



# Second Follow-Up Report

Anti-Money Laundering and  
Combating the Financing of  
Terrorism

Montserrat

May, 2012

**MONTserrat: SECOND FOLLOW-UP REPORT**

**I. INTRODUCTION**

1. This report represents an analysis of Montserrat’s report to the CFATF plenary concerning the progress that it has made at correcting the deficiencies that were identified in its third round mutual evaluation report (MER). The third round MER of Montserrat was adopted via round robin by CFATF Ministers on 22<sup>nd</sup> July, 2011. Based on a review of the actions taken by Montserrat to meet the recommendations made by the Examiners, the plenary is being asked to keep Montserrat on expedited follow-up with the requirement that Montserrat report back to the November 2012 plenary.
  
2. Montserrat received ratings of PC on six (6) of the sixteen (16) core and key Recommendations as follows:

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

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

<b>Partially Compliant (PC)</b>	<b>Non-Compliant (NC)</b>
R. 8 (New technologies & non face-to-face business)	R. 19 (Other forms of reporting)
R. 12 (DNFBP – R.5, 6, 8-11)	SR. IX (Cross Border Declaration & Disclosure)
R. 14 (Protection & no tipping-off)	
R. 16 (DNFBP – R.13-15 & 21)	
R. 21 (Special attention for higher risk countries)	
R. 24 (DNFBP - regulation, supervision and monitoring)	
R. 25 (Guidelines & Feedback)	
R. 30 (Resources, integrity and training)	
R. 31 (National co-operation)	
R. 32 (Statistics)	
R. 33 (Legal persons – beneficial owners)	
SR. VI (AML requirements for money/value transfer services)	
SR. VIII (Non-profit organisations)	

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

**Size and integration of the jurisdiction’s financial sector (as at 30<sup>th</sup> June, 2011)**

		<b>Banks</b>	<b>Other Credit Institutions*</b>	<b>Securities</b>	<b>Insurance</b>	<b>TOTAL</b>
<b>Number of institutions</b>	Total #	8	2	0	1	11
<b>Assets</b>	US\$	1,188,938,429	28,107,581		1,738,378	1,218,784,388
<b>Deposits</b>	Total: US\$	453,929,496	19,796,087		373,587	474,099,170
	% Non-resident	82% of deposits				
<b>International Links</b>	% Foreign-owned:	87% of assets	% of assets 0	% of assets	% of assets 0	87% of assets
	#Subsidiaries abroad	3				3

**II. SUMMARY OF PROGRESS MADE BY MONTSERRAT**

**Core and Key Recommendations**

5. The first follow-up report had noted for **Recommendation 5** that “*Montserrat’s FSC has included a programme in its work plan for 2011, which is intended to redound to the review of the AML/CFT policies of all financial institutions, by December 2011*” This initiative was in response to the examiners recommendation that Montserrat’s Financial Services Commission (FSC) ensure that all financial institutions develop and implement adequate policies and procedures designed to prevent money laundering and terrorist financing. Montserrat has now reported that this initiative is still ongoing because some institutions are currently re-drafting their policies and procedures. Relative to the examiners’ recommendation that the Anti-money laundering and Terrorist Financing Regulations of 2010, (AMLR) and the Anti-money laundering and terrorist financing code of 2010, (AMLC) be amended to include requirements for the application of the necessary enhanced CDD to private banking, legal persons or arrangements (including trusts) that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form, The decision has been taken to recommend to Cabinet that the AML/CFT Regulations 2010 and Code be amended to require all service providers to; “Verify the legal status of the legal person or legal arrangement, e.g. by obtaining proof of incorporation or similar evidence of establishing or existence, and obtain information concerning the customer’s name, the name of the trustees (for trust), legal persons), legal form, address, directors (for legal persons) and provisions regulating the power to bind the legal person or arrangements.” This Recommendation continues to remain **outstanding**.
6. The status of **Special Recommendation II** remains the same as was noted in the first follow-up report.

7. For **Recommendation 26**, Montserrat's action since the first follow-up report has been to ask its Cabinet to decide *whether* to accede to the examiners recommendation that the POCA be amended to make the Financial Crime Analysis Unit (FCAU) the central body for receiving STRs.
8. In response to the examiners recommendation to amend the POCA and the AMLC to include a specific time frame within which reporting entities must report STRs, Montserrat has pointed to their new Interpretation Act, which was reportedly enacted on August 5<sup>th</sup> 2011, which mandates that "*where no time is prescribed or allowed within which anything is to be done, the thing must be done with all convenient speed, and as often as the prescribed occasion arises*". This does not appear to satisfy the examiners specific recommendation.
9. In the context of the RA's legislative responsibilities as the FIU of Montserrat, the examiners had recommended that it should consider the employment of a competent and suitably qualified person to the position of Secretary to the RA responsible for all the administrative functions and to perform duties as the RA may determine. Montserrat has taken a decision to advertise the position of Secretary of the RA No information was provided as to whether this has been done or a timeframe for employing this person.
10. The new STR reporting form has been reviewed and approved by the Reporting Authority (RA) and is expected to be circulated to stakeholders for their comments. Relative to the recommendation to implement a back-up policy which would include keeping back-ups in a remote location Montserrat has reported that a policy was adopted to use the Overseas Territories Regional Criminal Intelligence System (OTRICS) database system for FCAU back-up storage. This was implemented on 27<sup>th</sup> March, 2012.
11. On the issue of amending the laws to allow for the RA to be the sole recipient of terrorist financing disclosures, Montserrat has addressed the issue with the U.K. authorities but has not as yet received any feedback. Based on the action taken thus far, Recommendation 26 continues to remain **outstanding**.
12. The position with **Recommendation 35** and **SR III** is the same as was detailed in the first follow-up report. It is noted however that with regards to the recommendation that Montserrat "*consider recommending to the UK that the 2001 Anti-Terrorism Order amended to specifically address the issue of 'freezing without delay' the funds of identified terrorists*", the Government of Montserrat has requested feedback from the UK and is awaiting a response.
13. For **Special Recommendation V**, the examiners made four (4) recommendations to close the existing gaps they discerned. One (1) of these recommendations was for the jurisdiction to "*create mechanisms to establish specific timelines for complying with requests for assistance*". Montserrat has pointed to their Tax information Exchange Act, which was brought into force on 28<sup>th</sup> October, 2011, and the new Interpretation Act which was passed on 5<sup>th</sup> August, 2011, as being cures for this gap. Assistance, in the context of SRV, refers to criminal, civil enforcement, and administrative investigations, inquiry and proceedings relating to the financing of terrorism and terrorist acts and terrorist organisations. The Tax Information Act narrowly focuses on the mutual exchange of information on tax related matters. The provisions of the Interpretation Act, quoted by Montserrat, refer to "*all convenient speed*" as being applicable when responding to international requests for assistance. This term is however left open to interpretation and does not appear to satisfy the recommendation noted above. Additionally, the absence of statistics on formal requests for

assistance has negated the possibility of determine how expeditiously the jurisdiction dealt with such requests in the past. This Special Recommendation consequently remains *outstanding*.

#### Other Recommendations

14. In order to comply with the examiners recommendations for **Recommendation 8**, the FSC has requested, of the two (2) financial institutions, whose policies do not now address the misuse of technological developments, to cover these in their policies and procedures which are currently being updated.
15. For **Recommendation 12** the examiners had suggested that Montserrat prepare an administrative plan for the effective administration of the new legislation. They also recommended that training, designed to bring clarity of reporting requirements, be provided and that DNFBPs should enhance their risk management to arrive at the determination of PEPs. Montserrat has drafted an administrative plan and has scheduled a seminar for all DNFBPs, carded for the second quarter of 2012. The other examiner's recommendation has not as yet been taken onboard. The Recommendation remains *outstanding*.
16. For **Recommendation 14**, Montserrat's Cabinet has been asked to decide whether to amend the POCA so as to implement the examiners recommendation regarding tipping off and to provide explicit protection for financial institutions, directors, officers and employees from criminal or civil liability from breach of contract etc. for reporting STRs. This Recommendation remains *outstanding*.
17. The shortcomings for Recommendations 14 and 21 have cascaded onto **Recommendation 16**. Consequently, as these Recommendations continue to remain *outstanding*, so too is Recommendation 16.
18. **Recommendation 19** remains as it were in the first follow-up report.
19. At **Recommendation 21** the examiners had recommended that the FSC ensure all financial institutions have the required policies in place to ensure that special attention is paid to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. In this regard Montserrat has begun the process of reviewing all the policies and procedures of its financial institutions. This process is ongoing and only the policies and procedures of two (2) financial institutions are yet to be reviewed. This Recommendation remains *outstanding*.
20. **Recommendation 25** continues to remain *Outstanding*. The comments in the first follow-up report are still relevant except that Montserrat has now added the RA alongside the FSC as the entities providing the feedback by way of letters indicating the status of the STR with the RA. It should be noted that the specific shortcoming indicated that "*No advisories or reports relating to STRs, statistics, current trends or typologies have been published or issued to service providers*". Montserrat has however indicated that advisories will take the form of annual publications, in the official Gazette, in keeping with this recommendation, beginning in September 2012, following presentation and approval by the Cabinet.
21. Montserrat has begun the process of implementing the examiners recommendations for **Recommendation 30**, particularly as they relate to training. In this regard training of officers of the Royal Montserrat Police Force (RMPF) was conducted during September and October

of 2011 and additional training is carded for “2012 onwards”. The Legal Department also conducted a workshop, for the FCAU, during 3 to 28<sup>th</sup> October, 2001. This workshop was facilitated by a member of the UK’s Crown Prosecution Service and included training in respect of prosecution of serious organised crime, including money laundering and elements of the POCA. Practical exercises relating to obtaining productions orders were also conducted. The DPP’s office will be responsible for further training of the FCAU. Relative to the recommendation that the organisational structure of the FSC be reorganized for increased effectiveness in its performance, no action has as yet been taken in this regard. The second part of this recommendation however has been partially implemented through the hiring of two (2) additional members of staff.

22. Finally for this Recommendation, the examiners noted that “*Consultation with the Commissioner of the FSC on the appointment and dismissal of a director* (of the Board of the FSC) *could compromise the matter of independence of the FSC*” and had recommended as a possible cure that the requirement be removed from **s.5 and 8** of the FSCA. In response to this recommendation, the said Board to which this recommendation is related and on which the Commissioner of the FSC is an “ex officio” Director, sat and decided that “*the recommended action was not practical for operations of the Commission*” because the provision in the FSCA relates only to consultation and not to the provision of advice and that it would not “*be practical for the Governor to appoint or dismiss a director without some form of communication with the Chief Executive Officer with responsibility for the administration and operation of the Commission*” It must be noted as well that the Chief Executive Officer referred to here is the said Commissioner of the FSC who, as CEO of the of the FSC is subject to the general direction of the FSC Board. This Recommendation remains **outstanding**.
23. Montserrat has drafted an MOU to facilitate cooperation among local authorities. The details of this MOU are still being discussed and are expected to be in place by 30 June 2012. Consequently **Recommendation 31** remains **outstanding**.
24. With regards to the maintenance of statistics for **Recommendation 32**, the FSC now receives data on wire transfers, from all financial institutions, which it passes onto the FCAU for the maintenance of statistics. The Customs is also reportedly now maintaining statistics manually with the intention of introducing a database for this purpose, “*in the near future*”. This Recommendation remains **outstanding**.
25. **Recommendation 33, and Special Recommendations and IX** remains as they were in the first follow-up report.
26. With regards to **Special Recommendation VI**, training of MSBs was carried out in September 2011. The FSC has received updated compliance manuals from the MSBs and confirm that the manuals reflect the provisions in the 2010 AML/CFT legislation.
27. Montserrat shortcomings in relation to **Special Recommendation VIII** was centred around the fact that the NPO Regulations, No. 24 of 2010, were of recent vintage (in relation to the Mutual Evaluation) and consequently the FSC had only ‘*recently commenced its outreach programme*’. The process of registering NPOs commenced in September of 2011 with the submission of applications by some NPOs. The examiners had recommended that Montserrat authorities should consider establishing systems and procedures to allow information on NPOs to be publicly available. Montserrat has responded by indicating that the 2010 Non-Profit Regulations 5 (1) provides for information on NPOs to be publicly available by

inspection of the Register of NPOs, after the payment of a fee. Montserrat has reported that some NPOs have already been registered whilst applications for the establishment of others are currently being processed by the FSC.

28. Upon the issuance of Certificate of Registration, NPOs are advised to keep records of:
- Its purpose, objectives and activities; and
  - The identity of the persons who control or direct its activities, including as appropriate, senior officers, directors and trustees; and financial records that:
  - Show and explain its transactions, within and outside Montserrat, that are sufficiently detailed to show that its funds have been used in a manner consistent with its purposes objectives and activities; and
  - Show the sources of its gross income.
29. Montserrat has reported that it has planned a seminar, for its registered NPOs, scheduled to take place towards the second quarter of 2012.

### **III Conclusion**

30. It was noted in Montserrat's first follow-up report that the jurisdiction needed to show that its legislation was being effectively implemented. Since then, Montserrat's has successfully prosecuted a money laundering case involving the concealment of criminal property to the tune of EC\$1,530,767.25, resulting in criminal conviction and sanctions being imposed on the accused. This clearly demonstrates the capability and willingness on the part of the Montserrat authorities to engage their legislative powers in furtherance of money laundering offences. Montserrat would however require more time to demonstrate such capabilities and willingness with respect to the Core and Key Recommendations.
31. The Attorney General's Chambers has been operating with only two legal drafters since September 1, 2011, a time when the legislative agenda was focused on enacting laws to facilitate the implementation of the New Constitution. In the intervening period the Government of Montserrat has re-doubled its efforts to recruit a Parliamentary Counsel without success although the post was advertised extensively on no less than three separate occasions. Attempts have also been made over the past six months to secure the release of a national drafter serving with a regional organization without success. Montserrat is hoping that new initiatives to secure assistance from international organizations will bear fruit before year end. In the interim, the Attorney General's chambers has committed to drafting the necessary amending local legislation by June 2012 and subsequently presenting them for consideration of the Cabinet.
32. The November 2011 Plenary had asked Montserrat to "*Produce a detailed plan of actions with clearly defined and achievable timelines which will lead the all the examiners recommendations being implemented on or before July 22<sup>nd</sup> 2014, i.e. three (3) years from the date of the adoption of the MER*". This action plan was requested with a view to having Montserrat placed on a more protracted reporting timeframe, i.e. one year in the first instance, in light of the fact that only six (6) of the sixteen (16) core and key Recommendations were

rated PC. This action plan was submitted on May 4<sup>th</sup> 2012 but did not address the ‘Other’ Recommendations.

33. Given all of the above it is recommended that Montserrat be kept on expedited follow-up and report back to the November 2012 Plenary.

CFATF Secretariat  
May 2012

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation  
Montserrat (30 March 2012)**

Forty Recommendations	Rating	Summary of factors underlying rating <sup>1</sup>	Recommended Actions	Undertaken Actions
<b>Legal systems</b>				
1.ML offence	<b>LC</b>	<ul style="list-style-type: none"> <li>• <b>As there have been no money laundering prosecutions in Montserrat and the POCA has only recently been enacted effectiveness cannot be ascertained.</b></li> <li>• <b>Environmental crime is not a predicate offence for ML.</b></li> <li>• <b>Some psychotropic substances in the updated Schedules to the 1971 Vienna Convention are not scheduled as controlled drugs</b></li> </ul>	<ul style="list-style-type: none"> <li>• The penalties for environmental crime need to be revisited to qualify this type of offence as a predicate offence for ML.</li> <li>• The jurisdiction needs to revisit its legislation dealing with psychotropic substances to ensure that there is comprehensive provision for all elements pursuant to the Vienna Convention since all psychotropic substances do not seem to have been captured under the legislation.</li> <li>• Statistics need to be utilised as a means of assessing and reviewing existing systems.</li> <li>• The new legislative measures need to be fully implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• No action taken. Drafting of necessary amendments have been added to the legislative programme to be completed in 2012.</li> <li>• An audit of the legislative provision is being undertaken and any necessary amendments made to the local legislation in 2012.</li> </ul> <p>The jurisdiction has commenced using the information available from decided cases to compile statistics for assisting in assessing and reviewing existing systems</p> <ul style="list-style-type: none"> <li>• This is not a factor which led to the underlying rating.</li> </ul>

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

2.ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> <li>As there have been no money laundering prosecutions in Montserrat and the POCA has only recently been enacted effectiveness cannot be ascertained.</li> </ul>		<p><b>The effectiveness of the legislation has now been established. In a recently decided case the accused was convicted of a money laundering offence under section 118 of the Proceeds of Crime Act 2010 and sentenced to five years imprisonment.</b></p>
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> <li>The effectiveness of the legislation could not be determined owing to its recent passage.</li> <li>The absence of a resident judge on the island is likely to affect ability of the jurisdiction to obtain a restraint order in an expeditious manner.</li> </ul>		
<b>Preventive measures</b>				
5.Customer due diligence	PC	<ul style="list-style-type: none"> <li>No clear requirement that enhanced CDD be applied to private banking, legal persons or arrangements (including trusts) that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form.</li> <li>Effectiveness of legislative provisions cannot be ascertained owing to the recentness of enactment.</li> </ul>	<ul style="list-style-type: none"> <li>The competent authority should ensure that all financial institutions develop and implement adequate policies and procedures designed to prevent money laundering and terrorist financing.</li> </ul>	<ul style="list-style-type: none"> <li>The Financial Services Commission has, as part of its Strategic Plan for 2011, included in its work-plan a programme to review the policies and procedures for all financial institutions. The task should be completed by December 2011.</li> </ul> <p><b>The FSC has received updated compliance manuals from most of the Financial Institutions and have commenced review of the manuals to ensure compliance with AML/CFT</b></p>

			<ul style="list-style-type: none"> <li>• Regulation and Code should include private banking, legal persons or arrangements (including trusts) that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form as situations where enhanced CDD should be applied.</li> </ul>	<p><b>2010 legislation.</b>  <b>The institutions that have not submitted revised manuals have confirmed in writing that they are currently drafting revised documents.</b></p> <ul style="list-style-type: none"> <li>• Decision will be sought from Executive Council to amend the AML/CFT Regulations 2010 and Code to make it mandatory that financial institutions perform enhanced due diligence for higher risk categories of customer, including:             <ol style="list-style-type: none"> <li>a) Non-resident customers,</li> <li>b) Private banking,</li> <li>c) Legal persons or arrangements such as trusts that are personal assets holding vehicles,</li> <li>d) Companies that have nominee shareholders or shares in bearer form.</li> </ol> </li> </ul> <p>Review of the provisions in the AML/CFT Code reveals that the Code provides for this requirement in its guidance under the heading “Enhanced due diligence – Introduction” - which states:          “.. the Commission expects service providers to apply enhanced customer diligence measures and undertake enhanced ongoing monitoring where the customer,</p>
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				<p>transaction or business relationship involves private banking, legal persons or arrangements (including trusts) that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form.”</p> <p><b>The decision has been taken to recommend to Cabinet that the AML/CFT Regulations 2010 and Code be amended to require all service providers to; “Verify the legal status of the legal person or legal arrangement, e.g. by obtaining proof of incorporation or similar evidence of establishing or existence, and obtain information concerning the customer’s name, the name of the trustees (for trust), legal persons), legal form, address, directors (for legal persons) and provisions regulating the power to bind the legal person or arrangements.”</b></p>
6.Politically exposed persons	LC	<ul style="list-style-type: none"> <li>Effectiveness of implementation cannot be ascertained owing to the recent enactment of the Code.</li> </ul>		
7.Correspondent banking	LC	<ul style="list-style-type: none"> <li>Effectiveness of implementation cannot be ascertained owing to the recent enactment of the</li> </ul>	<ul style="list-style-type: none"> <li>All financial institutions should be required to have policies in place to address correspondent banking</li> </ul>	<ul style="list-style-type: none"> <li>Not all financial institutions in Montserrat are part of the “Payment System”, e.g., the Credit Union and</li> </ul>

		<p><b>Code.</b></p>	<p>issues.</p>	<p>Building Society. These institutions operate banking accounts with the two banks operating in the jurisdiction. The two banks have policies and procedures in place that address correspondent banking issues.</p> <p><b>Although not part of the payment system and therefore do not have corresponding banking relationships, in order to implement the recommended action the Credit Union and the Building Society have been requested by the authorities to include in their AML/CFT manuals policies to address correspondent banking issues.</b></p>
<p>8.New technologies &amp; non face-to-face business</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• <b>Effectiveness of implementation cannot be ascertained owing to the recent enactment of the Code.</b></li> <li>• <b>Not all financial institutions were found to have policies in place to address misuse in technological developments in ML/FT.</b></li> </ul>	<ul style="list-style-type: none"> <li>• All financial institutions should be required to develop policies to address the misuse of technological developments in ML/FT</li> </ul>	<ul style="list-style-type: none"> <li>• The bank financial institutions have included this recommendation in their written AML/CFT policy manuals. The authorities will now request the Credit Union and the Building Society to include in their written AML/CFT Compliance Manual policies to address the misuse of technological developments in ML/FT.</li> </ul> <p><b>FSC has requested both the Credit Union and the Building Society who</b></p>

				<b>are currently preparing revised Compliance manuals to include in their updated AML/CFT documents policies and procedures to address the misuse of technological developments in ML/FT.</b>
9.Third parties and introducers	<b>LC</b>	<ul style="list-style-type: none"> <li><b>Effectiveness of the Regulations and Code cannot be assessed due to their recent passage.</b></li> </ul>	<ul style="list-style-type: none"> <li>Competent authorities should consider the issuance of a list of jurisdictions that adequately apply the FATF Recommendations for third parties that may operate in foreign countries.</li> <li>Montserrat should consider amending the AML/CFT Regulations or Code to include the requirement that service providers should only accept introduced business from an introducers or intermediaries who themselves have face to face contact when conducting the CDD measures upon which the service provider relies.</li> </ul>	<ul style="list-style-type: none"> <li>The jurisdiction has taken the view that it cannot ascertain at any point in time the jurisdictions that adequately apply the FATF Recommendations. The only list that is available is one published for the use of members of the European Union. It has therefore taken the decision to publish the list issued by the FATF of countries that do not apply FATF recommendations.</li> <li>Except for the requirement for face to face contact, this recommended action is already a requirement and is covered in Regulation 8 of AML/CFT Regulations.</li> </ul> <p>The requirement for face to face contact is not an essential criteria of Rec. 9.</p>
10.Record keeping	<b>LC</b>	<ul style="list-style-type: none"> <li><b>Effectiveness cannot be assessed due to recent passage</b></li> </ul>		

		<b>of the POCA Regulations and Code.</b>		
11.Unusual transactions	<b>LC</b>	<ul style="list-style-type: none"> <li>• <b>Effectiveness cannot be assessed due to the recent passage of the POCA, Regulations and Code.</b></li> </ul>		
12.DNFBP – R.5, 6, 8-11	<b>PC</b>	<ul style="list-style-type: none"> <li>• <b>Due to the recent enactment of the POCA (proceeds of crime Act), the AML/CFT regulations, the AML/CFT code, effective assessment of the AML/CFT measures cannot be evaluated.</b></li> <li>• <b>Deficiency factors noted in Recommendations 5, 6, 8-11 are also applicable to DNFBPs.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Deficiencies identified for all regulated businesses as noted for Recommendations 5, 6, 8-11 in the relevant sections of this Report are also applicable to DNFBPs.</li> <li>• It is suggested that the Authorities prepare an administration plan for the effective administration of the newly proposed legislations.</li> <li>• Adequate training and familiarization should be provided for the players in order to ascertain that clarity in relation to the reporting requirements and sanctions associated with the non-compliance is clearly understood.</li> </ul>	<ul style="list-style-type: none"> <li>• There are no specific recommended actions. Responses to deficiencies in the implementation of Recommendation will 5, 6, 8-11 will be dealt with individually.</li> <li>• The recommended action is part of the functions of the FSC Act and is included in the FSC’s Strategic Plan.</li> </ul> <p><b>Attached is a copy of FSC’s updated Strategic Plan – 6 February 2012 which outlines a programme of activities to be undertaken</b></p> <ul style="list-style-type: none"> <li>• Continued training of DNFBPs is scheduled to be carried out in January 2012.</li> </ul> <p><b>The FSC continues to train representatives from DNFBPs to enable them to meet their obligations under the AML/CFT Regulations. The seminar is now rescheduled for the second quarter of this year to include all registered DNFBPs.</b></p>

			<ul style="list-style-type: none"> <li>DNFBPs should enhance their risk management to arrive at the determination of PEPS.</li> </ul>	<p>The DNFBPs policies and procedure manuals submitted under the provisions of the AML/CFT Regulations clearly outline the strategies and policies the DNFBPS have implemented in respect of PEPs.</p> <p>At training the facilitators will bring awareness to DNFBPs of the risk PEPS pose to the financial sector.</p>
13.Suspicious transaction reporting	LC	<ul style="list-style-type: none"> <li><b>No requirements relating to the reporting of suspicious transactions involving tax matters.</b></li> </ul>	<ul style="list-style-type: none"> <li>There should be an explicit requirement to report suspicious transactions whether or not they are thought among other things to involve tax matters</li> </ul>	<ul style="list-style-type: none"> <li>The Executive Council will consider whether to introduce a Bill to amend POCA to make provision for recommended action.</li> </ul> <p><b>The Cabinet has been requested to decide on recommendations to make amendments to POCA 2010 to to include in the provisions that re service providers are required “to report suspicious transactions regardless of whether they are thought, among other things, to involve tax matters.”</b></p>
14.Protection & no tipping-off	PC	<ul style="list-style-type: none"> <li><b>No explicit protection for financial institutions, directors, officers and employees from</b></li> </ul>	<ul style="list-style-type: none"> <li>Amend the POCA to explicitly detail who are protected from making disclosures to the Reporting</li> </ul>	<ul style="list-style-type: none"> <li>The Executive Council will consider whether to introduce a Bill to amend POCA to make provision for</li> </ul>

		<p><b>criminal or civil liability from breach of contract etc for reporting STRs.</b></p> <ul style="list-style-type: none"> <li>• <b>Tipping off not applicable to STRs that are in the process of being reported to the Reporting Authority.</b></li> <li>• <b>Tipping off only applicable where an investigation is prejudiced.</b></li> </ul>	<p>Authority.</p> <ul style="list-style-type: none"> <li>• Amend the POCA to prohibit financial institutions, directors, officers and employees from tipping off the fact that a disclosure or related information is in the process of being reported to the Reporting Authority.</li> <li>• Amend the POCA to specifically prohibit all illegal disclosures.</li> </ul>	<p>recommended action.</p> <p><b>The Cabinet has been asked to decide whether to amend POCA 2010 to provide that :</b></p> <p><b>“Financial institutions and their directors, officers and employees (Permanent and temporary) should be protected by law both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU. This protection should be available even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.”</b></p> <ul style="list-style-type: none"> <li>• The Executive Council will be ask to consider whether to introduce a Bill to amend POCA to make provisions for recommended action.</li> </ul> <p><b>The Cabinet has been asked to decide on recommendations to amend POCA 2010 to require that:</b></p> <p><b>“Financial Institutions and their directors, officers and employees</b></p>
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				(permanent and temporary) should be prohibited by law from disclosing (-tipping off) the fact that a STR or related information is being reported or provide to the FIU.”
15. Internal controls, compliance & audit	LC	<ul style="list-style-type: none"> <li>• <b>No requirement that appropriate staff other than the money laundering compliance officer have timely access CDD and other relevant information</b></li> </ul>	<ul style="list-style-type: none"> <li>• Amend the AML/TFR so that all appropriate staff (including the money laundering compliance officer) have timely access CDD and other relevant information.</li> </ul>	<ul style="list-style-type: none"> <li>• Cabinet will be asked to decide whether to amend the AML/CFT Regulations 2010 and Code and make provision for the recommended action.</li> </ul> <p><b>The Cabinet has been asked to decide on recommendations to make amendments to the AML/CTF Regulations to provide for:</b>  <b>“The AML/CFT Compliance Officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records, and other relevant information.”</b></p>
16. DNFBP – R.13-15 & 21	PC	<ul style="list-style-type: none"> <li>• <b>Due to the recent enactment of the POCA 2010 effective implementation of the</b></li> </ul>	<ul style="list-style-type: none"> <li>• The existing legislation does not adequately ensure the compliance of the jurisdiction in relation to</li> </ul>	<ul style="list-style-type: none"> <li>• There are no specific deficiencies highlighted. POCA Cap. 4.04 was repealed in 2010.</li> </ul>

		<p><b>AML/CFT measures cannot be effectively evaluated</b></p> <ul style="list-style-type: none"> <li>• <b>Deficiencies identified for other financial institutions with respect to Rec. 13, 15, and 21 would also apply to DNFBPs.</b></li> </ul>	<p>suspicious transaction reporting. (POCA Cap (4:04) and AML regulation 2010)</p> <ul style="list-style-type: none"> <li>• The requirements for DNFBPs are the same for all other financial institutions, therefore the deficiencies identified with regard to Rec. 13, 15, and 21 will also include DNFBPs.</li> <li>• The relevant supervisory authority should develop and issue guidelines and instructions on the maintenance of the framework for compliance with AML/CFT rules.</li> <li>• Montserrat must ensure that the existing legislative requirements pertaining to DNFBPs are enforced.</li> </ul>	<p><b>POCA Cap. 4.04 was repealed on the introduction of POCA 2010. It would assist if further clarification could be given by the CFATF.</b></p> <ul style="list-style-type: none"> <li>• Proposals for any recommended action will be dealt with individually.</li> </ul> <p><b>Recommendations in respect to 13 and 15 have been submitted to Cabinet.</b></p> <ul style="list-style-type: none"> <li>• The Anti-Money Laundering and Terrorist Financing Code 2010 which came into force in April 2010 provides guidelines and the framework required to comply with AML/CFT Rules.</li> <li>• The FSC the designated Supervisory Authority for DNFBPs has commenced the processing of ensuring all relevant entities are registered. Following registration the FSC will monitor and enforce compliance with the legislative requirements.</li> </ul> <p><b>The jurisdiction has implemented the legislative requirements in respect of DNFBPs. Since the introduction of the AML/CFT Regulations 2010 and the first follow up report, a number</b></p>
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				<b>of DNFBPs has been registered under the legislation and the FSC has commenced monitoring their activities.</b>
17. Sanctions	LC	<ul style="list-style-type: none"> <li><b>Limited use of the sanctions did not allow for a proper assessment of whether the sanctions were effective, proportionate and dissuasive.</b></li> </ul>	<ul style="list-style-type: none"> <li>The authorities should monitor the effectiveness of the application of sanctions to determine whether they are consistent, proportionate and dissuasive and make amendments to the legislation as deemed necessary</li> </ul>	<ul style="list-style-type: none"> <li>Because of the low level of economic activity there is very little opportunity to pursue action for breach of provisions in the legislation. However, over time the level of offences may increase and it will become apparent whether the application of sanctions are appropriate.</li> </ul> <p><b>The Authorities continues to monitor the effectiveness of the sanctions and where appropriate will make recommendations to ensure sanctions are proportionate and dissuasive.</b></p> <p><b>The money laundering conviction mentioned above demonstrates that the legislation is effective.</b></p>
19. Other forms of reporting	NC	<ul style="list-style-type: none"> <li><b>The authorities have not considered the feasibility and utility of implementing a system where financial institutions report all transactions in currency above a fixed threshold to a national central agency.</b></li> </ul>	<ul style="list-style-type: none"> <li>Competent authorities should consider the feasibility and utility of implementing a system where financial institutions report transactions in currency above a threshold to a centralised national authority.</li> </ul>	<ul style="list-style-type: none"> <li>The competent authorities considered the feasibility and utility of implementing a system. However, given the low level of activity and the close proximity of the financial institutions to the Supervisory Authority, it was decided that since the information is kept by institutions</li> </ul>

				<p>for a statutory period of not less than 5 years and is easily available, the reporting of transactions in currency above a threshold is not necessary. Executive Council's decision on this matter will be sought.</p> <p>In addition to the above, the jurisdiction now requires all financial institutions to submit information on all wire transfers on a quarterly basis.</p>
<p>21. Special attention for higher risk countries</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>• <b>Some financial institutions demonstrated limited understanding of the need to ensure compliance with the requirement to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. Neither were there specific policy requirements in place in such instances to address this requirement.</b></li> <li>• <b>No effective implementation of AML/CFT regime as a result of recent enactment of AML/CFT</b></li> </ul>	<p>FSC should ensure that all financial institutions have the required policies in place to ensure that special attention is paid to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.</p>	<p><b>In July 2010 all financial institutions were requested to amend their AML/CFT policies to include new provisions in the AML/CFT Regulations 2010 legislation which came into force in April 2010. The new provisions include the requirement in Regulation 7 that service providers must implement policies to carry out enhanced due diligence measures where the service provider has, or proposes to have, a business relationship with, or proposes to carry out an occasional transaction with, a person connected with a country that does not apply, or insufficiently applies, the FATF recommendations. This is requirement of Reg. 7 of the</b></p>

		<p><b>regulations, Code and Guidance 2010.</b></p>		<p><b>AML/CFT Regulations 2010.</b></p> <p><b>We have reviewed all the financial institutions’ policies, except for the credit union and the building society. We have however, requested the Montserrat Building Society and the St. Patrick’s Co-operative Credit Union Limited that they include in their revised AML/CFT policy documents that “they will give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations”, copy of our correspondence to them is attached for reference.</b></p> <p><b>In our review of the Bank of Montserrat Limited’s Anti-Money Laundering and Anti-Terrorist Financing Compliance Manual it was noted that it did not include the provision that they pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. To remedy this defect on 12 March 2012 we wrote to the Bank and requested that they include this provision in their policy document.</b></p>
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<p>22. Foreign branches &amp; subsidiaries</p>	<p>LC</p>	<ul style="list-style-type: none"> <li>• <b>Given the recent issuance of these requirements sufficient time has not elapsed to allow or test for effective implementation</b></li> </ul>	<ul style="list-style-type: none"> <li>• Financial institutions should be required to ensure that their AML/CFT policies contain measures which require compliance with Recommendation 22.</li> </ul>	<ul style="list-style-type: none"> <li>• This requirement is a provision in Reg. 3 of the AML/CFT Regulations 2010.</li> </ul> <p><b>We have no further comments to add above but would be grateful if the CFATF could confirm that the provisions in our legislation cited above adequately covers the requirements in the FATF recommendations.</b></p>
<p>23. Regulation, supervision and monitoring</p>	<p>LC</p>	<ul style="list-style-type: none"> <li>• <b>The FSC has not conducted on-site inspections of all the financial institutions.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The ECCB should take steps to ensure that its licensees are in compliance with AML/CFT obligations.</li> <li>• The FSC should develop and implement a work plan to ensure that all financial institutions are subjected to on-site inspections to assess compliance with ML and FT measures. Also a follow up programme should be instituted to monitor the level of progress attained by financial institutions in response to the weaknesses identified in on-site inspection reports.</li> </ul>	<ul style="list-style-type: none"> <li>• The ECCB is not legally obliged under the laws of Montserrat to ensure licensees compliance with AML/CFT. This is a function of the FSC under FSC Act 2008.</li> <li>• The FSC annually prepares a Strategic Plan with objectives. Part of its planned objections is to carry out on-site inspection of all financial institutions in a three cycle. In its work plan the cycle for completion of all financial institutions is 31 December 2011.</li> <li>• There exists a follow-up system to monitor the responses to issues arising from off-site review and/or on-site examination in concerning compliance with prudential and AML/CFT issues with all supervised</li> </ul>

				<p>entities.</p> <p><b>See copy of the FSC's revised Strategic Plan dated 6 February 2012 which gives detailed programme for both on-site and off-site inspection.</b></p>
<p>24. DNFBP - regulation, supervision and monitoring</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• <b>Unable to access implementation of the AML/CFT Regulations and Code due to its recent enactment.</b></li> <li>• <b>The resources of the FSC is inadequate to enable it to effectively supervise the DNFBP sector.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The examiners noted that guidance and directives were in practice not issued to all companies and persons in the financial sector of Montserrat. The appropriate authorities should ensure that the guidance and codes are disseminated to the industry.</li> </ul>	<ul style="list-style-type: none"> <li>• Following registration of all-Non-Financial Service providers the FSC will establish a list of registrants for disseminating relevant guidance notes and directives.</li> <li>• All prescribed service providers have been provided with a hard and/or soft copy of the AML/CT Regulations and AML/CFT Code 2010 with guidance.</li> </ul> <p><b>To date the FSC has registered a number of DNFBPs under the provisions of the AML/CFT Regulations and is currently processing applications for registration.</b></p> <p><b>The FSC has increased its staffing capacity to effectively supervise the DNFBPs. In addition there has been a reduction in the number of licensed international banks since evaluation of the jurisdiction which has created more capacity to supervise other</b></p>

				<b>regulated activities.</b>
25. Guidelines & Feedback	<b>PC</b>	<ul style="list-style-type: none"> <li>• <b>The RA/FCAU has not provided consistent feedback on suspicious transaction reports filed by financial institutions.</b></li> <li>• <b>No advisories or reports relating to STRs, statistics, current trends or typologies have been published or issued to service providers.</b></li> <li>• <b>Unable to assess effectiveness guidelines because of their recent implementation.</b></li> <li>• <b>The deficiencies noted for Rec. 25 at Section 3.7 and 3.10 of this Report also apply to DNFBPs.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The RA/FCAU should provide consistent feedback on suspicious transaction reports filed to financial institutions.</li> <li>• The RA has been supplying specific feedback to the service providers. However, the RA should consider providing general feedback to financial institutions and DNFBPs on disclosures and sanitised cases.</li> <li>• The RA should provide the reporting entities with advisories relating to AML/CFT.</li> </ul>	<ul style="list-style-type: none"> <li>• The RA/FCAU has now introduced a procedure to provide feedback periodically to persons who have submitted suspicious transaction reports.</li> <li>• The RA/ FSC also provide feedback to prescribed service providers when training is carried. Training is carried out annually at least.</li> <li>• To date all relevant financial institutions are issued with relevant advisories under the UN Sanctions list and any FATF publications concerning countries not sufficiently applying the Recommendations.</li> </ul> <p><b>The jurisdiction has no further comments to add.</b></p>
<b>Institutional and other measures</b>				
26. The FIU	<b>PC</b>	<ul style="list-style-type: none"> <li>• <b>The RA is not the central body in Montserrat authorised to receive disclosures.</b></li> <li>• <b>Autonomy of RA uncertain because of existing structure.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The FCAU should be formally established as the central authority for receiving STRs in Montserrat</li> <li>• Montserrat should amend section 122(1)(b) of the POCA and Part 5,</li> </ul>	<ul style="list-style-type: none"> <li>• The Executive Council will be requested to consider whether or not to introduce a Bill to amend POCA to make provision for this recommended action.</li> </ul>

		<ul style="list-style-type: none"> <li>• <b>The FCAU has not been formally established.</b></li> <li>• <b>No specific time-frame for reporting STRs.</b></li>   <li>• <b>The STR form in use is not prescribed.</b></li> </ul>	<p>section 32(1)(a) of the AML/CFT Code which requires the MLRO to submit STRs to the RA “<i>as soon as practical.</i>” Consideration should be given to including a specific time-frame for the submission of STRs together with the ability for the MLROs to submit STRs within the time-frame if suspicious activities warrant such.</p> <ul style="list-style-type: none"> <li>• Montserrat should develop and publish a STR reporting form for the particularisation of information required to be submitted by reporting entities when filing STRs.</li> </ul>	<p><b>The Cabinet has been requested to decide on recommendations to amend POCA 2010 to make FCAU the central body for receiving STRs.</b></p> <ul style="list-style-type: none"> <li>• <b>. A new Interpretation Act was passed on August 5, 2011 and section 20 provides for actions to be taken with all convenient speed. The text reads:</b>  <b>“20 General Principles Provisions when no time prescribed</b>  <b>Where no time is prescribed or allowed within which anything is to be done, the thing must be done with all convenient speed, and as often as the prescribed occasion arises.” This provision is of general application.</b></li> <li>• The authorities will consider whether the Interpretation Act provides adequately for the recommended action.</li> <li>• A draft STR form has been prepared for approval to replace the existing form which was introduced under the old legislation. When finalised it will be presented to Executive Council for approval.</li> </ul>
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		<ul style="list-style-type: none"> <li>• <b>DNFBPs are unaware of the reporting STR and requirements due to RA not providing awareness training.</b></li> <li>• <b>TF disclosures can be made to the RA through a constable.</b></li> <li>• <b>Lack of clarity as to which entity is authorised to receive STRs.</b></li> <li>• <b>The building that houses the RA is not sufficiently secured.</b></li> <li>• <b>No published reports on STR statistics, trends and typologies by the RA.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The RA should consider developing a strategic plan focusing specifically on the DNFBPs and NPOs on a risk assessment approach to awareness training in AML/CFT to make them fully aware of their obligations and the requirements in combating ML and TF.</li> <li>• The RA should consider the employment of a competent and suitably qualified person to the position of Secretary to the RA responsible for all the administrative functions and to perform duties as the RA may determine.</li> </ul>	<p><b>Section 121 (2) of POCA 2010 only requires</b> disclosure to the Reporting Authority must be in the form and manner, if any, that may be required by the Reporting Authority. Since introduction of POCA the form used under the old legislation has continued in use. However, a revised <b>STR form has been reviewed and approved by the RA. Copies will now be circulated to the service providers for their comments before it is introduced.</b></p> <ul style="list-style-type: none"> <li>• This is an activity in the FSC Strategic Plan 2011-15. The FSC has responsibility for monitoring these entities and with support from the RA carries out AML/CFT training.</li> </ul> <p><b>The RA/FCAU and FSC carry out joint training annually to raise awareness of service providers' obligations under the respective legislation.</b></p> <ul style="list-style-type: none"> <li>• RA has considered this recommended action. However, given the current low number of reports and scarce resources the RA has decided to continue to use a member of FSC staff who has carried the secretarial function for the RA</li> </ul>
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			<ul style="list-style-type: none"> <li>• The RA since its establishment in 2002 has not published any statistics, trends or typologies from STRs received from reporting entities publicly. The published reports would assist those reporting entities to strengthen their existing AML/CFT programs. Trends and typologies can also be obtained from regional FIUs as well as CFATF to assist the reporting sectors.</li> <li>• The independence of the FCAU from the police force seemed highly questionable. It would be advisable for the FCAU to be housed in a separate building from the Police Headquarters so that there might be less temptation to confuse the functions of the two bodies.</li> <li>• The RA should implement additional security of the (FSC) building where the RA operates until such time as the FCAU has been formally established.</li> </ul>	<p>since 2004.</p> <p><b>The Authorities have now decided to advertise the position of a secretary for the RA.</b></p> <ul style="list-style-type: none"> <li>• Statistics and typologies will be published in the annual report for the RA. These will also be used in the upcoming training to be carried out by FSC in its training programme for the DNFBPs and MSBs.</li> </ul> <p>Statistics are published in the FCAU Annual Report for 2011</p> <ul style="list-style-type: none"> <li>• Given the low workload which generates from suspicious transaction reports it not be possible to implement this recommended. This would lead to underuse of resources At present there are designated officers who members of the FCAU. The FCAU has its separate offices within Police Headquarters.</li> <li>• In the short term a fireproof cabinet will be acquired by the Chair of the RA to house its correspondence.</li> </ul>
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		<ul style="list-style-type: none"> <li>• <b>There is no off-site back-up of information.</b></li> </ul>	<ul style="list-style-type: none"> <li>• A data back-up policy should be implemented at the RA. Which would include scheduled days for backing-up, an off-site (secured) location for the storage of backed-up data and the scanning of STRs to be stored electronically.</li> <li>• Montserrat should consider amending section 11(1) and (2) of the Anti-Terrorism (Financial and Other Measures) Overseas Territories) Order 2002 to have disclosures be made to the RA and not reported to a Constable. The GN at Part 5(ix) of the AML/CFT Code also asks that service providers make disclosures to the RA.</li> </ul>	<ul style="list-style-type: none"> <li>• RA accepts the recommended action and is now exploring whether to locate its off-site back-up in the island or off island. Once a decision is made this recommendation will be implemented.</li> </ul> <p><b>A decision has been taken to store the back-up data with OTRICS database system. This should be in place by 31 March 2012..</b></p> <ul style="list-style-type: none"> <li>• The Orders are issued by the Privy Council in the U.K. and issued to the U.K. Overseas Territories.</li> <li>• The jurisdiction will therefore address the issue with the U.K. authorities.</li> </ul> <p><b>The jurisdiction has addressed the issue with the U.K authorities but to date there has been no feedback.</b></p>
<p>27. Law enforcement authorities</p>	<p>LC</p>	<ul style="list-style-type: none"> <li>• <b>No clear indications that ML or TF matters are being properly investigated.</b></li> </ul>	<ul style="list-style-type: none"> <li>• No clear indications that ML or TF matters are being properly investigate</li> </ul>	<ul style="list-style-type: none"> <li>• Since the Mutual Evaluation the FCAU has developed a policy document and put in place procedures to indicate the status of each case., i.e., closed, under, investigation, or intelligence.</li> </ul>

				<p><b>Since the first follow-up report the jurisdiction has now been successful in obtaining ML convictions in the court. The success demonstrates that cases are properly investigated.</b></p>
<p><b>28. Powers of competent authorities</b></p>	<p><b>LC</b></p>	<ul style="list-style-type: none"> <li>• <b>No clear authority to record witness statements.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The RMPF, the Attorney General and the FCAU should consider developing and reviewing their strategy in combating ML and TF with the view to adapting a more active approach in conducting investigations, prosecutions and possible convictions by ensuring that the investigative tools are provided for in the POCA are utilised.</li> <li>• Montserrat should ensure that there are legislative provisions that would empower investigators to record witness statements for use in investigations and prosecutions of MT, TF and predicate offences.</li> </ul>	<ul style="list-style-type: none"> <li>• Investigative tools in POCA will be utilised once evidence permits.</li> <li>• No action taken. Drafting of necessary amendments have been added to the legislative programme to be completed mid- 2012.</li> </ul>
<p>29. Supervisors</p>	<p><b>LC</b></p>	<ul style="list-style-type: none"> <li>• <b>Some financial institutions did not have established and sufficiently comprehensive policies in place for combating ML and FT.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The competent authority should ensure that all financial institutions develop and implement policies outlining the procedures for combating money laundering and terrorist financing</li> </ul>	<ul style="list-style-type: none"> <li>• The FSC is currently carrying out a comprehensive review of the all financial institutions' written policies and procedures for combating ML and FT to ensure they meet the requirements in the AML/CFT Regulations 2010 and the Code.</li> </ul>

				<p><b>The FSC has received updated compliance manuals from most of the Financial Institutions since introduction of the new legislation and has commenced the review of the manuals to ensure compliance with AML/CFT 2010 Regulations. .</b></p>
<p>30. Resources, integrity and training</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• <b>Insufficient human resources at the RA.</b></li> <li>• <b>No budget allocation to the RA for carrying out the functions that will be required under POCA 2010.</b></li> <li>• <b>The FCAU is not specifically dedicated to the investigation to ML and TF matters. They are still required to perform other policing duties when requested.</b></li> <li>• <b>Competent Authorities do limited ongoing vetting of officers to ensure that the highest level of integrity is maintained.</b></li> <li>• <b>The FSC is not adequately structured and staffed currently for its effective functioning. There are no positions for line managers and Examiners.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The authorities should consider providing the Police Force more training particularly in the area of ML investigation and other relevant areas. This Training should include the seizing, freezing, forfeiture and confiscation of assets.</li> <li>• The FCAU should be utilised in conducting in-house training for the RMPF with specific emphasis on the CID officer and the recruits in training, in the first instant, to be made aware of ML and TF investigations.</li> </ul>	<ul style="list-style-type: none"> <li>• The RMPS have and will continue to invest in training to bring current and potential staff up to the required level.</li> <li>• This recommended action has been accepted and steps have already been implemented to carry out the training.</li> </ul> <p><b>Training for the RMPS was conducted by Sergeant Sweeney and Supt. Thompson and FSC Commissioner, the chair of the RA for the staff of the RMPS on the 13<sup>th</sup> September 2011 and continued weekly until 18<sup>th</sup> October 2011. There is another training programme scheduled for 2012 onwards</b></p>

		<ul style="list-style-type: none"> <li>• <b>HM Customs is inadequately trained in ML and TF due to inadequate financial resources.</b></li> <li>• <b>Consultation with the Commissioner of the FSC on the appointment and dismissal of a director could compromise the matter of independence of the FSC</b></li> </ul>	<ul style="list-style-type: none"> <li>• Authorities should consider increasing the budgetary resources of the Police Force to adequately cover, purchasing of additional resources and the hiring of qualified staff to enable it to adequately perform its functions</li> <li>• Authorities should consider reviewing the measures in place for ensuring that persons of high integrity and good moral character are recruited into the RMPF and that there is a system in place for ongoing monitoring of officers to maintain the high level of professionalism and integrity needed.</li> <li>• There is a need for additional lawyers in the Legal Department.</li> <li>• The Legal Department should hold workshops with the FCAU on the operation of the various pieces of legislation relating to ML and TF</li> </ul>	<ul style="list-style-type: none"> <li>• The RMPS will submit budget based on requirements.</li> <li>• Polygraph has been considered; however, officers will be required to swear, submit and comply with the Secrecy Act to ensure compliance with confidentiality and keep integrity at a high level,</li> <li>• This will be considered as part of GOM's overall strategic development plan and will be subject to the availability of funding.</li> <li>• The Legal Department will seek to include workshops in its programme for 2012. In this regard, the input of the incoming DPP will be substantial. Accordingly, no concrete</li> </ul>
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			<p>(investigative tools and confiscation procedures) investigations.</p> <ul style="list-style-type: none"> <li>The authorities should consider reorganizing the organisational structure of the FSC for increased effectiveness of its performance. This should include consideration for adequate staff, equipment, funding and other forms of resources.</li> <li>The provision in Sections 5 and 8 of</li> </ul>	<p>decisions can be taken until the post is manned (post -September 2011)</p> <p><b>The Legal Department conducted a workshop from October 3 – 28, 2011 at which participants were exposed to training in respect of prosecution of serious organised crime including money laundering; elements of POCA including practical exercises to secure production orders. The facilitator was a member of the UK Crown Prosecution Service. A DPP has been appointed and is now in office. The DPP’s office will be responsible for further training of staff of the FCAU.</b></p> <p><b>The matter was brought to the Board at meeting held in March 2010 following the comments made by the CFATF evaluation team at their exit meeting in February 2010. At the meeting the Board decided to amend the structure to provide greater clarity. In addition, the FSC has recruited two additional staff and is currently seeking to recruit a senior officer.</b></p> <p><b>The Board of Directors of FSC has decided that the recommended action was not practical for operations of</b></p>
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			<p>the FCSA which require the Governor to consult with the Director of the FSC on the matter of appointment and dismissal of a director should be removed.</p> <ul style="list-style-type: none"> <li>The Authorities should consider providing training in counterfeit currency identification to all Customs, especially those working at the ports. The identification of precious metals and stones as such should also be conducted as a part of such training.</li> <li>The RA should set guidelines on confidentiality and ensure that the Financial Intelligence Unit fully observes those guidelines.</li> </ul>	<p><b>the Commission. The Board decided that the provision in the Act relates only to consultation and not to provide advice and that it would not be practical for the Governor to appoint or dismiss a director without some form of communication with the Chief Executive Officer with responsibility for the administration and operation of the Commission.</b></p> <ul style="list-style-type: none"> <li>The RA will request the ECCB to provide training in counterfeit currency identification to all relevant persons. Steps will be taken to identify a facilitator for conducting training in the identification of precious metals and stones. This is not a priority given that is little or no activity in precious metals in the island.</li> </ul> <p><b>The decision stands</b></p> <ul style="list-style-type: none"> <li>The authorities are currently reviewing the procedures to implement the recommended action.</li> </ul>
31. National co-operation	<b>PC</b>	<ul style="list-style-type: none"> <li><b>There are no established</b></li> </ul>	<ul style="list-style-type: none"> <li>The authorities should ensure that an</li> </ul>	<ul style="list-style-type: none"> <li>The members of the RA are heads of</li> </ul>

		<p><b>mechanisms in place to allow policy makers to cooperate with each other</b></p> <ul style="list-style-type: none"> <li>• <b>No formalised mechanism is in place for co-operation between the competent authorities at the operational level.</b></li> </ul>	<p>effective mechanism is put in place to bring together the various competent authorities on a regular basis to develop and implement policies and strategies to combat money laundering and terrorist financing.</p> <ul style="list-style-type: none"> <li>• The authorities should consider the setting up a secretariat to monitor the implementation of the country's AML/CFT regime</li> <li>• There appear to be an excellent working relationship between the competent authorities at a strategic level due to the composition of the RA. However at the operational level the relationship among competent authorities appear to be ad-hoc.</li> <li>• The authorities should consider formalising the arrangement with MOUs among the local authorities.</li> </ul>	<p>the various competent authorities who meet regularly to carry out the functions of the RA including developing and implementing policies and procedures to meet the obligations in the POCA, AML/CFT Regulations and Code and to advise the Government on such matters.</p> <ul style="list-style-type: none"> <li>• This is done through various assessments and evaluations of the jurisdictions AML/CFT framework.</li> <li>• The proposal is to build on the relationship that exists between the head of the competent authorities.</li> <li>• The authorities are considering introducing a MOU for this purpose.</li> </ul> <p><b>Since the ME the Reporting Authority has drafted MOU to provide for greater co-operation between police and custom which is currently under discussion.</b></p> <p><b>The formal training now been carried out “in house” facilitates the development of co-operation at</b></p>
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			<ul style="list-style-type: none"> <li>The AG department should consider playing a more pro-active role in giving guidance to the FCAU in relation to AML/CFT investigations.</li> </ul> <ul style="list-style-type: none"> <li>The competent authorities should consider formulating a strategic plan on a risk-based approach both in the short-term and long-term targeting the DNFBS and NPOs with awareness training seminars to help them become fully compliant with their obligations and requirements</li> </ul>	<p><b>operational level since all staff of the relevant authorities will participate in the training</b></p> <p>The formal training “in house” to be carried out by the DPP will facilitate further co-operation with the staff of the relevant authorities at operational level will be expected to participate.</p> <ul style="list-style-type: none"> <li>This function will be performed by the Criminal Division of the Legal Department under direct management of the DPP. Firm commitments will likely be made once the post is filled next month.</li> </ul> <p><b>The newly appointed DPP has confirmed that she has prepared a programme for training of the RA/FCAU/Customs during 2012 and will implement a plan for continuous training.</b></p> <ul style="list-style-type: none"> <li>The FSC has been designated Supervisory Authority for the DNFBS and NPOs. Its Strategic Plan includes conducting training to entities subject to the AML/CFT requirements and obligations on a risk-based approach. Since introduction of POCA the FSC has apprised the DNFBS and NPOs of their obligations under the</li> </ul>
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			<p>under the legislation.</p> <ul style="list-style-type: none"> <li>• Montserrat has demonstrated a high level of national cooperation amongst the policy makers. There were two main issues that were identified during the onsite visit. Firstly, there was far too much duplication on the part of the various bodies. The Chairman of the RA was also the Regulator of IBCs and Director/Commissioner of the Financial Services Commission. It is apparent that the Commissioner also functioned in other regulatory roles. Apart from the possibility of conflicts of interest arising, the ability to work effectively when saddled with such enormous responsibilities was highly questionable. This was borne out because during the onsite visit it was clear that not all DNFBPs and all financial institutions, to a lesser extent had received comprehensive monitoring, supervision and training in keeping with the mandate of the FSC legislation. Clearly more resources need to be allocated to these areas to increase the</li> </ul>	<p>AML/CFT and NPOs Regulations as part of the registration process.</p> <ul style="list-style-type: none"> <li>• <b>The Board of the Commission has decided that given the size and the limited resources available to Montserrat, integration of the functions would create efficiencies. This situation could be monitored and the increase in the number of transactions would signal the need to provide additional support.</b></li> <li>• <b>Additionally, Government's and the ECCU Monetary Council's policy is that there should be a "one stop shop" for regulatory and oversight matters.</b></li> </ul>
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			<p>complement of the FSC staff.</p> <ul style="list-style-type: none"> <li>• Montserrat also needs to consider putting measures in place to ensure a more definitive separation of roles and functions and to ensure the greatest transparency.</li> </ul>	
32. Statistics	PC	<ul style="list-style-type: none"> <li>• <b>Statistics do not appear to have been faithfully maintained therefore all situations were not necessarily captured.</b></li> <li>• <b>There is no comprehensive and independent statistics maintained by the Reporting Authority (RA) in relation to international wire transfers.</b></li> <li>• <b>No information about spontaneous referrals made by the Reporting Authority (RA) or FCAU to foreign authorities.</b></li> <li>• <b>No statistics maintained by HM Customs on matters that were referred to other Agencies such as the RA for investigations.</b></li> <li>• <b>HM Customs does not keep any comprehensive statistics on cross border seizures.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The FIU should establish a system for that would ensure that the collection and analysis of information relative to wire transfers are carried out.</li> <li>• Statistics need to be utilised as a means of assessing and reviewing existing systems.</li> <li>• HM Customs does not yet maintain statistics on the cross border transportation of currency and bearer monetary instruments, however there is an amendment bill to the Customs (Control and Management) Act that would incorporate a mandatory declaration system when implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• Currently statistics of remittances are submitted to the FSC by MSBs. We propose to request that all financial institutions submit information relative to wire transfers to the FSC. The FSC will provide FIU with statistics on wire transfers.</li> <li>• <b>The FSC now receives data relative to wire transfers from all F.Is and now submits information to the FIU. Statistics are now submitted to the ECCB and maintained at the FSC of these activities.</b></li> <li>• <b>Customs currently keep statistics manually. The Department intends to introduce an electronic database in the near future</b></li> </ul>

		<ul style="list-style-type: none"> <li>• <b>HM Customs does not yet maintain statistics on the cross border transportation of currency and bearer monetary instruments.</b></li> <li>• <b>There is no comprehensive statistics maintained by all competent authorities.</b></li> <li>• <b>No information maintained about spontaneous referrals made by the RA or FCAU to foreign authorities.</b></li> <li>• <b>No statistics is maintained by the RA on international wire transfers.</b></li> </ul>	<ul style="list-style-type: none"> <li>• HM Customs should consider keeping and maintaining comprehensive statistics on cross-border seizures, formal and spontaneous requests. In addition, all competent authorities should consider the procedure adopted in Recommendation 32 of FATF 40+9 for the recording and maintaining of statistics.</li> </ul> <p>Comprehensive statistics should be maintained on all aspects of Customs and Excise operations including records of declaration/disclosures and seizures. These statistics should be readily available for use by Customs, LEAs and other government departments.</p>	<ul style="list-style-type: none"> <li>• The database mentioned above will include the keeping of statistics on cross-border seizures, formal and spontaneous requests.</li> <li>• Customs currently keep statistics manually. The Department intends to introduce an electronic database in the near future. In addition, information is also held in the ASYCUDA database system</li> </ul> <p>Montserrat Customs and Revenue Service (MCRS) now maintain statistics on a computerized database.</p>
<p>33. Legal persons – beneficial owners</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• <b>Effectiveness of implementation cannot be assessed due to the recent enactment of the legislation.</b></li> <li>• <b>No clear provision requiring the maintenance of beneficial ownership and control information of local companies.</b></li> <li>• <b>No clear provision allowing for access to and obtaining</b></li> </ul>	<ul style="list-style-type: none"> <li>• Clear provisions needs to be made in the Companies Act to require the keeping of information on beneficial ownership and control of local companies.</li> <li>• Clear provisions must be made for the obtaining of and access to</li> </ul>	<ul style="list-style-type: none"> <li>• A consultant has been appointment to draft a Bill for the Companies Act. It is intended that the new legislation will provide that a competent authority has power to obtain and keep information on beneficial ownership in respect of local companies.</li> <li>• See above comments. It is the intention that adequate provisions</li> </ul>

		<b>information on beneficial ownership and control of local companies.</b>	information, in a timely manner on beneficial ownership and control of local companies under the Companies Act	will be made in any new legislation for the information required to be kept will be available to the competent authority in a timely manner. In addition to the above, all companies are required under the current Companies Act to submit annual returns which includes the names of shareholders/subscribers of the legal entity.
34. Legal arrangements – beneficial owners	LC	<ul style="list-style-type: none"> <li>• <b>Effectiveness of implementation cannot be assessed due to the recent enactment of the legislation</b></li> </ul>		
<b>International Co-operation</b>				
35. Conventions	PC	<ul style="list-style-type: none"> <li>• <b>Some psychotropic substances in the updated Schedules to the 1971 Vienna Convention are not scheduled as controlled drugs.</b></li> <li>• <b>The Palermo Convention and the 1999 Terrorist Financing Convention have not been duly extended to Montserrat.</b></li> </ul>	<ul style="list-style-type: none"> <li>• There is not sufficient evidence that psychotropic substances have been adequately covered.</li> <li>• The authorities should ensure full compliance with the provisions of all the requisite conventions.</li> <li>• Montserrat should request that the Palermo Convention and the 1999 Terrorist Financing Convention be extended to the jurisdiction.</li> </ul>	<ul style="list-style-type: none"> <li>• An audit of the legislative provision is being undertaken and any necessary amendments made to the local legislation in 2012</li> <li>• The FCO/GOV to respond</li> </ul> <p>Follow up action will be taken to seek the U.K.'s agreement to extend all the relevant Conventions to the jurisdiction</p> <ul style="list-style-type: none"> <li>• The FCO/GOV to respond</li> </ul> <p>Follow up action will be taken to seek</p>

				<p>the U.K.'s agreement to extend the Palermo Convention to the jurisdiction</p>
<p>36. Mutual legal assistance (MLA)</p>	<p>LC</p>	<ul style="list-style-type: none"> <li>• <b>No specific procedures for establishing timelines for complying with requests for assistance</b></li> <li>• <b>Difficult to judge effectiveness of implementation.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Montserrat should consider reviewing the current procedures for executing MLAT requests to provide for greater efficiency.</li> <li>• The jurisdiction should create mechanisms to establish specific timelines for complying with requests for assistance.</li> <li>• Montserrat should consider expanding mutual legal assistance provisions to include fiscal offences.</li> <li>• Clear allowance should be made to facilitate compliance with requests for assistance in terms of foreign non-criminal confiscation orders.</li> <li>• Clear provisions should be made to ensure that civil forfeiture extends to foreign non-criminal orders.</li> <li>• Montserrat should articulate a clear definition of a serious arrestable offence or a standard for the application of the term</li> </ul>	<ul style="list-style-type: none"> <li>• The procedures will be reviewed with a view to making necessary changes by the end of June 2012.</li> </ul> <p>The jurisdiction has introduced procedures for processing request for assistance under the Tax Information Exchange Act and will be implementing similar procedures executing MLATs.</p> <ul style="list-style-type: none"> <li>• Existing provisions and procedures will be reviewed with a view to making necessary changes by the end of June 2012.</li> </ul> <p>In this matter legislation is now in place which covers this requirement, i.e., the Tax Information Exchange Act 2011.</p> <ul style="list-style-type: none"> <li>• Amendments to be made to the local legislation in 2012. Executive Council will be expected to provide policy guidance.</li> <li>• Amendments to be made to the local legislation in 2012</li> </ul> <ul style="list-style-type: none"> <li>• Amendments to be made to the local</li> </ul>

				<p>legislation in 2012</p> <ul style="list-style-type: none"> <li>•</li> </ul>
37. Dual criminality	LC	<ul style="list-style-type: none"> <li>• <b>Only partial mutual assistance may be granted in the absence of dual criminality.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Montserrat should consider reviewing the current procedures for executing MLAT requests to provide for greater efficiency.</li> <li>• The jurisdiction should create mechanisms to establish specific timelines for complying with requests for assistance.</li> <li>• Montserrat should consider expanding mutual legal assistance provisions to include fiscal offences.</li> <li>• Clear allowance should be made to facilitate compliance with requests for assistance in terms of foreign non-criminal confiscation orders.</li> <li>• Clear provisions should be made to ensure that civil forfeiture extends to foreign non-criminal orders.</li> <li>• Montserrat should articulate a clear definition of a serious arrestable offence or a standard for the application of the term</li> </ul>	<ul style="list-style-type: none"> <li>• The procedures will be reviewed with a view to making necessary changes by the end of June 2012.</li> <li>• Existing provisions and procedures will be reviewed with a view to making necessary changes by the end of June 2012.</li> <li>• The Interpretation Act which came into force on August 17, 2011 provides: “<b>20. General Principles Provisions when no time prescribed</b> Where no time is prescribed or allowed within which anything is to be done, <b><u>the thing must be done with all convenient speed</u></b>, and as often as the prescribed occasion arises”. (bold and underlining min for emphasis)</li> <li>• Amendments to be made to the local legislation in 2012</li> <li>• Amendments to be made to the local</li> </ul>

				<p>legislation in 2012</p> <ul style="list-style-type: none"> <li>• Amendments to be made to the local legislation in 2012</li> </ul>
38.MLA on confiscation and freezing	LC	<ul style="list-style-type: none"> <li>• <b>Unclear definition and applicable standard of what is a serious arrestable offence.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Montserrat should articulate a clear definition of a serious arrestable offence or a standard for the application of the term.</li> </ul>	<ul style="list-style-type: none"> <li>• No action taken. Amendments to be made to the local legislation in 2012</li> </ul>
39.Extradition	LC	<ul style="list-style-type: none"> <li>• <b>Effectiveness of Implementation could not be assessed.</b></li> </ul>	<ul style="list-style-type: none"> <li>• There is no specific obligation requiring the Governor to act expeditiously having received a request for extradition. Montserrat needs to consider introducing a specific time requirement or even “without delay” provisions.</li> </ul>	<ul style="list-style-type: none"> <li>• No action taken to amend the Extradition Act; however section 20 of the Interpretation Act which came into force on August 17, 2011 provides: “<b>20. General Principles Provisions when no time prescribed</b> Where no time is prescribed or allowed within which anything is to be done, <b><u>the thing must be done with all convenient speed</u></b>, and as often as the prescribed occasion arises”. (bold and underlining min for emphasis)</li> </ul>
40.Other forms of co-operation	LC	<ul style="list-style-type: none"> <li>• <b>The CJICA does not fully address whether requests are refused on the sole ground that</b></li> </ul>	<ul style="list-style-type: none"> <li>• The authorities should consider making amendments to the Criminal Justice (International Co-operation)</li> </ul>	<p>Amendments to be made to the local legislation in 2012</p>

		<p><b>it is considered to involve fiscal matters.</b></p>	<p>Act (Cap. 04.06) to state specifically, that requests should not be refused on the sole ground on a request pertaining to fiscal matters.</p> <ul style="list-style-type: none"> <li>• The Montserrat authorities should consider having all international request relating to AML/CFT be directed through the Attorney General office and designate the AG as the Central Authority for Montserrat. This provision once introduced would remove any administrative delays of foreign requests being action upon by the AG in the performance of his functions in a timely manner.</li> <li>• The current legislative provisions governing the provision of assistance should be reassessed in an attempt to streamline the process to make it more efficient and reduce the likelihood of delays.</li> <li>• There was no evidence that Montserrat had actually entered into any agreements or signed MOUs with other countries to facilitate exchange of information.</li> </ul>	<p>There is now a gateway for providing information in respect of fiscal matters, under the Tax Information Act</p> <p>With the introduction of post of DPP in September under the New Constitution, this authority should be vested in the DPP. The amendments will be drafted by consultant Richard Carpenter on receipt of instructions from the FSC. It is anticipated that this will take place by the end of June, 2012.</p> <ul style="list-style-type: none"> <li>• No action taken. To be placed on Legislative programme for completion of any necessary amendments to the local legislation in 2012</li> <li>• The FSC has entered into MOUs with Eastern Caribbean Central Bank, 8 Member states of the ECCU, and with Bank Supervisory authorities in Panama, Costa Rica and Guatemala. The jurisdiction has also entered into bilateral agreements with all EU countries to</li> </ul>
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				<p>provide information in respect of exchange of information required to be provided under The Montserrat Reporting of Savings Income Information Order 2005. In addition, ten agreements have signed and implemented under the Tax Information Exchange Act, 2010. They are with respectively, Australia, Kingdom of Belgium, Denmark, Faroes, Finland, Greenland, Iceland, Kingdom of the Netherlands, Kingdom of Norway and Sweden.</p> <ul style="list-style-type: none"> <li>• Montserrat has now entered into Tax Information and Exchange Agreements with 12 countries and these agreements now have been published in the official Gazette and have the force of law.</li> </ul>
<b>Nine Special Recommendations</b>				
SR.I Implement UN instruments	<b>LC</b>	<ul style="list-style-type: none"> <li>• <b>Montserrat is not party to the Palermo Convention and the 1999 Terrorist Financing Convention.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Montserrat should request that the Palermo Convention and the 1999 Terrorist Financing Convention be extended to the jurisdiction.</li> </ul>	<ul style="list-style-type: none"> <li>• The authorities are in negotiating with the U.K. Government to make arrangements to extend the Convention to Montserrat. Follow up action will be taken to seek the U.K.'s agreement to extend the Palermo Convention to the jurisdiction</li> </ul>

<p>SR.II Criminalise terrorist financing</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• <b>The legislation does not cover terrorist activity taken to compel an international organisation to do or to abstain from doing an act in keeping with Article 2(1) (b) of the Terrorist Financing Convention.</b></li> <li>• <b>The definition of terrorist does not include a ‘terrorist organisation’.</b></li> <li>• <b>Effectiveness of the legal framework cannot be properly assessed in the absence of investigations and convictions for TF.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Montserrat needs to review the definition of “terrorism” in order to properly address the activities of a terrorist organisation. The definition of ‘terrorism’ needs to be reviewed to capture all of the acts referred to in the Suppression of the Financing of Terrorism Convention that are set out in the Nine Conventions specified under that instrument.</li> <li>• Similarly, the legislation needs to be amended to capture terrorist activity that is an act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel an international organization to do or to abstain from doing any act.</li> </ul>	<ul style="list-style-type: none"> <li>• Amendments to be made to the local legislation in 2012</li> <li>• Amendments to be made to the local legislation in 2012</li> </ul>
<p>SR.III Freeze and confiscate terrorist assets</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• <b>The systems in place do not adequately cover immediate effective communication for actions taken under the freezing mechanisms referred to in criteria III.1 – III.3 to the financial sector upon taking such action.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The jurisdiction needs to establish concrete systems to provide immediate effective communication for actions taken under the freezing mechanisms referred to in criteria III.1 –III.3 to the financial sector immediately upon taking such action.</li> </ul>	<ul style="list-style-type: none"> <li>• Written procedures will be introduced for communicating to the financial sector actions to be taken to freeze terrorist funds or other assets.</li> </ul>

		<ul style="list-style-type: none"> <li>• <b>There is no specific provision for effective and publicly known procedures for considering de-listing requests and unfreezing of funds or other assets of de-listed persons or entities in a timely manner consistent with international procedures.</b></li> <li>• <b>Immediate freezing of terrorist funds is not explicitly provided for.</b></li> <li>• <b>There is no adequate provision for extraordinary expenses once funds have been seized or frozen.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Montserrat may need to consider recommending to the UK that the 2001 Anti-Terrorism Order amended to specifically address the issue of ‘freezing without delay’ the funds of identified terrorists.</li> <li>• The jurisdiction needs to consider making specific provisions for effective and publicly known procedures for considering de-listing requests and unfreezing of funds or other assets of de-listed persons or entities in a timely manner consistent with international procedures.</li> <li>• There needs to be adequate provision for extraordinary expenses once funds have been seized or frozen.</li> <li>• Provision should be made in law for the procedure for forwarding requests for the release of funds or assets which have been frozen and which are required for basic living expenses to the Committee which has been established under S/RES/1452 (2002).</li> </ul>	<ul style="list-style-type: none"> <li>• A recommendation from GOM will be sent to FCO to action this. <b>GOM has requested feedback from UK in respect of this recommended action.</b></li> <li>• The procedures for considering de-listing requests is not carried out in the territory, but in the UK. The authorities are only responsible for ensuring that Orders emanating from the U.K. are implemented and financial institutions advised in a timely manner consistent with international procedures.</li> <li>• The authorities are aware of contingent liability that exists.</li> <li>• This is recommended action is provided for in all relevant legislation introduced in respect of freezing of funds or assets.</li> </ul>
<p>SR.IV Suspicious transaction reporting</p>	<p><b>LC</b></p>	<ul style="list-style-type: none"> <li>• <b>No requirements relating to the reporting of suspicious transactions involving tax matters.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The requirement to report suspicious transactions should apply regardless of whether they are thought, among</li> </ul>	<ul style="list-style-type: none"> <li>• The Executive Council will consider whether to introduce a Bill to amend POCA to make provision for</li> </ul>

			other things to involve tax matters.	recommended action.  <b>The requirement was dealt with when considering the recommended action in respect of Recommendation 13.</b>
SR.V International co-operation	<b>PC</b>	<ul style="list-style-type: none"> <li>• <b>The definition of terrorism in the ATFOMOTO does not adequately meet the requirements of the convention for the Suppression of the Financing of Terrorism.</b></li> <li>• <b>Terrorist financing may not be an extraditable offence.</b></li> <li>• <b>The CJICA does not fully address whether requests are refused on the sole ground that it is considered to involve fiscal matters.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Montserrat should articulate a clear definition of a serious arrestable offence or a standard for the application of the term.</li> <li>• Montserrat should consider reviewing the current procedures for executing MLAT requests to provide for greater efficiency.</li> <li>• The jurisdiction should create mechanisms to establish specific timelines for complying with requests for assistance.</li> <li>• Montserrat should consider expanding mutual legal assistance provisions to include fiscal offences</li> </ul>	<ul style="list-style-type: none"> <li>• The authorities will liaise with the U.K. Government who makes Orders in Council concerning the introduction of this recommended action.</li> <li>• <b>The Tax Information Exchange Act, 2011 and Tax Information Exchange Rules are applicable. The Act was brought into force on January 6, 2011. The Rules were brought into force by S.R.O. 49 of 2011 on October 28, 2011. A new Interpretation Act was passed on August 5, 2011 and section 20 provides for actions to be taken with all convenient speed. The text reads: “20 General Principles Provisions when no time prescribed Where no time is prescribed or allowed within which anything is to be done, the thing must be done with all convenient speed, and as often as the prescribed occasion arises.” This provision is</b></li> </ul>

				<p><b>of general application.</b></p> <ul style="list-style-type: none"> <li>• <b>The Legal Department will add this to its legislative agenda and will seek policy guidance from the Cabinet.</b></li> </ul> <p><b>These matters are under active consideration and will require policy decision from Cabinet which will be sought in the medium term.</b></p>
SR VI AML requirements for money/value transfer services	<b>PC</b>	<ul style="list-style-type: none"> <li>• <b>The effectiveness of Sanctions cannot be evaluated due to lack of information</b></li> <li>• <b>Effectiveness of implementation cannot be ascertained due to the recent enactment of legislation</b></li> </ul>	<ul style="list-style-type: none"> <li>• The FSC should provide for training to guide Money service providers as to the effective execution of their responsibilities under the recently enacted AML/CFT legislative framework.</li> <li>• Bearing in mind the above, the FSC should assess the current level of compliance with AML/CFT legislation of the MSB providers with a view to improve the compliance level with the recently enacted legislations.</li> </ul>	<ul style="list-style-type: none"> <li>• Training of MSBs and FI's is scheduled to be carried out in September 2011.</li> </ul> <p><b>Training of MSBs and FI's was carried out on 15 September 2011.</b></p> <ul style="list-style-type: none"> <li>• The FSC is currently reviewing the written compliance procedures of all MSB to ensure that stated policies and procedures meet the requirements in the AML/CFT legislation.</li> </ul> <p><b>The FSC has received updated compliance manuals from the MSBs and confirm that the manuals reflect the provisions in the 2010 AML/CFT legislation.</b></p>

<p>SR VII Wire transfer rules</p>	<p>LC</p>	<ul style="list-style-type: none"> <li>• <b>Effectiveness cannot be assessed due to recent passage of the POCA Regulations and Code.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The Code should be amended to address the requirement whereby each party in a payment chain of intermediaries and beneficiary financial institutions should be required to ensure that full originator information accompanies a wire transfer transmitted.</li> </ul>	<ul style="list-style-type: none"> <li>• Rule 47 of the AML/CFT Code provides for this recommended action. The CFATF to confirm that the provision in the Rule 47 meet requirement in SR VII.</li> </ul>
<p>SR.VIII Non-profit organisations</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>• <b>Given the recent enactment of the NPO Regulations, the Commission has only recently commenced its outreach program</b></li> <li>• <b>No systems or procedures in place to publicly access information on NPOs.</b></li> <li>• <b>No requirement to report unusual donations by NPOs.</b></li> <li>• <b>No monitoring of the NPOs international activities.</b></li> <li>• <b>No investigative expertise with regard to examining NPOs suspected of either being exploited by or actively supporting terrorist activities.</b></li> </ul>	<ul style="list-style-type: none"> <li>• The authorities should undertake outreach to the NPO sector in order to protect the sector from terrorist activities. The authorities should monitor activities of NPOs to prevent or reduce the likelihood that funds and other assets transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations NPOs should be required to report unusual donations to the Reporting Authority.</li> <li>• The authorities should ensure that the regulated entities (NPOs) are vigilant in their response to the risk for abuse by those who finance terrorism.</li> <li>• NPOs should be made aware of the reporting procedures for irregular transactions relating to terrorist activities.</li> </ul>	<ul style="list-style-type: none"> <li>• From the beginning of September 2011 the authorities have commenced the registration of Non-Profit Organizations, a requirement of the Non-Profit Organization Regulations No. 24 of 2010.</li> </ul> <p><b>To date a number of NPOs has been registered under the legislation and the FSC is currently processing applications for registration.</b></p> <p><b>The Supervisory Authority has commenced monitoring these entities.</b></p> <p><b>The FSC has issued written instructions to the NPOs detailing their obligations under the Regulation. This information is provided on issue of Certificates of Registration.</b></p>

			<ul style="list-style-type: none"> <li>• A program for the monitoring of compliance by the NPOs should be developed by the regulatory authority.</li> <li>• Authorities should consider establishing systems and procedures to allow information on NPOs to be publicly available.</li> <li>• The authorities should consider monitoring the NPOs and their international activities.</li> <li>• Consideration should be given to developing investigative expertise with regard to examining NPOs suspected of either being exploited by or actively supporting terrorist activities.</li> </ul>	<ul style="list-style-type: none"> <li>• A seminar for NPOs will be conducting in January 2012 to apprise registered NPOs of the risks. <b>The seminar is now rescheduled for the second quarter of this year to include all registered NPOs.</b></li> <li>• This recommended action will be included in the training seminar. <b>Information on NPOs is readily available. The NPO Regulations provide that the public on payment of a prescribe fee may inspect the NPO Register</b></li> <li>• Annual registration and the submission of annual returns will provide a mechanism for the Supervisory Authority to monitor activities.</li> <li>• The Non-Profit Regulations 2010 provides for information on NPOs to be publicly available by inspection of the Register of NPOs</li> <li>• NPOs will be required to register and submit annual returns. The</li> </ul>
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				<p>information provided in the returns will be used with experience for monitoring their activities.</p> <ul style="list-style-type: none"> <li>• The recommended action is accepted. Any training for the development of investigative experts in respect of AML/CFT activities will include the training of misuse of NPOs to support and fund terrorist activities.</li> </ul>
SR.IX Cross Border Declaration & Disclosure	NC	<ul style="list-style-type: none"> <li>• <b>There is no disclosure/declaration system in place with the required threshold.</b></li> <li>• <b>Domestic cooperation between Customs and other agencies is not adequately structured.</b></li> <li>• <b>Customs officers not sufficiently trained in AML/CFT and other related customs techniques.</b></li> <li>• <b>Customs' participation in AML/CFT is not sufficient.</b></li> <li>• <b>Unable to assess effectiveness of disclosure system due to insufficient statistics.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Customs should implement the declaration system to be used in conjunction with the disclosure system for incoming and outgoing passengers. The threshold should not be higher than EUR/US15000.00.</li> <li>• Customs officials should be trained in behaviour analysis for use in passenger screening and smuggling techniques of potential currency carriers.</li> <li>• Authorities should consider the making of false disclosures/declarations to Customs authorities a strict liability offence.</li> <li>• Comprehensive statistics should be maintained on all aspects of Customs</li> </ul>	<ul style="list-style-type: none"> <li>• The jurisdiction has now introduced the disclosure system for incoming passengers.</li> <li>• This is no further action required under this bullet point.</li> <li>• The authorities are investigating appropriate training and the funding of such training. Enquires will be made into viability of sharing resources with other jurisdictions.</li> <li>• This recommended action is a provision in section 113 (1) and (2) of Customs (Control and Management) Act.</li> </ul> <p>There is no further action required under this bullet point.</p>

			<p>and Excise operations including records of declaration/disclosures and seizures. These statistics should be readily available for use by Customs, LEAs and other government departments.</p> <ul style="list-style-type: none"> <li>• The Authorities should consider providing training in counterfeit currency identification to all Customs, especially those working at the ports. The identification of previous metals and stones as such should also be conducted as a part of such training.</li> <li>• There is a need for increased participation by the Customs Department in combating money laundering and terrorist financing.</li> <li>• Consideration should be given to reporting all currency interdictions where untrue disclosures/declarations are made to the RA, whether or not administrative or criminal proceedings are being considered.</li> </ul>	<ul style="list-style-type: none"> <li>• The department already keep statistics although manually. A new computerised database will shortly be introduced. In addition statistics are also held in ASYCUDA database system.</li> </ul> <p>Montserrat Customs and Revenue Service (MCRS) now maintain statistics on a computerized database.</p> <ul style="list-style-type: none"> <li>• The authorities will seek assistance from ECCB to carry out the training for the Police and Customs officers on allocation of funds.</li> <li>• The Police and Customs will introduce a formal programme for joint co-operation between the two competent authorities.</li> <li>• An MOU concerning the Relationship between the Montserrat Customs &amp; Revenue Services (MCRS) and the Royal Montserrat Police Service (RMPS) with respect</li> </ul>
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