the two noted deficiencies, Haiti has conclusively addressed one whilst the other, which has a training focus, is the subject of ongoing implementation. The compliance with SR. IV is up to the level comparable to at minimum an LC.

IV. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS

Recommendation 3 – PC

R. 3 (Deficiency 1) System being ineffective due to confusion in the implementation and management of conservatory measures and seizures.

55. 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 practice, the funds are deposited to the State account held in the Central Bank pending a final court order. Notwithstanding, the specific issue relating to funds being seized by competent authorities being managed by those same authorities does not seem to have been addressed, the fact that all funds seized are required to be deposited to the State's account now make the basis for this recommendation irrelevant. *This deficiency is sufficiently addressed.*

Recommendation 3 overall conclusion

56. The lone deficiency was conclusively addressed through legislative action. R. 3 is now implemented to a level which is equivalent to a LC.

Recommendation 4 - NC

R. 4 (Deficiency 1) Bank secrecy too broad in scope and excessively restrictive, thus undermining the effectiveness of the anti-money laundering mechanism.

R. 4 (Deficiency 2) Excessive access to bank information by UCREF, apt to result in defiance by informant entities and create legal risks harmful to judicial proceeding.



57. The lone recommended action aimed at closing addressing the two deficiencies was for Haiti to *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 law governing Banks and other financial institutions has addressed the bank secrecy deficiency noted in the MER. According to Article 179 of this law, professional secrecy cannot be used where the Central Bank of Haiti, UCREF or any other entity is acting within an investigation involving assets in relation to money laundering or terrorist financing or to the Judiciary authorities acting within the framework of a penal procedure. ***These deficiencies have been sufficiently addressed.***

Recommendation 4 overall conclusion

58. The recommended action has been implemented through legislative action which closed the gap by preventing professional secrecy from being used by the Central Bank, UCREF, or any other entity, in the context of an investigation into money laundering or terrorist financing. R.4 is now implemented to level equivalent to a LC.

Recommendation 23 - NC

59. The Examiners has noted three deficiencies and one cure to fix them.

R. 23 (Deficiency 1) Absence of requirements of integrity and competence for many pillars of the financial sector, particularly money changers, insurance companies, and microfinance institutions.

R. 23 (Deficiency 2) Absence of coverage of beneficial owners under the obligations of integrity and competence for the banking sector and savings and loan cooperatives

R. 23 Deficiency 3) Existence of an unregulated, informal sector of money/value transfer services.

60. The recommended action was for Haiti to: *“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”.* Article 28 of the Law governing banks and other financial institutions has addressed the requirement to “Strengthen the obligations of integrity and competence for the entire financial sector” by mandating that no person can hold a senior position in a bank i.e. board of directors, manager, member of a committee of the Board, or to be an account signatory if such a person falls into any of the categories of persons listed at article 28 sub 1-7. The categories of persons listed here include: persons convicted of certain crimes including theft, fraud and embezzlement; receiving and concealing property obtained as a result of such infractions. ***These deficiencies have been sufficiently addressed.***



Recommendation 23 overall conclusion

61. The lone recommended action intended to cure this deficiency was implemented by Haiti through the 2012 enactment of the Law Governing Banks and Financial Institutions. The compliance with R. 23 up to a level comparable at minimum to an LC.

Recommendation 26 – PC

R. 26 (Deficiency 1) Ambiguities (especially in practice) as regards the operational independence and autonomy of UCREF.

62. The recommended action was for Haiti to “*Reinforce UCREF’s operational independence in relation to CNLBA and establish real functional autonomy in relation to BRH*” – The Law Bearing on the Organization and Functioning of UCREF was enacted to, among other things, confer both financial and administrative autonomy to UCREF and to also provide its legislative measures that will ensure its independence and autonomy. Art. 1 of the said law created UCREF as an autonomous organization, of administrative nature, provided with legal personality, and enjoying administrative and financial autonomy under the Ministry of Justice and Public Security. This ensures that UCREF is now delinked from the CNLBA thus erasing any independence it would have had to that agency. *This deficiency is sufficiently addressed.*

R. 26 (Deficiency 2) Lack of mobilization of all professions subject to the law.

63. The recommended action was for Haiti to “*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 LEA. Additionally, to keep reporting entities well aware of their obligation to report STR, UCREF held a two-day awareness session on February 15 & 17, 2017, for public notaries, gaming entities, credit unions and banks. This was conducted with the view of promoting UCREF guidelines and sensitizing the reporting entities about their role and showing them how to be more efficient in so doing. *This deficiency is the subject of ongoing implementation.*

R. 26 (Deficiency 3) Absence of status reports and reliable statistics

64. Haiti was required to “*Charge UCREF with publishing a periodic status report*”. This has been addressed through The Law Bearing on the Organization and Functioning of UCREF. At art. 3 (c) UCREF now has the power to prepare quarterly reports on its activities that analyze the developments in AML/CFT. UCREF has reportedly prepared reports for the period 2015- 2016. *This deficiency is sufficiently addressed.*

R. 26 (Deficiency 4) Ambiguity in the practices followed for exchanging information with foreign authorities

65. The recommended action was for Haiti to *Ensure that UCREF exchanges information only with persons authorized to receive same (foreign counterparts)*. This is addressed through the Law Bearing on the Organization and Functioning of UCREF. At art. 3 (d) UCREF has been given the authority to exchange financial information in connection with ML and TF with foreign counterparts within the framework of conventions or in enforcement of the principle of reciprocity. This ensures that there is a set basis upon which UCREF can



exchange information and that the exchange of such information is done based on a formal agreement. *This deficiency is sufficiently addressed.*

R. 26 (Deficiency 5) Absence of a policy on employee integrity and appropriate training

66. Even though the Examiners had not made a specific recommended action to this deficiency, Haiti has addressed it partially through the Law Bearing on the Functioning and Organization of UCREF. At art 23 of this law there is the mandate that no employee can be recruited by UCREF unless a prior investigation has been conducted on the integrity and morality of the applicant. Additionally, 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 being conducted in June 2015. No information was provided on training for the other UCREF employees

R. 26 (Deficiency 6) Ineffectiveness of the Financial Intelligence Unit due to its atypical functioning, pursuant to a broad interpretation of its legal framework

67. For the recommended action that Haiti “Clearly redefine UCREF’s scope of action in line with the anti-money laundering law of 2001” The jurisdiction reported having made several administrative changes to the structure of UCREF. New staff has been hired and there is reportedly operational and financial independence from BRH. On May 8, 2017, Haiti enacted the Law Bearing on the Organization and Functioning of UCREF. At art, 2 of this law UCREF has been mandated with the responsibilities of receiving, analyzing and processing declarations from individuals and legal persons that are required to forward to UCREF information and data within the framework of the fight against ML and TF. This action now aligns the scope of UCREF’s legislative responsibilities with Haiti’s AML/CFT reporting obligations. *This deficiency is sufficiently addressed.*

Recommendation 26 overall conclusion

68. Haiti’s primary action to close the noted deficiencies was through the enactment of the Law Bearing on the Organization and Functioning of UCREF the implementation of which is ongoing under the monitoring of the Ministry of Justice and Public Security. Owing to the newness of this law Haiti could not evidence many of the actions required to show implementation. Therefore R. 26 is implemented to a level equal to LC.

Recommendation 35 - NC

R. 35 (Deficiency 1) No implementation of the Vienna, Palermo and Merida Conventions

69. There were three recommended actions aimed at curing this deficiency.
- i. *Take measures to implement the Vienna Convention* – Haiti has put forward the 2001 law Bearing on the Control and Suppression of Illicit Drug Trafficking as one of the measures that was utilized to implement the Assessors recommendation. This law reportedly addresses articles 1, 2, 4, 6, 9, 10, 12, 45 of the Vienna Convention.



- 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 *ex-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 and LSMTF of 2013. This gap is **closed**.
- 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 of the 13 UN conventions relating to terrorism. It is still unclear whether the eight Conventions that were outstanding have since been signed and implemented.

Recommendation 35 overall conclusion

- 70. Haiti on May 23, 2017 presented information on the Articles of the Vienna Convention which the 2001 law Bearing on the Control and Suppression of Illicit Drug Trafficking addressed. The remaining conventions are to be conveyed to the jurisdiction's Parliament. No timeframe was given for this action. ***R. 35 though significantly improved, is still outstanding.***

Recommendation 40 - NC

R. 40 (Deficiency 1) Clarify the possibility of exchanging financial information with UCREF non-counterpart foreign agencies.

- 71. The analysis for R. 26 has already detailed that the Law Bearing on the Organization and Functioning of UCREF addressed this Assessors' recommended. Art. 3 (d) gives UCREF the authority to exchange information in connection with ML and TF with foreign counterparts within the framework of conventions or in enforcement of the principle of reciprocity. ***This deficiency is sufficiently addressed.***

R.40 (Deficiency 2) Authorize all the financial sector supervisory bodies to participate actively in international cooperation between supervisors.

- 72. Haiti has pointed to art. 98 of the Law Bearing on Banks and Other Financial Institutions. Here the Central Bank may cooperate with foreign supervisory institutions with the view to exchange information, and for the purpose of local supervision, on the basis of agreements signed between and the latter. Contextually, the Central Bank is the only supervisory body. Additionally, according to art. 98 of the Law Bearing on the Organization and Functioning of UCREF, the said UCREF may exchange information, subject to reciprocity, with a foreign FIU. The combined effect of art. 27 of the Law bearing on banks and other financial institutions and art. 27 of the Law Bearing on the Organization and Functioning of UCREF has endowed the jurisdiction with the basis for allowing its supervisory



authorities to participate in international cooperation with other supervisory authorities outside of Haiti. *This deficiency is sufficiently addressed.*

Recommendation 40 overall conclusion

73. The two deficiencies have been sufficiently addressed bring the level of implementation for R. 40 up an LC.

Special Recommendation I - NC

SR. I (Deficiency 1) No signature of the United Nations International Convention for the Suppression of the Financing of Terrorism.

74. The recommended action was for Haiti to 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 February 20, 2010. In accordance with the Convention for the suppression of the Financing of Terrorism, Articles 6 to 9 of the LSMLTF established the financing of terrorism as a predicate offense to money laundering. The comments for Recommendation 35 relating to Haiti having signed just five of the 13 UN conventions relating to terrorism are also relevant here. *This deficiency is still outstanding.*

Special Recommendation I overall conclusion

75. The lone deficiency has been partially addressed but still in need of action regarding outstanding Conventions. SR. I though significantly improved is still outstanding.

Special Recommendation III – NC

SR. III (Deficiency 1) No legal framework for freezing assets used for terrorist financing.

76. Art. 47 of the LSMLTF provides for the freezing, by ministerial decree, of the *funds* of terrorists, persons, entities or organizations that finance terrorism, or terrorist organizations so designated by the UN Security Council. An order from the Cabinet issued by three 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 upon which the freezing of terrorist funds can occur in Haiti.
77. Haiti issued an Executive Order in August 2016, which established the procedure governing the implementation of freezing measures against funds and other assets connected with the financing of terrorism, in accordance with resolutions 1267 (1999) and 1989 (2011), and with the ensuing resolutions, resolution 1988 (2011) and resolution 1373 (2001) of the United Nations Security Council Decree. Art.7, 8, 9, 10, 11, 12 and 13 are concerned with the procedures for designating individuals or legal persons whilst art. 14 and 15 are specifically concerned with requests for freezing funds or other assets submitted by foreign states. Specifically, art. 4 of the August 2016 Decree provides for



communicating Haiti's action under the Jurisdiction's freezing mechanism whilst art. 5 provides the guidance to the *declaring entities* (financial institutions and DNFBPs) which may be holding targeted funds or other assets. Art. 6 provides for frozen funds to be released, by a Ministerial decree, when the designated individual or legal person is removed from the list issued by the United Nations' Security Council. Art.8 establishes the delisting procedures which are to be followed by the Ministry of Justice and Public Security in removing any individual or legal person included in the list of individuals and entities designated in accordance with the UN/RES. Arts. 12 and 13 have established the procedures to be followed for authorizing access to funds or other assets that are required for basic expenses and the payment of certain types of fees. Art. 16 charges UCREF and other regulatory entities with ensuring, within the frame work of their duties, that financial institutions and DNFBPs comply with the provisions of the Decree. In the event of non-compliance, UCREF or any other regulator is empowered to impose sanctions provided by law or regulations. Finally, art. 66 of the LSMLTF provides for the confiscation of assets for which a terrorist organization has the power of disposal. Accordingly, such assets must be confiscated once they relate to the offense, unless their lawful purpose is established. ***This deficiency is sufficiently addressed.***

Special Recommendation III overall conclusion.

78. Haiti now has a framework which will allow it to provide for the freezing of assets used for terrorist financing, in accordance with the requirements of Resolutions 1267 and 1373 as recommended by the Assessors. SR. III has been addressed to a level of compliance comparable to a LC.

Special Recommendation V - NC.

SR. V (Deficiency 1) Absence of criminalization of terrorist financing, blocking participation in international cooperation.

SR. V (Deficiency 2) Restrictions on international cooperation due to excessive requirements for lifting bank secrecy.

SR. V (Deficiency 3) Incapacity of financial sector supervisory bodies to participate in international cooperation

79. There were two recommended actions aimed at closing the three deficiencies as follows:
- i. *Authorize all the financial sector supervisory bodies to participate actively in international cooperation between supervisors* - Haiti reported that as the BRH is the only supervisory body for the financial sector, article 98 of the Law governing banks and other financial institutions enables it to cooperate with a foreign supervision institution towards exchanging information.
 - ii. *Expand the existing mechanism for extradition to include the offence of terrorist financing, once it has been criminalized* – The offense of terrorist financing is now criminalized in Haiti (article 6 of the LSMTF). Additionally, article 84 provides for the extradition of persons sought by a foreign state in pursuant of offenses under the LSMLTF or for the purpose of enforcing a sentence for such offenses.



Special Recommendation V overall conclusion.

80. The two recommended actions aimed at closing the gaps discerned have both been taken on board by Haiti. SR. V is now implemented to the level equivalent to LC.



V. ANALYSIS OF MEASURES TAKEN IN RELATION TO OTHER RECOMMENDATIONS RATED NC OR PC

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

PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS

Recommendations 15 and 18 were rated PC whilst Recommendations 6, 7, 8, 9, 17, 21, 22, 25 SR. VI and SR. VII were rated NC.

82. For **Recommendation 15** a PC rating was applied and the Assessors noted one deficiency and two recommended actions to cure it. Haiti has referred to circulars 61-2, 89-1 and 100-1, issued by the Central Bank of Haiti, as providing the measures to address the noted deficiency. The analyses of the related provisions are as follows in these circulars have shown that they have had no positive effect on the implementation of this Recommendation. R.15 is outstanding.
83. For **Recommendation 18**, the lone deficiency relating to an *absence of any obligation for Haitian financial institutions to ascertain that their correspondent banks are not shell banks and that their correspondent banks do not allow shell banks to use their correspondent accounts* was addressed at Art 7 of the 2016 amendment to the LSMLTF which has amended art. 24 of the LSMLTF thereby prohibiting financial institutions from establishing correspondent banking relations with fictitious banks. Here as well, financial institutions are required to take the appropriate measures in order to ensure that they do not enter or maintain correspondent banking relations with a bank that is known for enabling fictitious banks to use their accounts.
84. **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. At circular 99-1 paragraph 3, top management's authorization prior to entering into or continuing a business relation with PEPs is mandated. Additionally, the definition of PEPs is now defined consistent with the FATF Standards.
85. With **Recommendation 7** there was an *absence of requirements pertaining to the establishment of correspondent banking or equivalent relationships*. Art. 24 of the LSMLTF which is concerned with cross-border correspondent banking relationship addressed this partially at article 24 b) and c) where 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. The 9th follow-up report had note that “*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*” This situation remains the same therefore even though the enactment of the noted provisions have had the effect of greatly advancing Haiti’s implementation of Recommendation 7 there still remains a minor deficiency.

86. For **Recommendation 8** there was an *absence of requirements pertaining to business relationships conducted at a distance or risks associated with new technologies*. Haiti has put forward art.14 of the LSMLTF as curing this deficiency. The provisions at article 14 are in relation to clients not physically present. In such circumstances financial institutions are required take all necessary measures to prevent money laundering and terrorist financing. When this obligation is coupled with the obligations detailed in part 1.2 of Circular 99 whereby banks are required to identify and assess the risk of ML that could arise from development of new products and new businesses practices and from the use of new or developing technologies related to new or existing products, the combined effect will fully implement this Recommendation.
87. At **Recommendation 9** there was: *an 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*. Haiti has pointed to the art. 10 of the law modifying the LSMLTF as addressing this gap in its AML/CFT infrastructure. It is immediately noted that art. 10 does not address R. 9.1 in so far as the financial institution relying on the third party must immediately obtain from that third party the necessary information concerning elements of the CDD process relating to R. 5.3 to R. 5.6. Additionally, R. 9.4, which is concerned with determining in which countries the third party that meets the reliance conditions can be based, has not been addressed.
88. About **Recommendation 17**, there was the *absence of a dissuasive, proportionate, and effective system of sanctions and lack of implementation of the current system of sanctions*. At Ch.2 s.1 of the LSMLTF administrative and criminal penalties are created to deal with natural persons and legal entities that fail to comply with Haiti’s AML/CFT requirements. A conviction for money laundering or terrorist financing carries a punished by imprisonment for a term of three to 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. Legal entities are liable to a fine equal to five times that specified for individuals and administrative sanctions which include prohibition from carrying out certain professional services and closure of the premises used to commit the offense, among other sanctions. Financial institutions and DNFBPs are subject to administrative sanctions, pursuant to the “*professional and administrative regulations*” including the Central Bank’s circulars when they disregard any financial obligations assigned to them by the LSMLTF. Such sanctions can be applied by the ‘supervisory authority’ (Central Bank of Haiti) Officers and officials of financial institutions and DNFBPs are liable to criminal sanctions for the money laundering and terrorist financing offenses noted at articles 5 and 6 of the LSMLTF.



89. At **Recommendation 21** there was an *absence of a legal framework and operational mechanism enabling Haiti to guard against countries with weak systems for combating money laundering*. The legal framework has been put in place through art.13 of the LSMLTF which mandates that financial institutions give special attention to countries with weak AML/CFT systems. With regard to the *operational mechanism*, Haiti has however not provided any details on how this measure is being implemented except to note that the Central Bank is monitoring the implementation here.
90. For **Recommendation 22** there was the need for *to establish obligations aimed at the foreign branches and subsidiaries of Haitian financial institutions, relative to their capacity to implement satisfactory anti-money laundering mechanisms in their host country*. Here the DAR noted at paragraph 375 that at the time of the onsite Haiti “*had overseas representation – through a money transfer company that is itself a bank subsidiary*”. Notwithstanding, art.24 of the LSMLTF has burdened financial institutions with the obligation to ensure that their foreign subsidiaries *which conduct the same activities, develop and implement the principles and measures consistent with their obligations under the said LCMLTF*.
91. For **Recommendation 25**, the lone recommended action was for Haiti to: *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 fulfil their obligations under optimal conditions. Similarly, strengthen the training of private and public actors involved in preventing and cracking down on money laundering*. Even though UCREF has reportedly issued guideline in September 2016 they have not as yet implemented a system that would result in appropriate feedback to financial institutions and DNFBPs.
92. At **Special Recommendation VI** there was the need for Haiti to *adopt a more proactive approach toward money transfer services currently provided in the informal sector*. Haiti has reported that even though they are aware of the risk of high use of cash in the Haitian economy and have taken measures to encourage the use of other payment instruments, such as debit cards, for the entire financial system and to stimulate the access to the formal sector, the Central Bank is nevertheless currently working on policies and mechanisms aimed at fostering financial inclusion.
93. For **Special Recommendation VII**, the provisions of Circular 99 have had the effect of closing the gaps noted by the Examiners. Part 6 of Circular 99 is concerned with the electronic transfer of funds. Circular 99 makes no mention of a threshold and is thus applicable for all funds transfers. Banks are required to identify the issuers and the real beneficiaries whilst identification here includes the first name, surname, address, account number, if applicable, and any other information considered relevant to the transfer of funds and any other information that accompanies a wire transfer or related message throughout the payment chain.



PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

Recommendations 12, 16, 20 and 24 were all rated NC.

94. Regarding **Recommendation 12** there were two (2) recommended cures. The first cure was for an expansion of the AML and CFT measures to other non-financial businesses and professions, especially notaries, accountants, independent legal professionals, lawyers, traders of precious metals and stones and art dealers. Of the business types recommended by the Assessors for expansion under Haiti's AML/CFT regime art dealers have not been taken up. Notwithstanding Haiti's action to include these business types, art. 4 of the LSMLTF has defined financial institutions to include the legal entities particularized at art. 2. At art. 3, DNFBPs are particularized and the obligations of the LSMLTF is applicable to the extent that such obligations are expressly stipulated. Haiti's preventative measures are found at Chapter 3 of the LSMLTF however, these measures are set only in relation to the legal entities found at art. 2 (financial institution). At art. 29 there are specific additional obligations in relation to record keeping and identification applicable to casinos and gaming establishments. At art. 30 there is the requirement that 'those' that carry out, supervise or advise on real estate conduct identification according to art. 18. Based on this it appears that only an extremely limited implementation of essential criteria 5.3 has been achieved specifically for casinos, gaming establishments and 'those' that carry out, supervise or advise on real estate. None of the other requirements of Recommendation 5 (Criteria 5.1 -5.18) appear to have been captured. The second cure in relation to implementation of existing measures through training has not as yet been done will, reportedly, be the subject of an awareness campaign for the upcoming fiscal year 2017-2018.
95. For **Recommendation 16** there was a single recommended action that *non-financial businesses covered by the anti-money laundering law meet their obligations with respect to detecting and reporting suspicious transactions. In addition, they should expand the suspicious transaction reporting obligation to include all designated non-financial businesses and professions.* Art 31 of the 2013 LSMLTF has covered DNFBPs 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.
96. As for **Recommendation 20** which was rated NC, Haiti has included vehicle dealers under the obligations of its the anti-money laundering and anti-terrorist financing system, (art 3 of the LSMLTF) 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. There was another recommended action for that a review of the *provisions aimed at promoting the use of other payment instruments besides cash* be undertaken, Haiti reported 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 but has also reported that other



enforceable means (such as guidelines and administrative notes) shall be taken by the relevant authorities in order to ensure effective implementation.

97. The noted deficiencies for **Recommendation 24** have not as yet been addressed by Haiti.

LEGAL SYSTEMS & RELATED INSTITUTIONAL MATTERS

Recommendation 27, 28 and Special Recommendation IX were rated PC whilst NC.

98. For **Recommendations 27** and **28**, Haiti has not as yet taken the measures necessary to close the deficiencies noted by the Assessors. However, for **Special Recommendation IX** Haiti has established a declaration system according to art.10 of the LSMLTF. Here any person entering or leaving Haiti with cash equal or greater than an amount established by the Central Bank of Haiti will be required to declare it. No information was provided as to whether the Central Bank has established the applicable threshold or whether a declaration form has been created.

LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS

Recommendation 33 and Special Recommendation VIII were rated NC.

99. For **Recommendation 33**, the system of transparency for legal persons, did not allow for rapid access to reliable, up-to-date beneficial ownership and control information. The recommended action to cure this deficiency was for the authorities to monitor effectively and record any changes in the bearers of bearer shares of corporations. This action has not as yet been taken on board by Haiti. For **Special Recommendation VIII** the authorities have reported that the noted recommended actions will be implemented through the enactment of new legislation and consequently the ministry of Justice and Public Security submitted a formal request to the Ministry of Planning and External Cooperation to adapt/modify the law on NGOs.

NATIONAL AND INTERNATIONAL COOPERATION

Recommendation 31 and 38 were rated PC.

100. For **Recommendation 31** the two deficiencies in i. *Ineffectiveness of the coordinating body* and ii. *Lack of operational coordination between Haitian actors involved in the fight against money laundering and the fight against terrorist financing* have not as yet been addressed. As for **Recommendation 38** which was Haiti previously reported that they were preparing a mechanism to coordinate confiscation initiatives with all countries and now reports that a draft Organic Law on Special Fund of Organized Crime is to be finalized and conveyed to Parliament.
101. Haiti has not as yet addressed these deficiencies. Recommendation 31 is *outstanding*

OTHER ISSUES

Recommendations 30 and 32 was rated NC.

102. For **Recommendation 30** there was: *Insufficient human and budget resources overall, and less than optimal use of same; and overly generalized training*. No information was provided on the human and budgetary resources. On the training being *overly generalized*,



November 30, 2017

the authorities reported that during February 2015 training was conducted by the French Embassy and the topics presented were: 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. Regarding the recommended action to regularly ensure the integrity of UCREF's staff, art. 23 of Law Bearing on the Organization and Functioning of UCREF has mandated that no employee can be recruited to UCREF unless a prior investigation has been conducted on the integrity and morality of the applicant. This action has resulted in the significant improvement of the implementation of Recommendation 30. Notwithstanding, the Assessors recommended action was for the integrity of staff to be ensured regularly which suggests that this should be an ongoing process.

103. For **Recommendation 32**, it was determined that there was an absence of a reliable mechanism for collecting statistical data. The recommended action was for Haiti to develop reliable statistics on UCREF activities. Haiti has not as yet addressed this deficiency.

**Report and Submission to CFATF for Removal from Follow-up Process
Haiti (November 2017)**

Porty Recommendations	Ratin g	Recommended Actions	Undertaken Actions	Remaining action to be taken
Legal systems				
ML Offence	NC	<p>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.</p>	<p>The AML/CFT law of September 28th 2017 modifying the law of November 11, 2013 suppressing money laundering and terrorist financing in is article 3 criminalize the offences listed by the FATF as follows:</p> <p>“Article 8.- For the purpose of enforcing the foregoing law, the origin of funds or assets is illicit when the latter come from the perpetration of an offence connected with:</p> <ul style="list-style-type: none"> a) terrorism or terrorist financing; b) organized crime; c) illicit trafficking in narcotic drugs and psychotropic substances; d) illicit trafficking in weapons; e) illicit trafficking in stolen goods and merchandises; f) trafficking of human beings; g) smuggling of migrants and in human beings; h) sexual exploitation, including that 	<p>Awareness campaigns are organized on a regular basis in order to sensitize and train prosecutors, investigative magistrates and the police.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>of children;</p> <p>i) contraband;</p> <p>j) kidnapping, sequestration and hostage taking;</p> <p>k) misappropriation of public funds by public servants and corruption;</p> <p>l) counterfeiting of money or bank notes;</p> <p>m) counterfeiting goods or title deeds;</p> <p>n) trafficking in human organs;</p> <p>o) moral corruption and exploitation of minors;</p> <p>p) extortion ;</p> <p>q) fraud;</p> <p>r) insider offences;</p> <p>s) corruption ;</p> <p>t) environmental crimes;</p> <p>u) theft. ”</p> <p>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. Hence, the passing of the revision of the Penal Code shall fulfil any lacuna insofar that the implementation of the latter reflects directly on the special AML/CFT regime.</p>	
--	--	--	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>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.</p>	<p>The Minister of Justice and Public Security is fully aware of the need to collect statistics from the outset of the preliminary investigation or when criminal proceedings are started. There is a process being set up since last December (2016) for the purpose of collecting census and to publish them at the end of the fiscal year.</p>	<p>The implementation of the Unit of the Statistics to be completed as the way to systematically gather relevant information/data concerning ML/FT cases.</p>
		<p>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.</p>	<p>Closed (refer to seventh follow-up report)</p>	<p>Implementation and monitoring to be performed at the judicial level.</p> <p><i>This recommendation is addressed in article 9 of the LSMLTF.</i></p>



Haiti Twelfth Follow-up Report

November 30, 2017

2. Money laundering offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> Reword the sentence about the liability of legal persons and lower the threshold for invoking legal persons' liability by removing the reference to the commission of an offence by a structure or a representative of the legal person. 	Closed (refer to tenth follow-up report)	<p>Implementation and monitoring to be performed at the administrative level.</p> <p><i>This recommendation is addressed in article 58 of the LSMLTF.</i></p>
3. Confiscation and provisional measures	PC	<p>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.</p>	<p>With regard to the law, Police and Customs are not allowed to manage funds seized. The funds are actually deposited to the State account held in the Central Bank pending a final court decision.</p> <p>See articles 68 and 69 of the LSMLFT of 2013.</p> <p>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.</p> <p>Article 69.- Money or other goods confiscated become the property of the state and will be placed in the Special</p>	<p>The drafting of the Law organizing the Special Fund to Combat Organized Crime and its conveyance to Parliament.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>Fund to Combat Organized Crime. Seized property will be auctioned by order of the Board of Directors of the Fund according to the procedure laid down in Articles 895 and subsequent of the of Civil Procedures Code and the amount collected, after deduction of costs, will be paid to the Special Fund to Combat Organized Crime.</p> <p>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.</p> <p>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.</p>	
--	--	--	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>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.</p>	<p>The Ministry of Justice and Public Security issued a Ministerial Decree on December 20th, 2016 by which the Unit of AML/CFT Statistics and Strategy has been created. \</p>	<p>The implementation of the Unit of the Statistics to be completed as the way to systematically gather relevant information/data concerning ML/FT cases.</p>
<p>4. Secrecy laws consistent with the Recommendations</p>	<p>PC</p>	<p>Revise the obligations pertaining to bank secrecy so that the current restrictions, which pose a potential impediment to the fight against money laundering (scope and depth of banking supervision, domestic and international cooperation), are lifted. In addition, ensure that UCREF's practices regarding access to banking information are performed in full compliance with the letter and spirit of the law of 2001</p>	<p>Closed (refer to seventh follow-up report)</p> <p>See article 179 of the law governing banks and other financial institutions.</p>	



Haiti Twelfth Follow-up Report

November 30, 2017

5. Customer due diligence	NC	i. Strengthen the banks on anonymous accounts and accounts in fictitious names	<p>Closed (refer to seventh follow-up report)</p> <p>See article 13 (first paragraph) of the LSMLFT Act of 2013.</p>	
		ii. Lower the customer identification threshold for wire transfers to US\$1,000	<p>Closed (refer to tenth follow-up report)</p> <p>See circulars 95-1 A and 99-1 of the Central Bank and article 21 of the LSMLFT of 2013.</p>	
		iii. Clarify the legal identification threshold for occasional transactions in forms consistent with the anti-money laundering law of 2001	<p>The AML/CFT law of September 28th 2017 modifying the law of November 11, 2013 suppressing money laundering and terrorist financing in is article 4 clarify the legal identification threshold as follow:</p> <p>“Article 11.- Persons targeted by articles 2 and 3 of the law of November 11, 2013, are required to report to the Central Financial Information Unit (UCREF) all transactions in cash for amounts equal to or exceeding six hundred thousand</p>	



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>Gourdes (Gdes 600.000.00) or the equivalent in foreign currency, whether in a lump sum or in several transactions that appear to be interconnected.</p> <p>This threshold for making declarations is set at sixty thousand Gourdes (Gdes 60,000.00) or the equivalent in foreign currency for funds transfer companies as well as all other financial institutions authorized to make funds transfers or electronic wires.”</p> <p>See also article 17 of the LSMLFT of 2013.</p> <p>Article 17.- Financial institutions are required to identify their customers and verify information through documents, data sources or independent and reliable information for:</p> <p>....</p> <p>b) the execution of occasional transactions, when the client wishes to make:</p> <p>1. a transaction in an amount equal to or greater than the regulatory</p>	
--	--	--	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>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;</p> <p>2. a transfer of funds whether nationally or internationally;</p> <p>1)</p>	
		iv. Clarify the customer identification requirement in occasional transactions, independent of the threshold, when there is a suspicion of money laundering or terrorist financing	Closed by article 17 of the LSMLFT of 2013.	
		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	<p>Closed (refer to seventh follow-up report)</p> <p>See article 18 of the LSMLFT of 2013 and circular 99-1 issued by Central Bank.</p>	



Haiti Twelfth Follow-up Report

November 30, 2017

		ownership and control of a legal person are organized		
		Establish a requirement to collect information on the purpose and nature of the business relationship and to update identification data on a regular basis	<p>Closed (refer to tenth follow-up report)</p> <p>This recommendation is addressed in article 13 of the LSMLFT of 2013 and circular 99-1 issued by Central Bank.</p> <p>Article 13.- 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.</p> <p>Section 9- The frequency of updates to information on the identity of customers depends on the context in which transactions occur, from one</p>	<p>The Central Bank, as the competent supervisory body, monitors the implementation of the applicable preventive measures by the financial institutions. In so doing, periodic inspections are conducted.</p> <p>The Central Bank is in the process of updating its circulars and guidelines, and shall raise the awareness of financial institutions about the updated preventive measures.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			situation to another. Banks must ensure to choose the frequency without exceeding three (3) years. However, in cases of high risks, information must be updated every two (2) years.	
		vi. Implement a risk management approach for the highest risks	<p>Closed (refer to seventh follow-up report)</p> <p>See circulars 99-1 and 100-1 of the Central Bank.</p>	<p>The Central Bank, as the competent supervisory body, monitors the implementation of the applicable preventive measures by the financial institutions. In so doing, periodic inspections are conducted.</p> <p>The Central Bank is in the process of updating its circulars and guidelines, and shall raise the awareness of financial institutions about the updated preventive measures.</p> <p>A new circular is being drafted in order to better reflect the risk-based approach.</p> <p>A copy will be provided in due course</p>
		vii. Based on a risk analysis, consider adopting flexible	Closed (refer to tenth follow-up report)	The Central Bank and the FIU accordingly will determine the



Haiti Twelfth Follow-up Report

November 30, 2017

		requirements for demonstrably low risks	<p>See article 26 of the LSMLFT of 2013 and circular 99-1 issued by Central Bank.</p> <p>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.</p>	<p>circumstances under which it is possible to adopt flexible requirements for demonstrably low risks.</p>
	viii.	Set in place a risk-based customer identification mechanism for business relationships predating 2001, in connection with a stronger and more direct requirement regarding anonymous accounts and accounts in fictitious names	<p>This recommendation is addressed in regulatory instruments issued by the Central Bank (See circulars 99-1 and 100-1 of the Central Bank).</p> <p>Closed (refer to seventh follow-up report)</p>	<p>The Central Bank, as the competent supervisory body, monitors the implementation of the applicable preventive measures by the financial institutions. In so doing, periodic inspections are conducted.</p> <p>The Central Bank is in the process of updating its circulars and guidelines in light of the RBA, and shall raise the awareness of financial</p>



Haiti Twelfth Follow-up Report

November 30, 2017

				institutions about the updated preventive measures.
6. Politically exposed persons	NC	1. Institute requirements of enhanced diligence toward politically exposed persons	<p>Closed (refer to tenth follow-up report)</p> <p>This recommendation is addressed in article 15 of LSMLFT of 2013.</p> <p>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:</p> <ul style="list-style-type: none"> 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. <p>Circular 99-1 of the Central Bank.</p>	The Central Bank, as the competent supervisory body, monitors the implementation of the applicable preventive measures by the financial institutions. In so doing, periodic inspections are conducted.



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>Pursuant to 3), page 7, "... Banks must have adequate risk management systems that allow accurate identification of politically exposed persons. As soon as a client is identified as so, they must:</p> <ul style="list-style-type: none"> a) Obtain authorization from senior management before starting or continuing a business relationship with the client; b) Take all relevant measures in order to identify the origin of funds; c) Ensure enhanced and permanent monitoring of the business relationship. 	
7. Correspondent banking	NC	<p>1. Institute specific and enhanced requirements for establishing correspondent banking or equivalent relationships</p>	<p>The law of September 28th 2017 modifying the law of November 11, 2013 suppressing money laundering and terrorist financing in its article 7 sets forth specific requirements as followed.</p> <p>Concerning correspondent banking relations, financial institutions are required:</p>	<p>The Central Bank is in the process of updating its circulars and guidelines in light of the RBA, and shall raise the awareness of financial institutions about the updated preventive measures.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<ul style="list-style-type: none"> a) to identify and to verify the identity of client institutions with which they maintain correspondent banking relations; b) to collect information on the nature of the client institution's activities; c) to assess the client institution's reputation on the basis of information known to the public, as well as the level of surveillance to which it is subject; d) to assess the control mechanisms established by the client institution to fight money laundering and terrorist financing; e) to obtain their upper Management's authorization prior to entering into new correspondent banking relations; f) to ensure that in the case of payable-through accounts, the client institution has enhanced forced due diligence measures regarding customers having direct access to the correspondent bank's accounts, and that they are capable of providing the relevant identification information upon request. 	
--	--	--	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>Financial institutions are forbidden to establish correspondent banking relations with fictitious banks they are required to take the appropriate measures in order to warrant that they do not enter or maintain correspondent banking relations with a bank that is known for enabling fictitious banking company to use their accounts.</p> <p>Pursuant to 3), page 7 of Circular 99-1, “all banks must have policies, procedures and mechanisms likely to allow great knowledge of legitimate activities of their cross-border correspondent banks and other similar relationships. Banks must ensure:</p> <ul style="list-style-type: none">a) Identification and verification of identity for customer institutions with which they maintain correspondent banking relationship;b) Collection of information concerning the nature of activities of the customer institution;c) Assessment, as per information publicly available, the	
--	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>reputation of the customer institution and the level of monitoring for which it is liable;</p> <p>d) Authorization procurement from senior management before starting a relationship with the correspondent bank;</p> <p>e) Assessment of the monitoring implemented by the customer institution aimed at fighting money laundering and terrorist financing;</p> <p>f) Authorization procurement from senior management before setting up new relationships of correspondent banking.</p>	
8. New technologies and non-face-to-face business	NC	i. Institute requirements proportional to risk for business relationships conducted at a distance and with no face-to-face contact	<p>Closed (refer to seventh follow-up report)</p> <p>See article 14 of the LSMLFT of 2013 and relevant circulars from the central Bank.</p>	The Central Bank, as the competent supervisory body, monitors the implementation of the applicable preventive measures by the financial institutions. In so doing, periodic inspections are conducted.
9. Third parties and business	NC	i. Clarify the requirements of due diligence in situations	The AML/CFT law modifying the law of November 11, 2013 suppressing	The Central Bank, as the competent supervisory body,



Haiti Twelfth Follow-up Report

November 30, 2017

introducers		<p>where a financial institution provides a role to third parties or business introducers, specifically by indicating the conditions (regarding obligations to fight money laundering) that must be met by the intermediary and by affirming the principle that responsibility for the customer identification process always falls to the financial institution</p>	<p>money laundering and terrorist financing in is article 10 clarify the requirements regarding third parties and business introducers:</p> <p>Article 10.- Financial institutions are authorized to use intermediaries or other third-parties to identify clients in accordance with the requirements of article 17 and 18 of the law of November 11, 2013, suppressing money laundering and terrorist financing if they were able to ensure that:</p> <ul style="list-style-type: none"> a) the third-party is able to provide upon request and without delay, copies of the identification information and other documents in accordance with due diligence requirements; b) the third-party is subject to regulation, control and surveillance, and has taken measures towards abiding by the due diligence requirements as regards its clients, and that it 	<p>monitors the implementation of the applicable preventive measures by the financial institutions. In so doing, periodic inspections are conducted.</p>
-------------	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>abides by the requirement to keep records, when another financial institution is involved.</p> <p>The final responsibility rests upon financial institutions that use the services of third-parties.</p> <p>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.</p> <p>Refer to guidelines issued by the Central Bank.</p> <p>Financial institutions must comply with the laws and regulations concerning combatting money laundering and the financing of terrorism.</p> <p>In the event of a security breach of all or part of the system, the issuing financial institution shall ensure that it has adequate means to ensure the traceability of suspicious transactions.</p>	
--	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>It shall ensure the traceability of charging and cashing of electronic money units for at least five years.</p> <p>When the electronic media includes at least two applications, including those of banking, charging mobile phones, internet payment or money transfer, and allows the holder of electronic money to make separate transactions, the issuer is required to ensure the traceability of all transactions.</p> <p>Issuers and distributors must put in place an automated system for monitoring unusual transactions based on electronic money.</p> <p>In reference to the additional note pertained to the aforementioned guidelines, “the ultimate responsibility for customer identification and verification rests with the financial institution”.</p>	
--	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

10. Record keeping	LC	1. Ensure that it is possible for competent authorities to request an extension of the length of time that records must be held.	<p>This recommendation is addressed in article 23 the Bill on Money Laundering and Financing of Terrorism.</p> <p>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.</p>	
11. Unusual transactions	LC	1. 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.	<p>Pursuant to article 20 of the LSMLFT, 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.</p>	



Haiti Twelfth Follow-up Report

November 30, 2017

			Pursuant to article 4 of the Law of September 28 th 2016 modifying the Law of November 11 th 2013, the threshold is set to 600,000 gourdes, notwithstanding same may be modified by circular from the Central Bank.	
12. Designated non-financial businesses and professions – R.5, 6, 8-11	NC	1. Expand the anti-money laundering and anti-terrorist financing obligations to include other designated non-financial businesses and professions, especially notaries, accountants, independent legal professionals, lawyers, traders of precious metals and stones, art dealers – for all the activities listed by FATF (for each of these professions). Consideration should be given, based on an analysis of the gravity of money laundering risks, to the possibility of including other non-financial professionals, such as traders of assets of value (luxury automobiles in particular).	<p>1. The 2013 AML/CFT law expand the obligations to include other designated non-financial businesses and professions, especially notaries, accountants, lawyers, traders of precious metals and stones, vehicle dealers, etc. in is article 3.</p> <p>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:</p> <p>a) casinos, lotteries, borlette keepers, gaming establishments;</p> <p>b) non-governmental organizations working in development;</p> <p>c) vehicle dealers; d) dealers of precious metals and stones; e) those that carry out, supervise or advise on real estate transactions; f)</p>	An awareness campaign will be conducted on the behalf of the DNFBPs for the upcoming fiscal year 2017-2018, commencing on October 1 st .



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>1. Enforce the obligations already stipulated by law for casinos and real estate transactions, specifically through a major effort to mobilize and train the professionals involved.</p>	<p>law (notaries and lawyers) and accounting professionals:</p> <ol style="list-style-type: none"> 1. when assisting their client in the planning or execution of transactions for the: <ol style="list-style-type: none"> 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 	
--	--	---	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>or when they act:</p> <ol style="list-style-type: none"> 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. <p>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.</p>	
13. Suspicious transaction reporting	NC	1. Expand the scope of suspicious transaction reporting to include terrorism and its financing	<p>This recommendation is addressed in article 1 and article 31 of the AML/CFT Act of 2013.</p> <p>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</p>	<p>Implementation is ongoing and is being monitored by the relevant supervisory bodies.</p> <p>Additionally, other enforceable means (such as guidelines and administrative notes) shall be taken by the relevant authorities in order to ensure effective implementation.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>suspicious transaction report promptly to UCREF. This requirement also applies to transactions that were rejected in accordance with article 19 of this law.</p> <p>Article 1 of the Amendment Law dated as September 28th, 2016 set forth a definition of “<i>funds</i>” in line with international norms: “Funds: assets of all nature, material and non-material, movable and real, tangible and intangible, or intangibles acquired by any means whatsoever, as well as documents and juridical instruments in any form whatsoever, including in electronic or numerical format, attesting of the ownership or vested interest in such assets, including but not limited to bank loans, travelers’ checks, bank checks, Powers-of-Attorney, shares, securities, bonds, drafts and letters of credit, as well as eventual interest, dividends, or other income or values drawn from, or generated by such assets.”</p>	
		<p>i. Make all persons covered by the 2001 law aware of suspicious transaction</p>	<p>The Organic Law on UCREF was passed by Parliament on May 8th 2017.</p>	<p>An awareness campaign will be conducted on the behalf of the DNFBPs for the upcoming</p>



Haiti Twelfth Follow-up Report

November 30, 2017

		reporting and automatic transaction reporting	<p>Pursuant to article 3 of said law, UCREF is charged to:</p> <ul style="list-style-type: none"> e) to develop civic education campaigns on the economic, political, and social consequences entailed by money laundering and terrorist financing; f) to develop a database concerning money laundering operations and terrorist financing; g) to coordinate public and private sector efforts in view of preventing the economic, financial, commercial and service systems being used for money laundering and terrorist financing; h) to analyze and assess the implementation of legal and regulatory dispositions concerning money laundering and terrorist financing; <p>With respect to article 32 of the LSMLFT, UCREF issued guidelines on filing STRs on September 20th,</p>	<p>fiscal year 2017-2018, commencing on October 1st 2017.</p> <p>Additionally, the organic Law of UCREF is in force and applicable to all financial institutions and DNFBPs. UCREF holds seminars and fora with the reporting entities as per its annual training/awareness schedule.</p> <p>UCREF issued guidelines in September 2016 concerning transaction reporting and is monitoring implementation of the overall applicable framework.</p>
--	--	---	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>2016.</p> <p>Most recently, a seminar was held jointly by the Head Office of Judiciary and the French Embassy from December 6-9, 2016 on the behalf of LEAs : magistrates, prosecutors and police officers.</p> <p>In addition, periodical forums are organized by the FIU with the Banks, with the assistance and monitoring of the Central Bank.</p>	
14. Protection and no tipping-off	C			
15. Internal controls and compliance	PC	<p>1. 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</p>	<p>The Central Bank issued circulars regarding these recommendations. Based on 2013 law, the Central bank require in circulars 61-2, 89-1 and 100-1 that banks should exercise constant vigilance and build internal organization and procedures to ensure compliance and prevent any attempted money laundering.</p> <p>(please find enclosed Circulars 61-2,</p>	



		<p>recruitment; minimum content of compulsory training.</p> <p>i. Adopt stronger administrative sanctions as a way to enhance the effectiveness of internal control obligations.</p>	<p>89-1 and 100-1)</p> <p>1. - Internal Control Procedures</p> <p>Banks should exercise constant vigilance and build internal organization and procedures to ensure compliance with the statutory provisions and enable operations managers to identify and prevent any attempted money laundering. One of the purposes of this is to avoid the use of the financial system for money laundering purposes and to minimize the risks faced by institutions.</p> <p>This system of internal controls must include, <i>inter alia</i>:</p> <ul style="list-style-type: none"> • a mechanism to monitor money laundering policies, procedures and internal systems; • a structure that guarantees the confidentiality of the processed information; • money laundering risk identification measures and systems for evaluating these risks; • a monitoring system that can 	
--	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>guarantee the control of money laundering risks;</p> <ul style="list-style-type: none"> • a centralized documentation and information system; and • an information system on compliance initiatives, deficiencies and corrective actions taken. <p>The control system in place must extend to all parts of the institution. Every institution is therefore required to take the necessary measures to ensure the strict implementation of current policies, procedures, and systems, especially those relating to money laundering.</p> <p>Following periodic independent internal procedures and risk monitoring compliance tests, a specific money laundering examination must be made by the institution's internal audit department.</p> <p>Audits should specifically apply to the following :</p> <ul style="list-style-type: none"> • assessment of the quality of risk management and control in all 	
--	--	--	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<ul style="list-style-type: none">operations and at all branches;interviews with operations staff and their supervisors to assess their level of knowledge of and compliance with money laundering and terrorist financing procedures adopted by the institution;compliance with procedures for opening and closing accounts;examination of a sample of document archiving forms and suspicious financial transactions information forms;an audit of the recordkeeping system;the existence of attached or referenced supporting documentation with the accounting records;Knowledge of the customer by branches and operations managers, including the following: professional activity, account operations, financial position and financial and accounting documentation consistent with the credit extended and the volume of business being transacted. Particular	
--	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>attention should be paid to the business rationale of the operations and their consistency with the customer's known circumstances;</p> <ul style="list-style-type: none">• periodic reviews of all established correspondent relationships with foreign banks to detect high-risk partners; and• employee knowledge of internal money laundering regulations. <p>The results of all audits must be reported to the Board. Following the hierarchical structure of the institution, issues concerning the measures taken or to be taken and timelines must be known and disclosed to the operations staff.</p> <p>Also, refer to Circular 89-1.</p> <p>2- Internal Control framework: Any bank along with its branches altogether must have an adequate and efficient internal control framework that guarantees great management and monitoring of its activities a safe and prudential fashion.</p>	
--	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>This framework must consist of:</p> <ul style="list-style-type: none"> a) managers and directors who grasp their responsibilities and take care of them with loyalty and diligence by ensuring the bank's business is managed and monitored efficiently with regard to pointed objectives; b) managers and directors who are kept updated on a regular basis about the course of activities, great risks as well as outcomes as per a management information system that provides a high quality financial information; c) an internal control system settled and well-suited to great risks and significant operations of the bank; d) an internal audit function that allows: i) the monitoring of effectiveness and consistency of the internal control system and the quality of the financial information for internal and external use, ii) the improvement of problematic situation generated by failure to 	
--	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>respect, shortfall and lack of control;</p> <p>e) An independent audit function that allows control of effectiveness of the internal control system and the system Anti-Money Laundering.</p> <p>Circular 61-2 lays out the detailed procedures of internal control as per specifically :</p> <ul style="list-style-type: none"> i) The criteria for appointment of the independent inspector (par. 3); ii) The nomination of the independent inspector (par. 4); iii) Duties of the independent inspector (par. 5) iv) Relations between the Central Bank and the independent inspector (par. 6); v) Certification of information conveyed to the Central Bank (par. 8); vi) Sanctions (par. 9). <p>2. Already Done By Law on Banks and</p>	
--	--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>financial institutions Circular 61-2 and 89-1</p> <p>Pursuant to Circular 89-1, 8- In case of non-compliance, the Central Bank (BRH) may impose the following administrative sanctions:</p> <ul style="list-style-type: none"> a) Information availability for inspection; b) Late production of compliance reports: fees are imposed in accordance to circular applicable to the matter; c) Late conveyance of compliance reports: fees are imposed in accordance to circular applicable to the matter; d) Failure to submit compliance reports: fees are imposed in accordance to circular applicable to the matter. <p>The Central Bank may require any bank to improve situation in relation to:</p> <ul style="list-style-type: none"> a) Offences related to provisions in the current circular; b) Shortfalls of internal controls pointed by internal inspector, independent inspector or 	
--	--	--	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>inspector from the Central Bank;</p> <p>c) Shortcomings in relation to basic principles of an internal control system as per Annex1 of the current circular (translation of this document is ongoing).</p> <p>Pursuant to Circular 100-1, 6-Following a weakness in the organization's money laundering internal procedures and compliance with section 4.2.4 of the Act of February 21, 2001, the BRH reserves the right to assess administrative penalties ranging from a warning, reprimand, temporary suspension of activities or withdrawal of approval to a total operational injunction, in the most serious cases, without prejudice to those prescribed by law.</p>	
16. Designated non-financial businesses and professions – R.13-15 & 21	NC	1. Make sure that non-financial businesses covered by the anti-money laundering law meet their obligations with respect to detecting and reporting suspicious transactions. In addition,	<p>The 2013 AML/CFT law requires in is article 31 expand the suspicious transaction reporting obligation to the designated non-financial businesses and professions.</p> <p>Article 31.- Financial institutions and</p>	<p>Implementation is ongoing and is being monitored by the relevant supervisory bodies.</p> <p>Additionally, other enforceable means (such as guidelines and administrative notes) shall be</p>



Haiti Twelfth Follow-up Report

November 30, 2017

		they should expand the suspicious transaction reporting obligation to include all designated non-financial businesses and professions	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.	taken by the relevant authorities in order to ensure effective implementation.
17. Sanctions	NC	<p>i. Revise the system of sanctions for breaches of anti-money laundering and anti-terrorist financing obligations, particularly by (a) rebalancing criminal and administrative sanctions and (b) establishing a wider scale of (administrative) sanctions and a broader definition of breaches triggering these sanctions;</p> <p>ii. Adopt a more proactive approach in supervising these obligations, especially in the case of non-bank financial</p>	<p>This recommendation is addressed in the Bill on Money Laundering and Financing of Terrorism in articles 57 and 61.</p> <p>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.</p> <p>The attempt to launder money or finance terrorism or to aid, counsel or</p>	<p>Implementation is ongoing and is being monitored by the relevant supervisory bodies.</p> <p>Additionally, other enforceable means (such as guidelines and administrative notes) shall be taken by the relevant authorities in order to ensure effective implementation.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

		institutions.	<p>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.</p> <p>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:</p> <p>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;</p> <p>b) those that have knowingly destroyed or removed records or documents for which the storage is required under articles 23, 28 and 29;</p> <p>c) those that have made or attempted to make one of the</p>	
--	--	---------------	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>operations referred to in Articles 5 and 6 using a false identity;</p> <p>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;</p> <p>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;</p> <p>f) those that have provided information or documents to anyone other than those specified by this law;</p> <p>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;</p> <p>h) those who commit the offense of money laundering or terrorist financing within the framework of a criminal organization; or</p> <p>i) those that knowingly violate the provisions of Articles 47 and 48 of this</p>	
--	--	--	--	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>law.</p> <p>Respective to administrative law in force in Haiti, administrative sanctions can be imposed 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</p>	
18. Shell banks	PC	<p>i. Require Haitian financial institutions to ascertain that their correspondent banks are not shell banks and that their correspondent banks do not allow shell banks to use their correspondent accounts</p>	<p>With regard to comments in the Tenth Follow-up report of Haiti, Article 24 of the November 11, 2013 AML/CFT law was modified and actually the law requires in article 24 of modified law of 2016 as follows:</p> <p>“Article 24.-Financial institutions are forbidden to establish correspondent banking relations with fictitious banks they are required to take the appropriate measures in order to warrant that they do not enter or maintain correspondent banking relations with a bank that is known for enabling fictitious banking company to</p>	<p>Implementation is ongoing and is being monitored by the Central Bank.</p> <p>Additionally, other enforceable means (such as circulars and guidelines) are taken in order to ensure effective implementation.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>use their accounts.”</p> <p>Pursuant to paragraph 6 of Circular 99-1, banks must have in place policies, procedures and mechanisms that foster a good understanding of the legitimate activities of the cross-border correspondent banks and other relationships of the same type...</p> <p>In addition, banks must never establish a correspondent banking relationship with shell banks.</p>	
19. Other forms of reporting	LC	<p>i. Provide for access to the UCREF data base for other authorities involved in the fight against money laundering and terrorist financing</p>	Already done	
20. Other non-financial businesses and professions and secure transaction	NC	<p>i. Consider expanding (based on risk) the anti-money laundering and anti-terrorist financing system to include other non-financial businesses and professions (cf. also the recommendation</p>	<p>i. Closed (refer to Tenth follow-up report)</p> <p>This recommendation is addressed by article 3 of the law sanctioning money laundering and terrorist financing. This article expands the AML/CFT</p>	<p>Implementation is ongoing and is being monitored by the relevant supervisory bodies.</p> <p>Additionally, other enforceable means (such as guidelines and administrative notes) shall be</p>



Haiti Twelfth Follow-up Report

November 30, 2017

techniques		<p>under Recommendation 12)</p> <p>1. Review the provisions aimed at promoting the use of other payment instruments besides cash, in view of the present ineffectiveness of such provisions</p>	<p>system to include</p> <p>a) casinos, lotteries, borlette keepers, gaming establishments;</p> <p>b) non-governmental organizations working in development</p> <p>c) vehicle dealers;</p> <p>d) dealers of precious metals and stones;</p> <p>e) those that carry out, supervise or advise on real estate transactions;</p> <p>f) law (notaries and lawyers) and accounting professionals:</p> <p>1. when assisting their client in the planning or execution of transactions for the:</p> <p>i. purchase or sale of real estate or business entities;</p> <p>ii. management of funds, securities or other assets belonging to the client;</p> <p>iii. opening or management of bank accounts;</p> <p>iv. provision of the support necessary for the creation, management or administration of companies;</p> <p>v. creation, operation or management of entities or legal arrangements, and the buying and</p>	<p>taken by the relevant authorities in order to ensure effective implementation.</p>
------------	--	---	--	---



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>selling of business entities;</p> <p>2. or when acting on behalf of their client as an intermediary in any financial or real estate transaction;</p> <p>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:</p> <p>1. as agent for the formation of legal entities;</p> <p>2. as manager or secretary of a corporation, partner in a partnership or holds a similar function for other types of legal entities;</p> <p>3. as a shareholder acting on behalf of another person.</p>	
<p>1. Special attention for higher risk countries</p>	NC	<p>1. 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</p>	<p>Closed (refer to Tenth follow-up report)</p> <p>This recommendation is taken into account in the law on money laundering and terrorist financing in article 13.</p>	<p>Implementation is ongoing and is being monitored by the Central Bank.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

		enable them to enforce countermeasures against countries that continue to not adequately implement the FATF Recommendations	<p>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.</p> <p>Pursuant to paragraph 5 of same, banks must apply, with regard to the risks assessed, enhanced due diligence measures in situations that may, by nature, generate a high risk of money laundering and terrorist financing and, at least, in following cases (non-restrictive list):</p> <p>....</p> <p>a) Operations carried out with persons and legal entities of countries that do not apply or apply insufficiently the AML/CFT international norms;</p>	
22. Foreign branches and subsidiaries	NC	1. Establish obligations aimed at the foreign branches and subsidiaries of Haitian	<p>Closed (refer to seventh follow-up report) This recommendation is taken into</p>	Implementation of the applicable legal framework is ongoing and is being monitored by the



Haiti Twelfth Follow-up Report

November 30, 2017

		financial institutions, relative to their capacity to implement satisfactory anti-money laundering mechanisms in their host country.	account in the law on money laundering and terrorist financing in article 24.	Central Bank.
23. Regulation, supervision, and monitoring	NC	1. 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;	Closed (refer to seventh follow-up report)	Implementation is ongoing and is being monitored by the Central Bank.
4. Designated non-financial businesses and professions – regulation, supervision, and monitoring	NC	1. 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	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)	Implementation is ongoing and is being monitored by the relevant supervisory bodies. Additionally, other enforceable means (such as guidelines and administrative notes) are being taken by the relevant authorities



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>implementation of these mechanisms.</p>	<p>years, following international accounting principles, current legislation and the directives of the regulatory authority;</p> <p>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;</p> <p>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;</p> <p>d) record, in chronological order, all transfers of funds between casinos and gambling clubs in a register and</p>	<p>in order to ensure effective implementation.</p>
--	--	--	--	---



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>retain such records for at least five (5) years after the last recorded transaction.</p> <p>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.</p>	
5. Guidelines and feedback	NC	<p>1. 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</p>	<p>UCREF has issued guidelines for reporting financial institutions and DNFBPs on the date of September 20th, 2016 concerning the filing of STRs.</p> <p>Please see report enclosed</p>	<p>An awareness campaign matrix will be prepared on the behalf of the DNFBPs for the upcoming fiscal year 2017-2018.</p> <p>With regards to the financial institutions, implementation is ongoing and is being monitored by the Central Bank.</p> <p>Additionally, the Central Bank other enforceable means (such as circulars and guidelines) are taken in order to ensure effective implementation.</p> <p>With regards to transaction reporting, UCREF issued guidelines in September 2016 applicable to all reporting</p>



Haiti Twelfth Follow-up Report

November 30, 2017

				<p>entities. UCREF monitors implementation of the overall applicable framework. Additionally, UCREF holds seminars and fora with the reporting entities as per its annual training/awareness schedule.</p>
5. Financial Intelligence Unit	PC	<p>1. Clearly redefine UCREF's scope of action in line with the anti-money laundering law of 2001</p>	<p>If UCREF had exercised in the past a few investigation in judicial matters, since the mutual evaluation UCREF is a fully administrative body.</p> <p>The Organic Law on UCREF was passed by Parliament on May 8th 2017.</p> <p>Pursuant to Article 2.- UCREF is responsible for receiving, analyzing and processing declarations from individuals and legal persons that are</p>	<p>The implementation of the organic law of UCREF is ongoing under the monitoring of the ministry of Justice and Public Security.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>required to forward to UCREF information and data within the framework of the fight against money laundering and terrorist financing. UCREF also receives all other information generally whatsoever that are useful for it to fulfill its mission. Indeed, since 2008, some major administrative changes have been made as shown hereby: 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 institutions; operational independence towards the central bank; complete takeover of the staff.</p>	
		<p>1. Build awareness on the part of professions subject to the suspicious transaction reporting requirement</p>	<p>In an effort to keep reporting entities well aware of their obligation to report, UCREF held a two-day as follows:</p> <ol style="list-style-type: none"> 1- Forum of February 15, 2017, with: <ul style="list-style-type: none"> - Public notaries at a national level; - Gaming entities; - Credit unions. 	<p>Awareness campaigns are organized on a regular basis in order to sensitize those entities.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>2- Forum of February 17, 2017, with:</p> <ul style="list-style-type: none"> - Banks; <p>The above was conducted with the view of promoting UCREF guidelines and sensitizing the reporting entities about their role and showing them how to be more efficient in so doing.</p> <p>Also, UCREF agents have been trained at:</p> <ul style="list-style-type: none"> -American Bar Association (Petionville, Haiti), October 11, 2016; -ILEA (New Mexico, USA), November 14- December 9 2016; -AECID (Cartagena, Colombia), 5-9 December 2016; -BLTS (National Police Academy, Haiti), December 22, 2016; -ENAPP (Port-au-Prince, Haiti) 16-20 January 2017 and 6-10 February 2017 ; -AECID (Cartagena, Colombia) 6-10 March 2017. <p>Please see report enclosed</p>	
		<p>1. Ensure that UCREF exchanges information only with persons authorized to receive same (foreign counterparts)</p>	<p>The Organic Law on UCREF was passed by Parliament on May 8th 2017.</p> <p>Pursuant to article 3, UCREF has the authority d) to exchange financial</p>	<p>The implementation of the organic law of UCREF is ongoing under the monitoring of the ministry of Justice and Public Security.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>information in connection with money laundering and terrorist financing with foreign institutions, this within the framework of conventions or in enforcement of the principle of reciprocity;</p> <p>Article 27.- Subject to reciprocity, UCREF may exchange information with foreign services in charge of receiving and processing declarations of suspicious transactions, when these entities are subject to similar secrecy requirements, this regardless of the nature of these services. As such, UCREF may conclude cooperative agreements with these entities.</p>	
		<p>Reinforce UCREF's operational independence in relation to CNLBA and establish real functional autonomy in relation to BRH</p>	<p>The Organic Law on UCREF was passed by Parliament on May 8th 2017. Article 1 of the organic law clearly provides that UCREF is an autonomous organization of administrative nature provided with legal personality and enjoying administrative and financial autonomy.</p> <p>Pursuant to articles 5 to 12, under section 1, UCREF has its own board of directors inherent to the organization</p>	<p>The implementation of the organic law of UCREF is ongoing under the monitoring of the ministry of Justice and Public Security.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>chart.</p> <p>The National Committee Anti-Money Laundering (CNLBA) is now an consultative body that is adjoined to UCREF.</p> <p>Please see in that regard articles 19 to 22, under section of said law.</p>	
		<p>7. Charge UCREF with publishing a periodic status report</p>	<p>According to article 3, UCREF has c) to prepare quarterly and annual reports on its activities that analyze the developments in anti-money laundering activities and terrorist financing at the national and international level;</p> <p>Pursuant to a resolution of CNLBA issued on October 11th 2012, UCREF actually edits report on a quarterly basis.</p>	<p>The implementation of the organic law of UCREF is ongoing under the monitoring of the ministry of Justice and Public Security.</p>
		<p>8. Bring Haitian law in line with the conditions required for membership in the</p>	<p>The provisions of the organic Law on UCREF fully provide for the conditions required for EG</p>	<p>The implementation of the organic law of UCREF is ongoing under the monitoring of</p>



Haiti Twelfth Follow-up Report

November 30, 2017

		Egmont Group	<p>membership.</p> <p>A copy of same was conveyed to the Sponsors and EG regional representative for insight at the stage of pre-analysis within the integration procedure.</p>	the ministry of Justice and Public Security.
7. Law enforcement authorities	PC	<p>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.</p> <p>Create a specialized jurisdiction of national scope to fight against money laundering and terrorist financing.</p> <ul style="list-style-type: none"> • • <p>Provide DCPJ with adequate financial and material</p>	<p>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.</p> <p>2. Article 70 of Law on Money Laundering and Financing of Terrorism addresses this recommendation.</p> <p>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.</p>	



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>resources, as well as pre-service and in-service training to implement special techniques for investigating money laundering, such as interception of telephone calls, delivery surveillance, and infiltration of criminal groups to track their management of funds from their activities.</p> <p>Perform a property investigation for investigations of drug trafficking and other crimes falling within the scope of enforcement of the crime of money laundering.</p> <p>Undertake a rigorous monitoring and centralization of legal actions and results of money laundering investigations within the Ministry of Justice, along with the development of statistics. Centralize and work up reliable statistics on money laundering investigations.</p>		
3. Powers of competent authorities	PC	Clarify the Criminal Investigation Code in order to expand and strengthen the legal bases for submitting	The draft Penal Code and the draft Criminal Investigation Code are being finalized and shall be submitted to Parliament in due course.	The Draft Penal Code is before the Parliament pending adoption.



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>cases to the DCPJ that involve money laundering, drug trafficking, and other crimes and offences sanctioned by law. Redefine and regulate more strictly, in relation to the functions of the national police officers who are officers of the court, the various frameworks for investigation, and in particular investigations of cases other than crimes <i>in flagrante delicto</i> or those providing support to the investigative magistrate.</p> <p>Reconsider, in terms of how legal action is organized, the role of specialized police agencies as sole point of interface with magistrates in money laundering investigation.</p>		
D. Supervisors	PC	<p>Lift bank secrecy for inspectors involved in banking supervision;</p> <p>Adopt a less formalistic approach to compliance with</p>	<p>1. Already Done</p> <p>Refer to Articles 98 and 99 of the Law on Banks and other financial institutions.</p>	<p>Implementation is ongoing and is being monitored by the Central bank.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

		obligations related to the prevention and detection of money laundering and terrorist financing, particularly by placing greater emphasis on obligations regarding suspicious transaction reporting;	2. This recommendation has been addressed during the inspection of the financial institutions by the bank examiners of the Central Bank.	
D. Resources, integrity, and training	NC	1. Regularly ensure the integrity of UCREF employees and see to their training	Pursuant to Article 23. -No employee can be recruited by UCREF unless a prior investigation has been conducted on the integrity and morality of the applicant. Following instructions of CNLBA through resolution dated October 11 th , 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 18 th of August 2014, with the assistance of the OTA, whilst the renewal of employees' contracts will be based on efficiency and background check.	The implementation of the organic law of UCREF is ongoing under the monitoring of the ministry of Justice and Public Security.



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>5 to 9 of October 2015, training with assistance of the French Embassy for: FIU staff, magistrates, police officers, prosecutors.</p> <p>UCREF is preparing/finalizing a training plan for the fiscal year 2015-2016 aimed at providing utmost training to technical staff, the analyst in particular.</p>	
l. National cooperation	PC	i. Ensure that the CNLBA fully plays its role	<p>After the mutual evaluation, CNLBA put serious emphasis on:</p> <ul style="list-style-type: none"> - Awareness of all the stakeholders concerned by the fight against money laundering; - Coordination between all the entities fighting against money laundering; - Monitor all the improvement made in the legal aspects. 	<p>The National Anti-Money Laundering Committee is now a consultative body under the regime of the Organic Law on UCREF.</p> <p>The implementation of the organic law of UCREF is ongoing under the monitoring of the ministry of Justice and Public Security.</p> <p>The National Anti-Money Laundering Committee is being reorganized in its new attributions and composition.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

32. Statistics	NC	i. Develop reliable statistics on UCREF activities	<p>According to article 3, UCREF has c) to prepare quarterly and annual reports on its activities that analyze the developments in anti-money laundering activities and terrorist financing at the national and international level;</p> <p>Since 2010 a unit of Statistics has been created in the UCREF. Periodical reports are available at UCREF.</p>	The 2016 annual report of UCREF to be published on its website.
33. Legal persons – beneficial owners	NC	<p>i. Enable the authorities to monitor effectively and record any changes in the bearers of bearer shares of corporations.</p> <p>ii.</p>	<p>Already done Refer to Circular 99-1, paragraph 1.1.2 <i>Limited Corporation</i>:</p> <p>f) Names of stakeholders, country of residence, mandated persons or related beneficiaries, percentage of shares held;</p> <p>g) Name of Board members and managers.</p>	
4. Legal arrangements – beneficial owners	NA			



Haiti Twelfth Follow-up Report

November 30, 2017

5. Conventions	NC	i. Take measures to implement the Vienna Convention;	<p>1) The adoption of the law of August 7, 2001 which confers the criminal nature of trafficking narcotics</p> <p>2) The adoption of measures for the confiscation of proceeds related to offenses punishable by law.</p> <p>3) The legal provisions for extradition and mutual legal assistance</p> <p>Refer to the Act of August 7th, 2001 on drugs trafficking.</p> <p>Please find copy enclosed</p>	.
		ii. Ratify and implement the Palermo Convention;	<p>The Palermo Convention has been ratified by Haiti in September 2009</p> <p>1. The Bill on money laundering and financing of terrorism addresses all the measures in the Palermo Convention related to the fight against money laundering.</p> <p>2. The law on corruption was voted on March 12th, 2014 and is published in the official Gazette.</p> <p>The law of May 9th, 2014 on corruption has already been conveyed to the CFATF Secretariat in this</p>	



Haiti Twelfth Follow-up Report

November 30, 2017

			regard.	
		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.	The remaining conventions related to terrorism to be conveyed to Parliament
5. Mutual legal assistance	LC	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.	
7. Dual criminality	LC		While Haiti, though various mechanisms, is fully cooperating with countries requesting MLAs and Extraditions, a more clarified legal framework is being implemented in the new draft AML/CFT legislation.	
8. Mutual legal assistance on confiscation and freezing	PC	i. Set up a mechanism for coordinating seizure and confiscation initiatives with other	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.	Draft Organic Law on Special Fund of Organized Crime to be finalized and conveyed to Parliament.



Haiti Twelfth Follow-up Report

November 30, 2017

		countries.		
D. Extradition	LC		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.	
D. Other forms of cooperation	NC	<ul style="list-style-type: none"> 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. 	<p>1. The Organic Law on UCREF was passed by Parliament on May 8th 2017.</p> <p>Pursuant to article 3, UCREF has the authority d) to exchange financial information in connection with money laundering and terrorist financing with foreign institutions, this within the framework of conventions or in enforcement of the principle of reciprocity;</p> <p>Article 27.- Subject to reciprocity, UCREF may exchange information with foreign services in charge of receiving and processing declarations of suspicious transactions, when these entities are subject to similar secrecy requirements, this regardless of the nature of these services. As such, UCREF may conclude cooperative agreements with these entities.</p>	<p>Implementation is ongoing.</p> <p>MOUs are being contemplated on bilateral and multilateral basis.</p>



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>When UCREF is presented with a request for information or transmission by a foreign counterpart entity processing a declaration of suspicious transaction, it shall follow-upon same within the framework of the powers vested upon it by the foregoing law, to process such declarations.</p> <p>2. Already Done</p>	
ine Special eommendations	Ratin g			
R.I Implement UN struments	NC	<p>i. Sign, ratify, and take measures to implement the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism</p>	<p>The implementation will be done through the Bill on Money Laundering and Financing of Terrorism.</p> <p>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.</p>	
R.II Criminalize terrorist financing	NC	<p>i. Criminalize terrorist financing, in compliance with the Convention on the Financing of Terrorism.</p>	<p>Article 1 of the Amendment Law dated as September 28th, 2016 set forth a definition of “<i>funds</i>” in line with international norms:Funds: assets of all nature, material and non-material, movable and real, tangible and intangible, or intangibles acquired by</p>	Implementation is ongoing



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>ii. Ensure that the future criminalization of terrorist financing and the sanctions meet the standards set by the Convention</p>	<p>any means whatsoever, as well as documents and juridical instruments in any form whatsoever, including in electronic or numerical format, attesting of the ownership or vested interest in such assets, including but not limited to bank loans, travelers' checks, bank checks, Powers-of-Attorney, shares, securities, bonds, drafts and letters of credit, as well as eventual interest, dividends, or other income or values drawn from, or generated by such assets.”</p> <p>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.</p> <p>As to the scope of these provisions of the LSMLTF within time, it is important to highlight the fact that this law does not have any retroactive effect. As a result of this, the provisions set out are relevant in the fight against money laundering and terrorist financing, going forward. This consideration somewhat impedes</p>	
--	--	---	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			<p>comment SR11.3 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.</p> <p>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.</p> <p>Please follow this link for reference: ly</p>	
R.III Freeze and confiscate terrorist assets	NC	<p>i. Introduce measures to provide for the freezing of assets used for terrorist financing, in accordance with the requirements of Resolutions 1267 and 1373.</p>	<p>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.</p> <p>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</p>	Implementation is ongoing



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>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”.</p> <p>In the context of the article 47 , the word “<i>funds</i>” clearly refers to “<i>goods</i>” 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.</p> <p>The Draft Executive Order has been submitted to Minister of Justice. Adoption process by the Council of Ministers is on-going. A copy will be conveyed to the CFATF Secretariat in</p>	
--	--	---	--



Haiti Twelfth Follow-up Report

November 30, 2017

			due course.	
R.IV Suspicious transaction reporting	NC	i. Expand the scope of suspicious transaction reporting to include terrorism and its financing	<p>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.</p> <p>Article 1 of the Amendment Law dated as September 28th, 2016 set forth a definition of “<i>funds</i>” in line with international norms:</p> <p>“Funds: assets of all nature, material and non-material, movable and real, tangible and intangible, or intangibles acquired by any means whatsoever, as well as documents and juridical instruments in any form whatsoever, including in electronic or numerical format, attesting of the ownership or vested interest in such assets, including but not limited to bank loans, travelers’ checks, bank checks, Powers-of-Attorney, shares, securities, bonds, drafts and letters of credit, as well as eventual interest, dividends, or other income or values drawn from, or generated by such assets.”</p>	Implementation is ongoing



Haiti Twelfth Follow-up Report

November 30, 2017

R.V International cooperation	NC	<p>i. Authorize all the financial sector supervisory bodies to participate actively in international cooperation between supervisors.</p> <p>ii. Expand the existing mechanism for extradition to include the offence of terrorist financing, once it has been criminalized.</p>	<p>1. Already Done Addressed through article 98 of Law on banks.</p> <p>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)</p> <p>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.</p>	<p>Implementation is ongoing.</p> <p>MOUs are being contemplated on bilateral and multilateral basis.</p>
R.VI AML/CFT requirements for money/value transfer services	NC	<p>i. Adopt a more proactive approach toward money transfer services currently provided in the informal sector.</p>	<p>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.</p>	<p>The Central Bank is working on policies and mechanisms aimed at fostering financial inclusion</p>



Haiti Twelfth Follow-up Report

November 30, 2017

R.VII Wire transfer rules	Wire	NC	<p>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.</p>	Closed (refer to fifth follow-up report)	Implementation of the application legal framework is ongoing and is being monitored by the Central Bank.
R.VIII Nonprofit organizations	Nonprofit	NC	<p>Strengthen the oversight of the identity of founding members and directors, their operations in terms of implementation of their projects, and their financial position, in order to guarantee that this sector cannot be used for money laundering or terrorist</p>	<ol style="list-style-type: none"> 1. This recommendation will be addressed in the new bill related to the non-profit organizations. 2. Seeking technical assistance for the realization of a study as recommended by the evaluators. 	<p>The Ministry of Justice and Public Security submitted a formal request to the Ministry of Planning and External Cooperation (MPCE) to adapt/modify the law on NGOs.</p> <p>Reinforce the role of the Unit of Control of the NGOs</p>



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>financing purposes Undertake a study of the risks of charitable organizations being misused for terrorist financing purposes should be conducted.</p> <p>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.</p>		(UCAONG) of the MPCE.
<p>R.IX Reporting/communication of cross-border transactions</p>	PC	<p>Establish either a declaration system or a reporting system;</p> <p>Incorporate this law into the customs code so as to ensure the legal basis for seizures and subsequent investigations;</p> <p>Implement reporting arrangements among and between customs, the police, and UCREF concerning information gathered after funds are seized;</p> <p>Establish penalties that tie the</p>	<p>These recommendations are addressed in the Bill on Money Laundering and Financing of Terrorism.</p> <p>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.</p> <p>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.</p> <p>UCREF is at the stage of drafting</p>	



Haiti Twelfth Follow-up Report

November 30, 2017

		<p>severity of punishment to the absence or presence of evidence of an illicit origin or destination for the funds.</p>	<p>MOUs to be signed with Customs administration, Tax administration... on information exchange.</p> <p>On the basis of articles 50 and succeeding of the AML/CFT Act of 2013, the guidelines issued by UCREF provide for the means and ways the Customs may send information to the FIU when relevant.</p>	