



CARIBBEAN FINANCIAL
ACTION TASK FORCE

Fourth Follow-Up Report

St. Kitts and Nevis

November 18, 2011

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ST. KITTS & NEVIS: FOURTH 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 May 2011 Plenary meeting in Honduras 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 in another category of the follow-up process.
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 Unions ¹	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 Third Follow-Up Report, The St. Kitts and Nevis Authorities have approved the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, the Anti-Money Laundering Regulations and the Financial Services Regulatory Commission Regulations to which is scheduled the Revised Guidance Notes. 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. The Proceeds of Crime (Amendment) Act, 2011 (addresses R.14), the Anti-Terrorism (Amendment) Act, 2011 (addresses R.14) and the Captive Insurance (Amendment) Act, 2011 (addresses R.5) have been enacted during the period October 4 to November 11, 2011. Additionally the Revised Cooperatives Societies Act, 2011 was enacted on October 4, 2011. The Authorities have also noted that with regard to compliance with R. 38 (rated 'LC'), the 'Forfeiture Fund that was established pursuant to an Amendment to the Proceeds of Crime Act in 2008 (see Act attached), covers the sharing of proceeds from all crimes as well as crimes that would fall under the ambit of the Organized Crime (Prevention and Control Act). Any funds or properties confiscated or forfeited under the ATA would therefore automatically be diverted to the Forfeiture Fund.

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.

The Strategic Implementation Planning Framework Workshops were completed in October of this year.

Core Recommendations⁵

Recommendation 1

6. The Authorities have not provided any updates as to whether there have been any ML investigations, charges or prosecutions to assess whether the POCA is being effectively implemented. There are no other outstanding recommendations.

Recommendation 5

7. The enactment of the Anti-Terrorism (Prevention of Terrorism) Regulations, 2011 (ATR) (See. Regs. 3, 4 and 5) addresses the Examiners' concern with regard to the ability of FT matters to be dealt with under the AMLR, which only deals with ML matters. With regard to the recommendation that one-off transactions be placed in law instead of the guidelines, the Authorities have noted that the language of the Guidelines has now been made mandatory. Additionally, the 2011 AMLR specifically deals with one-off transactions. The Examiners' recommendation has therefore been met. The issue of numbered accounts is dealt with by Regulation 4(10)(a) of the AMLR, which requires that regulated persons shall not in the course of their business relationships 'operate or keep open, or keep anonymous accounts or accounts which are in fictitious names'. Accordingly, this recommendation has been met.
8. With regard to independent documentation for the verification of identity and the identification and verification of beneficial owners using a reliable source, Regulation 4 in general provides for identification and verification procedures before the establishment of a business relationship or one-off transaction. More specifically, Regulation 4(4)(b)(i) provides that evidence must be obtained that is capable of verifying that the person identified is in fact the same as the customer, third party, beneficial owner or controller. Further, sub-section (ii) provides for the use of 'documents, data or other information that the evidence of identification referred to in sub-paragraph (i) is conclusive. This requirement clearly addresses the issue of requiring identification and verification information that is sound, it however does not address the status of that information as noted by the Examiners in their recommendations i.e. 'independent documentation' and a 'reliable source'. However, the fact that the information must be conclusive would suggest that the elements of independence and reliability have been addressed. In addition, paragraphs 80 - 86 of the Guidance Notes indicate the type of documentation which should be obtained in order to verify a customer's identity. Accordingly, this recommendation is considered as having been met. It is however suggested that should the legislation be amended in the future that serious consideration be given to clarifying these points. .
9. The Authorities have amended the law through Regulation 4(1)(c)(i) of the ATR to deal with the issue of procedures for identification where there is a suspicion of FT.

⁵ Recommendation 10 and Special Recommendation IV have been fully complied with by St. Kitts and Nevis.

Specifically, the measure provides for instances where identification procedures are required. The suspicion of terrorist financing is one such instance. The Examiners' recommendation has been met. It should be noted that a similar measure is contained in the AMLR at Regulation 4(i)(c) with regard to the carrying out of identification procedures where there is a suspicion of money laundering. With regard to the issue of extending the provisions re wire transfers to include banks the Authorities have noted that Paragraph 123 of the Guidance Notes makes provision for relevant businesses, which include financial institutions (including banks) to provide meaningful originator information for cross-border wire transfers. The Examiners' recommendation has been met. Section 4(2)(b) of the AMLR requires that there be identification procedures for customers 'for determining whether the customer is legitimately acting for a third party', and for where the customer is not an individual for 'identifying any person purporting to act on behalf of the customer and verifying that the person is authorized to act in that capacity,' meets the Examiners' recommendation that regulations or guidelines should include a requirement to verify the authority of a person who is acting on behalf of a principal.

10. With regard to having requirements to verify the legal status of parties involved in trusts/legal arrangements, this is met by Paragraph 40(a) of the Guidance Notes. The Examiners' recommendation to prohibit reduced CDD where the person is suspected of terrorism financing is catered for at Regulation 6(9) of the AMLR, which provides in relevant part that 'in any case where there is a suspicion of money laundering the requirements of enhanced due diligence shall be applied in accordance with Regulation 4. Based on the aforementioned, St. Kitts and Nevis has full compliance with R. 5

Recommendation 13

11. The Examiners' recommendations pertaining to the issue of STR reporting under the AMLR being aligned with the issue of funds being the proceeds of crime and the de-linking of unusual and suspicious transactions for filing purposes has been addressed by Regulation 11 of the 2011 AMLR. Specifically, Regulation 11 provides for the reporting of suspicion on the basis of knowledge or suspicion that another person is engaged in money laundering or the proceeds of criminal activity. Further, Regulation 11(2) while still attaching reporting of STRs to 'all complex, unusual or large business transactions...', also requires reporting upon suspicion that 'any other business transaction could constitute or be related to money laundering or the proceeds of criminal activity....' With regard to the Examiners' recommendation that the Authorities should re-examine the 'one size fits all' nature of the EC\$50,000 penalties for all offences, under the AMLR, the 2011 AMLR now provides for varying penalties for the different offences and in some instances provides for a daily penalty once the infraction remains outstanding after the relevant person has been convicted. The amendment of the AMLR offences satisfies the Examiners' requirements to do a reassessment of same. Actual implementation of the sanctions will determine the extent to which they are now in fact effective. Based on the aforementioned, all of the Examiners' recommendations for R.13 have been met.

Special Recommendation II

12. As noted in the Second follow-up report, SR.II remains partially met because although the St. Kitts and Nevis Authorities have provided a fine for legal persons (body corporate

or unincorporated body) as recommended by the Examiners, the fine is unlimited. As previously noted 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 stated 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.

Key Recommendations

Recommendation 3

13. There is only one recommendation outstanding with regard to R. 3. Previously, the Authorities had made amendments to the Anti-Terrorism Act (ATA) to deal with this issue. Accordingly, Section 12 of the Anti-Terrorism (Amendment) Act deals with 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. The analysis of this amendment concluded that it did 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

14. 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. This measure was addressed during the period 2009 to 2011, which saw the addition of staff to the FSC and ECCB, the development of a full complement of staff for the ECSRC Secretariat outside of the ECCB management structure and also the execution of a risk based exercise for broker dealers to facilitate the establishment of their licensing regime has been noted in the previous follow-up reports. With regard to commencing a programme for examination of licensees to ensure compliance with the Securities laws and other governing statutes, the Authorities have noted that in 2011, an initial assessment/inspection was conducted on the two broker/dealers in St. Kitts as part of the risk-based supervision initiatives of the ECSRC. Risks regarding compliance with the Securities Act as well as the relevant AML/CFT legislation were assessed. Full-scope examinations will begin in 2012. The Examiners’ recommendation has been met.
15. The recommendation that the ECSRC be vested with its own authority to supervise its licensees for AML/CFT compliance has still not been met since the harmonized legislation policy for the OECS region in this regard has not been done. Similarly, both recommendations pertaining to amendments to the Banking Act still have 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. The recommendation for consideration of measures that would strengthen the FSC’s ability to monitor the activities of Captives and International Insurance companies has been addressed in the

Captive Insurance (Amendment) Act, 2011 at Section 9A. The Examiners' recommendations with regard to the extension of fit and proper requirements to the owners, directors and managers of domestic insurance companies, has been met through the Insurance Act, 2009 at Section 202 and was noted as such in the Second follow-up report.

16. With regard to the Examiners' recommendations pertaining to the application of fit and proper requirements to Insurance Managers under the International Insurance Act, and for fit and proper requirements to be applicable to directors and managers of all financial institutions captured under the Financial Services Commission Order (FSCO), the Authorities have noted that the only two pieces of legislation to which fit and proper tests did not apply, were the Captive Insurance Companies Act and the Co-operatives Societies Act. With the passage of the amendment to the Captive Insurance Companies Act as well as the enactment of the new Co-operatives Societies Act on 4th October, 2011, all legislation which fall within the supervisory oversight of the FSRC, now have requirements for fit and proper tests for directors and managers. Accordingly, the Examiners' recommendations in this regard have been met. With regard to the recommendations that laws provide for group supervision as provided for in the IAIS principles and for the Nevis Offshore Bank Ordinance to provide for consolidated supervision they have still not been met.
17. The Examiners' recommendations pertaining to fit and proper requirements being extended to credit unions, their directors and senior managers and the finalization of arrangements for the transfer of regulatory responsibility regarding credit unions to the FSC is dealt with in the Cooperative Societies Act, 2011. Sections 53(4) and 5(2) respectively address and meet the Examiners' recommendations. The recommendation pertaining to the implementation of the Money Services Act has been previously met along with the implementation of the Insurance Act. (See. Second follow-up report).

Recommendation 26

18. Section 11(10(e) of the 2011 AMLR provides a time frame of 'within twenty-four hours' for the filing of STRs to the Reporting Authority. This provision meets the Examiners' requirement that clear directives should be given to reporting entities as to the time that in which they are required to file STRs with the FIU. At present, the outstanding recommendations pertain to the establishment of the FIU in accordance with Section 3(1) of the FIU Act and 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 of consultants without the consensus of the FIU Director or the FIU body⁶.

Recommendation 35

⁶ The St. Kitts and Nevis Authorities previously 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. However, 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.

19. With regard to the Examiners' recommendation requiring implementation of Articles 20 and 29 of the Palermo Convention and Articles 11 and 16 of the Terrorist Financing Convention, the St. Kitts and Nevis Authorities has given careful consideration as to whether there should be specific legislative provisions on the requirement as per Article 20 of the Palermo Convention. In that regard, the Authorities have noted that they ~~We~~ are satisfied that the general powers of arrest bestowed upon a police officer under the Police Act must naturally and legally extend to a determination to not arrest at any point in order to facilitate further investigation. Section 5(1) of that Act provides that the Police Force shall be responsible for the prevention and detection of crime, and the maintenance of law and order. The language of subsection (1) is deliberately wide so that the door remains open in terms of the methods that the police would employ to prevent and detect crime. There are no specified limitations in terms of investigative techniques. Subsection (2) of the same section goes on to detail that the duties of the Police Force would include apprehending and bringing before a court any person any person found committing any offence rendering him liable to arrest without a warrant, or whom he may reasonably suspect of having committed an offence. Additionally, section 7 of the Act provides that "...a Police Officer shall have all such rights, powers, authorities, privileges and immunities and be liable to such duties and responsibilities, as any constable duly appointed has or is subject to either at common law or by virtue of any enactment. With respect to that article the police are given wide powers under the Police Act of 2003. These are in addition to any specific powers granted to the police in relation to any specific enactments.
20. In 2009, the Electronic Crimes Act was passed whilst in February of 2011 the Interception of Communications Act was passed. The combined effect of both these Acts would permit different forms of electronic surveillance including traditional wire-tapping, interception of electronic communications as well as more sophisticated forms of investigation by the police and other authorised persons. These Acts are in addition to the powers granted to the police under sections 62, 63, and 80 of the Anti-Terrorism Act. Article 20 of the Palermo Convention still remains partially outstanding however with regard to international agreements for special investigative techniques and controlled delivery
21. The Examiners' recommendation has been partially met since implementation of Article 29 of the Palermo Convention and Articles 11 and 16 of the Terrorist Financing Convention have still not been addressed.

Recommendation 40

22. Both the Examiners' recommendations remain outstanding. As previously noted, there was the provision of assistance between St. Kitts and Nevis Authorities and their law enforcement counterparts (See. Second follow-up report), however the deficiency noted by the Examiners' was not addressed by this show of cooperation.⁷

⁷ 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.

23. The issue with regard to the expansion of the ECSRC mandate to include supervision of compliance with AML/CFT requirements has not been met since there is no indication that any such power has been granted to the ECSRC.

Special Recommendation I

24. With regard to the recommendation pertaining to 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 is now fully complied with as Section 90A of the ATA has been amended to include a reference to not only the Taliban but also to 'Al Qaida and any other terrorist group'. This means that the ATA now provides for the denial of landing permission to aircraft owned, leased or operated by or on behalf of the Taliban, or any other terrorist group. With regard to the issue of extending the statute of limitations for commencing ML offences, the Authorities have noted that the statute of limitations referred to in section 76 of the Magistrates' Code of Procedure Act (MCPA) concerning commencement of prosecution in criminal matters is intended only to apply to criminal matters triable under summary jurisdiction. This is evidenced by the fact that the relevant section of the Magistrate's Code of Procedure Act falls under Part V of the Act which addresses the summary jurisdiction of the Magistrates' Court in Criminal Matters. Money laundering is an indictable offence that would come under the jurisdiction of the High court and therefore not be subject to the limitation referred to under the MCPA.
25. The Authorities have further noted that the Organized Crime Prevention and Control Act, which gives effect to the Convention on Transnational Organized Crime, provides at section 16(2) that the statute of limitations would not be applicable to any offences referred to under that Act. Accordingly, the Examiners' recommendations have been met with regard to SR. I.

Special Recommendation III

26. The Examiners' recommendation with regard to freezing of funds remains partially met. With regard to the delisting of terrorist and terrorist groups, Regulation 16 of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 (ATR) states that 'A person or group which is designated as a terrorist or terrorist group pursuant to section 4 of the Act shall, within one week of the gazetting of the Order, be informed by the Minister of that designation including a notification of the procedure for having such designation revoked.' Additionally, within one month of the gazetting of the designation order the fact of the designation along with the relevant procedures for revoking the designation shall be published in at least one local newspaper within the Federation. The Authorities have noted that additional administrative steps may be taken in the future with regard to public sensitization. These measures only partially meet the Examiners' recommendation since the Regulations are still silent as to what the procedures are only that the designated terrorist or terrorist group will be notified about the procedures.
27. With regard to public sensitization of the process for delisting and awareness by the public of the procedure for applying to have funds and assets unfrozen, they have also

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

been partially met since the nature of the procedures is still unknown. 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 17 of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 makes provision for this. Regulation 17, by definition of the phrase ‘basic living expenses’ also provides for extraordinary expenses as required by the Examiners. With regard to the procedure that 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, Regulation 17(5)(a) and (b) provides that the Minister shall notify the Committee and that where there is no negative response within forty-eight (48) hours; the Minister may proceed to authorise the access to the funds. This meets the Examiners’ recommendation with regard to having a procedure.

Special Recommendation V

28. As noted in a previous follow-up report, the Authorities have met one of the Examiners’ recommendations as it pertains to the inclusion of ML and FT as extraditable offences. The other two outstanding recommendations have been discussed above at Rec. 23 and 40 and deal with the ability to conduct investigations on behalf of foreign counterparts and the supervisory powers of the ESCRC to extend to AML/CFT so that they can share information on these matters.

Other Recommendations⁸

Recommendation 8

29. 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 been addressed by Regulation 5 which pertains to Enhanced Customer Due Diligence. AML Regulation 5(1)(c), states that the regulation applies where the customer has not been physically present for identification purposes. The Authorities have noted that in such cases, enhanced customer due diligence would be conducted and the relevant person should apply CDD in accordance with 4(1)(a) to (d) on a risk-sensitive basis. Paragraph 84 of the GN also deals with non face-to-face business. In addition, paragraphs 70 and 71 of the GN provide additional direction where relevant businesses offer services over the internet.

Recommendation 9

30. Regulation 7(2)(a) of the 2011 AMLR provides that the relevant person must satisfy themselves that the introducer or intermediary has adequate CDD processes in place prior to entering into a business arrangement. There is no requirement however to obtain information on the introducer or intermediary’s CDD process and accordingly this part of the Examiners’ first recommendation has not been met. The other part deals with obtaining undertakings for providing information without delay. While Regulation 7(5)(b)(iii) deals with the written undertaking that must be obtained, it does not specify without delay but rather states that the information will be provided to the relevant person at their request. This language would suggest that once it is requested it will have to be

⁸ Recommendation 31 has been fully complied with by the St. Kitts and Nevis Authorities.

presented and so is considered to meet the requirement included in the Examiners' recommendation. Regulation 7(9)(c) and (d) require introducer or intermediary to 'demonstrate that he or she used independent documents to verify the identification information and that the intermediary or introducer has also verified the authority of a person who purports to act on behalf of another. These measures meet the Examiners' requirements. The Guidance Notes at paragraphs 59-61 also deal with reliable local introductions from a regulated business and provides for instances where verification may not be needed. With regard to having introducers and intermediaries subject to CFT measures, Regulation 7(6) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 (ATR) meets this requirement.

31. The final three recommendations made by the Examiners deal with guidance with regard to ascertaining whether an introducer's/intermediary's home country adequately applied the FATF Recommendations; clarification as to whether the identified inconsistencies between the Guidance Notes and the Regulations as to whether introducers are subject to the FATF Recommendations and inconsistencies in the regime that allow reliance on introducers that are not subject to FATF requirements as required by the Regulations. In addressing these issues, the Authorities have noted Regulation 15(2) of the AMLR and the APTF, which provide that the FSC may issue directives 'where the FATF has decided to apply money laundering counter-measures to a country.' The directives can for example include instructions to not enter into the business relationship or to not proceed any further with a business relationship or occasional transaction. Further, Regulation 7(2) and (3) provides as noted above that the relevant person must ensure that the introducer or intermediary has appropriate CDD processes in place and that reliance on the introducer/intermediary is based on the understanding that the introducer/intermediary is bound by the FATF Recommendations and that the relevant person remains ultimately liable for any failure to apply identification procedures. It is clear that Regulation 7(2) and (3) satisfy the requirement for introducers to be subject to FATF requirements; the issue is whether the FSC's reliance on the FATF placing counter-measures on a country is sufficient. While the latter is definitely one of the means that countries can use to determine whether an introducer's/intermediary's home country has adequately applied the FATF Recommendations it is not the only method. Accordingly, while the measures taken by St. Kitts and Nevis in this regard meet the Examiners' requirement, it should be noted that the FSC should adopt additional measures such as review of assessment reports from FSRBS, the WB or the IMF as noted in footnote 19 of the Methodology.

Recommendation 11

32. 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 was partially addressed by the Authorities through Section 4(1) of the FSRC Act, 2009 (See. Discussion on this Recommendation in the Second follow-up report). The outstanding issue was the methodology that the FSRC would use to determine compliance with this Recommendation by this sector. In this regard, the Authorities have noted that the FSRC has conducted onsite examinations of fifty (50) captive insurance companies for prudential and AML/CFT compliance. Regulation 3(3) provides that each regulated business should maintain appropriate policies to provide for the identification and scrutiny of complex or unusually large transactions. The Captive Insurance Manager's compliance with this Regulation was assessed during the onsite inspection.

The last onsite inspection was conducted during the period 4th – 14th October, 2011. These measures now provide for full compliance with the Examiners' recommendation. With regard to addressing 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, the Authorities have cited Regulation 3(3) of both the AMLR and the ATR. This regulation provides that the CDD policies shall also include principles regarding the identification and scrutiny of complex and unusual transactions. There is however, no measure that requires financial institutions to make their unusual transaction records available for auditors.

33. With regard to keeping the information available for competent authorities, while there is no direct provision with regard to unusual transactions, Regulation 8 provides in relevant part for 'a record containing details relating to each transaction carried out by the relevant person in the course of any business relationship...' and states further at sub-regulation (3) that the record shall contain sufficient information to allow the reconstruction of individual transactions and at sub-regulation (4) that these transactions should be available on a timely basis for the Commission, police officer or customs officer. It can be anticipated that unusual transactions can fall within this category of transactions and so there is partial compliance with the Examiners' recommendation. For full compliance however, it is suggested that specific measures be 'fleshed' out in the AMLR or otherwise to deal with unusual transactions. Paragraph 69 of the Guidance Notes also makes provision for the recording and keeping of information on unusual and complex transactions making records available upon request. There is also no requirement for it to be provided for auditors.

Recommendation 12

34. The outstanding recommendations noted in this report for Rec. 5 and 8-11 are applicable to DNFBPs. The provisions of the new AMLR 2011 do not specify any special provision regarding casinos, but rather provides general CDD and other requirements for persons who are involved in business transactions. There is also no indication of measures that were taken to sensitize casinos with regard to their CDD obligations under the AMLR and the Guidance Notes. Accordingly, this recommendation has not been met. There is no indication that the POCA has been amended to specify the relevant activities of accountants and auditors in keeping with E.C. 12.1(D) and accordingly this recommendation has not been met. The recommendation that business correspondence be included in the documentation that is kept for the required period by businesses has been met with the provision for such at Regulation 8(2)(a)(ii) of the AMLR 2011. Paragraph 69 of the Guidance Notes as discussed above provides for the keeping of information on all complex, unusual larger transactions and that those records are to be made available upon request. This meets the Examiners' recommendation. With regard to requiring third parties to be regulated and supervised in accordance with Recs. 23, 24 and 29 and to have measures in place to comply with Recs. 5 and 10, the AMLR 2011 at Regulation 7(7) requires that there be proper CDD measures for dealing with third parties, however there is no specific measure to ensure that require third parties to be regulated and supervised in accordance with the relevant FATF Recs. Or to have measures in place to comply with the CDD or record-keeping requirements. This recommendation remains outstanding.

Recommendation 14

35. The Examiners' recommendations with regard to the offence of tipping-off in both the POCA and the ATA have been addressed by amendments to the said Acts. For future reference however, the Authorities should note that the ATA tipping-off offence should also embrace the concept of 'STR related information that is being reported.' This concept was taken into consideration in amending the POCA, but in the ATA it only relates to where a report 'is about to be made'.

Recommendation 15

36. Regulation 3(1)(a)(iv) and 3(5)(d) of the ATR provides that there should be 'internal controls and communication procedures as may be necessary for the purpose of forestalling and preventing terrorist financing. There is no definition of this phrase in the ATR and so it is difficult to say whether it encompasses internal audit and testing, compliance officers and staff training as noted by the Examiners. Accordingly, this recommendation is only partially met. The Authorities have not taken any action with regard to considering providing further guidance on internal testing procedures and requiring that the functions be independent and adequately resourced. This recommendation has not been met. With regard to the concern noted by the Examiners as it pertains to 'properly ascertaining the level of compliance with regard to suspicious transaction reporting requirement that is achieved by the resident insurance manager operating under the Captive Insurance Act and the Nevis International Insurance,' the Authorities have noted that during 2011, the FSRC conducted onsite inspections of 50 captive insurance companies to determine compliance with prudential regulations as well as AML/CFT requirements under the law. Based on the aforementioned there is only partial compliance with R. 15.

Recommendation 16

37. Regulation 11(2)(b)(ii) of the 2011 AMLR provides for the reporting of STRs on any transaction that can be 'related to money laundering or the proceeds of criminal activity or where there is reason to believe that the funds in the transaction are linked, related to or are to be used for money laundering or the proceeds of criminal activity...' The requirement to report attempted transactions is dealt with at Regulation 11(2)(a)(i), but is still however linked to 'all complex, unusual or large business transactions, *whether completed or not*, and to all unusual patterns of transactions and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.' While no specified amount is noted with regard to attempted transactions, the category in which the requirement has been placed suggests the type of attempted transaction that should be recorded. Nevertheless, Regulation 11 has satisfied the Examiners' recommendations.

Recommendation 17

38. As noted above in the discussion on Recommendation 13, the 'one size fits all' sanctions have been amended to provide a range of sanctions depending on the infraction. This also includes daily fines where the infraction remains outstanding after a conviction for an offence. The Examiners' recommendation in this regard has been met. The Financial

Services Regulatory Commission has issued sanctions in four cases. In three of the cases the licences of regulated businesses were revoked and in a fourth instance a “cease and desist order” was served on the business. Additionally, warnings concerning all four businesses were placed on the FSRC’s website. With regard to the fines in the ATR, they are still unlimited and accordingly have not been addressed by the Authorities and the recommendation remains outstanding. The issue pertaining to amendments to the Banking Act and Securities Act are still outstanding since they are part of a regional exercise in keeping with the development of harmonized legislation as an ECCU member country. These recommendations remain not met.

Recommendation 21

39. The 2011 AMLR does not include a wider range of counter measures for countries that fail to apply appropriate AML/CFT standards. The countries have noted that the supervisory authority regularly posts advisories with regard to countries that have not sufficiently adopted or implemented the FATF 40 + 9 Recommendations. See. Regulation 15 of the AMLR with regard to the Commissions power to issue directives. The Examiners’ recommendation for a wider range of counter measures has been met through the ATR and the AMLR in Regulation 5(1), which states that enhanced due diligence measures should be employed where the relevant person ‘intends to conduct business transactions with persons, including legal persons and other financial institutions from or in countries which do not apply or insufficiently apply the FATF Recommendations’ Regulation 5(2) goes further to state that a relevant person shall apply enhanced due diligence on a risk-sensitive basis, while Regulation 5(6) states that if a relevant person contravenes sub-regulations (2), (3), (4), or (5) they commit an offence and are subject to a fine of EC\$150,000.. Examples of possible counter-measures as defined by the FATF include stringent requirements for identifying clients and enhancement of advisories including jurisdiction specific financial advisories. This is done by the FSRC. Advisories are issued to all relevant business on all countries listed by the FATF as having insufficient measures in place to detect and deter AML/CFT. This is stated in the advisories issued to relevant businesses – that they should give careful consideration to whether business transactions should be entered into with clients residing or operating from such jurisdictions. In addition, they are reminded of the need to scrutinize these transactions as they are likely to result in suspicious activity. This also refers to relevant persons who have branches or establishments in these jurisdictions. Finally, the Authorities have stated that the advisories/warnings are placed on the FSRC’s website so that there is full public awareness by the private sector.
40. The enactment of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations has allowed for the enforcement of measures as they relate to CFT. Specifically, Regulation 3 provides for the proper measures that should be in place for relevant persons forming a business relationship or conducting a one of transaction; requirement for annual training; unusual transaction; customers who are PEPs for TF purposes; requirement to submit to the Commission for approval policies for the application of CDD etc. In general, the ATR allows the relevant authorities to enforce CFT related measures. The Examiners’ recommendation has been met. With regard to the issue of compliance by international and captive insurers with the requirements of R. 21, the Authorities have cited Section 4(1) of the FSRC Act, which outlines the powers of the FSRC to monitor compliance by regulated persons with the POCA and other relevant AML/CFT legislation.

41. With regard to the FSRC's ability to verify the level of compliance or verify that this sector has complied through the conduct of onsite examinations, the Authorities as discussed above have noted that the Financial Services Regulatory Commission has supervisory oversight of the Insurance Managers of the Captive Insurance Companies. Additionally, during the registration process, fit and proper tests are carried out on all directors and managers of these companies. All transactions are conducted by the Insurance Managers of these companies, and such persons are required to adhere to the AML/CFT legislation. In addition, such persons are provided with guidance and notices regarding countries that fail to apply appropriate AML/CFT standards. This is done via the direct issuance of guidance to these entities or by notice on the FSRC website. Accordingly, the Examiners' recommendation has been met and there is full compliance with R. 21.

Recommendation 24

42. As previously discussed in the Second follow-up report, the power of the FSRC to regulate and supervise DNFBP has been addressed⁹. The recommendation pertaining to casinos has only been addressed to the extent that the FSRC has from time to time issued notices and advisories to Casinos pertaining to the reporting of suspicious transactions, money laundering and terrorist financing, as well as the FATF advisories. Issues pertaining to a comprehensive supervisory regime and regulatory requirements to establish beneficial ownership of casinos have not been met. Compliance with R. 24 remains partial.

Recommendation 25

43. As noted in a previous follow-up report, the FIU has been providing feedback to the relevant sectors. With regard to providing feedback to DNFBPs on disclosures and sanitised cases and sector specific guidelines with respect to AML/CFT, the Authorities no additional action has been taken since the seminar that was attended by DNFBPs. Accordingly the Examiners' recommendation has not been met since it was expected that feedback would be in a medium that would be available to all DNFBPs. There are still no sector specific guidelines for DNFBPs.

Recommendation 27

44. The Authorities have still not taken any action with regard to measures that would allow law enforcement to waive or postpone the arrest of a suspected person and so compliance with this recommendation remains outstanding. As noted in previous follow-up reports, the Authorities have put measures in place that ensure that there are dedicated personnel

⁹ 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.

responsible for investigation ML and TF through the establishment of the White Collar Crime Unit (WCCU).

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 still 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. The amendments to the AMLR have resulted in a variation of the fines depending on the nature of the infraction. It will still need implementation to determine how effective, proportionate and dissuasive they are. The Examiners' recommendations have been partially met.

Recommendation 30

46. As noted in the Second follow-up report, the only Examiners' recommendation not met pertains to the consideration of a law library for the Office of the DPP.

Recommendation 32

47. The only outstanding requirement for this Recommendation refers to the maintenance of proper statistics by the FIU with regard to MLATs, while it was previously noted that the FIU does keep statistics with regard to the type of request that was received i.e. whether it involved a confiscation or production order, the Examiners' focus also included a requirement to have information on the response time for dealing with requests for assistance. There is no indication that this information is kept and so the Examiners' recommendation remains partially met.

Special Recommendation VI

48. With regard to the Money Services Business Act (MSBA) referring to the compliance obligations under the ATA, the Authorities have noted that the overall obligations of MSBs as DNFBPs is covered by the Guidance Notes and also Sections 3 and 4 of the FSRC Act. Specifically, Section 4(2)(d) of the FSRC Act provides that one of the functions of the FSRC is to monitor compliance with the POCA, the ATA and other pieces of legislation that are listed as Schedule 1 of the Act. Accordingly, the Examiners' recommendation has been met. The recommendation pertaining to the penalties under the AMLR has been addressed in the 2011 AMLR which provides for a wider scope of penalties for the different offences. (See. Discussion above with regard to R. 17). With regard to the effectiveness of the supervisory regime for MSBs being affected by the scope and suspicious transaction reporting issues, the Anti-Terrorism (Prevention of Terrorist Financing) Regulations addresses the CFT issues (See. Regulations 13-15) and the amended ATA and its 2011 Regulations have addressed the STR weaknesses. The Examiners' recommendation has been met. The issue regarding the MSBA penalties has not been addressed.

Special Recommendation VII

49. The AMLR now provides for sanctions that are proportionate for the offence that has been committed and accordingly the Examiners' recommendation has now been fully met with regard to proportionate sanctions in both the AMLR and the FSRC Act. The Examiners' recommendations pertaining to detailed originator information for cross-border wire transfers has been met in paragraphs 122 and 123 of the GN. The recommendations dealing with guidance for funds transfer businesses and banks; the inclusion of sanctions and express authority for examinations by the ECCB to deal with AML/CFT issues in the Nevis Offshore Banking Ordinance have not been addressed and accordingly remain outstanding.

Special Recommendation VIII

50. With regard to this Recommendation, the Examiners' recommendations have been met at a legislative level; however there is still no indication as to whether the Non-Governmental Organisation Commission has been monitoring compliance with the Non Governmental Organisations Act. The Authorities have stated to date, only two NGOs have been registered under the Act and that the NGO Commission has not yet been established. However, the Director of the FSRC has been appointed as the Registrar for NGOs and ensures that such entities are in compliance with the Companies Act as well as the registration requirements under the NGO Act.

Special Recommendation IX

51. The outstanding recommendations for SR. IX pertain to the training of Customs officers in the identification of precious metals and precious stones and the liaising of customs officials with their foreign counterparts in the originating country when there has been a cross-border seizure of cash and bearer negotiable instruments. The majority of the Examiners' recommendations under SR. IX have been met by the St. Kitts and Nevis Authorities.

III. Conclusion

52. St. Kitts and Nevis continues to make strides in its attempts to comply with the outstanding recommendations. The enactment of the 2011 AMLR and Guidance Notes and the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 has increased the level of compliance with outstanding recommendations. With regard to compliance with the Core Recommendations that were rated 'PC' or 'NC' Recommendations 1, 5, 13, SR. I and SR.IV have been fully met, while SR.II has been partially complied with. With regard to the Key Recommendations, Recommendations 3 and 26 have been substantially met, Recommendation 35, SR.II and SR.V have been partially met, Recommendation 23 is substantially not met and Recommendations 40 has not been met. Compliance with the non Core and Key is as follows: Recommendations 8, 14 16 and 21 have been fully met, Recommendations 9, 30, 32, SR.VI, SR.VIII and SR.X have been substantially met; Recommendations 11, 15, 24, 25, and 29 have been partially met; Recommendations 12, 17, and 27 have been substantially not met.
53. Based on the aforementioned, St. Kitts and Nevis has done well with regard to compliance with the Core Recommendations, however there is an overall lack of significant

compliance with the Key Recommendations that should be rectified as soon as possible given the fact that St. Kitts and Nevis meets the criteria for ICRG prima facie review with regard to the number of 'PCs' and 'NCs' in the Core and Key. Accordingly, it is recommended that St. Kitts and Nevis remain on expedited follow-up and be required to report back to the May 2012 Plenary.

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FATF 40+9	Rating	Summary of Factors for Rating	Recommended Actions	Actions Undertaken by St. Kitts & Nevis
Legal systems				
1. ML offense	PC	<p>Recent amendments have affected ability to assess effectiveness of implementation.</p> <p>Terrorist financing is not a predicate offence for money laundering.</p> <p>No one has been charged or prosecuted under the POCA.</p> <p>Insufficient training for investigators and prosecutors</p>	<ul style="list-style-type: none"> 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. 	<p>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)</p>
2. ML offense– mental element and corporate liability	LC	<p>No one has been charged or prosecuted under the POCA.</p>	<ul style="list-style-type: none"> 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. 	<p>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</p>
3. Confiscation and provisional measures	PC	<p>No provision in the POCA for the confiscation of instrumentalities intended for use in the commission of an offence.</p> <p>No provision in the ATA for the seizure of instrumentalities used in or intended for use in the commission of an offence.</p> <p>No stated procedure under the ATA for the forfeiture and confiscation of property.</p> <p>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.</p>	<ul style="list-style-type: none"> 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. 	<p>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)</p> <p>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)</p> <p>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</p>

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				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	<p>The AMLR may not extend to terrorism financing obligations.</p> <p>No requirement for CDD on de minimis transactions if TF is suspected.</p> <p>Guidance re: money transfer business does not apply to banks.</p> <p>Requirements re: occasional transfers are not in law or regulations.</p> <p>Requirements for the use of independent documentation are not in law or regulations.</p> <p>The requirement to identify and verify the beneficial owner using data from a reliable source not in law or regulations.</p> <p>No direct requirement to verify authority of person purporting to act for a principal.</p> <p>Enhanced due diligence measures do not take into account cases and circumstances cited in the Basel CDD paper.</p> <p>No direct obligation to ascertain legal status of party to legal arrangement/ trust arrangement.</p>	<ul style="list-style-type: none"> 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 	<p>See Regs 3, 4 and 5 of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011 addressing the financing of terrorism.</p> <p>See Reg 6(9).</p> <p>The language in the Guidance Notes has been adjusted to make it mandatory in nature and adequately covers the issues relating to occasional transfers. See Paragraphs 122 and 123.</p> <p>AML Regulations and Guidance Notes address these issues</p> <p>See section 4 generally, in the AML Regs and the TF Regs and specifically Reg s 4(2) and 4(4)</p> <p>See Regulation 4(1)(c)(i) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p>

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		<p>There is no prohibition of the use of reduced due diligence where there is a suspicion of TF.</p> <p>No reference to special risk management procedures that should take place where a customer is allowed to utilise a business relationship prior to verification.</p> <p>Measures for on going due diligence does not include scrutiny that ensures that transactions are consistent with the source of funds.</p> <p>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.</p> <p>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.</p>	<p>transaction involves the financing of terrorism.</p> <ul style="list-style-type: none"> 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. 	<p>See Reg 4(4) of the TF Regulations</p> <p>See Regulation 4(1)(c)(i) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p> <p>See Paragraph 123 of the G.N.</p> <p>see paragraph s 4(2) of the AML and TF Regulations and Guidance Notes</p> <p>See Regulation 6(9) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p>

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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.	<ul style="list-style-type: none"> 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. 	See Reg 5(5) of the AML and APTF Regulations and paragraph 40 of the Guidance Notes.
	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.	<ul style="list-style-type: none"> 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 Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.
8. New technologies & non face-to-face business	PC	<p>The AMLR do not extend to TF obligations.</p> <p>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.</p>	<ul style="list-style-type: none"> 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. 	<p>See reg 4 of the AML Regulations and the APTF Regs. Guidance Notes Paragraph 84 with the subheading Non-Face-to-Face Business.</p> <p>Since November 2008, the Authorities have conducted ongoing meetings and seminars with supervised constituents as detailed on attached Schedule 2. Recent SIP training workshops has involved further training and exposure across the board for regulated persons</p>
9. Third parties and introducers	PC	<p>No requirement for regulated business to immediately get necessary information from introducers re: elements of the CDD process.</p> <p>No requirements for Introducers and intermediaries to follow appropriate CDD measures (e.g. using independent evidence for verification).</p> <p>No requirement for financial institutions to be satisfied that information undertaken to be provided will be provided without delay.</p>	<ul style="list-style-type: none"> 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 	<p>See Reg 7 of the AML Regulations and APTF Regs and in the Guidance Notes, Paragraphs 38 to 96 generally on verification but specific ally provision is made in paragraphs 59 -61 and 84, 85</p>

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		<p>Regulated businesses should ensure that the authority of a customer purporting to act for another is valid, and ascertaining the nature of the customers business.</p> <p>Introducers and Intermediaries are not required to be subject to CFT obligations.</p> <p>Ambiguity regarding whether introducers are required to be supervised under FATF requirements.</p> <p>Lack of industry compliance to requirements relating to ensuring that introducers and intermediaries are subject to AML/CFT supervisory regime.</p>	<p>nature of the customers business.</p> <ul style="list-style-type: none"> • 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. 	<p>See reg 7 of the APFT Regs see Regulation 7(6) APFT Regulations, 2011.</p> <p>See reg 15(2) of the AML and the APFT Regs.</p> <p>See Reg 7(2) and (3) of the AML Regulations</p>

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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.	<ul style="list-style-type: none"> 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	<p>There is ambiguity between the GN and the Regulations with regard to the appropriate treatment of unusual transactions.</p> <p>The law does not state that unusual transactions should be available for competent authorities or auditors.</p> <p>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.</p>	<ul style="list-style-type: none"> 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. 	<p>Addressed within the ambit of the recently passed Financial Services Regulatory Commission Act, (No. 22 of 2009) Section 3 and Section 4(1) as well as Schedule 1.</p> <p>See section 3(3) of the AML and APFT Regulations</p>
12. DNFBP–R.5, 6, 8-11	PC	<p>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</p> <p>The powers of the FSC under the FSC Act extend only to financial services.</p> <p>There is no evidence of effective supervision of Casinos for AML/CFT purposes.</p> <p>The relevant activities specified for accountants and auditors in the POCA are not in line with E.C. 12.1(d).</p> <p>Assessment of the effectiveness of CDD measures for</p>	<ul style="list-style-type: none"> 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 St. Kitts and Nevis should implement a 	<p>See responses at R5, R6 and R8-11 above as they pertain to the redrafting of the AMLR and Guidance Notes.</p> <p>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.</p>

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		<p>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.</p> <p>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.</p>	<p>robust system of regulation and supervision for casinos. Casinos should also be sensitised about their CDD obligations under the AMLR and GN.</p> <ul style="list-style-type: none"> 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. <ul style="list-style-type: none"> 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 "business correspondence" to 	<p>The FSC has been revamped to expand its powers. Within its new ambit, the Commission is responsible for regulation of most DNFBP's. This includes accountants and auditors. See Section 4(1) of the Financial Services Regulatory Commission Act, 2009 (No. 22 of 2009). Sanctions may be applied by the Commission pursuant to sections 40 and 44 of that Act.</p> <p>have</p> <p>AML Regulations and Guidance Notes</p>

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			<ul style="list-style-type: none"> 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. 	<p>See paragraph 118 of the Guidance Notes</p> <p>Paragraph 69 of the Guidance Notes, Regs 8 and 9 of the AMLR Regs and APTF Regs</p>

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13. Suspicious transaction reporting	NC	<p>The suspicious transaction reporting requirements under the AMLR and the ATA are not in keeping with the FATF requirements.</p> <p>Sanctions under AMLR are not proportionate and may affect effectiveness for more serious offences.</p> <p>Sanctions for failing to report possession of terrorist property is less severe than other reporting breaches under the ATA</p>	<ul style="list-style-type: none"> 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. 	<p>AML Regulations and Guidance Notes</p> <p>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)</p> <p>See Regs 3(7), 4(2) (e), 4(9) (1); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1). of the AML Regulations</p>
14. Protection & no tipping-off	PC	<p>Requirement limited to ML investigations</p> <p>No requirement with regard to the reporting of a STR or related information to the FIU which could lead to a ML or FT investigation.</p>	<ul style="list-style-type: none"> 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. The POCA and ATA should be amended to 	

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			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	<p>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.</p> <p>No requirement that internal testing should be independent and adequately resourced</p>	<ul style="list-style-type: none"> 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. 	<p>See Regulation 3(1)(a)(iv) & 3(5)(d) of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p> <p>The FSC has been revamped to expand its powers. Within its new ambit, the Commission is responsible for regulation of most DNFBP's. See Section 4(1) of the Financial Services Regulatory Commission Act, 2009 (No. 22 of 2009).</p>
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.	<ul style="list-style-type: none"> 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. 	Reg 11 of the AML Regulations

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			<ul style="list-style-type: none"> Amend the AMLR mandate that attempted transactions be reported, regardless of the amount. 	AML Regulations .Reg 11 of the aAMLR does not impose any limitations in respect of the size of the transaction involved.

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17. Sanctions	NC	<p>Key offences under the AMLR carry homogenous penalties and thus are not proportionate, dissuasive or effective.</p> <p>Penalties for reporting offences under the ATA vary widely.</p> <p>Offences under the AMLR are not applicable to senior managers.</p> <p>The FSC has not applied the range of sanctions provided by the FSC Act and the AMLR.</p> <p>The ECSRC does not have power to sanction for AML/CFT breaches.</p> <p>The ECCB may only apply sanctions of breaches uncovered via examination.</p>	<ul style="list-style-type: none"> 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. 	<p>See Regs 3(7), 4(2) (e), 4(9) (l); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1). AML Regulations AML Regulations.</p> <p>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)</p> <p>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.</p> <p>See examples of regulatory action taken during 2009 on attached Schedule 3.</p>
18. Shell banks	C	This Recommendation has been fully observed.		
19. Other forms of reporting	C	This Recommendation is fully observed.		

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20. Other NFBP & secure transaction techniques	C	This Recommendation is fully observed.		
21. Special attention for higher risk countries	PC	<p>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.</p> <p>Financial institutions only required to apply enhanced CDD regarding dealings with and transactions with countries with weak AML/CFT systems.</p> <p>Apparent inability to enforce measures as they relate to CFT issues.</p> <p>Wider range of counter measures needed against countries that fail to apply sufficient AML/CFT standards.</p>	<ul style="list-style-type: none"> • 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. 	<p>Addressed within the ambit of the recently passed Financial Services Regulatory Commission Act, (No. 22 of 2009) Section 4(1).</p> <p>The Supervisory Authority regularly posts advisories in relation to countries that have not sufficiently adopted or implemented the FATF 40 + 9.</p> <p>Anti-Terrorism (Prevention of Terrorist Financing) Regulations Generally see Regs 3 and 3 but see especially Reg 14. See also sanctions under the FSRC Act generally but especially sections 40 and 44.</p> <p>AML Regulations</p> <p>.</p> <p>The Supervisory Authority regularly posts advisories in relation to countries that have not sufficiently adopted or implemented the FATF 40 + 9.</p> <p>.</p>

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22. Foreign branches & subsidiaries	C	This Recommendation has been fully observed.		
23. Regulation, supervision and monitoring	PC	<p>“Fit and proper” requirements do not apply currently to credit unions, domestic insurance companies and money service providers (insofar as the Money Services Act has not yet been implemented).</p> <p>Fit and Proper requirements under the FSRO are not imposed on directors or managers of institutions covered by that Order.</p> <p>There are no fit and proper requirements under CICA for owners or directors.</p> <p>Offshore and Domestic insurance are not supervised on a group wide basis.</p> <p>ECCB powers to inspect for AML/CFT not expressed in the Banking Act.</p> <p>The Offshore Banking law is does not provide for senior managers to be fit and proper, nor for consolidated supervision.</p> <p>The Supervisory Authorities face difficulties in verifying levels of compliance by international and captive insurers.</p>	<ul style="list-style-type: none"> The Authorities need to provide additional resources for all Supervisors in the system, including the FSC, the ECCB and the 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 	<p>The ECCB has engaged Advisors within the Banking Supervision Department to provide technical support and expertise in matters related to the regulation of the 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.</p> <p>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.</p> <p>The Money Services Bill was in force from January</p>

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		<p>ECSCR lacks powers to inspect and sanction for AML/CFT measures.</p> <p>Supervisory authorities require more resources.</p>	<p>that would strengthen the FSC's ability to fully monitor the activities of Captive and International Insurance companies and verify levels of compliance.</p> <ul style="list-style-type: none"> 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. 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. 	<p>of 2009 and provides for a fit and proper test to be utilized.</p> <p>The Insurance Act was passed and brought into force</p> <p>In consultation with the ECCU, the Cooperatives Bill was passed on the 4th of October 2011 and provides for a fit and proper test for cooperatives and credit unions.</p> <p>Section 53(4) of the Harmonized Co-operatives Bill for the OECS provides for fit and proper requirements for directors and senior management.</p> <p>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.</p> <p>Fit and proper requirements are incorporated in the new Insurance Act, 2009 (No. 8 of 2009) which has now come into force.</p> <p>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</p> <p>Further, the Nevis International Insurance Regulations , 2004 (SRO No. 6 of 2004) issued pursuant to the</p>

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			<ul style="list-style-type: none"> • 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 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. 	<p>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</p> <p>Thus applicants for Insurance Managers' licenses under this international insurance regime are subject to fit and proper evaluation.</p> <p>Section 53(4) of the Harmonized Co-operatives Bill for the OECS provides for fit and proper requirements for directors and senior management.</p> <p>Licensing commenced in 2009 with five (5) issued in St. Kitts and four (4) in Nevis.</p> <p>The Money Services Business Act, 2008 was fully implemented and licenses issued for the year 2009.</p> <p>The new Insurance Act, 2009 (No. 8 of 2009) was passed into law in March 2009.</p> <p>Section 5(2) of the Harmonized Co-operatives Bill for the OECS provides for credit unions to be</p>

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				regulated by the Financial Services Regulatory Commission.
24. DNFBP - regulation, supervision and monitoring	NC	<p>Casinos are not subject to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures.</p> <p>The FSC Act does not explicitly give powers to the FSC for the supervision and regulation of non-financial services.</p> <p>Lawyers have challenged the FSC's authority to conduct on-site inspections for AML/CFT purposes.</p>	<ul style="list-style-type: none"> The FSC Act should clarify the powers of the FSC to regulate and supervise DNFBPs. Casinos should be subjected to a comprehensive regulatory and supervisory regime that ensures effective implementation of AML/CFT measures. If the FSC were designated as the authority to supervise casinos for ALM/CFT purposes, then the FSC Act should be amended to give the FSC those powers. Furthermore, there should be documented regulatory requirements to establish beneficial ownership for Casinos. 	<p>The FSC has been revamped to expand its powers. Within its new ambit, the Commission is responsible for most DNFBP's. See Section 4(1) of the Financial Services Regulatory Commission Act, 2009 (No. 22 of 2009).</p>
25. Guidelines & Feedback	PC	<p>No feedback given with regard to AML/CFT trends and typologies.</p> <p>The GN are legally constrained to ML issues.</p> <p>The deficiencies identified for financial services for R 25 at sections 3.7, 3.10, and 4.3 apply to DNFBPs.</p> <p>FIU has not provided feedback with respect to disclosures and sanitised cases to DNFBPs.</p> <p>There is no sector-specific AML/CFT guidance applicable to DNFBPs, except for trust and company service providers.</p>	<ul style="list-style-type: none"> The FIU should provide feedback in the form of AML/CFT trends and typologies to regulated sectors. The Authorities should carry out the necessary amendments to ensure that the Guidance Notes can properly cover CFT issues. 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. 	<p>The FIU published and distributed its 2008 Annual Report which contains typologies and statistics. Additionally, the Unit also distributed literature on 'hacking' to assist financial institutions in securing their IT systems as well as produced and distributed a flyer captioned 'What's our Grade', a tool for regulated businesses to conduct in-house self assessment of how they grade on AML/CFT reporting guidelines. In May 2009 and February 2010 the FIU made presentations and discussed Trends & Typologies with regulated sectors at Nevis' annual AML/CFT Seminars. The FIU has also published guidelines on terrorist financing reporting through a brochure entitled "Road Map-Terrorist Financing Reporting" and distributed to gaming, insurance, banking, credit union, money remittance institutions. Sector specific guidelines also issued to two casinos on how and what to report.</p> <p>Anti-Terrorism (Prevention of Terrorist Financing) Regulations has been approved and covers CFT issues.</p>

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				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.
Institutional and other measures				
26. The FIU	PC	<p>No specified time period for the making of reports on TF.</p> <p>A number of reporting entities have not received training in relation to the reporting guidelines and are unaware of their obligations under the POCA.</p> <p>The FIU's independence and autonomy can be unduly influence by its Director's inability to recruit appropriate and competent staff.</p> <p>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).</p> <p>The FIU does not prepare and disseminate trends and typologies to relevant reporting entities.</p> <p>Information held by the FIU is not sufficiently secured and protected.</p> <p>There is no standard reporting time in which reporting entities are required to file STRs to the FIU.</p> <p>No guidance on the filing of STRs in relation to TF has been issued by the FIU.</p>	<ul style="list-style-type: none"> 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. 	<p>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)</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>A Terrorist Property Report was created by the FIU</p>

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		<p>The FIU has not been fully constituted in accordance with the FIU Act.</p>	<ul style="list-style-type: none"> • 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 • 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. 	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>See 11(1) (e) of the AML Regulations and APTF Regulations</p> <p>All training presentations and meetings conducted by the FIU with regulated businesses cover STR reporting for both ML and TF.</p>

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27. Law enforcement authorities	NC	<p>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.</p> <p>No clear indication that money laundering and terrorist financing are properly investigated.</p>	<ul style="list-style-type: none"> 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. 	<p>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.</p> <p>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.</p> <p>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.</p>
28. Powers of competent authorities	LC	The level of enforcement and effectiveness of implementing the tools available to law enforcement cannot be clearly ascertained.	<ul style="list-style-type: none"> 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. 	<p>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.</p> <p>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 conviction where the court is satisfied that such moneys constitute the proceeds of</p>

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				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	<p>The powers of the ECCB to inspect do not directly extend to AML/CFT.</p> <p>The ECSRC lacks power to inspect for AML/CFT measures.</p> <p>Limitation on sanctions under the AMLR and the ATA.</p>	<ul style="list-style-type: none"> 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. 	<p>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.</p> <p>Penalties under the ATA have already been addressed in the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009. and APTF See Regs 3(7), 4(2) (e), 4(9) (l); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1). Those under AMLR are captured in 3(7), 4(2) (e), 4(9) (l); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1).</p>
30. Resources, integrity and training	PC	<p>Inadequate staff in the Office of the DPP.</p> <p>Lack of AML/CFT training for staff in the Office of the DPP.</p> <p>There is no law library in the Office of the DPP available for the use of law officers.</p> <p>There is a lack of both human and technical resources in the Police Force, the FIU and Customs and Excise (Enforcement Division).</p> <p>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 confidentiality.</p>	<ul style="list-style-type: none"> 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. 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 	<p>In February 2009 polygraph testing commenced for all FIU personnel except ancillary staff.</p> <p>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.</p> <p>FIU personnel have participated in a number of external training activities between November 2008 and December 2009 as detailed on Schedule 1.</p> <p>During 2009 the Royal St. Christopher – Nevis Police</p>

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		Need for more training in relation to ML/TF matters for members of the Police Force and Customs and Excise.	<p>and ML and FT specifically.</p> <ul style="list-style-type: none"> 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. 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. 	<p>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.</p> <p>In addition the Island Constables Act, 2009 (No. 31 of 2009) provides for the appointment of auxiliary constables to augment the Police Force.</p> <p>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.</p> <p>Seventeen new officers were trained under the CICLEC programme in this year.</p> <p>Police personnel have participated in a number of external and internal training activities between February and December 2009 as detailed on Schedule 1.</p> <p>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.</p> <p>The DPP's Office has received an additional member of staff.</p> <p>The Authorities have paid significant attention to allocating resources to the Customs Department and in particular the Customs Enforcement Divisions (CED) in both islands. In 2009 of greatest significance are the</p>

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			<ul style="list-style-type: none"> 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. 	<p>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.</p> <p>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.</p> <p>Excise Department are now vetted by the Comptroller and Deputy Comptroller of Customs.</p> <p>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.</p> <p>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. Between October 2010 and February 2011 Customs</p>

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				Dept detained cash amts of US\$52,788 & US\$38,901 which are pending civil forfeiture.
31. National cooperation	PC	<p>There is insufficient cooperation and consultation between the DPP and the Police when investigating possible money laundering and terrorist financing offences.</p> <p>No pro-active role taken by the DPP with regard to giving guidance to the police in relation to their AML/CFT investigations.</p>	<ul style="list-style-type: none"> 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. 	<p>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.</p> <p>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.</p>
32. Statistics	PC	<p>There is no comprehensive and independent statistics maintained by the FIU in relation to international wire transfers.</p> <p>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.</p> <p>Customs and Excise does not keep any comprehensive statistics on cross border seizures.</p> <p>No statistics maintained by Customs and Excise on matters that were referred to other Agencies such as the FIU for investigations.</p> <p>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.</p> <p>The statistics on extradition and the mutual legal</p>	<ul style="list-style-type: none"> 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 includes 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 and what orders were used to obtain the 	<p>The FIU has set up a separate register for recording international wire transfer reports.</p> <p>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.</p> <p>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.</p> <p>The FIU maintains proper statistical info on the nature of MLAT requests and responses including production, freeze and forfeiture orders.</p>

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		assistance do not include the response time.	funds which were repatriated to the USA.	

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33. Legal persons–beneficial owners	LC	No provision in the Companies Act with regard to beneficial ownership or control.	<ul style="list-style-type: none"> 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.	<ul style="list-style-type: none"> 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	<p>No arrangement is in place for the sharing of assets under the ATA.</p> <p>No provision in the MACMA with regard to instrumentalities used in or intended for use in the commission of an offence.</p>	<ul style="list-style-type: none"> 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. 	The Forfeiture Fund that was established pursuant to an Amendment to the Proceeds of Crime Act in 2008 (see Act attached), covers the sharing of proceeds from all crimes as well as crimes that would fall under the ambit of the Organised Crime (Prevention and Control Act). Any funds or properties confiscated or forfeited under the ATA would therefore automatically be diverted to the Forfeiture Fund.
39. Extradition	C	The Recommendation is fully observed		
40. Other forms of co-operation	PC	<p>Law enforcement is not authorized to conduct investigation on behalf of its foreign counterparts.</p> <p>The ECSRC would not be able to share information about AML issues as it does not supervise for AML purposes.</p>	<ul style="list-style-type: none"> 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

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			<ul style="list-style-type: none"> 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. 	<p>mechanisms allow law enforcement to provide cooperation to foreign counterparts.</p> <p>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)</p>

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9 Special Recommendations				
SR.I Implement UN instruments	PC	<p>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.</p> <p>No designations have been made under UNSCR 1373.</p> <p>The limitation period for commencing prosecution for money laundering offences is too short.</p> <p>There is no provision for extending the statute of limitation where a person deliberately tries to escape from prosecution.</p> <p>No legislative provision for any aircraft belonging to Al-Qaida, the Taliban or their associates to be denied permission to land.</p>	<ul style="list-style-type: none"> 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. 	<p>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.</p> <p>See Section 13 of the Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009)</p> <p>The ATA has been amended to provide for denial of landing permission to designated terrorists' aircraft.</p> <p>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)</p>
SR.II Criminalize terrorist financing	PC	<p>Terrorist financing does not meet the requirements to be considered a predicate offence.</p> <p>There are inadequate stipulated penalties for legal persons under the ATA.</p>	<ul style="list-style-type: none"> 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. 	<p>Section 12 of the ATA has been amended to increase the prison term to a maximum of five (5) years.</p> <p>See Section 4 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p> <p>Sections 12, 13, 14, 15 and 17 of the ATA have been amended to clearly reflect liability to legal persons by specifying fine unlimited.</p> <p>See Sections 4, 5, 6, 7 & 8 of the Anti-Terrorism (Amendment) Act, 2009 (No 13 of 2009)</p>
SR.III Freeze and confiscate terrorist assets	PC	<p>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.</p> <p>No regulations made with regard to the procedure for an application for de-listing as a terrorist or terrorist</p>	<ul style="list-style-type: none"> 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 	<p>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.</p> <p>See Section 13 of the Anti-Terrorism (Amendment) Act, 2009 (No. 13 of 2009)</p> <p>The Anti-Terrorism (Prevention</p>

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		<p>group.</p> <p>There is no programme in place for informing the public of the procedure for de-listing.</p> <p>There is no programme in place to inform the public about the procedure for unfreezing funds or assets.</p> <p>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.</p> <p>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).</p> <p>There is no provision for extraordinary expenses.</p> <p>There has been no implementation of SR. III provisions and accordingly the effectiveness of the measures cannot be determined.</p>	<p>terrorist groups should be published by the Minister of National Security.</p> <ul style="list-style-type: none"> • 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. 	<p>of Terrorist Financing) Regulations include delisting procedures (Reg 16) 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.</p> <p>Provisions for authoring access for basic expenses or other assets made in Regulation 17 of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p> <p>See 17(5) of the APTF Regs.</p> <p>Provisions for authoring access for basic and extraordinary expenses or other assets made in Regulation 19 of the Anti-Terrorism (Prevention of Terrorist Financing) Regulations, 2011.</p>

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SR.IV Suspicious transaction reporting	NC	<p>The suspicious transaction reporting requirements under the ATA are not in keeping with the FATF requirements.</p> <p>Sanctions for failing to report possession of terrorist property is less severe than other reporting breaches under the ATA.</p>	<ul style="list-style-type: none"> 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. 	<p>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)</p> <p>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)</p>
SR.V International cooperation	PC	<p>The deficiencies noted in relation to Rec. 38 also affects SR. V.</p> <p>Law enforcement is not authorized to conduct investigation on behalf of its foreign counterparts.</p> <p>The ECSRC does not supervise for compliance relating to TF and would not be able to share information on this issue.</p>	<ul style="list-style-type: none"> 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. 	<p>This was effected by an amendment to the POCA. See Proceeds of Crime (Amendment) Act, (No. 30 of 2008)</p> <p>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.</p> <p>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)</p>
SR.VI AML requirements for money and value transfer services	PC	<p>Money Services Business Act not yet implemented.</p> <p>Supervisors are not required to maintain listing of operators.</p>	<ul style="list-style-type: none"> 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. 	<p>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</p>

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		<p>Money Service providers are not required to maintain current lists of agents.</p> <p>Offences under both the AMLR and the Money Services Business Act are not proportionate.</p> <p>Sanctions under the FSC Act and the AMLR appear to be under utilised.</p> <p>Compliance obligations under the Money Services Business Act do not extend to TF issues.</p> <p>Issues relating to the scope of the AMLR and the deficiencies in reporting requirements under the AMLR and the ATA.</p>	<ul style="list-style-type: none"> • 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. 	<p>current listing of operators under the new licensing regime.</p> <p>AML Regulations have been approved. Varying penalties stipulated.</p> <p>Overall obligations of these DNFBPS are covered under the Guidance Notes and under the FSRC Act where all such regulated persons must have regard to the ATA and its relevant Regulations. See Sections 3 and 4 of the FSRC Act.</p> <p>Regulatory action taken since November 2008 is shown at Schedule 3.</p> <p>The Anti-Terrorism (Prevention of Terrorist Financing) Regulations has been prepared to cover CFT issues. See those Regs generally as well as Regulation 13 to 15 of the Regs. 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).</p>

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SR.VII Wire transfer rules	PC	<p>Money Services Act and Payment System Act not implemented.</p> <p>Detailed originator information not expressly required for all types of transfers.</p> <p>No appropriate guidance to funds transfer businesses and banks with regard to treatment of fund transfer transactions that do not have sufficient originator information.</p> <p>Ambiguity regarding inspection and sanction powers against banks and offshore banks for AML/CFT issues.</p> <p>No requirements for financial institutions to take appropriate action when they receive a transfer accompanied with inadequate originator information.</p> <p>Criminal sanctions under AMLR and FSCA not proportionate.</p>	<ul style="list-style-type: none"> 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 FSCA and the AMLR should be proportionate to the actual offence committed, which can affect dissuasiveness and effectiveness. 	<p>Both the MSB Act, 2008 and Payment Systems Act, 2008 (No 17 of 2008) were brought into force on January 1, 2009.</p> <p>In keeping with the policy of developing harmonized legislation for ECCU member territories, consideration for amendments to the Banking Act as a regional exercise.</p> <p>Criminal sanctions under the FSRC Act, (Sections 40 and 44) 2009 (No. 22 of 2009) provide for proportionate penalties. See also the AML Regulations. See Regs 3(7), 4(2) (e), 4(9) (l); 4(13); 5(6); 8(10); 11(2) (d); 11(2) (e); 11(4); 14(1).</p>
SR.VIII Nonprofit organizations	PC	<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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 	

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		The recent issue of requirements to monitor compliance does not allow for sufficient time to test for effective implementation.	<p>test for effective implementation</p> <ul style="list-style-type: none"> 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. 	<p>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.</p> <p>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)</p>

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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	<p>Cases of cross border seizures of cash and bearers instruments are not properly investigated.</p> <p>There is no coordination domestically between the relevant authorities in relation to the implementation of SR 9.</p> <p>There are no records kept on the seizure of cross border cash and bearer negotiable instruments.</p> <p>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.</p> <p>No proper maintenance of records for the availability for AML/CFT purposes.</p> <p>Sanctions are not proportionate and difficult to assess effectiveness since there has been no implementation.</p>	<ul style="list-style-type: none"> 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. 	<p>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.</p> <p>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.</p> <p>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.</p>

**Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
St. Kitts & Nevis November 2011 Plenary**

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			<ul style="list-style-type: none"> 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. 	<p>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.</p> <p>The recently established K-9 Unit conducts operations at the warehouse in Nevis on a weekly basis.</p> <p>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.</p> <p>In 2009, an additional officer was also employed to Nevis' Enforcement Unit.</p> <p>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.</p>

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Other Measures				<p>In an effort to bolster the crime fighting effectiveness and capabilities of the Federation the following new pieces of legislation have been passed:</p> <ol style="list-style-type: none"> 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) 5. The Gang Prohibition and Prevention Bill – passed in October 2011 6. The Evidence Act, 2011

