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Fifth Follow-Up Report

Anti-Money Laundering and Combating the Financing of Terrorism

Saint Lucia

May, 2012

SAINT LUCIA: FIFTH FOLLOW-UP REPORT

I INTRODUCTION

1. This report represents an analysis of Saint Lucia's report to the CFATF Plenary concerning the progress that it has made in correcting the deficiencies which were identified in its third round Mutual Evaluation Report (MER). The third round MER of Saint Lucia was adopted by the CFATF Council of Ministers in November of 2008 in St. Kitts and Nevis. Based on the review of the actions taken by Saint Lucia to meet the recommendations made by the Examiners, the Plenary is being asked to allow Saint Lucia to remain on expedited follow-up and report back in November 2012.

2. Saint Lucia received ratings of PC or NC on all 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	PC	**NC**	**NC**	**NC**	NC	PC	**NC**	PC	**PC**	NC	NC	NC	**NC**	NC

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

Partially Compliant (PC)	**Non-Compliant (NC)**
R.9 (Third parties and introducers)	R. 6 (Politically exposed persons)
R. 14 (Protection & no tipping-off)	R. 7 (Correspondent banking)
R. 15 (Internal controls, compliance & audit)	R. 8 (New technologies & non face-to-face business)
R. 17 (Sanctions)	R. 11 (Unusual transactions)
R. 20 (Other NFBP & secure transaction techniques)	R. 12 (DNFBP – R.5, 6, 8-11)
R. 29 (Supervisors)	R. 16 (DNFBP – R.13-15 & 21)
R. 33 (Legal persons – beneficial owners)	R. 18 (Shell banks)
SR. VII (Wire transfer rules)	R. 19 (Other forms of reporting)
	R. 21 (Special attention for higher risk countries
	R. 22 (Foreign branches & subsidiaries)
	R. 24 (Regulation, supervision and monitoring)
	R. 25 (Guidelines & Feedback)
	R. 27 (Law enforcement authorities)
	R. 30 (Resources, integrity and training)
	R. 31 (National co-operation)
	R. 32 (Statistics)
	R. 34 (Legal arrangements – beneficial owners)
	R. 37 (Dual criminality)
	R. 39. Extradition
	SR. VI (AML requirements for money/value transfer services)
	SR. VIII (Non-profit organisations)
	SR. IX (Cross Border Declaration & Disclosure)

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

Size and Integration of the jurisdiction's financial sector

		Banks	Other Credit Institutions* (Non-bank Financial Institutions licensed under the Banking Act)**	Credit Union	Securities	Insurance	TOTAL
Number of institutions	Total #	6	7	15		27	
Assets	US$	$2,046,971,180	159,017,308	146,333,065		217,159,262	
Deposits	Total: US$	$1,273,069,307	$50,499,268	120,098,598		$91,763,712.00	
	% Non-resident	8.29% of deposits	56.24% of deposits	of deposits			
International Links	% Foreign-owned:	59.69% of assets	53.35% of assets	% of assets	% of assets	% of assets	% of assets
	#Subsidiaries abroad	0	0	0			

The figures provided for credit unions pertain to thirteen (13) unions. The remaining two (2) have not submitted accounts for the period.

II. SUMMARY OF PROGRESS MADE BY SAINT LUCIA

5. Saint Lucia's updated matrix was received at the Secretariat on Wednesday 18th April, 2012. Since the fourth follow-up report, Saint Lucia has acceded to the UN Convention for the Suppression of the Financing of Terrorism and the UN Convention against Corruption, on 18th November and 25th November, 2011, respectively. Saint Lucia has also advanced the enactment of its DNFBP Guidelines which is currently being reviewed by a drafting consultant in preparation for publication. Amendments to the Money Laundering (Prevention) (Guidance Notes) Regulations have reportedly been circulated for review and finalisation.

6. With respect to **Recommendation 19**, Saint Lucia's CFATF Oversight (Core) Committee met on 29th February, 2012 and formally considered the feasibility and utility of a computerised reporting system. The Committee in making a determination requested and received information from another jurisdiction which had implemented such a system for domestic and international currency transactions above the required threshold and has determined the system to be financially prohibitive and therefore not feasible for Saint Lucia at this point in time. This Recommendation is ***closed.***

7. In order to demonstrate the implementation of its confiscation and provisional measures Saint Lucia has provided the following statistics:

- No. of Cash Seizures: 7
- Total Value of Cash Seizures: XCD887.000.00
- No. of Production Orders: (POCA – 2, Director's Request – MLPA – 126)
- No. of Restraint Orders presently: 12
- Total Value of Restraint Orders: XCD8,349,498.00
- No. of Confiscation Cases under investigation: 21
- No. of Confiscation matters presently before the Court: 1
- Potential Benefit/Value of Confiscation Matters under investigation: XCD10, 445, 845.00.

8. The action noted represents Saint Lucia's efforts, since the fourth follow-up report, at implementing the examiners recommendations for closing the gaps still remaining in its AML/CFT infrastructure. The fourth follow-up report is attached to this report as Annex1.

III Conclusion

9. Saint Lucia has made limited progress since its follow-up report of November of 2011. The fourth follow-up report had noted the legislative agenda which the jurisdiction has executed and which positively impacts several of the Core, Key and Other Recommendations but which also noted that there were several "Other" Recommendations still outstanding. Additionally, the jurisdiction has not demonstrated that these legislative provisions have been effectively implemented.

10. Three (3) years and six (6) months have now elapsed since the Council adopted Saint Lucia's MER and in the context of the *CFATF Mutual Evaluation Programme: Process and Procedures,* Members are encouraged "To seek removal from the follow-up process within three (3) years after the adoption of the MER, or soon thereafter".

11. Prior to May 2011 Saint Lucia had embarked on an accelerated pace of reform which demonstrated the jurisdiction's commitment to this timeline. Notwithstanding the slowing of the pace of its reform, it is recommended that Plenary give Saint Lucia another opportunity to fill the outstanding gaps in its MER and to also demonstrate the effective implementation of its AML/CFT measures. Plenary is therefore being asked to leave Saint Lucia on expedited follow-up with the jurisdiction being required to report back to the November 2012 Plenary.

CFATF Secretariat
May 2012.

ANNEX 1: SAINT LUCIA's FOURTH FOLLOW_UP REPORT

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Fourth Follow-Up Report

Anti-Money Laundering and Combating the Financing of Terrorism

Saint Lucia

8th November, 2011

SAINT LUCIA: Third FOLLOW-UP REPORT

I INTRODUCTION

12. This report represents an analysis of Saint Lucia's report to the CFATF Plenary concerning the progress that it has made in correcting the deficiencies which were identified in its third round Mutual Evaluation Report (MER). The third round MER of Saint Lucia was adopted by the CFATF Council of Ministers in November of 2008 in St. Kitts and Nevis. Based on the review of the actions taken by Saint Lucia to meet the recommendations made by the Examiners, the Plenary is being asked to allow Saint Lucia to remain on expedited follow-up and report back in May 2012.

13. Saint Lucia received ratings of PC or NC on all 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	PC	**NC**	**NC**	**NC**	NC	PC	**NC**	PC	**PC**	NC	NC	NC	**NC**	NC

14. Relative to the other non-core or key recommendations, Saint Lucia was rated partially compliant and non-compliant as follows:

Partially Compliant (PC)	**Non-Compliant (NC)**
R.9 (Third parties and introducers)	R. 6 (Politically exposed persons)
R. 14 (Protection & no tipping-off)	R. 7 (Correspondent banking)
R. 15 (Internal controls, compliance & audit)	R. 8 (New technologies & non face-to-face business)
R. 17 (Sanctions)	R. 11 (Unusual transactions)
R. 20 (Other NFBP & secure transaction techniques)	R. 12 (DNFBP – R.5, 6, 8-11)
R. 29 (Supervisors)	R. 16 (DNFBP – R.13-15 & 21)
R. 33 (Legal persons – beneficial owners)	R. 18 (Shell banks)
SR. VII (Wire transfer rules)	R. 19 (Other forms of reporting)
	R. 21 (Special attention for higher risk countries
	R. 22 (Foreign branches & subsidiaries)
	R. 24 (Regulation, supervision and monitoring)
	R. 25 (Guidelines & Feedback)
	R. 27 (Law enforcement authorities)
	R. 30 (Resources, integrity and training)
	R. 31 (National co-operation)
	R. 32 (Statistics)
	R. 34 (Legal arrangements – beneficial owners)
	R. 37 (Dual criminality)
	R. 39. Extradition
	SR. VI (AML requirements for money/value transfer services)
	SR. VIII (Non-profit organisations)
	SR. IX (Cross Border Declaration &

	Disclosure)

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

Size and Integration of the jurisdiction's financial sector

		Banks	Other Credit Institutions* (Non-bank Financial Institutions licensed under the Banking Act)**	Credit Union	Securities	Insurance	TOTAL
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	% Non-resident	8.29% of deposits	56.24% of deposits	of deposits			
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The figures provided for credit unions pertain to thirteen (13) unions. The remaining two (2) have not submitted accounts for the period.

II. SUMMARY OF PROGRESS MADE BY SAINT LUCIA

16. Since the third follow-up report Saint Lucia has passed the Financial Services Regulatory Authority, FSRA Act, and signed an MOU with St. Vincent and the Grenadines.

Core and Key Recommendations

17. The third follow-up report, in its conclusion, noted Saint Lucia's achievements at ensuring that its legislative agenda was executed in such a way so as to have significantly impacted all of the Core and Key Recommendations and many of the Other Recommendations. It was also noted that Saint Lucia had not demonstrated that these laws were (*effectively)* implemented. Since the third follow-up report, Saint Lucia has enacted the Financial Services Regulatory Act (FSRA). An MOU with St. Vincent and the Grenadines has been signed whilst an MOU with Taiwan is being considered. Locally, the Financial Intelligence Authority has signed MOUs with the Customs and excise department and the Inland Revenue Department.

18. This fourth follow-up report will focus on Recommendations that have been changed by action taken by Saint Lucia since the third follow-up report and also those Recommendations which continue to remain outstanding.

19. **For Recommendation 3** the examiners had noted a lack of implementation of the existing provisional measures for confiscation. The jurisdiction has reported that there are two (2) confiscation matters pending before the local Courts, one of which is scheduled to be heard in November of 2011 and three (3) cases involving cash seizures for which forfeiture proceedings are also pending. The progress of these cases to this point has involved the utilisation of other investigative tools available through the Proceeds of Crime Act (POCA). Saint Lucia has indicated that this is proof of the implementation of its related legislation.

20. **Recommendation 4** continues to remain *outstanding* owing in the gap whereby the Insurance Act does not provide legislative provisions for the sharing of information. The first follow-up report noted that the Insurance Act was then before the Saint Lucian Parliament. The position with this legislation remains the same and the gap in relation to sharing information remains.

21. As for **Recommendation 6,** the situation since the first follow-up report remains unchanged and so this Recommendation remains *outstanding.*

22. As for **Recommendation 7,** the outstanding issue was related to the examiners recommendation that commercial banks be required to document the AML/CFT responsibilities of each other. Saint Lucia has now pointed to paragraph 94 (s) of the MLPGR under Correspondence Banking which clearly states that prior to setting up correspondence accounts financial institutions are required to "Document the AML/CFT responsibility of each institution". The examiners recommendations have all been addressed.

23. As for **Recommendation 8,** the first follow-up report had noted that "this recommendation is only partially implemented because no mention is made of any policy requirement to deal with the misuse of technological developments outside of those posed by Internet related transactions". Saint Lucia is now pointing to paragraph 98 of the MLPGR to satisfy this requirement. That paragraph has listed the "emerging" technologies of smartcards and E-cash, whilst paragraph 99 and 100 explains the concept of how they can be used to facilitate financial transactions. During discussions with Saint Lucian authorities on November 1st, 2011, they further pointed to paragraph 90 of the MLPGR which requires financial institutions to apply equally effective customer identification procedures and on-going monitoring standards to non-face-to-face customers as for those available for personal interview. None of these requirements specifically address the outstanding shortcoming.

24. As for **Recommendation 11,** the situation since the second follow-up report remains unchanged and so this Recommendation *still has not been fully met.*

25. As for **Recommendation 14,** the situation since the second follow-up report remains unchanged and so this Recommendation *still has not been fully met.*

26. The FSRA, which was submitted to the Secretariat on 20th October, 2011, has created criminal sanctions against any regulated entity that breach the FSRA. It is unclear however as to the sanctions which are available for breaches involving AML/CFT.

27. As for **Recommendation 21,** the situation since the second follow-up report remains unchanged and so this Recommendation remains *still has not been fully met.*

28. As for **Recommendation 22,** the examiners had recommended that the details outlined in the guidance note should be adopted in the MLPA. Saint Lucia has instead applied the force of law to the MLPGR thereby resulting in the said obligations becoming enforceable. The examiners recommendation has been met.

29. As for **Recommendation 24,** the FIA has completed the drafting of DNFBP specific guidelines which have been reviewed and are currently undergoing public consultation. This Recommendation *still has not been fully met.*

30. It was noted in the third follow-up report that Saint Lucia was preparing an interview process for the individuals shortlisted for the FIA. Saint Lucia is now reporting that two (2) financial investigators were appointed and budgetary provisions were made for the appointment of a deputy director an analyst and a legal officer.

31. The FSRA has been enacted and now has the force of law. However the provisions of this legislation can only be considered once there is some level of implementation and Saint Lucia has no far not demonstrated that has been done. **Recommendation** 29 *still has not been fully met.*

32. With respect to Recommendation 30, personnel from the FIA received training in financial analysis, conducted by the Egmont Group, in July of 2011. As was noted earlier in this report, two additional financial investigators having underwent the interview process and screening now supports the FIA. They have been at the FIA since the August 2011.

33. As for **Recommendation 31,** Saint Lucia continues to strengthen the framework for domestic cooperation by executing MOUs between the FIA and the Inland Revenue Department.

34. As for **Recommendations 33 and 34,** Saint Lucia has not reported any action that would warrant a change in their status as at the third follow-up report. These Recommendations remain *outstanding.*

35. The third follow-up report had noted that the Money Services Business Act, MSBA, had not placed any emphasis on AML/CFT requirements. It was however concluded that MSBs carried the same obligations under the MLPA and MLPGR as financial institutions. Saint Lucia has now pointed out that pursuant to **s. 16(6)(b)(ii)** of the MSBA, the auditor, who in the course of performing such duties at an MSB, has a responsibility to immediately report suspicious transactions to the FSRA, in accordance with the MLPA. Additionally, at **s.18 (1)** of the MSBA, licensees and required to keep accounting records and establish and maintain systems of internal control and record keeping which comply with the requirements of the MLPA. These requirements clearly demonstrate AML/CFT obligations. The gaps noted by the examiners for **SR. VI** are effectively *closed*.

36. As for **SR. VII** Saint Lucia is now indicating that paragraph 179 of the MLPGR satisfies the examiners recommendation that the guidance notes should be amended to provide details of special recommendation VII with respect to dealing with wire transfers where there are technical limitations. The

requirements of that paragraph is however inadequate in that in instances where electronic transfers do not give complete originator information, institutions are simply required to give enhanced scrutiny to them. Saint Lucia has indicated that the term 'enhanced scrutiny' refers to an advanced form of CDD which incorporates elements of an investigation. Notwithstanding, paragraph 179 appears to be inconclusive and does not create an obligation for the record keeping requirement envisaged at SRVII.4.1. This Special Recommendation s*till has not been fully met.*

37. With regards to **SR. VIII,** it was noted in the previous follow-up reports that Saint Lucia had put together an ad hoc supervisory committee for monitoring NPOs in the jurisdiction. This committee is comprised of individuals from the Registry of Companies and Intellectual Property, Inland Revenue, Ministry for Social Transformation and the Attorney General's Chambers and the FIA. The committee has been endorsed by the Saint Lucian Cabinet as the Not for Profit Oversight Committee, NPOC, and is responsible for conducting due diligence, monitoring and oversight of applicants and existing NPOs. Some of the functions of the NPOC are as follows:

- Scrutinize applications for incorporation and undertake due diligence of all applicants, and higher due diligence for applicants who are non nationals.
- Undertake face to face interviews with all applicants,
- Scrutinize all applications to determine their legitimacy and genuineness.
- Circulate financial and CDD guidelines for all approved applications
- Develop best practices for NPO, guidelines and Customer Due Diligence requirements.

38. Among the examiners recommendations was for Saint Lucia to undertake an outreach programme to the NPO sector with a view to protecting the sector from terrorist financing abuse and develop a supervisory programme for NPOs to identify non-compliance and violations. The work of the NPOC to date remains largely unstructured in spite of Saint Lucia reporting that it in fact meets once every month. There has been no indication that the NPOC has undertaken the necessary outreach which would include working towards establishing policies to promote transparency, integrity and public confidence in the administration of the sector and raising awareness in the sector about terrorist abuse and terrorist financing risks, among other best practices. This Special Recommendation continues to remain *outstanding.*

39. For **Special Recommendation IX,** Saint Lucia enacted the Proceeds of Crime (Amendment) Act No. 15 of 2011 3rd May 2011. This is in keeping with one of the Examiners recommendation that officers of the Police Force, Customs and the Marine Services be empowered to seize and detain cash, currency or bearer negotiable instrument. The examiners recommendation that such detention be threshold based to US$10,000 was however not taken on board by Saint Lucia. This Recommendation continues to remain outstanding.

III Conclusion

40. Saint Lucia has made limited progress since its previous follow-up report in May of 2011. It was noted then that the jurisdiction had executed a legislative agenda which had so far positively impacted the entire Core and some of the Key and

'other' Recommendations, but there was still the need to demonstrate that these provisions were being implemented. At that time the plenary decided to leave Saint Lucia in expedited follow-up. This fourth follow-up report noted that there are several outstanding Recommendations which Saint Lucia still needs to address. Additionally, Conventions affecting Recommendations 35 and 38, and SR. I, SR. II and SR.III have not as yet been acceded to.

41. In the context of the *CFATF Mutual Evaluation Programme: Process and Procedures* which "Encourages Members to seek removal from the follow-up process within three (3) years after the adoption of the MER, or soon thereafter", Saint Lucia's MEVAL was conducted in February of 2008 and the MER was approved by Council on 21st November 2008. By the November 2011 plenary, three (3) years would have elapsed since its adoption. Plenary is however being asked to allow Saint Lucia to remain in expedited follow-up, until the May 2012 plenary, so as to give the jurisdiction additional time to demonstrate the implementation of its AML/CFT measures. At that time Saint Lucia should be required to present their Action Plan, approved by the CFATF ICRG, which clearly details the timelines within which Saint Lucia would implement all outstanding deficiencies.

CFATF Secretariat
November 2011.

Matrix with Ratings and Follow-Up Action Plan 3rd Round Mutual Evaluation
Saint Lucia - 18th April 2012

Forty Recommendations	Rating	Summary of factors underlying rating[1]	Recommended Actions	Undertaken Actions
Legal systems				
1.ML offence	PC	AML legislation has not been effectively utilized and therefore could not be measured and the Palermo Convention needs to be ratified. The lack of effective investigations and prosecutions also negatively impacts the effectiveness of the AML legislation and regime. Self- laundering is not covered by legislation. Conviction of a predicate offence is necessary All designated categories of offences not included	• The MLPA should be amended to specifically provide that the offence of money laundering does not of necessity apply to persons who committed the predicate offences in light of the lacuna that presently exists in the law. • The offence of self-money laundering must be distinct from the offences which are predicates. • The country needs to ensure that the widest possible categories of offences as designated by Convention are included within the MLPA and are definitively defined by legislation.	The recommended action has been implemented under the POCA. Addressed in the MLPA No. 8 of 2010. See sections 28 and 29 and 30 of the Act. See: Section 2 of the Act - schedule 1 of the Act - Amendments to Criminal Code to - increase criminal offences. - see too Counter-Trafficking Act No. 7 of 2010 A money laundering charge shall be laid before the end of October 2011. Gaps closed

[1] These factors are only required to be set out when the rating is less than Compliant.

2.ML offence – mental element and corporate liability	LC	Lack of effectiveness of sanctions which are also considered not dissuasive		We have worked with UKSAT (Security Advisory Team) who has trained the DPP's office and the FIA on prosecution, and has provided training for the judiciary which will facilitate effective prosecution. As a result, there are two pending cases before the Court for confiscation. Gaps closed
3. Confiscation and provisional measures	PC	Lack of effective implementation as there are no prosecutions noted for ML. Additionally there are other avenues such as forfeitures and confiscations which are effective measures which have not been utilized and thus add to the lack of effectiveness in implementation of the AML regime.	• Despite the lack of ML prosecutions there have been convictions for predicate offences and the reasons elucidated are not attributed to a lack of restraint action nor from lack of action by the DPP to suggest a less than effective attempt at obtaining a court sanction. Notwithstanding, the St. Lucian authorities have not demonstrated that there is effective implementation of these measures. The absence of any confiscation speaks to legislation that has never been tested.	Provisions for civil forfeiture and specific asset tracing measures have been incorporated in the POCA. See section 49 A to 49 C of the Proceeds of Crime (Amendment) Act No. 4 of 2010. Proceedings have been initiated under POCA with respect to cash seizure. Three cases are pending before the Courts for cash forfeiture. Further, The two confiscation matters are pending before the Courts. One matter is scheduled for hearing in November.

				Saint Lucia continues to demonstrate the effective implementation of the legislation by the following: No. of Cash Seizures: 5 Total Value of Cash Seizures: XCD350, 316.00 No. of Production Orders: 2 No. of Restraint Orders presently: 10 Total Value of Restraint Orders: XCD7, 749, 498.00 No. of Confiscation Cases under investigation: 21 No. of Confiscation matters presently before the Court: 2 Potential Benefit/Value of Confiscation Matters under investigation: XCD10, 445, 845.00
Preventive measures				
4. Secrecy laws consistent with the Recommendations	PC	There are no bank secrecy laws which impede the sharing of information. The minor shortcoming arises from the reluctance of entities to share certain information in practice. There is no obligation which requires all categories of financial institutions	• The Insurance Act and the Registered Agents and Trustee Act do not have expressed provision for the sharing of information. While in practice, this has not prevented them from sharing with authorities, for the avoidance of doubt it is recommended that expressed provisions in the respective pieces of	The Revised Insurance Act Section 20 which is tabled before Parliament for its second reading allows for the sharing of information. **The Revised Act has been forwarded to a special legislative sub-committee of parliament, where representative stakeholders were**

		to share information among themselves for purposes of AML/CFT	legislation together with the requisite indemnity for staff members making such disclosures.	**required to provide comments. It is expected that the FSSU shall provide its response before the next sitting of Parliament.** See also Registered Agent and Trustee Licensing Act Section 26 which specifically provides for disclosure to any regulatory body and other governments under MLAT to the Financial Sector Supervision Unit (FSSU) and by a Court order. See section 37of the MLPA No. 8 of 2010 provides adequate protection from criminal or civil activity of any person, director, employee or person engaged in other business submit reports on suspicious activities. See also section 16 (2) of the MLPA 2010.
5.Customer due diligence	NC	The MLPA is significantly deficient. These essential criteria are required to be in the law and are not, and even where they are, it does not adequately meet the standard of the essential criteria. The MLPA does not create a legal	• The St. Lucian authorities should consider either amending the MLPA or giving enforceable means to the Guidance Notes issued by the FIA. • The MLPA should be amended to include provisions that would require all financial institutions to undertake	Section 17 of the MLPA No. 8 of 2010 has addressed the customer due diligence requirements as provided for by Recommendation 5 in particular: • Regulations have been designed to implement a general threshold of

		obligation to undertake CDD above designated threshold, carrying out occasional wire transfers covered by SR VII, where the financial institution has doubts about the veracity of the adequacy of previously obtained customer identification data. There is no legal obligation to carry on due diligence on an ongoing basis There is no legal obligation to carry out enhanced due diligence for higher risk categories of customers / business relationships All financial institutions do not apply CDD to existing customers on the basis of materiality and risk and also do not conduct due diligence on such existing relationships at appropriate times. There is no legal obligation which requires financial institutions to obtain information on the purpose and intended nature of the business relationship. There is no legal obligation which requires Customer Due Diligence information to be updated on a periodic basis.	CDD in the following circumstances: i. when performing occasional transactions above a designated threshold, ii. carrying out occasional transactions that are wire transfers under SR VII and iii. where the financial institutions is in doubt about the veracity or adequacy of previously obtained customer identification data: iv. on an ongoing basis; v. based on materiality and risk at appropriate times. • Consistent practices should be implemented across all sectors for dealing with AML/CFT issues. The awareness levels of obligations under the MLPA are different within the sub-sectors. Supervisory oversight by the several regulators is also not consistent. • The MLPA should be amended so that financial institutions and persons engaged in other business activity should be required to ensure that documents, data or information collected under the CDD process are kept up-to-date and relevant by undertaking routine reviews of	EC$25,000.00/US$10,000 for CDD. • There are specified threshold for various categories of entities including financial institutions casinos, jewellers, accounts, lawyers, and other DNFBPs when engaged in cash transactions and financial transactions carried out in single operations or in several operations that appear to be linked. • It requires a financial institutions that suspects that transactions relating to money laundering or terrorist financing to: - Seek to identify and verify the identity of the customer and the beneficial owner. - Make a STR to the FIA. • Financial institutions are required by the MLPA No. 8 of 2010 to: - carry on due diligence on an ongoing basis, over the designated threshold and

			existing records. • The MLPA should be amended so that financial institutions are required to: i. Undertake customer due diligence (CDD) measures when they have doubts about the veracity or adequacy of previously obtained customer identification data. ii. Undertake customer due diligence (CDD) measures when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations. iii. Take reasonable measures to understand the ownership and control structure of the customer and determine who the natural persons are that ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or arrangement. iv. Obtain information on the purpose and intended nature of	otherwise once a suspicion is aroused that a transaction may be related to money laundering and terrorism - carry out enhanced due diligence for higher risk categories of customer/business relationships. - Obtain information on the purpose and intended nature of the business relationship. - Financial institutions. The Revised GN makes provision for the carrying out of CDD on an ongoing basis. The GN also made provision for the carrying out of enhanced CDD for high risk categories of customers/business relationships. It addresses the making of an STR when the institution is unable to obtain satisfactory evidence or verification of identity of customer/beneficial owners. It highlights with particular clarity the procedure to be adopted for non face-to-face customers, indicating that no less a diligence procedure should be adopted

			the business relationship. v. Ensure that documents, data or information collected under the CDD process are kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships. vi. provide for performing enhanced due diligence for higher risk categories of customer, business relationship or transaction vii. Provide for applying reduced or simplified measures where there are low risks of money laundering, where there are risks of money laundering or terrorist financing or where adequate checks and controls exist in national system respectively. viii. Provide for applying simplified or reduced CDD to customers resident in another country which is in compliance and have effectively implemented the FATF recommendations.	non face to face business transaction, security transactions and life insurance business. See section 17 of the MLPA No. 8 of 2010. The Guidance Notes has been given the force of law by being implemented as Regulations. SI 55 of 2010. The requirement that all financial institutions should undertake customer due diligence is provided for under section 17 (1) of the MLPA. In addition section 17 (2) of the MLPA provides for a financial institution or a person engaged in other business activity to ensure that any document, date or information collected under the customer due diligence process is kept up-to-date and relevant by undertaking routine reviews of existing records particularly for high risk categories of customers or business relationships. Further section 17 (4) provides for measures to be taken with respect to the veracity and adequacy of information, suspicion of money laundering or terrorist financing, understanding the ownership and control structure of the customer,

				obtaining information on the purpose and intended nature of the business etc Gaps have been closed
6.Politically exposed persons	NC	There are no provisions in the law, guideline or industry practice which completely satisfies the essential criteria. The financial sector does not have procedures in place where senior management approval is required to open accounts which are to be operated by PEPs, as defined by FATF. The financial sector does not have on-going enhanced CDD for PEPs. Majority of financial institutions do not utilise a risk based approach to AML/CFT issues Major gate keepers do not deal with the subject of PEPS pursuant to ECCB guidelines. Insurance companies & Credit Unions do not treat with the issue	• Enforceable means should be introduced for dealing with politically exposed persons (PEPs). All financial institutions should be required to have: i. Documented AML/CFT policies and procedures and appropriate risk management systems; ii. Policies and procedures should deal with PEPs – definition should be consistent with that of FATF, IT systems should be configured to identify PEPs, relationships with PEPs should be authorised by the senior management of the financial institutions, source of funds and source of wealth must be determined, enhanced CDD must be performed on an on-going basis on all accounts held by PEPs. • The government of St Lucia should take steps to sign, ratify and implement the 2003 Convention	Section 18 of the MLPA No. 8 of 2010 provides for PEPS. Revised GN has introduced measures for dealing with PEPs. In particular it provides • for senior management approval to open accounts which are to be operated by PEPs. • Ongoing enhanced CDD for PEPs **Money Laundering (Prevention) Guidance Notes) Regulations SI 55 of 2010, Money Laundering (Prevention) Guidance Notes) Regulations SI 55 of 2010, under paragraphs 84 to 88.** • for low risk and high risk indicators including PEPs. **In addition PEP has been defined under the Money Laundering (Prevention) Guidance Notes) Regulations SI 55 of 2010, (GN) wherein it includes senior officials in the executive, legislative, administrative, military or judicial branches of a foreign government, senior official of a major foreign**

			against Corruption.	**political party.** **Steps have been taken to ratify the 2003 International Convention on Corruption, wherein Cabinet has agreed to its ratification. Steps are currently being taken to determine the steps and procedure in facilitating that process.** Amended Draft Regulations, with proposed amendments circulated for review and finalization. On the 25th of November 2011 Saint Lucia acceded to the United Nations Convention against Corruption.
7.Correspondent banking	NC	There are no provisions in the law, guideline or practice which completely satisfies the essential criteria. Commercial banks policies and procedures are deficient. There are no measures in place to : assess a respondent institution's AML/CFT controls to determine whether they are effective and adequate, document the AML/CFT responsibilities of each institution	• Commercial Banks should be required to: i. assess a respondent institution's AML/CFT controls to determine whether they are effective and adequate; ii. document the AML/CFT responsibilities of each institution; iii. ensure that the respondent institution is able to provide	Has been addressed in the Revised GN. **These recommendations have been met by Saint Lucia in that under section 17 of the MLPA it is a requirement that financial institutions and persons engaged in other business activity shall immediately obtain the information required under the CDD process.** **It is also required that adequate steps be taken in satisfaction of identity data etc from intermediaries and third parties**

		ensure that the respondent institution is able to provide relevant customer identification data upon request	relevant customer identification data upon request.	**upon request.** Section 94 (j) of the Money laundering Guidance Notes stipulates that enhanced due diligence shall be conducted be commercial banks in ascertaining whether the bank has established and implemented sound customer due diligence, anti-money laundering policies and strategies and appointed a Compliance Officer (at managerial level) to include obtaining a copy of its AML policy and guidelines. Gaps closed
8.New technologies & non face-to-face business	NC	There are no provisions in the law, guideline or practice which completely satisfies the essential criteria. There is no framework which mitigates against the risk of misusing technology in ML/TF. Financial institutions are not required to conduct on going CDD on business undertaken on non face to face customers	• Legislation should be enacted to prevent the misuse of technological developments in ML / TF. • Financial institutions should be required to identify and mitigate AML/CFT risks arising from undertaking non-face to face business transactions or relationships. CDD done on conducting such business should be undertaken on an on-going basis.	Recommendation 8 has also been addressed in the Revised GN paragraph 90-101. **Financial services providers offering services over the internet are required to implement procedure to identify its client similar to those adopted for personal interview clients.** Provision for non face to face business is contained at paragraphs 90 – 93 of the Money Laundering Guidance Notes. It should also be noted that a breach of the Guidance Notes constitutes an offence under section 2 (2) of the Regulations. Consequently, the enactment of Guidance Notes provides a mechanism/regime for the misuse of technological developments in ML/TF.

				Technological developments outside of those posed by Internet related transactions have been specifically addressed at paragraph 98 where it speaks to other products emerging technology include: smartcards and e-cash. Amended Draft Regulations, with proposed amendments circulated for review and finalization
9.Third parties and introducers	PC	Legislation or other enforceable means do not address CDD requirements where business is introduced by third parties or intermediaries. Adequate steps are not taken by insurance companies to ensure that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay. Financial institutions do not implement procedures to satisfy themselves that third parties are regulated and supervised.	• Financial institution should be required to immediately obtain from third parties information required under the specified conditions of the CDD process. • Financial institutions should be required to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay. • Financial institutions should be obligated to satisfy themselves that the third party is regulated and supervised in accordance with Recommendation 23, 24 and 29 and has measures in place to comply with the CDD requirements set out in Recommendations 5 and 10.	These issues have been addressed by the MLPA section 17 and GN. **Section 17 (a) provides for the reliance on intermediaries and third parties to perform and undertake aspects of Customer Due Diligence.** Gaps closed

			• The competent authority for dealing with AML/CTF matters should circulate to all financial institutions lists e.g. OFAC, UN. The financial institutions should be required to incorporate into their CDD the use of assessments / reviews concerning AML/ CFT which are published by international / regional organisations.	
10.Record keeping	NC	No requirement to maintain records of domestic and international transactions for at least five years whether or not the relationship has been terminated No requirement to maintain identification data, account files and business correspondence for at least five years following the termination of a relationship No requirement to make available customer and transaction records and information on a timely basis. No requirement to transaction records which are retained must be sufficient to permit reconstruction of individual transactions, so as to provide, if necessary, evidence for prosecution of criminal activity. No requirement for financial institutions to maintain records of	• The MLPA should be strengthened to provide that the records to be kept are both domestic and international and also that such records must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. • The MLPA should be strengthened to provide that financial institutions should maintain records of business correspondence for at least five years following the termination of an account or business relationship (or longer if requested by a competent authority in specific cases upon proper authority). • The provisions in both the POCA and MLPA should create a statutory obligation and a corresponding offence for instances where information is not maintained in a form which enables the competent	The MLPA No. 8 of 2010 contains a provision under section 16(1) to establish and maintain transaction recorded for both domestic and international transactions for a period of 7 years after the completion of the transaction record. The minimum retention period according to section 16(7) of the MLPA No. 8 of 2010 is: (a) If the record relates to the opening of an account is 7 years after the day on which the account is closed. (b) if the record relates to the renting of a safety deposit box the period of 7 years after the day the safety deposit box ceases to be used, or in any other case a period of 7 years

		business correspondence for at least five (5) years following the termination of an account or business relationship or longer if requested by a competent authority in specific cases upon proper authority.	authority to retrieve the information on a timely basis. Even though the various pieces of information may be available, the timely ability to reconstruct the transaction or sufficient evidence to procure a prosecution may be impeded.	after the day on which the transaction recorded takes place. The MLPA provides under section 16(8) that a financial institution shall keep its records in a form to allow the retrieval in legible form within a reasonable period of time in order to reconstruct the transaction for the purpose of assisting the investigation and prosecution of a suspected money laundering offence. The act also makes it an offence under section 16(9)for the failure of a financial institution to comply with this section. **Recommendations have been fully met**
11.Unusual transactions	NC	A legal obligation does not exist for financial institutions to pay special attention to complex, unusual or large transactions. Financial institutions do not document findings on the background and purpose of complex, large or unusual transactions There are no procedures which would require financial institutions to keep the findings on the background and purpose of all complex, unusual store such information to enable it to be retrievable by the competent	• Financial institutors should be encouraged to develop various examples of what would constitute suspicious, unusual and complex transactions. This should be disseminated to staff to make them become aware of such transactions. Internal reporting procedures should also be initiated to generate reports for review and appropriate action to be taken and ultimately to develop typologies for each type / sector of the financial sector. • There should be legal obligation for	The MLPA makes provision in section 16(1)(l) and (m) for financial institutions to report complex, unusual or large transactions. The definition of transaction record under section 2 of the MLPA has been extended to include all business correspondence relating to the transaction, all documents relating to the background and purpose of the transaction. Paragraph 31 of the GN provides for the

		authorities or auditors.	financial institutions to report such transactions which the institution deems to be suspicious to the FIA as a suspicious transaction • The MLPA and POCA should specifically provide that all documentation relating to the background and purpose of a transaction should be retained for a similar period of 7 years.	mandatory attention to be given by financial institutions to all complex, unusual or large business transactions, or unusual patterns of transactions, whether completed or not and to insignificant but periodic transactions which have no apparent economic or lawful purpose. **There is an obligation for financial institutions to report large complex and unusual transactions to the FIA pursuant to section 16 of the MLPA.** **In particular financial institutions are required to establish and maintain a record that indicates the nature of the evidence obtained.** Section 156 of the Money Laundering Guidance Notes stipulates that " the Compliance Officer should be well versed in the different types of transactions which the institution handles and which may give rise to opportunities for money laundering. Examples are set out in Appendix A, these not intended to be exhaustive. Further the roles and responsibilities of the Compliance Officer are stated under section 44 of the Money laundering Guidance Notes. These include inter alia the requirement to develop various examples of suspicious/unusual transaction etc and the need to organise training sessions for staff on various compliance related issues etc

				The recommendation in relation to the obligation for financial institutions to perform enhanced due diligence have been prescribed by the guidelines in that section 2 of the MLPA indicates what constitutes a transaction record and as such pursuant to section 16 (1) a financial institution is obligated and mandated to examine the background for the purposes of reporting to the FIA in writing. Amended Draft Regulations, with proposed amendments circulated for review and finalization
12.DNFBP – R.5, 6, 8-11	NC	No requirement for DNFBPs to undertake CDD measures when: They have doubts as to the veracity or adequacy of previously obtained customer identification data. Transaction is carried out in a single operation or in several operations that appear to be linked Carrying out occasional transactions in relation to wire transfers in the circumstances covered by the Interpretative Note to SR VII. There is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to	• Deficiencies identified for all financial institutions as noted in Recommendations 5, 6, 8-11 in the relevant sections of this report are also applicable to listed DNFBPs. Implementation of the specific recommendation in the relevant sections of this report will also apply to listed DNFBPs. • Though lawyers are aware of the potential vulnerabilities in processing transactions without doing customer due diligence, it is not mandatory for them to make any reports with respect to PEPs, no face to face businesses, 3rd party referral and cross border banking relationships for suspect FT activities where the	Refer to comments made under Recommendations 5, 6, 8-11. See R24 in relation to CDD and STRs for the Legal Profession. See also sections 15, 16 and 17 of the MLPA. The MLPA provides by virtue of section 6 for the FIA to undertake inspections and audits to ensure AML compliance by the DNFBPs. **Specific guidelines are being drawn up with respect to DNFBP's and shall be finalised shortly for review and publication.** **These Guideline have been drafted, approved and shall be published in**

		elsewhere under the FATF Recommendations. Entering relationship with customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information. No requirement for DNFBPs to undertake CDD measures (when a person is acting on behalf of another person) to verify the identity and the authorization of mandatory of that person. No obligation under MLPA to verify the legal status of legal person or legal arrangement. No threshold amount is addressed in the MLPA. No legislation exits to permit compliance with Special Recommendation VII against Financing of Terrorism. No requirement to conduct ongoing due diligence on the business relationship No requirement for financial institutions to ensure that documents, data or information collected under	offence of FT has not been criminalised.	**October 2011.** The Specific draft guidelines with respect to DNFBPs have been finalised for further review by a Drafting Consultant prior to publication.

		the CDD process is kept up-to-date and relevant No requirement for simplified CDD measures to be unacceptable in specific higher risk scenarios There are no rules or regulations requiring DNFBPs to comply with the essential criteria of Recommendation 6, There are no rules covering the proposals of Recommendation 8, and requiring financial institutions DNFBPs to take steps to give special attention to the threats posed by new technologies that permit anonymity No requirement for financial institutions to have policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions. There are no rules requiring DNFBPs to pay particular attention to relationships with persons in countries that do not apply the FATF Recommendations. There are no rules to ensure that the financial institutions are informed of Concerns about the weaknesses in		

		the AML/CFT systems of other countries. There are no counter-measures for countries that do not apply the FATF Recommendation, or apply them to an insufficient degree. Lawyers for the most part claim legal professional privilege and a denial of awareness s to the prescribed STR form		
13.Suspicious transaction reporting	NC	Essential criteria 13.1 -3 should be in law / regulations - this is not the case. The reporting obligation does not apply to all designated categories of predicate offences under Recommendation 1. There is no legally enforceable obligation for financial institutions to report transactions which are attempted but not completed regardless of the value of the transaction. STRs are not generated by financial institutions when they should because there is neither any guidance from the FIA or in their policies and procedures as to what constitutes a suspicious transaction.	• The POCA and MLPA should be amended to provide that: i. Financial institution should report to the FIA (a suspicious transaction report – STR) when it suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity. At a minimum, the obligation to make a STR should apply to funds that are the proceeds of all offences that are required to be included as predicate offences under Recommendation 1. ii. The filing of a STR must apply to funds where there are reasonable grounds to suspect or they are suspected to be linked or	Section 16 (1) (c) and 19 of the MLPA requires the reporting of STR where there are reasonable grounds to suspect that a transaction involves proceeds of a prescribed offence. An amendment has been done to broaden the category of predicate offences. See Recommendation 1. The MLPA further extends the category of predicate offences to all criminal conduct triable either way or on indictment by the definition of "relevant offence" under section 2. The MLPA and the Anti-Terrorism Act section 31 and 32 also provides under section 19 for the filing of STRs where there are reasonable grounds to suspect that the transaction or attempted

			related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. All suspicious transactions, including attempted transactions, should be reported regardless of the amount of the transaction.	transaction involves the proceeds of criminal conduct regardless of the amount of the transaction. Additionally, training continues to all financial institutions in identifying an STR and the procedure for its reporting. **The gaps discerned by the examiners have been closed.**
14.Protection & no tipping-off	PC	There is no specific protection from both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIA. There is no prohibition against financial institutions, their directors, officers and employees (permanent and temporary) from "tipping off" the fact that a STR or related information is being reported or provided to the FIA.	• The indemnity should expressly include MLROs and Compliance Officers. Additionally it should explicitly include legal and civil liability which may arise. The protection should be available where there is a suspicion or a reasonable belief even though the underlying criminal activity is unknown and whether a criminal activity has occurred. • The MLPA should be amended to make it an offence for MLROs, Compliance Officers, directors and employees who tip off that a STR has been filed.	Protection and No Tipping-off are addressed in section 16(2), (3) and section 33 of the MLPA. **Further, section 37 of the MLPA makes provision for criminal and civil liability protection against directors or employees of financial institutions.** **Section 38 of the MLPA creates the offence of "tipping off" whereby a person who obtains information in any form as a result of his or her connection with the Authority shall not disclose that information to any person except as far as it is required should any such information be wilfully disclosed, an offence is committed and the offender can be fined up to $50,000.00.**

				Section 16 (3) of the MLPA deals specifically with MLROs wherein it states that a financial institution or a person enagaged in other business activity makes any report pursuant to subsection 1, the financial institution or a person enagaged in other business activity and the employees, staff, directors, owners or other representatives of the financial institution or person engaged in other business activity shall not disclose to the person who is not subject of the report to any one else - etc The offence is therefore created under section 16 (4) of the MLPA where the fine imposed is not less than $100,000 and not exceeding $500,000. The prohibition to prohibit tipping off of disclosures that are in the process of being made has been addressed under section 16 (4) Section 16 (3) of the MLPA covers suspicion and investigation under section 33 of the MLPA. Consequently tipping off is prohibited for disclosures that are in the process of being made, as a suspicion has to be formulated first. Proposed amendments have been

				suggested to the Consultant drafter to deal specifically with tipping off that "are in the process of being made".
15.Internal controls, compliance & audit	PC	Provisions are contained in the law but all financial institutions do not comply. There is no requirement to appoint a compliance officer at the management level and on going due diligence on employees. Where the financial institutions do have policies and procedures there are deficiencies e.g. do not provide guidance on treatment of unusual, complex and suspicious transactions. The general requirements are contained in documents which have no enforceability for non compliance. There is no obligation for financial institutions and persons engaged in other business activity to establish ongoing employee training to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends; and that there is a clear explanation of all aspects of AML/CFT laws and	• The provisions of the MLPA should be extended so that all financial institutions and other persons engaged in other business activity should appoint a Compliance Officer at the management level who must be a fit and proper person, approved by the Board of Directors of the financial institution with the basic functions outlined in the law. • The MLPA guidance notes should be expanded to require that internal policies and procedures provide for the Compliance Officer to have access / report to the board of directors.	The Guidance Notes (GN) and paragraph **39** deals specifically with the appointment of a compliance officer at management level. The GN have been expanded to require that internal policies and procedures provide for the compliance officer to have access/report to the Board of Directors. **It must also be noted that paragraph 38 of the GN provides for the appointment of a reporting Officer/Compliance Officer, making it imperative that the Officer reports directly to the Board of Directors**. The GN in Part III 170.1 provides for mandatory ongoing due diligence of the compliance officer and other employees. The MLPA legislates for employee due diligence under section 16(1)(o). **Recommendations by examiners have been fully implemented**.

		obligations, and in particular, requirements concerning CDD and suspicious transaction reporting. There is no obligation for financial institutions and persons engaged in other business activity to document and implement screening procedures for employees on an on-going basis.		
16. DNFBP – R.13-15 & 21	NC	No obligation to establish and maintain internal procedures, policies and controls to prevent Terrorist Financing. No obligation to communicate internal procedures, policies and controls to prevent Money Laundering and Terrorist Financing to their employees. None of the DNFBPs interviewed has ever filed a STR to the FIA. No obligation to develop appropriate compliance management arrangements at a minimum the designation of an AML/CFT compliance officer at the	• St. Lucian authorities may wish to consider amending the MLPA to require DNFBPs to establish and maintain internal procedures, policies and controls to prevent Money laundering and Terrorist Financing. • St. Lucian authorities may wish to consider amending the MLPA to ensure that DNFBPs communicate internal procedures, policies and controls, develop appropriate compliance management arrangements and put in place screening procedures to ensure high standards when hiring employees. Such amendments should also require DNFBPs to give special attention to business relations and transactions with persons (including legal entities and other financial institutions) in jurisdictions that do not have adequate AML and CFT	The MLPA provides for the FIA to undertake inspections and audits to ensure AML compliance by the DNFBPs under section 6 of the Act. In addition to the internal reporting procedures currently under section 19 of the MLPA, we are currently drafting guidelines for the DNFBPs, which guidelines will provide for internal procedures and policies to control AML/CFT those guidelines will also make provision for employers and employees alike to satisfy AML/CFT obligations. See further Recommendation 24. **Further, section 16 (1) (o) (i) mandates the development of programmes against money laundering and terrorist financing.**

		management level. No obligation to put in place screening procedures to ensure high standards when hiring employees. No obligation to give special attention to business relations and transactions with persons (including legal entities and other financial institutions) in jurisdictions that do not have adequate systems in place to prevent or deter ML or FT. No obligation to put effective measures in place to ensure that financial are advised of concerns about weaknesses in the AML/CFT systems of other countries. Sanctions are not effective, proportionate and dissuasive	systems. • St. Lucian authorities may wish to consider amending the MLPA to ensure that sanctions imposed are effective, proportionate and dissuasive to deal with natural or legal persons covered by the FATF Recommendations that fail to comply with national AML/CFT requirements.	**Gap significantly closed** In addition section 2 (2) of the Money Laundering (Prevention) (Guidance Notes) Regulations creates a sanction for non compliance with AML/CFT requirements`.. **These Guideline have been drafted, approved and shall be published in October 2011, as regulations.** The Specific draft guidelines with respect to DNFBPs have been finalised for further review by a Drafting Consultant prior to publication.
17. Sanctions	PC	The full ranges of sanctions (civil, administrative as well as criminal) are not available to all supervisors. The lack of enforcement of criminal sanctions negatively impacts the effectiveness of the imposition of	• The full range of sanctions (civil, administrative and criminal) should be made available to all supervisors	Since the last Mutual Evaluation exercise we have increased the level of enforcement, in that regard we have revoked licences for non-compliance and have appointed judicial managers to entities in jeopardy.

		criminal sanctions.		**The Revised FSRA Act has been forwarded to a special legislative sub-committee of parliament, where representative stakeholders were required to provide comments. It is expected that the FSSU shall provide its response before the next sitting of Parliament.** **It is anticipated that upon the coming into force of the FSRA under section 40 other administrative functions shall be available to the Authority.** **"The Authority may require a regulated entity to pay a late filing fee of a prescribed amount where that person fails to —** **(*a*) file a return or other information required to be filed by that regulated entity under this Act or any enactment specified in Schedule 1 at the interval set out in, or within the time required by that enactment;** **(*b*) provide complete and accurate information with respect to a return or other information required to be filed by that regulated entity under this Act or any enactment specified in Schedule 1; or** **(*c*) pay the fee that is payable under section 39 at the prescribed**

				time. **(2) A failure to file a return, provide information or pay the fee under subsection (1) is deemed to be a contravention for each day during which the failure continues."** **The FSRA has been passed by Parliament and s in effect.**
18. Shell banks	NC	There is no requirement for financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	• The MLPA guidance note should be amended to require financial institutions to ensure that their correspondent banks in a foreign country do not permit accounts to be used by shell banks.	Paragraph 94 (m) of the GN issued by FIA has been amended to require financial institutions to ensure that their correspondent banks in a foreign country do not permit accounts to be used by shell banks. **Recommendation has been satisfied.**
19. Other forms of reporting	NC	There has been no consideration on the implementation of a system for large currency transaction reporting. There is no enforceable requirement for financial institutions to implement an IT system for reporting currency transactions above a specified threshold to the FIA.	• St. Lucia is advised to consider the implementation of a system In this regard St. Lucia should include as part of their consideration any possible increases in the amount of STRs filed, the size of this increase compared to resources available for analyzing the information.	The MLPA makes provision via section 21 for all cash transactions above EC$25,000 **to complete a source of funding declaration in a prescribed form.** **Section 16 (1) (l) makes it mandatory that upon the request of the FIA all currency transaction above EC $25,000.00 shall be reported to the FIA.**

				Further, it should be noted that under section 16 (8) of the MLPA it is mandatory that a financial institution or a person engaged in other business activity to record all transactions. Proposals are ongoing for increasing the staff at FIA for analyst and financial investigators to deal with analysing all STRs. It has been agreed that the staff of the FIA should be increased. The FIA is currently preparing for the interviewing of persons shortlisted. The Office is currently being reconfigured to accommodate the increase in staff. Discussions as to the feasibility of the implementation of a system where all (cash) transactions above a fixed threshold are required to be reported to the FIA have been initiated and is ongoing. See further Recommendation 26 & 30. There has been consideration of the implementation of a system by the FIA which is financially restrictive.

20. Other NFBP & secure transaction techniques	PC	Lack of effectiveness of procedures which have been adopted for modern secure techniques	• More on-site inspections are required. • The Money Remittance Laws should be enacted. • Standard provisions regarding complex and unusually large transactions should be imposed such that DNFBP are mandated to do enhanced due diligence and modern secured transaction techniques should be scheduled under the MLPA.	The Government of St. Lucia, As a result of the Economic Partnership Agreement (EPA) has commenced an exercise of regulating the Designated Non- Financial Business Practices (DNFBP) and it is intended that this process will allow for more effective regulation of that sector. The Money Services Business Bill will go through its remaining stages in Parliament on February 9 and 16, 2010. **This Bill has been passed by Parliament and came into effect on the 3rd March 2010 as No 10 of 2010.** **It should be noted that most financial institutions provide an Internet Banking Service. This is not only restricted to account enquiries but account transfers and transfers to other agents such as Lucelec, Lime, Wasco.** **Definition of transactions under the MLPA is not restricted and includes "Internet transactions"** Provision for modern secure transaction techniques and

				enhanced due diligence for DNFBPs are included in section 16 of the MLPA. A schedule of training shall commence for other NFBPs from January 2012.
21. Special attention for higher risk countries	NC	There are no obligations which require financial institutions to give special attention to business relationships and transactions with persons including legal persons and other financial institutions from or in countries which do not or insufficiently apply the FATF recommendations. There are no effective measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. There is no obligation with regard to transactions which have no apparent economic or visible lawful purpose, the background and purpose of such transactions should, as far as possible, be examined and written findings should be available to assist competent authorities and auditors. There is no obligation that where a	• The FIA should be required to disseminate information about areas of concern and weaknesses in AML/CFT systems of other countries. Financial institutions should also be required as a part of their internal procedures to review these reports. • Financial institutions and persons engaged in other business activities should be required to apply appropriate counter-measures where a country does not apply or insufficiently applies the FATF recommendations.	The Revised GN makes reference to regions that do not have proper AML/CFT systems in place. Therefore all countries that are not referred to should be considered as higher risk countries, for which high enhance due diligence should apply. **Paragraph 147 of the GN (regulation) provides high risk indicators and directs the procedure to be adopted in identifying NCCTs.** Reference is made to paragraph 147 of the MLPA and Anti-terrorism regulations wherein by virtue of these regulations the FIA has disseminated information about areas of concern. Amended Draft Regulations, with proposed amendments circulated for review and finalization. Further the FIA has proactively disseminated information about areas of concern by forwarding the information to all

		country continues not to apply or insufficiently applies the FATF recommendations for St. Lucia to be able to apply appropriate countermeasures.		financial institutions and to the FSSU now FSRA which has circulated the information to the financial service sector.
22. Foreign branches & subsidiaries	NC	There are no statutory obligations which require financial institutions to adopt consistent practices within a conglomerate structure. Although this is done in practice, given the vulnerabilities, it should be made a legal obligation. There are no enforceable means which require financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT standards consistent with the home country. No requirement for financial institutions to inform their home supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because it is prohibited by the host country.	• The details outlined in the guidance note should be adopted in the MLPA and applied consistently throughout the industry.	The Revised GN reflects that foreign branches and subsidiaries of financial institutions observe AML/CFT standards consistent with St. Lucia Laws. **The GN notes are published and have been given legislative enforceability.** Gaps closed
23. Regulation, supervision and monitoring	NC (reflected as PC in the final mutual evaluatio	The effectiveness of the FIA is negatively impacted because awareness of the FIA and its role in AML/CFT matters is relatively low in some parts of the financial sector.	• St. Lucia should consider a registration or licensing process for money or value transfer service businesses.	The Government via the Money Services Business Act allows for the regulation and licensing of money and value transfer services.

	nreport)	The FIA has only recently attempted to provide written guidance to the sector and not all stakeholders are aware of the existence of the guidance notes. The regulatory and supervisory measures which apply for prudential purposes and which are also relevant to money laundering is not applied in a similar manner for anti-money laundering and terrorist financing purposes, except where specific criteria address the same issue in the FATF methodology. Money or value transfer service businesses are not licensed		Gaps closed
24. DNFBP - regulation, supervision and monitoring	NC	No supervision of the DNFBPs No supervisory regime that ensures they are effectively implementing the AML/CFT measures required under the FATF Recommendations No monitoring by Bar Association.	• St. Lucian authorities may wish to consider regulating DNFBPs and strengthen the relationship between the FIA and DNFBPs. • The Legal Profession Act needs to be re-visited with respect to the monitoring and sanctions that may be applied by the Bar Association. • Additionally, the Association needs funding, its own secretariat office and other technical resources so as to decrease its reliance upon the Registrar of the Court.	We are currently drafting guidelines for the DNFBPs, which guidelines will provide for internal procedures and policies to control AML/CFT those guidelines will also make provision for employers and employees alike to satisfy AML/CFT obligations. The lack of a Bar Association secretariat makes information dissemination difficult. For years now the Bar Association has not existed with a very strong structure. There are however association meetings although poorly attended. The most effective communication tool for reaching the

			• More focus also needs to be placed upon continuing legal education of members and implementing an AML/CFT policy component into the Code of Ethics. • The concept of legal professional privilege also needs to be put in context if lawyers are to be expected to report STRs and the recommendations which outlines, good faith, high standards and competent counterparts must be factored into these provisions.	Attorneys is via their email as all Attorneys are part of an email circulation. In that regard, we have undertaken to introduce members at a Bar Association meeting MLPA and Terrorism financing legislation and issues. Additionally we have decided to use the email which is most effectively used by all counsel to circulate email to members on their continuous obligations for customer due diligence. These Guideline for DNFBP s have been drafted, approved and shall be published in October 2011, as regulations. The Specific draft guidelines with respect to DNFBPs have been finalised for further review by a Drafting Consultant prior to publication.
25. Guidelines & Feedback	NC	The guidance notes issued by the FIA does not give assistance on issues covered by relevant FATF recommendations FIA does not provide feedback to the financial institutions on STR	• The guidance notes issued by the FIA should be circulated to all stakeholders. • Consideration should be given to the FIA to providing regular feedback to financial institutions and other reporting parties who file Suspicious	The Revised GN makes provision for acknowledging receipt of the STRs and providing feedback reports to parties who file STRs. This will be achieved by using special reference numbers or identification

		filed and FATF best practices	Transactions Reports. • The authorities should consider reviewing the level of involvement of the FIA within the financial community, though there have been some interaction, there is clearly a need to provide additional seminars, presentations, guidance and advice to financial institutions and other reporting parties.	codes, to protect the identity of the person being investigated. **The receipt of STRs are being acknowledged by the FIA. Currently the logistics of feedback are being considered by the FIA.** Currently, quarterly meetings are held with compliance officers in relation to filed STR's, generally. Further, there is also specific feedback in relation to a matter where there is a likelihood of prosecution and/or further investigations. Gaps closed
Institutional and other measures				
26. The FIU	PC	There is no systematic review of the efficiency of ML and FT systems. Periodic reports produced by the FIA are not published; also they do not reflect ML trends and activities. A number of reporting bodies are yet to receive training with regard to the manner of reporting. Some stakeholders were unaware of	• St Lucian Authorities should move quickly and pass the Prevention of Terrorism Act. This will certainly help to strengthen the AML / CFT framework of the Country. • Consideration should be given to the establishment of clear and unambiguous roles in the FIA. • The authorities should consider giving the Board of the Financial	The Anti-Terrorism Act was brought into effect in December 2008. **The Anti-Terrorism (Guidance Notes) Regulation - SI 56 of 2010 was published on the 26th May 2010 and is in effect. A breach of which constitutes an offence, liable to a fine not exceeding $1million.** A new staffing initiative

		a specified reporting form.	Intelligence Authority the power to appoint the Director and staff without reference to the Minister. • The authorities should consider reviewing the level of involvement of the FIA within the financial community, though there have been some interaction, there is clearly a need to provide additional seminars, presentations, guidance and advice to financial institutions and other reporting parties.	providing for increased staff to the FIA should allow for (1) an effective and systematic review of the ML and FT systems. In the meantime ongoing reviews continue of foreign and domestic banks and credit unions. (2) Increased training to the various financial institutions and reporting bodies. Section 4(5) of the MLPA gives the Board of the FIA the power to appoint the Director without being subject to the approval of the Minister. Under sections 5, 6, 7 and 8 of the MLPA 2010 the functions, powers etc are provided for. In addition the section 4 (5) of the MLPA 2010 is being amended by deleting and substituting the following: The Authority shall appoint a Director and such other general support personnel as the Authority considers necessary on such terms and conditions as the Authority may determine. The Money Laundering Prevention (Amendment) Act has been passed by at the last sitting of

				Parliament in February 2011. Two additional financial investigators have been appointed to the FIA. Budgetary provisions have been made for the appointment of a Deputy Director, analyst and Legal Officer. Provision has been made for two additional financial investigators from the Customs and Excise Department.
27. Law enforcement authorities	NC	No legislation or other measures have been put in place to allow for the postponement or waiver the arrest of suspected persons when investigating ML or seizure of cash so as to identify other persons involved in such activity. Investigation structure not effective Low priority given to ML and FT crime by the Police, there has been no prosecution to date. Investigative structure mechanism is ineffective – unable to ensure police did its function property	• Greater priority should be given to the investigation of ML / TF cases by the Police and the DPP's Office. • It is recommended that a Financial Investigation Unit be set up as part of the Police Force to investigate money laundering, terrorist financing and all other financial crimes. The necessary training should be provided to Officers who will staff this unit	We have worked with UKSAT (Security Advisory Team) who have provided training the DPP's office and the FIA in prosecution matters and who have also provided training for the judiciary to assist in the facilitation of effective prosecution. As a result there are two pending cases before the court for confiscation. **The investigative powers of FIA has been enhanced in ensuirng that there is now a designate law enforcement authority with responsibility for ensuring the MT and TF offences are investigated.**

				An MOU for AML/CFT has been prepared to enhance inter agency cooperation among the Police, FIA, Customs and Inland Revenue Department. The purpose of the MOU is to enhance inter agency cooperation with regard to investigation and prosecution. It has been agreed that the staff of the FIA should be increased. The FIA is currently preparing for the interviewing of persons shortlisted. The Office is currently being reconfigured to accommodate the increase in staff. **Recommendation is now fully compliant.**
28. Powers of competent authorities	**LC**	The FIA is not able to take witness statements for use in investigations FIA cannot search persons or premises which are not financial institutions or businesses of financial nature		Section 4(4) to the MLPA preserves the power of officers of the FIA who are Police officers, Customs officers and Inland Revenue officers. The concomitant effect of this is that they retain the powers afforded to them under the Police Act, Criminal Code, Customs Act and Income Tax Act which allows the taking of witness statements for use in investigations the search of any premises. **Gaps Closed**

29. Supervisors	PC	Effectiveness of the ability of supervisors to conduct examinations is negatively impacted by the differing levels of the scope of the examinations and the training of staff. There is no obligation which gives the FIA adequate powers to monitor and ensure compliance by financial institutions with requirements to combat money laundering and terrorist financing consistent with the FATF recommendations.	• St. Lucia should expedite the implementation of the SRU which will assist in harmonizing supervisory practices and may lead to more effective use and cross training of staff.	The Financial Services Regulatory Authority Bill will be going through its final stages in Parliament in February, 2010. Therefore establishing the single Regulatory Unit. The supervisors have recently received the benefit of training from the FIA on Money Laundering and Financing of Terrorism compliance procedures. **Notwithstanding the fact that the SRU has not been implemented, currently, the FSSU is responsible to uphold that mandate in harmonizing the supervisory practices.** Ordinarily supervisors are required to monitor and ensure compliance procedures which includes AML/CFT. The training received will ensure that supervisors are possessed of the specific knowledge required to ensure effective compliance of AML/CFT. Under the MLPA FIA, section 67 910 (h) has been mandated with the specific function to inspect and conduct audits of financial institutions to ensure compliance with the Act. The FSRA has been passed by Parliament and is in effect. The office of the FSRA occupies new

				premises and officers of the FSRA operate as such and not as officers under the old regime of the FSSU.
30. Resources, integrity and training	NC	The FIA is not sufficiently staffed and trained to fully and effectively perform its functions The Law enforcement agencies are not sufficiently staffed and trained to fully and effectively perform their functions. The independence and autonomy of the Authority as is presently structured could be subjected to undue influence and or interference Inability to maintain trained staff Inability to maintain ongoing staff training The FIA and the other competent authorities are lacking in the necessary technical and human resources to effectively implement AML/CFT policies and activities and prosecutions	• The FIA should be staffed with at lease two dedicated Analyst. • St Lucian Authorities may wish to consider sourcing additional specialize training for the staff, particularly in financial crime analysis, money laundering and terrorist financing. • The authorities should consider providing additional resources to law enforcement agencies since present allocations are insufficient for their task. All of these entities are in need of additional training not only in ML / TF matters but also in the fundamentals, such as investigating and prosecuting white-collar crime. • Adequate training in ML and TF should be sourced for Judges Prosecutors and Magistrates so as to broaden their understanding of the various legislations.	A new staffing initiative providing for increased staff to the FIA should allow for (1) an effective and systematic review of the ML and FT systems. In the meantime ongoing reviews continue of foreign and domestic banks and credit unions. (2) Increased training to the various financial institutions and reporting bodies. The UKSAT (Security Advisory Team) has provided training for the DPP's office and the FIA on prosecution, and has also provided training for the judiciary which will facilitate effective prosecution. **UKSAT (now ECFIAT) has organised training for Magistrate and Prosecutors for September 2010.**

				It has been agreed that the staff of the FIA should be increased. The FIA is currently preparing for the interviewing of persons shortlisted. The Office is currently being reconfigured to accommodate the increase in staff. With the new staff structure one person has been identified to be an Analyst.. There is always ongoing training for personnel dealing with ML/FT such Cyber Crime investigation which has a financial crime investigation aspect as well. Two investigators have received training in investigating techniques to assist in the investigation of crime. Training was also held for Magistrate in money laundering and terrorism financing in January 2011. Training for FIA personnel was undertaken in July 2011 in financial analysis sponsored by Egmont. A cash seizure seminar for prosecutors and financial investigators was held in August 2011. Training has been identified in techniques of financial investigation and another for intelligence gathering

				analysis scheduled for October and December 2011 respectively The FIA currently has in place one financial analyst. On the 26th and 27th of March 2012 ECFIAT and ECSC JEI held a mock trial confiscation program for judges, prosecutors and financial investigators.
31. National co-operation	NC	There are no effective mechanisms in place to allow policy makers, such as the FIA, FSSU and other competent authorities to cooperate and where appropriate, coordinate domestically with each other. Coordination and cooperation amongst agencies is ad-hoc and inconsistent. No provision for competent authorities to effectively develop and implement policies and activities for AML/CFT.	• Consideration should be given to the establishment of an Anti- Money Laundering Committee. The Committee should be given the legal authority to bring the various authorities together regularly to develop and implement policies and strategies to tackle ML and TF. The Committee should also be tasked with providing public education on issues of ML and TF. • St Lucia may wish to consider establishing a multilateral interagency memorandum between the various competent authorities. This would enable them to cooperate, and where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat ML and TF.	A White Collar Crime Task Force was established in 2008 implemented which brings together high level persons from the Police, FIA, DPP, Attorney General's Chambers, Customs, Inland Revenue, for the main purpose of co operating and co-ordinating domestically to effectively develop and implement AML/CFT policy. The committee meets regularly. More exposure has been given to members of the international fora to develop their appreciation for AML/CFT issues. Additionally a committee has been created to monitor St. Lucia's effective implementation of the 40 and 9 recommendations, and to continue

			• Consideration should be given to developing a process that would allow for a systematic review of the efficiency of the system that provide for combating ML and FT.	police its legislation and policy to ensure that it remains effective in its ability to deal with AML/CFT issues. The committee has met frequently since its implementation in March 2009 and has proposed major changes to the current MLPA. The committee has advised on the implementation of policy to strengthen the AML/CFT framework. **Arrangements have been made for FIA and Police to execute an MOU within the next two weeks, which shall assist and facilitate cooperation between the two entities.** The MOU between the FIA and the Police has been signed and since then the two agencies have collaborated on a number of investigations. The FSSU is a member of the Oversight Committee for CFATF. A joint MOU has been signed by law enforcement stakeholders to provide a mechanism for cooperation and coordination. Currently, the exercise by the CFATF Committee in completing the SIP templates provides and allows for a systematic review of Saint Lucia's overall ML and FT system in combating

				money laundering and terrorism financing. It allows for the identification of the weaknesses and strengths in the system. Currently an MOU between FIA and Inland Revenue Department has been executed. An MOU between Customs and Excise Department has also been executed. Further, the MLPA has been amended to also allow for the dissemination of information to the Customs and Excise Department, Inland Revenue Department.
32. Statistics	NC	Legislative and Structural framework does not exist and there are no cases relative to terrorism as a predicate offence. Thus no statistical data was available They do not keep comprehensive statistics and these are not disseminated or acknowledged as received There are no reviews of the effectiveness of the systems for combating money laundering and terrorist financing. There are no reviews of the	• Consideration should be given towards putting in place a comprehensive framework to review the effectiveness of the system to combat ML and TF on a regular and timely basis. • The policy targets proffered by the AG/Minister of Justice should be implemented particularly: i. The training of the prosecutorial agencies particularly in the areas	The MLPA under section 5 and 6 (h) permits the FIA to review the effectiveness of the systems for combating money laundering and terrorist financing. The UKSAT (Security Advisory Team) has provided training for the DPP's office and the FIA on prosecution, and has also provided training for the judiciary which will facilitate effective prosecution. As a result there are two pending cases before the court for confiscation.

		effectiveness of the systems for combating money laundering and terrorist financing. Could not be applied as there is no data where no ML prosecutions have been conducted	noted above for which they are wholly deficient ii. The funding of internal programmes to improve the quality of technical and human resources iii. The dissemination of information on AML/CFT policies and activities for implementation as internal policies. iv. A structured system which promotes effective national cooperation between local authorities.	The FIA has increased the range of statistical data to include wire transfers which has been facilitated by an improved database and two persons have been designated to collect statistical data. See R 31 for MOUs between local authorities. **It should be noted that the FSRA when passed legislates for an MOU to be executed between the FIA and the FSSR.** Section 6 (h) provides for the FIA to inspect and conduct audits of a financial institution or a person engaged in other business activity to ensure. This in self allows for some review of the system. Currently, the exercise by the CFATF Committee in completing the SIP templates provides and allows for a systematic review of Saint Lucia's overall ML and FT system in combating money laundering and terrorism financing . It allows for the identification of the weaknesses and strengths in the system. That in effect will be a review, which upon completion can be referred on a regular bases to improve on the system and further develop Saint Lucia's system. Currently FIA maintains a data base for

				statistics reflecting but not limited to STRs, received and disseminated, money laundering investigations, property frozen, restrained, seized and mutual legal assistance, foreign requests made, foreign request received, wire transfers, types of suspected offences, nationality of suspects, reporting institutions etc.
33. Legal persons – beneficial owners	PC	There are inadequacies and lack of transparency in collating and maintaining accurate information which negatively affects access to beneficial information Minor shortcoming in the transparency of trust deeds. Registered agents have to be compelled by court order to comply even at onsite visit by FSSU. Minor shortcoming in the transparency of trust deeds. Registered agents have to be compelled by court order to comply even at onsite visit by FSSU.	• The St. Lucian authorities may wish to adopt the following measures: i. Adequate training for the staff on AML/CFT measures. ii. Adequate database that allows for timely and easy verifications of type, nature and ownership and control of legal persons and customer identification data. iii. Recruitment of additional staff with the requisite qualifications, training and expertise or experience in handling corporate matters. iv. Legislative amendment which mandates adequate transparency concerning the beneficial ownership and	See R 29 in respect of training. All financial institutions, credit unions are now subject to regular and on-going training on customer due diligence . The FIA is in the process of providing training on AML/CFT measures for: FSSU staff, Registrar of Companies, Co-operatives, Insurance, Registrar of International Business Companies, Registrar of International Trusts and Attorney General's Chambers. In March 2009, an automated system was introduced in Registry of Companies which allows for timely and easy verification of type nature, ownership and control of legal persons regulated by the Registrar of Companies. The database is up to date.

			control of legal persons. v. Legislative amendments which addresses the effectiveness of penalties and the imposition of sanctions by the Registrars as well as the judiciary. vi. Policy manuals that provide rules in relation to regular reporting to the Ministers, proper policing of companies, AML/CFT guidelines on detecting and preventing the use of legal persons by money launderers. vii. An internal or external auditing regime which provides the necessary checks and balances for accuracy and currency of files. viii. Operational independence of the Registrars.	The Companies Act of St. Lucia mandates the striking off the register a company that does not file annual returns. Those returns require amongst other things that information concerning beneficial ownership is disclosed. See R 4 in relation to Registered Agent and Trustee Licensing Act Section 26 which specifically provides for disclosure to any regulatory body other governments under MLAT to the FSSU and by a Court Order. With respect to Insurance companies when a party is applying to register all information can be obtained and is accessible under requests. The Pinnacle database is up to date. Article 5 of the Tax Information Exchange Agreement allows for the exchange of information. The Insurance Act has penalty provisions which allows for fines, desist, revoke, intervene in the operations of the company.
34. Legal arrangements – beneficial owners	NC	No requirement to file beneficial ownership information	• It is recommended that St. Lucian Authorities implement measures to facilitate access by financial	See R 33 and R4.

		Non disclosure of beneficial ownership to Registered Agents is enabled by the secrecy provision of the International Trusts legislation No obligation to disclose beneficial ownership information to the competent authorities without a warrant from the court or the FSSU stating the direct purpose of for the request to inspect individual file Trusts created within the sector are usually well layered so that beneficial ownership is not easily discerned	institutions to beneficial ownership and control information so as to allow customer identification data to be easily verified. • Also, given that any compulsory power for the purpose of obtaining relevant information would have to originate from the exercise of the Court's powers or FSSU in auditing the Registered Agent, there appears to be no guarantees that the information would be provided. Notably, no attempts have been made via the Courts to instill this compulsory power. Hence, attempts at Court action is recommended as a means of improving the effectiveness of the FSSU to obtain relevant information	
International Co-operation				
35.Conventions	NC	Palermo and Terrorist Financing Conventions have not been ratified. No Anti-Terrorism Act UNSCR not fully implemented.	• St. Lucia needs to sign and ratify or otherwise become a party to and fully implement the Conventions which relate particularly to the Palermo Convention, Terrorist Financing Convention, Suppression of FT and UNSCRs relating to terrorism. • Implement the legal frameworks for these conventions – in particular,	The convention on trans national organised crime has been approved for ratification by Cabinet who have further advised on implementing legislation for the convention. The Convention is given the force of law through the enactment of the MLPA, Counter-Trafficking Act No. 7 of 2010 and the Criminal Code (Amendment) Act No. 2 of 2010.

			enact its Anti-Terrorism Act.	Cabinet has considered the Convention on Corruption for its ratification. The Anti-Terrorism Act has been implemented. Steps are being taken to have these conventions acceded to. It is anticipated that the instruments of accession shall be deposited on or before the end of November 2011. On the 18th November 2011 Saint Lucia acceded to the International Convention for the Suppression of Financing of Terrorism. On the 25th of November 2011 Saint Lucia acceded to the United Nations Convention against Corruption. Further Saint Lucia is already is a signatory to the Palermo Convention, having signed on the 26th September 2001.
36. Mutual legal assistance (MLA)	PC	The underlying restrictive condition of dual criminality is a shortcoming. The condition of dual criminality	• The underlying restrictive condition of dual criminality should be addressed.	Clear channels for communication have been identified and set up. All MLAT's by all agencies are channelled through the Attorney General's Chambers who is the Central Agency.

		applies to all MLA requests including those involving coercive methods. No clear channels for co-operation.		Consideration is given to section 18 (2) of the Mutual Assistance in Criminal Matters Act, Cap 3.03 provides for the refusal of a requests where the conduct if it had occurred in Saint Lucia would not constitute an offence. Section 18 (3) also provides for the central authority to exercise its discretion where the conduct is similar in Saint Lucia. Importantly, Section 18 (5) allows for the Central authority to provides mutual legal assistance notwithstanding the provisions of section 18 (2) and 18 (3). Consequently, there is nothing prohibiting assistance where both countries criminalise the conduct underlying an offence. Technical differences do not prevent the provision of mutual legal assistance. Gap closed
37.Dual criminality	NC	Dual criminality is a prerequisite and the request shall be refused if absent. The condition of dual criminality apply to all MLA requests including those involving coercive methods	• The underlying restrictive condition of dual criminality should be addressed	Consideration is given to section 18 (2) of the Mutual Assistance in Criminal Matters Act, Cap 3.03 provides for the refusal of a requests where the conduct if it had occurred in Saint Lucia would not constitute an offence. Section 18 (3) also provides for the central authority to exercise its discretion where the conduct is similar in Saint Lucia.

				Importantly, Section 18 (5) allows for the Central authority to provides mutual legal assistance notwithstanding the provisions of section 18 (2) and 18 (3). Consequently, there is nothing prohibiting assistance where both countries criminalise the conduct underlying an offence. Technical differences do not prevent the provision of mutual legal assistance. Gap closed
38.MLA on confiscation and freezing	LC	No formal arrangements for coordinating seizures, forfeitures, confiscations provisions with other countries		The Cabinet of Saint Lucia has agreed the ratification of the Palermo Convention and for it to be given the force of law which convention will assist in the formalising of arrangements for co-ordinating seizures, forfeitures, confiscations provisions with other countries. Mutual Assistance in Criminal (Matters) Act, CAP 3.03 in particular section 21 and particularly in relation the USA and the Mutual Assistance (Extension and Application to USA) Regulations. A formalised process has been

				established making the Attorney General's Chambers the Central Authority for the purposes of receiving and processing of requests for assistance under the MLPA and the Mutual Assistance in Criminal (Matters) Act , CAP 3.03 and other requests for criminal assistance. Steps are being taken to have these conventions acceded to. It is anticipated that the instruments of accession shall be deposited on or before the end of November 2011.
39.Extradition	NC	ML is not an extraditable offence	• It is recommended that the St. Lucian Authorities consider legislative amendment to: i. Include money laundering, terrorism and terrorist financing as extraditable offences. ii. Criminalize Terrorism as an additional offence.	The Extradition Act now includes money laundering, terrorism and terrorist financing as an extraditable offence by the Extradition (Amendment) Act No.3 of 2010, Money Gap closed
40.Other forms of co-operation	PC	Unduly restrictive condition which requires dual criminality. Several conventions are yet to be ratified No Anti-Terrorism Law	• The underlying restrictive condition of dual criminality should be addressed. • Provide mechanisms that will permit prompt and constructive	**See R37** In December 2008 St. Lucia implemented the Anti- Terrorism Act. The Cabinet of Saint Lucia has

		No MOU has been signed with any foreign counterpart	exchange of information by competent authorities with non-counterparts	agreed to the ratification of the Palermo Convention and for it to be given the force of law. An MOU from FINTRAC (Canada FIU) has been received for execution. An MOU shall be signed between Saint Vincent and Saint Lucia's FIA. The MOU between Saint Vincent and Saint Lucia has been signed. An MOU between Taiwan and Saint Lucia is being considered. On the 18th November 2011 Saint Lucia acceded to the International Convention for the Suppression of Financing of Terrorism. On the 25th of November 2011 Saint Lucia acceded to the United Nations Convention against Corruption. Further Saint Lucia is already is a signatory to the Palermo Convention, having signed on the 26th September 2001.
Nine Special Recommendations				

SR.I Implement UN instruments	NC	UNSCR not fully implemented. Anti-Terrorism Act not yet enacted. No laws enacted to provide the requirements to freeze terrorists' funds or other assets of persons designated by the UN Al Qaida & Taliban Sanctions Committee. The necessary (Anti-terrorism Act), regulations, UNSCR and other measures relating to the prevention and suppression of financing of terrorism have not been implemented.	• St. Lucia needs to sign and ratify or otherwise become a party to and fully implement the Conventions which relate particularly to the Palermo Convention, Terrorist Financing Convention, Suppression of FT and UNSCRs relating to terrorism. • Implement the legal frameworks for these conventions – in particular, enact its Anti-Terrorism Act.	See R35. The Anti –Terrorism Act has been implemented and given the force of law. Steps are being taken to have these conventions acceded to. It is anticipated that the instruments of accession shall be deposited on or before the end of November 2011. On the 18th November 2011 Saint Lucia acceded to the International Convention for the Suppression of Financing of Terrorism. On the 25th of November 2011 Saint Lucia acceded to the United Nations Convention against Corruption. Further Saint Lucia is already is a signatory to the Palermo Convention, having signed on the 26th September 2001.
SR.II Criminalise terrorist financing	NC	Terrorist financing is not criminalized as the anti terrorism act whilst passed by parliament is not yet in force. No practical mechanisms that could be considered effective	• The government needs to ratify the Conventions and UN Resolutions and establish the proper framework to effectively detect and prevent potential vulnerabilities to terrorists and the financing of terrorism.	See R35. On the 26th May 2010, The Anti-Terrorism (Guidance Notes) Regulations was published by virtue of SI 56 of 2010 and given the force of law. Further, it should be noted that these Guidelines should be read in conjunction with the Guidance Notes

				with respect to Money Laundering. Steps are being taken to have these conventions acceded to. It is anticipated that the instruments of accession shall be deposited on or before the end of November 2011. On the 18th November 2011 Saint Lucia acceded to the International Convention for the Suppression of Financing of Terrorism. On the 25th of November 2011 Saint Lucia acceded to the United Nations Convention against Corruption. Further Saint Lucia is already is a signatory to the Palermo Convention, having signed on the 26th September 2001.
SR.III Freeze and confiscate terrorist assets	NC	There is no specific legislation in place No reported cases of terrorism or related activities, The extent to which the provisions referred to the MLPA are effective cannot be judged. The Anti-Terrorism law has not been enacted.	• St. Lucia authorities need to implement the Anti-Terrorism legislation such that it addresses the following criteria: i. Criminalisation of terrorist financing ii. Access to frozen funds iii. Formal arrangements for exchange of information (domestic and international)	The Anti –Terrorism Act implemented in December 2008 addresses the criminalisation of Terrorist Financing under section 9. The Anti – Terrorism (Amendment) Act No. 5 of 2010: - allows access to frozen funds - provides formal arrangements for exchange of information (domestic); - provides formal procedures for all requests made or received.

			iv. Formal procedures for recording all requests made or received pursuant to the ATA. • Further, there needs to be an expressed provision which allows for exparte applications for freezing of funds to be made under the MLPA. • Also, the St. Lucian authorities need to ensure that there are provisions to allow contact with UNSCR and the ratification of the UN Convention on the Suppression of Terrorist Financing.	The MLPA makes provision under section 23 for *ex parte* applications for freezing of funds. The convention on the suppression of terrorist financing has been ratified by St. Lucia through the enactment of the Anti-Terrorism Act in December 2008. The Anti – terrorism (Guidance Notes) Regulation SI 56 of 2010 must be read in conjunction with the Guidance Notes for Money Laundering. Steps are being taken to have these conventions acceded to. It is anticipated that the instruments of accession shall be deposited on or before the end of November 2011. On the 18th November 2011 Saint Lucia acceded to the International Convention for the Suppression of Financing of Terrorism. On the 25th of November 2011 Saint Lucia acceded to the United Nations Convention against Corruption. Further Saint Lucia is already is a signatory to the Palermo Convention, having signed on the 26th September 2001.

SR.IV Suspicious transaction reporting	NC	Terrorism is noted as a predicate offence in the MLPA but it is doubtful whether this can be enforced since there is no anti-terrorism legislation in place. The mandatory legal requirements of recommendation 13 are not codified in the law.	• The filing of a STR must apply to funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. All suspicious transactions, including attempted transactions, should be reported regardless of the amount of the transaction. • The MLPA should be amended to provide that all suspicious transactions must be reported to the FIA regardless of the amount of the transaction.	See SRI. **See R13** **Further part IV of the Anti – Terrorism (Guidance Notes) Regulations highlights the terrorism financing red flags**. Section 32 (4) of the Anti- Terrorism Act, No 36 of 2003 makes it mandatory for every financial institution to report to the FIA every transaction which occurs within the course of its activities, and in respect of which there are reasonable grounds to suspect that the transaction is related to the commission of a terrorist act. Gap closed
SR.V International co-operation	NC	Terrorism and Terrorist Financing not extraditable offences Dual criminality is a prerequisite and the request shall be refused if absent	• St. Lucia should enact provisions which allows for assistance in the absence of dual criminality. • St. Lucia must enact legislation that specifically criminalises terrorism and financing of terrorism. • St. Lucia should consolidate the statutory instruments of the MLPA to avoid any inconsistencies.	Terrorism and Terrorist Financing are extraditable offences through the enactment of the Extradition (Amendment) Act No. 3 of 2010. See MLPA No. 8 of 2010. **See R37** Consideration is given to section 18 (2) of the Mutual Assistance in Criminal Matters Act, Cap 3.03 provides for the refusal of a requests where the conduct if it had occurred in Saint Lucia would not constitute an offence.

				Section 18 (3) also provides for the central authority to exercise its discretion where the conduct is similar in Saint Lucia. Importantly, Section 18 (5) allows for the Central authority to provides mutual legal assistance notwithstanding the provisions of section 18 (2) and 18 (3). Consequently, there is nothing prohibiting assistance where both countries criminalise the conduct underlying an offence. Technical differences do not prevent the provision of mutual legal assistance. Gap closed
SR VI AML requirements for money/value transfer services	NC	No legal requirement under the MLPA. No obligation to persons who perform MVT services to licensed or registered. No obligation for MVT service operators to subject to AML/CFT regime. No listing of MVT operators is made available to competent authorities.	• Legislation should be adopted to require money transfer services to take measures to prevent their being used for the financing of terrorism, and to comply with the principles of the FATF Nine Special Recommendations on the subject. • St. Lucia should ensure that persons who perform MVT services are either licensed or registered and that this function is specifically designated to one or more competent authority. • MVT service operators should be	The Money Services Business Act requires money transfer services to take measures to prevent the financing of terrorism. The MLPA 2010 makes provision for other business activities, listed under Part B, Schedule 2. Consequently provision is made under the MLPA for compliance of these entities (MVTs) in relation AML requirements. Further the Money Laundering (Prevention) (Guidance Notes) specifically indicates that the Guidelines also applies to money

		No effective, proportionate and dissuasive sanctions in relation to MVT service are set out	made subject to the AML & CFT regime. • St Lucia should ensure that MVT service operators maintain a listing of its agents and that this listing is made available to competent authorities. • MVT operators should be made subject to effective, proportionate and dissuasive sanctions in relation to their legal obligations.	transmission services. As a result the AML & CFT regime applies to MVT service operators. Therefore the requirements under R. 4 -16 and R 21 – 25 are incorporated under the MLPA and therefore MVTs are subject to AML and CFT procedures. In addition section 2 (2) of the Money Laundering (Prevention) (Guidance Notes) Regulations creates a sanction for non compliance. Specific reference is made to section 16 (b) (ii) of the Money Services Business Act wherein an auditor in the performance of his duties must be cognisant of suspicious transaction in accordance with the MLPA and shall report the matter immediately to the licensee and the Authority. Also section 18 (1) of the MSBA mandates that a licensee shall institute procedure to ensure that the accounting records and systems of control comply with the requirements of the MLPA. Therefore the regulations MLPGNR must also be complied with. Gaps closed

SR VII Wire transfer rules	PC	There is no enforceable requirement to ensure that minimum originator information is obtained and maintained for wire transfers. There are no risk based procedures for identifying and handing wire transfers not accompanied by complete originator information. There is no effective monitoring in place to ensure compliance with rules relating to SRVII. The exemption of retaining records of transactions which are less than EC$5,000 is higher than the requirement of the essential criteria which obliges financial institutions to obtain and maintain specific information on all wire transaction of EUR/USD 1,000 or more. Sanctions are unavailable for all the essential criteria under this recommendation.	• The guidance note should be amended to provide details of special recommendation VII with respect to dealing with wire transfers where there are technical limitations. • POCA and MLPA should be amended to require a risk based approach to dealing with wire transfers. • Sanctions should be available for failure to comply with the essential criteria.	The GN (in particular paragraph 178) has been amended to provide details of special SRVII on wire transfers where there are technical limitations. The Sanctions will be provided to ensure that minimum originator information is obtained and maintained for wire transfers. The Anti-terrorism (Guidance Notes) Regulation passed on the 26th May 2010 must be read in conjunction with the Money Laundering Guidelines. Section 17 the MLPA provides for the application of a risk based approach in dealing with wire transfers. In addition section 2 (2) of the Money Laundering (Prevention) (Guidance Notes) Regulations creates a sanction for non compliance.. Further in relation to the maintenance of records for originator information, the MLPA creates sanction for the failure of the financial institution or a person keep records and copies of records under sections 16 (8) and (9). Technical limitation issues are also addressed under paragraph 179 of the

				MLPGR wherein it is stated that where electronic transfers do not give complete originator information, institutions are required to give enhanced scrutiny to these. Amended Draft Regulations, with proposed amendments circulated for review and finalization.
SR.VIII Non-profit organisations	NC	No supervisory programme in place to identify non-compliance and violations by NPOs. No outreach to NPOs to protect the sector from terrorist financing abuse. No systems or procedures in place to publicly access information on NPOs. No formal designation of points of contact or procedures in place to respond to international inquiries regarding terrorism related activity of NPOs.	• The authorities should undertake an outreach programme to the NPO sector with a view to protecting the sector from terrorist financing abuse. • A supervisory programme for NPOs should be developed to identify non-compliance and violations. • Systems and procedures should be established to allow information on NPOs to be publicly available. • Points of contacts or procedures to respond to international inquiries regarding terrorism related activity of NPOs should be put in place.	A supervisory committee for the monitoring of NPO from their commencement has been created. This committee comprises high level personnel from the Registry of Companies and Intellectual Property, Inland Revenue, Ministry for Social Transformation and the Attorney General's Chambers. The committee who meets at least once a month has been tasked with the function of supervising and monitoring of NPO's. In that regard, it • Scrutinses application for incorporation and undertakes due diligence of all applicants, and higher due diligence for applicants who are non nationals. • It undertakes face to face

				interviews with all applicants, • It srutinizes all applications to determine its legitimacy and genuinesses. • It circultes financial and CDD guidelines for all approves applications • It has developed best practices for NPO, guidelines and Customer Due Diligence requirements. • It is currently developing a database of all NPO's their Directors and other members. **The Committee has been endorsed by Cabinet as the Not for Profit Oversight Committee as the committee which conducts due diligence, monitoring and oversight of applicants and existing NPOs.** The information in relation to registered NPO's are available at the Registry of Companies. Currently, central authority is the point of contact to dealing with mutual legal assistance request. Therefore international inquiries regarding terrorism related activity of NPO's can be dealt with by the central authority. In addition the application for NPO's

				are approved by the office of the Attorney General subject to the recommendation of the Not for Profit Oversight Committee. Currently personnel from the FIA is part of the NPO oversight committee as a means of sensitizing NPO applicants of money laundering and terrorism financing issues by advocating for the need for enhanced due diligence requirements etc. In January 2012 a sensitization workshop was held for all NPOs registered as Faith Based Organizations whereby they were trained and informed on procedures to be adopted in conducting enhanced due diligence.
SR.IX Cross Border Declaration & Disclosure	NC	No legal provision for reporting or for a threshold The provisions in the legislation are not sufficiently clear and specific. No stand alone Prevention of Terrorism Legislation The legislation doesn't specifically address the issue of currency and bearer negotiable instruments.	• It is recommended that for the avoidance of ambiguity and the need for the exercise of discretion that legal provisions be put in place requiring reporting of the transfer into or out of the country of cash, currency or other bearer negotiable instruments valued in excess of US $10,000.00 and that appropriate reporting forms be simultaneously published and put in use, and that	An amendment is in the process of being drafted to the Customs Control and Management Act to require the reporting to the transfers into or out of St. Lucia of cash, currency or other bearer negotiable instruments valued in excess of US$10,000. The Proceeds of Crime (Amendment) Act No.4 of 2010 empowers Police Officers, Customs Officers, and Marine Services to seize and detain cash,

		No specific provisions in the legislation that allows Customs authorities to stop and restrain currency and bearer negotiable instruments to determine if ML/FT may be found. No mechanism in place to allow for the sharing of information.\No comprehensive mechanism in place to allow for proper co-ordination by the various agencies. In some instances, the effectiveness of the international co-operation in customs cases are impeded by political interference.	proportionate and dissuasive sanctions be provided for. • It is further recommended that officers of the Police Force, Customs and the Marine Services be empowered to seize and detain cash, currency or bearer negotiable instrument valued in excess of US$10,000.00 which has not been properly declared or about which there is suspicion that they are the proceeds of crime. • Provisions should be made for any detained funds to be held for a specified renewable period to facilitate the investigation of the origin, ownership and intended use of the funds. • Consideration should be given to providing law enforcement officers with the power to detain cash, currency or other bearer negotiable instruments suspected of being the proceeds of crime wherever in the country seized, without being restricted to matters of cross border transfers with the view to facilitating appropriate investigations into the source of the funds.	currency or bearer negotiable instruments valued in excess of US$10,000. The MLPA provides the FIA with the power to collect, receive and analyse reports submitted by Customs, Police and Inland Revenue Departments under section 5. An Amendment to the Proceeds of Crime Act is before Parliament to allow for the seizure and detention of cash. Provision has been made under the Proceeds of Crime (Amendment) Act No. 1 of 2011 to allow for the detention and seizure of cash.

			• There is a need for increased participation by the Customs Department in combating money laundering and terrorist financing. • Consideration should be given to have Customs officers trained in the area of ML and TF. • Statistics should be kept on all aspects of Customs and Excise operations, these statistics should be readily available. • All Customs fraud cases with substantial values should be submitted to the FIA, Prosecutor's office for predicate offence consideration regarding offences pursuant to ML, FT and proceeds of Crime legislation with a view to prosecution of offenders. • Customs must take more drastic action against suspected ML offences and Commercial fraud offenders. • Provision of basic analytical and case management software must be supplied as a priority and basic and advanced training in the use of such software is required.	