



# Ninth Follow-Up Report

## Montserrat

June 2016

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## MONTSERRAT: NINTH FOLLOW-UP REPORT AND FULL ANALYSIS

### I. INTRODUCTION

1. The third round MER of Montserrat was adopted via round robin by CFATF Ministers on 22<sup>nd</sup> July, 2011 and Montserrat was placed in expedited follow-up. Montserrat reported back to the CFATF in November 2011, (first follow-up report); May 2012 (second follow-up report); November 2012, (third follow-up report). At the November 2012 Plenary Montserrat was kept on Expedited follow-up within the Regular follow-up process but asked to report back to the November 2013 Plenary. Montserrat reported back to the CFATF in November 2013, (fourth follow-up report) and was asked to report back to the May 2014. Montserrat reported back to the CFATF in May 2014, (fifth follow-up report); November 2014, (sixth follow-up report); May 2015, (seventh follow-up report) and November 2015, (eight follow-up report).
2. This report is based on the CFATF procedure for removal from regular follow-up as agreed<sup>1</sup> by the CFAFT plenary in May 2014. Montserrat has indicated that it is of the opinion that it had met the criteria necessary for removal from regular follow-up to biennial updates. It contains a detailed description and analysis of the actions taken by Montserrat in respect of the core and key Recommendations rated partially compliant (PC) or non-compliant (NC) in the mutual evaluation, as well as a description and analysis of the other Recommendations rated PC or NC.
3. The analysis of this report was predicated on the basis of information provided by Montserrat and is inherently a desk evaluation that focused on Recommendations rated PC/NC, which means that only a part of the AML/CFT system was reviewed. The analysis consisted mainly looking at the main laws, regulations, codes and other material provided by Montserrat. As this is a desk-based review, the level and nature of information provided and accepted in many instances is inherently different to that which would have been accepted during an onsite visit. Consequently, the conclusions of this report do not prejudice the results of any future assessments as they are based on information that was not verified through an onsite process.

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

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

4. Montserrat was rated PC or NC on the following Recommendations:

**Table 1: Recommendations rated as PC and NC**

Partially Compliant (PC)	Non—Compliant (NC)
<b>Core Recommendations</b>	
R5 (CDD) SRII (TF Criminalization)	
<b>Key Recommendations</b>	
R26 (The FIU) R35 (Conventions) SRIII (Freeze and confiscate terrorist assets) SRV (TF International co-operation)	
<b>Other Recommendations</b>	
R. 8 (New technologies & non face-to-face business) R. 12 (DNFBP R.5, 6, 8-11) R.14 Protection & no tipping-off R.16 (DNFBPs R.13-15 & 21) R. 21 (Special attention for higher risk) 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)	R. 19 (Other forms of reporting) SR. IX (IX Cross Border Declaration & Disclosure)

## II. MAIN CONCLUSION AND RECOMMENDATIONS TO THE PLENARY

### Core Recommendations

5. **Recommendation 5:** Montserrat has sufficiently addressed all the shortcomings related to R5, and has brought the compliance with this recommendation up to the level comparable at minimum to an LC.
6. **Special Recommendation II:** The deficiency for this Special Recommendation was addressed by the inclusion of a new definition for terrorism in the POCA amendment of 2013. Montserrat has sufficiently addressed all the shortcomings related to SRII, and has brought the compliance with this recommendation u to the level comparable at minimum to an LC.

### Key Recommendations

7. **Recommendation 26:** Of the ten deficiencies noted in the MER eight have been conclusively addressed, one is awaiting administrative action by the Governor whilst the other is directly related to lack of physical resources on the island. Recommendation 26 is now significantly improved and comparable to the level of a LC.
8. **Recommendation 35:** One deficiency has not as yet been address by Montserrat whilst the other is currently being addressed by the UK.
9. **Special Recommendation III:** Montserrat has taken action that closed two deficiencies whilst the action to close the remaining three is ongoing. This Special Recommendation is still outstanding.
10. **Special Recommendation V:** A clear definition of serious arrestable offence has been made through the amendment to section 8 of the Criminal Justice (international Cooperation) Act. Additionally, mutual legal assistance for fiscal matters has been made possible through Montserrat participation in the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information which was signed in October 2014 and also by the UK having extended the Convention on Mutual Administrative Legal Assistance in Tax Matters to Montserrat.

### Other Recommendations

11. Montserrat has also made significant progress towards addressing many of the deficiencies related to non-Core and non-Key Recommendations rated at PC or NC to the extent that the majority of these 'other' Recommendations have been fully addressed.
12. **Recommendation 8:** The FSC took direct action which completely closed one deficiency whilst implementation of the other is ongoing and can only be properly assessed overtime. This Recommendation is addressed, at a minimum, to the level of LC.
13. **Recommendation 12:** The action required were mainly administrative in nature. Training is being provided whilst the actual implementation of deficiency 4 can only be attested overtime. This recommendations are therefore implemented to a level of, at minimum, LC.
14. **Recommendation 14:** Two of the three deficiencies have been fully addressed leaving just one outstanding. The way forward would be for Montserrat to fully implement this Recommendation

by specifically prohibiting all illegal disclosures. This Recommendation is addressed to the level of LC.

15. **Recommendation 16:** Two of the four deficiencies are fully addressed. Of the two remaining deficiencies, one can only be assessed overtime, whilst the other is a minor deficiency cascaded from Recommendation 13 which itself was rated LC. This Recommendation therefore has been implemented to the level comparable to that of LC.
16. **Recommendation 19:** This Recommendation has been fully addressed.
17. **Recommendation 21:** The deficiency noted by the Examiners has been fully addressed bringing the implementation of Recommendation 21 comparable to, at a minimum an LC.
18. **Recommendation 24:** The Examiners recommended action has been fully addressed resulting in Recommendation 24 being implemented to a level of comparable at minimum to LC.
19. **Recommendation 25:** All three deficiencies noted by the Examiners are addressed raising the implementation of this Recommendation to a level that is equivalent to at least an LC.
20. **Recommendation 30:** Of the ten deficiencies noted by the Examiners, five have been resolved, two are the subject of ongoing implementation whilst three have not been addressed. The implementation of this Recommendation though improved, remains at the level equivalent to PC.
21. **Recommendation 31:** Of the seven deficiencies, two have been addressed, three are subject to ongoing implementation and two are outstanding. Whilst there is some level of improvement the overall level of implementation for Recommendation 31 remains equivalent to a PC.
22. **Recommendation 32:** None of the Examiners recommended action have been fully implemented leaving the implementation of this Recommendation just slightly better than it was during the onsite. The overall implementation of Recommendation 32 is therefore equivalent to that of PC.
23. **Recommendation 33:** One deficiency is still the subject of legislative action whilst the other has only been partially addressed. This Recommendation remains as it were during the onsite with an implementation that is equivalent to that of a PC.
24. **Special Recommendation VI:** The two deficiencies are sufficiently addressed bringing the level of implementation up to the level that is equivalent, at a minimum, of LC.
25. **Special Recommendation VIII:** Based on the analysis detailed later in this report it can be seen that Montserrat has made a concerted effort to ensure that its NPOs sector is brought under the regulatory and prudential supervision of the FSC resulting in the closure of six of the seven gaps. This has the effect of improving the implementation of the Special Recommendation to the level of an LC.
26. **Special Recommendation IX:** Whilst Special Recommendation IX has been significantly improved there are two deficiencies regarding training still requiring administrative attention. This Special Recommendation has been improved to the level that is equivalent to an LC.

## *Conclusion*

27. This detailed analysis of Montserrat's action to close the deficiencies noted in its 3<sup>rd</sup> MER provides an overview of the progress relating to all Core and Key and 'other' recommendations that were rated PC or NC in the said 3<sup>rd</sup> MER. This analysis indicates that Montserrat has sufficiently addressed all Core (R. 5 and SR.II) Recommendations. However, as there are still one (1) or more Key Recommendations (R.26, R. 35, SR.III and SR.V) that were rated PC for which Montserrat has not achieved the level of C/LC, a detailed analysis of the non-Core and Key Recommendations that were rated PC/NC was undertaken. This analysis has shown that Montserrat has achieved **substantial compliance**, that is to say, the large majority of non-core and Key Recommendations have been addressed. It is recommended to the Plenary that Montserrat should be allowed to exit the follow-up process.

### **III. OVERVIEW PROGRESS MADE BY MONTSERRAT**

#### *Overview of the main changes since the adoption of the Mutual Evaluation Report (MER)*

28. Since publication of the MER in 2011 Montserrat has set about strengthening its AML/CFT legislative and supervisory framework through the enactment of several laws. Specifically, on March 5, 2013 Montserrat enacted the Proceeds of Crime (Amendment) Act 2013 (POCAA 2013) which came into force on April 9, 2013 also on December 20, 2012 the Anti-money laundering and terrorist financing (Amendment) Regulations (AML/TF(A)R) 2012 were enacted. Miscellaneous Amendments Financial Services (Financial Services) Act 2013 was enacted on July 29, 2013. The Proceeds of Crime (Amendment) Act 2015 was enacted to address the weakness whereby disclosures relating to TF could have been made to any constable. On May 30, 2016, Montserrat enacted the Anti-Money Laundering and Terrorist Financing Code 2016 to give effect to obligations relating to the prevention and detection of money laundering and terrorist financing as stipulated by the Proceeds of Crime Act 2010.

### **IV. DETAILED ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS**

#### **Recommendation 5 – PC**

**R5 (Deficiency 1): 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.**

29. On May 30, 2016, Montserrat enacted the Anti-Money Laundering and Terrorist Financing Code 2016. Paragraph 12 of the Code is concerned with enhanced due diligence measures and prescribes the situations under which a service provider is expected to apply such measures. The situations articulated include; private banking; a legal entity that is a personal asses holding vehicle; a company that has nominee shareholders or shares in bearer form. The enactment of the 2016 Code therefore ensures that this deficiency is specifically addressed. R5 deficiency 1 is sufficiently addressed.

**R5 (Deficiency 2): Effectiveness of legislative provisions cannot be ascertained owing to the recentness of enactment.**

30. The shortcomings discerned by the examiners for R5 were centred around their inability to assess the effectiveness of the implementation of the legislative provisions and the fact that there was no clear requirement for the application of enhanced CDD to legal persons or arrangements (including trusts) that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form. In order to fill these gaps, the examiners had recommended that the Financial Services Commission (FSC) ensure that all financial institutions develop and implement adequate policies and procedures designed to prevent money laundering and terrorist financing. As it sought to cure these deficiencies, Montserrat's FSC included a programme in its work plan for 2011, which was intended to redound to the review of the AML/CFT policies of all financial institutions, by December 2011. Subsequently the FSC reported having received updated compliance manuals from all financial institutions operating in the Jurisdiction and reported that it was satisfied that all such entities now have the required policies and procedures in place to adequately satisfy the requirement. Copies of the related guidance distributed to service providers as well as samples of updated compliance programmes were provided to the Secretariat to attest to this fact. R5 deficiency 2 is sufficiently addressed

**Recommendation 5 - overall conclusion**

31. The two (2) deficiencies of the MER have been sufficiently addressed and the Jurisdiction has amended its Code for even greater clarity. The compliance with this Recommendation is up to a level comparable at minimum to an LC.

**Special Recommendation II - PC**

**SRII (Deficiency 1): 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.**

32. Montserrat has addressed this by including a new definition for terrorism in the POCAA 2013. This new definition of terrorism includes the use or threat of action which constitutes an offence within the scope of and defined in one of the nine conventions specified in the Annex to the International Convention for the Suppression of the Financing of Terrorism. Deficiency 1 has been sufficiently addressed.

**SRII (Deficiency 2): The definition of terrorist does not include a ‘terrorist organisation’.**

33. This deficiency was addressed through the Proceeds of Crime (Amendment) Act 2013 which amended the previous definition of terrorist to include “a terrorist organisation”. Deficiency 2 has been sufficiently addressed.

34. **SRII (Deficiency 3): Effectiveness of the legal framework cannot be properly assessed in the absence of investigations and convictions for TF.**

35. Whilst Montserrat still has not proffered any data to advance this cause, consideration might be given to the opportunity which the Jurisdiction may have had to accumulate such data. In this regard Montserrat has no history of terrorist activity occurring in its small community of under 6,000 people and the risk of terrorist financing to the domestic financial sector has been described as being quite low. Additionally, Montserrat has not received any requests for information or other assistance relating to TF.

**Special Recommendation - II overall conclusion.**

36. Deficiency 1 and 2 have been adequately addressed whilst the Jurisdiction has not had any opportunity to accumulate the data which may address deficiency 3. SRII is addressed up to a level comparable a C.

## V. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS

### Recommendation 26 – PC

**R26 (Deficiency 1): The RA is not the central body in Montserrat authorised to receive disclosures; Autonomy of the RA uncertain because of existing structure; The FCAU has not been formally established.**

37. As a cure to deficiency 1, the Examiners recommended that FCAU should be formally established as the central authority for receiving STRs in Montserrat. In order to cure this deficiency the Jurisdiction enacted the Proceeds of Crime (Amendment) Act 2013 which amended s.126 (4) of the POCA. Consequently, the Reporting Authority (RA) is now empowered to appoint persons to assist it in the performance of its functions, including the receiving of “Disclosures made to the RA”. This amendment fell short of the intent for there to be one central authority for the receipt of STRs in Montserrat. Specifically, s.126 (4) (i) speaks to the receiving of disclosures made to the RA”. On Wednesday February 26, 2014, the FSC wrote to all service providers in Montserrat and advised them that with immediate effect all external suspicious activity reports should be made directly to the Director of the FCAU at the Royal Montserrat Police Force. Whilst this directive came from the FSC and not the RA the end result is that the FCAU would now receive STRs directly from service providers and not via the RA as described in the MER. Deficiency 1 is sufficiently addressed.

**R26 (Deficiency 2): No specific time-frame for reporting STR.**

38. As a cure to deficiency 2 the Examiners recommended that Montserrat amend section 122(1)(b) of the POCA and Part 5, section 32(1)(a) of the AML/CFT Code which requires the MLRO to submit STRs to the RA “as soon as practical.” 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. The Proceeds of Crime (Amendment) Act 2013 has addressed this by amending s.122 of the POCA. Consequently the Money Laundering Reporting Officers of service providers are now obligated to report STRs as soon as practicable and in any event within seven (7) days after the information on which the suspicion is based comes to the attention of the MLRO. Deficiency 2 is sufficiently addressed.

**R26 (Deficiency 3) The STR form in use is not prescribed.**

39. On February 10, 2014 Montserrat issued a new STR form which was sent to all service providers with the instructions that it was to replace the pre-existing STR form. Deficiency 3 is sufficiently addressed.

**R26 (Deficiency 4): DNFBPs are unaware of the reporting of STR and requirements due to RA not providing awareness training.**

40. Montserrat advised the Secretariat that training of DNFBPs is actually the responsibility of the FSC. In this regard the FSC 2011-2015 Strategic Plan has reportedly included these entities. Since the onsite however, Montserrat has been conducting AML/CFT training for its service providers and both the DNFBP and NPO sectors have always been included. The most recent was a workshop on July 17, 2013. Deficiency 4 is sufficiently addressed.

**R26 (Deficiency 5): 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.**

41. The RA, by letter dated September 6, 2014, appointed a secretary to assist in the performance of its functions. The duties of the secretary are administrative in nature but may include other official duties incidental to those administrative duties assigned by the RA, the Director of the Financial Crime and Analysis Unit (FCAU) or one of the FCAU's senior officers. Deficiency 5 is sufficiently addressed.

**R26 (Deficiency 6): The RA since its establishment in 2002 has not published any statistics, trends or typologies from STRs received from reporting entities publicly.**

42. The Reporting Authority/FCAU Annual Report for 2013 was published, in the Official Gazette as an extraordinary publication on June 19, 2015, and made available to the Secretariat. The report contains both a monthly and a yearly comparison of the STRs (SARs) received during 2012 and 2013 and a breakdown of the SARs received by reporting entities. Even though there are no trends contained in the publication, it details three typologies, one of which relates to a money laundering offence committed in Montserrat. Deficiency 6 is sufficiently addressed.

**R26 (Deficiency 7): 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.**

43. Montserrat reported having given consideration towards implementing this recommended action. At this time suitable office space is unavailable owing to the lack of physical infrastructure on the island because of volcanic activity. However, a decision has been taken to house the FCAU in the proposed FSC building. This building is yet to be constructed. Deficiency 7 is not sufficiently addressed.

**R26 (Deficiency 8): The RA should implement additional security of the (FSC) building where the RA operates until such time as the FCAU has been formally established.**

44. This deficiency was reportedly closed through the acquisition of an additional fireproof safe to secure the RA documents held at the FSC. Deficiency 8 is sufficiently addressed.

**R26 (Deficiency 9): There is no off site backup of information**

45. The recommended action to cure this deficiency was for a data back-up policy to 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. On March 27, 2012 the FCAU started backing up its data to the Overseas Territories Regional Criminal Intelligence Systems (OTRICS). Deficiency 9 is sufficiently addressed.

**R26 (Deficiency 10): 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.**

46. Montserrat has sought to close this deficiency by enacting the Proceeds of Crime (Amendment) Act 2015. This law amended s.2 of the POCA by including the RA and a person appointed by the

RA under s.127 (4) of the said POCA, in the definition of constable under s.3(1) of the Anti-Terrorism (Financial and Other Measures) Overseas Territories) Order 2002. The effect of this amendment is that the RA can effectively now appoint the FCAU as the entity charged with the responsibility for receiving STRs related to TF. This legislation was introduced and passed by the jurisdiction's Legislative Assembly on October 21<sup>st</sup>, 2015 and assented by the Governor on October 26, 2015.

### **Recommendation 26 - overall conclusion**

47. Of the ten deficiencies noted in the MER nine have been conclusively addressed whilst the other is directly related to lack of physical resources on the island. Recommendation 26 is now significantly improved and comparable to the level of a LC.

### **Recommendation 35 – PC**

**R35 (Deficiency 1): Some psychotropic substances in the updated Schedules to the 1971 Vienna Convention are not scheduled as controlled drugs.**

48. This deficiency is outstanding.

**R35 (Deficiency 2): The Palermo Convention and the 1999 Terrorist Financing Convention have not been duly extended to Montserrat.**

49. Montserrat reported that it has formally requested the UK to extend the SFT and Palermo Conventions to it. The UK has agreed and in the meantime consultants are reviewing transposition tables to confirm that Montserrat has the relevant legislation in place.

50. This deficiency 2 is outstanding.

### **Recommendation 35 overall conclusion**

51. This Recommendation still requires attention from Montserrat.

### **Special Recommendation III – PC**

**SRIII (Deficiency 1): 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.**

52. The jurisdiction now has in place a procedure guide written by the UK's Foreign and Commonwealth Office Legal Directorate. This document was published in 2012 with the intent on providing guidance on the implementation of sanctions in the overseas territories. According to the information provided to the Secretariat, the FSC is required, within two days of receipt of information from HM Treasury, to circulate data to the relevant service providers. Deficiency 1 is sufficiently addressed.

**SRIII (Deficiency 2): 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.**

53. Montserrat closed this deficiency by publishing the "Procedure-For-Removing-Persons-From-The-Consolidated-List-And-De-Freezing-Assets" on the FSC's website. Deficiency 2 is sufficiently addressed.

***SRIII (Deficiency 3): Immediate freezing of terrorist funds is not explicitly provided for.***

54. This deficiency is still outstanding.

***SRIII (Deficiency 4): There is no adequate provision for extraordinary expenses once funds have been seized or frozen.***

55. This deficiency is still outstanding.

***SRIII (Deficiency 5): 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).***

56. This deficiency is still outstanding.

### **Special Recommendation III - overall conclusion**

57. Montserrat has taken action that closed two deficiencies whilst the action to close the remaining three is ongoing. This Special Recommendation is not yet fully implemented.

**Special Recommendation V - PC**

**SRV (Deficiency 1): Montserrat should articulate a clear definition of a serious arrestable offence or a standard for the application of the term.**

58. This has been implemented through an amendment to the s.8 of the Criminal Justice (international Cooperation) Act. Serious arrestable offence is now defined to mean an indictable offence.

**SRV (Deficiency 2): Montserrat should consider reviewing the current procedures for executing MLAT requests to provide for greater efficiency**

59. This deficiency has not as yet been addressed.

**SRV (Deficiency 3): The jurisdiction should create mechanisms to establish specific timelines for complying with requests for assistance.**

60. This deficiency has not as yet been addressed.

**SRV (Deficiency 4): Montserrat should consider expanding mutual legal assistance provisions to include fiscal offences.**

61. Owing to an extension by the UK on October 1, 2013, Montserrat became a participant to the Convention on Mutual Administrative Legal Assistance in Tax Matters. Montserrat is also signatory to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information which was signed in October 2014. This deficiency is sufficiently addressed

**Special Recommendation V overall conclusion.**

62. Whilst there has been improvement towards the implementation of SRV, there are still deficiencies requiring the Montserrat's attention. This Special Recommendation is not yet fully implemented.

## **VII DETAILED ANALYSIS OF MEASURES TAKEN IN RELATION TO OTHER RECOMMENDATIONS RATED NC OR PC.**

63. Montserrat has reported having taken the following measures to address the deficiencies to other Recommendations rated as PC or NC.

### **Recommendation 8 – PC**

#### **R.8 (Deficiency 1): Not all financial institutions were found to have policies in place to address misuse in technological developments in ML/FT**

64. Montserrat reported having requested of the two (2) financial institutions, whose policies did not address the misuse of technological developments, to cover these in their policies and procedures which were being updated at the time. Both institutions have since complied with the FSC's request. This deficiency is fully addressed.

#### **R8 (Deficiency 2): Effectiveness of implementation cannot be ascertained owing to the recent enactment of the Code.**

65. All financial institutions were instructed, by the FSC, to have written policies and procedures in place to address the misuse of technological developments in ML/FT. As a result of this action revised manuals were received and reviewed by the FSC. The implementation of this deficiency is ongoing.

### **Recommendation 8 overall conclusion**

66. The FSC took direct action which completely closed one deficiency whilst implementation of the other is ongoing and can only be properly assessed overtime. This Recommendation is addressed, at a minimum, to the level of LC.

### **Recommendation 12 – Rating PC**

#### **R.12 (Deficiency 1): 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.**

67. This report has already detailed the action taken to close R.5 and R.8, whilst R.6, R.9, R.10 and R.11 were rated LC.

#### **R.12 (Deficiency 2): It is suggested that the Authorities prepare an administration plan for the effective administration of the newly proposed legislations.**

68. Montserrat reported that the recommended action is part of the functions of the FSC Act and is included in the FSC's Strategic Plan.

#### **R.12 (Deficiency 3): 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.**

69. The FSC continues to train representatives from DNFBPs to enable them to meet their obligations under the AML/CFT Regulations. This is done on an ongoing basis and included sessions conducted in 2012 and 2013. This implementation of this deficiency is ongoing.

**R.12 (Deficiency 4): DNFBPs should enhance their risk management to arrive at the determination of PEPS.**

70. Montserrat has addressed this by specifically asking all DNFBPs to adjust their procedures manuals accordingly. This action by Montserrat was evidenced in information previously provided to the Secretariat. Montserrat has further assured that the DNFBPs compliance will be attested to during the FSC ongoing supervisory interaction with the sector. This implementation of this deficiency is ongoing.

**Recommendation 12 overall conclusion**

71. The actions required were mainly administrative in nature. Training is being provided whilst the actual implementation of deficiency 4 can only be attested to overtime. This Examiners recommendations are therefore implemented to a level of, at minimum, LC.

**Recommendation 14 – PC**

**R.14 (Deficiency 1): Amend the POCA to explicitly detail who are protected from making disclosures to the Reporting Authority.**

72. The POCA was amended through the POCA (Amendment) 2013 to explicitly detail who are protected from making disclosures to the RA. This sub-section specifically protects the director, officer or employee of a service provider which makes a protected or authorised disclosure. Here such persons are protected from having committed a breach of any enactment, rule of law or agreement restricting the disclosure of information. This deficiency is sufficiently addressed.

**R.14 (Deficiency 2): 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.**

73. The POCA was also amended 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 RA. This deficiency is sufficiently addressed.

**R.14 (Deficiency 3): Amend the POCA to specifically prohibit all illegal disclosures.**

74. This deficiency is still outstanding.

**Recommendation 14 overall conclusion**

75. Two of the three deficiencies have been fully addressed leaving just one outstanding. The way forward would be for Montserrat to fully implement this Recommendation by specifically prohibiting all illegal disclosures. This Recommendation is addressed to the level of LC.

## **Recommendation 16 – PC**

**R.16 (Deficiency 1): The existing legislation does not adequately ensure the compliance of the jurisdiction in relation to suspicious transaction reporting. (POCA Cap (4:04) and AML regulation 2010).**

76. By virtue of Part 5, paragraph 34 (1) (c) of the Anti-Money Laundering and Terrorist Financing Code 2016, service providers are now required to establish and maintain reporting procedures which require the reporting of STRs whether or not they involve tax matters. This deficiency is sufficiently addressed.

**R.16 (Deficiency 2): 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.**

77. Implementation of this deficiency is taken in the context that the legislative provisions are equally applicable to DNFBPs as they are for financial institutions. In this regard the Examiners had noted that the deficiencies identified for Rec 13, 15 and 21 had cascaded onto Recommendation 16. Recommendations 13 and 15 were rated as being LC whilst it will be detailed later in this report that Montserrat has fully rectified Rec. 21. This deficiency has been addressed.

**R.16 (Deficiency 3): The relevant supervisory authority should develop and issue guidelines and instructions on the maintenance of the framework for compliance with AML/CFT rules.**

78. The Supervisory Authority for DNFBPs in Montserrat is the FSC whilst the Anti-money Laundering and Terrorist Financing Code which came into force on April 27, 2010, provides guidance for the rules of the Code. These guidelines were made pursuant to s.176 (7) of the POCA and obliges the FSC to issue guidelines regarding compliance with the said POCA. This deficiency is therefore fully addressed.

**R.16 (Deficiency 4): Montserrat must ensure that the existing legislative requirements pertaining to DNFBPs are enforced.**

79. The FSC reportedly commenced a registration process for all DNFBPs. Montserrat has also reported that since the introduction of the AML/CFT Regulations 2010, a number of DNFBPs have been registered under the legislation and the FSC has commenced monitoring their activities as it seeks to implement the legislative requirements. The implementation of this deficiency is ongoing.

## **Recommendation 16 overall conclusion**

80. Two of the four deficiencies are fully addressed. Of the two remaining deficiencies, one can only be assessed overtime, whilst the other is a minor deficiency cascaded from Recommendation 13 which itself was rated LC. This Recommendation therefore has been implemented to the level comparable to that of LC.

## **Recommendation 19 – NC**

**R.19 (Deficiency 1): 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.**

81. For Recommendation 19, in Montserrat financial institutions have been requested to report all transactions over EC\$30,000 on a quarterly basis to the FSC. This action commenced in September 2012. Even though the jurisdiction has reported that the feasibility and utility of implementing a reporting system was considered, no information was provided to attest to the formality of this action. Notwithstanding, elements of a reporting system has been implemented based on the low level of transactions occurring on the island, resulting in related reports actually being submitted. This deficiency being fully addressed.

**Recommendation 19 overall conclusion**

82. This Recommendation has been fully addressed.

**Recommendation 21 – Rating PC**

83. **R.21 (Deficiency 1): 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.**
84. The authorities have reported that having reviewed all relevant service providers’ policy manuals they can confirm that such manuals do have policies in place to monitor customers’ transactions from countries which pose a higher risk. This deficiency is sufficiently addressed.

**Recommendation 21 overall conclusion**

85. The deficiency noted by the Examiners has been fully addressed bringing the implementation of Recommendation 21 comparable to, at a minimum an LC.

**Recommendation 24 – PC**

**R.24 (Deficiency 1): 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.**

86. The jurisdiction reportedly embarked on the registration of all non-financial service providers who were then provided with a hard and/or soft copy of the AML/CT Regulations and AML/CFT Code 2010 with guidance. Montserrat has further reported that all regulated entities in the financial sector, including, banks, the building society, the credit union, insurance companies and the money services providers now receive guidance and directives. The FSC has also increased its staffing capacity to effectively supervise the DNFBPs. In addition there has been a reduction in the number of licensed international banks since the onsite visit to the jurisdiction and this has created more capacity to supervise other regulated activities. This deficiency is sufficiently addressed.

**Recommendation 24 overall conclusion**

87. The Examiners recommended action has been fully addressed resulting in Recommendation 24 being implemented to a level of comparable at minimum to LC.

### **Recommendation 25 – Rating PC**

#### **R.25 (Deficiency 1): The RA/FCAU should provide consistent feedback on suspicious transaction reports filed to financial institutions.**

88. Regarding consistent feedback on STRs filed with the RA, Montserrat has reportedly introduced a procedure to provide periodic feedback to persons who have submitted STRs. Consequently, the RA provides feedback to financial institutions following receipt of reported STRs. The implementation of this deficiency is ongoing.

89. **R.25 (Deficiency 2): 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.**

90. Following investigation of STRs further information is provided to the financial institutions on the outcome of the analysis/investigations of such STRs. As for general feedback to the financial institutions and DNFBPs, the Reporting Authority/FCAU Annual Report for 2013 was published, in The Official Gazette as an extraordinary publication on June 19, 2015, and made available to the Secretariat. The report contains both a monthly and a yearly comparison of the STRs (SARs) received during 2012 and 2013 and a breakdown of the SARs received by reporting entities. Even though there are no trends contained in the publication it details three typologies, one of which relates to a money laundering offence committed in Montserrat. This deficiency is sufficiently addressed.

#### **R.25 (Deficiency 3): The RA should provide the reporting entities with advisories relating to AML/CFT.**

91. The authorities have reported that advisories concerning jurisdictions subject to FATF and CFATF measures, and UN Security Council Resolutions are submitted to relevant services providers. This fact was previously evidenced by Montserrat, in the form of a copy of communication to service providers regarding a FATF Public Statement. This deficiency is sufficiently addressed.

### **Recommendation 25 overall conclusion**

92. All three deficiencies noted by the Examiners are addressed raising the implementation of this Recommendation to a level that is equivalent to at least an LC.

### **Recommendation 30 – PC**

#### **R.30 (Deficiency 1): 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.**

93. The Legal Department conducted a workshop from October 3 – 28, 2011 at which staff of the RMPS 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. The implementation of this recommended action is ongoing.

**R.30 (Deficiency 2): 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.**

94. The FCAU conducted training for the Staff of the RMPS on 18th September 2012 to 23rd October 2012; 19th February 2013 to 26th March 2013; 16th April 2013 to 21st May 2013; 10th to 14th February 2014. The implementation of this recommended action is ongoing.

**R.30 (Deficiency 3): 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.**

95. The Authorities have previously provided an extract from the Ministry of Finance showing the budgetary allocations to the FCAU for carrying out its functions (goods and services), that have been approved and estimated from 2014 through to 2017. That extract shows that the FCAU had an approved allocation \$EC40, 300, for 2014-2015 and yearly estimated allocations of EC\$28,400 for each year 2016-2018. This deficiency is sufficiently addressed.

**R.30 (Deficiency 4): 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.**

96. Montserrat reported that the RMPF carries out due diligence checks into the background of persons being recruited and will require officers to swear an oath of secrecy, submit and comply with the Secrecy Act to ensure compliance with confidentiality and keep integrity at a high level. This deficiency is sufficiently addressed.

**R.30 (Deficiency 5): There is a need for additional lawyers in the Legal Department.**

97. Since the mutual evaluation Montserrat has been strengthening the offices of the Director of Public Prosecutions (DPP) and the Attorney General (AG) with the appointment of the DPP and other attorneys to the positions of Crown Counsel (Criminal) Senior Crown Counsel (Civil and Commercial) and Crown Counsel (legislative drafting). Another attorney has also been hired on a quarterly basis to the legislative drafting department. This deficiency is sufficiently addressed.

**R.30 (Deficiency 6): The Legal Department should hold workshops with the FCAU on the operation of the various pieces of legislation relating to ML and TF (investigative tools and confiscation procedures) investigations.**

98. This was done during 3 to 28<sup>th</sup> October 2011 when the Legal Department conducted a workshop, for the FCAU. 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 has since been changed with the responsibility for further training of the FCAU. This deficiency is sufficiently addressed.

**R.30 (Deficiency 7): 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.**

99. The FSC has recruited two additional members of staff and has continued to provide relevant training for all employees. This has been evidenced by documents provided to the Secretariat. The FSC has also previously provided copies of its approved budgetary estimates for 2015-2017. These estimates include allocations to cover ongoing staff training, CFATF AML workshops, regional and international seminars and conferences and the purchase of equipment. The factor relating to structure and staffing of the FSC whereby the examiners had noted that *“the FSC is not adequately structured and staffed currently for its effective functioning. There are no positions for line managers and Examiners”*, has been addressed and Montserrat has previously provided its current approved organisational chart as at December 21, 2014, which showed that the FSC has two positions of financial services examiner with the Financial Services Examiner 1 assuming the position of manager. Additionally, a functional organisational chart had been provided to demonstrate that there are now three positions of ‘examiner’ for international financial services, money services, insurance, credit unions other money transactions and other deposit taking institutions. This action by Montserrat has ensured that the jurisdiction continued to close the gaps discerned by the examiners. This deficiency is sufficiently addressed.

**R.30 (Deficiency 8): The provision in Sections 5 and 8 of 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.**

100. This deficiency has not been addressed by Montserrat. The Board of Directors of the FSC has decided that the recommended action was not practical for operations of the said FSC. 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. This deficiency is outstanding.

**R.30 (Deficiency 9): 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.**

101. Training in the identification of counterfeit currency has not as yet been provided whilst training in the identification of precious metals and stones was been deemed to be low priority by Montserrat as, according to the authorities, “there is little or no activity in precious metals on the island”. This deficiency is outstanding.

**R.30 (Deficiency 10): The RA should set guidelines on confidentiality and ensure that the Financial Intelligence Unit fully observes those guidelines.**

102. This deficiency is still outstanding in that the RA is yet to set guidelines on confidentiality and ensure that the FCAU fully observe those guidelines.

**Recommendation 30 overall conclusion**

103. Of the ten deficiencies noted by the Examiners, five have been resolved, two are the subject of ongoing implementation whilst three have not been addressed. The implementation of this Recommendation though improved, remains at the level equivalent to PC.

### **Recommendation 31 – Rating PC**

**R.31 (Deficiency 1): The authorities should ensure that an 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.**

104. Montserrat has reported that the Legal Department, Law Enforcement, Supervisory, FIU, Customs and Revenue Service meet regularly as members of the RA to develop strategies and make recommendations to introduce legislation to combat money laundering and terrorist financing. This deficiency is sufficiently addressed.

**R.31 (Deficiency 2): The authorities should consider the setting up a secretariat to monitor the implementation of the country’s AML/CFT regime.**

105. Montserrat reported that this was done through various assessments and evaluations of the jurisdictions AML/CFT framework. No information was provided as to whether such a consideration was undertaken. This deficiency is outstanding.

**R.31 (Deficiency 3): 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.**

106. MOUs to foster the necessary cooperation have been signed by the Montserrat Customs & Revenue Services and the Royal Montserrat Police Service; between the FSC and Royal Montserrat Police Service; and between the FSC and the FCAU. The MOU between the Montserrat Customs & Revenue Services and the Royal Montserrat Police Service which spoke to cooperation in common areas of law enforcement was previously provided to the Secretariat. There is however no MOU in place between the Montserrat Customs & Revenue Services and the FCAU. This implementation of this recommended action is ongoing.

**R.31 (Deficiency 4): The authorities should consider formalising the arrangement with MOUs among the local authorities.**

107. The text written for deficiency 3 above is also relevant here. This implementation of this recommended action is ongoing.

**R.31 (Deficiency 5): The AG department should consider playing a more pro-active role in giving guidance to the FCAU in relation to AML/CFT investigations.**

108. The DPP has begun playing a more active role in providing guidance to the FCAU by initially preparing a programme for training of the RA/FCAU/Customs during 2012. This implementation of this recommended action is ongoing. Formal in-house training was conducted by the DPP involving all staff of the relevant authorities captured by the MOUs.

**R.31 (Deficiency 6): The competent authorities should consider formulating a strategic plan on a risk-based approach both in the short-term and long-term targeting the DNFBPs and NPOs with awareness training seminars to help them become fully compliant with their obligations and requirements under the legislation.**

109. Montserrat’s action to close this deficiency was shown under Recommendation 12 and Special Recommendation VIII.

**R.31 (Deficiency 7):** 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 complement of the FSC staff. 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.

110. The Board of the FSC 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. This deficiency is outstanding.

**Recommendation 31 overall implementation**

111. Of the seven deficiencies, two have been addressed, three are subject to ongoing implementation and two are outstanding. Whilst there is some level of improvement the overall level of implementation for Recommendation 31 remains equivalent to a PC.

**Recommendation 32 - PC**

**R.32 (Deficiency 1):** The FIU should establish a system for that would ensure that the collection and analysis of information relative to wire transfers are carried out.

112. This deficiency has not been addressed. Information previously provided by Montserrat to attest to closure of this deficiency did not relate to wire transfers. This deficiency is outstanding.

**R.32 (Deficiency 2):** Statistics need to be utilised as a means of assessing and reviewing existing systems.

113. This deficiency is outstanding.

**R.32 (Deficiency 3):** 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.

114. This deficiency is outstanding.

**R.32 (Deficiency 4):** 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.

115. HM Customs reportedly maintains a manual system to capture the statistics on cross border seizures. The implementation of this recommended action is ongoing.

**R.32 (Deficiency 5): 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.**

116. The authorities have reported that Customs and Excise maintains comprehensive statistics on all aspects of its operations including records of declaration/disclosures and seizures on its ASYCUDA database. Further, Customs has indicated that since their training in 2013 up to as at September 14, 2015, there has been no declaration of currency or monetary instruments over US\$10,000 or any cross border seizures from any passenger arriving on the island or any suspicious activity report relating to passengers. This has negated any opportunity to generate the related statistics. Consequently there has been no opportunity to provide any related statistics to. The implementation of this recommended action is ongoing.

**Recommendation 32 overall conclusion**

117. None of the Examiners recommended action have been fully implemented leaving the implementation of this Recommendation just slightly better than it was during the onsite. The overall implementation of Recommendation 32 is therefore equivalent to that of PC.

**Recommendation 33 – PC**

**R.33 (Deficiency 1): Clear provisions needs to be made in the Companies Act to require the keeping of information on beneficial ownership and control of local companies.**

118. This deficiency is still outstanding.

**R.33 (Deficiency 2): Clear provisions must be made for the obtaining of and access to information, in a timely manner on beneficial ownership and control of local companies under the Companies Act.**

119. Section 4 of the Miscellaneous Financial Services (Amendment) Act 2013 now mandates that in order for an external company to be registered, pursuant to section 344 of the Companies Act, such a company must provide the name and address of each shareholder and the class and number of shares held by each shareholder. This obligation is also applicable to local companies by virtue of section 194 of the Companies Act where an annual return form must be filed. This form particularises the names and addresses of all shareholders together with the classes and number of shares they hold. Additionally, the registration of local companies is centralised at the FSC where all such information is computerised. Montserrat has further indicated that this information is available to the public upon the payment of a fee. It is still not clear as to what provisions apply to control information. This deficiency is only partially addressed.

**Recommendation 33 overall conclusion**

120. One deficiency is still the subject of legislative action whilst the other has only been partially addressed. This Recommendation remains as it were during the onsite with an implementation that is equivalent to that of a PC.

### **Special Recommendation VI – Rating PC**

**SR.VI (Deficiency 1): 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.**

121. Training of MSBs was carried out in September 2011 and 2013. The FSC has received updated compliance manuals from the MSBs and confirm that the manuals reflect the provisions in the 2010 AML/CFT legislation.

**SR.VI (Deficiency 2): 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.**

122. Montserrat currently engaged in a review of the written compliance procedures of its MVT service providers with a view towards ensuring that they meet the requirements of the relevant AML/CFT legislation. This action coupled with training was aimed at guiding the MVT service providers as to the effective execution of their responsibilities under the jurisdictions AML/CFT framework. The FSC has received updated compliance manuals from the MSBs and confirm that the manuals reflect the provisions in the 2010 AML/CFT legislation. This deficiency is fully addressed.

### **Special Recommendation VI overall conclusion**

123. The two deficiencies are sufficiently addressed bringing the level of implementation up to the level that is equivalent, at a minimum, of LC.

### **Special Recommendation VIII – Rating PC**

**SR.VIII (Deficiency 1): 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.**

124. The process of registering NPOs in Montserrat commenced in September of 2011 with the submission of applications by some NPOs. Upon the issuance of a Certificate of Registration, NPOs are advised about the types of records they were required to keep. Montserrat had previously provided details of the FSC's regulatory and prudential approach towards monitoring friendly societies, which it accomplishes through the mandatory annual returns which are filed by the sector. With regard to NPOs however, regulation 12 of the NPO Regulations mandates NPOs to maintain specific records. At regulation 13 the NPO supervisor has access to these records. However, if the supervisor requires the records in order to make a determination as to whether the NPO is being used to assist TF then access can only be had through a written notice. Montserrat has not articulated whether it is mandatory for NPOs to file annual returns pursuant to section 28(1) of the Friendly Societies Act. The information submitted in the returns includes membership and directorship identification information. There is also a requirement under the Act for directors of NP companies to file financial statements of their operations. Friendly Societies are also required to file annual returns under the Friendly Societies Act and submit financial statements. The activities of NPOs are monitored through review of these annual returns and analysis of the financial statements. This deficiency is sufficiently addressed.

**SR.VIII (Deficiency 2): The authorities should ensure that the regulated entities (NPOs) are vigilant in their response to the risk for abuse by those who finance terrorism.**

125. The FSC has issued written instructions to the NPOs detailing their obligations under the Regulation and on July 17, 2013, held an AML/CFT workshop for the NPOs. This deficiency is sufficiently addressed.

**SR.VIII (Deficiency 3): NPOs should be made aware of the reporting procedures for irregular transactions relating to terrorist activities.**

126. The authorities have indicated that this information was disseminated as part of the workshop noted above.

**SR.VIII (Deficiency 4): A program for the monitoring of compliance by the NPOs should be developed by the regulatory authority.**

127. Montserrat has not provided any information on whether such a programme has been developed. Notwithstanding, the FSC approach towards registering, monitoring through annual returns, and also ensuring that NPOs have been trained in AML/CFT suggests that these organisation have been included in the supervisory activities program of the FSC. It is now for Montserrat to articulate whether this is in fact so and to document this program. This deficiency is sufficiently addressed.

**SR.VIII (Deficiency 5): Authorities should consider establishing systems and procedures to allow information on NPOs to be publicly available.**

128. 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.

**SR.VIII (Deficiency 6): The authorities should consider monitoring the NPOs and their international activities.**

129. NPOs are monitored through the annual returns they are mandated to provide to the FSC. Montserrat needs to address whether the monitoring noted includes the international activities of NPOs and whether there is any approach towards determining whether the frequency of such monitoring is adequate or whether it should be adjusted based on the results of the analyses of the individual NPOs. Notwithstanding, the fact that monitoring is ongoing suggests that the shortcoming noted can be addressed. The implementation of this recommended action is ongoing.

**SR.VIII (Deficiency 7): Consideration should be given to developing investigative expertise with regard to examining NPOs suspected of either being exploited by or actively supporting terrorist activities.**

130. Montserrat has accepted that there is a need for training here. Notwithstanding, information has not as yet been provided as to whether any such training has actually been accessed. This recommended action is not yet implemented.

**Special Recommendation VIII overall conclusion**

131. Based on the analysis detailed above it can be seen that Montserrat has made a concerted effort to ensure that its NPO sector is brought under the regulatory and prudential supervision of the FSC

resulting in closure of six of the seven gaps. This has the effect of improving the implementation of the Special Recommendation to the level of an LC.

### **Special Recommendation IX – Rating NC**

**SR.IX (Deficiency 1): 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/US\$15000.00.**

132. By virtue of the Customs (Control and Management) (Amendment) Act No. 3 of 2010 (CCMA 2010), section 26A has been inserted into the Customs (Control and Management) Act, (CCMA) Cap. 17.04, in order to give effect to a currency declaration system. Consequently, a person entering Montserrat with ‘*currency or monetary instrument*’ over US\$10,000 is required to declare this fact to the officer on duty at the port of embarkation, complete a currency declaration form and provide information as to the origin or intended use of the currency or monetary instrument. A copy of this form was provided to the Secretariat on November 3<sup>rd</sup>, 2011. Montserrat has provided a copy of an extract from the Customs Operations Manual showing how arriving passengers are processed and the steps to be taken if an arriving passenger is in possession of more than US\$10,000. Even though no details of any administrative order speaking to the initiation of this system were provided the system has been initiated and is in effect in the jurisdiction. This deficiency is sufficiently addressed.

**SR.IX (Deficiency 2): Customs officials should be trained in behaviour analysis for use in passenger screening and smuggling techniques of potential currency carriers.**

133. The authorities previously reported that the jurisdiction was investigating appropriate training and the funding of such training. No further update was provided. This deficiency is outstanding.

**SR.IX (Deficiency 3): Authorities should consider the making of false disclosures/declarations to Customs authorities a strict liability offence.**

134. Making a false disclosures/declarations to Customs authorities was in fact already a strict liability offence in Montserrat. According to section 113 (1) of Customs (Control and Management) Act, which was actually in force at the time of the mutual evaluation, *any person who makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Comptroller or an officer, any declaration, notice, certificate or other document; or makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer being a document or statement produced or made for any purpose of any assigned matter, which is untrue in a material particular, he shall be guilty of an offence.* According to section 113 (2) *If any person knowingly or recklessly makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Comptroller or an officer, any declaration, notice, certificate or other document; or makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer, being a document or statement produced or made for any purpose of an assigned matter, which is untrue in a material particular, he shall be guilty of an offence and liable to a fine.* This deficiency was sufficiently addressed.

**SR.IX (Deficiency 4): 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.**

135. The authorities have reported that Customs and Excise maintains comprehensive statistics on all aspects of its operations including records of declaration/disclosures and seizures on its ASYCUDA database. Further, Customs has indicated that since their training in 2013 up to as at September 14, 2015, there has been no declaration of currency or monetary instruments over US\$10,000 or any cross border seizures from any passenger arriving on the island or any suspicious activity report relating to passengers. This has negated any opportunity to generate the related statistics. Consequently, there has been no opportunity to compile any related statistics. No information was provided on whether this information is made available to LEAs (RMPS and FCAU) and other competent authorities (FSC). This implementation of this recommended action is ongoing.

**SR.IX (Deficiency 5): 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.**

136. The action to close the deficiency has not as yet been taken.

**SR.IX (Deficiency 6): There is a need for increased participation by the Customs Department in combating money laundering and terrorist financing.**

137. On July 3, 2012 and August 7, 2013 training was provided to staff of HM Customs. During March and April 2013 the Comptroller of HM Customs underwent a period of enlistment in the U.K. whilst another office attended training conducted by CARTAC. In-house training was also conducted as well as training by the FSC on the cross-border movement of cash and bearer negotiable instruments. This deficiency is sufficiently addressed.

**SR.IX (Deficiency 7): 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.**

138. Montserrat has reported that all currency interdictions reports are reported directly to the FCAU. This deficiency is sufficiently addressed.

**SR.IX (Deficiency 8): Customs should consider reporting all declaration/disclosures to the RA that is equal to and above the declared sum of US\$15,000.**

139. Montserrat has referenced sections I, j and k of the Customs Operations Manual. However related reports are required to be made to the Financial Crime Unit and not the Financial Crime and Analysis Unit which is Montserrat's FIU. The Authorities have indicated that this is a typo because there is no Financial Crime Unit in Montserrat. This deficiency is sufficiently addressed.

#### **Overall implementation of SR.IX**

140. Whilst Special Recommendation IX has been significantly improved there are two deficiencies regarding training still requiring administrative attention. This Special Recommendation has been improved to the level that is equivalent to an LC.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation  
Montserrat (November 2015)**

**MATRIX**

Forty Recommendations	Rating	Recommended Actions	Actions Undertaken by Montserrat	Remaining Actions to be taken by Montserrat
<b>Legal systems</b>				
1.ML offence	<b>LC</b>	<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> </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> </ul> <p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October/November 2013 with the addition of a senior legislative drafter to the chambers in September.</p> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p>	Legal Department to undertake recommended action.

		<ul style="list-style-type: none"> <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> </ul>	<ul style="list-style-type: none"> <li>An audit of the legislative provision is being undertaken and any necessary</li> </ul> <p>Amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</p> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p>	<ul style="list-style-type: none"> <li>Legal Department to undertake recommended action</li> </ul>
		<ul style="list-style-type: none"> <li>Statistics need to be utilised as a means of assessing and reviewing existing systems.</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>	<p>No further action required</p>
		<ul style="list-style-type: none"> <li>The new legislative measures need to be fully implemented.</li> </ul>	<ul style="list-style-type: none"> <li>This is not a factor which led to the underlying rating.</li> </ul>	<p>No action is required</p>

2.ML offence – mental element and corporate liability	<b>LC</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.	No action is required.
3. Confiscation and provisional measures	<b>LC</b>	The absence of a resident judge would not necessarily prevent the Crown from obtaining a restrain order as the rule make provision for hearings by teleconference and video-conference links.	The Supreme Court confirmed that the High Court had an average of about two video conference hearings per year since 2010 to 2013. (See appendix 1 – correspondence from Supreme Court)	No action is required
<b>Preventive measures</b>				
5.Customer due diligence	<b>PC</b>	<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>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 2010 legislation. The institutions that have not submitted revised manuals have confirmed in writing that they are currently drafting revised documents.</p>	No further action required.

			<p>The FSC received updated compliance manuals that were outstanding. The FSC now confirm that all financial institutions have policies and procedures adequate to meet the requirements in the FATF 40 Recommendations. (See appendices 1-9)</p> <p>The Gap is now closed.</p>	
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		<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>	<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, transaction or business relationship involves private banking, legal persons or arrangements (including trusts) that are personal assets holding vehicles and companies that</p>	<ul style="list-style-type: none"> <li>• Awaiting Cabinet’s approval of revised AML-CFT Code which has be amended to introduce recommendation to 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>
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			<p>have nominee shareholders or shares in bearer form.”</p> <p>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.”</p> <p>Draft Regulations are currently being prepared to implement the recommended action. It is anticipated that the amendments will be finalised in late September early October and be approved by Cabinet, for signature by the Governor and FSC Commissioner respectively.</p> <p>The Miscellaneous Amendments (Financial Services) Act 2013 amended the Companies Act to provide for name and address of beneficial owners of legal entities</p>	
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			<p>to be maintained at the Companies Registry. Also it amended the Trust Act to require that a trustee shall maintain identity information of all the beneficiaries of a trust.</p> <p>The CFATF Secretariat confirmed that there is no requirement change the AML/CFT Regulations as the Regulations make provision for service providers to carry out due diligence. However, the AML/CFT Code has been revised to include provisions to require service providers to verify the identity of beneficial owners and to carry out enhanced due diligence of private banking, legal persons or arrangements (including trusts) that are personal assets holding vehicles and companies that have nominee shareholders or shareholders in bearer form.</p> <p>The revised AML/CFT Code 2015 makes provision for:</p> <ul style="list-style-type: none"> <li>a) Private banking;</li> <li>b) Legal persons or arrangements that are personal asset holding vehicles;</li> <li>c) A company that has nominee shareholders or shares in bearer form;</li> <li>d) Businesses that are cash intensive;</li> </ul>	
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			<ul style="list-style-type: none"> <li>e) Foreign politically exposed persons;</li> <li>f) Domestic politically exposed persons posing a higher level of risk to the service provider;</li> <li>g) Businesses whose ownership structure appears unusual or excessively complex given the nature of the company's business;</li> <li>h) Countries identified by credible sources, such as mutual evaluation or detailed assessment reports or published follow-up reports, as not having adequate AML/CFT system;</li> <li>i) Countries subject to sanctions, embargoes or similar measures issued by, for example, the United Nations;</li> <li>j) Countries identified by credible sources as having significant levels of corruption or other criminal activity;</li> <li>k) Any circumstances which gives rise to suspicious of money laundering or terrorist financing;</li> <li>l) Where higher risks have been identified either through a national risk assessment or where a national risk assessment does not exist through an adequate analysis of risk by the service provider.</li> </ul>	
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			We await publication of the statutory instrument which will give legal force to the amended Code and will send a copy the Secretariat as soon as it becomes available.	
6.Politically exposed persons	<b>LC</b>			No action required

7. Correspondent banking	<b>LC</b>	<ul style="list-style-type: none"> <li>All financial institutions should be required to have policies in place to address correspondent banking issues.</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 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.</li> </ul> <p>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.</p> <p>We confirm that the Credit Union and the Building Society included in their updated manuals, policies to address correspondent banking issues. (See appendices 1 and 2).</p> <p>The FSC now confirm that all financial institutions have policies and procedures adequate to meet the requirements in the FATF 40 Recommendations</p> <p>The Gap is now closed.</p>	No action is required
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<p>8.New technologies &amp; non face-to-face business</p>	<p><b>PC</b></p>	<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>FSC has requested both the Credit Union and the Building Society who 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.</p> <p>All financial institutions have been instructed to have written policies and procedures in place to address the misuse of technological developments in ML/FT. (See revised manuals – appendices 1 and 2; and letter to Credit Union – appendix 12.</p> <p>Both the Credit Union’s and Building Society’s AML/CFT manuals have been finalised and approved by their Board of Directors. The gap is now closed. See (Appendix 1)</p>	<p>No further action required.</p>

9.Third parties and introducers	LC	<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> </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> </ul>	<p>The FATF and CFATF Public Statements of jurisdictions not meeting FATF’s standards when published are circulated to all relevant service providers subject to obligations under the AML-CFT Regulations. They are also posted on the FSC’s website.</p>
		<ul style="list-style-type: none"> <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>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>	<p>No action is required</p>

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10.Record keeping	<b>LC</b>		Appendices 2 (1-4) provide information received from Service Providers upon request by the FSC and the FCAU.	No action is required
11.Unusual transactions	<b>LC</b>			No action is required
12.DNFBP – R.5, 6, 8-11	<b>PC</b>	<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> </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. With regards to Recommendation 5, The revised AML/CFT Code 2015 makes provision for: <ul style="list-style-type: none"> <li>a) Private banking;</li> <li>b) Legal persons or arrangements that are personal asset holding vehicles;</li> </ul> </li> </ul>	The deficiencies identified were addressed. Therefore no further action is required

			<ul style="list-style-type: none"> <li>c) A company that has nominee shareholders or shares in bearer form;</li> <li>d) Businesses that are cash intensive;</li> <li>e) Foreign politically exposed persons;</li> <li>f) Domestic politically exposed persons posing a higher level of risk to the service provider;</li> <li>g) Businesses whose ownership structure appears unusual or excessively complex given the nature of the company's business;</li> <li>h) Countries identified by credible sources, such as mutual evaluation or detailed assessment reports or published follow-up reports, as not having adequate AML/CFT system;</li> <li>i) Countries subject to sanctions, embargoes or similar measures issued by, for example, the United Nations;</li> <li>j) Countries identified by credible sources as having significant levels of corruption or other criminal activity;</li> <li>k) Any circumstances which gives rise to suspicious of money laundering or terrorist financing;</li> <li>l) Where higher risks have been identified either through a national risk assessment or where a national risk assessment</li> </ul>	
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			<p>does not exist through an adequate analysis of risk by the service provider.</p> <p>We await publication of the statutory instrument which will give legal force to the amended Code and will send a copy the Secretariat as soon as it becomes available.</p>	
		<ul style="list-style-type: none"> <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>• The recommended action is part of the functions of the FSC Act and is included in the FSC's Strategic Plan.</li> </ul> <p>Attached is a copy of FSC's updated Strategic Plan – th February 2012 which outlines a programme of activities to be undertaken.</p> <ul style="list-style-type: none"> <li>• Continued training of DNFBPs is scheduled to be carried out in January 2012.</li> </ul> <p>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.</p> <p>The FSC will conduct joint training with the FCAU to all registered DNFBPs in October 2012.</p>	<p>No further action is required.</p> <p>Training of DNFBs is continuous. It is provided to individuals and at seminars.</p>

		<ul style="list-style-type: none"> <li>DNFBPs should enhance their risk management to arrive at the determination of PEPS.</li> </ul>	<p>Training was provided to registered DNFBPs on 17 July 2013.</p> <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. At training the facilitators will bring awareness to DNFBPs of the risk PEPS pose on the financial sector.</p> <p>Training was provided to registered DNFBPs on 17 July 2013. The FSC is planning to commence on-site visit to be scheduled based on the service providers' risk management profile.</p> <p>DNFBPs were asked to include in their procedure manuals the requirement to enhance their risk management to arrive at the determination for PEPS.</p> <p>See email sent to DNFBPs in Appendix 13</p>	<p>No action required</p>

13.Suspicious transaction reporting	<b>LC</b>	<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 Cabinet will consider whether to introduce a Bill to amend POCA to make provision for recommended action.</li> </ul> <p>The Cabinet has been requested to decide on recommendations to make amendments to POCA 2010 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.”</p> <p>The revised AML/CFT Code 2015 makes provision for explicit requirement to report suspicious transactions whether or not they are thought among other things to involve tax matters.</p> <p>We await publication of the statutory instrument which will give level force to the amended Code and will send a copy to the Secretariat as soon as it becomes available.</p>	No further action required
14.Protection & no tipping-off	<b>PC</b>	<ul style="list-style-type: none"> <li>• Amend the POCA to explicitly detail who are protected from making disclosures to the Reporting Authority.</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>The recommendation has been addressed in the Proceeds of Crime (Amendment) Act No. 3 of 2013 which</p>	No further action is required

		<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> </ul> <ul style="list-style-type: none"> <li>Amend the POCA to specifically prohibit all illegal disclosures.</li> </ul>	<p>was passed by the Legislative Assembly on March 5, 2013. (See appendix 2)</p> <p>Gap closed in 4<sup>th</sup> Follow-up Report</p> <p>The Cabinet has been asked to decide whether to amend POCA 2010 to provide that :</p> <p>“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.”</p> <p>The recommendation has been addressed in the Proceeds of Crime (Amendment) Act No. 3 of 2013 which was passed by the Legislative Assembly on March 5, 2013.</p> <p>Gap closed in 4<sup>th</sup> Follow-up Report</p> <p>The Executive Council will be ask to consider whether to introduce a Bill to</p>	<p>No further action is required in respect of this element.</p> <p>This element is outstanding. Legal Department has been asked to review</p>
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			<p>amend POCA to make provisions for recommended action.</p> <p>The Cabinet has been asked to decide on recommendations to amend POCA 2010 to require that:</p> <p>“Financial Institutions and their directors, officers and employees (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.”</p> <p>s.7 (3) of POCAA (No. 3 of 2013) addresses this deficiency by amending sections 123 and 124 of the principal act, POCA, to prohibit all illegal disclosures. s.130 of POCA also addresses this deficiency.</p>	<p>the provisions in POCA to remedy the defect in the legislation.</p>
15.Internal controls, compliance & audit	<b>LC</b>	<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>The Cabinet has been asked to decide on recommendations to make amendments to the AML/CTF Regulations to provide for:</p> <p>“The AML/CFT Compliance Officer and other appropriate staff should have</p>	<p>No further action is required.</p>

			<p>timely access to customer identification data and other CDD information, transaction records, and other relevant information.”</p> <p>Draft Regulations are currently being prepared to implement the recommended action.</p> <p>The AML/CFT Regulations 2012 amended the principal Regulations to provide that</p> <p>“A service provider shall ensure that all appropriate staff, including the Money Laundering Compliance Officer and the Money Laundering Reporting Officer have timely access to all customer identification information records, other customer due diligence information and all other relevant information, for the purpose of performing their functions.”</p> <p>(See Appendix 3)</p> <p>GAP closed in 4<sup>th</sup> Follow-up Report</p>	
16. DNFBP – R.13-15 & 21	<b>PC</b>	<ul style="list-style-type: none"> <li>The existing legislation does not adequately ensure the compliance of the jurisdiction in relation to suspicious transaction reporting. (POCA Cap (4:04) and AML regulation 2010)</li> </ul>	<ul style="list-style-type: none"> <li>There are no specific deficiencies highlighted. POCA Cap. 4.04 was repealed in 2010. POCA Cap. 4.04 was repealed on the introduction of POCA 2010. It would</li> </ul>	No further action is required

		<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>• <i>The relevant supervisory authority should develop and issue guidelines and instructions on the maintenance of the framework for compliance with AML/CFT rules.</i></li> <li>• Montserrat must ensure that the existing legislative requirements pertaining to DNFBPs are enforced.</li> </ul>	<p>assist if further clarification could be given by the CFATF.</p> <ul style="list-style-type: none"> <li>• Proposals for any recommended action will be dealt with individually.</li> </ul> <p>Recommendations in respect to 13 and 15 have been submitted to Cabinet.</p> <p>The recommendation has been addressed in the Proceeds of Crime (Amendment) Act No. 3 of 2013 which was passed by the Legislative Assembly on March 5, and came into force 9 April 2013.</p> <p>Gap closed in 4<sup>th</sup> Follow-up Report</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> </ul> <p>With regards to Recommendation 13, the revised AML/CFT Code 2015 makes provision for explicit requirement to report suspicious transactions whether or not they are thought among other things to involve tax matters.</p>	
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			<p>We await publication of the statutory instrument which will give legal force to the amended Code and will send a copy to the Secretariat as soon as it becomes available.</p> <p>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.</p> <p>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 of DNFBPs has been registered under the legislation and the FSC has commenced monitoring their activities.</p>	
17. Sanctions	<b>LC</b>	<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 is appropriate.</li> </ul> <p>The Authorities continues to monitor the effectiveness of the sanctions and</p>	No further action is required in respect of this element.

			<p>where appropriate will make recommendations to ensure sanctions are proportionate and dissuasive.</p> <p>The money laundering conviction mentioned above demonstrates that the legislation is effective.</p>	
19. Other forms of reporting	NC	<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 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.</li> </ul> <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>The financial institutions have been requested to report all transactions over EC\$30,000 on a quarterly basis to the FSC commencing quarter ending 30 September 2012. (See details in appendix 13)</p> <p>The Gap is closed.</p>	All financial institutions and Money Services Businesses report all

<p>21. Special attention for higher risk countries</p>	<p><b>PC</b></p>	<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>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 AML/CFT Regulations 2010.</p> <p>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.</p>	<p>Review of all relevant service providers' policy manuals confirms that they have policies in place to monitor customers' transactions from countries which pose a higher risk.</p>
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			<p>We confirm that the Montserrat Building Society and the St Patrick's Co-operative Credit Union Limited have included 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" (See details in appendices 1 and 2)</p> <p>The FSC now confirm that all financial institutions have policies and procedures adequate to meet the requirements in the FATF 40 Recommendations</p> <p>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.</p> <p>We confirm that the Bank of Montserrat Limited amended its Compliance Manual to include the provision that they pay special attention to business</p>	
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			<p>relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.(See details in appendix 4)</p> <p>The FSC now confirm that all financial institutions have policies and procedures adequate to meet the requirements in the FATF 40 Recommendations.</p> <p>The Gap is closed.</p>	
22. Foreign branches & subsidiaries	<b>LC</b>	<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>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.</p>	No action required
23. Regulation, supervision and monitoring	<b>LC</b>	<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</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</li> </ul>	<p>POCA prescribed that the FSC is the AML-CFT Supervisor for financial institutions.</p> <p>In line with the provisions in the Act and FSC monitors the activities of licensees and take appropriate enforcement measures where necessary.</p>

		<p>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.</p>	<p>institutions in a three cycle. In its work plan the cycle for completion of all financial institutions is 31 December 2011.</p> <ul style="list-style-type: none"> <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 entities.</li> </ul> <p>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.</p>	<p>The FSC's Strategic Plan includes programme for undertaking on-site inspection of financial institutions.</p>
<p>24. DNFBP - regulation, supervision and monitoring</p>	<p><b>PC</b></p>	<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>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.</p> <p>All regulated entities in the financial sector of Montserrat now receive guidance and directives including,</p>	<p>No further action is required.</p>

			<p>banks, the building society, the credit union, insurance companies and the money services providers.(See details in appendix 14)</p> <p>The Gap is closed.</p>	
			<p>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 regulated activities.</p>	<p>Appropriate measures have been taken. In addition, there has been a reduction in the number of licensed entities that are supervised by the FSC.</p>
25. Guidelines & Feedback	<b>PC</b>	<ul style="list-style-type: none"> <li>The RA/FCAU should provide consistent feedback on suspicious transaction reports filed to financial institutions.</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> </ul> <p>The RA alongside the FSC provides feedback by way of letters to the</p>	<p>This recommended action has been implemented. The FSC and the Reporting Authority/FCAU continues to facilitate training to individual service providers and at seminars.</p>

			<p>financial institutions indicating the status of the STR with the RA</p> <p>The RA provides feedback to financial institutions following receipt of reported STRs. Following investigation of STRs further correspondence the RA information the financial institutions of the outcome of the analysis/investigations.</p> <p>The process is ongoing. This action on the part of the jurisdiction has the effect of closing this gap.</p>	
		<ul style="list-style-type: none"> <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> </ul>	<ul style="list-style-type: none"> <li>The RA/ FSC also provide feedback to prescribed service providers when training is carried. Training is carried out annually at least.</li> </ul> <p>It is intended to provide typology cases at the next training of DNFBPs schedule in November 2012.</p> <p>The FSC and RA assisted by the CFATF conducted workshop in July 2013 which provided information and feedback to financial institutions and DNFBPS.</p> <p><b>MONTSERRAT REPORTING AUTHORITY</b> And the Financial Crime and Analysis Unit's Annual Report</p>	<p>Feedback is provided as stated above and by publication of the Annual Report</p>

			<p>2013 was published in the Extra Ordinary Gazette No. 2 of 2015.</p> <p>See copy in Appendix 1a.</p>	
		<ul style="list-style-type: none"> <li>The RA should provide the reporting entities with advisories relating to AML/CFT.</li> </ul>	<ul style="list-style-type: none"> <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>Copies of recent advisories such as the CFATF and FATF Public Statements issued to service providers are published are attached. Appendix 4 9a) and 4 (b).</p> <p>The jurisdiction has no further comments to add.</p> <p>The advisories will take the form of annual publications, in the official Gazette, beginning in September 2012, following presentation and approval by the Cabinet.</p> <p>Except for FATF publications, all advisories come from the U.K. via the Governor's Office.</p>	<p>Advisories concerning jurisdictions subject to FATF and CFATF measures are submitted to relevant services providers.</p> <p>In addition notices UN Security Council Resolutions are also sent to service providers.</p>

			<p>All advisories are circulated to relevant financial institutions by the FSC.</p> <p>It is intended that ongoing feedback will be disseminated to service providers and the public at large through radio programmes.</p> <p>“Advisories or reports relating to STRs, statistics, current trends or typologies we published in the MONTSEERRAT REPORTING AUTHORITY And the Financial Crime and Analysis Unit’s Annual Report 2013.</p> <p>See details in Appendix 1a</p> <p>The FCAU 2014 statistics also includes trends on the reporting of SAR.</p>	
<b>Institutional and other measures</b>				
26. The FIU	<b>PC</b>	<ul style="list-style-type: none"> <li>The FCAU should be formally established as the central authority for receiving STRs in Montserrat</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> <p>The Cabinet has been requested to decide on recommendations to amend POCA 2010 to make FCAU the central body for receiving STRs.</p>	As recommended all STRS are submitted to the FCAU the operating arm of the Reporting Authority.

		<ul style="list-style-type: none"> <li>• Montserrat should amend section 122(1)(b) of the POCA and Part 5, 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.</li> </ul>	<p>The recommendation has been addressed in the Proceeds of Crime (Amendment) Act No. 3 of 2013 which was passed by the Legislative Assembly on March 5, 2013 and came into force on 9 April 2013.</p> <p>The new SAR Form was issued to all Service Providers requesting that all SARs be delivered to:</p> <p>The Director - The Financial Crime &amp; Analysis Unit (FCAU) of the Reporting Authority</p> <ul style="list-style-type: none"> <li>• . 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 of general application.</li> <li>• The authorities will consider whether the Interpretation Act provides</li> </ul>	<p>No further action is required.</p>
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		<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>adequately for the recommended action.</p> <p>It is the view of the jurisdiction that to provide for a specific time-frame could place the authority at a disadvantage where the information should be submitted as a matter of urgency.</p> <p>The recommendation has been addressed in the Proceeds of Crime (Amendment) Act No. 3 of 2013 which was passed by the Legislative Assembly on March 5, 2013 which came into force on 9 April 2013.</p> <p>Gap closed in 4<sup>th</sup> Follow-up Report</p> <ul style="list-style-type: none"> <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> <p>Section 121 (2) of POCA 2010 only requires 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 STR form has been reviewed and approved by the RA. Copies will now be circulated to</p>	<p>Recommended action was implemented. No further action is required.</p>
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		<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</li> </ul>	<p>the service providers for their comments before it is introduced.</p> <p>The new form has been drafted and circulated to the service providers for comments and will be sent to Cabinet for approval.</p> <p>The new SAR form was issued to all Service Providers subject to the AML/CFT obligations. (See appendix 3 – directive issued to service providers to bring the new form into effect)</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>The RA/FCAU and FSC carry out joint training annually to raise awareness of service providers’ obligations under the respective legislation.</p> <p>Gap closed in 4<sup>th</sup> Follow-up Report</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</li> </ul>	<p>No further action is required.</p> <p>This recommended action was implemented in and Secretary appointed in May 2014. No further action is required.</p>
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		<p>functions and to perform duties as the RA may determine.</p> <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> </ul>	<p>the secretarial function for the RA since 2004.</p> <p>The Authorities have now decided to advertise the position of a secretary for the RA.</p> <p>A job description for the position of the RA Secretary has been prepared and circulated for approval by members of the RA.</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>The Reporting Authority/FCAU Annual Report 2013 was submitted to the Governor for presentation to Cabinet in March 2015 and confirmation received that it will be presented. The Report which contains statistics and typologies will then be published in the Official Gazette.</li> </ul> <p><b>MONTSERRAT REPORTING AUTHORITY</b> And the Financial Crime and Analysis Unit's Annual Report</p>	<p>The statistics and typologies were published in the Official Gazette</p> <p>All STRs are now housed in the offices of the FCAU.</p>
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		<ul style="list-style-type: none"> <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> <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> </ul>	<p>2013 was published in the Extra Ordinary Gazette No. 2 of 2015.</p> <p>See copy in Appendix 1a See details in Appendix 1 (c)</p> <ul style="list-style-type: none"> <li>• Approval has been given for the FCAU to be housed in proposed Financial Services Commission’s building when it is erected.</li> <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> <p>Gap closed in 4<sup>th</sup> Follow-up Report</p> <ul style="list-style-type: none"> <li>• RA accepts the recommended action and is now exploring whether to</li> </ul>	<p>The recommendation has been considered and plans have been made to house the FCAU in the proposed FSC Building.</p>
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		<ul style="list-style-type: none"> <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>	<p>locate its off-site back-up in the island or off island. Once a decision is made this recommendation will be implemented.</p> <p>A decision has been taken to store the back-up data with OTRICS database system. This should be in place by 31 March 2012.</p> <p>The jurisdiction confirms that the policy to use the Overseas Territories Regional Criminal Intelligence Systems (OTRICS) for FCAU back-up storage was implemented on 27 March 2012.</p> <p>Gap closed in 4<sup>th</sup> Follow-up Report</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>The jurisdiction has addressed the issue with the U.K authorities but to date there has been no feedback.</p> <ul style="list-style-type: none"> <li>• Cabinet has taken the decision to introduce legislation to include the Reporting Authority in the definition of “Constable” in the Anti-Terrorism (Financial and Other Measures) (Overseas) Territories) Order 2002.</li> </ul>	<p>The Proceeds of Crime (Amendment) Act 2015 was introduced which inter alia amended section 2 of POCA by inserting under sub-section 2 (b) the following as subsection (4): “(4) The definition of “constable” under section 3(1) of the and a person appointed to the RA (UK) shall be construed to include the Reporting Authority and a person appointed by the Reporting Authority under section 127(4) of this Act.”.</p>
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			<p>It is anticipated that this provision will be introduced in May 2015.</p> <p>The provision will be introduced in the Proceeds of Crime (Amendment) Bill 2015 at the next sitting of the Legislative Assembly. Appendix 1b.</p>	
27. Law enforcement authorities	<b>LC</b>	<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>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.</p>	<p>In addition to the action already taken, the appointment of a Director of Public Prosecution since the ME was undertaken has assisted the FCAU in their investigations.</p>
28. Powers of competent authorities	<b>LC</b>	<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</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</li> </ul>	<ul style="list-style-type: none"> <li>No further action is required</li> </ul> <p>Since the ME was undertaken a DPP was appointed and this has assisted</p>

		empower investigators to record witness statements for use in investigations and prosecutions of MT, TF and predicate offences.	been added to the legislative programme to be completed mid- 2012.	the FCAU in their investigations and the preparation of cases.
29. Supervisors	<b>LC</b>	<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>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. .</p> <p>The FSC has received compliance manuals from all the financial institutions, which provides comprehensive policies for combating money laundering and terrorist financing. (See appendices 1 to 9)</p> <p>The FSC now confirm that all financial institutions have policies and procedures adequate to meet the requirements in the FATF 40 Recommendations</p>	The FSC, the prescribed Supervisor under the AML-CFT legislation continuously review the financial institutions policy manuals to ensure that the policies and procedures combating money laundering and terrorist financing is kept updated.

<p>30. Resources, integrity and training</p>	<p><b>PC</b></p>	<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> </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>The Legal Department conducted a workshop from October 3 – 28, 2011 at which staff of the RMPS 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.</p>	<p>The FCAU carries out training annually of members of the RMPS relating to the requirements in the AML-CFT legislation and on the procedures for implementing the provisions which include the seizing, freezing, forfeiture and confiscation of assets.</p>
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		<ul style="list-style-type: none"> <li>The FCAU should <i>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.</i></li> </ul>	<p>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.</p> <p>Further training was provided for the Staff of the RMPS on the 3<sup>rd</sup> July 2012 to the 7<sup>th</sup> August 2012. Three Customs officers also attended the training.( See appendices 15 and 16)Another training is schedule for September 2012.</p> <p>The FCAU conducted training for the Staff of the RMPS on 18th September 2012 to 23rd October 2012; 19<sup>th</sup> February 2013 to 26<sup>th</sup> March 2013; 16<sup>th</sup> April 2013 to 21<sup>st</sup> May 2013. The topics covered over each training were:</p> <ul style="list-style-type: none"> <li>Terminologies of Financial Investigator</li> <li>Responsibilities of FCAU</li> <li>Functions of the Reporting Authority</li> <li>Proceeds of Crime Act</li> <li>Investigation</li> <li>Practical Exercises/Exam</li> </ul> <p>The FCAU conducted training for the Staff of the RMPS on 10th to 14 February 2014.</p>	<p>The FCAU carries out training annually of members of the RMPS relating to the requirements in the AML-CFT legislation and on the procedures for implementing the provisions which include the seizing, freezing, forfeiture and confiscation of assets.</p>
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			<p>The topics covered over each training were:</p> <ul style="list-style-type: none"> <li>• Terminologies of Financial Investigator</li> <li>• Responsibilities of FCAU</li> <li>• Functions of the Reporting Authority</li> <li>• Proceeds of Crime Act</li> <li>• Cash Seizures</li> <li>• Investigation</li> </ul> <p>Practical Exercises/Exam</p> <p>The Staff at the FCAU benefited from a series of training for the period 2014 &amp; 2015. See details in appendix 5 (b).</p>	
		<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</li> </ul>	<p>The RMPS will submit budget based on requirements.</p> <p>The FCAU, operating arm of the RA Has an independent budget to carry out its function under POCA 2010. See details in Appendix 5 (a); extracted from the Ministry of Finance Government of Montserrat website.</p> <p>The RMPS has now been decided that the transferral of Officers to the FCAU will be done by a standing order.</p>	<p>Since the ME the FCAU has submitted budget estimates annually setting out the requirements for the Unit.</p> <p>It is the practice of the Authorities to screen candidates before they are recruited which include ensuring the</p>

		<p>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.</p> <ul style="list-style-type: none"> <li>• There is a need for additional lawyers in the Legal Department.</li> </ul>	<p>Since the Mutual Evaluation in 2010, The Legal Department has increased its staff complement. See below a listing of the appointments at the Office of the Director of Public Prosecution (ODPP) and the Attorney General (AG) Chambers.</p> <p><u>ODPP</u></p> <ul style="list-style-type: none"> <li>- DPP was appointed on October 13 2011</li> <li>- Crown Counsel (Criminal) appointed on August 29 2012</li> <li>- Crown Counsel (Criminal) appointed on April 1, 2013</li> </ul> <p><u>AG's Chambers</u></p> <ul style="list-style-type: none"> <li>- Principal Crown Counsel (Civil and Commercial) SJR (appointed on promotion from Senior Crown Counsel Position on September 15 2012.</li> </ul>	<p>persons appointed are of high moral character.</p> <p>See responses on action taken so far.</p>
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		<ul style="list-style-type: none"> <li>• The Legal Department should hold workshops with the FCAU on the operation of the various pieces of</li> </ul>	<ul style="list-style-type: none"> <li>- Senior Crown Counsel appointed on January 1 2013</li> <li>- Crown Counsel (Civil and Commercial) appointed on December 7 2012</li> <li>- Crown Counsel (Civil and Commercial) appointed on March 1 2012</li> <li>- Crown Counsel (Civil and Commercial) appointed on December 1 2012.</li> </ul> <p style="text-align: center;"><u>Crown Counsel (Legislative Drafting)</u></p> <ul style="list-style-type: none"> <li>- Parliamentary Counsel - currently on contract for 2 years which started 1 September 2013</li> <li>- Crown Counsel (Legislative Drafting) – Currently signing contracts as an Administrative Cadet on a quarterly basis (not currently appointed to a position)</li> </ul> <p>The RMPS carries out due diligence checks into the background of persons being recruited and will require Officers to swear oath of secrecy, submit and</p>	
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		<p>legislation relating to ML and TF (investigative tools and confiscation procedures) investigations.</p>	<p>comply with the Secrecy Act to ensure compliance with confidentiality and keep integrity at a high level.</p> <ul style="list-style-type: none"> <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 decisions can be taken until the post is manned (post -September 2011)</li> </ul> <p>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.</p> <p>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</p>	
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		<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 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.</li> </ul>	<p>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.</p> <p>FCS' staff has benefited from a series of training in the years 2014 and 2015. A schedule of training is attached. See Appendix 5 (c) – Technical assistance received.</p> <p>We attach the approved budget estimates for the years 2015 and 2016 showing the resources expended in respect of the operations of FSC. See Appendix 5 (e)</p> <p>The Board of Directors of FSC has decided that the recommended action was not practical for operations of 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.</p>	
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			<p><b>We attach a copy of the FSC's Organisation Chart showing the current structure of the regulatory body. See Appendix 5 (d)</b></p> <p>Training was provided for the Staff of HM Customs on the 3<sup>rd</sup> July 2012 to the 7<sup>th</sup> August 2012. Another training is schedule for September 2012.</p> <p>In March and April 2013, the Comptroller of Customs underwent a period of attachment with Criminal investigations Division of the UK HMRC. As part of the training and exposure the Comptroller was exposed to the efforts employed by the UK to combat ML, use of SARS, POCA, cash seizures under POCA and how seizures are processed.</p> <p>One Customs Officer from the Customs Law Enforcement and Investigations Unit attended a two week training course funded and coordinated by CARTAC in Grenada from April 15th to 26th 2013.</p> <p>The Customs Department conducted a number of training sessions in summer 2013 at which staff were exposed to declaration of Money instruments over US\$10,000, SARS, the legal obligations</p>	
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		<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> </ul>	<p>of customs when declarations are made, cash seizure, powers under POCA and under the Customs Management Act and related issues. This training was facilitated by the FCAU on 22 August 2013.</p> <p>On 26th August 2013, the FSC facilitated a training session at which Customs staff were exposed to Cross-Border Transportation of Cash and Bearer Negotiable Instruments, methods of Transportation of cash, systems to Address Cross Border Transportation of Cash and BNIs, Record Keeping and Information Sharing, Cash Seizure and Forfeiture.</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>The decision stands</p> <ul style="list-style-type: none"> <li>The authorities are currently reviewing the procedures to implement the recommended action.</li> </ul>	<p>This recommendation is outstanding, but will be addressed when the opportunity arise.</p>
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		<ul style="list-style-type: none"> <li>The RA should set guidelines on confidentiality and ensure that the Financial Intelligence Unit fully observes those guidelines.</li> </ul>	<p>The Officers in the Unit will be required to swear oath of confidentiality.</p> <p>The FCAU Policy and Procedure manual is currently being reviewed and once approved a copy will be submitted to the CFATF.</p>	
31. National co-operation	<b>PC</b>	<ul style="list-style-type: none"> <li>The authorities should ensure that an 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.</li> </ul>	<ul style="list-style-type: none"> <li>The members of the RA are heads of 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.</li> </ul>	<p>The competent authorities in Legal Department, Law Enforcement, Supervisory, FIU, Customs and Revenue Service meet regularly as members of the Reporting Authority (RA) to develop strategies and make recommendations to introduce legislation to combat money laundering and terrorist financing. More recently, the DPP has been an observer at the RA meetings.</p>



		<ul style="list-style-type: none"> <li>The authorities should consider formalising the arrangement with MOUs among the local authorities.</li> </ul>	<p>co-operation between police and custom which is currently under discussion.</p> <p>The draft MOU is with the A.G. Chambers; however, it is not yet finalised because the Customs and Inland Revenue Departments are being merged. Once this operation takes place the MOU between the parties will be signed.</p> <p>We now confirm that the MOU between The Montserrat Customs &amp; Revenue Services and the Royal Montserrat Police Service to provide for greater co-operation between the law enforcement departments was signed on 13 February 2014. (Appendix 4 – copy of signed MOU)</p> <p>We now confirm that MOUs between the FSC and the following Competent Authorities were signed on September 4<sup>th</sup> and 20<sup>th</sup> 2015.</p> <ol style="list-style-type: none"> <li>The Financial Services Commission and the Royal Montserrat Police Service.</li> <li>The Financial Services Commission and the Financial Crime and Analysis Unit.</li> </ol> <p>See copies in appendix 6.</p>	<p>In relation to the recommendation relating to the A.G. Department’s role in giving guidance to the FCAU, the office of the DPP now provides guidance to the FCAU. (The office of the DPP was not established when the ME was undertaken).</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> <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 DNFBPs and NPOs with</li> </ul>	<p>The formal training now been carried out “in house” facilitates the development of co-operation at operational level since all staff of the relevant authorities will participate in the training</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>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.</p> <ul style="list-style-type: none"> <li>• The FSC has been designated Supervisory Authority for the DNFBPs and NPOs. Its Strategic Plan includes conducting training to</li> </ul>	<p>With regard the recommendation for a risk-based approach to monitoring the activities of DNFBPs and NPOs, the responsibility for this function</p>
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		<p>awareness training seminars to help them become fully compliant with their obligations and requirements 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</li> </ul>	<p>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 AML/CFT and NPOs Regulations as part of the registration process.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Additionally, Government's and the ECCU Monetary Council's policy is that there should be a "one stop shop" for regulatory and oversight matters.</li> </ul>	<p>lies with the FCS. The FCS has facilitated training for both DNFBPs and NPOs. During the past month the FCS has met with the registered DNFBPs on a one to one with a view of ensuring that they are aware of the AML-CFT obligations. During the year FCS will continue facilitate a seminar for all persons subject to AML-CFT obligations and carry out one to one meetings with NPOs.</p>
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		<p>in keeping with the mandate of the FSC legislation. Clearly more resources need to be allocated to these areas to increase the complement of the FSC staff.</p> <p>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</p>		
32. Statistics	<b>PC</b>	<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> </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. The FCAU has confirmed that they are now maintaining statistics database of wire transfers submitted to them by the FSC.</li> </ul> <p>The Service Providers are obligated under the AML/CFT legislation to submit wire transfer transactions to FCAU</p> <p>Since the last follow-up report the FIs have been requested to send direct to the FCAU statistics relating to wire transfers. Copies of the correspondence are attached. See Appendix 7 (a) and 7 (b).</p>	All financial institutions and money service businesses now submit information relating to wire transfers to the FCAU for analysis and record keeping.

		<ul style="list-style-type: none"><li>• Statistics need to be utilised as a means of assessing and reviewing existing systems.</li></ul>	<ul style="list-style-type: none"><li>• 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.</li></ul> <p>Appendix 5 - statistics pertaining to requests received for information from foreign FIUs and the number of referrals made by the FCAU to foreign authorities.</p>	
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		<ul style="list-style-type: none"> <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>• Customs currently keep statistics manually. The Department intends to introduce an electronic database in the near future.</li> </ul> <p>The amendment Bill to the Customs (Control and Management) was passed in April 2010. The legislation provides that Customs Officer shall record identification and other data about the currency and negotiable bearer instruments and submit it to the Financial Services Commission.</p> <p>It is considered that the Montserrat Customs and Revenue Service now has the appropriate ICT systems in place in order to maintain comprehensive statistics on cross border seizures, declarations disclosures.</p> <p>Extensive intelligence relating to the inward and outward movement of goods is available on the ASYCUDA World system introduced in 2010. Specific law enforcement information is also available on the ‘Overseas Territories Regional Criminal Intelligence System’ (OTRCIS). This is a networked computer system that provides the police, customs and immigration departments of the UK's Caribbean OTs with a crime intelligence and information analysis secure data system. Further work is being undertaken with plans to train more personnel to</p>	<p>During the past two years Montserrat Customs and Revenue Service has developed systems to maintain statistics on all areas of operations including cross border seizures and declarations.</p>
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			<p>maximize the use of the information available on OTRICS. (See statistics in appendix 17)</p> <p>Customs maintains a manual system to capture the information required to be maintained comprehensive statistics on cross border seizures, formal and spontaneous request.</p>	
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		<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>	<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> </ul> <p>Concerning Customs see the comments above.</p> <p>Customs maintains a manual system to capture the information required to be maintained comprehensive statistics on cross border seizures, formal and spontaneous request.</p> <p>FSC and law enforcement maintain database of statistics relating to AML/CFT.</p>	<p>See above response.</p>
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		<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>• 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>See new comments above</p> <p>Information on wire transfer is now received from FSC and statistics are being maintained.</p> <p>Copies of statistics maintained by the FSC concerning MSBs and Banks are attached. Appendices 7 (c) and 7 (d).</p> <p>The FCAU, the Operating arm of the RA maintain statistics on wire transfers.</p>	
<p>33. Legal persons – beneficial owners</p>	<p><b>PC</b></p>	<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> </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 will have power to obtain and keep information on beneficial ownership in respect of local companies.</li> </ul>	<p>The Companies Act provides for all companies to submit annually the shareholders of all legal entities. However, where the shareholder is itself a legal entity there is no provision for the Registrar to obtain the information. To remedy this, a Bill for the Companies Act is at its final stage of drafting.</p>

		<ul style="list-style-type: none"> <li>• Clear provisions must be made for the obtaining of and access to information, in a timely manner on beneficial ownership and control of local companies under the Companies Act</li> </ul>	<ul style="list-style-type: none"> <li>• See above comments. It is the intention that adequate provisions 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.</li> </ul> <p>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 entities.</p> <p>The Miscellaneous Amendments (Financial Services) Bill 2013 was passed into law on July 25, 2013. Its provisions address this recommendation.(See Appendix 4)</p>	See above comments.
34. Legal arrangements – beneficial owners	<b>LC</b>			
<b>International Co-operation</b>				
35. Conventions	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is not sufficient evidence that psychotropic substances have been adequately covered.</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> </ul>	The U.K. Government has agreed to extend the relevant Conventions to Montserrat. Currently consultants are now reviewing transposition tables to confirm that Montserrat has the relevant legislation in place.

		<ul style="list-style-type: none"> <li>The authorities should ensure full compliance with the provisions of all the requisite conventions.</li> </ul>	<p>The jurisdiction has made requests for relevant UN Conventions to be extended to Montserrat. We now understand the U.K. authorities are reviewing Montserrat's legislation with a view to extending the Conventions on being satisfied that the legislation is applicable.</p> <ul style="list-style-type: none"> <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> <p>The U.K. Government has now indicated their willingness to extend the two Conventions and have requested that a preliminary assessment as to Montserrat's compliance against these two conventions be undertaken.</p>	<ul style="list-style-type: none"> <li></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 FCO/GOV to respond</li> </ul> <p>Follow up action will be taken to seek the U.K.'s agreement to extend the Palermo Convention to the jurisdiction</p> <p>See above.</p> <p>The U.K. Government has agreed to extend the Palermo Convention and the Convention for the Suppression</p>	

36. Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> <li>• Montserrat should consider reviewing the current procedures for executing MLAT requests to provide for greater efficiency.</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>• The jurisdiction should create mechanisms to establish specific timelines for complying with requests for assistance.</li> </ul>	<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> <p>An amendment has been drafted to section 5(2) of the Criminal Justice (International Co-operation) Act (Cap.4.06) to include timeline for producing evidence to a police officer.</p> <p>An amendment has been drafted to section 8(4) of the Criminal Justice (International Co-operation Act (Cap. 4.06) to include a timeline for submitting evidence to the Governor for submission to the requesting country or territory.</p>	

			<p>An amendment has been drafted inserting a new section 9A which speaks to the timeline within which the fact that a request was made should be kept confidential, if the request and the court order made pursuant to that request specify that it should be kept confidential.</p> <p>The draft bill is attached for ease of reference, it will be taken to Cabinet during the next quarter.</p> <p>Section 9(2) of the Criminal Justice (International Co-operation Act (Cap.4.06) provides that an order under section 9 may provide for the registration by a court in Montserrat of any order as a condition of its enforcement and <i>prescribe requirements to be satisfied before an order can be registered</i>. Requirements to be satisfied before an Order can be registered may include, amongst other things, meeting timelines set for the completion of matters relevant to the request as set out in the Order.</p> <p>Section 9(3) of the Act also provides that an Order made under section 9 may <i>include supplementary and incidental provisions as appear to the Governor acting on the advice of Cabinet to be necessary or expedient ...</i>” Supplementary and incidental provisions which may be included in an Order, as provided for under section 9(3), include</p>	
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			<p>provisions setting timelines for the completion of requests for assistance.</p> <p>This is expounded upon at section 9(4) which further provides that an order under [section 9] may make different provision for different cases.</p> <p>Therefore, the Act does create a mechanism for setting timelines for complying with a request for assistance and section 9(4) allows for the setting up of timelines specific to certain circumstances as it provides that an Order under [section 9] may make different provision for different cases. If only for the avoidance of any doubt, section 9(3) and 9(4) of the Act can be amended to include the words “including a deadline to comply with a request for assistance.”</p>	
		<ul style="list-style-type: none"> <li>• Montserrat should consider expanding mutual legal assistance provisions to include fiscal offences.</li> </ul>	<ul style="list-style-type: none"> <li>• Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September. Executive Council will be expected to provide policy guidance.</li> </ul> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments</p>	

			<p>will be completed and enacted into law by May 31, 2014.</p> <p>Provision is made under section 5(3) of the Criminal Justice (International Co-operation) Act, (Cap. 4.06).</p>	
		<ul style="list-style-type: none"> <li>• Clear allowance should be made to facilitate compliance with requests for assistance in terms of foreign non-criminal confiscation orders.</li> </ul>	<ul style="list-style-type: none"> <li>• Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</li> </ul> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p> <p>External confiscation orders are covered under sections 4, 110 and Schedule 3 of the Proceeds of Crime Act, (No.1 of 2010). Timelines for payment is also covered at Schedule 3, paragraph 15.</p>	
		<ul style="list-style-type: none"> <li>• Clear provisions should be made to ensure that civil forfeiture extends to foreign non-criminal orders.</li> </ul>	<p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</p>	

			<p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by December 31, 2014.</p>	
		<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>	<p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</p> <p>This phrase is now defined in the Criminal Justice (International Cooperation) (Amendment) Act No. 18 of 2012. Section 8(1A) provides that “serious arrestable offence” in that section means an indictable offence.</p> <p>No other legislative amendment have yet been made to this effect as priority during the last quarter was on other subject areas. It is anticipated that this will change by May 31, 2014.</p>	<p>No further action is required.</p>

37. Dual criminality	LC	<ul style="list-style-type: none"> <li>• Montserrat should consider reviewing the current procedures for executing MLAT requests to provide for greater efficiency.</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>	A.G. to consider
		<ul style="list-style-type: none"> <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>• 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: “20. General Principles Provisions when no time prescribed 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>	
		<ul style="list-style-type: none"> <li>• Clear allowance should be made to facilitate compliance with requests for assistance in terms of foreign non-criminal confiscation orders.</li> </ul>	<p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</p> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be</p>	

			completed and enacted into law by May 31, 2014.	
		<ul style="list-style-type: none"> <li>• Clear provisions should be made to ensure that civil forfeiture extends to foreign non-criminal orders.</li> </ul>	<p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</p> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by December 31, 2014.</p>	Attorney General to consider
		<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>	<p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</p>	No action is required

			<p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p> <p>The definition of serious arrestable offence is provided for under section 8 (1A) of the Criminal Justice (International Co-operation) Act, (Cap.4.06) as amended by the Criminal Justice (international Co-operation) Amendment) Act, No. 18 of 2012.</p>	
38.MLA on confiscation and freezing	<b>LC</b>	<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>• Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</li> </ul> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p> <p>The definition of serious arrestable offence is provided for under section 8(1A) of the Criminal Justice (International Co-operation) Act, (Cap. 4.06) as amended by the</p>	No action required

			<p>Criminal Justice (International Co-operation) (Amendment) Act, No. 18 of 2012.</p> <p>See Appendix 2 - Criminal Justice (International Co-operation) (Amendment) Act, No. 18 of 2012.</p>	
39.Extradition	LC	<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>	<p>No action taken to amend the Extradition Act; however section 20 of the Interpretation Act which came into force on August 17, 2011 provides: “20. General Principles Provisions when no time prescribed Where no time is prescribed or allowed within which anything is to be done, <u>the thing must be done with all convenient speed</u>, and as often as the prescribed occasion arises”. (bold and underlining min for emphasis)</p> <p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September.</p> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p>	No further action is required

			<p>The Extradition (Overseas Territories) Order (SI 2002/1823) is the UK Statutory Instrument on extradition which was extended to Montserrat. A matter on extradition would therefore need to be addressed by way of a UK amendment.</p> <p>As above- A UK amendment would be required to amendment.</p>	
40. Other forms of co-operation	<b>LC</b>	<ul style="list-style-type: none"> <li>The authorities should consider making amendments to the Criminal Justice (International Co-operation) Act (Cap. 04.06) to state specifically, that requests should not be refused on the sole ground on a request pertaining to fiscal matters.</li> </ul>	<p>Amendments to be made to the local legislation in 2011.</p> <p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition of senior legislative drafter to the chambers in September 2013.</p> <p>Other legislation was given priority by Cabinet during the last quarter. It is anticipated that the amendments will be completed and enacted into law by May 31, 2014.</p>	A.G. to consider

			<p>There is now a gateway for providing information in respect of fiscal matters, under the Tax Information Act</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> </ul>	<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 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>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> </ul>	<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> </ul> <p>Draft amendments will be prepared to address this recommendation and submitted for approval of Cabinet in or about October 2013 with addition</p>	

			<p>of senior legislative drafter to the chambers in September.</p>	
		<ul style="list-style-type: none"> <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>	<ul style="list-style-type: none"> <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 provide information in respect of exchange of information required to be provided under The Montserrat Reporting of Saving Income Information Order 2005. In addition, ten agreements have signed and implemented under the Tax Information Act, 2010. They are with respectively, Australia, Kingdom of Belgium, Denmark, Faroes, Finland, Greenland, Iceland, Kingdom of Norway and Sweden.</li> <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>	

Nine Special Recommendations				
SR.I implement UN instruments	<b>LC</b>	<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>	The U.K. Government has agreed to extend Conventions to Montserrat. The process has begun with consultants reviewing Montserrat's legislation against the provisions in the Articles of the UN Conventions.
SR.II Criminalise terrorist financing	<b>PC</b>	<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> </ul>	<ul style="list-style-type: none"> <li>• Amendments to be made to the local legislation in 2012</li> <li>• The jurisdiction has addressed the issue with the U.K authorities but to date there has been no feedback.</li> </ul> <p>Proceeds of Crime (Amendment) Act No. 3 of 2013 includes a provision which addresses the examiners' recommendations.</p> <p>Gap closed in 4<sup>th</sup> Follow-up Report</p>	No further action is required

		<ul style="list-style-type: none"> <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> </ul> <p>The jurisdiction has addressed the issue with the U.K authorities but to date there has been no feedback.</p> <p>The recommendation has been addressed in the Proceeds of Crime (Amendment) Act No. 3 of 2013 which was passed by the Legislative Assembly on March 5, 2013 and came into effect on 9 April 2013.</p> <p>Gap closed in 4<sup>th</sup> Follow-up Report</p>	<p>See above.</p>
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<p>SR.III Freeze and confiscate terrorist assets</p>	<p><b>PC</b></p>	<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> <p>The jurisdiction has addressed the issue with the U.K authorities but to date there has been no feedback. The jurisdiction will follow-up with the U.K. Government concerning implementation of the recommended action</p> <p>We now receive from the U.K. automatic notification of sanctions which we now send out to service providers and DNFBPs.</p> <p>The jurisdiction now has in place a procedure guide for implementing sanctions to provide immediate effective communication for actions taken under the freezing mechanisms to the financial sector immediately. See appendix 6(1)</p> <p>The Foreign and Commonwealth Office also issued guidance on implementation of sanctions in the Overseas Territories. See appendix 6(2)</p> <p>Automatic notifications of sanctions received from the U.K are sent out to service providers and DNFBPs. See appendix 6(3)</p>	<p>On receipt of Sanction Notifications from the U.K. notice issued to all service providers subject to AML-CFT obligations and posted on the FSC website.</p> <p>No further action is required.</p>
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			<ul style="list-style-type: none"> <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> </ul> <p>The authorities will liaise with the U.K. Government who makes Orders in Council concerning the introduction of this recommended action.</p> <p>The jurisdiction will follow-up with the U.K. Government concerning implementation of the recommended action.</p> <p>The Financial Services Commission now receives from H.M. Treasury in the United Kingdom's Financial Sanction Notices when they are published. H.M. Treasury has added the FSC to its distribution list and on receipt the Financial Sanction Notices of designated persons listed and/or de-listed the FSC publish the notices on its website and also circulate copies of the lists to financial institutions and DNFBPs.: website: <a href="http://fscmontserrat.org">fscmontserrat.org</a>.</p>	
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		<ul style="list-style-type: none"> <li>• There needs to be adequate provision for extraordinary expenses once funds have been seized or frozen.</li> </ul>	<ul style="list-style-type: none"> <li>• The authorities are aware of contingent liability that exists.</li> </ul>	
		<ul style="list-style-type: none"> <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>• This is recommended action is provided for in all relevant legislation introduced in respect of freezing of funds or assets.</li> </ul>	
SR.IV Suspicious transaction reporting	<b>LC</b>	<ul style="list-style-type: none"> <li>• The requirement to report suspicious transactions should apply regardless of whether 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>The requirement was dealt with when considering the recommended action in respect of Recommendation 13.</p>	No further action required
SR.V International co-operation	<b>PC</b>	<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> </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>• Section 5 of the Criminal Justice (International co-operation) (Amendment) Act. No. 18 of 2012 amends section 8 of the principal Act</li> </ul>	No further action is required.

		<ul style="list-style-type: none"> <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>	<p>by inserting that “serious arrestable offence” means an “indictable offence.”</p> <ul style="list-style-type: none"> <li>• 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 of general application.</li> <li>• The Legal Department will add this to its legislative agenda and will seek policy guidance from the Cabinet.</li> </ul> <p>These matters are under active consideration and will require policy decision from Cabinet which will be sought in the medium term.</p>	
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			<p>The request for information respect of fiscal offences is covered under the Tax Information Exchange Act 2012 and in addition -</p> <ul style="list-style-type: none"> <li>• Montserrat is also a participant of the Convention on Mutual Administrative Legal Assistance in Tax Matters by extension by the U.K. effective 1 October 2013.</li> <li>• Montserrat is a signatory to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information signed in October 2014.</li> </ul> <p>Confirmation of status can be verified on the OECD website.</p> <p>Montserrat has signed MOU between the Office of National Drug and Money Laundering Control Policy of Antigua and Barbuda and the Financial Intelligence Unit of Montserrat</p> <p>See copy of MOUs in Appendix 3 (a)</p> <p>Montserrat has also signed MOU between the Montserrat Reporting Authority and the Financial Intelligence Unit of Trinidad and Tobago.</p> <p>See copies of MOUs in Appendix 3 (b)</p>	
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<p>SR VI AML requirements for money/value transfer services</p>	<p><b>PC</b></p>	<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> </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>Training of MSBs and FI's was carried out on 15 September 2011.</p> <p>Training was provided to MSBs on 17 July 2013</p> <p>FSC continues to provide training on one to one basis to the MSBs when it is deemed necessary. The MSBs submits monthly returns to Supervisor on their level of activities, copies of the monthly returns are attached as reference. See Appendix 8</p> <p>The licensed MSBs compliance with the requirements in AML-CFT Regulations is monitored monthly on review of monthly returns and feedback is given following analysis of the information. Copy of recent correspondence with one of the MSB's is attached for your reference. See Appendix 9</p> <p>In the past, we had reasons to believe money transmitters were not operating within the law they were asked to cease operations. Copy of relevant correspondence is attached. See Appendices 10 (a) and 10 (b)</p>	<p>Since 2013 training has continued to be provided to the MSB service providers on a one to one basis.</p>
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		<ul style="list-style-type: none"> <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>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>The FSC has received updated compliance manuals from the MSBs and confirm that the manuals reflect the provisions in the 2010 AML/CFT legislation.</p> <p>Base on information previous sent to the CFATF's Secretariat, we are of the opinion that the recommendation was addressed and could be closed.</p>	
SR VII Wire transfer rules	<b>LC</b>	<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 meets requirement in SR VII.</li> </ul>	No further action required. The AML-CFT Code provides for the recommended action.
SR.VIII Non-profit organisations	<b>PC</b>	<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</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>	Non-profit organisations are reviewed annually to ensure they meet the revised FATF standards.

		<p>activities of terrorists or terrorist organisations NPOs should be required to report unusual donations to the Reporting Authority.</p> <ul style="list-style-type: none"> <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> <li>• A program for the monitoring of compliance by the NPOs should be developed by the regulatory authority.</li> </ul>	<p>To date a number of NPOs has been registered under the legislation and the FSC is currently processing applications for registration.</p> <p>The Supervisory Authority has commenced monitoring these entities.</p> <p>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.</p> <ul style="list-style-type: none"> <li>• A seminar for NPOs will be conducting in January 2012 to apprise registered NPOs of the risks.</li> </ul> <p>The seminar is now rescheduled for the second half of this year to include all registered NPOs.</p> <p>Representatives from NPOs attended an AML/CFT workshop on 17 July 2013.</p> <ul style="list-style-type: none"> <li>• This recommended action will be included in the training seminar.</li> </ul> <p>Information on NPOs is readily available. The NPO Regulations provide that the public on payment of a prescribe fee may inspect the NPO Register</p>	<p>Review of the annual financial statements of non-profit organisations for the year ended 31 December 2015 will be reviewed in the second quarter of 2016 to monitor compliance with FATF recommendations and the AML-CFT legislation.</p>
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		<ul style="list-style-type: none"> <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>• 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 information provided in the returns will be used with experience for monitoring their activities.</li> <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> <p>It is mandatory for non-profit companies to file annual returns under the Companies Act. The information submitted in the returns includes membership and directorship identification information. There is also a requirement under the Act for directors of NP companies to file financial statements of their operations.</p>	
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			<p>Friendly Societies are also required to file annual returns under the Friendly Societies Act and submit financial statements.</p> <p>The activities of NPOs are monitored through review of these annual returns and analysis of the financial statements. The Companies Act provides for the public to access records of documents filed including the annual returns. See copies of annual returns form in Appendices 11 (a), 11 (b) and 11 (c).</p> <p>In addition, R.5 (4) of the Non-Profit Organisations, 2010 provides “A person may, during normal business hours and on payment of a fee of \$10, require the NPO Supervisor to provide details of the information entered on the Non-Profit Organisation Register in respect of a registered non-profit organisation.” Appendix 12</p>	
SR.IX Cross Border Declaration & Disclosure	NC	<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</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</li> </ul>	<p>As part of their development, Custom Officers receive training from the FACU annually on the provisions in the AML-CFT legislation and procedures for conducting investigation.</p> <p>Officers also participate in regional training and the provision of training is</p>

		<p>techniques of potential currency carriers.</p> <ul style="list-style-type: none"> <li>• Authorities should consider the making of false disclosures/declarations to</li> </ul>	<p>made into viability of sharing resources with other jurisdictions.</p> <p>CARTAC Officials undertook a ‘training needs analysis’ of the Montserrat Customs and Revenue Services (MCRS) during June 2012. An official report is awaited but feedback indicates that investigation/intelligence training will be made available for approximately 3 persons at a regional event to be held in Grenada in April 2013. It is hoped that this training will include aspects of this recommendation</p> <p>One Customs Officer from Montserrat Revenue and Customs Services attended a two week training course funded and coordinated by CARTAC in Grenada from April 15<sup>th</sup> to 26<sup>th</sup> 2013.</p> <p>On 26<sup>th</sup> August 2013, the FSC facilitated a training session at which Customs staff were exposed to Cross-Border Transportation of Cash and Bearer Negotiable Instruments, methods of Transportation of cash, systems to Address Cross Border Transportation of Cash and BNIs, Record Keeping and Information Sharing, Cash Seizure and Forfeiture.</p> <ul style="list-style-type: none"> <li>• This recommended action is a provision in section 113 (1) and (2)</li> </ul>	<p>continuous in the MCRS strategic plan.</p>
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		<p>Customs authorities a strict liability offence.</p> <ul style="list-style-type: none"> <li>• 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.</li> <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> </ul>	<p>of Customs (Control and Management) Act. There is no further action required under this bullet point.</p> <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 to common areas of Law Enforcement has been drafted and is now with the Attorney General's Chambers for review and comments.</li> </ul>	
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		<ul style="list-style-type: none"> <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> <li>• Customs should consider reporting all declaration/disclosures to the RA that is equal to and above the declared sum of US\$15,000.</li> </ul>	<ul style="list-style-type: none"> <li>• The RMPS has also conducted joint operations with MCRS.</li> <li>• All currency interdictions reports are reported directly to the FCAU. The authorities now proposes to introduce procedure that statistics on these reports are provided to the RA on a periodic basis.</li> <li>• The recommendation is accepted. The <u>Customs (Control and Management) (Amendment) Bill, 2010 MONTSEERRAT</u> section 26A (2) states A person who enters Montserrat with currency or monetary instrument over US\$10,000 or the equivalent, shall provide information with regard to the origin of the currency or negotiable bearer instrument and its intended use to the customs officer who shall record identification and other data about the currency and negotiable bearer instruments and submit it to the Financial Services Commission.”</li> </ul> <p><b>Attached is the Director General’s report on the implementation of this recommendation together with attachments. Appendix 13.</b></p>	
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