



Fourth Follow-Up Report

Jamaica

April 18, 2011

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JAMAICA: FOURTH¹ FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of Jamaica's report to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of Jamaica was adopted by the CFATF Council of Ministers in October 2005, in Jamaica. Based on the review of actions taken by Jamaica to meet the recommendations made by the Examiners a recommendation would be made as to whether Jamaica would remain on enhanced follow-up or be placed on regular follow-up.
2. Jamaica received ratings of PC on seven (7) of the sixteen (16) Core and Key Recommendations as follows:

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

3. With regard to the other non-core or key Recommendations, Jamaica was rated partially compliant or non-compliant, as indicated below.

Partially Compliant (PC)	Non-Compliant (NC)
R. 8 (New technologies and non-face-to-face business)	R. 12 (DNFBPs – R. ,6,8-11)
R. 11 (Unusual transactions)	R. 16 (DNFBPs R. 13-15 and 21)
R. 21 (Special attention for higher risk countries)	R. 20 (Other non-financial businesses and professions & secure techniques)
R. 25 (Guidelines and feedback)	R. 24 (DNFBPs regulation, supervision and monitoring)
R. 38 (Mutual legal assistance on confiscation and freezing)	SR. VIII (Non-profit organisations)
SR. VII (Wire transfer rules)	

¹ Jamaica's third follow-up report has been attached as Annex 1 to this report since most of the information pertaining to action taken on the recommendations remained unchanged in the current matrix. The most current information has accordingly, been summarized in the section entitled 'Summary of Progress made by Jamaica'.

4. The following table is intended to assist in providing an insight into the level of risk in the main financial sectors in Jamaica.

		Bank s	Other Credit Institution s*	Securities ^	Insuranc e (Life & General)	TOTA L
Number of institution s	Total #	7	54	32	16 ^a	109
Assets	US\$	6,766	2,922	5,903	2,519	18,110
Deposits	Total: US\$	4,323	1,990	n/a	n/a	6,313
	% of deposits Non- resident	6.6%	14.7%	n/a	n/a	9.1%
Internationa l Links	% of assets Foreign- owned**	95.1 %	9.1%	48.4%	87.5%	65.0%
	#Subsidiarie s abroad ^b	4	7	2	3	16

Data converted using weighted average selling rate as at 30 Sep. 2010.

n/a - Data not applicable.

*Includes Building Societies, Licensees under the Financial Institutions Act (FIA) and Credit Unions.

^ Includes Unit Trust Management Companies.

**Please note that the minority interest in ownership of financial institutions has been ignored.

^a While there are 16 registered insurance companies, one general insurer has decided to stop writing new business and hence is classified as being in "run-off" mode. This means that the company is not underwriting any new risk and not making any renewals, however it continues to service its existing policyholders until the insurance policies expire and claims have been settled. Therefore the data related to insurance companies relates to the 15 active companies.

^b Information provided pertains to the total number of subsidiaries abroad (and *not* to the number of licensees / registrants having subsidiaries abroad).

II. Summary of progress made by Jamaica

5. Since the third follow-up report, the Jamaican Authorities have enacted the Payment Settlement and Clearing Act, 2010. With regard to implementation of legislation, the Authorities have laid its first charge under the Terrorism Prevention Act².
6. Amendments are being made to the Proceeds of Crime Act. (POCA) to rectify deficiencies noted in Recs.11 and 13. The POCA is also being amended to create

² The person was charged in connection with a bomb hoax, which resulted in a seventy-two (72) hour ban on all air cargo from Jamaica to the United States, Canada and The Bahamas.

consistency between the definitions in the POCA and the Financial Investigations Division Act (FIDA) and to outline the powers of the respective competent authorities that have been designated under the POCA. The Money Laundering Prevention Regulations (MLPR) is also being amended to enhance requirements pertaining to compliance with Recs. 5, 8 – 10. The Terrorism Prevention Act (TPA) will also be amended to include a freezing measure that is more consistent with the FATF requirements pertaining to freezing the assets of listed entities and also to expressly allow for the confiscation (forfeiture) mechanisms to be applicable to property of corresponding value. These amendments are expected to enhance Jamaica's compliance with SR.III. The TPA amendments will also include reporting requirements with regard to suspicion of transactions linked to terrorists' acts. Further, the Terrorism Prevention (Reporting Entities) Regulations will also be amended to enhance requirements pertaining to Recommendations 5 and 8-10. The amendments have already been approved by Cabinet and the amendment legislation is being drafted. On March 25, 2011 Parliament approved amendments to the Terrorism Prevention Act. The amendments revised the wording of the listed entity provisions (section 14), inserted a STR clause and revised unusual transaction reporting provisions, all to reflect wording more consistent with the obligations outlined under the FATF Recommendations and Special Recommendations. The amendments now need to be signed by the Governor General and gazetted to be brought into effect.

7. With regard to the Financial Services Commission (FSC), it is expected to amend the Financial Services Commission Act (FSCA) in an effort to close gaps in its power to conduct consolidated supervision in keeping with the Omnibus Banking Act. This is intended to strengthen Rec. 23 implementation. The Jamaican Authorities have also noted that the Insurance Act (IA) (sec. 27) empowers the FSC to obtain the consolidated financial statements for group accounts and also the audited financial statements for subsidiary or associated companies. The Authorities are of the view that this provision is critical in their AML/CFT effort as it pertains to prudential supervision and the identification of red flags for financial crimes. The IA also allows the FSC to direct the winding-up of subsidiaries. The Securities Act at section 76(1) also empowers the FSC to prescribe reports that it may require from companies that are members of a group.
8. Beyond amending its legislation, the FSC is currently in the process of negotiating and signing a MOU with the Caribbean Group of Supervisory Regulators (CGSR) and negotiating the terms of bilateral MOUs with other countries. The FSC has also been invited to be a part of Members listed in Appendix B³ of the IOSCO MMOU and is consequently now a listed 'Appendix B Member'. The FSC is also a Member of regional regulatory associations. With regard to enhanced compliance with Rec. 33, the Companies Office is preparing a list of amendments to be made to the Companies Act, 2004. Measures to allow for the capture of information relating to beneficial ownership including the nationalities of beneficial owners. The list will be submitted to the line Ministry by March 31, 2011 and then to Cabinet for approval. On March 30, 2011 the list of amendments was issued to the Ministry of Industry, Commerce and Technology which is the Ministry with responsibility for overseeing the passage of legislation governing the operations of the Office of the Registrar of Companies.

³ Appendix B lists, with their consent, Members who are currently unable to become signatories but who are committed to obtaining the legal authority to sign the MMOU and who have completed the application process.

9. With regard to Rec. 10, the Authorities noted that the Securities (Conduct of Business) Regulations (Reg. 12); the IA (Sec. 29) and the FSC Guidelines all had record-keeping requirements. Although those in the IA were not specified as to duration, the Jamaican Authorities noted that all businesses subject to taxation in Jamaica usually kept records for a period of seven (7) years. The deficiency noted in the third follow-up report however remains outstanding. The Public Accountancy Board is also pursuing amendments to relevant legislation that will enhance its overall regulatory regime and extend their monitoring to include AML/CFT requirements. With regard to the proposed Omnibus legislation noted in the previous follow-up report, drafting instructions have been issued to the Office of the Chief Parliamentary Counsel. Several AML/CFT examinations have been conducted by the Securities Division (47); the Insurance Division (34) and the Pensions Division (2). This shows implementation of Rec. 29 as it pertains to Supervisors powers to inspect. It should be noted that no sanctions or penalties stemmed from any of the examinations.
10. The Ministry of National Security has also implemented a Transportation Cash Order, which pertains to persons entering or leaving Jamaica with cash amounting to or exceeding the equivalent of US\$10,000. Persons subject to the Order include travellers, shippers or mailers and persons in charge of conveyance. The definition of cash is broad and includes all 'notes and coins in any currency including bearer negotiable instruments such as postal orders, cheques including traveller's cheques, money orders, bearer bonds and bearer shares.' The Order was gazetted in July 2010 and it has been circulated to stakeholders to facilitate implementation. Sensitization and public education programmes will also be conducted. The transportation cash order reports must be made to the designated authority directly and/or indirectly through the border control processes (i.e. via Customs Officers).

International Cooperation

11. With regard to international cooperation, the Financial Investigations Division (FID) entered into its first MOU with a foreign FIU on November 19, 2010. Additionally, Jamaica has a new Chief Technical Director of the FID.

Implementation Statistics (Recs. 1 & 3)

12. The following statistics reflect Jamaica's ongoing implementation of the POCA:

▪	Number of persons convicted for ML offences	5
▪	Number of persons charged with ML offences	34
▪	Number of Restraint orders obtained	46
▪	Estimated value of property restrained	US\$5.44M & JA\$296.28 M
▪	Number of ML investigations in progress	26
▪	Number of Civil Recovery (CR) cases in progress	12
▪	Number of CR cases before the Courts	7
▪	Number of cash seizure cases in progress	83
▪	Number of cash seizure cases/money forfeited	173

Also of note is the work of the Anti-Corruption Branch of the Jamaica Constabulary Force (JCF) in conjunction with the Canadian law enforcement agencies, whereby in December 2010, the investigation of a multi-million dollar international narcotics drug operation resulted in approximately £1M worth of crack cocaine being found and the arrest of three (3) persons to date. With regard to the predicate offence of human trafficking, in October 2010, two (2) persons were charged with seven (7) counts of facilitating the offence of human trafficking, seven (7) counts of conspiracy, eight (8) counts of human trafficking and one (1) count of money laundering and withholding travel documents. With regard to the persons previously charged under the Cybercrimes Act, these matters are before the Courts.

Training

13. The FSC now has a Senior Director who is ACAMS certified and at least one other staff member will begin the certification process this year. Additionally, in April and June 2010 two (2) FSC representatives took part in a Central Bank Publications course on the implementation of a risk based framework to AML/CFT. This was followed in November 2010 by the FSC's fourth Annual AML/CFT Conference. The Conference focused on increasing awareness and understanding of AML/CFT issues and sensitizing participants to the importance of compliance with the AML/CFT laws. The Ministry of Justice in collaboration with a team of international donor partners hosted a three (3) day training conference on the establishment and strengthening of Drug Treatment Courts in the Caribbean Region.

III. Conclusion

14. Jamaica continues to make good progress with the implementation of its AML/CFT legislation. Of note is the charge made under the Terrorism Prevention Act. The FSC is making a positive outreach to the relevant stakeholders through training and the signing of an MOU, while other regulators have increased their level of onsite AML/CFT supervision. International cooperation has also been enhanced with the signing of the MOU by the FID, while the implementation of the Transportation of Cash Order will help with achieving compliance with SR.IX. There are also many amendments being drafted that will affect some of the key outstanding Recommendations and that there is a lot on Jamaica's legislative agenda which is aimed at improving its AML/CFT compliance and also the operation of its existing AML/CFT framework.
15. Overall compliance with the outstanding deficiencies noted in the previous follow-up report have not been rectified since they still await the passage of amendment legislation or the enactment of new legislation for example with regard to the DNFBP regime. It is clear that Jamaica is making a consistent effort. However, until the legislation is passed it is recommended that Jamaica remain in Enhanced follow-up. Given the progress however, the consideration as to whether to move Jamaica to the next stage of the Enhanced follow-up process should be deferred until the November 2011 Plenary.

ANNEX 1 JAMAICA: THIRD FOLLOW-UP REPORT

Introduction

1. This report represents an analysis of Jamaica's report to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of Jamaica was adopted by the CFATF Council of Ministers in October 2005, in Jamaica. Based on the review of actions taken by Jamaica to meet the recommendations made by the Examiners a recommendation would be made as to whether Jamaica would remain on enhanced follow-up or be placed on regular follow-up.
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Rating	PC	LC	LC	PC	PC	PC	LC	LC	PC	LC	PC	LC	LC	LC	PC	LC

3. With regard to the other non- core or key Recommendations, Jamaica was rated partially compliant or non-compliant, as indicated below.

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R. 38 (Mutual legal assistance on confiscation and freezing)	SR. VIII (Non-profit organisations)
SR. VII (Wire transfer rules)	

4. The following table is indented to assist in providing an insight into the level of risk in the main financial sectors in Jamaica.

**Size and Integration of the Jurisdiction's financial sector Jun. 2010
(US\$millions)**

		Banks	Other Credit Institutions*	Securities	Insurance (Life & General)	TOTAL
Number of Institutions	Total #	7	54	32	16 ^a	109
Assets	IN US\$	6,752	2,901	5,834	2,424	17,912
Deposits	Total: in US\$	4,352	1,975	N/A	N/A	6,327
	% deposits held by Non-residents	6.7%	14.0%	N/A	N/A	9.0%
International Links	Foreign owned as a % of sector assets**	95.2%	9.0%	48.9%	86.8%	65.0%
	# of Subsidiaries abroad^b	4	7	3	3	17

Data converted using weighted average selling rate as at 30 Jun. 2010.

N/A - Data not applicable.

*Includes Building Societies, Licensees under the Financial Institutions Act (FIA) and Credit Unions.

**Please note that the minority interest in ownership of financial institutions has been ignored.

^a While there are 17 registered insurance companies, one general insurer has decided to stop writing new business and hence is classified as being in "run-off" mode. This means that the company is not underwriting any new risk and not making any renewals, however it continues to service its existing policyholders until the insurance policies expire and claims have been settled. Therefore the data related to insurance companies relates to the 16 active companies.

^b Information provided pertains to the total number of subsidiaries abroad (and *not* to the number of licensees / registrants having subsidiaries abroad).

* Please include savings and loans institutions, credit unions, financial cooperatives and any other depository and non-depository credit institutions that may not be already included in the first column.
* If any of these categories are not regulated, please indicate so in a footnote and provide an estimate of the figures

CASH SEIZURES FROM OPERATIONS IN APRIL 2010

CURRENCY	AMOUNT \$	EXCHANGE RATE	TOATAL JA \$
Jamaica	19,738,450.00	1	19,738,450.00
United States America	242,966.00	88	21,381,008.00
United Kingdom	1,525.00	134	204,350.00

Canada	1,335.00	87	116,145.00
Hong Kong	201.00	11	221,100.00
China	4,111.00	12	49,332.00
Peru	100.00	31	3,100.00
Cayman	52.00	108	5,616.00
CONVERTED AMT.			41,719,101.00

Statistics for the period April 2010 to present.

CURRENCY	AMOUNT
JAM	44,790,302.00
US	1,078,329.00
CAN	26,860.00
£	2,310.00
HONGKONG	20,410.00
CHINA	12.00
CI	72.00
PERU	100.00

Summary of progress made by Jamaica

16. Since the second follow-up report, the Jamaican Authorities have enacted the Casino Gaming Act, 2010. The position paper on the Regime for Designated Non-Financial Businesses and Professions (DNFBPs) was accepted and approved by Cabinet on June 7, 2010 and in September 2010 the Office of the Prime Minister assumed responsibility for the implementation of the regime. Additionally, the omnibus legislation to enhance the powers of the Bank of Jamaica (BOJ) was approved by Cabinet in August 2010. These developments represent a positive step forward in measures undertaken by the Jamaican Authorities in the first and second quarters of 2010.

International Cooperation

17. With regard to international cooperation, the outstanding extradition request from the United States of America for accused drug trafficker Christopher ‘Dudus’ Coke has been executed and the Authorities have identified and frozen the individual’s assets.

Core Recommendations

Recommendation 1

18. The following statistics⁴ (August 2010 updates) reflect Jamaica’s ongoing implementation of the POCA:

- Number of Restraint orders obtained 45

⁴ Please see attached the statistics on ‘Seizure of Cash’ by Agency for the period 2007 to August 2010.

▪ Number of ML investigations in progress	23
▪ Number of Civil Recovery (CR) cases in progress	3
▪ Number of CR cases before the Courts	6
▪ Estimated value of property restrained	JA\$289.9 M
▪ Number of cash seizure cases in progress	51
▪ Number of cash seizure cases/money forfeited	171

The funds (USD\$565,160) seized at the Sangster International Airport on December 25, 2008 were ordered forfeited to the Crown following investigations. (See attached matrix or second follow-up report). The Jamaican Authorities are also preparing to charge two (2) persons under the Cybercrimes Act.⁵ In October, a third person who was charged with larceny as a servant and breaches of the Cyber Crimes Act⁶ plead guilty and was sentenced to a fine and/or six months for breaches of the Cyber Crimes Act.

Recommendation 5

19. With regard to Recommendation 5, there is only partial compliance since financial institutions other than those supervised by the BOJ are not covered (E.C. 5.7.1 ongoing due diligence). However, with regard to the issue of the BOJ's Guidance Notes meeting the OEM standard, (an outstanding issue in the previous follow-up reports), the POCA stipulates that compliance with relevant AML Guidance Notes by the Competent Authority will be specifically taken into account by a Court in determining whether a person is compliant with the AML requirements under the POCA. The Authorities have noted that advice received at the time of the last MEV based on this formulation of the law which was then set out in the MLA, was that the requirement rendered compliance with the Guidance Notes a mandatory one. Since then the language of the POCA was revised to include the requirement that these Notes should be approved by the Minister (i.e. the Minister of National Security who has oversight of the POCA) and gazetted.

The BOJ AML/CFT Guidance (revised 2009) were approved by the Minister in April 2010 and the Authorities have been advised by the Government Printing Office that these Notes have also been gazetted⁷ and that printed copies will be soon be available. The requirements of Recommendation 5 together with the power to issue Guidance Notes

⁵ The persons were found to be in possession of electronic devices that can be used to intercept transactions and to duplicate PINs and other personal information from customers using ABMs.

⁶ This person was a bank employee who was arrested and charged after using a computer to remove money from a customer's account and wiring the funds to a tertiary institution to finance the program of studies that was being pursued by this individual.

⁷ There has since been one case in which a local commercial bank was brought before the Resident Magistrate Court under the MLA for not filing Threshold Transaction Reports in compliance with directions of the designated authority (which under the MLA was the DPP). The Resident Magistrate upheld the local bank's 'No case' submission in essence agreeing with the position that where the MLA indicated that the designated authority should make directions and the financial institutions are to comply, and non-compliance can give rise to a criminal conviction under that Act, in those circumstances and in absence of evidence to the contrary the RM could only conclude

(i) that Directions used here (in the MLA) would be "law making power" i.e. Regulations; and
(ii) the Designated Authority would accordingly be obliged to follow the provisions as laid down in the Interpretation Act to bring the Directions into effect i.e. to ensure the Directions were gazetted.

under the POCA will be revisited to make a clear determination as to whether the requirements contained in the Guidance Notes should be expressly stated in the law (i.e. Principal Act/ Regulations) or whether the framework relating to the issue of Guidance Notes should be upgraded to meet the FATF OEM criteria.

Recommendation 10

20. The Examiners' recommendations are still outstanding. There is no provision in law or regulation with regard to financial institutions being required to keep records for longer periods on the request of a competent authority in specific cases or requiring financial institutions to ensure that all customer transaction record and information are available on a timely basis to domestic competent authorities. There is a broad requirement at Section 33 of the FID Act which does not specifically address the requirements noted for this recommendation. The proposed Omnibus legislation and amendments to the FID Act are however expected to address these issues.

Special Recommendation IV

21. This recommendation remains outstanding. As noted in the second follow-up report, Regulation 15 of the Terrorist Prevention (Reporting Entities) Regulation, 2010 (TPR) did not meet the Examiners' recommendation since the provision appears to be a record keeping requirement for the nominated officer and not a requirement to report STRs that are suspected to be linked or related to or to be used for terrorism, terrorist acts etc. In its review of this Report, the Jamaica Authorities have noted the position on this issue and intend to revisit the CFT laws with a view to satisfying the Examiners' recommendation.

Key Recommendations

Recommendation 35

22. This recommendation remains partially outstanding. However, it should be noted that the Terrorism Prevention (Reporting Entities) Regulations, 2010 was enacted on March 19, 2010.

Other Recommendations

Recommendations 8

23. The requirement has not been met with regard to BOJ licensees because as noted previously BOJ Guidance Notes are not considered to be OEM.

Recommendation 11

24. This Recommendation remains partially outstanding as a result of the status of the BOJ Guidance Notes and Section 94(3) of the POCA does not meet the provision as contemplated by the FATF Recommendations. The Authorities have however stated that the POCA will be revisited with a view to looking at amendments that will satisfy the Examiners' recommendation with regard to Rec. 11 and the power to issue Guidance Notes under the POCA will be revisited as earlier indicated in this report to determine the approach best suited to addressing the FATF Recommendations.

Recommendations 12 and 16

25. The Jamaican Authorities have made notable progress with regard to their DNFBP regime although the Examiners' recommendations still remain outstanding. The Position Paper on the Regime for Designated Non-Financial Businesses and Professions was accepted by Cabinet on June 7, 2010. In September 2010, the Prime Minister assumed responsibility for the implementation of the regime. The Authorities have stated that the next step will involve the convening of a Task Force, which will have the responsibility of recommending the legislative amendments and enhancements to bring the regime into effect. The Task Force will be chaired by the BOJ and also include all the relevant Ministries. The BOJ has detailed the implementation steps as follows:

- Passage of legislation dealing with Trust and Corporate Services providers
- Amendments to the Real Estate Board Act; the Public Accountancy Board Act and the Legal Profession Act.
- Public sensitization initiatives to be undertaken by the FID.

26. The full range of DNFBPs as required by the FATF Recommendations will be covered under the new regime.

Recommendation 20

27. As noted in the previous Report, the Jamaican Authorities have been assessing areas of ML vulnerability. The FID has already determined that the risk of ML posed by pawn brokers is relatively insignificant. Preliminary findings also view the entertainment business and used car dealers as possible vulnerable areas. The Authorities have also noted the DNFBP regime, which will be implemented.

Recommendation 21

28. The recommendation still remains outstanding for the reasons noted in the previous follow-up reports (non OEM status of the BOJ Guidance Notes and of the FSC Guidelines and the fact that no specific provision that the findings in any event be kept to assist competent authorities and auditors.).

Recommendation 24

29. The Casino Gaming Act, 2010 was passed in March 2010 and assented to in May 2010. Pursuant to the Act, casinos will be subject to regulation by the Casino Gaming Commission (the Commission). The functions of the Commission include 'establishing

and implementing measures to ensure responsible casino gaming activities, limit opportunities for crime and disorder in casino gaming activities and to prevent ML and TF activities in relation to casino gaming' (Section 6). Sections 14 and 15 respectively require persons to be licensed by the Commission if they wish to offer casino gaming activities and operators are to meet the fit and proper test. Once granted, the license is subject to review every five (5) years and is not transferable (Sections 20 and 21 respectively). The Act also provides the Commission with disciplinary power and subjects casinos to inspections (Sections 44-46). Disciplinary action includes warnings, variation of a license or variation of the terms of a license or revocation of the license. The enactment of the Casino Act is a positive move towards compliance with the Examiners' recommendation and substantially complies with the Examiners recommendation. Implementation of the Act is needed for full compliance.

Recommendation 25

- 30.** The Examiners' recommendations with respect to DNFBPs have not been met. As noted earlier, the process for the establishment of a DNFBP regime is ongoing. (See discussion above at Rec. 12).

Special Recommendation VIII

- 31.** This Examiners' recommendations remain outstanding since the legislative enhancements are still pending.

III. Conclusion

- 32.** With regard to the Core Recommendations, the recent improvements to Jamaica's AML/CFT regime have not affected compliance with the Examiners' recommendations and consequently Recommendations 5, 10 and SR. IV remain outstanding. The Omni bus legislation being contemplated should however lead to compliance in the future. For the Key Recommendations, there have been no changes from the status of the last report - Recommendation 40 has been complied with while Recommendation 35 remains partially outstanding. With regard to the other Recommendations, progress has been made with regard to Recs. 12, 16, 20 and 24 since the Jamaican Authorities have moved forward with the recommendations on the proposed DNFBP regime. Since this process is still ongoing compliance with the Recommendations has still not been achieved.
- 33.** Based on the aforementioned, it is recommended that Jamaica remain on enhanced follow-up and be required to report back to the May 2011 Plenary at which time if the situation remains unchanged Plenary should give consideration to moving to the next step in the Enhanced follow-up procedures.

Y-T-D CASH SEIZURES UNDER POCA PER AGENCY (2007 to 2010)

TOTALS												
Agency	US\$	JA\$	CAN\$	£	€	Bah\$	TT	Hong Kong	BAR	China	Cay	Peru
FRAUD	1,120,670.00	12,310,713.00	97,420.00	80,240.00	11,700.00	-	3,278.00	20,410.00	-	-	-	-
OCID	2,552,648.06	72,692,512.54	25,090.00	85,870.00	510.00	4,288.00	-		-	12.00	72.00	100.00
CUSTOMS	2,842,328.60	217,000.00	42,270.00	306,420.00	195.00	-	-	10.00	-	-	-	-
NARCO	427,696.00	8,244,750.00	1,100.00	26,395.00	178,000.00	-	-	-	30,840.00	-	-	-
TOTAL	6,943,342.66	93,464,975.54	165,880.00	498,925.00	190,405.00	4,288.00	3,278.00	20,420.00	30,840.00	12.00	72.00	100.00

as @ July 31,2010

Y-T-D CASH SEIZURES UNDER POCA PER YEAR (JAN-DEC)

Breakdown												
2007	US\$	JA\$	CAN\$	£	€	Bah\$	TT	Hong Kong	BAR	China	Cay	Peru
FRAUD	195,421.00	1,134,026.00	74,000.00	7,000.00	-	-	-	-				
OCID	1,943,601.06	11,317,982.54	21,930.00	4,885.00	400.00	4,288.00						
CUSTOMS	645,155.00	110,000.00	11,830.00	233,790.00	-	-	-					
NARCO												
	2,784,177.06	12,562,008.54	107,760.00	245,675.00	400.00	4,288.00	-	-	-	-	-	-
2008												
FRAUD	261,612.12	277,000.00	-	2,500.00	-	-	-	-				
OCID	40,345.00	59,000.00	-	-	-							
CUSTOMS	1,132,741.00	-	-	20,105.00	-	-	-					
NARCO	41,525.00	173,500.00	-	10,345.00	-	-	-	-				

	1,476,223.12	509,500.00	-	32,950.00	-	-	-	-	-	-	-	-
2009												
FRAUD	655,093.88	7,174,900.00	23,400.00	70,700.00	11,700.00	-	3,278.00					
OCID	183,466.00	15,830,486.00	420.00	78,740.00	110.00	-						
CUSTOMS	430,617.60	-	30,440.00	52,525.00	195.00	-		10.00				
NARCO	203,846.00	1,378,550.00	1,100.00	16,050.00	178,000.00	-	-		30,840.00			
	1,473,023.48	24,383,936.00	55,360.00	218,015.00	190,005.00	-	3,278.00	10.00	30,840.00	-	-	-
	as @ July 31,2010											
2010												
FRAUD	8,543.00	3,724,787.00	20.00	40.00								
OCID	385,236.00	45,485,044.00	2,740.00	2,245.00				20,400.00		12.00	72.00	100.00
CUSTOMS	633,815.00	107,000.00										
NARCO	182,325.00	6,692,700.00										
	1,209,919.00	56,009,531.00	2,760.00	2,285.00	-	-	-	20,400.00	-	12.00	72.00	100.00
TOTAL	6,943,342.66	93,464,975.54	165,880.00	498,925.00	190,405.00	4,288.00	3,278.00	20,410.00	30,840.00	12.00	72.00	100.00

	Aug-10											
	US\$	JA\$	CAN\$	£	€							
2010												
FRAUD												
OCID												

CUSTOMS
NARCO
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**Matrix with Ratings and Follow Up Action Plan 3rd Round Mutual Evaluation
Jamaica (Update for May 2011 CFATF Plenary)**

FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by Jamaica
Legal systems				
1. ML offence	PC	<p>The MLA only criminalizes the laundering of property derived from specific offences (including drug offences, offences involving fraud, dishonesty or corruption, and arms trafficking offences against the Firearms Act)</p> <p>Predicate offences for money laundering are limited and do not cover the range of offences in the FATF designated categories of offences.</p>	<ul style="list-style-type: none"> The POCA should be passed with due haste. The definition of money laundering in the MLA should be extended to incorporate all the predicate offences required by Recommendation 1. 	<p>The POCA is to be amended to address the deficiencies identified in relation to the following FATF Recommendations-</p> <p>R. 11- Unusual transactions R. 13 – Suspicious Transactions</p> <p>The POCA is also being amended to ensure consistency in definitions of terms used in the POCA with those used in the Financial Investigations Division Act (i.e. FIU Act). The POCA is also being amended to outline the powers that competent authorities designated under the POCA will have in relation to their role of monitoring compliance with the AML requirements under the POCA.</p> <p>The Money Laundering Prevention Regulations under the POCA are also being amended to enhance requirements therein in relation to the following FATF Recommendations –</p> <p>R. 5 - CDD R. 8 – Emerging Technology and non-face-to-face business R. 9 – Third parties and Introducers R. 10 – Record Keeping</p> <p>The relevant Cabinet Submission is being prepared.</p> <p>The POCA was passed and came into effect in <u>May, 2007</u>.</p> <p>The POCA allows for any crime to constitute a predicate offence for money laundering charges. Under the POCA money laundering is an act comprising dealings of any kind with criminal property (s. 92). Criminal property means the benefit derived whether wholly, partially, directly or indirectly from any conduct constituting criminal conduct. (s. 91) Criminal</p>

				<p>conduct means any conduct which in Jamaica constitutes an offence or which if it occurred outside of Jamaica, would constitute an offence if it took place inside Jamaica. (s. 92)</p> <p>Subsequent to the passage of the POCA several persons have been arrested and charged under that Act for, inter alia, money laundering..</p> <p>Progress made by law enforcement in enforcement of the POCA is outlined in the statistics below:</p> <ul style="list-style-type: none"> • Jamaica has five human trafficking cases before the Courts and two at an advanced stage of investigation to go before the Courts⁸. • Number of Customer Information Orders Served 46 • Number of Disclosure Orders Served 39 • Number of Restraint Orders Obtained 42 • Estimated value of property restrained \$89.9M • Persons charged with ML offences 34 • Persons convicted for ML offences 4 • Seizure of Proceeds Statistics for the period April 2009 – April 2010 are provided in an attachment⁹ to this Matrix. <p><u>August 2010 Updates</u></p> <ul style="list-style-type: none"> • Number of Restraint Orders Obtained 45 • Estimated value of property restrained \$289.9M • Number of M L Investigation in progress 23 • Number of Civil Recovery cases in progress 3 • Number of Civil Recovery cases before the Court 6 • Number of Cash Seizure cases before in
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				<p>progress 51</p> <ul style="list-style-type: none"> • Number of cash seizure case ordered forfeited to the Crown 171 • Seizure of Cash Statistics for the period 2007-August 2010 by Agency provided in an attachment¹⁰ to this Matrix. <p>Specific examples of recent international collaboration by local authorities and their international counterparts</p> <p>🚩 In December 2010 the Anti-Corruption Branch of the Jamaica Constabulary Force (JCF) collaborated with law enforcement agencies in Canada in the investigation of a multi-million dollar, international narcotics drugs operation which resulted in close to \$1million worth of crack cocaine being found and the arrest of three (3) persons to date.</p> <p>🚩 the establishment of JOLT in <u>May 2009</u>. This is a joint Task Force involving law enforcement officers from the US, Canada and Jamaica, to tackle lottery scam activities which activities are believed to be responsible for fleecing persons in America of approximately USD30million in 2008. The taskforce is called the Joint Operations Linked to Telemarketing (JOLT) and comprises officers from:</p> <ul style="list-style-type: none"> ➤ US Immigration and Customs Enforcement Division; ➤ US Embassy in Jamaica; ➤ Local Jamaican Authorities including officers from the Jamaica Constabulary Force, Customs, Passport & Immigration Dept.; office of the DPP; officers from the Montego Bay Resident Magistrates Court and officers from the FID. <p>Since JOLT's establishment, the initiatives undertaken include the search and seizure of property and following investigations two persons were charged</p>
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				<p>with conspiracy to defraud and money laundering and ten(10) police officers were recommended for retirement in the public interest for their alleged roles in the lotto scams. J\$100million was also recovered and steps are being taken to have these funds returned to persons fleeced in the lotto scams. The process of repatriation of funds to victims of the lotto scams has commenced.</p> <p>Between <u>June and July 2009</u> the police acting under the POCA confiscated more than J\$300million from persons involved in criminal activities.</p> <p>Specific examples of cases involving action taken for breaches of the Customs Declaration requirements are:</p> <p>➤In <u>September 2009</u> members of the Jamaica Customs Cargo Imaging Team of the Border Protection Unit seized a total of USD57,850 from a passenger at the Sangster International Airport in Montego Bay after he was searched and found with sums of money that were not disclosed on the Customs Declaration Form. The funds were confiscated pending further investigation.</p> <p>➤Earlier in December 2008 a total of USD565,160 was seized by the Customs Department at the Sangster International Airport on Christmas Day from three passengers who failed to make the requisite declarations to customs officers on duty. The funds were seized under the POCA. Following investigations the funds were ordered forfeited to the Crown.</p> <p>Outstanding Extradition request from the USA for accused Drug Trafficker Christopher “Dudus” Coke has been executed and the local authorities have frozen the identified assets associated with this individual.</p> <p>Jamaica is now looking at charging 2 persons under the <u>Cybercrimes Act</u>. These persons and their vehicle were searched on suspicion and found to be in possession of electronic devices that can be used to intercept transactions and to duplicate PINs and other</p>
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				<p>personal information from customers using ABMs.</p> <p>In October 2010 2 persons were charged with - 7 counts of facilitating the offence of human trafficking; 7 counts of conspiracy; 8 counts of human trafficking and 1 count of money laundering and withholding travel documents.</p>
2. ML offence— mental element and corporate liability	C	The Recommendation is fully observed		<p>POCA s. 92 and 93 establish the requisite mental element for the ML offence. Person is defined under the Interpretation Act to include bodies corporate.</p> <p>Both the POCA and the TPA make specific reference to the penalties specifically applicable to individuals and those specifically applicable to bodies corporate.</p>
3. Confiscation and provisional measures	LC	<p>The relevant extant legislation limits forfeiture to property derived from or used in the commission of predicate offence which does not include all serious offences.</p> <p>There is no provision for restraint of property intended to be used in the commission of an ML, FT or other predicate offence.</p> <p>There is no provision for forfeiture of property of corresponding value with regard to terrorism offences.</p>	<ul style="list-style-type: none"> • POCA should be enacted with due haste; • DOFPA should have a provision for the restraint and forfeiture of property that constitutes instrumentalities intended for use in the commission of any ML, FT or other predicate offences, and property of corresponding value. • The TPA should be amended to include a provision for forfeiture of property of corresponding value. 	<p>The POCA was passed and came into effect in May, 2007.</p> <p>With the passage of the POCA, the Money Laundering Act (MLA) and the Drug Offences Forfeiture of Proceeds Act (DOFPA) were effectively repealed and replaced.</p> <p>Section 5 of the POCA treats with the applicable forfeiture regime regarding any property used in, or in connection with the commission of an offence for which a defendant has been convicted in either the Supreme Court or Resident Magistrates Court. Section 5 also provides that where a Court is satisfied that a forfeiture order should be made but for the reasons outlined in section 5(5) such an order cannot be made in respect of the property in question, the Court may instead order the defendant to pay to the Crown, an amount equal to the value of the property (i.e. a pecuniary penalty order).</p> <p>As regards intended instrumentalities, section 32 of the POCA permits an application for restraint order to be made to restrain any free property held by the defendant or to restrain any free property held by the recipient of a tainted gift. Restraint order applications can be made where it is believed an alleged offender has benefited from his criminal conduct and a criminal investigation has started in relation to that offence; or</p>

				<p>proceedings in Jamaica have commenced for that offence and have not been concluded or an application for forfeiture, has been made.</p> <p>This regime similarly applies to TF Offences since such offences would be considered criminal conduct under the POCA.</p> <p>In addition, section 19 of the Criminal Justice (Law Reform) Act provides for the forfeiture of any property used or intended to be used in the commission of <u>any offence</u> upon the accused conviction of an offence punishable on indictment for a term of 2 years or more. Both the ML offences (POCA s. 92 and 93) and the TF offences (TPA s. 3-12) meet this criteria.</p>
Preventive measures				
4. Secrecy laws consistent with the Recommendations	LC	The FSC's inability at the time of the mutual evaluation to sign the IOSCO MOU allowing the sharing of information.		<p>By letter dated October 15, 2010, IOSCO invited the FSC to join the list of IOSCO Members listed in Appendix B of the MMOU. Appendix B has an attachment that lists, with their consent, members who currently are unable to become signatories but who are committed to obtaining the legal authority to sign the MMOU and who have completed the application process. Jamaica is now listed as an "Appendix B" Member.</p> <p>In order to acquire Appendix A (signatory) status, the FSC has proposed amendments to the Securities Act which will put the FSC in the position to sign the MMOU. The proposals have been circulated to the Attorney General and Director of Public Prosecutions for comments. It is envisaged that the Securities Act amendments will be brought into effect before the end of 2012.</p> <p>The FSC's signatory B status does not prevent it from participating in bilateral, regional and other multilateral MOUs with its overseas counterparts.</p> <p>The FSC is a member of regional regulatory associations such as the Caribbean Group of Securities Regulators ("CGSR") and the Caribbean Association Insurance Regulations ("CAIR") which</p>

				<p>has as part of their objectives the promotion of cooperation amongst members in information sharing and other enforcement related ventures.</p> <p>Presently the FSC is in the process of negotiating and is close to signing a Multilateral Memorandum of Understanding with other CGSR members. The CGSR MMOU should be in effect before the end of February 2011. The FSC is also in the process of negotiating the terms of bilateral MOUs with other countries. Additionally, we have also requested and provided assistance and continue to collaborate with other jurisdictions outside the region.</p> <p>The Financial Services Commission (Overseas Regulatory Authority) (Disclosure) Regulations, 2005 which allow for the sharing of regulatory information between the FSC and its overseas counterparts were passed into law in April 2005. These adjustments mean that the FSC's earlier "inability to sign the IOSCO MOU" (basis of LC rating) had been effectively removed since April 2005.</p>
5. Customer due diligence	PC	<p>No specific law prohibiting the keeping of anonymous accounts or accounts in fictitious names;</p> <p>No undertaking of CDD measures when there is doubt about the veracity or adequacy of previously obtained customer identification data;</p> <p>No requirement for financial institutions to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person;</p> <p>No specific statute for conducting ongoing due diligence on a business relationship;</p> <p>No specific requirement for determination of the natural persons that ultimately own or control legal persons or legal arrangements;</p> <p>No requirement for financial institutions to consider making a STR when unable to obtain satisfactory evidence or verification of identity of</p>	<ul style="list-style-type: none"> Financial institutions should be required to undertake customer due diligence measures when there is doubt about the veracity or adequacy of previously obtained customer identification data; Specific prohibition against the keeping of anonymous accounts or accounts in fictitious names should be enacted; Financial institutions should be required to verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person; Financial institutions should be required to take reasonable measures to determine who are the natural persons that ultimately own or control customers who are legal persons or legal arrangements; Financial institutions should be required to conduct ongoing due diligence on the business relationship. 	<p>The POCA (MLP¹¹) Regulations, 2007 require CDD measures comprising transaction verification procedures to be applied particularly in the circumstances specified in regulation 7(3) which include where there is doubt about the accuracy of any previously obtained evidence of identity. The continuation of the business relationship is prohibited if this requirement cannot be fulfilled by the financial institution. (r.7(2))</p> <p>The POCA (MLP) Regulations, 2007 specifically prohibits financial institutions from maintaining anonymous, fictitious or numbered accounts. (r. 16) (See also BOJ (AML/CFT) Guidance Notes paragraph 93)</p> <p>The POCA (MLP) Regulations, 2007 requires procedures to be in place to ensure that the identities of both principals and agents are obtained, and that the authorizations of agents are obtained in the case of transactions being conducted by a person on behalf of another. (r. 11, 12 and 13)</p>

		<p>customers/beneficial owners</p> <p>No requirement for verification of legal status of legal arrangements;</p> <p>No requirement for financial institutions to terminate existing business relationship once the financial institution is not able to obtain satisfactory evidence or verification of the identity of customers/beneficial owners and to consider making an STR in such cases;</p> <p>Compliance testing yet to be completed in the case of FSC regulated institutions</p>		<p>The POCA (MLP) Regulations, 2007 stipulates that measures are satisfactory where in the case of any transaction involving settlements, trusts or other types of legal arrangements, the identity of the settler, legal owner or other person who exercises effective control of the legal arrangement as the case may require, or the beneficial owner, is established. (r. 13(c)).</p> <p>The POCA (MLP) Regulations, 2007 prohibits the continuation of the business relationship unless customer information is updated at least once every 5 years. (r. 7(1))</p> <p>As regards the FSC, the procedure manuals were updated prior to the mutual evaluation to include modules on AML/CFT testing. The compliance testing reviews of the AML policies and procedures were completed from as far back as 2005 and completed for all FSC regulated entities in the insurance and securities industries, and regulatory action taken in the form of directions to the regulated entities.</p> <p>The FSC updated Guidelines, effective October, 2005, have also included the recommendations of the assessors, and these issues are addressed at Section V, 111 (Page 100-101).</p>
6. Politically exposed persons	LC	<p>Guidance notes and guidelines do not fully comply with the requirement for ascertaining the source of funds and wealth for PEPs.</p>	<ul style="list-style-type: none"> The GN and GL should be reviewed in order to be consistent with the requirement for the investigating and determining of the source of funds and wealth of PEPs, the consideration of the making of STRs when satisfactory proof or verification of the identity of a customer is not obtained and the formulation of reasonable due diligence procedures for the verification of the legal status of legal arrangements. Financial institutions should also be required to terminate existing business relationships once they are not able to obtain satisfactory evidence or verification of identity of customers/beneficial owners and to consider making an STR in such cases. . 	<p>The BOJ (AML/CFT) Guidance Notes paragraph 79 now speak specifically to the additional specific requirement for financial institutions to investigate and determine on the source of funds and wealth of PEPs. Paragraph 46 requires financial institutions to consider making STRs when satisfactory proof or verification of a customer's identity is not obtained, whether or not the transaction is completed. The requirement is also extended to the existing client base for financial institutions.</p> <p>The POCA(MLP)Regulations, 2007 r.7 prohibits continuing a business relationship where the CDD verifications are not satisfactory. (r.7(2) and r. 19 extends the CDD/KYC update requirements to existing</p>

				<p>customers of the financial institution. (See also paragraph 46 of the BOJ (AML/CFT) Guidance Notes).</p> <p>Paragraphs 73 and 74 of the BOJ (AML/CFT) Guidance Notes specifically require the KYC due diligence measures in relation to legal arrangements including identification of all parties and beneficiaries concerned, source of funds and source of wealth and trust arrangement details to be undertaken.</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security. These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm</p> <p>As regards the FSC Guidelines please note that Sections V and W of the FSC Guidelines which fully satisfy all the Recommendation 6 criteria, including that of ascertaining the source of funds and wealth for PEPs were in effect prior to the the 2005 Mutual Evaluation.</p>
7. Correspondent banking	LC	Financial institutions are not required to ascertain whether respondent institutions have been subject to a ML/FT investigation or regulatory action.	<ul style="list-style-type: none"> Financial institutions should also be required to ascertain whether respondent institutions have been subject to an ML/FT investigations or regulatory action. 	<p>Paragraph 82 of the BOJ (AML/CFT) Guidance Notes have been revised to expressly require financial institutions to ascertain whether respondent institutions have been subject to ML/FT prosecutions or investigations.</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p>
8. New technologies & non face-to-face business	PC	Absence of requirement for the licensees to be cognizant of misuse of technological advancements and have policies and procedures to address any specific risks associated with non-face to face business relationships or transactions in respect of non BOJ regulated institutions.	<ul style="list-style-type: none"> FSC regulated institutions should be required to have policies in place or take such measures to prevent the misuse of technological developments in ML/FT schemes and address specific risks associated with non-face to face business relationships or transactions. 	<p>Prior to the mutual evaluation exercise the FSC Guidelines explicitly addressed measures our licensees and registrants should incorporate within their respective policies and procedures manual to mitigate the risk associated with non-face to face customers. See the section entitled <i>Non Face to Face Customers</i> on page 98 of our Guidelines.</p>

				<p>Subsequent to the mutual evaluation exercise, the FSC Guidelines have since been revised to include enhanced guidance on the risks associated with technological developments and the possible misuse of these avenues to effect ML/FT schemes. The Guidelines also require FSC regulated financial institutions to have policies in place to prevent the misuse of technological developments for ML/FT schemes. See Part IV – “Internet & Cyber-business” page 144 of these Guidelines.</p> <p>The revised FSC Guidelines are available on the FSC’s web site at www.fscjamaica.org/</p> <p>The BOJ AML/CFT Guidance Notes specifically direct licensees to the FATF report on ‘New Payment Methods and How This Can Be Used to Facilitate Money Laundering.’ These Guidance Notes also take into account Jamaica’s Electronic Transactions Act which came into effect in April 2007.</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security. .</p> <p>These revised Guidance Notes are available on the Bank’s web site at www.boj.org.jm.</p>
9. Third parties and introducers	LC	Broadly in compliance except for lack of requirement for FSC regulated FIs to obtain from the third party the necessary information concerning certain elements of the CDD process and also that the ultimate responsibility for the CDD remains that of the FIs in case of introduced business.	<ul style="list-style-type: none"> There is need to clarify, especially in case of the financial institutions regulated by the FSC that they must immediately obtain from the third party the necessary information concerning certain elements of the CDD process and also that the ultimate responsibility for the CDD remains that of the financial institution in case of introduced business. 	<p>The FSC Guidelines were revised to explicitly reflect that:</p> <ol style="list-style-type: none"> Financial institutions should immediately obtain from third parties all the necessary information relating to the CDD process; and Ultimate responsibility of CDD obligations resides with the financial institution relying on the introducing institution. (See Section 111, Part V (111) -Cases Requiring Third Party Evidentiary Support, <i>Reliable Introduction</i> pages 101 – 102) <p>The revised FSC Guidelines are available on the FSC’s website at www.fscjamaica.org/</p>
10. Record keeping	PC	There is no specific legal provision for transaction	<ul style="list-style-type: none"> Amend MLR to (a) provide for transaction record 	The POCA (MLP) Regulations, 2007 mandate the

		<p>record keeping requirements for exchange bureaux and the securities industry.</p> <p>There is no specific legal provision for transaction records to be kept longer than five years after the completion of the transaction on the instructions of a competent authority in specific cases and upon proper authority.</p> <p>Laws or regulations do not impose a requirement on the financial institutions to ensure that all customer and transactions records and information are available on a timely basis to domestic authorities.</p> <p>No provision in the MLR for transaction record keeping (although contained in the DOFPA).</p>	<p>keeping for at least five years after the completion of the transaction or longer if requested by a competent authority in specific cases and upon proper authority, (b) clarify that identification records are required to be kept for at least five years after the termination of the business relationship, and (c) impose a requirement on the financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic authorities.</p> <ul style="list-style-type: none"> Amend legislation (BOJ Act) to provide statutory basis for guidelines issued by the BOJ and provide for sanctions for non compliance. 	<p>retention of both identification records and transaction records by financial institutions for the prescribed period of 5 years commencing from the date on which the relevant financial business was completed or the business relationship terminated whichever is later. (R. 14) In addition to the foregoing, paragraph 46 of the BOJ AML/CFT Guidance Notes also requires financial institutions to ensure that the due diligence checks and reviews and investigations are available to the Competent Authority and the Designated Authority.</p> <p>Regulation 12 of the Securities (Conduct of Business) Regulations requires the keeping of detailed records by persons licensed under the Securities Act. Regulation 12(5) requires that documents relating to executed orders or instructions shall be maintained for a period of seven years and shall be kept in a readily accessible location for at least the first two years..</p> <p>Section 29 of the Insurance Act speaks to the keeping of records of local policies and premiums. However, it does not specify a time frame for the keeping of such records. However, all businesses subject to taxation in Jamaica usually keep records for 7 years in order to facilitate the six year assessment period for tax assessments under section 72(4) of the Income Tax Act as well as compliance with section 89 of the Income Tax Act (the latter does not specify a time-frame).</p> <p>The FSC Guidelines recommend a 5-year timeframe for the keeping of records of identity and transactions. See page 130 (s. AA) of the Guidelines which are available on the FSC's web site at www.fscjamaica.org.</p> <p><i>Paragraphs 3 and 6</i> of the BOJ (AML/CFT) Guidance Notes that were revised in 2009 now reflect that the Guidance Notes constitute Standards of Best Practices per the deposit-taking statutes, and thus a deposit-taking licensee's failure to comply with the Guidance Notes will be deemed a contravention of the Standards of Best Practices and hence subject to the requisite legal sanctions.</p>
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				<p>As was already indicated to the CFATF, the Banking Act, Financial Institutions Act and BOJ (Building Societies) Regulations already mandate that non-compliance with BOJ SBP¹²s constitutes the basis for regulatory sanctions. Thus the requirement at paragraph 46 (general requirements for CDD) of the Guidance notes would be an enforceable requirement. Additionally, POCA also stipulates that compliance with relevant AML Guidance Notes by the Competent Authority will be specifically taken into account by a court in determining whether a person is compliant with the AML requirements under POCA. Between May and July 2009 one merchant bank was sanctioned under the FIA for among other, things non-compliance with the BOJ AML/CFT Guidance Notes CDD requirements in relation to beneficial ownership information on corporate customers and the account opening and monitoring process, non-independence of the AML/CFT compliance function; and requirements to keep Boards updated on the AML/CFT efforts of the licensee.</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p> <p>The BOJ is also considering an Omnibus statute which will provide the BOJ with regulation-making powers.</p> <p>A draft submission proposing the Omnibus legislation was submitted to the Minister in 2008. In keeping with specific IMF conditionalities, this submission is now being updated to reflect further developments in relation to the best practices in banking supervision; to synchronize requirements applicable to the licensed deposit-taking sector and to incorporate recommendations coming out of the BCP aspects of the FSAP. Other enhancements contemplated include giving the BOJ Regulation-making powers. As agreed with the IMF, the updated draft concept paper was shared with them on March 31, 2010 for their review</p>
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				and input towards meeting the government's commitment for passage before the end of the IMF Programme. In August, 2010 Cabinet approved the recommendations proposing implementation of the Omnibus legislation.
11. Unusual transactions	PC	<p>Financial institutions are not required to examine as far as possible the background and purpose of all complex, unusual patterns of transactions that have no apparent or visible economic or lawful purpose and set forth their findings in writing.</p> <p>Financial institutions are not required to keep such findings available for competent authorities and auditors for at least five years.</p>	<ul style="list-style-type: none"> Financial institutions should be required to examine as far as possible the background and purpose of all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose and set forth their finding in writing. These finding should be kept available for competent authorities and auditors for at least five years. 	<p>See updates re: POCA amendments at R. 1 above.</p> <p><u>A draft Cabinet Submission is being prepared to amend the POCA to ensure it fully addresses this matter in line with CFAT recommendation</u></p> <p>This issue was definitively addressed from June 2005. The BOJ (AML/CFT) Guidance Notes paragraph 101A specifically addresses this requirement for financial institutions to pay attention to all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose, and that they must set forth their finding in writing and that these findings should be kept available for Competent Authorities and auditors for at least five years.</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p> <p>Pages 116 -118 (s. X to Y) of the FSC's Guidelines speak to the recognition and treatment of complex and unusual patterns of transactions.</p> <p>Page 130 (s. AA) of the FSC's Guidelines indicates that records of suspicious transactions should be kept for <u>at least 5 years</u> and should not be destroyed unless permission to do so is granted by the FIU/designated authority.</p> <p>The FSC's Guidelines are available on the FSC's web site at www.fscjamaica.org.</p>
12. DNFBP–R.5, 6, 8-11	NC	DNFBPs are not covered under the existing AML/CFT regime.	<ul style="list-style-type: none"> The proposed amendments to the MLA should be enacted to ensure compliance with 	The POCA has provision for the AML requirements there-under to be applied to DNFBPs which persons




			<p>Recommendation 12 with regard to applying Recommendations 5 to 10. In addition, the DNFBPs should also be covered under the CFT regime.</p> <ul style="list-style-type: none"> The proposed amendments to the MLA should be enacted to ensure compliance with recommendations 12 and 16 with regard to applying Recommendations 11 and 21. In addition, the DNFBPs should also be covered under the CFT regime. 	<p>will be designated by the Minister with responsibility for National Security when the regime for these persons is expected to come into effect. (See also criterion 16 and criterion 20 below)</p> <p>The amendments to the TPA in this regard are still pending.</p>
13. Suspicious transaction reporting	PC	<p>Reporting of STRs for ML does not apply to funds that are the proceeds of all offences including predicate offences as required by Recommendation 1.</p> <p>The requirement for the reporting of transactions in the TPA is general and does not specifically refer to transactions where there are reasonable grounds to suspect they are linked or related or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism.</p> <p>Compliance with recently enacted CFT measures yet to be fully implemented.</p>	<ul style="list-style-type: none"> Clarify that the STRs need to be filed irrespective of whether a transaction relates to tax matters. 	<p>See updates re: POCA amendments at R.1 above</p> <p>Under POCA s. 95 which covers banking and non-banking financial institutions, the obligations for suspicious transaction reporting extends to cases where there is a suspicion of a person engaging in money laundering (i.e. the transactions involving criminal property). Property is criminal property if it constitutes a person's benefit from criminal conduct and "criminal conduct" means any conduct which constitutes an offence in Jamaica (including tax infringements).</p> <p>Paragraph 102 of the BOJ (AML/CFT) Guidance Notes specially indicates that STRs should be filed in cases where the suspicion is that funds are being diverted to avoid the payment of taxes or to otherwise deprive the Government of revenues.</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p>
14. Protection & no tipping-off	LC	<p>No specific provision to prohibit tipping off when STR or related information is being reported</p>	<ul style="list-style-type: none"> Clarify that the tipping off is prohibited when STR or related information is being reported to the FIU. 	<p>Section 97 of the POCA makes tipping off an offence. The offence of tipping off is created in relation to disclosures made that are likely to prejudice any investigations in respect of disclosures made to the Designated Authority. This includes information relating to an STR or related information.</p> <p>Additionally as regards the issue of "tipping off" paragraph 106 of the BOJ (AML/CFT) Guidance Notes</p>

				<p>also specifically warns financial institutions against making any unauthorized disclosures about reports made to the Designated Authority. The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p> <p>The FSC's Guidelines, namely section Y. Submitting Reports to the Designated Authority – <i>Confidentiality/Non Disclosure Requirement</i>, from its initial circulation prohibits tipping off when STR or related information is being reported.</p>
15. Internal controls, compliance & audit	LC	Due to the recent enactment of CFT measures and the need to issue specific CFT guidance particularly to FSC regulated institutions; assessment of effectiveness was not possible.	<ul style="list-style-type: none"> The authorities should consider issuing specific CFT guidance for all entities covered by the TPA. 	Specific guidance in relation to CFT has been included in the BOJ (AML/CFT) Guidance Notes from 2004. As regards the FSC AML/CFT Guidelines please note there is a correction to the previous update in this regard. The FSC's Guidelines have since February 2005, been in effect re: the provision of CFT guidance.
16. DNFBP–R.13-15 & 21	NC	DNFBPs are not covered under the existing AML/CFT regime.	<ul style="list-style-type: none"> The proposed amendments to the MLA should be enacted to ensure compliance with recommendations 12 and 16 with regard to applying Recommendations 11 and 21. In addition, the DNFBPs should also be covered under the CFT regime. The authorities informed that amendments to the MLA were proposed that will create statutory requirement for the DNFBPs to report suspicious transactions. It is recommended that such amendments are effected in order to comply with Recommendation 16 with regard to applying Recommendations 13 and 14. The authorities informed that amendments to the MLA were proposed that will create statutory requirement for the DNFBPs to institute measures regarding internal controls, compliance and audit. It is recommended that such amendments are effected in order to be compliant with Recommendation 16 with regard to applying Recommendation 15. 	<p>With respect to the Regime for Designated Non Financial Businesses and Professions (DNFBPs), a Position Paper intended to form the basis of recommendations for the proposed regime was finalized in March 2010 and submitted to the Minister on April 26, 2010 for final approval by Cabinet. The Position Paper has identified and made recommendations on key gate-keeper professions to be covered as a priority under the proposed DNFBP regime viz. accountants, attorneys, real estate brokers & developers, dealers in precious metals and gems.</p> <p>On June 7, 2010 Cabinet accepted and approved the recommendations on the proposed regime and the category of persons to be designated as gatekeepers (i.e. real estate agents, casinos (including internet casinos) lawyers, notaries, other independent legal professionals and accountants, dealers in precious metals and gems, and trust and company service providers).</p> <p>In September 2010 the Office of the Prime Minister assumed responsibility for the implementation of the regime. A Task Force is to be convened and charged</p>

				<p>with the responsibility of recommending the legislative amendments and enhancements necessary to bring the regime into effect. The Task Force will be chaired by the BOJ and will involve all the Ministries involved (i.e. Ministry of Finance & the Public Service, Ministry of Security, Ministry of Foreign Affairs & Foreign Trade). The BOJ has recommended the steps necessary to implement the regime as follows-</p> <ul style="list-style-type: none"> • Passage of legislation dealing with Trust & Corporate Service Providers; • Amendments to the Real Estate Board Act; the Public Accountancy Board Act and the Legal Professions Act. • Public sensitization initiatives to be undertaken by the FID. <p>In February 2010 meetings with the relevant regulatory bodies (i.e. Real Estate Board and Public Accountancy Board) were held. A meeting is to be scheduled with Legal Profession on the pending regime. The Public Accountancy Board is pursuing amendments to the respective laws and Code to, among other things enhance its overall regulatory regime and to extend their monitoring obligations to include monitoring for compliance with AML/CFT requirements. It is expected that similar initiatives will be pursued in relation to the Real Estate Board Act.</p> <p>In January 2011 BOJ met with the Legal Profession (i.e. General Legal Council and Jamaica Bar Association Representatives) on the pending regime.</p> <p>The POCA has provision for the AML requirements there-under to be applied to DNFBPs which persons will be designated by the Minister with responsibility for National Security when the regime for these persons comes into effect.</p> <p>Under the regime to be established for DNFBPs under POCA, DNFBPs will have identical statutory obligations as financial institutions in respect of matters such as the implementation of internal AML</p>
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				<p>regulatory controls and adhering to KYC requirements. Section 100 of the POCA already imposes an obligation to report suspicious activities on persons other than those in a regulated business (i.e. financial services).</p> <p>See also criterion 20 below)</p> <p>It is anticipated that once the DNFBP regime comes into effect under the POCA, similar designations will also be effected under the TPA.</p>
17. Sanctions	LC	The assessment of the implementation of CFT measures was not possible due to recent enactment.		
18. Shell banks	LC	The requirement for financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks is not stated clearly in the Guidance Notes	<ul style="list-style-type: none"> Consider making provisions in the FIA prohibiting the establishment of operation of shell institutions. Guidance Notes should clearly require financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. 	<p>The FIA has not been amended as the current provisions requiring registration under the Companies Act (and the physical presence requirements under that Act) are deemed to be sufficient. However it is contemplated that such an amendment could be incorporated under the proposed Omnibus statute. (see response to item 10. above). Currently the oversight of FIA establishments in Jamaica includes the following requirements-</p> <ul style="list-style-type: none"> ➤ Applicants must be a company; FIA (s.3) ➤ The company must be licensed under the FIA (s.3): ➤ A company means a company formed and registered under the Company's Act, 2004 or under the previous law (i.e. the Companies Act of 1967. (s.2 The Companies Act). Under the Companies Act the registered office must be situate in Jamaica. (s.8) <p>Since 2004 the BOJ (AML/CFT) Guidance Notes has <u>specifically prohibited</u> the establishment or maintenance of relationships with Shell banks. (see paragraphs 84 and 82)</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p>

				These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm .
19. Other forms of reporting	LC	No formal system of notifying the Customs authorities of other countries in case of detection of unusual shipments of currency etc.	<ul style="list-style-type: none"> Establish a formal system of notifying the Customs authorities of other countries in case of detection of unusual shipments of currency etc. 	<p>See update to SRIX regarding the implementation of the Transportation of Cash Order.</p> <p>Jamaica, as a member of the World Customs Organization has committed to implementing the WCO Safe Framework of Standards. An important aspect of this is the Customs-to-Customs network arrangements to promote the seamless movement of goods through secure international trade supply chains. These network arrangements will result, inter alia, in the exchange of timely and accurate information that will place Customs administrations in the position of managing risk on a more effective basis including improving the ability of Customs to detect high-risk consignments; enabling Customs administrations to improve their controls along the international trade supply chain; and ensuring more efficient allocation of Customs resources. The Customs-to-Customs network arrangements will strengthen co-operation between Customs administrations and enable administrations to carry out controls earlier in the supply chain, e.g. where the administration of an importing country requests the administration of the exporting country to undertake an examination on its behalf.</p>
20. Other DNFBP & secure transaction techniques	NC	No effective measures in place to counter the vulnerabilities posed by non financial businesses and professions other than DNFBPs (e.g. car dealers) and the high incidence of cash in the economy.	<ul style="list-style-type: none"> Assess the AML/CFT risks posed by non financial businesses and professions other than DNFBPs and consider applying FATF Recommendations 5, 6, 13-15, 17 and 21. Take measures to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML. 	<p>With respect to the Regime for Designated Non-Financial Businesses and Professions (DNFBPs), a Position Paper intended to form the basis of recommendations for the proposed regime was finalized in March 2010 and submitted to the Minister on April 26, 2010. The Position Paper has identified and made recommendations on key gate-keeper professions to be covered as a priority under the proposed DNFBP regime viz. accountants, attorneys, real estate brokers & developers, dealers in precious metals and gems, and trust and company service providers.</p> <p>On June 7, 2010 Cabinet accepted and approved the recommendations on the proposed regime and the category of persons to be designated as gatekeepers (i.e. real estate agents, casinos (including internet casinos) lawyers, notaries, other independent legal professionals and accountants, dealers in precious</p>

			<p>metals and gems, and trust and company service providers). In September, 2010 the Office of the Prime Minister assumed responsibility for the implementation of the regime. A Task Force is to be convened and charged with the responsibility of recommending the legislative amendments and enhancements necessary to bring the regime into effect. The Task Force will be chaired by the BOJ and will involve all the Ministries involved (i.e. Ministry of Finance & the Public Service, Ministry of Security, Ministry of Foreign Affairs & Foreign Trade). The BOJ has recommended the steps necessary to implement the regime as follows-</p> <ul style="list-style-type: none">  Passage of legislation dealing with Trust & Corporate Service Providers;  Amendments to the Real Estate Board Act; the Public Accountancy Board Act and the Legal Professions Act.  Public sensitization initiatives to be undertaken by the FID. <p>Jamaica is also in the process of passing legislation regarding the establishment of Casino Gaming Activities in Jamaica. At the request of the Government, the Bank of Jamaica reviewed and made recommendations on matters to be dealt with in the draft Bill, particularly in relation to ensuring that provisions explicitly addressing AML requirements are in place and ensuring that breaches of such requirements will constitute an offence. The likelihood of designation as a DNFBP was also pointed out and recommendations made that the regulatory regime include a regulator with the legal powers to enforce AML requirements and provide guidance on AML compliance and requirements.</p> <p>The Casino Gaming Act was passed in March 2010 and assented to by the Governor General in May 2010. (See criterion 24 for more fulsome discussion on this legislation.)</p> <p>Re: Businesses other than DNFBPs - between 2005 and 2009 an initial preliminary</p>
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			<p>assessment was conducted by the FID. Preliminary findings at that time reflected that possible areas of ML vulnerability could include persons in the entertainment business and used car dealers. Further research will have to be conducted by the FID to properly assess the potential ML risks posed by both these sectors. Initial review however suggests that cheque payments would already be captured under the legal obligations imposed on the banking system to carry out appropriate due diligence on individuals/entities as well as under their record-keeping obligations. It is possible that cash payments might be dealt with via a specific cash reporting requirement which would serve to address the perceived risk in such cases. In that regard it would seem that amendments would have to be made to the POCA Money Laundering Regulations to facilitate this. The area of pawnbrokers was assessed by FID as being relatively insignificant and not posing an ML threat at this time.</p> <p>The RTGS (Jamclear) was launched on February 27, 2009.</p> <p>Jamaica is currently reviewing its Payment Systems architecture with a view to establishing laws to specifically streamline the oversight of the system and ensure legal certainty among participants under circumstances such as insolvency. Ancillary to this initiative are the following:</p> <ul style="list-style-type: none"> ➤ Reduction in clearing periods for cheque payments; ➤ Implementation of a Real Gross Time Settlement System (RTGS) scheduled to take effect in 2008; and eventually ➤ Cheque truncation regime; <p>The payment system has also seen the development of electronic payments via bank related electronic media (ATM cards, internet and telephone banking) which has impacted the heavy reliance on cash in Jamaica. This initiative is however wholly private sector driven, with the Minister ensuring through the issue of the Banking (Banking Electronic Money) Order, 2006 that the underlying arrangements for such mediums of payment remain with institutions that are subject to</p>
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				<p>licensing and AML requirements.</p> <p>In December 2010 Jamaica passed the Payment, Settlement and Clearing Act was passed. This Act will among other things address</p> <ul style="list-style-type: none"> 🚩 The finality of payments, and 🚩 The effect of insolvency on payments in the system .
21. Special attention for higher risk countries	PC	No direction or requirement to examine the background and purpose of transactions that have no apparent economic or visible lawful purpose from or in countries which do not or insufficiently apply the FATF Recommendations and make available to the competent authorities the findings of such examination.	<ul style="list-style-type: none"> The background and purpose of transactions that have no apparent economic or visible lawful purpose with persons (including legal persons and other financial institutions) from or in countries which do not or insufficiently apply the FATF should be examined. Written findings on such transactions should be available to assist competent authorities and auditors. 	<p>The BOJ (AML/CFT) Guidance Notes caution financial institutions against initiating relationships or undertaking transactions with persons resident in countries that do not sufficiently apply the FATF requirements. Additionally, the Guidance Notes require financial institutions to ensure that relationships with clients in high risk countries are subject to prior approval by senior management. Also, transactions that are suspicious in nature should be subject to investigations and the findings made available to the Designated Authority. Such transactions must also be reported to the Designated Authority (see paragraphs 87 and 88).</p> <p>Generally the findings in relation to transactions that generate suspicion are to be available to the Competent Authority and the Auditors of the financial institution (see paragraph 101A).</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p> <p>The FSC's Guidelines require licensees and registrants to recognize and assess those transactions from countries or regions with high incidents of money laundering whose background and purpose have no apparent economic or visible lawful purpose. Additionally, where these transactions have been determined to be suspicious then a report to the Designated Authority should be made. See Part X: Transaction Monitoring - II. Recognition Of Suspicious Customers / Transactions</p>

				<p>Please see also pages 146 to 148 of the FSC's Guidelines which point to high risk and non-cooperating countries. On page 117 of the Guidelines there is mention of the regional risks associated with financial crimes which may give rise to suspicion.</p>
22. Foreign branches & subsidiaries	LC	<p>Financial institutions are not required to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures. However BOJ and FSC regulated entities are required to apply Jamaican AML/CFT measures to their branches and subsidiaries.</p> <p>Need for supervisory authorities to test compliance with requirements of Recommendation 22 to assess effective implementation.</p>	<ul style="list-style-type: none"> As part of a consolidated supervision regime financial institutions should be tested to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and FATF Recommendations. Risks posed by affiliates outside the supervisory ambit should be taken into account. Financial institutions should be required to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures. 	<p>The BOJ (AML/CFT) Guidance Notes mandate financial institutions to take a consolidated approach to AML/CFT compliance with regards to branches and subsidiaries including assessments of the AML/CFT regimes applicable in the jurisdictions in which the branches and subsidiaries are located, with a view to determining the AML/CFT risks posed to the Parent company or Head Office. (See paragraphs 3, 4 and 5). These requirements have been in effect since 2004. Additionally, where overseas branches and subsidiaries are unable to comply with the applicable AML/CFT requirements the local Head Office or Parent company must advise the Competent Authority of this inability. (See paragraph 5A).</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p> <p>The FSC's Guidelines, from February 2005, had in place similar requirements as those outlined above for its regulated entities and their overseas branches and subsidiaries. See Part BB - <i>V. RECOGNISED FOREIGN REGULATED INSTITUTIONS</i> page 146.</p> <p>These requirements as regards the overseas branches are also mandated under POCA via the POCA MLP) Regulations, 2007 r. 18 and are now mandated under the TP (Reporting Entities) Regulation, regulation 18). The TP (Reporting Entities) Regulations were passed into law on March 19, 2010.</p>
23. Regulation, supervision and	LC	<p>Lack of proper consolidated supervision; Exclusion of some financial institutions from the purview of MLA.</p>	<ul style="list-style-type: none"> Harmonize the definition of financial institutions in the MLA and the TPA with that given in the 	<p>Under the POCA, the facility exists for persons to be designated financial institutions for the purposes of the</p>

monitoring		Non completion of CDD assessments for money remittance agents.	<p>AML/CFT Assessment Methodology.</p> <ul style="list-style-type: none"> • Introduce and implement consolidated supervision. 	<p>POCA. (see s. 2) Under Jamaica's laws, the services categorized at items 1; 4; 5; 7; 8 (in so far as this constitutes activities requiring licensing under the Securities Act) and 9; 11; 12 and 13 of the AML/CFT Assessment Methodology, are services that require licensing in order to be legitimately undertaken in Jamaica and which services are captured in the current definition of financial institutions. (In other words, 9 of the 13 service categories listed in the said methodology are already subsumed under the definition of financial institutions in the POCA)</p> <p>As regards the services at 2; 3; 6 and 10 of the AML/CFT Methodology, the relevant assessments are to be undertaken by the Jamaican authorities to determine the AML vulnerabilities that may exist and the applicable AML/CFT requirements that should be accordingly imposed.</p> <p>As regards the matter of consolidated supervision, the Banking Act, Financial Institutions Act (sections 29C-F) and Building Societies Act (sections 75C-F) already contain provisions that comprise the fundamental requirements for a consolidated supervisory regime. Using these provisions, the BOJ has worked with its licensees to require, enable and implement the relevant corporate restructurings necessary to ensure that the resulting group structures within which the licensees fall, are capable of being supervised on a consolidated basis.</p> <p>The Omnibus statute will also seek to improve on the powers currently in the law.</p> <p>An updated concept paper is being finalized in this regard. A draft submission proposing the Omnibus legislation was submitted to the Minister in 2008. In keeping with specific IMF conditionalities, this submission is now being updated to reflect further developments in relation to the best practices in banking supervision; to synchronize requirements applicable to the licensed deposit-taking sector and to incorporate recommendations coming out of the BCP aspects of the FSAP. As agreed with the IMF, the updated draft concept paper was shared with them on March 31, 2010 for their review and input towards meeting the government's commitment for passage</p>
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				<p>before the end of the IMF Programme. In August, 2010 Cabinet approved the recommendations proposing the implementation of the Omnibus legislation. Drafting instructions have been issued to the office of the Chief Parliamentary Counsel.</p> <p>It is also on the FSC's legislative schedule as part of the IMF/MEFP programme that the FSC should amend the Financial Services Commission Act to close gaps in the power of the FSC to conduct consolidated supervision in line with the above mentioned Omnibus Banking Bill. The FSC is mandated by policy makers to have this matter completed before the end of 2012.</p> <p>It is useful to note that section 27 of the Insurance Act currently empowers the FSC to obtain group accounts including the consolidating balance sheet and consolidated profit and loss accounts. Each subsidiary or other associated company in the group shall, within ninety days of the end of its financial year, submit to the Commission an audited balance sheet and profit and loss account in respect of all business transacted by it in that year, and signed by not less than two of its directors.</p> <p>This existing power is critical in the AML/CFT effort not only for prudential supervision, but in identifying red flags for financial crimes, for detecting financial crimes and constructing paper trails.</p> <p>The Insurance Act also currently allows the Commission to direct the disposal or winding-up of a subsidiary in the event that the consolidated or individual accounts indicate the likelihood of insolvency of the subsidiary .</p> <p>Section 76 (l) of the Securities Act empowers the FSC to prescribe reports that it may require from companies that are members of a group.</p>
24. DNFBP - regulation, supervision and	NC	Despite a regulatory machinery for casinos, they are outside the purview of the AML/CFT measures, as are the other categories of DNFBPs, in whose case the	<ul style="list-style-type: none"> As indicated by the authorities, the DNFBPs should be brought under the purview of the legal requirements of the AML/ CFT regime. The 	The POCA has provision for the AML requirements there-under to be applied to DNFBPs, which persons will be designated by the Minister with responsibility

monitoring		regulatory machinery is either absent or inadequate.	<p>regulatory authorities/SROs for these should be established, if not already done, and vested with sufficient powers, sanctions, technical and financial resources to enable them to carry out their AML/CFT mandate effectively.</p>	<p>for National Security when the regime for these persons comes into effect.</p> <p>The Casino Gaming Act was passed in March 2010 and assented to by the Governor General in May 2010. Under that Act Casinos will be subject to regulation by the Casino Gaming Commission whose functions include establishing and implementing measures to ensure responsible casino gaming activities, limit opportunities for crime and disorder in casino gaming activities and to prevent money laundering and financing of terrorist activities in relation to casino gaming. (See Section 6) Persons wishing to offer casino gaming activities must first be licensed by the Commission to do so and the proposed operators of the casino must meet the statutory fit and proper criteria. (Sections 14 and 15) Persons wishing to be employed with a casino operation must be personally licensed by the Commission to do so. (Part V – Sections 30 – 37) The licences are subject to review every 5 years (Section 20) and the licenses are not transferable (Section 21). The Commission has the power to take disciplinary action against a casino that has contravened the Act or regulations thereunder or directions issued under the Act; a term or condition of the licence or any Act or regulations relating to money laundering or the financing of terrorist activities. (Section 2791)(b)). Disciplinary action under the Act means any one or more of the following-</p> <ul style="list-style-type: none"> (a) warnings, reprimands, censures or admonishments; (b) revocation or suspension of a licence; or (c) variation of the terms of a licence <p>Casinos are subject to inspection by the Commission or the authorized designates of the Commission (Sections 44- 46)</p> <p>Offences under the Act include-</p> <ul style="list-style-type: none">  Obstructing inspectors and authorized officers from carrying out their duties;  Making false or misleading statements in
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				<p>relation to applications for licences or renewals of licences;</p> <p> Operating in contravention of the Act, regulations thereunder or a licence.</p> <p>See also comments at criterion 16 and criterion 20 above.</p>
25. Guidelines & Feedback	PC	<p>Insufficient mechanism for providing feedback to the financial institution and DNFBPs on a systematic basis. No guidelines for the DNFBPs;</p>	<ul style="list-style-type: none"> • Enact FIDA in order to establish a proper system of feedback to the FIs and the DNFBPs with regard to the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons. • Issue guidelines for the DNFBPs after bringing them under the AML/CFT regime. • The FSC should remove the statement advising that use of the FSC GL is not mandatory. 	<p>The FID Act was passed on March 26, 2010.</p> <p>The FID Bill was re-tabled and placed before a new Joint Select Committee of Parliament which was convened in July 2009. The Joint Select Committee (JSC) completed its deliberations on the FID Bill on 2 March 2010 as scheduled and the Report of the JSC and the Appendix thereto listing the proposed amendments to the Bill were tabled in Parliament on Wednesday 10 March, 2010. On Tuesday March 16, 2010 the Bill was approved in the Lower House with twenty-eight amendments proposed by the report of the Joint Select Committee. The Bill is scheduled to be debated in the Senate on March 26, 2010, the debate will be facilitated by a specially reconvened session of the Senate after Parliament breaks on 25 March, 2010. The FID Act was passed on March 26, 2010.</p> <p>The FID currently has implemented a system of feedback to reporting entities which sees an automatic response being issued in acknowledgement of the receipt of reports being made to that authority as required by regulation 17 (5) of the Proceeds of Crime (Money Laundering Prevention) Regulations.</p> <p>Additionally POCA has introduced a mandatory feedback system under the “appropriate consent” regime which mandates feedback by the Designated Authority (FID) to reporting persons/entities, which feedback must specifically consent or refuse to provide consent to the reporting person/entity doing an act that is prohibited under the POCA such as proceeding with a transaction that appears suspicious. The feedback period is 7 calendar days. (see sections 99 and 91 of the</p>

				<p>POCA)</p> <p>The Fourth Schedule to the POCA makes provision for the AML requirements there-under to be applied to DNFBPs which persons will be designated by the Minister with responsibility for National Security. These entities will upon designation, become a part of the regulated sector and will have to meet similar AML obligations as financial institutions.</p> <p>The POCA also contemplates the appointment of the Competent Authority which will have responsibility for monitoring AML compliance under the POCA. (See s. 91(1)(g))</p> <p>The FSC AML/CFT Guidelines were duly adjusted from 2005 to remove the erroneous statement that the use of the FSC Guidelines is not mandatory. The matter was raised at paragraph 238 of the MEV and the FSC is quoted therein as referring to this inclusion of the above statement as erroneous and that the FSC would ensure this statement was removed from the Guide Lines.</p> <p>Efforts are underway to give the key areas of the Guidelines legal effect, thus making specified areas required by laws, regulation or other enforceable means. This is hoped to be completed during the 2012 calendar year.</p>
Institutional and other measures				
26. The FIU	LC	<p>Jamaica's FIU, in its current form, was established in mid 2004 and much hard work has gone into developing it to meet the FATF standard. Egmont membership has not yet been achieved but it should be noted efforts are well underway to obtain it. The current AML/CFT legislative framework is not as comprehensive as it should be which does on occasion hamper investigative work in this area and it should be noted - the TPA became operative in Jamaica on the 6th June 2005, subsequent to the on-site mutual evaluation. Consequently, there were no systems and</p>	<ul style="list-style-type: none"> The proposed FIDA which will put the FIU on a statutory footing should be enacted as soon as possible. 	<p>Jamaica has a new Chief Technical Director of the FID.</p> <p>The FID Act was passed on March 26, 2010. The FIDA was re-tabled and placed before a new Joint Select Committee of Parliament which was convened in July 2009. The Joint Select Committee (JSC) completed its deliberations on the FID Bill on 2 March 2010 as scheduled and the Report of the JSC and the Appendix thereto listing the proposed amendments to the Bill were tabled in Parliament. On Tuesday March</p>

		processes in place and no results to effectively assess them.		<p>16, 2010 the Bill was passed in the Lower House with twenty-eight amendments proposed by the report of the Joint Select Committee, and passed in the Upper House on March 26, 2010. The FID Act was passed on March 26, 2010.</p> <p>The FID contributed typology cases for the CFATF's Typology Working Group meeting held in Panama in July 2009.</p>
27. Law enforcement authorities	LC	<p>The TPA became operative in Jamaica on the 6th June 2005, subsequent to the on-site mutual evaluation. Consequently, there were no systems and processes in place and no results to effectively assess them. The office of the DPP or such other person as the Minister may designate by order will be responsible for the receipt of disclosures made under this Act. It has been recommended that the Minister consider appointing the Chief Technical Director of the FID as the "designated authority" for the reasons stated.</p>	<ul style="list-style-type: none"> It is recommended that the Minister under the TPA consider appointing the Chief Technical Director of the FID as the "designated authority" for the receipt of disclosures. 	<p>In April 2008 CARICOM Heads of Government agreed to taking a regional approach to fighting crime. Areas highlighted were that of intelligence and information sharing among member states and possibly the rapid deployment of a regional joint force.</p> <p>Additionally, there was consensus to sign a Maritime and Airspace Security Cooperation Agreement and a CARICOM Arrest Treaty.</p> <p>The regional grouping also agreed to, among other things –</p> <p>(i) Develop a regional database to serve a policy on illegal firearms;</p> <p>(ii) The establishment of counter-kidnapping units.</p> <p>The requisite designation of the Chief Technical Director of the FID was effected in March 2006.</p>
28. Powers of competent authorities	LC	<p>Evidence gathering provisions are in place in the MLA and DOFPA. Similar provisions are contained in the TPA. The TPA became operative in Jamaica on the 6th June 2005, subsequent to the on-site mutual evaluation. Consequently, there were no systems and processes in place and no results to effectively assess them.</p> <p>As at the time of the on-site mutual evaluation no monitoring order application had been made to the Court – it is difficult to assess whether this is a difficulty with the legislation or a deficiency in the investigative process. It should be noted that when POCA is enacted, it will implement a more robust</p>		<p>POCA does contain a wider variety of powers for the Designated Authority. These include:</p> <ul style="list-style-type: none"> a) Search and Seizure Warrants b) Disclosure Orders c) Ancillary Orders d) Customer Information Orders e) Account Monitoring Orders <p>The perceived shortfalls as regards the Monitoring Orders and particularly applications for renewal of such Orders, have been corrected.</p>

		legislative framework providing for wider investigative powers particularly with respect to AML matters, and no doubt monitoring other orders compelling the production of records, will be used more frequently.		
29. Supervisors	LC	FSC currently developing assessment techniques in the AML/CFT area. Examination of insurance companies started in a limited manner.	<ul style="list-style-type: none"> FSC should implement a comprehensive system of AML/CFT onsite examination to test compliance of its licensees. 	<p>As regards the FSC, the procedure manuals were updated prior to the mutual evaluation to include modules on AML/CFT testing. The compliance testing reviews of the AML policies and procedures were completed from as far back as 2005 and completed for all FSC regulated entities in the insurance and securities industries, and regulatory action taken in the form of directions to the regulated entities.</p> <p>Subsequent to the review, AML/CFT examinations of the registrants in the insurance sector have been conducted.</p> <p>To date, the Securities Division has conducted 47, the Insurance Division has conducted 34 and the Pensions Division has conducted 2 AML/CFT examinations.</p>
30. Resources, integrity and training	LC	<p>Whilst funding and resources for the various agencies involved in the AML effort are currently adequate, with the passage of more comprehensive and also additional legislation, it will be prudent to review these budgets and staffing levels. In particular the FIU - under the Proceeds of Crime Bill, it is proposed that the threshold reporting levels be reduced. Last year at the current reporting levels the unit received in excess of 49,000 TTR's – a number which increased five fold from the previous year. If the current manual data inputting system remains in place staff resources will have to be looked at. An electronic reporting system may go some way to addressing staffing levels in this area.</p> <p>The TPA became operative in Jamaica on the 6th June 2005, subsequent to the on-site mutual evaluation. Consequently, there were no systems and processes in place and no results to effectively assess them. A whole new 'TPA' structure will have to be put into place or the current structure enhanced in terms of staffing, financing and the provision of technical resources now that the legislation is in effect.</p>	<ul style="list-style-type: none"> With the passage of more comprehensive and additional legislation, it will be prudent to review the funding, staffing and resources of the various agencies involved in the AML/CFT effort. The proposed reduction in the threshold reporting level under POCA and the recent enactment of the TPA requires that the staffing, and provision of technical resources for the FIU be reviewed. 	<p>The Ministry of Justice in collaboration with a team of international donor partners hosted a 3 day training conference in Montego Bay on the matter of establishing and strengthen Drug Treatment Courts in the Caribbean region. The target market for this conference included judges, prosecutors, defence attorneys, treatment providers and police officers across the island. The objective of establishing Drug Treatment Courts (ongoing pilot project in Jamaica) is to provide an avenue of dealing with non-violent offenders charged with possession of drugs, the idea being to give such persons the option of receiving treatment instead of incarceration. The conference which was held under the theme 'Establishing and Consolidating Drug Treatment Courts in the Caribbean: A Team Effort' was organized under the recently launched Caribbean DTC project, an initiative coordinated by the Organisation of American States through the Inter-American Drug Abuse Control Commission.</p> <p>The FSC has a Senior Director who is ACAMS certified (i.e. Association of Certified Money Laundering Specialists) and at least one other will begin the certification process in the current year.</p>

				<p>In April and June 2010, two representatives from the FSC participated in Central Banking Publications, course: How to Implement a Risk-based Framework to AML and CFT. The course provided practical scenarios and advise that regulators and supervisors can use to prepare for, undertake and respond to an evaluation. It also provided hands-on experience in how these evaluations are conducted, and what supervisors need to understand about the evaluation process. The course also provided advice as to how regulators can best interact with the financial market so as to earn their cooperation and achieve the most positive outcome from the external examination.</p> <p>In November 2010, the FSC hosted its fourth Annual AML/CFT Conference themed: “Understanding and Executing for Compliance with the AML/CFT Regime: A Global Perspective”. The objective of this program was to (a) increase participants’ awareness and understanding of the requirements for the AML/CFT regime in light of current regulatory requirements and international dictates; and (b) sensitize participants to the importance of compliance with the AML/CFT laws. Invitations were extended to all stakeholders who have a critical role to play in the successful implementation and execution of a country’s AML/CFT program, namely, regulators, law enforcement officers, banking and non-banking financial institutions, Politically Exposed Persons (PEPs) and certain non-financial businesses and professionals, for example, lawyers, accountants, realtors who are commonly referred to as Designated Non-Financial Businesses and Professionals (DNFBPs), as well as car dealers.</p> <p>Twenty-one members of the security forces and Office of Disaster Preparedness and Emergency Management (ODPEM) undertook a two week training course on Critical Incident and Management which was organized and funded by the United States Government. The course took place in early October 2009. Jamaica is the fifth country to benefit from the</p>
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				<p>course which exposed officers to, among other things, trends in terrorism, decision-making, critical incident planning, policy, coordination, command, control and tactical response.</p> <p>The GOJ will be acquiring seven mobile forensic units to allow for speedier collecting of samples at crime scenes as part of ongoing upgrading of Police evidence gathering capabilities. The GOJ is also looking at acquiring Mini- laboratories to be positioned around the island and to be used for forensic crime scene investigation.</p> <p>Fifty-eight police officers received forensic training under the Constabulary's Modernization Programme. The forensic training certification was provided by the US-based International Crime Scene Investigators Association.</p> <p>In July 2009 the University of Technology in conjunction with the JIM School of Advanced Management introduced a 36 hour training seminar on Fraud and Forensic Accounting. Among the persons the course targeted were law enforcement officers, Attorneys, investigators and Researchers. The course content included :</p> <ul style="list-style-type: none"> Types of fraud; Introduction to forensics; Conducting forensic audits; Fraud deterrence; Fraud detection /examination; Conducting forensic audits(tools & techniques) and Interviewing/interrogation skills. <p>In March 2009, the FSC hosted its third annual Financial Crime Mitigation Workshop themed: Financial Crime: Identification, Mitigation and Reporting. The workshop focused on issues such as:</p> <ul style="list-style-type: none"> Identification of types of fraud; Trends in financial crimes; Coordinating efforts of financial regulators and law enforcement and Mitigation strategies. <p>The University of Technology in Jamaica also</p>
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				<p>introduced a summer course on Forensic computing in July 2008. The course targeted Police and military personnel; E-business security personnel, Risk managers; System administrators; IT managers and Government agencies and personnel. The course content included the following –</p> <ul style="list-style-type: none"> (i) Computer forensic training with open source tools; (ii) Examining mobile devices; (iii) Investigating internet crime; (iv) Investigating e-mail crime; (v) Trademark and copyright infringement (vi) Recovery deleted files and partitions (viii) Use of evidence in criminal trials <p>In March 2008 the Caribbean Regional Drug Law Enforcement Training Centre in Jamaica completed a training course for financial investigators from Jamaica and other Caribbean countries. The course was designed to –</p> <ul style="list-style-type: none"> (i) Better equip investigators to conduct financial investigations under the various Proceeds of Crime legislation in the region; (ii) Strengthen the capabilities of drug law enforcement in respect of the techniques to be used to make them more effective in their general operations. <p>The FID in particular is actively seeking the expansion of its personnel resources to alleviate pressures on existing resources as a result of the passage of the POCA. This is critical given matters such as the “appropriate consent” regime and its significantly increased obligations and responsibilities in relation to asset management and reporting and statistics/typology related publications.</p>
31. National cooperation	LC	Substantive action has been taken with respect to this recommendation however, Jamaica’s efforts have been hampered by a legislative framework that did not include terrorism prevention legislation. The TPA became operative in Jamaica on the 6th June 2005,	<ul style="list-style-type: none"> • The National Anti-Money Laundering Committee should join the FID in the proposed awareness campaign to sensitize the public, financial institutions and the DNFBPs about their roles and responsibilities under the AML/CFT regime. 	The FID (through representation by the Chief Technical Director and his two delegates) is a member of the National AML Committee. It is also contemplated that once the services identified pursuant to the DNFBPs assessment initiative have been

		<p>subsequent to the on-site mutual evaluation. The FID are going to engage in an awareness campaign to sensitize the financial institutions as to their responsibilities under the various Acts. It is recommended that the National Anti-Money Laundering Campaign become involved in such a campaign and perhaps broaden its scope. Is the public aware of what is money laundering and the consequences for engaging in such activities? Do they understand the detrimental impact money laundering can have on the country's financial system? This is the type of campaign that can be properly directed by a national body such as the National Anti-Money Laundering Committee.</p> <p>The content of Guidance notes currently in issue will have to be re-visited with the enactment of the TPA and the proposed enactment of POCA and FIDA. A co-ordinated and co-operative approach to this task will allow input from all interested parties.</p>	<ul style="list-style-type: none"> • The Guidance Notes and Guidelines should be reviewed with the enactment of the POCA, TPA and the FIDA. • A formal means of consultation by the competent authorities with the DNFBPs should be established. 	<p>recommended for designation, more targeted public awareness initiatives and discrete consultations will be undertaken at that time to ensure the appropriate sensitization of the respective service sectors and the general public as to the requirements of the regime to be imposed. Nonetheless, public awareness raising initiatives have already been undertaken by the regulatory agencies through media campaigns and public seminars.</p> <p>The BOJ (AML/CFT) Guidance Notes and the FSC AML/CFT Guidelines were revised in 2005 to take account of the passage of the TPA in 2005.</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p>
			<ul style="list-style-type: none"> • 	
32. Statistics	LC	<p>Statistics are maintained with regard to the AML legislation and include STRs, forfeiture, ML cases, mutual legal assistance, international requests for co-operation and extradition. Jamaica has recently undertaken a complete review of its AML/CFT regime having recognised that some weaknesses existed, particularly with respect to the legislative framework in the case of AML and the lack of a legislative framework in the case of CFT. To this end, the TPA became operative in Jamaica on the 6th June 2005, subsequent to the on-site mutual evaluation and various other legislative initiatives are underway such as POCA. Many of the statistics are now being produced by the FID relating to 32.2. However, other agencies or bodies have similar responsibilities regarding the forfeiture of property or the investigation of offences and these figures are not consolidated. This deficiency has been recognised and as the FID develops and the legislative framework put in place it is intended that they will become the centralized body responsible for recording all of the statistics required. This will allow for the production of more complete statistics on all the required areas.</p>	<ul style="list-style-type: none"> • Statistics regarding the forfeiture of property or the investigation of offences should be consolidated with the FID as the centralized body responsible for the recording all of the statistics required. • Statistics related to FT issues should be maintained. • Bring DNFBPs under AML/CFT regime and maintain statistics on their compliance. 	<p>Some statistics are being produced. It is expected that the system will be streamlined with the passage of the FIDA which took place on March 26, 2010.</p> <p>The POCA has provision for the AML requirements there-under to be applied to DNFBPs which persons will be designated by the Minister with responsibility for National Security when the regime for these persons comes into effect.</p>

		The lack of consolidated statistics is a minor shortcoming which is being addressed.		
33. Legal persons– beneficial owners	LC	While much of the requirements of Rec 33 is met, the information regarding beneficial ownership of a company incorporated company is not captured.	<ul style="list-style-type: none"> The Registrar of Companies should consider instituting measures to capture information regarding beneficial ownership of a company incorporated company as well as information regarding the nationalities of the beneficial owners. 	<p>The Companies Office of Jamaica is presently preparing a list of amendments to be made to the Companies Act 2004 for submission to its portfolio Ministry for onward transmission to Cabinet for approval. Included in that list will be the amendments to facilitate the capture of information relating to beneficial ownership as well as the nationalities of beneficial owners. It is projected that the list will be forwarded to the Ministry on or before March 31, 2011.</p> <p>The Companies Office of Jamaica has completed its research and will make representations to the political directorate as to how the Companies Act 2004 can be amended to capture information relating to beneficial ownership of a company as well as the nationalities of beneficial owners.</p> <p>The Companies Office of Jamaica is presently undertaking research into how the Companies Act 2004 can be amended to capture information relating to beneficial ownership of a company, as well as information on the nationalities of beneficial owners.</p>
34. Legal arrangements – beneficial owners	C	The Recommendation is fully observed. .		
International Cooperation				
35. Conventions	PC	Articles 6(1) and 6(2)(b) of the Palermo Convention requiring criminalisation of the laundering of the proceeds of crime and the inclusion of all serious crime as predicate offences to ML are not fully enforced. .	<ul style="list-style-type: none"> While the TPA substantially implements the International Convention for the Suppression of the Financing of Terrorism, the deficiencies identified in the report should be rectified by enacting appropriate amendments. . The POCA should be enacted as soon as possible. 	<p>The POCA was passed and came into effect in May 2007.</p> <p>An amendment to the Terrorism Prevention Act to allow for the penalties reflected in the proposed Terrorism Prevention (Reporting Entities) Regulations, 2010 - This amendment to the Terrorism Prevention Act was passed in the Lower House on Wednesday 10 March, 2010 and passed in the Senate on March 12, 2010. (Under Jamaica's laws penalties set out within Regulations are restricted to the maximum permitted under the Interpretation Act unless the Principal Act to the Regulations expressly provides otherwise.)</p>

				The Terrorism Prevention (Reporting Entities) Regulations, 2010 were subsequently passed on March 19, 2010.
36. Mutual legal assistance (MLA)	LC	Assessment of full implementation of TPA with regard to mutual legal assistance is not possible because of recent enactment	<ul style="list-style-type: none"> While mutual legal assistance can be extended for prescribed offences which are widely defined, enactment of POCA will serve to extend and clarify the definition in Jamaica's statutes. The TPA provides for a terrorism offence to be prescribed under MACMA. Again, POCA needs to be passed with due haste. 	<p>In July 2008, under the MLAT between Jamaica and Canada the Government of Jamaica received CDN \$200,000 /JMD1.5million as part of proceeds from the forfeited account of an incarcerated Canadian drug dealer who was involved in the trafficking of narcotics from Jamaica to Canada.</p> <p>The POCA was passed and came into effect in May 2007.</p>
37. Dual criminality	LC	MACMA does not expressly require dual criminality, and with the enactment of the TPA covers both ML and TF predicate offences. See also SR V for other factors.	<ul style="list-style-type: none"> Once again it is imperative that POCA is passed in order to make international cooperation, in this regard, more effective. POCA, as noted before, sets the table for a full range of mutual legal assistance.. 	The POCA was passed and came into effect in May 2007.
38. MLA on confiscation and freezing	PC	Laws and procedures to provide response to mutual legal assistance requests are limited to the definition of ML, FT and other predicate offences which do not cover all serious offences as required in Recommendation 1.	<ul style="list-style-type: none"> See Recommendation 36. 	The POCA was passed and came into effect in May 2007, thereby addressing this shortfall under the former MLA regime. (See section 92 of the POCA)
39. Extradition	C	The Recommendation is fully observed		
40. Other forms of co-operation	PC	The FID does not legally have the power to share information with overseas counterparts. Spontaneous reporting by virtue of bilateral or multilateral agreements or arrangements is absent.	<ul style="list-style-type: none"> There are no provisions for spontaneous reporting. Therefore, there should be due provision for spontaneous reporting, by virtue of bilateral and multilateral agreements or arrangements. The proposed legislation to empower the FID to share information with overseas counterparts should be enacted as soon as possible. 	<p>The FID signed its first MOU with a foreign FIU on November 19, 2010.</p> <p>The FID Act was passed on March 26, 2010. The FID Bill was re-tabled and placed before a new Joint Select Committee of Parliament which was convened in July 2009. The Joint Select Committee (JSC) completed its deliberations on the FID Bill on 2 March 2010 as scheduled and the Report of the JSC and the Appendix thereto listing the proposed amendments to the Bill were tabled in Parliament on Wednesday 10 March, 2010. On Tuesday March 16, 2010 the Bill was passed in the Lower House with twenty-eight amendments proposed by the report of the Joint Select Committee and passed in the Upper House on March 26, 2010.</p> <p>The FID Act was passed on March 26, 2010.</p> <p>The FIDA allows for the spontaneous exchange of information between the FID and its international FIU</p>

				<p>These Regulations, among other things, clarify that the obligation to report transactions that are unusual etc. include the obligation to make STRs. Section 16 of the TPA imposes the obligation to promptly report all complex, unusual or large transactions and unusual patterns of transactions which have no apparent economic or obviously lawful purpose. Under the Regulations, the reporting obligation is clarified in regulation 15 as a mandate that an entity's reporting procedures shall ensure that reporting processes cover circumstances in which a complex, unusual or large transaction or an unusual pattern of transactions, having no apparent economic or obviously lawful purpose or gives rise to a suspicion that the transaction (whether completed or not) involves funds that may be related to the commission of a relevant terrorism offence.</p>
SR.V International cooperation	LC	The TPA now provides for mutual legal assistance and extradition, but because of its recent enactment, its overall effectiveness cannot be duly determined.	<ul style="list-style-type: none"> • See Recommendation 36. 	It should also be noted that the POCA was passed and came into effect in May 2007.
SR.VI AML requirements for money and value transfer services	LC	Regulatory regime for remittance companies to come into effect by July 2005.		The regulatory regime for remittance companies came into effect in July 2005. Such entities now fall under the direct supervision of the Bank of Jamaica.
SR.VII Wire transfer rules	PC	<p>Financial institutions are not required to include full originator information in the message or the payment form accompanying cross border wire transfers;</p> <p>There is no specific instruction that for domestic wire transfers the ordering financial institution should either comply with the requirement for cross border transfers or include in the message or payment form the originator's account number or a unique identifier;</p> <p>There are no directions either in law or administrative instructions requiring financial institutions to ensure that non-routine transactions are not batched where this would increase the risk of money laundering or terrorist financing;</p> <p>There is no specific requirement for beneficiary financial institutions to adopt effective risk based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.</p>	<ul style="list-style-type: none"> • Enact Money Laundering (Change of Name and Amendment) Bill to give effect to the proposed obligations of the FIs relating to the wire transfers. Proposed obligations should rectify deficiencies identified in compliance with Special Recommendation VII. • Develop modules for testing compliance with Special Recommendation VII. 	<p>It should be noted that the POCA replaced the Money Laundering (Change of Name and Amendment) Bill. Under the POCA (MLP) Regulations, 2007, regulation 9 addresses the obligations of financial institutions when conducting wire transfers. These obligations include ensuring that the records reflect accurate information such as correct name, address, account number or other reference number of the account holder, originator of the transfer and the recipient of the wired funds.</p> <p>Similar requirements are now in place under the TP (Reporting Entities Regulations which were passed into law on March 19, 2010. (See regulation 9)</p> <p>Additionally, the BOJ AML/CFT Guidance Notes in paragraphs 92 (revision effected in June 2005) and 92A-92D(revision effected March 2007) provide the following enhanced guidance on SRVII as follows:</p> <ul style="list-style-type: none"> ① Domestic & cross border transfers;

		<p>There are no measures in place to effectively monitor the compliance of financial institutions with Special Recommendation VII</p> <p>Existing instructions do not ensure that the requirements of Recommendation 17 also apply in relation to the obligations under Special Recommendation VII</p>		<p>❶ Batch wire transfers, and ❶ Wire transfers not accompanied by complete originator information</p> <p>The Guidance also points out to financial institutions that compliance in this regard will continue to form a part of the BOJ's AML/CFT examinations. It should be noted that the incorporation of this focus in the AML/CFT examinations by the BOJ took effect in 2004.</p> <p>The BOJ (AML/CFT) Guidance Notes which have been revised in 2009 to reflect the enhanced AML/CFT requirements under the POCA were approved on 22nd April 2010 by the Minister of National Security.</p> <p>These revised Guidance Notes are available on the Bank's web site at www.boj.org.jm.</p>
SR.VIII Nonprofit organizations	NC	Terrorism legislation does not cover non-profit organisations and inadequate system for regulating non profit organisations.	<ul style="list-style-type: none"> The authorities should implement the requirements of Special Recommendation VIII taking into consideration the measures set out in the relevant Best Practices Paper. 	These enhancements are still pending.
SR.IX Cash Couriers				<p>The Ministry of National Security ("the Ministry") has implemented a Transportation of Cash Order pursuant to section 101(2) of the Proceeds of Crime Act. This Order is applicable to persons leaving or entering Jamaica whose declarations reflect that they have in their possession cash amounting to or exceeding the equivalent of USD10,000.00. The order targets all persons entering or leaving Jamaica which description includes travelers; shippers or mailers and persons in charge of conveyance. Cash means – all notes and coins in any currency including bearer negotiable instruments such as postal orders, cheques including traveller's cheques money orders, bearer bonds and bearer shares.</p> <p>The Transportation of Cash Order was gazetted in July 2010 and the Ministry has circulated the Order to stakeholders to facilitate smooth implementation of the form. Sensitization sessions and public education programmes will also be pursued to facilitate the smooth implementation of this Order.</p>