



CARIBBEAN FINANCIAL
ACTION TASK FORCE

Third Follow-Up Report

St. Kitts and Nevis

April 18, 2011

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ST. KITTS & NEVIS: THIRD FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of St. Kitts and Nevis' report to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of St. Kitts and Nevis was adopted by the CFATF Council of Ministers in May 2009, in Trinidad and Tobago. Based on the review of actions taken by St. Kitts and Nevis to meet the recommendations made by the Examiners, it was decided at the November Plenary/Council meeting in the Cayman Islands to leave St. Kitts and Nevis in expedited follow-up. Based on the current review, a recommendation would be made as to whether St. Kitts and Nevis would remain on expedited follow-up or be placed on regular follow-up.
2. St. Kitts and Nevis received ratings of PC or NC on thirteen (13) of the sixteen (16) Core and Key Recommendations as follows:

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

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

Partially Compliant (PC)	Non-Compliant (NC)
R. 8 (New technologies and non-face-to-face business)	R. 16 (DNFBPs R. 13-15 and 21)
R. 9 (Third parties and introducers)	R. 17 (Sanctions)
R. 11 (Unusual transactions)	R. 24 (DNFBPs regulation, supervision and monitoring)
R. 12 (DNFBPs – R. ,6,8-11)	R. 27 (Law enforcement authorities)
R. 14 (Protection & no tipping off)	SR. IX (Cash couriers)
R. 15 (Internal controls, compliance & audit)	
R. 21 (Special attention for higher risk countries)	
R. 25 (Guidelines & feedback)	
R. 29 (Supervisors)	
R. 30 (Resources, integrity and training)	
R. 31 (National cooperation)	
R. 32 (Statistics)	
SR. VI (AML requirements for money/value transfer services)	
SR. VII (Wire transfers)	
SR. VIII (Non-profit organisations)	

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

Size and integration of the jurisdiction's financial sector

		Banks	Development Bank	Credit Unions¹	Securities	Captive and International Insurance	Domestic Insurance	TOTAL
Number of Institutions	Total #	7	1	4	2 ²	314 ³	15	342
Assets	US\$	1,860,682,500	89,977,662	47,793,703	0	641,021,566 ⁴	302,020,000	2,941,495,431
Deposits	Total: US\$	1,168,927,700	N/A	40,487,037	0	N/A	N/A	1,209,414,737
	% Non-resident	17.76% of deposits	N/A	Unknown	N/A	N/A	N/A	0.02%
International Links	% Foreign-owned:	N/A	N/A	N/A	N/A	100% of assets	27% of assets	26 %
	#Subsidiaries abroad	N/A	N/A	N/A	N/A	N/A	N/A	N/A

II. Summary of progress made by St. Kitts and Nevis

5. Since the Second Follow-Up Report, The St. Kitts and Nevis Authorities have enacted the Non-Governmental Organization Regulations, 2011 and the Interception of Communications Act, 2011. The former sets up the operational framework for the registration of NGOs and the terms under which the NGO Commission will function, while the latter is intended to enhance the Police Force's crime detection capabilities. The Authorities have also redrafted the Anti-Money Laundering Regulation (AMLR) and Guidance Notes and they are currently being reviewed. The redrafted legislation and Notes are expected to possibly affect compliance with Recommendations 5, 6, 8, 9, 11-13, 16, 17, 21, 26 and SR. VI. With regard to the regulatory agencies, an additional Financial Inspector and three (3) Assistant Regulators were recruited to the FSRC departments. Additionally, two (2) inspectors received certification as AML specialists. The staff of the ECSRC was also increased in 2010 by the addition of an Analyst and a Legal Officer. This has resulted in the ECSRC Secretariat⁵ now being established outside the ECCB management structure. In August 2010, the ECSRC also completed its project for the

¹ Financial data reported for two of the four credit unions.

² The two institutions which are licensed by the ECSRC to conduct securities business are both commercial banks whose total assets and total deposits are already included under the 'bank' column.

³ Includes insurers registered up to 2010

⁴ Represents available figures up to 2009 for 202 registered insurers.

⁵ The complete staff complement is currently two (2) Analyst; one (1) Attorney, one (1) Administrator and a Secretary.

development of a risk based regime and manual for the risk based assessment of broker dealers. A risk based exercise for broker dealers was conducted in the Federation during the Project. The exercise facilitated the development of the supervisory regime for broker dealers. Similar exercises for all licensees during 2011 would denote the full implementation of the new regime.

6. The Financial Intelligence Unit (FIU) made presentations which included discussions of trends and typologies with the regulated sectors at Nevis' annual AML/CFT Seminars (May 2009 and February 2010). The FIU has also published guidelines on terrorist financing reporting,⁶ which was distributed to gaming, insurance, banking, credit union and money remittance institutions. Sector specific guidelines were also issued to two casinos providing guidance on how and what to report. In 2010, the FIU received an additional laptop computer. With regard to training, please see Annex 1 for 'Additional training activities since November 2010'. With regard to compliance with Rec. 27, the Authorities have noted that the POCA was amended in February 2011 to allow for periodic orders for the detention of money (either being exported or imported) for a period of six (6) months. The amendment also introduces the possibility of forfeiture without a conviction where the Court is satisfied that the money represents the proceeds of crime. While this provision will indeed be helpful to investigators, it does not address the deficiency with regard to the ability to waive or postpone arrest of suspected persons. The Authorities also noted that the strength of the White Collar Crime Unit (WCCU) had been increased by one (1) additional officer in November 2010. The total staff complement is now five, which includes an Inspector who heads the Unit.
7. With regard to the exercise of powers by competent authorities (Rec. 28), the WCCU has for the period October 2010 to February 2011 have investigated five (5) drug trafficking matters. In three (3) of them convictions were obtained and the remaining two (2) have been adjourned to a later date. The application for confiscation is still pending in three of these matters. The WCCU is also involved in three (3) fraud cases; one (1) is awaiting a Preliminary Investigation; in another the subject is to be served and in the last matter, the WCCU is awaiting further instructions from the DPP. With regard to Production Orders, ten (10) applications have been made, with seven (7) being granted and three (3) pending. For the same period, the Customs Department detained cash amounts of US\$452,788 and US\$438,901, which are pending civil forfeiture.

III. Conclusion

8. St. Kitts and Nevis is making strides in its attempts to comply with the outstanding recommendations. The newly enacted legislation dealing with the NGO sector should once implemented greatly increase the level of compliance with SR. VIII. Additionally, the 'wiretapping' legislation should assist law enforcement with their investigation of crime. The redrafting of the AMLR and Guidance Notes affect two of the Core Recommendations (5 & 13) and several of the general recommendations (see. Above). There is also strong evidence of ongoing AML/CFT training of both regulators and the regulated sectors. Strides have also been made with regard to implementation of the law by law enforcement authorities (the WCCU) through conviction of predicates and applications for confiscation and production orders. The human resources for some of the supervisory and law enforcement units have also been increased.

⁶ Brochure entitled 'Road Map – Terrorist Financing Reporting.'

9. While St. Kitts and Nevis has made some commendable strides since its last report, the level of compliance remains the same as previously noted in the second follow-up report. It is anticipated that the passage of the redrafted legislation would positively change the level of compliance in the future. Accordingly, it is recommended that St. Kitts and Nevis remain on expedited follow-up and be required to report back to the November 2011 Plenary.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis**

FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
Legal systems				
1. ML offense	PC	Recent amendments have affected ability to assess effectiveness of implementation. Terrorist financing is not a predicate offence for money laundering. No one has been charged or prosecuted under the POCA. Insufficient training for investigators and prosecutors	- The recent amendments to the POCA have resulted in little time to assess the effectiveness of its implementation. - The penalty for financing of terrorism on summary conviction should be amended so that the offence falls within the definition of serious offence.	The term of imprisonment has been increased to 5 years and the fine made an unlimited one See Section 4 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)
2. ML offense— mental element and corporate liability	LC	No one has been charged or prosecuted under the POCA.	Training should be provided to all the relevant parties who are responsible for investigating and prosecuting ML and FT offences with the aim of increasing the number of investigations and prosecutions for these offences.	Significant training has been provided to personnel in the Office of the DPP, the Royal St. Christopher/Nevis Police Force and to the Judiciary as detailed in attached Schedule 1
3. Confiscation and provisional measures	PC	No provision in the POCA for the confiscation of instrumentalities intended for use in the commission of an offence. No provision in the ATA for the seizure of instrumentalities used in or intended for use in the commission of an offence. No stated procedure under the ATA for the forfeiture and confiscation of property. No seizures, freezing or confiscation of property relative to the offences of ML and FT therefore unable to determine how effective the Recommendation has been implemented.	- Amendments should be made to the POCA so that there would be clear provision for the seizure of instrumentalities intended for use in the commission of an offence under the Act and a predicate offence. - An amendment to the ATA should be made so that there would be provision for the seizure of instrumentalities used in or intended for use in the commission of an offence in the ATA. - The ATA should be amended to provide a stated procedure for the forfeiture and confiscation of property.	The definition of property in POCA has been expanded to include "...proceeds from, instrumentalities used in and instrumentalities intended for use in the commission of any money laundering or related offence....." See Section 3 of the Proceeds of Crime (Amendment) Act, 2009 (No 34 of 2009) The definition of "property" in the ATA has been expanded to include "...proceeds from, instrumentalities used in and instrumentalities intended for use in the commission of any terrorist financing offence....." See Section 3 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009) Provisions of Sections 36 to 42 of the ATA in relation to the seizure, detention and disposal of terrorist cash are now made of equal applicability to instrumentalities used in or intended for use in the commission of an offence under the Act. See Section

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
				12 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)
Preventive measures				
4. Secrecy laws consistent with the Recommendations	C	This Recommendation has been fully observed.		
5. Customer due diligence	NC	The AMLR may not extend to terrorism financing obligations. No requirement for CDD on de minimis transactions if TF is suspected. Guidance re: money transfer business does not apply to banks. Requirements re: occasional transfers are not in law or regulations. Requirements for the use of independent documentation are not in law or regulations. The requirement to identify and verify the beneficial owner using data from a reliable source not in law or regulations. No direct requirement to verify authority of person purporting to act for a principal. Enhanced due diligence measures do not take into account cases and circumstances cited in the Basel CDD paper. No direct obligation to ascertain legal status of party to legal arrangement/ trust arrangement.	- The Authorities should resolve the issue as to whether the AMLR can legally refer to matters relating to the financing of terrorism. As a consequence, there may be valid challenges that may be mounted against several of the measures in the Regulations or Guidance Notes which seek to address the financing of terrorism. - The Guidance Notes are not considered to be law or regulations and thus the requirements in the Guidance Notes relating to the treatment of occasional transfers should be placed in the law. - The Regulations or Guidance Notes should either prohibit numbered accounts or specify how they are to be treated. - The important issue of using independent documentation to verify identity should be inserted into the law. - The requirement to identify and verify beneficial owner using data from a reliable source should be inserted into the law. - The Authorities should amend the laws appropriately to deal with the requirement for carrying out identification procedures where there is a suspicion that the	See Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010 addressing the financing of terrorism. AML Regulations and Guidance Notes have been redrafted and are currently being reviewed See Regulation 4(1)(c)(i) of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		There is no prohibition of the use of reduced due diligence where there is a suspicion of TF. No reference to special risk management procedures that should take place where a customer is allowed to utilise a business relationship prior to verification. Measures for on going due diligence does not include scrutiny that ensures that transactions are consistent with the source of funds. Effectiveness cannot be assessed due to the recent passage of Regulations and Guidance Notes and the limited knowledge of the supervised constituents about the new requirements. Concern relating to verification of compliance with this recommendation by Captive and International Insurers, given the fact that the bulk of their activities occur offshore.	transaction involves the financing of terrorism. - The Regulations or Guidance Notes should impose a requirement for carrying out identification procedures where there is a suspicion that the transaction involves the financing of terrorism. - For clarity the requirements applicable to money services businesses that relate to originator information should extend to banks that carry out wire transfers. - The Regulations or Guidance Notes should refer to a direct obligation to verify the authority of the person to act on behalf of the principal. - The Regulations or Guidance Notes should address the requirements for verifying the legal status of the parties involved in trust/legal arrangements. - The Regulations should specifically prohibit reduced due diligence in circumstances where the relevant person suspects the financing of terrorism.	See Regulation 4(1)(c)(i) of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010. AML Regulations and Guidance Notes have been redrafted and are currently being reviewed See Regulation 6(9) of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
6. Politically exposed persons	LC	The Regulation is not clear as to whether the requirement for establishing source of funds/wealth applies where the PEP is found to be the beneficial owner and not necessarily the customer with whom the financial institution is transacting.	The Regulations or the Guidance Notes should make it clear as to whether the requirement for establishing of source of funds/wealth applies where the PEP is found to be the beneficial owner and not necessarily the customer with whom the financial institution is transacting.	AML Regulations and Guidance Notes have been redrafted and are currently being reviewed
	LC	The GN whilst considered OEM for ML purposes does not cover TF issues. Thus cannot properly cover correspondent banks carrying out assessments of TF measures in respondent jurisdictions.	As the Regulations or the Guidance Notes cannot cover issues relating to terrorism financing, the measures relating to assessing a respondent institution's measures to combat TF would have to be provided for in the appropriate law or regulation.	See Regulation 4(12)(c) of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010.
8. New technologies & non face-to-face business	PC	The AMLR do not extend to TF obligations. Neither the Regulations nor the Guidance Notes provide for specific and effective CDD measures that financial institutions should apply to cases of non face-to face business.	- The Regulations or the Guidance Notes should provide for the specific and effective CDD measures that financial institutions should apply to cases of non face-to-face business. - The Authorities should take greater steps in familiarising their supervised constituents about the new requirements of the law to ensure a smoother transition to the new regime.	AML Regulations and Guidance Notes have been redrafted and are currently being reviewed Since November 2008, the Authorities have conducted several meetings and seminars with supervised constituents as detailed on attached Schedule 2.
9. Third parties and introducers	PC	No requirement for regulated business to immediately get necessary information from introducers re: elements of the CDD process. No requirements for Introducers and intermediaries to follow appropriate CDD measures (e.g. using independent evidence for verification). No requirement for financial institutions to be satisfied that information undertaken to be provided will be provided without delay. Regulated businesses should ensure that the authority of a customer purporting to act for another is valid, and	- Regulated businesses should be required to obtain information on introducers/intermediaries' CDD processes. Where undertakings are given to provide information, financial institutions should be satisfied that the information will be provided without delay. - The Authorities should ensure that introducers and intermediaries are required to use independent documents to verify identification information, and to ensure that the authority of a customer purporting to act for another is valid, and ascertaining the nature of the customers business.	AML Regulations and Guidance Notes have been redrafted and are currently being reviewed

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		ascertaining the nature of the customers business. Introducers and Intermediaries are not required to be subject to CFT obligations. Ambiguity regarding whether introducers are required to be supervised under FATF requirements. Lack of industry compliance to requirements relating to ensuring that introducers and intermediaries are subject to AML/CFT supervisory regime.	• Introducers and intermediaries should be subject to CFT measures. • • There should be greater guidance to regulated businesses with regard to ascertaining whether an introducer's/intermediary's home country has adequately applied the FATF Recommendations. • The Authorities should clarify the identified inconsistencies between the Regulations and the Guidance Notes with regard to whether introducers are to be subject to the FATF Recommendations. • The inconsistencies in the regime are evidenced by reliance on introducers that are not subject to the FATF requirements as required by the Regulations. These inconsistencies should be resolved.	See Regulation 7(6) of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010. AML Regulations and Guidance Notes have been redrafted and are currently being reviewed

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
10. Record keeping	LC	Concerns re: verifying levels of compliance with the record-keeping obligations established in the law by Captive and International Insurance Companies.	The Authorities should consider measures to ensure that supervisory authorities are able to verify that captive insurance and international insurance companies are properly complying with the record keeping obligations established in the law.	Addressed within the ambit of the recently passed Financial Services Regulatory Commission Act, (No. 22 of 2009) Section 4(1).
11. Unusual transactions	PC	There is ambiguity between the GN and the Regulations with regard to the appropriate treatment of unusual transactions. The law does not state that unusual transactions should be available for competent authorities or auditors. There is a concern as to whether Supervisory Authorities are able to properly verify that Captive and International Insurance companies are fully complying with the requirements for treating with unusual transactions.	- The Authorities should consider measures that would allow the Commission to properly verify that captive and international insurance companies are fully complying with the requirements relating to complex and unusual transactions specified in the laws. . - The Authorities should resolve the ambiguity between the treatment of unusual and complex transactions in the law and in the Guidance Notes. - The Authorities should consider specifying that financial institutions should make their unusual transaction records available for competent authorities and auditors.	Addressed within the ambit of the recently passed Financial Services Regulatory Commission Act, (No. 22 of 2009) Section 4(1). AML Regulations and Guidance Notes have been redrafted and are currently being reviewed
12. DNFBP–R.5, 6, 8-11	PC	Deficiencies identified for all financial institutions for R.5, R.6, R.8-R.11 in sections 3.2.3, 3.3.3, 3.5.3 and 3.6.3 of this report are also applicable to DNFBPs The powers of the FSC under the FSC Act extend only to financial services. There is no evidence of effective supervision of Casinos for AML/CFT purposes. The relevant activities specified for accountants and auditors in the POCA are not in line with E.C. 12.1(d). Assessment of the effectiveness of CDD measures for	- Deficiencies identified for all financial institutions for R.5, R.6, and R.8-11 in the relevant sections of this report also apply to DNFBPs. Implementation of the specific recommendations in the relevant sections of this report will also apply to DNFBPs. - The Authorities should consider amending the FSC Act to give the Commission explicit powers to supervise and regulate for AML/CFT purposes. The FSC Act should be also be amended to give the Commission explicit powers over DNFBPs	See responses at R5, R6 and R8-11 above as they pertain to the redrafting of the AMLR and Guidance Notes. The FSC has been revamped to expand its powers. Within its new ambit, the Commission is responsible for most DNFBP's. Section 4 (2) (d) of the Financial Services Regulatory Commission Act, 2009 (No 22 of 2009) provides that the Commission shall monitor compliance by regulated persons with the Proceeds of Crime Act, the Anti-Terrorism Act and such other Acts, regulations, codes or guidelines relating to ML or FT.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		legal professionals as well as jewellers and dealers of precious stones and metals is not possible due to recent additions to Schedule 1 of the POCA. There are no requirements for third parties to be regulated and supervised in accordance with Recommendations 23, 24 and 29 and have measures in place to comply with Recommendations 5 and 10.	- St. Kitts and Nevis should implement a robust system of regulation and supervision for casinos. Casinos should also be sensitised about their CDD obligations under the AMLR and GN. - Schedule 1 of the POCA should be amended to specify the relevant activities of accountants and auditors, in line with E.C. 12.1(d). - The AMLR should be amended to ensure that third parties are regulated and supervised in accordance with Recommendation 23, 24, and 29, and have measures in place to comply with Recommendations 5 and 10. - Implement a robust system of regulation and supervision for casinos. - Sensitise the Gaming industry of its CDD obligations under the AMLR - Specify the activities of accountants and auditors to bring them in line with FATF E.C. 12(1)(d) - Require third parties to be regulated and supervised in accordance with Recommendation 23, 24, and 29, and have measures in place to comply with Recommendations 5 and 10. - Amend section 10 of the AMLR to make	have AML Regulations and Guidance Notes been redrafted and are currently being reviewed However, in it's current state, Regulation 7(4)(ii) of the AMLR permits regulated businesses to rely on third parties only if they are similarly regulated by the FSC or carry on equivalent business' and in Regulation 2 'equivalent business' means business that is "subject to requirements to forestall and prevent money laundering that are consistent with those in the FATF recommendations in respect of that business and supervised for compliance with the requirements of FATF".

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St. Kitts & Nevis**

FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			“business correspondence” to be available for at least five years. Amend paragraph 72 of the GN to specify that documented findings regarding complex, unusual or large transactions should be made available upon request.	AML Regulations and Guidance Notes have been redrafted and are currently being reviewed

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis**

FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
13. Suspicious transaction reporting	NC	The suspicious transaction reporting requirements under the AMLR and the ATA are not in keeping with the FATF requirements. Sanctions under AMLR are not proportionate and may affect effectiveness for more serious offences. Sanctions for failing to report possession of terrorist property is less severe than other reporting breaches under the ATA	- The requirement for suspicious transaction reporting under the AML Regulations needs to be aligned with the issue of funds being the proceeds of criminal activity in accordance with the requirements of Recommendation 13. - The Authorities should de-link the connection between unusual transactions and suspicious transactions, as they represent two separate obligations under the FATF Recommendations. - The requirement for suspicious transaction reporting under the ATA needs to be aligned with the issue of funds being linked to or related to terrorism, terrorist acts or terrorist organisations or financiers in accordance with the requirements of Special Recommendation IV. - All offences under the AML Regulations carry the same penalty of EC\$50,000. The Authorities should re-examine this as a “one-size” fits all approach to sanctions under the regulations could inhibit effectiveness especially for the more serious sanctions.	AML Regulations and Guidance Notes have been redrafted and are currently being reviewed The reporting requirement under Section 17 of the ATA has been amended accordingly. See Section 8(a) of the Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009) AML Regulations have been redrafted and are currently being reviewed . Wider range of penalties included.
14. Protection & no tipping-off	PC	Requirement limited to ML investigations No requirement with regard to the reporting of a STR or related information to the FIU which could lead to a	Section 5 of the POCA (tipping-off offence) should be amended to provide for information about a STR or general information and not just ML investigations.	

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		ML or FT investigation.	The POCA and ATA should be amended to provide for the tipping-off offence as it relates to reporting of STRs or related information to the FIU which would lead to a ML or FT investigation.	

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15. Internal controls, compliance & audit	PC	Requirements regarding internal audit and testing, compliance officers and staff training may only apply to ML (and not to TF issues) under the AML Regulations. No requirement that internal testing should be independent and adequately resourced	- The Examiners take the view that the AMLR cannot extend to obligations relating to terrorism financing. Thus the internal control measures prescribed by the AMLR cannot apply to the area of financing of terrorism. This would impact key areas such as internal auditing, the compliance officer and staff training, notwithstanding the fact that these areas in practice do cover terrorism financing issues. The St. Kitts and Nevis Authorities should take legislative measures that would ensure that the obligations under Recommendation 15 apply to the financing of terrorism. - The Authorities should consider providing further guidance on internal testing procedures and requiring that these functions be independent and appropriately resourced. - There is a fundamental issue of concern relating to properly ascertaining the level of compliance with regard to suspicious transaction reporting requirements that is achieved by the resident insurance manager operating under the Captive Insurance Act and the Nevis International Insurance. Given that the vast majority of these transactions occur offshore, there is an issue as to how the Regulators are able to properly and independently verify that all transactions are being captured.	See Regulation 3(1)(a)(iv) & 3(5)(d) of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010.
16. DNFBP–R.13-15 & 21	NC	Deficiencies identified for financial institutions for R13, R15, and R21 in sections 3.7.3, 3.8.3, and 3.6.3 of this report are also applicable to DNFBPs.	The AMLR should be amended to mandate direct legal obligation on DNFBPs to report suspicious transaction to the FIU when they suspect or have reasonable grounds to suspect that funds are the proceeds of criminal activity, irrespective of whether the transaction is complex, unusual, or large.	AML Regulations have been redrafted and are currently being reviewed

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis**

FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			• Amend the AMLR mandate that attempted transactions be reported, regardless of the amount.	AML Regulations have been redrafted and are currently being reviewed

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17. Sanctions	NC	Key offences under the AMLR carry homogenous penalties and thus are not proportionate, dissuasive or effective. Penalties for reporting offences under the ATA vary widely. Offences under the AMLR are not applicable to senior managers. The FSC has not applied the range of sanctions provided by the FSC Act and the AMLR. The ECSRC does not have power to sanction for AML/CFT breaches. The ECCB may only apply sanctions of breaches uncovered via examination.	- The sanctions under the AML Regulations are all homogenous and therefore not proportionate, and in the case of the more serious offences not dissuasive or effective. The Authorities should re-examine the obligations and assign the appropriate penalties. - The Authorities should also re-examine the penalties in the ATA to ensure that the assigned penalties are commensurate with the breach involved. - The ECCB should consider widening their power to apply sanctions to circumstances where breaches are discovered outside of the context of an examination. - The Authorities should re-examine the regime for securities firms to ensure that the appropriate supervisory body can impose appropriate AML/CFT sanctions for breaches. - There needs to be greater use made of the new powers granted under the FSC Act by the Authorities to bolster the effectiveness of the system.	AML Regulations have been redrafted and are currently being reviewed. Wider range of penalties included. . Amendment of the ATA enables the alignment of penalties to the breaches including providing for unlimited fines. See Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009) In keeping with the policy of developing harmonized legislation for ECCU member territories, consideration for amendments to the Banking and Securities Acts will have to be done as a regional exercise. See examples of regulatory action taken during 2009 on attached Schedule 3.
18. Shell banks	C	This Recommendation has been fully observed.		
19. Other forms of reporting	C	This Recommendation is fully observed.		

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
20. Other NFBP & secure transaction techniques	C	This Recommendation is fully observed.		
21. Special attention for higher risk countries	PC	There is a concern as to whether Supervisory Authorities are able to properly verify that Captive and International Insurance companies are fully complying with the requirements. Financial institutions only required to apply enhanced CDD regarding dealings with and transactions with countries with weak AML/CFT systems. Apparent inability to enforce measures as they relate to CFT issues. Wider range of counter measures needed against countries that fail to apply sufficient AML/CFT standards.	- The Authorities should consider measures to ensure that the FSC is able to verify the level of compliance by International and Captive Insurers with the requirements of Recommendation 21. - The Authorities should consider a wider range of countermeasures that should be taken against countries that fail to apply appropriate AML/CFT Standards. - Apparent inability to enforce measures as they relate to CFT issues. - Wider range of counter measures needed against countries that fail to apply sufficient AML/CFT standards.	Addressed within the ambit of the recently passed Financial Services Regulatory Commission Act, (No. 22 of 2009) Section 4(1). AML Regulations have been redrafted and are currently being reviewed . Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations has been prepared. AML Regulations have been redrafted and are currently being reviewed .
22. Foreign branches & subsidiaries	C	This Recommendation has been fully observed.		
23. Regulation, supervision and	PC	"Fit and proper" requirements do not apply currently to credit unions, domestic insurance companies and money service providers (insofar as the Money	The Authorities need to provide additional resources for all Supervisors in the system, including the FSC, the ECCB and the	The ECCB has engaged Advisors within the Banking Supervision Department to provide technical support and expertise in matters related to the regulation of the

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
monitoring		Services Act has not yet been implemented). Fit and Proper requirements under the FSRO are not imposed on directors or managers of institutions covered by that Order. There are no fit and proper requirements under CICA for owners or directors. Offshore and Domestic insurance are not supervised on a group wide basis. ECCB powers to inspect for AML/CFT not expressed in the Banking Act. The Offshore Banking law is does not provide for senior managers to be fit and proper, nor for consolidated supervision. The Supervisory Authorities face difficulties in verifying levels of compliance by international and captive insurers. ECSCR lacks powers to inspect and sanction for AML/CFT measures. Supervisory authorities require more resources.	ECSRC. In particular the ECSRC should commence its programme for examination of licensees to ensure compliance with the Securities laws and other governing statutes. - The ECSRC should be vested with the appropriate authority to supervise its licensees re: AML/CFT issues including examination and sanction powers. - The Authorities should consider measures that would strengthen the FSC's ability to fully monitor the activities of Captive and International Insurance companies and verify levels of compliance. - The Banking Act should provide that the ECCB can examine licensees to ascertain compliance with other statutes that apply to these entities (e.g. those relating to AML/CFT). - The Banking Act should clarify that the ECCB can apply sanctions for AML/CFT breaches including those that do not arise from an examination.	insurance, offshore and financial cooperatives sectors. An additional Financial Inspector and an Assistant Regulator were recruited to the FSC Regulatory Departments and two inspectors obtained certification as AML Specialists. The ECSRC project for the development of a risk based regime and manual for the risk assessment of broker dealers was completed in August 2010. During the project a risk basing exercise was carried out for broker dealers in the Federation which facilitated the development of the supervisory regime for broker dealer licensees. Completion of a similar exercise for all licensees during 2011 would denote the full implementation of the new regime. During 2010 the ECSRC added an Analyst and a Legal Officer to its staff and so the ECSRC Secretariat is now established outside of the ECCB management structure staffed by two (2) Analysts, one (1) Attorney, one (1) Administrator and a Secretary. In keeping with the policy of developing harmonized legislation for ECCU member territories, consideration for amendments to the Securities Act will have to be done as a regional exercise. In keeping with the policy of developing harmonized legislation for ECCU member territories, consideration for amendments to the Banking Act will have to be done as a regional exercise.

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			- Fit and proper requirements should extend to the owners, directors and, managers and domestic Insurance Companies. - Fit and proper requirements should apply to Insurance Managers under the International Insurance Act. The current requirement speaks to 'good standing' relative to professional bodies. - Fit and proper requirements should apply to directors and managers of all institutions captured under the Financial Services Commission Order. - Fit and proper requirements should also extend to credit unions and their directors and senior managers. - The licensing process under the Money Services statute should commence. - The laws relating to insurance (both international/captive and domestic) should	Fit and proper requirements are incorporated in the new Insurance Act, 2009 (No. 8 of 2009) which has now come into force. Section 24(2) of the Nevis International Insurance Ordinance, 2004 (No. 1 of 2004) provides for fit and proper evaluation of applicants for Insurance Managers. The Ordinance can be accessed at: http://nevisfinance.com/PDFS/The%20Nevis%20International%20Insurance%20Ordinance,%202004.pdf Further, the Nevis International Insurance Regulations , 2004 (SRO No. 6 of 2004) issued pursuant to the Ordinance contain the Insurance Manager's Application Form (Form 1) and the Personal Questionnaire for Directors and Other Control Persons (Form 2) which applicants are required to complete. The Regulations can be accessed at: http://nevisfinance.com/PDFS/Nevis%20International%20Insurance%20Regulations%202004.pdf Thus applicants for Insurance Managers' licenses under this international insurance regime are subject to fit and proper evaluation. Section 53(4) of the Draft Harmonized Co-operatives Bill for the OECS provides for fit and proper requirements for directors and senior management. Licensing commenced in 2009 with five (5) issued in St. Kitts and four (4) in Nevis.

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			provide for group supervision as provided for in the IAIS principles. • The Nevis Offshore Bank Ordinance should provide for consolidated supervision. • The Money Services statute should be implemented as soon as possible. • The new Insurance statute should be finalised and passed into law. • The Authorities should strengthen the ability of supervisors to verify levels of compliance of captive and international insurance companies. • The Authorities should finalise arrangements for the transfer of regulatory responsibility regarding credit unions to the Commission.	The Money Services Business Act, 2008 was fully implemented and licenses issued for the year 2009. The new Insurance Act, 2009 (No. 8 of 2009) was passed into law in March 2009. Section 5(2) of the Draft Harmonized Co-operatives Bill for the OECS provides for credit unions to be regulated by the Financial Services Regulatory Commission.

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**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis**

FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			The FIU should provide feedback to DNFBPs on disclosures and sanitised cases. Additionally, there should be sector specific guidance for DNFBPs with respect to AML/CFT.	A significant number of participants at Nevis' annual AML/CFT Seminars held in May 2009 and February 2010 were DNFBP's and they had the benefit of the FIU's presentations and discussions on Trends & Typologies.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
Institutional and other measures				
26. The FIU	PC	No specified time period for the making of reports on TF. A number of reporting entities have not received training in relation to the reporting guidelines and are unaware of their obligations under the POCA. The FIU's independence and autonomy can be unduly influence by its Director's inability to recruit appropriate and competent staff. The Minister is given too much authority under the Act as he is responsible for the Policy making and the appointment of consultants to the FIU decision making functions. (Sec 6 FIU Act). The FIU does not prepare and disseminate trends and typologies to relevant reporting entities. Information held by the FIU is not sufficiently secured and protected. There is no standard reporting time in which reporting entities are required to file STRs to the FIU. No guidance on the filing of STRs in relation to TF has been issued by the FIU. The FIU has not been fully constituted in accordance with the FIU Act.	- St. Kitts and Nevis Authorities should consider amending section 17(6)(b) of the ATA as amended to give reporting entities a specific time period to submit report of terrorist financing to the FIU. - St. Kitts and Nevis should consider establishing a structured training schedule, in the short term, to target those entities that have not received training in the manner of reporting and identifying suspicious transactions. Continuous dialogue and training should be maintained with reporting bodies with the view of evaluating their reporting pattern so that weaknesses can be identified and addressed accordingly. - The St. Kitts and Nevis Authorities may need to review the manner in which staff is recruited at the Financial Intelligence Unit to allow the Director to have some form of authority as to the quality of the staff that is recruited. - The St. Kitts and Nevis Authorities may need to review the powers given to the Minister, such as policy making and the recruitment of consultants to the Financial Intelligence Unit, without the consensus of the Director of the FIU or the FIU body, as this does not reflect enough independence and autonomy. - The FIU needs to prepare and circulate ML and TF trends and typologies to the reporting entities, so that they can adapt appropriate measures and strategies. These trends and typologies should also be	Amendment to the ATA now specifies a 24-hour time period for submission of reports to the FIU. See Section 8(a) of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009) During 2009, the FIU established a structured training schedule for targeted entities and executed this through presentations and meetings with relevant personnel as detailed on Schedule 4. The Nevis annual AML/CFT seminar also provides a forum for training and dialogue with regulated sectors, providing clarification to participants on reporting requirements etc. FIU training has been ongoing for 2010. The intelligence analysts attended the Nevis AML/CFT training workshop in Nevis and in July attended the Second Sub-Regional Workshop for Caribbean Countries on Counter-Terrorism Financing in Nassau Bahamas. See also attached Schedule of Additional Training since November 2010. In terms of Training and guidance provided to regulated entities, Credit Unions were addressed for the months of June, July and August, where Meetings were held with the Compliance Officer of a Credit Union, and the Senior Managers of the Credit Unions respectively focusing mainly on creating greater awareness of suspicious transaction reporting and emphasizing reporting obligations generally, and to bring greater awareness of the AML and CFT laws. A Terrorist Property Report was created by the FIU and distributed to help with the more detailed and specific information that is needed to assist financial institutions with their reporting obligations. A new security system has been installed with an electronic key pad, video entrance monitor and burglar alarm.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			• — • included in the Annual Report. • The building that presently houses the FIU needs to be more adequately secured through the use of security features such as electronic security systems. • A data back up system for the storage of information should be implemented both on site at the FIU and at an offsite secure location and reconsideration given to the storage of information on memory sticks and DVDs as these items can sometimes be easily misplaced. • St. Kitts and Nevis Authorities should consider amending sec 15 (1) of the AMLR as it relates to the reporting of STRs to ML to give reporting entities clear directives as to the time in which they are required to file STRs to the FIU. • The FIU should provide guidance with regard to filing STRs with regard to TF. • St. Kitts and Nevis should move quickly to establish the FIU in accordance with section 3(1) of the FIU Act.	The FIU Director is fully involved in the recruitment process, including participating in the interviews and making recommendations to the Minister on final personnel selection. The FIU published and distributed its 2008 Annual Report which contains typologies and statistics. In May 2009 and February 2010 the FIU made presentations and had discussions on AML/CFT Trends & Typologies with regulated sectors at Nevis' annual AML/CFT Seminars. The FIU moved to adequately secured premises in November 2008. Data is currently being stored on an external drive as a backup system. With the recruitment of the IT/FI Analyst, work is in progress to create an enhanced database. Upon completion, the data will be stored on the database server in which the database application resides with adequate offsite backup. AML Regulations have been redrafted and are currently being reviewed All training presentations and meetings conducted by the FIU with regulated businesses cover STR reporting for both ML and TF.

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
27. Law enforcement authorities	NC	St. Kitts and Nevis has not considered enacting legislation or putting measures in place to waive or postpone the arrest of suspected persons and /or the seizure of cash with the view to identify persons involve. No clear indication that money laundering and terrorist financing are properly investigated.	- St. Kitts and Nevis Authorities should consider implementing legislation or measures that would allow law enforcement authorities, to postpone or waive the arrest of suspected person and /or the seizure of cash so as to identify other persons involved in the offence. - The FIU Royal St. Christopher and Nevis Police Force should put measures in place to ensure that persons responsible for the proper investigation of ML & TF have sole responsibility in this regard, as ML & TF are usually complex crimes and require dedication and comprehensive investigation with utmost circumspect.	In February 2011, POCA amended to give greater flexibility in terms of the investigative process. The Court now has the capacity to make periodic orders for detention of moneys (being imported to or exported from the Federation) for at least six (6) months. The White Collar Crime Unit (WCCU) was established within the Royal St. Christopher-Nevis Police Force in June 2009 as the designated unit with responsibility for investigating ML and TF. Three (3) experienced officers are assigned to the Unit. The Unit is housed in the same secure premises in which the FIU is now located and is fully equipped (from proceeds of the Forfeiture Fund) with the physical and technical resources it needs to perform its functions. Another Officer was assigned to the Unit in November 2010 bringing the staff complement to four (4) in addition to an Inspector who heads the unit. The WCCU is currently investigating 116 STRs transmitted by the FIU to establish enforceable evidence of ML where applicable. There have been three (3) cases where three (3) individuals have been charged with Fraud offences and recommendations have been made for ML charges to be laid.
28. Powers of competent authorities	LC	The level of enforcement and effectiveness of implementing the tools available to law enforcement cannot be clearly ascertained.	- The Royal St .Christopher and Nevis Police Force, the Office of the DPP and the FIU should consider developing and reviewing their strategy in combating ML and TF with the view to adapting a more aggressive approach to generate ML and TF investigations, prosecution and possible convictions and utilizing the investigative tools such as Production Orders provided for in the POCA. - There is a need for speedier granting of orders by the Court, in particular production orders.	The WCCU is currently investigating 116 STRs transmitted by the FIU to establish enforceable evidence of ML where applicable. There have been three (3) cases where three (3) individuals have been charged with Fraud offences and recommendations have been made for ML charges to be laid. In February 2011, POCA amended to give greater flexibility in terms of the investigative process. The Court now has the capacity to make periodic orders for detention of moneys (being imported to or exported from the Federation) for at least six (6) months. The amendment also introduces the possibility of forfeiture of moneys without a

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
				conviction where the court is satisfied that such moneys constitute the proceeds of crime. (Copy of Bill attached) Investigative activities of the WCCU between October 2010 and February 2011 include:- Five (5) Drug trafficking cases (3 - subjects convicted & sentenced; 2 -cases adjournment to later date). Application for confiscation made to the Court in three (3) of these drug cases is pending; Three (3) Fraud cases (1-awaiting Preliminary Investigation; 1-subject to be served; 1-awaiting further instructions from DPP). Ten (10) Production Order Applications made to the Court (7- received & 3-pending).
29. Supervisors	PC	The powers of the ECCB to inspect do not directly extend to AML/CFT. The ECSRC lacks power to inspect for AML/CFT measures. Limitation on sanctions under the AMLR and the ATA.	- The ECCB/ECSRC should be vested with examination and sanction powers where AML/CT is concerned. - The penalties under the AMLR and the ATA should be more effective, proportionate and dissuasive.	In keeping with the policy of developing harmonized legislation for ECCU member territories, consideration for amendments to the Securities and Banking Acts will have to be done as a regional exercise. Penalties under the ATA have already been addressed in the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009). Those under AMLR are being addressed in the redraft that is currently under way.
30. Resources, integrity and training	PC	Inadequate staff in the Office of the DPP. Lack of AML/CFT training for staff in the Office of the DPP. There is no law library in the Office of the DPP available for the use of law officers. There is a lack of both human and technical resources in the Police Force, the FIU and Customs and Excise (Enforcement Division). The procedures in place in the FIU and the Customs and Excise Department are not adequate to ensure that staff maintains a high level of integrity and	- St. Kitts and Nevis should put adequate mechanisms in place to ensure that staff recruited at the FIU maintains a high level of integrity and confidentiality. - The FIU should be provided additional human and technical resources for it to adequately and efficiently carry out its functions. - More training should be sourced and provided to the personnel of the FIU.	In February 2009 polygraph testing commenced for all FIU personnel except ancillary staff. During 2009 the two vacant positions at the FIU were filled with the recruitment of another Financial Intelligence Analyst and an IT/Financial Intelligence Analyst. The Unit also procured additional technical resources (e.g. two (2) computer systems, i2 Analyst Notebook Software etc.) in 2009. Additionally, the 2009 budgetary expenditure was increased by \$115,000 over 2008. FIU received an additional laptop computer in 2010. FIU personnel have participated in a number of external training activities between November 2008 and December 2009 as detailed on Schedule 1.

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		confidentiality. Need for more training in relation to ML/TF matters for members of the Police Force and Customs and Excise.	- St. Kitts and Nevis should consider filling the vacant posts within the Police Force in order to strengthen its human resource capabilities, so that there would be an adequate allocation of human resources for the proper investigation of crimes in general and ML and FT specifically. - The budgetary resources of the Police Force should be increased to adequately cover, purchasing of additional resources and the hiring of qualified staff to enable it to adequately perform its functions - The Police Force should consider providing more training particularly in the area of ML investigation and other relevant areas. This could also be done in-house and provision should be made to have it inducted within the regular police training programme for new recruits. - There is a need for more Law officers in the office of the Director of Public Prosecutions - There is an urgent need for AML/CFT training of all officers in the Office of the DPP. This Training should include the seizing, freezing, forfeiture and confiscation of assets. - A law library in the Office of the DPP should be considered as a matter of priority since this would greatly assist the office of the DPP as well as the Officers in the Ministry of Legal Affairs in accessing reference materials.	During 2009 the Royal St. Christopher – Nevis Police Force embarked on a targeted recruitment drive with several advertisements being placed with both print and electronic media. A total of twenty-nine (29) new Constables have been recruited to the Police Force as a result of this drive. In addition the Island Constables Act, 2009 (No. 31 of 2009) provides for the appointment of auxiliary constables to augment the Police Force. Customs has participated in several REDTRAC Training Activities in 2010. These include the Financial Intelligence Course – July, 2010, Advanced Narcotic Investigation Course – May 2010, Techniques of Financial Investigation Course – July 2010. Seventeen new officers were trained under the CICLEC programme in this year. Police personnel have participated in a number of external and internal training activities between February and December 2009 as detailed on Schedule 1. Personnel from the Office of the DPP have participated in a number of external training activities between February and December 2009 as detailed on Schedule 1. The DPP's Office has received an additional member of staff. The Authorities have paid significant attention to allocating resources to the Customs Department and in particular the Customs Enforcement Divisions (CED)

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			- The St. Kitts and Nevis Authorities should consider providing the Customs and Excise Department with adequate resources to undertake its functions; such resources should include vehicles, firearms and computers. - The St. Kitts and Nevis Customs and Excise Department should put adequate measures in place so as to ensure staffs are properly vetted so as to maintain a high level of integrity and confidentiality, more specifically staff in key areas such as the Enforcement and the Intelligence Divisions/Units. - The St. Kitts and Nevis Customs and Excise Department should ensure that staffs are provided with adequate training in relation to ML and TF, especially persons in key areas and in particular officers attached to the Nevis Department.	in both islands. In 2009 of greatest significance are the two (2) additional motor vehicles provided to the St. Kitts CED AND the four (4) firearms, 10,000 rounds of ammunition as well as two (2) coffin-like containers to facilitate thorough examination of goods imported in barrels, provided to the Nevis CED. A K-9 Unit has been established for Customs which conducts operations at the warehouse in St. Kitts and weekly operations at the warehouse in Nevis. The 2010 budget has provisions for the acquisition of investigative software. All candidates for employment within the Customs and Fourteen (14) cases of strs were forwarded to the FIU. In one case Customs recovered a fine of \$5000.00. There are currently two cases being investigated by Customs in conjunction with the white collar crime unit concerning the movement of unusually large sums of money under suspicious circumstances. Excise Department are now vetted by the Comptroller and Deputy Comptroller of Customs. Since September 2009 and with the assistance of CARTAC, the Customs Department has developed and implemented a discrete Intelligence Unit within the Customs Enforcement Division which serves to enhance confidentiality. Personnel from the Customs Departments of St. Kitts and Nevis have participated in several external and internal training activities between November 2008 and December 2009 as detailed on Schedule 1. Of note is the fact that during 2009 four (4) additional officers were trained in financial investigations bringing the number of accredited financial investigators in ML/TF within Customs to eight (8). In addition, in June 2009, a Senior Customs Manager was trained as a CFTAF Mutual Evaluation Examiner thus providing the Department with greater capacity in effecting and guiding its policies in respect of ML and TF matters.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
				Between October 2010 and February 2011 Customs Dept detained cash amts of US\$52,788 & US\$38,901 which are pending civil forfeiture.
31. National cooperation	PC	There is insufficient cooperation and consultation between the DPP and the Police when investigating possible money laundering and terrorist financing offences. No pro-active role taken by the DPP with regard to giving guidance to the police in relation to their AML/CFT investigations.	- The Authorities need to foster a greater level of cooperation pursuant to the MOU which was signed in 2007. - The DPP should play a pro-active role in giving guidance to the police in relation to AML/CFT investigations.	Inter-agency meetings are being held on an 'as needed' basis between the FIU, Customs, Police and other competent authorities and this has improved cooperation. Joint discussions were held to identify and develop a collective training needs package for these agencies and the execution of this initiative is evidenced on the attached Schedule 1. Also, in November 2009, the FIU organized and conducted an 'Information Exchange & Tactical Analysis Overview Seminar' to further strengthen collaboration initiatives amongst the agencies. The LEA's have improved significantly in their levels of communication – having had several successful jointly-conducted investigations. The mentorship programme sponsored by the UK is ongoing and has assisted considerably in this regard.
32. Statistics	PC	There is no comprehensive and independent statistics maintained by the FIU in relation to international wire transfers. There are no complete statistics kept by the FIU on production orders, monitoring orders and restraint orders, so as to show the effectiveness of the of the AML/CFT framework. Customs and Excise does not keep any comprehensive statistics on cross border seizures. No statistics maintained by Customs and Excise on matters that were referred to other Agencies such as the FIU for investigations. The statistics on mutual legal assistance is limited, in that it does not explain the nature of the requests and what processes were used to obtain the funds.	- The FIU should implement procedures for keeping statistics on international wire transfers, as these statistics are not kept by any other agency. - The FIU should move to establish a system whereby proper records relating to the investigation of ML & TF are properly recorded, the system could include proper records of production orders, monitoring orders and restraint orders. - The Customs and Excise Department should keep adequate and comprehensive statistics in relation to cross border seizure of currency and bearer negotiable instruments and the number of these reports that were forwarded to the FIU. - The statistics provided should state the nature of assistance sought and rendered	The FIU has set up a separate register for recording international wire transfer reports. The FIU has established a proper system to maintain records relating to ML & TF investigations with the responsibility for maintaining these records assigned to a specific officer. The Customs Department has established a proper database system to maintain statistics on cross border seizures and information forwarded to the FIU. This database is managed and maintained by an Intelligence Analyst within the newly created Intelligence Unit. The database is a combination of ACCESS and Cargo Management Program. The FIU maintains proper statistical info on the nature of MLAT requests and responses including production,

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		The statistics on extradition and the mutual legal assistance do not include the response time.	and what orders were used to obtain the funds which were repatriated to the USA.	freeze and forfeiture orders.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
33. Legal persons–beneficial owners	LC	No provision in the Companies Act with regard to beneficial ownership or control.	The Authorities should amend the Companies Act to include measures that would provide for information on beneficial ownership and control of legal persons.	
34. Legal arrangements – beneficial owners	LC	Inability to access whether information on private trusts is adequate and accurate.	The St. Kitts and Nevis Authorities should put provisions in place that would facilitate obtaining relevant information with regard to private trusts.	
International Cooperation				
35. Conventions	PC	All relevant Articles of the Conventions have not been fully implemented.		
36. Mutual legal assistance (MLA)	C	This Recommendation is fully observed.		
37. Dual criminality	C	This Recommendation is fully observed.		
38. MLA on confiscation and freezing	LC	No arrangement is in place for the sharing of assets under the ATA. No provision in the MACMA with regard to instrumentalities used in or intended for use in the commission of an offence.	- Mechanisms should be put in place to deal with matters which may cause dual jurisdictional conflict. - Arrangements should be put in place for the sharing of assets under the ATA. - The Mutual Legal Assistance in Criminal Matter Act should be amended to provide for the identification, freezing seizure or confiscation of the instrumentalities used in or intended for use in the commission of an offence.	
39. Extradition	C	The Recommendation is fully observed		
40. Other forms of co-operation	PC	Law enforcement is not authorized to conduct investigation on behalf of its foreign counterparts. The ECSRC would not be able to share information about AML issues as it does not supervise for AML purposes.	St. Kitts and Nevis Authorities should move to put measures in place to enable law enforcement to conduct investigations on the behalf of their foreign counterparts.	Between November 2008 and December 2009, the Royal St. Christopher – Nevis Police Force provided assistance to USA and Slovak Republic law enforcement counterparts in a number of matters including locating and interviewing witnesses, service of court production orders, retrieval of telephone records and locating a person of interest and so existing mechanisms allow law enforcement to provide

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			The Authorities should consider expanding the ECSRC's mandate to supervising compliance with both AML and CFT requirements, which would then permit the Commission to share information on these matters.	cooperation to foreign counterparts. A Regulatory Oversight Committee has been formed comprising the ECSRC, ECCB and regulatory units of the ECCU countries. A Draft MOU providing for cooperation and sharing of information among the parties has already been circulated and reviewed and is expected to be signed shortly. (See Draft MOU attached)

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
9 Special Recommendations				
SR.I Implement UN instruments	PC	The ATA does not provide for the freezing of funds belonging to Al-Qaida, the Taliban or their associates or other persons designated by the U.N Security Council. No designations have been made under UNSCR 1373. The limitation period for commencing prosecution for money laundering offences is too short. There is no provision for extending the statute of limitation where a person deliberately tries to escape from prosecution. No legislative provision for any aircraft belonging to Al-Qaida, the Taliban or their associates to be denied permission to land.	- The ATA should be amended to make provision for the freezing of funds of Al-Qaida, Osama Bin Laden, the Taliban and their associates and other persons designated by the U.N Security Council. - The St. Kitts and Nevis Authorities should ensure that legislation should provide specifically for an aircraft to be denied permission to land if it belongs to Al-Qaida, the Taliban or their associates. - The statute of limitation for commencing money laundering offences should be extended and unless the limitation is removed altogether, where a person is a fugitive from justice then the limitation period should be longer.	Section 43(1)(b) of the ATA has been amended to make provision for the freezing of funds of Al-Qaida, Taliban and other designated terrorists. See Section 13 of the Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009) The ATA has been amended to provide for denial of landing permission to designated terrorists' aircraft. See Section 15 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009) and Section 3 of the Anti-Terrorism (Amendment)(No. 2)Act, 2009 (No. of 2009)
SR.II Criminalize terrorist financing	PC	Terrorist financing does not meet the requirements to be considered a predicate offence. There are inadequate stipulated penalties for legal persons under the ATA.	- The penalty for summary conviction of terrorist financing under Section 12 of the ATA should be at least one year in order for terrorist financing to be considered a predicate offence. - St. Kitts and Nevis needs to amend the ATA legislation in order to clearly reflect the liability of legal persons by quantifying the fines where necessary.	Section 12 of the ATA has been amended to increase the prison term to a maximum of five (5) years. See Section 4 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009) Sections 12, 13, 14, 15 and 17 of the ATA have been amended to clearly reflect liability to legal persons by specifying fine unlimited. See Sections 4, 5, 6, 7 & 8 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)
SR.III Freeze and confiscate terrorist assets	PC	Section 43 of the ATA does not satisfy the requirement of S/RES/1267 for the freezing without delay of funds belonging to the Taliban and Al-Qaida. No regulations made with regard to the procedure for an application for de-listing as a terrorist or terrorist	- Provision ought to be made for the freezing without delay of the funds or other assets of the Taliban and Al-Qaida. - The regulations for de-listing terrorist and	Section 43(1)(b) of the ATA has been amended to make provision for the freezing of funds of Al-Qaida, Taliban and other designated terrorists. See Section 13 of the Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009) The Draft Anti-Terrorism (Prevention

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		group. There is no programme in place for informing the public of the procedure for de-listing. There is no programme in place to inform the public about the procedure for unfreezing funds or assets. No procedure in place for authorizing access to funds or other assets that are frozen under UNSCR 1267 and that are to be provided for basic expenses. There is no legislation in place to provide for the procedure for forwarding request 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). There is no provision for extraordinary expenses. There has been no implementation of SR. III provisions and accordingly the effectiveness of the measures cannot be determined.	terrorist groups should be published by the Minister of National Security. • There ought to be a programme in place to sensitise the public of the procedure for de-listing of terrorist and terrorist organisation. • Members of the public should be made aware of the procedure for applying to have funds and or assets unfrozen. • The St. Kitts and Nevis Authorities should establish the procedure for authorizing access for basic expenses to funds or other assets that are frozen pursuant to UNSCR 1267. • St Kitts and Nevis should put in place the procedure for forwarding request 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) • While there is provision for basic living, legal and business expenses there are no provisions for extraordinary expenses. These ought to be included under the ATA.	of Terrorist Financing) Regulations include delisting procedures and make provisions for these procedures to be published in at least one local newspaper as well as in the Official Gazette. Public awareness would be adequate once it is published in a local newspaper of general circulation. Further steps may later be taken administratively as part of a general sensitization of the public. Provisions for authorizing access for basic expenses or other assets made in Regulation 19 of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010. Provisions for authorizing access for basic and extraordinary expenses or other assets made in Regulation 19 of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
SR.IV Suspicious transaction reporting	NC	The suspicious transaction reporting requirements under the ATA are not in keeping with the FATF requirements. Sanctions for failing to report possession of terrorist property is less severe than other reporting breaches under the ATA.	- Suspicious transaction reporting under the ATA should be made to the FIU. - Sanctions for failing to report possession of terrorist property should be more stringent.	Section 17 of the ATA amended to provide for reporting of STR's to be made to the FIU. See Sections 8(a) of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009) Section 19 of the ATA amended to increase term of imprisonment and fine for failing to report possession of terrorist property. See Section 10(b) of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)
SR.V International cooperation	PC	The deficiencies noted in relation to Rec. 38 also affects SR. V. Law enforcement is not authorized to conduct investigation on behalf of its foreign counterparts. The ECSRC does not supervise for compliance relating to TF and would not be able to share information on this issue.	- The Schedule of the Fugitive Offenders Act should be amended to include money laundering and terrorist financing as extraditable offences. - St .Kitts and Nevis Authorities should move to put measures in place to enable law enforcement to conduct investigations on the behalf of their foreign counterparts. - The Authorities should consider expanding the ECSRC's mandate to supervising compliance with both AML and CFT requirements, which would then permit the Commission to share information on these matters.	This was effected by an amendment to the POCA. See Proceeds of Crime (Amendment) Act, (No. 30 of 2008) Between November 2008 and December 2009, the Royal St. Christopher – Nevis Police Force provided assistance to USA and Slovak Republic law enforcement counterparts in a number of matters including locating and interviewing witnesses, service of court production orders, retrieval of telephone records and locating a person of interest and so existing mechanisms allow law enforcement to provide cooperation to foreign counterparts. A Regulatory Oversight Committee has been formed comprising the ECSRC, ECCB and regulatory units of the ECCU countries. A Draft MOU providing for cooperation and sharing of information among the parties has already been circulated and reviewed and is expected to be signed shortly. (See Draft MOU attached)
SR.VI AML requirements for money and value transfer services	PC	Money Services Business Act not yet implemented. Supervisors are not required to maintain listing of operators.	- The Money Services Business Act should be implemented as soon as possible. - Money Services Providers should be required to maintain a current listing of agents for the inspection of the Authorities.	The Money Services Business Act, 2008 was fully Implemented. Under the MSB Act, 2008 MSB Providers are required to obtain separate licenses for all operating locations. All nine (9) operating MSB locations within the Federation were licensed as of 2009 and Supervisory Authorities maintain a

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		Money Service providers are not required to maintain current lists of agents. Offences under both the AMLR and the Money Services Business Act are not proportionate. Sanctions under the FSC Act and the AMLR appear to be under utilised. Compliance obligations under the Money Services Business Act do not extend to TF issues. Issues relating to the scope of the AMLR and the deficiencies in reporting requirements under the AMLR and the ATA.	• The Supervisory Authorities should be required to maintain a current listing of operators. • The penalties under the AMLR should be more proportionate to ensure effectiveness and dissuasiveness. • The penalties in the Money Services Business Act (particularly as they relate to AML matters) should be more proportionate to ensure effectiveness and dissuasiveness. • The Money Services Business Act should also refer to the compliance obligations of the licensees under the ATA. • The FSC should make more use of the powers under the FSC Act and the AMLR. • The effectiveness of the supervisory regime for money service providers would be affected by broader system issues such as the limited scope of the AMLR /GN to ML issues and not to TF issues as well as weaknesses in the suspicious transaction reporting requirements under both the AMLR and the ATA. These issues must be addressed to ensure that these providers properly comply with the FATF Recommendations.	current listing of operators under the new licensing regime. AML Regulations have been redrafted and are currently being reviewed. Varying penalties stipulated. Regulatory action taken since November 2008 is shown at Schedule 3. Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations has been prepared to cover CFT issues. Amendment has been made to the ATA to address the identified weaknesses in suspicious transaction reporting. (See Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009))

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
SR.VII Wire transfer rules	PC	Money Services Act and Payment System Act not implemented. Detailed originator information not expressly required for all types of transfers. No appropriate guidance to funds transfer businesses and banks with regard to treatment of fund transfer transactions that do not have sufficient originator information. Ambiguity regarding inspection and sanction powers against banks and offshore banks for AML/CFT issues. No requirements for financial institutions to take appropriate action when they receive a transfer accompanied with inadequate originator information. Criminal sanctions under AMLR and FSAC not proportionate.	- Both the Money Services Act and the Payment Systems Act should be brought into effective implementation. - The full detailed originator information required for cross border transfers should be expressly required for all types of transfers. - There needs to be appropriate guidance provided to funds transfer businesses and banks with regard to the appropriate treatment of funds transfers transactions where sufficient originator information is not available. - The Authorities may wish to consider amending the Banking Act to definitively grant to the ECCB the power to inspect and sanction banks for breaches of AML/CFT obligations. - The Nevis Offshore Banking Ordinance should provide for sanctions, including revocation, for breaches of AML/CFT obligations; - The Nevis Offshore Banking Ordinance should expressly allow for examinations by the ECCB to deal with AML/CFT issues. - The criminal sanctions under the FSAC and the AMLR should be proportionate to the actual offence committed, which can affect dissuasiveness and effectiveness.	Both the MSB Act, 2008 and Payment Systems Act, 2008 (No 17 of 2008) were brought into force on January 1, 2009. In keeping with the policy of developing harmonized legislation for ECCU member territories, consideration for amendments to the Banking Act as a regional exercise. Criminal sanctions under the FSAC Act, 2009 (No. 22 of 2009) provide for proportionate penalties. Review and re-draft of AMLR is under way.
SR.VIII Nonprofit organizations	PC	The purpose and objectives, and identity of persons who control the activities of non-profit organisations are not publicly available and there is no documented evidence of public availability. The recent issue of requirements to monitor	While there is a system of registration of NGOs, and there are provisions under the NGOA for a Non-Governmental Organisation Commission to monitor compliance, the recent legislative changes do not allow for sufficient time to allow or test for effective implementation	

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FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
		compliance does not allow for sufficient time to test for effective implementation.	The purpose and objectives, and identity of persons who control the activities of non-profit organisations should be made public, and there should be documented evidence of public availability. However, the Authorities indicated that it is standard practice for all information on domestic entities to be publicly available at the general registry.	Under the new NGO registration system, organizations are required to provide more extensive information on control persons and activities. This information is available to the public by conducting a search of the file at the Registry. The Non-Governmental Organization Regulations approved in January 2011 which sets up the operational framework for the registration of NGOs and the terms under which the NGO Commission will function. (See SR&O No. 4 of 2011 attached)

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
SR.IX Cash Couriers	NC	Cases of cross border seizures of cash and bearers instruments are not properly investigated. There is no coordination domestically between the relevant authorities in relation to the implementation of SR 9. There are no records kept on the seizure of cross border cash and bearer negotiable instruments. Need for greater information sharing and liaison between Customs Officials in St. Kitts and the originating country when there is a report of the seizure. No proper maintenance of records for the availability for AML/CFT purposes. Sanctions are not proportionate and difficult to assess effectiveness since there has been no implementation.	- Customs, FIU and the Police should work closely together to investigate cases of cross border transportation of cash and bearer negotiable instruments in order to determine its origin, bearing in mind that such currency or instrument may be the proceeds of criminal conduct in the said country. - There is a need for regular inter-agency meetings between Customs, the Police, FIU and other competent authorities as it relates to the implementation of Special Recommendation IX. - Proper records and statistics should be kept by the Customs and Excise Department in relation to the seizure and disclosure of cross border transportation of cash and bearer negotiable instruments. - There is need for training of customs officers in relation to the identification of, precious metals and precious stones, as customs officers are unable to detect such objects if they are being smuggled. - There is a need for customs officials in St. Kitts and Nevis to inform and liaise with their counterparts in the originating country when there has been a seizure in relation to the transportation of cross border cash and bearer negotiable instruments and not solely rely on the FIU to disseminate such information.	The Customs Enforcement Division's Intelligence Unit maintains the database on seizure and disclosure of cross border transportation of cash and negotiable instruments and this information is forwarded to the FIU for analysis and thereafter to the Police's White Collar Crime Unit if investigations are to be conducted. The system has been working well. Between January – October 2009, eleven (11) cases were logged by Customs, all were forwarded to the FIU and upon analysis none were deemed to be of a suspicious or criminal nature. Inter-agency meetings are being held on an 'as needed' basis between the FIU, Customs, Police and other competent authorities and this has improved cooperation. In November 2009, the FIU organized an 'Information Exchange & Tactical Analysis Overview Seminar' for further strengthen collaboration initiatives amongst the agencies. The Customs Enforcement Division's Intelligence Unit maintains computerized database on seizure and disclosure of cross border transportation of cash and negotiable instruments. The database is a combination of ACCESS and Cargo Management Program.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
			- The Enforcement Section in Nevis should be given adequate resources including fireproof filing cabinets and the same procedures be implemented as in St. Kitts as it relates to the security of the Section. - Information obtained as a result of the seizure of cross border currency and bearer negotiable instruments should be maintained in a computerized database and be readily available for AML/CFT purposes.	Additional resources have been provided to the Customs Enforcement Unit of Nevis including filing cabinets, four (4) firearms, 10,000 rounds of ammunition as well as two (2) coffin-like containers to facilitate thorough examination of goods imported in barrels. The recently established K-9 Unit conducts operations at the warehouse in Nevis on a weekly basis. An attachment programme has been established between the St. Kitts and Nevis Customs Departments and during 2009, five officers were exchanged each for a period of one month. This served to enhance synchronization of the procedures on both islands. The Authorities have also ensured that training opportunities are provided equally to officers in both islands as evidenced by the details on attached Schedule 1. In 2009, an additional officer was also employed to Nevis' Enforcement Unit. The Customs Enforcement Division's Intelligence Unit maintains computerized database on seizure and disclosure of cross border transportation of cash and negotiable instruments. The database is a combination of ACCESS and Cargo Management Program.

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis**

FATF 40+9	Rat- ing	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
Other Measures				In an effort to bolster the crime fighting effectiveness and capabilities of the Federation the following new legislation have been passed: 1. Community Protection from certain Crimes Act, 2009 (No. 18 of 2009)(This is commonly referred to as anti-gang legislation) 2. Firearms (Amendment)(No. 2) Act, 2009 (No. 28 of 2009) widens the offence of the smuggling of firearms into the Federation. 3. Electronic Crimes Act, 2009 (No. 27 of 2009)(Covers matters relating to unauthorized access to computer systems and the related information.) 4. The Interception of Communications Act passed in February 2011 to assist investigators in the more efficient prediction of criminal activity and enhance the Police Force's crime detection capabilities. (Copy of Bill attached)

ANNEX 1. ADDITIONAL TRAINING ACTIVITIES SINCE NOVEMBER 2010

Training for AG's Chambers and Office of the DPP:

November 2010

The British High Commission sponsored training in Antigua on the Proceeds of Crime. This was attended by Crown Counsel, with special responsibility in this area.

January 2010

- Crown Counsel attended an Arms Trade Regional Meeting of Policy Makers sponsored by the Government of Trinidad and Tobago.
- Crown Counsel assigned to DPP's Department attended the Eastern Caribbean Financial Investigation Advisory Team (ECFIAT)'s workshop on the legislative auditing for the investigation and prosecution of serious offences.

February 2011

The OAS recently conducted training in St. Kitts and Nevis on Anti-Trafficking in Persons from the 2nd to 3rd February. This was attended by the Resident Magistrates.

FIU Staff Training):

- **Dec. 2010** - Analyst and Director participated in AML Training - *"Management, CEO, Director AML Training & Overview of Caribbean AML Law" & "Correspondent Banking AML Training"*
- **Feb. 2011**
 - Analyst attended US DEA Caribbean Drug Commanders Conference/Training - (sponsored by Narcotics Affairs Section, US Embassy, Barbados)
 - Analyst and Director attended OAS/CICAD Human Trafficking Workshop – *"Strengthening Capacity of Law Enforcement Officials, Judges, and Prosecutors in the Caribbean to Identify and Combat Trafficking in Persons, especially Women and Children"*
 - Two (2) Analysts attended AML/CFT Awareness Seminar – *"Perspectives on ML/FT Risks and Vulnerabilities"*
 - Analyst and Director attended OAS/CICAD *"Drug Information Network Workshop"*

- Three (3) Analysts received training in “i2 Analytical Software” (sponsored by Narcotics Affairs Section, US Embassy, Barbados)

Training by FSRC for Regulated Businesses and Government Personnel

February 2011

- Nevis hosted Annual AML/CFT Awareness Seminar under the caption “Perspectives on ML/TF Risks and Vulnerabilities. A total of 90 persons attended covering banking, insurance, trust and corporate service providers, credit union, money services businesses, other deposit taking financial institutions, attorneys, accountants, government (regulatory, law enforcement, legal). Participants included four (4) LE Officers from the Police White Collar Crime Unit, four (4) Customs Officers, two (2) Analysts from the FIU.
- Nevis FSRC Branch conducted two separate AML Training sessions for staff at offices of one MSB and one TCSP..

Training for Royal St. Christopher and Nevis Police Force – White Collar Crime Unit

Officers	Topics	Period	Place	Remarks
Sgt. & Const #1	Secondment	Oct. 24 – Dec 18, 2010	St. Vincent FIU	The staff increase to four
Const #1	i 2	Jan 13-14, 2011	Local FIU	An Investigative Tool
Inspector & Officers	Perspective on AML/CFT Risk and Vulnerabilities	1/2/11	Nevis Financial Services	The Unit gave a Presentation
Cpl & Const #1	Human Trafficking / Smuggling	Feb 2-3,2011	Local	An awareness to this growing threat
Const #2	Drug Information Network	Feb 9-10, 2011	CICAD Local	Formation of a Local DIN
Const #2	Crime Scene Management	Feb 21, 2011	Local	
Const #1	Suspect Recorded Interview	Feb 28- Mar 4, 2011	Trinidad	

ANNEX 2. ST. KITTS & NEVIS: SECOND FOLLOW-UP REPORT

I. Introduction

1. This report represents an analysis of St. Kitts and Nevis' report to the CFATF Plenary concerning the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report. The third round Mutual Evaluation Report of St. Kitts and Nevis was adopted by the CFATF Council of Ministers in May 2009, in Trinidad and Tobago. Based on the review of actions taken by St. Kitts and Nevis to meet the recommendations made by the Examiners a recommendation would be made as to whether St. Kitts and Nevis would remain on expedited follow-up or be placed on regular follow-up.
2. St. Kitts and Nevis received ratings of PC or NC on thirteen (13) of the sixteen (16) Core and Key Recommendations as follows:

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

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

Partially Compliant (PC)	Non-Compliant (NC)
R. 8 (New technologies and non-face-to-face business)	R. 16 (DNFBPs R. 13-15 and 21)
R. 9 (Third parties and introducers)	R. 17 (Sanctions)
R. 11 (Unusual transactions)	R. 24 (DNFBPs regulation, supervision and monitoring)
R. 12 (DNFBPs – R. ,6,8-11)	R. 27 (Law enforcement authorities)
R. 14 (Protection & no tipping off)	SR. IX (Cash couriers)
R. 15 (Internal controls, compliance & audit)	
R. 21 (Special attention for higher risk countries)	
R. 25 (Guidelines & feedback)	
R. 29 (Supervisors)	
R. 30 (Resources, integrity and training)	
R. 31 (National cooperation)	
R. 32 (Statistics)	
SR. VI (AML requirements for money/value transfer services)	
SR. VII (Wire transfers)	
SR. VIII (Non-profit organisations)	

4. The following table is indented to assist in providing an insight into the level of risk in the main financial sectors⁷ in St. Kitts and Nevis.

⁷ This Table represents figures presented in the Second Follow-Up Report dated April 2010

Size and integration of the jurisdiction's financial sector

		Banks	Development Bank	Credit Unions ⁸	Securities	Captive and International Insurance	Domestic Insurance	TOTAL
Number of Institutions	Total #	6	1	3	16 ⁹	205	17	248
Assets	US\$	1,674,377,296	109,791,014	46,528,347	8,462,010 ¹⁰	667,100,695 ¹¹	85,452,900	2,591,712,262
Deposits	Total: US\$	1,096,112,481	N/A	39,404,268	2,399,210 ¹²	N/A	N/A	1,137,915,959
	% Non-resident	5.33% of deposits	N/A	Unknown	6.3% of deposits	N/A	N/A	5.134% of total deposits
International Links	% Foreign-owned:	N/A	N/A	N/A	75.20% of assets	100% of assets	25% of assets	7.449 % of total assets
	#Subsidiaries abroad	N/A	N/A	N/A	N/A	N/A	N/A	N/A

* Please include savings and loans institutions, credit unions, financial cooperatives and any other depository and non-depository credit institutions that may not be already included in the first column.

* If any of these categories are not regulated, please indicate so in a footnote and provide an estimate of the figures

III. Summary of progress made by St. Kitts and Nevis

- St. Kitts and Nevis has amended its Guidance Notes so that they now fall under the Financial Services Regulatory Commission, which has overall regulatory supervision for AML/CFT. There has also been ongoing training for the FIU, and Customs. The FIU training took place in an AML/CFT workshop in Nevis in July and a Counter-Terrorism Financing Workshop in The Bahamas. The training for Customs was at REDTRAC in Jamaica and covered areas of Financial Intelligence, Narcotic Investigations and Techniques of Financial Investigation. Seventeen (17) new Customs Officers were also trained under the CICLEC programme this year. With regard to Special Recommendation IX, fourteen (14) cases involving disclosures of currency were forwarded from Customs for sharing with the FIU. In one matter, Customs recovered a fine of E.C.\$5,000 and there are currently two cases being investigated by Customs in conjunction with the White Collar Crime Unit. These matters involve the movement of unusually large sums of money under suspicious circumstances.

⁸ Financial data received for 2 of the 3 Credit Unions.

⁹ Five firms are incorporated inside the ECCU

¹⁰ \$4,890,050.98 represents figures from 2008

¹¹ Represents figures from 2008 for 163 companies

¹² \$754,748.22 represents figures from 2008. Two firms do not take deposits. Deposits of the foreign firms were not considered in calculating the percentage of non-resident deposits.

6. With regard to training and guidance for regulated entities, focus was placed on credit unions during the months June to August 2010. A Terrorist Property Report was created by the FIU and distributed to stakeholders to assist financial institutions with their reporting obligations. Further, a counter-terrorism financing brochure was developed and disseminated to sectors within the Betting and Gaming Industry. With regard to the security of the physical structure of the FIU, a new security system has been installed with an electronic key pad, video entrance monitor and a burglar alarm. The Authorities also noted that the Director of Public Prosecution's (DPP) Office received an additional member of staff.
7. These changes show an ongoing implementation of the Examiners' recommendations with regard to Recommendations 26, 30 and SR.IX. There have been no other changes to St. Kitts and Nevis' follow-up matrix and accordingly, the status of the other Recommendations remains the same as noted in their First follow-up report.

Core Recommendations

Recommendation 1

8. At the time of the Evaluation, the Examiners determined that financing of terrorism was not a predicate offence to money laundering because as a hybrid¹³ offence it did not meet the penalty requirement that would classify it as a serious offence. Pursuant to Section 2 of the POCA, a 'serious offence' is defined as being '*any offence triable on indictment or any hybrid offence that attracts a penalty of imprisonment of more than one year.*' On summary conviction the penalty for the offence of financing of terrorism was a term of imprisonment exceeding six months. Accordingly, the Examiners recommended that the summary level penalty be amended to allow the offence to fall within the definition of a serious offence. The amendment of the penalty on summary conviction to a term of five (5) years or a fine or both. (Section 4 of the Anti-Terrorism (Amendment) Act, 2009 meets the recommendation made by the Examiners. With regard to implementation, at present there have been no prosecutions or convictions under the Proceeds of Crime Act (POCA). Accordingly, the level of implementation still cannot be tangibly ascertained.

Recommendation 5

9. With regard to meeting compliance with Recommendation 5, the St. Kitts and Nevis Authorities have Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2010 and are also currently redrafting the Anti-Money Laundering Regulations and Guidance Notes. Since the relevant documents are in draft or to be redrafted, none of the Examiners' recommendations with regard to Rec. 5 have been met. However, a brief analysis will be given based on the draft legislation that was provided by St. Kitts and Nevis.
10. The Examiners' took the view that neither the AMLR nor the Guidance Notes could properly relate to TF since the Notes were issued under the AMLR, which were issued in accordance with the powers given to the Minister under the POCA. Those powers expressly stated that any regulations issued would relate to the prevention of ML. (See.

¹³ A hybrid offence is an offence that can be tried either summarily or on indictment.

Paragraph 566 of the Mutual Evaluation Report). Accordingly, the Draft Anti-Terrorism Financing Regulations are based on the Minister's powers granted under Section 108 of the Anti-Terrorism Act, 2002. Once enacted, this would meet the Examiners' recommendation with regard to the resolution of this issue. The recommendation with regard to requiring that CDD is done where there is a suspicion of TF regardless of the amount (E.C. 5.2 (d)) is dealt with at Regulation 4(1)(c)(i) of the Draft Regulations. Regulation 4 goes further to specify the identification procedures required for an individual and also a body corporate. The regulation also creates an offence for failure to comply. Draft regulation 6(9) is intended to meet the Examiners' recommendation that there should be a specific prohibition on reduced due diligence where there is a suspicion of TF (E.C. 5.11). However, the current language of this Draft regulation does not infer that sentiment; rather it states categorically that nothing in the regulations (inferred to be the entire document) would apply where there is a suspicion of TF. It is submitted that perhaps a rephrasing that would indicate that draft regulation 4(1)(c)(i) overrides or supersedes the provisions of draft regulation 6. Draft Regulation 6 deals with 'Reduced customer due diligence for low risk situations'.

Recommendation 13

11. The Authorities have currently met only one of the recommendations made by the Examiners regarding the requirement for suspicious transaction reporting (E.C. IV.1). This was achieved by amending the reporting requirement under Section 17 of the Anti-Terrorism Act. (See. Section 8(a) of the Anti-Terrorism (Amendment) Act, 2009). The remaining recommendations are to be dealt with through amendments to the Anti-Money Laundering Regulations (AMLR) and the Guidance Notes. The latter is currently being undertaken.

Special Recommendation II

12. As noted above at Recommendation 1, the Examiners had recommended that the summary conviction penalty for TF should be amended so that the offence would properly qualify as a predicate to ML and this recommendation was complied with by an amendment to Section 12 of the Anti-Terrorism Act (ATA). (See. Section 4 of the Anti-Terrorism (Amendment) Act, 2009).
13. The Examiners' final recommendation with regard to SR. II pertained to the liability of legal persons under the ATA has been addressed by the Authorities in the Anti-Terrorism (Amendment) Act, 2009 by inserting that a fine is applicable to a body corporate or unincorporated body. The amount of the fine has not been specified, with the Authorities stating that this means the fine is unlimited. The open-endedness of the fine still does not meet the issue that the Examiners wished to have addressed. At paragraph 120 of the Report, the Examiners state that 'Since a legal person cannot be imprisoned it has to be fined. However, since the fine has not been quantified one cannot assess whether the penalty would be adequate or dissuasive.' No statistics have been provided with regard to any judgements that would indicate the level of penalties that a Court may impose on legal persons. Accordingly, to the extent that the fines against a body corporate cannot be duly determined the Examiners' recommendation remains partially not met.

Key Recommendations

Recommendation 3

14. With regard to the Examiners' recommendation that the POCA and the ATA be amended to make a clear provision for the seizure of instrumentalities, Section 3 of the Proceeds of Crime (Amendment) Act, 2009 amends the definition of 'property' so that it includes 'proceeds from, instrumentalities used in the and instrumentalities intended for use in the commission of a ML or related offence. A similar amendment has been made to Section 3 of the Anti-Terrorism (Amendment) Act, 2009. The final recommendation made by the Examiners with regard to Rec. 3 pertains to the amendment of the ATA to provide procedures for the confiscation and forfeiture of property. In response St. Kitts and Nevis have amended the ATA through Section 12 of the Anti-Terrorism (Amendment) Act to make the provisions for the seizure, detention and disposal of terrorist cash applicable to instrumentalities used in or intended for use in the commission of an offence under the Act. It appears however, that this amendment does not satisfy the Examiners' recommendation since the Examiners specifically referred to procedures for the forfeiture and confiscation of property. Additionally, at paragraph 136 of the Report the Examiners note that while the ATA contains no procedures with regard to application of forfeiture or confiscation orders 'one may infer that the same procedures would be used as is used in the POCA for similar applications'.

Recommendation 23

15. The Examiners made numerous recommendations with regard to Rec. 23, the first of which called on the Authorities to provide additional resources to all the Supervisors in the financial system; namely the FSC, the ECCB and the ECSRC. In response, the ECCB has engaged Advisors in the Banking Supervision Department to provide technical support and expertise with regard to insurance, offshore and financial cooperatives sectors. Additionally, a Financial Inspector was recruited by the FSC Regulatory Department and two inspectors obtained certification as AML Specialist. The ECSRC has started a project for the development of a programme for the examination of licensees. The project started on July 2009 and is scheduled to be end on March 31, 2010. However, to date the ESCRC has not conducted any examinations of licensees.
16. With regard to the ECSRC being vested with its own authority to supervise its licensees for AML/CFT compliance the Authorities have noted that this cannot be done on a country basis since based on the harmonized legislation policy for the ECCU member countries, amendments to the Securities Act will have to be done on a regional basis. Accordingly, this recommendation has not been met. Similarly, both recommendations pertaining to amendments to the Banking Act have also not been met because those amendments will also have to be done as part of a regional exercise in keeping with the policy for harmonized legislation. Recommendations made by the Examiners pertaining to Captive and International insurance companies have not been addressed.
17. With regard to the extension of fit and proper requirements to the owners, directors and managers of domestic insurance companies, these requirements have been incorporated into the newly enacted Insurance Act, 2009 at Section 202. Section 202 provides that persons who are likely to be a director, officer or manager of a local insurance company

or the principal representative of a foreign insurance company must be a fit and proper person to hold the position. Subsections (2) and (3) give the factors that will be considered in determining whether a person is fit and proper to hold a particular position.

18. With regard to the Examiners' recommendation for the application of fit and proper requirements to Insurance Managers under the International Insurance Act, this has not been met. The Authorities have cited Section 24(2) of the Nevis International Ordinance, 2004 and also the Nevis International Insurance Regulations, 2004. However, these legislative provisions are not relevant to the Examiners' recommendations. The Examiners' recommendation stems specifically from discussions at paragraph 891 of the MER which specify that the Examiners did not consider the requirements of the Captive Insurance Companies Act, 2006 (CICA) (See. Section 18(1)) or the qualifications specified at Section 2 of the Financial Services (Regulations) Order, 1997 (FSRO) to be a proper application of the fit and proper assessment to insurance managers. The recommendations for fit and proper requirements to be applicable to directors and managers of all financial institutions captured under the Financial Services Commission Order (FSCO); for laws to provide for group supervision as provided for in the IAIS principles and for the Nevis Offshore Bank Ordinance to provide for consolidated supervision have also not been met.
19. The Examiners also recommended that fit and proper requirements should be extended to credit unions, their directors and senior managers. This has been provided for in the Draft Harmonized Co-operatives Bill for the OECS at Section 53(4). Similarly, the recommendation that arrangements should be finalized for the transfer of regulatory responsibility regarding credit unions to the FSC is dealt with at Section 5(2) of the Draft Harmonized Co-operatives Bill. Since these measures are in draft, the Examiners' recommendation has not been met. However a review of the draft Bill reflects the information provided above. Therefore once enacted compliance with the Examiners' recommendations will be achieved.
20. The St. Kitts and Nevis Authorities have commenced the licensing process under the Money Services Act. Licensing commenced in 2009, during which period five (5) licenses were issued in St. Kitts and four (4) in Nevis. Accordingly, this Recommendation has been met.
21. The new Insurance Act was enacted in March 2009 and accordingly meets the Examiners' recommendation that the law should be finalised and passed into law.

Recommendation 26

22. Based on the Examiners' recommendation that reporting entities should be given a specific time period to submit terrorist financing reports to the FIU, the ATA has been amended to specify a 24 hour time period for the submission of TF reports to the FIU. (See. Section 8(b) of the Anti-Terrorism (Amendment) Act. In keeping with the Examiners' recommendation, the FIU established a structured training schedule in 2009 and had presentations and meetings with the targeted entities as shown in the Table below. The FIU's training structure for the presentations focused on the role of the FIU and Suspicious Reporting Obligations. Accordingly, issues such as guidance on what and

when to report, contents of the reports and timely submission , penalties for not reporting and ML/TF threats pertaining to insurance, banking and trust selectors was covered. AML/CFT trends were also presented. Two companies were also used with regard to discussions on feedback and guidance on what and when to report.

FEDERATION OF ST. KITTS AND NEVIS FINANCIAL INTELLIGENCE UNIT

SCHEDULE OF PRESENTATIONS AND MEETINGS HELD WITH REGULATED SECTORS JANUARY TO DECEMBER 2009

Institutions	Presentations	Meetings/Discussions	Dates
Insurance Company	Overview of Suspicious Reporting Obligations		January 21, 2009
Bank and mortgage investment company ¹⁴	Role of the FIU & Suspicious Reporting Obligations		February 5, 2009
Insurance and Trust Company ¹⁵	Role of the FIU & Suspicious Reporting Obligations		March 5, 2009
Insurance Company ¹⁶	Role of the FIU & Suspicious Reporting Obligations		March 12, 2009
Trust Company	Role of the FIU & Suspicious Reporting Obligations		March 24, 2009
Insurance Company	Role of the FIU & Suspicious Reporting Obligations		April 28, 2009
All Sectors – Nevis Financial Services AML/CFT Seminar	AML/CFT Trends & Typologies – our Caribbean Experience		May 25, 2009
Bank- Board of Directors.	Role of the FIU & Suspicious Reporting Obligations		July 29, 2009
Bank- Senior Managers	Role of the FIU & Suspicious Reporting Obligations		July 29, 2009
Insurance Company		Discussions (Reporting Obligations)	April 1, 2009
Bank		Discussions (STR Feedback)	June 9, 2009
Bank		Discussions (STR Feedback)	June 19, 2009
Bank		Discussions (STR Feedback)	June 22, 2009
Money Service Business		Discussions STR Feedback)	June 30, 2009

¹⁴ The presentations to National on 5th Feb. and 5th March were to a combined group. Within the National Bank Group of Companies, the Board of Directors for the bank are the same as that for the St. Kitts & Nevis Mortgage and Investment Co. Ltd (SKNMICL), the real estate subsidiary. Therefore these presentations were directed to both banking and real estate sectors with managers from both the bank and the Home Mortgage Section of SKNMICL attending on 5th Feb.

¹⁵ The presentations to National on 12th March. and 24th March were to a combined group. Within the National Group of Companies, the Board of Directors for the Insurance Company are the same as that for the Trust Company. Therefore these presentations were directed to both insurance and trust & corporate sectors with managers from both the insurance company and the Trust Company attending on 24th March.

¹⁶ Entity in the insurance industry

Insurance Agent		Discussions (Reporting Obligations)	July 31, 2009
Bank		Discussions (STR Feedback)	September 24, 2009
Casino		Discussions (Reporting Obligations)	October 14, 2009

23. There is also an annual AML/CFT seminar in Nevis that provides a forum for training and dialogue on relevant AML/CFT issues. With regard to the issue of the recruitment of staff to the FIU and the independence and autonomy of the FIU as it pertains to policy making and staff recruitment, the St. Kitts and Nevis Authorities have stated that the FIU director is fully involved in the recruitment process. This includes participation in the interviews and making recommendations to the Minister on final personnel selection. As noted in paragraph 272 of the MER, the ultimate decision with regard to the recruitment of staff rests with the Minister and the Examiners felt that this was a situation that could affect the autonomy of the FIU. Based on the fact that the ultimate decision still resides with the Minister, it is felt that the risk to the autonomy of the FIU still exists.
24. With regard to the circulation and publication of trends and typologies, the FIU published and distributed its 2008 Annual Report. The Report contains typologies and statistics. Additionally, in May 2009, the FIU made a presentation at the Nevis annual AML/CFT seminar which focused on AML/CFT trends and typologies. The report also included the activities of the Unit, with focus on STRs (the number of reports received, origin and status); Feedback, Terrorist Property Reports; Dissemination of Information; Relationship with related Agencies; Freeze/Forfeiture/Confiscation Activities and Typologies. The 2009 Annual report is expected to be completed by mid April and will contain similar contents.
25. The Examiners recommended that the building that housed the FIU at the time of the onsite needed to be more adequately secured. Since the onsite the FIU have moved to 'adequately secured' premises, located in the Ministry of Finance. The FIU is no longer at ground level and the premises are in the centre of town where it is subject to more police patrols. The Ministry of Finance is also in close proximity to Government Headquarters, a building that has security guards 24/7. With regard to the security and backing up of data at the FIU, data is currently being stored on an external drive as a back up system. As a result of the recruitment of the IT/FI Analyst, work is currently in progress to create an enhanced database which upon completion would allow data to be stored on the database server (in which the database application resides) and also have offsite backup. The Examiners' recommendation is substantially met and should be completely met once the enhanced database is completed. The database is expected to be completed by the end of April 2010.
26. The Examiners' recommendation pertaining to the provision of a specific time in which to file STRs via an amendment of the AMLR has not been done. The Authorities have noted that the AMLR is currently under review and a significant redraft will take place. With regard to guidance by the FIU on the filing of STRs, the FIU has provided information on the reporting of STRs for both ML and TF. See Table above showing presentations and meetings undertaken by the FIU. The FIU still has not been fully constituted in accordance with Section 391) of the FIU Act. Accordingly, this recommendation remains outstanding.

Recommendation 35

27. With regard to this Recommendation, the Examiners noted that all relevant Articles of the Convention had not been implemented. Specifically, Articles 20 and 29 of the Palermo Convention and Articles 11 and 16 of the Terrorist Financing Convention have not been implemented. (Paragraph 1093 of the MER).

Recommendation 40

28. With regard to the Examiners' recommendation that measure should be put in place to allow law enforcement to conduct investigations on behalf of their foreign counterparts, the St. Kitts and Nevis Authorities have noted that between November 2008 and December 2009 the Royal St. Christopher and Nevis Police Force provided assistance to both the USA and the Slovak Republic law enforcement counterparts. The assistance included the location and interviewing of witnesses, service of production orders, and retrieval of telephone records. The Examiners' did note in their assessment of this Recommendation that law enforcement and supervisory authorities did have mechanisms to share information and assist foreign counterparts (See. paragraphs 1221-1228 of the MER). The issue however pertains to E.C.40.5, which requires that law enforcement authorities be authorized to conduct investigations on behalf of their foreign counterparts. Competent authorities refer to all administrative and law enforcement authorities that are concerned with combating ML and TF. While there is definitely cooperation, there is no specific authorisation that allows law enforcement authorities to conduct investigations on behalf of their foreign counterparts and accordingly this recommendation is not met.
29. With regard to the issue of expanding the ECSRC's mandate so that it would be permitted to share AML/CFT information, the ECCU Countries have formed a Regulatory Oversight Committee comprising the ECSRC, the ECCB and the regulatory units of the ECCU countries. Additionally, a Draft MOU will be signed by all the Regulatory Authorities of all Countries (i.e. FSCs or Ministries of Finance as applicable) along with the ECCB and ECSRC. To the extent that the system of Regulatory Oversight Committees will determine the degree to which the Examiners' recommendation is met.

Recommendation I

30. The ATA has been amended by Section 13 of the Anti-Terrorism (Amendment) Act to provide for the freezing of funds of Al-Qaida, Osama Bin Laden, the Taliban and their associates. This amendment meets the Examiners' recommendation. An amendment has also been made to provide for the denial of landing permission to aircraft owned, leased or operated by or on behalf of the Taliban as designated by the UN Sanctions Committee at Section 15 of the Anti-Terrorism (Amendment) Act. There is no reference in the amendment to Al-Qaida or associates of both Al-Qaida and the Taliban. Accordingly, the Examiners' recommendation has not been fully met. No action has been taken with regard to the Examiners' recommendation for extending the statute of limitations for commencing ML offences.

Special Recommendation III

31. As noted above in SR I, the freezing of funds was addressed by the amendment to Section 43(1)(b) of the ATA. This amendment does not cover other assets of Al-Qaida or the Taliban and so the recommendation is only partially met. The Examiners' recommendations pertaining to delisting of terrorist and terrorist groups; a programme to sensitize the public about the delisting procedure and for having funds or assets unfrozen is incorporated in the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations. The draft regulations provide delisting procedures and also make provision for the procedures to be published in at least one local newspaper as well as the Official Gazette. The Authorities also note that additional steps may be taken administratively to sensitize the public. With regard to the establishment of procedures for authorizing access to frozen funds and basic living, legal, business and extraordinary expenses in keeping with UNSCR 1267, Regulation 19 of the Draft regulations makes provision for this. However, as a result of the draft status of the regulations, these recommendations have not been met. No action has been taken with regard to the Examiners' recommendation that the procedure should be put in place for forwarding the release of funds or assets that have been frozen but which are required for basic living expenses to the Committee which was established pursuant to UNSCR 1452.

Special Recommendation V

32. The Examiners recommended that the Schedule of the Fugitive Offenders Act should be amended to include ML and TF as extraditable offences. The Authorities however met this recommendation by an amendment to the POCA (Proceeds of Crime (Amendment) Act, 2008). The Examiners' recommendations with regard to measures being put in place so that law enforcement authorities could conduct investigations on the part of their foreign counterparts and the consideration of expanding the mandate of the ECSRC was dealt with at Recommendation 40 above.

Other Recommendations

Recommendation 8

33. The Examiners' recommendation that the Regulations or Guidance Notes should provide specific and effective CDD measures when dealing with non face-to-face customers has not been met since the AMLR and Guidance Notes are still under review. With regard to providing supervised constituents about the new requirements of the law, the conducted several meetings and seminars as noted in the Table above and accordingly this recommendation has been met.

Recommendations 9

34. At present, none of the Examiners' recommendations have been met since all except one rely on amendments to the AMLR and Guidance Notes and as noted previously these are being reviewed for redrafting. The remaining recommendation pertains to making introducers and intermediaries subject to CFT measures. This issue is being dealt with at Regulation 7(6) of the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations.

Recommendation 11

35. The Examiners' recommended that the Authorities consider measures that would allow the Commission to properly verify that captive and international insurance company are fully complying with the requirements relating to complex and unusual large transactions. The Authorities cite Section 4(1) of the recently passed Financial Services Regulatory Commission Act, 2009 (FSRCA) as dealing with this issue. Section 4(1) gives the Commission the responsibility for the administration of the Act and the enactments specified in Schedule 1 of the Act. Schedule 1 specifies as enactments over which the Commission has Authority, the Captive Insurance Companies Act, 2006, the Insurance Act, 2009, and the Exempt Insurance Companies Act, 1986. While it is clear that the Commission will now have authority over the insurance sector by this enactment, it is unclear exactly what measures will be applied to ensure that the Examiners' recommendation is met. Accordingly, this recommendation is only partially met. The Examiners' recommendations that the Authorities should resolve the ambiguity between the treatment of unusual and complex transactions in the law and Guidance Notes and specifying that financial institutions should make their unusual transaction reports available for competent authorities and auditors have not been met since they will be dealt with in the redrafted AMLR and Guidance Notes which are currently under review.

Recommendation 12

36. Only one of the Examiners' recommendations has been met under this Recommendation. That recommendation pertains to the Commission being given explicit powers to supervise and regulate for AML/CFT purposes including supervision of the DNFBPs. In that regard, the FSC has been revamped to expand its powers. The new powers under the FSRCA include the Commissions' role as regulator for DNFBPs and also for monitoring compliance by regulated persons with the POCA, the ATA and all other Acts or Guidelines that are concerned with ML and TF. (See. Section 4(2)(d) of the FSRCA). No action has yet been taken with regard to the recommendations pertaining to a robust system regulation and supervision of casinos and the specific activities of accountants and auditors. The remaining Examiners' recommendations for Rec. 12 have not been met because they are awaiting the redraft of the AMLR and the Guidance Notes.

Recommendation 14

37. All of the Examiners' recommendations for this Recommendation remain outstanding since none of them have been addressed by the St. Kitts and Nevis Authorities.

Recommendation 15

38. As discussed earlier, the issue of the applicability of the provisions of the AMLR to address TF issues was felt by the Examiners to be invalid and thus it impacted on findings of compliance in the area of internal auditing, the compliance officer and staff training. These issues will be met in the Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations at Regulation 3(1)(a)(iv) and 3(5)(d). The recommendation that guidance on internal testing and control procedures will be dealt with in the redrafted Guidance Notes. The issue with regard to Captive Insurance has not been satisfied as yet.

Recommendation 16

39. The Examiners' recommendations made with regard to this Recommendation have not been met since they will be dealt with in the redrafted AMLR.

Recommendation 17

40. Based on the recommendation to review penalties in the ATA, the Authorities amended the ATA to increase the terms of imprisonment in some instances and also to provide for a fine in general. As discussed above at paragraph 8, the open-endedness of the fine without any court convictions leaves a determination of the adequacy uncertain. With regard to the sanctions under the AMLR, the Regulations are being reviewed for redrafting. Amendments to the Banking Act and Securities Act will have to be done as a regional exercise in keeping with the development of harmonized legislation as a ECCU member country. Accordingly, the Examiners' recommendations with regard to the ECCB and a regime for securities fines have not been met. With regard to the Examiners' recommendation that there should be greater use made of the powers granted under the FSCA, the Authorities have provided the following schedule which shows regulatory action that was taken during 2009.

SCHEDULE 3

FEDERATION OF ST. KITTS AND NEVIS SCHEDULE OF REGULATORY ACTIONS TAKEN BY FINANCIAL SERVICES DEPARTMENTS JANUARY TO DECEMBER 2009

February 2009:	Investigations conducted into complaints against a Corporate Service Provider led to the FSC conducting a surprise investigation to ascertain the validity of the complaints.
June 2009:	Communication sent to and discussions held with one Corporate Service Provider following an unsatisfactory on-site examination report in respect of compliance with AML/CFT requirements. This Corporate Service Provider was unable to fulfill obligations for corrective action under the agreed action plan and therefore surrendered the license.
July 2009:	Recommendation made to Minister for the suspension of the Service Provider's license of an attorney-at-law following the filing of claims by a client charging misappropriation of funds. The license was suspended effective July 2009. Having determined that the attorney has not complied with the ruling of the court in this matter, on 28 th December 2009 recommendation was been sent to the Minister to have this license revoked.
October 2009:	Communication sent to one Corporate Service Provider concerning the failure to maintain a properly functioning office to enable the FSC to effectively supervise the entity's operations in the Federation. This Corporate Service Provider has surrendered the license.
October 2009:	Warning letter sent to a commercial bank conducting incoming MoneyGram transfers, for failure to comply with earlier communication advising that it was required to apply for licensing under the MSB Act. The bank has complied.

October 2009: Communication sent to a local company conducting unauthorized insurance business. File forwarded to AG for legal action to be taken.

Recommendation 21

41. With regard to the Examiners' recommendations on expanding the range of counter measures that would be taken against countries that fail to apply appropriate AML/CFT standards this will be dealt with in the AMLR which is currently under review and will be redrafted. The Draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations is intended to take care of the inability to enforce CFT measures. Accordingly, none of these recommendations have been met. With regard to captive and international insurance, see discussion at paragraph 31 above.

Recommendation 24

42. Section 4(1) of the FSRCA provides for the administration of the Act and enactments listed in Schedule 1 by the FSC. Section 4(2)(d) further states that the Commission shall 'monitor compliance by regulated persons with the POCA, THE ATA and such other regulations, codes or guidelines relating to ML or FT that are set out in Schedule 1. Schedule 1 Acts include financial institutions such as MSBs, Cooperative Societies etc. The DNFBPs are captured in the POCA and its amendments.

Recommendation 25

43. In keeping with the Examiners' recommendation for the FIU to provide feedback, the FIU has published and distributed its 2008 Annual Report, which contains typologies and statistics. The FIU also distributed literature on 'hacking' to assist financial institutions in securing their IT data. A flyer captioned 'What's our Grade' was also distributed as a tool for regulated businesses to self assess their compliance with the AML/CFT reporting guidelines. In May 2009, the FIU made a presentation on 'AML/CFT Trends & Typologies – our Caribbean Experience' at Nevis' annual AML/CFT seminar. With regard to providing feedback to DNFBPs on disclosures and sanitised cases and sector specific guidelines with respect to AML/CFT, the Authorities noted that the annual Nevis seminar was well attended by DNFBPs. While noted and going towards making this sector more aware, the feedback provided by the FIU should be in a medium that will be available to all DNFBPs. Additionally, no sector specific guidelines for DNFBPs have been done. The measures to cover CFT issues are contained in the draft Anti-Terrorism (Prevention of Terrorism Financing) Regulations. Accordingly, this Recommendation has only been partially met.

Recommendation 27

44. No action has been taken with regard to measures that would allow law enforcement to waive or postpone the arrest of a suspected person. With regard to the Examiners' recommendation that persons responsible for the proper investigation of ML and TF should have sole responsibility in this regard, the White Collar Crime Unit (WCCU) was

established in June 2009 as the designated Unit with responsibility for ML and TF. Three (3) experienced officers have been assigned to this Unit, which is housed with the FIU. The physical and technical resources for the WCCU have been funded from the Forfeiture Fund. The WCCU is currently investigating 116 STRs that were forwarded to it by the FIU to establish whether there is any enforceable evidence of ML. There are also three (3) cases where three (3) persons have been charged for fraud and recommendations have been made for ML charges to be laid. The Authorities have indicated that two (2) of these cases have been committed to the High Court for trial and ML charges will be laid against the defendants for trial in the next assizes which is due to start in May 2010.

Recommendation 29

45. As noted before any amendments to the Banking Act and Securities Act will have to be done on a regional basis in keeping with the harmonized policy for ECCU countries. As a result the Examiners' recommendation for the ECCB/ECSRC to be vested with AML/CFT examination and sanction powers has not been met. With regard to more proportionate and dissuasive sanctions under the ATA and the AMLR, the ATA has been amended with regard to sanctions. It has been noted above at Rec. 17 and paragraph 8 that the open ended fine is ambiguous given no case law as to show what range of fines will be given by the Courts. Amendments to the AMLR are still under review. Accordingly, the majority of the Examiners' recommendations have not been met for this Recommendation.

Recommendation 30

46. With regard to the recommendation that the FIU staff maintains a high level of integrity and confidentiality, the Authorities commenced polygraph testing for all FIU personnel except ancillary staff in February 2009. The Authorities intend to conduct polygraph testing within 18-24 months from the original testing date. Where a person fails the test, they would be retested and if the same results are received, the person would be removed from the particular Section. In determining removal, consideration would be given to the deception area that was discovered. As to the recommendation that the FIU add more human and technical resources, two vacant positions in the Unit were filled during 2009 (Financial Intelligence Analyst and IT/Financial Intelligence Analyst). The FIU also procured two (2) computer systems; i2 Analyst Notebook Software etc. Additionally the budgetary expenditure for the FIU was increased by EC\$115,000 over 2008. The FIU staff has taken part in a number of external training activities between November 2008 and December 2009. See. Attached training Schedule for the FIU, the Police Force, Customs and Excise, the DPP's Office, the Attorney General's Chambers, the Financial Services Regulatory Departments; the Judiciary and the ECCB. In an effort to strengthen the force of the Police Service as recommended by the Examiners, a total of twenty-nine (29) new Constables were recruited. Additionally, the Island Constables Act, 2009 was passed and provides for the appointment of auxiliary constables to augment the Police Force. As noted above, the attached schedule show training that was received by the Police Force in keeping with the Examiners' recommendation.
47. The resources for the Customs and Excise Department in both St. Kitts and Nevis have been increased with two additional automobiles being provided to the St. Kitts Department and four (4) firearms and 10,000 rounds of ammunition and two containers to

facilitate the examination of goods imported in barrels to the Nevis Department. Additionally, a K-9 Unit has been established and services both St. Kitts and Nevis. The 2010 budget for the Customs Department contains provision for investigative software. With regard to vetting procedures for Customs and Excise, all candidates for employment within the Department are now vetted by the Comptroller and Deputy Comptroller of Customs. Furthermore, since September 2009 a small intelligence unit has been developed within the Customs Enforcement Division to enhance confidentiality. The Unit was developed with assistance from CARTAC. As noted above, the officers of the Customs and Excise Department received training between November 2008 and December 2009; notably, four (4) additional officers were trained in financial investigations making a total of eight (8) accredited financial investigators in ML/TF. A senior Customs Officer was also trained as a CFATF Mutual Evaluation Examiner thus providing the Department with greater capability in effecting and guiding polices for AML/CFT matters. The only Examiners' recommendation not met pertains to the consideration of a law library for the Office of the DPP.

Recommendation 31

48. In an effort to foster a greater level of cooperation pursuant to the 2007 MOU between the FIU, Customs, the Police and other competent authorities, inter-agency meetings are now being held on an 'as needed' basis. The Authorities have found that this has improved cooperation. For example, joint discussions were held to identify and develop a collective training needs package, which is evidenced in Schedule 1 above. The FIU also organized and conducted an 'Information Exchange & Tactical Analysis Overview Seminar' to further strengthen collaboration amongst the agencies. Accordingly, this recommendation is being met and the relevant Authorities are urged to continue these activities to foster cooperation. The Authorities have indicated that the DPP will advise the police and seek assistance of the FIU where it is necessary. No other indication has been given as to any measures being taken by the DPP to play a more pro-active role in guiding the police with regard to AML/CFT investigations. Consequently, this recommendation has only been partially met.

Recommendation 32

49. The majority of the Examiners' recommendations have been met with regard to this Recommendation. The FIU has established a separate register for recording international wire transfers and also a proper system for maintaining records relating to ML and TF investigations. An officer has been designated to maintain these records. The Customs and Excise Department has also established a proper database system, (which is a combination of ACCESS Cargo Management Programme) to maintain statistics on cross-border seizures. The information is managed and maintained by an Intelligence Analyst in the recently created Intelligence Unit. The information on seizures is forwarded to the FIU. While the Authorities have noted that the FIU maintains proper statistics with regard to MLAT requests, the Examiners' recommendation relates to response time for providing mutual legal assistance. Accordingly, this recommendation has not been met.

Special Recommendation VI

50. Three of the Examiners' recommendations pertaining to Money Service Providers have been met as a result of the implementation of the Money Services Businesses Act, 2008.

(MSBA). Pursuant to this Act, service providers are required to obtain separate licenses for all operating locations. The nine (9) operating locations within the Federation were licensed in 2009 and the Supervisory Authorities maintain a current listing of operators under the new licensing system. As previously noted in the Report, the penalties under the AMLR are under review. The penalties under the MSBA and the recommendation for reference in the MSBA for the compliance obligations for licensees under the ATA have not been addressed. The regulatory action taken by the FSC has been noted above in Schedule 3. With regard to the effectiveness of the supervisory regime for MSBs being affected by the scope and suspicious transaction reporting issues, the draft Anti-Terrorism (Prevention of Terrorist Financing) Regulations has been prepared to take care of CFT issues and the ATA has been amended to address STR weaknesses. However, please note that the analysis of Rec. 13 showed that only one of the Examiners' recommendations had been met. Accordingly, this recommendation is still outstanding.

Special Recommendation VII

51. The bringing into force of both the MSBA and the Payment Systems Act, 2008 on January 1, 2009 has met the Examiners' recommendation that these Act be brought into effective implementation. Additionally criminal sanctions under the FSRCA now provide for proportionate penalties (Section 40). Again the Authorities noted that no amendments could be made to the Banking Act since this process is now a regional exercise. Consequently, the Examiners' recommendation that the Banking Act be amended to specifically grant the ECCB to inspect and sanction banks has not been met. None of the other recommendations have been addressed and therefore have not been met.

Special Recommendation VIII

52. The NGO registration system requires organizations to provide more extensive information on control persons and activities. This information is available to the public by conducting a search of the file at the Registry. There is no indication of whether the Non-Governmental Organisation Commission has been monitoring compliance with the Non Governmental Organisations Act.

Special Recommendation IX

53. Customs, the FIU and Police have been working closely together with regard to cross-border seizures. The Customs Enforcement Division's Intelligence Unit maintains the database on seizures and the disclosure of cross-border transportation of cash and negotiable instruments. This information is forwarded to the FIU for analysis and where investigations are warranted forwarded to the WCCU. For the period January to October 2009 eleven (11) cases were logged by Customs and forwarded to the FIU. Analysis of the cases revealed that none of them were suspicious or criminal in nature. It appears that the system is working well and it has met the Examiners' recommendation. As noted before inter-agency meetings have been held between on an 'as needed' basis and the Customs Enforcement Division Intelligence Unit maintains a computerized database on cross-border seizures etc. As noted above, the Enforcement Section in Nevis has been given an increase in physical and human resources. Additionally, an attachment programme has been established between the St. Kitts and Nevis Customs Departments. Accordingly, during 2009 five (5) officers were exchanged each for a one month period. According to the Authorities, this served to enhance synchronization of the procedures on

both islands. Training is provided equally to officers in both islands and an additional officer was acquired for Nevis' Enforcement Unit. As stated previously, information on cross-border seizures of cash and bearer negotiable instruments is maintained in a computerized database by the Customs Enforcement Division's Intelligence Unit. The majority of the Examiners' recommendations under SR. IX have been met by the St. Kitts and Nevis Authorities.

III. Conclusion

54. Since there have been no substantial changes made by St. Kitts and Nevis, the results are the same as the previous report. Core Recommendations, Recommendations 10 and SR. IV have been completely complied with. However, Recommendations 1, 5, 13, and SR. II have only been partially complied with, with a large amount of Rec. 5 recommendations outstanding. For the Key Recommendations. All of the Key Recommendations have only partially met with some being met more substantially than others. For the other Recommendations, most of them have only been partially complied with, the exceptions being Recommendations 30 and 32 which had a high level of compliance
55. Based on the aforementioned, it is recommended that St. Kitts and Nevis continue in the expedited category of the regular follow- up procedures and be required to report back to the May 2011 Plenary.