CARIBBEAN
FINANCIAL ACTION
TASK FORCE

Second Follow-Up Report

Anti-Money Laundering and Combating the Financing of Terrorism

Saint Lucia

29 October 2010

MUTUAL EVALUATION OF SAINT LUCIA
2nd SECOND FOLLOW-UP REPORT

I. INTRODUCTION

1. This 2nd follow-up report follows-up on the 1st follow-up report of Saint Lucia as it was presented at the Plenary meeting in June 2010. The 1st follow-up report provided an analysis of all the action taken by Saint Lucia, since the mutual evaluation, to improve the compliance by its AML/CFT infrastructure including for the core and key Recommendations.

2. Saint Lucia was placed on enhanced follow-up at the plenary of May 2009.

- *Date of the Mutual Evaluation Report:* 21st November 2008.
- *Date of first follow-up report: May 2010*

3. At the Plenary meeting in June 2010 it was agreed that Saint Lucia will continue on expedited follow-up and report again to the November 2010 Plenary on the progress that it has made with regard to correcting the deficiencies that were identified in its third round Mutual Evaluation Report.

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		28	
Assets	US$	2,009,669,000	217,684,444	92,104,781		232,302,300	
Deposits	Total: US$	1,226,850,000	62,295,185	8,610,187		56,577,157	
	% Non-resident	8.26% of deposits	8.29% of deposits	of deposits			
International Links	% Foreign-owned:	59.8% of assets	36.1% of assets	% of assets	% of assets	% of assets	% of assets
	#Subsidiaries abroad	0	0	0			

** - Data for St Lucia Mortgage Finance Company Ltd as at 30 September 2009

II. SUMMARY OF PROGRESS MADE BY SAINT LUCIA

Findings of the MER

5. Saint Lucia was rated partially compliant (PC) or non-compliant (NC) with 46 Recommendations. Among the core Recommendations, one was rated as PC (R.1) whilst the others were rated as NC. Five key Recommendations, were rated as being PC (R.3, R.4, R.26, R.36 and R.40) whilst five were rated as being NC (R.23, R.35, SRI, SRIII and SRV). The plenary decided that Saint Lucia should be placed on Regular follow-up.

Core Recommendations[1] rated PC or NC
R.1 (PC), R.5 (NC), R.10 (NC), R.13 (NC), SR.II (NC), SR.IV (NC)
Key Recommendations[2] rated PC or NC
R.3 (PC), R.4 (PC), R.23 (PC), R.26 (PC) R. 35 (NC) R.36 (PC), R.40 (PC), SR.1 (NC), SR.III (NC) SR.V (NC)
Other Recommendations rated as PC
R.9, R.14, R.15. R.17, R.20, R.29, R.33, SRVII
Other Recommendations rated as NC
R.6, R.7, R.8, R.11, R.12, R.16, R.18, R.19, R.21, R.22, R.24, R.25, R.27, R.30, R.31, R.32, R.34, R.37, R.39, SR.VI, SR.VIII, SRIX

6. Saint Lucia has begun the process of attempting to cure the deficiencies, which were identified by its MEVAL examiners, by amending several pieces of key legislation. The amendments were made to the Criminal Code through the Criminal Code (Amendment Act) No. 2 of 2010; the Extradition Act, through the Extradition (Amendment) Act No. 3 of 2010; the Proceeds of Crime Act through the Proceeds of Crime (Amendment) Act No. 4 of 2010; the Anti-Terrorism Act, through the Anti-Terrorism (Amendment) Act No 5 of 2010. Saint Lucia also enacted the Counter-Trafficking Act No 7 of 2010, which is intended to give effect and implement the Protocol to Prevent and Suppress and Punish Trafficking in persons; the Money Laundering (Prevention) Act No 8 of 2010 and the Money Service Act were also enacted and came into force on January 25th, 2010. The Payment System Act was enacted on 15th March, 2010 but requires a Commencement Order before it becomes law. The Commercial Code (Bills of Exchange) (Amendment) Bill and the Insurance Bill have been drafted. Additionally, the Policy regarding a code of conduct for non-profit organisations and regulation of NPOs to promote transparency and accountability best practices has been created. As at December 5th, 2008, the Anti-Terrorism Act of 2003 came into force, through the Anti-Terrorism Act (Commencement) Order. On Monday 17th May 2010, Money laundering (Prevention) (Guidance Notes) Regulations were made by the Attorney General pursuant to Section 43 of the 2010 MLPA. These regulations incorporated the guidelines issued by the FIA. Additionally, Anti-Terrorism (Guidance Notes) Regulations have been issued.

Core Recommendations

Recommendation 1

7. As was noted in the first follow-up report, Saint Lucia has amended its Criminal Code and enacted the Counter-Trafficking Act, consequently the offences of hostage taking, migrant smuggling, participation in an organised criminal group and sexual exploitation of children are now definitively defined. Saint Lucia has also demonstrated that the other outstanding designated categories of offences are

[1] The core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV
[2] The key Recommendations as defined in the FATF procedures are R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR.I, SR.III, SR.V

effectively covered in existing legislation. All the designated categories of offences now covered and so the examiners recommendations have been met resulting in this Recommendation being fully covered.

Recommendation 5

8. Saint Lucia's 3rd round MEVAL examiners noted significant deficiencies in the MLPA where requirements of the essential criteria were not included and in many instances where they were, they had not been adequately addressed. Additionally, the guidance notes were not OEM. Saint Lucia has responded by enacting significant changes to the MPLA and completely revising the Guidance notes. New Guidelines were issued by the Financial Intelligence Authority (FIA) pursuant to section 5 (f) of the Money Laundering Prevention Act of 2010. It should be immediately noted that according to Section 43 of the 2010 MLPA, the Attorney General can make Regulations prescribing matters necessary for carrying out or giving effect to the Act. However at Section 6 (f), the FIA has the power to issue guidelines to financial institutions and persons engaged in business activity as to compliance with the said MLPA and the Regulations made by the Attorney General. Inherently, the Regulations issued by the Attorney General on 17th May 2010, are the Guidelines of the FIA and are now referred to as the Money Laundering (Prevention) (Guidance Notes) Regulations.

9. Relative to the OEM status of the Money Laundering (Prevention) (Guidance Notes) Regulations. At Regulation 2 (2) a breach of the Guidelines by a financial institution constitutes an offence and carries a penalty not exceeding $1 million. There are no administrative sanctions available and the FIA, as the AML/CFT supervisor for financial institutions and person engaged in other business activity in Saint Lucia, has no authority to impose the prescribed sanctions. Actually, it is unclear how these sanctions would be imposed and the entity in Saint Lucia that will be charged with this responsibility. The recentness of the Regulations coupled with the fact that the 2009 Guidelines had no sanctions written into them suggests that Saint Lucia has no history of enforcing sanctions for breaches of its AML/CFT Guidelines or Regulations. Based on these circumstances therefore, the 2010 regulations cannot be deemed as OEM.

10. The first follow-up report had noted that notwithstanding the non-enforceability of the Guidelines, several of its shortcomings which were identified by the examiners were addressed by placing them in the primary legislation (MLPA).

Recommendation 10

11. According to the first follow-up report the Saint Lucian authorities have met all of the recommendations made by the examiners by mandating at Section 16(1) (a) of the MLPA amendment, 8 of 2010, that financial institutions and persons engaged in other business activities establish and maintain transaction records for both domestic and international transactions for a period of seven years after the completion of the transaction recorded. At 16 (7), if the record relates to the opening of an account with the financial institution, then the record retention period is seven years after the day on which the transaction is closed. At 16 (8) of the 2010 MLPA, it is now mandated that financial institutions and persons engaged in 'other business activities', keep all records or copies of records in a manner that facilitates retrieval within a reasonable and in a legible format in order to reconstruct the transaction for the purpose of assisting an investigation and prosecution of a suspected money laundering offences. These amendments have the effect of ensuring that this Recommendation is now fully met.

Recommendation 13

12. The first follow-up report noted that Saint Lucia, through the 2010 MLPA, had linked suspicious transaction reporting to circumstances where there is suspicion that the transaction involves the proceeds of criminal conduct, irrespective of the amount. Criminal conduct is linked to drug trafficking offences, indictable offences and the MLPA Schedule 1 offences. Schedule 1 offences are offences captured under several other pieces of legislation in force in Saint Lucia. Additionally, the reporting of STRs where funds are suspected to be liked to terrorism, terrorist acts or by terrorist organizations or those who finance terrorism is legislated in the Anti-terrorism Act of 2003 at Sections 32 (1) (d). The gaps discerned by the examiners have been closed.

Special Recommendation II

13. The Anti-Terrorism Act of 2003 has been enacted and is in force and effect in Saint Lucia. Part II of this Act creates a number of offences which are intended to bring the jurisdiction into compliance with the essential criteria of this Recommendation. Property is defined as being *asset of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital, evidencing title to, or interest in such assets, including but limited to bank credit, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.*

14. Section 5 (provision or collection of property to commit terrorist acts) criminalizes the act of providing, collecting or making available any property with knowledge or intent, or having reasonable grounds to suspect that such property will be used in full or in part to carry our a terrorist act.

15. Section 6 (provision of services for the commission of terrorists acts) further extends criminal liability to making any financial or related services, directly or indirectly, intending that such services be used for the purpose of terrorism.

16. Section 7 (use of property for the commission of terrorist acts) criminalizes the use of property and possessing property for the purpose of terrorism.

17. Section 8 (arrangements for retention or control of terrorist property) makes it an offence for a person to partake in any arrangement which facilitates the acquisition, retention or control of another person's terrorist property either by, concealment, removal out of Saint Lucia, by transfer to a nominee or any other way.

18. The offences above fall within the definition of Criminal Conduct and are Schedule 1 offences of the MLPA of 2010, thereby making them predicates for money laundering pursuant to the said MLPA.

19. Section 17 allow for terrorist financing offences to be applicable whether committed within or outside of Saint Lucia and also provides for conspiracy to commit any of the offences. The intentional element of the offence of terrorist financing is allowed to be inferred from objective factual circumstances. The MLPA, 8 of 2010, has defined person to include a body corporate and an unincorporated body and also defined Criminal Conduct to include the offences captured above. The Anti-Terrorism Act however has not provided a clear

definition of the term *person*. Therefore it is unclear whether liability extends to legal persons. All of the offences carry terms of imprisonment of twenty-five years. It should be noted as well that the effectiveness of the framework cannot be determined in the absence of statistics

Special Recommendation IV

20. The comments made at 11 above in relation to Recommendation 13 are also relevant here.

Key Recommendations

Recommendation 3

21. This recommendation was rated PC owing largely to Saint Lucia's inability to demonstrate that the legislative provisions which were in place at the time of the assessment were being effectively utilised. Saint Lucia still has not demonstrated, through the use of the existing legislation, that the relevant provisions are effectively implemented.

Recommendation 4

22. This Recommendation is still outstanding. Of the two recommendation made by the examiners, Saint Lucia has implemented one by including in the 2010 MLPA. Section 16 (2) which reads *"Where a financial institution or a person engaged in other business activity makes any report pursuant to subsection (1) the financial institution or a person engaged in other business activity and the employees, staff, directors, owners or other representatives of the financial institution or person engaged in other business activity are not liable for the breach"* The other recommendation remains outstanding until the Revised Insurance Act, which is currently before the Saint Lucian parliament, is enacted. The revised Act has been forwarded to a special legislative sub-committee of Saint Lucia's Parliament to facilitate comments from industry stakeholders.

Recommendation 23

23. With the enactment and coming into force of the Money Services Business Act, the examiners recommendation has been fully implemented.

Recommendation 26

24. Other than enacting the Anti-Terrorism Act and mandating in the MLPA the Authority to appoint the Director independent of the Minister, none of the examiners recommendations have been taken on board by Saint Lucia. The 2010 MLPA is silent as to who has the authority/responsibility to appoint staff for the FIA. It should be noted that at Section 4 (6) authority has been given to the Authority to appoint consultants, but only with the written approval of the Minister.

Recommendation 35

25. Saint Lucia has not as yet ratified, accepted, approved or acceded to the International Convention for the Suppression of the Financing of Terrorism.

However the legal framework for the convention, the Anti-Terrorism Act, has been enacted. Additionally, the Cabinet is currently considering the Convention on Corruption for its ratification. The convention on transnational organised crime has been approved for ratification by the Saint Lucian Cabinet and has been given the force of law through the enactment of the 2010 MLPA, the Counter Trafficking Act. No. 7 of 2010 and the Criminal Code (Amendment) Act No. 2 of 2010.

Recommendation 36

26. The Central Agency, which has been established in the Attorney General's Chambers, is now the central point through which all MLAT requests are channeled. This would have the effect of removing the overlap between the FIA, the Attorney General and the Courts, as discerned by the examiners. The examiners other recommendation relating to the restrictive condition of dual criminality has not as yet been addressed.

Recommendation 40

27. The examiners had made two recommendations to cure the deficiencies relating to Saint Lucia's ability to provide international cooperation. One recommendation related to the restrictive condition of dual criminality whilst the other related to an absence of mechanisms that would permit prompt and constructive exchange of information by Saint Lucian authorities with non-counterparts. An MOU has been signed with FINCEN and one is also being considered for signing with Saint Vincent.

Special Recommendation I

28. The only recommendation implemented by Saint Lucia is the enactment of the Anti-Terrorism legislation which came into force on 5th December 2008. Consequently this Recommendation remains partially met.

Special Recommendation III

29. The enactment of the Anti-terrorism Act has redounded to the criminalization of terrorist financing in Saint Lucia. Additionally, the Anti-Terrorism (Amendment) Act 5 of 2010, at Section 35A, provides for access to frozen funds by empowering the Court to vary restraint orders for the purpose of meeting the reasonable living expenses of the person who was in possession of the property at the time the order was made, or any person who, in the opinion of the Court has an interest in the property and of the dependants of that person or for meeting the reasonable business or legal expenses of a person referred to above. Pending MOU with St. Vincent and the Grenadines for ML and TF exchange of information Signed MOU with FINTRAC for ML and TF The 2010 MLPA at section 5 (2) (h) empowers the FIA to establish formal arrangements with any Financial Intelligence Unit which is desirable. Saint Lucia has sought to implement the examiners recommendations relating to establishing formal arrangements for the exchange of information (domestic and international) by establishing in the MLPA the ability of the FIA to enter into any agreement or arrangement, in writing with any foreign FIU which is considered by the FIA to be necessary or desirable for the discharge of its functions. It is still unclear how formal procedures for recording all requests made or received pursuant the Anti-Terrorism Act has been implemented.

Special Recommendation V

30. Saint Lucia has amended the Extradition Act, Cap. 2.10 to include money laundering, terrorism and terrorist financing to the schedule of extraditable offences. Consequently, the gap that existed has been closed because these offences are now extraditable. Saint Lucia has proffered that the Backing of Warrants Act No 1 of 2004, which came into force on 29th September 2008, makes provisions for persons to be arrested and surrendered to a 'requesting' country and that this law effectively removes the dual criminality shortcoming. Limitation however exists because according to Section 2 of that Act, the Attorney General must publish an Order in the Gazette designating a country as a requesting country. Additionally, all the other forms of assistance envisaged have not been addressed by this Act.

Other Recommendations

Recommendation 6

31. No change since the previous follow-up report. At Section 18 of the MLPA, 8 of 2010, all but one of the shortcomings identified by the examiners have been specifically addressed. That shortcoming, which relate to the definition of a PEP, was addressed at paragraph 141 of the Guidelines where PEPs has been defined to include a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not); a senior official of a major foreign political party; any corporation, business or other entity formed by, or for the benefit of, a senior political figure; 'immediate family' i.e. parents, siblings, spouse, children and in-laws as well as 'close associates' (i.e. person known to maintain unusually close relationship with PEPs).

Recommendation 7

32. Saint Lucia's 3rd round MEVAL examiners had concluded that there were no provisions in the law, guidelines or industry practice which completely satisfied the essential criteria. Saint Lucia has attempted to cure the deficiencies in its cross border correspondence banking regime by making detailed and comprehensive changes to its Guidance Notes. At 94 of the said Guidelines correspondence banking relationships refer to the provision of banking services by one bank (the correspondent bank) to another bank (the respondent bank). Financial institutions are required to apply appropriate levels of due diligence to such correspondent relationships by gathering sufficient information from and performing enhanced due diligence processes on such correspondent banks prior to setting up correspondent accounts. At 94 (l) of the Guidelines financial institutions are required to ascertain *"whether the correspondent bank has, in the last 7 years (from the date of the commencement of the business relationship or negotiations therefore), been the subject of, or is currently subject to any regulatory action or any AML prosecutions or investigations. A primary source from which this information may be sought and ascertained would be the regulator for the jurisdiction in which the correspondent bank is resident. Information may also be available from its website"* At 94 (j) of the Guidelines financial institutions are required to determine whether the correspondent bank has *"established and implemented sound customer due diligence, anti-money laundering policies and strategies and appointed a Compliance Officer (at*

management level), inclusive of obtaining a copy of its AML policy and guidelines"

33. The requirement that each institution document the AML/CFT responsibility of each other has not been met because at 94 (o) the requirement is that financial institutions document the respective responsibilities of each institution in relation to the operation of the correspondent account. Saint Lucia has proffered that Section 17 of the MLPA covers the requirement because at Section 17 (8) (a) of the 2010 MLPA there is the requirement that a financial institution or person engaged in other business activity relying upon an intermediary or third party is required to immediately obtain the necessary information gathered pursuant to its CDD measures. This interpretation on the part of Saint Lucia is incorrect however because Section 17 (8) (a) of the 2010 MLPA is actually setting out the criteria under which financial institutions or person engaged in other business activity may rely on intermediaries or other third parties to perform certain aspects of the CDD process. At 94 (r) however, the financial institutions are mandated to ensure that their respondent bank is able to provide any relevant customer identification data or information immediately upon it being requested. This recommendation is still outstanding.

Recommendation 8

34. This Recommendation remains partially met. Saint Lucia has sought to implement the examiners recommendation that legislation should be enacted to prevent the misuse of technological developments in ML/TF by amending the Guidelines. Paragraphs 90 to paragraph 105 of the 2010 Guidelines refer specifically to non face-to-face customers. At paragraph 96 financial services providers offering services over the Internet is required to implement procedures to identify its client with care being taken to ensure that the same supporting documents is obtained from the Internet customer as with other customers particularly where face to face verification is not practical. In view of the additional risks of conducting business over the Internet, the Guidelines require financial institutions to monitor on a regular basis, the activity in customers accounts opened on the Internet. 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.

35. The shortcoming related to non face-to-face customers is implemented by the Guidelines, at paragraph 90 through paragraph 93, where financial institutions are required to apply equally effective customer identification procedures and ongoing monitoring standards to non-face-to-face customers as for those available for personal interview and take adequate measures to mitigate the higher risk. The measures to mitigate the risk include, certification of the documents presented; requisition of additional documents to complement those which are required for non-face-to-face customers and independent verification of documents by contacting a third party.

Recommendation 9

36. The two recommendations made by the examiners to fill the gap discerned in the MER have been taken on board by Saint Lucia. As was noted in the previous follow-up report, the MLPA has set specific criteria under which financial

institutions and persons engaged in other business activity may rely on intermediaries and third parties to perform aspects of the CDD process.

Recommendation 11

37. There has been no change from the previous follow-up report. The examiners had noted in the MER that neither the MLPA nor the Guidelines which were in force at the time of the onsite visit, made any reference whatsoever to complex, unusual or large transactions or even to unusual patterns of transactions having no apparent or visible economic or lawful purpose. Consequently, financial institutions did not document the findings on the background and purpose of such transactions and there were no procedures which would ensure that such information is stored and made available to the competent authorities. The new guidelines at paragraph 31 now mandates financial institutions to *"pay particular attention 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"*. The MPLA, 8 of 2010, at Section 16 (m) requires that complex transactions or unusual transactions be reported to the FIA. It is also noted that although the definition of transaction record under Section 2 of the 2010 MLPA, has been expanded to now include all business correspondence relating to the transaction and documents relating to the background and purpose of the transaction, there is still no obligation for financial institutions to examine the background of these transactions and to set forth their findings in writing. It is noted that section16 (1) (a) provides that a financial institution must establish and maintain transaction records. Further the same provision requires that a financial institution reports large complex and unusual transaction to the FIA. Section 2 indicates that the transaction record includes the identification, description, details, value, name and address and documents relating to the background and purpose of the transaction. Therefore all financial institutions have an obligation to examine the background etc for the purposes of reporting to the FIA in writing. This Recommendation remains outstanding.

Recommendation 12

38. Saint Lucia has particularised DNFBPs under Part B of Schedule 2 of the 2010 MLPA, by referring to them as "Other business activity". The activities captured include: Real estate business; Car dealerships; Casinos (gaming houses); Courier services; Jewellery business; Internet gaming and wagering services; Management Companies; Asset management and advice-custodial services; Nominee services; Registered agents; Any business transaction conducted at a post office involving money order; Lending including personal credits, factoring with or without recourse, financial or commercial transaction including forfeiting cheque cashing services; Finance leasing; Venture risk capital; Money transmission services; Issuing and administering means of payment (e.g. credit cards, travellers' cheques and bankers' drafts); Guarantees and commitments; Trading for own account of customers in- (a) money marked instruments (cheques, bills, certificates of deposit etc.); (b) foreign exchange; (c) financial futures and options; (d) exchange and interest rate instruments; and (e)transferable instruments; Underwriting share issues and the participation in such issues; Money broking; Investment business; Deposit taking; Bullion taking; Financial intermediaries; Custody services; Securities broking and underwriting; Investment and merchant banking; Asses management services; Trusts and management services; Company formation and

management services; Collective investment schemes and mutual funds; Attorneys-at-law and Accountants. The Guidelines does not in any way differentiate between financial institutions and 'other business activity' but has defined financial institutions to include all these activities. All of the obligations and burdens applicable to financial institutions are equally applicable to 'other business activity' and consequently to DNFBPs.

39. Specifically relating to the examiners comments, the inclusion of attorneys-at-law in the definition of 'other business activity' in the 2010 MLPA places a direct mandatory obligation for them to comply with the provisions of the 2010 MLPA relating to PEPs, non face-to-face businesses and 3rd party referrals and for cross border banking relationships pursuant to the Guidelines.

40. Section 17 (4) of the 2010 MLPA requires financial institutions to identify and verify customers' identity using reliable independent source document, data or information. Section 17 (4)(b) mandates identification of the beneficial owner and taking reasonable steps to verify the identity of the beneficial owner such so that it is known who the beneficial owner is and for legal persons and arrangements this should include taking reasonable measures to understand the ownership and control structure of the customer. This provision however does not extend to a person engaged in other business activity and as such remains a shortcoming in the existing regime. Section 17 (1) relates to financial institution or a person engaged in other business activity shall undertake customer due diligence measures. Section 17 (4) indicates that the customers due diligence measures to be taken are to be taken under this section, which is section 17. Consequently, the provision does extend to persons engaged in other business activity.

41. The examiners had noted in the MER that there was no threshold amount addressed in the MLPA (2003). The 2010 MLPA has established at Section 17(1)(b)(ii) a threshold of above $25,000.00 in respect of occasional transactions or transactions that are wire transfers for which financial institutions and a person engaged in other business activity shall engage in CDD measures including identifying and verifying the identity of customers when. At Section 15 (3) of the 2010 MLPA business involving a one-off transaction where payment is to be made by or to an applicant for business is subject to the financial institution or person engaged in other business activity, taking measures to satisfy themselves as to the true identity of the applicant. In the two circumstances mentioned above, the threshold exceeds that set in respect of casinos engaging in financial transactions.

42. The 2010 MLPA at 17 (4)(d) mandates that ongoing due diligence be conducted on the business relationship and that transactions must be scrutinised throughout the course of that relationship to ensure that the transactions being conducted are consistent with the financial institution's knowledge of the customer. Again, there is no obligation on the part of a person engaged in other business activity and so DNFBPs are not mandated to conduct ongoing CDD. Section 17 (1) relates to financial institution or a person engaged in other business activity shall undertake customer due diligence measures. Section 17 (4) indicates that the customers due diligence measures to be taken are to be taken under

this section, which is section 17. Consequently, the provision does extend to persons engaged in other business activity. Saint Lucia has drafted DNFBP specific guidelines which are intended to satisfy these outstanding weaknesses.

43. Relative to the shortcoming that no requirements for simplified CDD measures to be unacceptable in specific higher risk circumstances, the 2010 MLPA at Section 17(9) has mandated that "*for higher risk categories, a financial institution or person engaged in other business activity shall perform enhanced due diligence".*

44. DNFBPs must now comply with specific PEP related requirements as mandated at Section 18 of the 2010 MLPA. The shortcoming now existing however is that Saint Lucia still has not defined exactly who would qualify to be categorised as being a PEP. 2010 Guidance Notes at paragraph 141 defines PEPs to include a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not) (B) a senior official of a major foreign political party, (C) any corporation business or other entity formed by, or for the benefit of, a senior political figure (D) immediate family i.e. parents, siblings, spouse, children and in law as well as close associates (i.e. person known to maintain unusually close relationship with PEPs)

45. The Guidelines, at paragraphs 90 to 101 has advised that *"financial institutions should apply equally effective customer identification procedures and on-going monitoring standards to non-face-to-face customers as for those available for personal interview".*

46. The gap discerned by the examiners that there were no rules requiring DNFBPs to pay particular attention to relationships and with persons in countries that do not apply the FATF Recommendations has been closed by virtue of Section 16 (1)(h) of the 2010 MLPA. This Section has asked that financial institutions and person engaged in other business activity develop and apply procedures to address the specific risks associated with non-face-to-face business relationships for countries that do not apply the FATF Recommendations. The weakness relative to counter-measures for countries that do not apply the FATF Recommendations or apply them insufficiently has been strengthened by the Guidelines. At paragraph 147 a number of high-risk indicators have been detailed. The counter measures detailed are: (i) stricter know your customer procedures e.g. more detailed information on customer's background, reputation, etc. (ii) management information systems to monitor accounts with greater frequency than low risk accounts (iii) senior management approval for establishment of accounts (iv) senior management to monitor accounts.

47. The action by Saint Lucia has ensured that significant gaps in the implementation of this Recommendation have been filled.

Recommendation 14

48. Saint Lucia has not implemented the examiners recommendation but has instead repeated Section 9(3) of the 2003 MLPA, which had been deemed insufficient in the MER. The repeated section can now be found at Section 16 (2) of the 2010 MLPA. Consequently, indemnity against criminal and civil liability for breaches of any restriction on disclosure of information has not been sufficiently

implemented. At Section 16(3) of the 2010 MLPA it is an offence for the financial institution, or a person engaged in other business activity and the employees, staff, directors, owners or other representatives of the financial institution or person engaged in other business activity, to disclose to the person who is the subject of the report or to anyone else that a suspicion has been formed or that information has been communicated to the authority or any information which may alert the person to whom the information is disclosed could reasonably be expected to infer that the suspicion has been formed or that a report has been made. Reference is made to section 37 of the MLPA, which deals with criminal and civil liability for information provided. Further section 33 of the MLPA makes provision for tipping off with respect to "other offences" At Section 38 of the 2010 MLPA, a person who obtains information as a result of his or her connection with the FIA is prohibited for disclosing that information to any other person unless required to do so by the MLPA or another enactment. This is a confidentiality requirement which appears to be intended to protect the integrity of the information held by the FIA. This confidentiality requirement however cannot be relied on the satisfy the examiners recommendation that it should be an offence for MLROs Compliance officers, directors and employees of financial institutions who tip of that a STR has been filed because it specifically refers to information coming to a person's knowledge as a result of his or her connection with the FIA. Therefore in circumstances where information comes to the knowledge of any such persons in the performance of their normal banking functions Section 38 of the MLPA cannot be applied. This Recommendation remains outstanding.

Recommendation 15

49. The 2010 MLPA has mandated, at Section 16 (n) that financial institutions or a person engaged in other business activity appointment a Compliance officer at the management level, approved by the financial institution or person engaged in other business activity. Section 38 of the 2009 Guidelines makes provisions for the appointment of a Reporting officer/Compliance officer. It further states that such a person *"who is also responsible for the establishment and implementation of policies, programmes, procedures and controls for the purposes of preventing or detecting money laundering. Depending on the size of the firm, there may be one such officer or a Compliance Department".* At paragraph 39 it is noted that the individual should not be involved in the day-to-day activities/operational aspects of the business and where possible it is imperative that the Reporting Officer/Compliance Officer report directly to the Board of Directors. Section 40 of the 2009 Guidelines mandates that any individual who occupies the position of Compliance Officer should be fit and proper and at a minimum must not have ever been convicted of an offence involving dishonesty. This action on the part of Saint Lucia has the effect of fully implementing the requirements of this Recommendation. It should be noted however that the examiners recommendations had also included the requirement that the Compliance Officer's appointment should be approved by the Board of Directors of the financial institution. Whilst that recommendation falls outside of the essential criteria of Recommendation 15, its implementation will further enhance the financial institutions ability to ensure that high internal controls are maintained.

Recommendation 16

50. It was noted in the previous follow-up report and also from the comments noted for recommendation 12 above, Saint Lucia has taken all the examiners recommendation on board. Consequently, DNFBPs, which are

particularised as person engaged in other business activity, by virtue of the 2010 MLPA are required to develop programmes against money laundering and terrorist financing. These programmes must include internal policies, procedures and controls, including appropriate compliance management arrangements and adequate screening procedures to ensure high standards when hiring employees. DNFBPs are also now specifically mandated to "*to develop and apply policies and procedures to address specific risks associated with non face-to-face business relationships or countries that do not sufficiently apply the FATF Recommendations".*

Recommendation 17

51. The examiners recommended that the full range of sanctions should be made available to all supervisors. They had also noted that the sanctions were not effective proportionate and dissuasive. Since the Mutual Evaluation the Minister responsible for International Financial Services in Saint Lucia has applied sanctions by revoking the licences of two financial institutions for non-compliance. The 2010 MLPA has written criminal sanctions for breaches of specific provisions of the Act. Breaches for tipping-off; failure to keep records or copies of records in a form which would allow for retrieval in a legible form within a reasonable time in order to reconstruct the transaction both attract a penalty of $100,000 and not exceeding $500,000 or a term of imprisonment of not less that seven years and not exceeding fifteen years.

52. The money laundering offences of *concealing or transferring proceeds of criminal conduct, arranging with another to retain the proceeds of criminal conduct and acquisition, possession or use of proceeds of criminal conduct* all carry a penalties, on summary conviction, of a fine of not less than $0.5 million and not exceeding $1 million or to imprisonment for a term of not less than five years and not exceeding ten years or both or on conviction on indictment to a fine of not less than $1 million and not exceeding $2 million or to imprisonment for a term of not less than 10 years and not exceeding 15 years or both. These offences are particularised at Sections 28, 29 and 30 of the 2010 MLPA. Where a person, is convicted for attempting, aiding, abetting, counselling, procuring or conspiring to commit any of these offences (Sections 28, 29 and 30) similar penalties are also applicable. A body of persons, whether corporate or incorporate will be punished accordingly for breaches of Sections 28, 29 and 30 offences.

53. The 2010 MLPA has also created "Other offences" at Section 33 (3), 33 (6), 33 (7). 33 (3) relates to prejudicing a money laundering investigation by a person divulging that fact to another person. That offence carries a penalty, on summary conviction, of a fine of not less $50,000 and $250,000 or to imprisonment for a term of not less than five years and not exceeding ten years. 33 (6) relates to falsifying, concealing, destroying or otherwise disposing of or causing the falsification, concealment, destruction or disposal of a thing that is likely to be material to the execution of an freezing or forfeiture order. The penalty for this breach on summary conviction is a fine of not less than $100,000 and not exceeding $500,00 or to imprisonment for a term of not less that seven years and not exceeding 15 years or both. 33 (7) penalises failure to report suspicious transactions as required by Section 16 (1) (i) of the 2010 MLPA and carries a penalty on indictment of a fine of $500,000.

54. The 2010 MLPA makes no provisions for the application of civil or administrative sanctions. Consequently the examiners recommendation has not

been fully accepted. The Money Services Business Act No. 11 of 2010 contains administrative sanctions for money services business. The Insurance Bill and Financial Services Regulatory Authority Bill that covers all financial legislation make provision for administrative sanctions.

55. The Financial Services Regulatory Authority Act was forwarded to a special legislative sub-committee of Saint Lucia's parliament where stakeholders are expected to provide comments. This law will endow the Authority with the power to impose fines on regulated entities for failure to file returns, failure to pay fees and failure to provide information. . This Recommendation is still outstanding.

Recommendation 18

56. The examiners recommendation that the Guidelines be amended to require financial institutions to ensure that their correspondence banks in a foreign country do not permit accounts to be used by shell banks has been accepted and implemented by Saint Lucia through the Guidelines. This fact was noted in the first follow-up report. The 2010 guidelines now mandate that *"confirmation that the foreign corresponding bank do not permit their accounts to be used by shell banks, i.e. the bank which is incorporated in a country where it has no physical presence and is unaffiliated to any regular financial group".*

Recommendation 19

57. There is the mandatory obligation at Section 21 of the 2010 MLPA whereby a person entering into a financial transaction, exceeding $25,000.00, with a financial institution of person engaged in other business activity, must fill out a source of funds declaration form. This is a prescribed form which particularises the transaction and the source of the funds. At Section 16 (l) of the same 2010 MLPA all currency transaction above $25,000.00 must be reported, upon request, to the FIA. It is unclear whether these two sections of the MLPA are connected in any way.

58. There is no mandatory obligation for financial institutions and persons engaged in other business activity to record all transactions in excess of any particular threshold. However, the combined effect of the two sections can possibly result in all transactions above $25,000.00 being reported. The inherent weaknesses will therefore be in the implementation of these provisions and the efficiency with which source of funds declaration forms are reduced to an electronic format. It is also unknown whether the FIA routinely requests or has ever requested such information and whether a computerised database will be maintained. Notwithstanding, the intent on the part of Saint Lucia goes beyond the requirement to simply consider the feasibility of implementing such a system.

Recommendation 20

59. The examiners had commented that there was a lack of effectiveness of the procedures adopted by Saint Lucia for modern secure techniques. In order to fill the gaps they discerned the examiners recommended that Saint Lucia conduct more onsite inspections and enact the Money Remittance Laws. The Saint Lucian authorities have commenced an exercise of regulating DNFBPs and it is intended that this will redound to more inspections and consequently better regulation of

the industry. The Money Services Business Act was enacted and came into force on 3rd March 2010.

60. As detailed at Recommendations 12 and 16 above, provisions have been adopted to ensure enhanced due diligence by DNFBPs. The MLPA is however silent on the adoption of modern secure transaction techniques. Notwithstanding, this silence, as at June 2010, Saint Lucia had developed a network of Automatic Teller Machines (ATM) numbering 54 and Point of Sales Systems (POS) numbering 819. This demonstrates that there is commitment in ensuring that modern secure techniques for conducting less vulnerable financial transactions are being implemented. Under section 2 of the 2010 MLPA the word transaction has been expanded to include Internet transaction.

Recommendation 21

61. No change from the first follow-up report. Of the two recommendations made by the examiners to cure the deficiency discerned in the MER, Saint Lucia has mandated in the 2010 MLPA at Section 16 (1) (h) that financial institutions and a person engaged in other business activity shall "*to develop and apply policies and procedures to address specific risks associated with non face-to-face business relationships or countries that do not sufficiently apply the FATF Recommendations".* The examiners recommendation that the FIA be required to disseminate information about areas of concern and weaknesses in AML/CFT systems of other countries has not been implemented.

Recommendation 22

62. The examiners had noted that there were no statutory obligations requiring financial institutions to adopt consistent practices within a group conglomerate structure. Additionally it was noted in the MER at paragraph 583 that there was no legislation requiring financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT standards consistent with the home country. Finally it was noted that no legal requirement existed that obligated financial institutions to inform their home supervisor when a foreign branch or subsidiary in unable to observe appropriate AML/CFT measures because it is prohibited by the host country. Paragraphs 8 of the Guidelines speak to group practice where a group has its headquarters in Saint Lucia. In such circumstances branches or subsidiaries are required to observe the Guidelines or adhere to Saint Lucian standards if those are at least equivalent. Such branches and subsidiaries are required to be informed as to the current group policy; and each of such branch or subsidiary must informs itself as to its own local reporting point, equivalent to the FIA in Saint Lucia and that it is conversant with the procedures for suspicious transaction reporting. Not only do these requirements fall short of the recommendations made by the examiners but by placing them in the Guidelines Saint Lucia has effectively negated their enforceability.

Recommendation 24

63. Saint Lucia has not implemented any of the examiners recommendations.

Recommendation 25

64. The Guidelines, which was issued by the FIA, was circulated to all stakeholders in Saint Lucia, in May of 2010. The FIA has reportedly begun acknowledging

the receipt of STRs from reporting entities whilst currently considering the logistics of implementing a system of feedback consistent with the accepted best practices. During 2009 into 2010, some training was conducted for Credit Unions, Offshore banks and Commercial Banks, covering CDD and KYC principles. 2009 into 2010

Recommendation 29

65. This Recommendation remains partially met. Saint Lucia intends to enact the Financial Services Regulatory Act during 2010. This Act has its genesis in a study, which was conducted in 2002, which concluded that the creation of an integrated unit for supervising the Saint Lucian financial sector was feasible because of the fragmentation that existed within the sector. With the establishment with the FSSU the domestic insurance sector and the offshore sector is now under the same regulatory authority.

66. The Act will seek to establish the Financial Services Regulatory Authority as a body corporate, which will have responsibility for administrating several enactments germane to Saints Lucia financial system.

67. These enactments include the Cooperatives Societies Act, Cap. 12.06 (with regard to credit unions only, the Insurance Act, the International Banks Act, Cap. 12.17, the International Insurance Act, Cap.12.15, International Mutual Funds Act, 2006, No. 22, Money Services Business Act, Registered Agent and Trustees Act, Cap. 12.12 and the Saint Lucia Development Bank Act No 12 of 2008. The powers, duties and functions of the Financial Services Regulatory Authority will be to consider and grant or refuse applications and requests pursuant to any of the enactments mentioned above; maintain a general review of the operations of all regulated entities; examine the affairs or business of a regulated entity for the purpose of satisfying itself that the provisions of the Financial Services Regulatory Act and the enactments specified above are being complied with and that a regulated entity is in a sound financial position and is managing the business of the regulated entity in a prudent manner; assist any authorised authority in the investigation of any offence against the laws of Saint Lucia which it has reasonable grounds to believe has or may have been committed by a regulated entity; and co-operate with the FIA, other regulatory authorities and the Eastern Caribbean Central Bank in the supervision of a regulated entity.

68. The core guiding principles of the Financial Services Regulatory Authority are intended to be the reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by or through the imprudence of persons carrying on the business of financial services in or from within Saint Lucia; the reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by or through the imprudence of persons carrying on the business of financial services in or from within Saint Lucia and the protection and enhancement of the reputation and integrity of Saint Lucia in financial matters; seek the best economic and social interests of Saint Lucia; seek the need to counter financial crime both in Saint Lucia and elsewhere; ensure the protection and fair treatment for consumers; seek to ensure the stable and secure financial markets; ensure the competitive and innovative financial markets (including a choice of organizational options); ensure proportionate, risk-based regulations; ensuring prudential supervision and enforcement; seek the management responsibilities (including the maintenance of adequate financial and managerial resources); and ensure the application of ethical conduct at all levels of the regulated entity.

69. The Financial Services Regulatory Authority will be granted the power to issue guidelines, in administering the provisions of the Act, to regulated entities and their affiliates.

70. The functions of the Saint Lucian parliamentary system suggest that the provision anticipated in the bill that is currently before the Parliament may be quite different to the provisions that will eventually be enacted in the Act. It should be noted as well that the examiners observation that there was no obligation that gives the FIA adequate powers to monitor and ensure compliance, with requirements to combat money laundering and terrorist financing consistent, with the FATF Recommendations, by financial institutions was not addressed by Saint Lucia.

Recommendation 30

71. It is unclear to what extent the action taken by Saint Lucia has positively impacted on the shortcomings discerned by the examiners. The UKSAT (Security Advisory Team) now ECFIAT (Eastern Caribbean Financial Intelligence Advisory Team) provided training to the judiciary, the DPP's office and the FIA. This training was focused on prosecutions. Additionally a new staffing initiative that will lead to an increase in the staff of the FIA has reportedly been adopted. None of the examiners recommendations relating to dedicated analysts for the FIA, specialized training in financial crime analysis, and increased resources to law enforcement agencies have been implemented.

Recommendation 31

72. Saint Lucia has taken some action towards closing the gaps discerned in their MER, by reportedly establishing a White Collar Crime Task Force, for the main purpose of co-ordinating and co-operating domestically at the operational level. Interestingly, the Financial Services Supervision Unit (FSSU), as the financial services regulator, is not included as a member of this Task Force. Additionally, a committee has been created to monitor Saints Lucia's implementation of the 40 + nine Recommendations. Notwithstanding, the mechanism to formalise co-operation between and among stakeholders, Saint Lucia has established an MOU between the Police and the FIA.

Recommendation 32

73. The examiners had recommended that Saint Lucia put in place a comprehensive framework that will enable the effectiveness of the system to combat ML and TF to be reviewed on a regular and timely basis. The FIA is mandated as the go-to agency for the compilation of statistics in Saint Lucia. This mandate existed in the 2003 MLPA and has been maintained in the 2010 MLPA as well. The FIA has reportedly improved its database, which now includes statistical data on wire transfers. Notwithstanding, there is no clear indication of the steps that Saint Lucia has taken to ensure that the examiners recommendation are implemented. Saint Lucia has indicated that the 2010 MLPA permits the FIA to conduct the necessary review. However the sections of the 2010 MLPA quoted by Saint Lucia (5 and 6 (h) which would supposedly permit the FIA to conduct this review only actually speaks to the FIA's authority to compile statistics and is quiet in every other aspect of the examiners recommendations and the type statistics that the FIA is mandated to maintain.

Recommendation 33 & 34

74. The sum of Saint Lucia efforts to comply with the recommendations of the examiners is the introduction of an automated system at the Companies Registry. These Recommendations remains outstanding.

Recommendation 37

75. The underlying condition of dual criminality has not been addressed by Saint Lucia.

Recommendation 39

76. Money laundering, terrorism and terrorist financing have been made extraditable offences by virtue of the Extradition (Amendment) Act 3 of 2010, which amended the Extradition Act, Cap 2.10. Terrorism has been criminalized with the enactment of the Anti-Terrorism Act of 2003.

Special Recommendation VI

77. The Money Service Act was enacted and came into force on January 25th, 2010. The pre-amble to this law states that this is an Act to require licensing and regulation of money services businesses and to make provisions for related matters. Under this Act Money Service Business means:

(a) the business of providing (as a primary business) any one or more of the following -

(i) transmission of money or monetary value in any form;

(ii) cheque cashing;

(iii) currency exchange;

(iv) the issuance, sale or redemption of money orders or traveler's cheques; and

(v) any other services the Minister may specify by Notice published in the *Gazette;* or

(b) the business of operating as an agent or franchise holder of any of the businesses mentioned above.

78. It must immediately noted that by virtue of Part B of Schedule 2 of the MLPA, the only activity of MSBs directly covered with regards to AML/CFT obligations are money transmission services. This is because money transmission services is listed as other business activity and is therefore covered by many of the same requirements for AML/CFT as financial institutions.

79. The Money Services Business Act prohibits the carrying on of money services businesses in Saint Lucia unless a licence is obtained. The Act has designated the Financial Services Regulatory Authority as the authority responsible for issuing such licenses and maintaining a general review of money services business practice in Saint Lucia. Whilst the Act is silent on the requirement to maintain a current listing of the names and addresses of licensed service operators, the combined effect of the mandatory obligation to licence operators and also to

maintain a general overview of their operations can redound to ensuring that this obligation is met.

80. There is no obligation for each service operator to maintain a listing of its agents. Consequently no such listing will be available to the competent authorities.

81. This Recommendation was rated as being NC by the examiners who made five recommendations to close the gaps which they had discerned. Although the MSB Act has been enacted and is in force, no emphasis was placed on AML/CFT requirements. At Section 48 (1) (f) the Authority may issue guidelines 'respecting' anti-money laundering and combating the financing of terrorism matters. No such guidelines have been issued and the language used suggests that the Authority is not obligated so to do.

82. The sanctions applicable for breaches of obligation in the Act are aimed at breaches of prudential requirements so in the circumstances where there is no AML/CFT obligation breaches in this regards may go unpunished. This Recommendation remains outstanding

Special Recommendation VII

83. There has been no change since the last follow-up report. The 2010 Guidelines at paragraph 178 has detailed the originator information which financial institutions are required to retain. This information include records of the identity and address of (a) the remitting customer; (b) origin of the funds (the account number, when being transferred from an account) (c) as far as possible the identity of the ultimate recipient; (d) the form of instruction and authority; and (e) Destination of the funds, for electronic transfers. The other recommendations by the examiners remain outstanding. The MLPA at Section 7 (1) (b) (iv), 17 (3) (a) and 17 (4) (d) and 17 (10) identify the procedure in relation to risk based procedures for wire transfers.

Special Recommendation VIII

84. Saint Lucia has put together an ad hoc supervisory committee for monitoring NPOs in the jurisdiction. This committee was endorsed by the Saint Lucian Cabinet as the Not for Profit Oversight Committee. The committee is made up of individuals from the Registry of Companies and Intellectual Property, the Inland Revenue, the Ministry of Social Transformation, and the Attorney General's Chambers and has been mandated to sscrutinise all application 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; scrutinise all applications to determine its legitimacy; circulates financial and CDD guidelines for all approves applications and develop best practices for NPO, guidelines and Customer Due Diligence requirements. In May 2009 the committee reviewed for adoption a draft policy regarding a code of conduct for non-profit organisations and regulation of NGOs to promote transparence, accountability and best practices. This policy has been adopted by the Saint Lucian Cabinet which has agreed to its implementation

85. The above notwithstanding, Saint Lucia has not as yet implemented any of the recommendations made by the examiners and as such this recommendation is still outstanding.

Special Recommendation IX

86. Other than allowing the FIA to collect analyze and receive reports and information submitted by customs officers none of the other recommendations made by the examiners have been taken on board.

Conclusion

87. Following the Mutual Evaluation, Saint Lucia has taken a comprehensive review of its AML/CFT infrastructure. As indicated in the first follow-up report, this review and the resulting recommendations have resulted in several pieces of new legislation being drafted together with amendments to key legislation being enacted. The 2010 MLPA has undergone significant changes and many of the examiners recommendations, which were aimed at the guidelines, were enacted in the substantive legislation (MLPA), thereby positively impacting Saint Lucia compliance with several Recommendations including core Recommendations 1 and 5 and 13 and SR IV. Core Recommendation 10 has also now been fully met. Relative to the key Recommendations Recommendation 23 has now been fully met. Recommendations 3, 4, 26, 35, 36, 40 and SRI, SRIII and SRV have not been met.

88. Guidelines have been issued pursuant to the 2010 MLPA. These guidelines have been published and circulated on Monday 17th May 2010. Although this action on the part of Saint Lucia has positively influenced several other Recommendations most of the key Recommendations are still outstanding. Legislative amendments are however already within the law making process awaiting comments from industry stakeholders.

89. Given the aforementioned it is recommended that Saint Lucia remain on expedited follow-up and report back to the Plenary in May 2011.

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

Forty Recommendations	Rating	Summary of factors underlying rating[3]	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

[3] 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.
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.
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	• 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	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**

		practice. There is no obligation which requires all categories of financial institutions to share information among themselves for purposes of AML/CFT	avoidance of doubt it is recommended that expressed provisions in the respective pieces of legislation together with the requisite indemnity for staff members making such disclosures.	**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.** 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	• 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	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

		essential criteria. The MLPA does not create a legal 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	include provisions that would require all financial institutions to undertake 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	to implement a general threshold 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 identify 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

		periodic basis.	kept up-to-date and relevant by undertaking routine reviews of 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.	ongoing basis, over the designated threshold and 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-

			iv. Obtain information on the purpose and intended nature of 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.	face customers, indicating that no less a diligence procedure should be adopted non face to face business transaction, security transactions and life insurance business. See section 17 of the MLPA No. 8 of 2010.
6.Politically exposed persons	NC	There are no provisions in the law,	• Enforceable means should be	Section 18 of the MLPA No. 8 of 2010

		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	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 against Corruption.	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 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.
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 ensure that the respondent institution is able to provide relevant customer identification data upon request	• 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 relevant customer identification data upon request.	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 upon request.**
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	• 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	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.**

		face customers	conducting such business should be undertaken on an on-going basis.	
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. • 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	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.**

			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 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.	• 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 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.	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 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 authorities or auditors.	• 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 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	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 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.

			documentation relating to the background and purpose of a transaction should be retained for a similar period of 7 years.	**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.**
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 elsewhere under the FATF Recommendations. Entering relationship with customer (whether permanent or occasional,	• 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 offence of FT has not been criminalised.	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.**

		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 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 related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. All suspicious transactions,	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 transaction involves the proceeds of criminal conduct regardless of the amount of the transaction. Additionally, training continues to all

			including attempted transactions, should be reported regardless of the amount of the transaction.	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.**
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	• 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	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

		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 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	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.	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**.

		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 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	• 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 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	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.** **Gap significantly closed**

		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	with national AML/CFT requirements.	
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 criminal sanctions.	• 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. **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."**
18. Shell banks	NC	There is no requirement for financial	• The MLPA guidance note should be amended to require financial	Paragraph 94 (m) of the GN issued by FIA has been amended to

		institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.	institutions to ensure that their correspondent banks in a foreign country do not permit accounts to be used by shell banks.	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 where all (cash) transactions above a fixed threshold are required to be reported to the FIA. 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 transition above EC $25,000.00 shall be reported to the FIA.** Proposals are ongoing for increasing the staff at FIA for analyst and financial investigators to deal with analysing all STRs. See further Recommendation 26 & 30.
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.	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

			• 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.	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.
21. Special attention for higher risk countries	NC	There are no obligations which require financial institutions to give	• The FIA should be required to disseminate information about areas of concern and weaknesses in	The Revised GN makes reference to countries that have proper AML/CFT systems in place. Therefore all

		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 country continues not to apply or insufficiently applies the FATF recommendations for St. Lucia to be able to apply appropriate countermeasures.	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.	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 provides high risk indicators and directs the procedure to be adopted in identifying NCCTs.**
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	• 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.

		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 GN notes are published and have been given legislative enforceability.**
23. Regulation, supervision and monitoring	NC (reflected as PC in the final mutual evaluation report)	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. 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	• 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.

		purposes, except where specific criteria address the same issue in the FATF methodology. Money or value transfer service businesses are not licensed		
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. • 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,	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 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

			good faith, high standards and competent counterparts must be factored into these provisions.	members on their continuous obligations for customer due diligence.
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 filed and FATF best practices	• 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 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.	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 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.**
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	• 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	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**

		to receive training with regard to the manner of reporting. Some stakeholders were unaware of a specified reporting form.	unambiguous roles in the FIA. • The authorities should consider giving the Board of the Financial 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.	**constitutes an offence, liable to a fine not exceeding $1million.** 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. 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.
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	• 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	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.

		no prosecution to date. Investigative structure mechanism is ineffective – unable to ensure police did its function property	this unit	**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. **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.
29. Supervisors	PC	Effectiveness of the ability of	• St. Lucia should expedite the implementation of the SRU which	The Financial Services Regulatory Authority Bill will be going through its

		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.	will assist in harmonizing supervisory practices and may lead to more effective use and cross training of staff.	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.
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	• 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	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.

		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	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.	(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.**
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	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.

			domestically with each other concerning the development and implementation of policies and activities to combat ML and TF. • 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.	Additionally a committee has been created to monitor St. Lucia's effective implementation of the 40 and 9 recommendations, and to continue 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. The Attorney General's Chambers has drafted an MOU to allow policy makers such as the FIA, with FSSU and other competent authorities (registrars) to communicate issues in respect of AML/CFT. **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.**
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	• Consideration should be given towards putting in place a comprehensive framework to review the effectiveness of the system to	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.

		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 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	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 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 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. 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.**
33. Legal persons – beneficial owners	PC	There are inadequacies and lack of transparency in collating and maintaining accurate information which negatively affects access to	• The St. Lucian authorities may wish to adopt the following measures: i. Adequate training for the staff on AML/CFT	See R 29 in respect of training. All financial institutions, credit unions are now subject to regular and on-

		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.	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 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	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 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.

			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.	
34. Legal arrangements – beneficial owners	NC	No requirement to file beneficial ownership information 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	• It is recommended that St. Lucian Authorities implement measures to facilitate access by financial 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	See R 33 and R4.

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, enact its Anti-Terrorism Act.	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. Cabinet has considered the Convention on Corruption for its ratification. The Anti-Terrorism Act has been implemented.
36. Mutual legal assistance (MLA)	PC	The underlying restrictive condition of dual criminality is a shortcoming. The condition of dual criminality applies to all MLA requests including those involving coercive methods. No clear channels for co-operation.	• 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.
37.Dual criminality	NC	Dual criminality is a prerequisite and the request shall be refused if absent.	• The underlying restrictive condition of dual criminality should be addressed	**Consideration is given to section 18 (3) of the Mutual Assistance in Criminal Matters Act, Cap 3.03 which provides for the central authority to exercise its**

		The condition of dual criminality apply to all MLA requests including those involving coercive methods		**discretion in refusing a request. It states:-** **(3) A request for assistance under this Act made by a Commonwealth country may be refused if, in the opinion of the central authority for Saint Lucia—** **(a) the request relates to the prosecution or punishment of a person in respect of conduct that occurred, or is alleged to have occurred, outside the country making the request and similar conduct occurring outside Saint Lucia in similar circumstances would not have constituted an offence against the laws of Saint Lucia;** **(b) the request relates to the prosecution or punishment of a person in respect of conduct where, if it has occurred in Saint Lucia at the same time and had constituted an offence against the**

					laws of Saint Lucia the person responsible could no longer be prosecuted by reason of lapse of time or for any other reason; **(c) the provision of the assistance would impose an excessive burden on the resources of Saint Lucia;** **(d) the conditions, exceptions or qualifications imposed under section 4(2) in relation to the country prevent the request being accepted;** **(e) the request, not being one such as is referred to in section 17(2), does not meet the requirements of the Schedule;** **(f) there are reasonable grounds for doing so in the case of a request such as is referred to in section 23(1); or** **(g) the request cannot be**

				accommodated within relevant legal practices and procedures in Saint Lucia. **Under the Extradition Act Cap 2.10 money laundering and terrorism financing are scheduled as extraditable offences and in that regard under section 3 of that act constitutes an extradition crime.** **SECTION 3 STATES:- EXTRADITION CRIME** **In this Part, "extradition crime" means, in relation to a Commonwealth country or foreign State to which this Part applies, an offence however described that, if committed in Saint Lucia,** **(a) would be a crime described in the Schedule; or** **(b) would be a crime that would be so described were the description to contain a reference to any intent or state of mind on the part of the person committing the offence or to any**

				circumstance of aggravation, necessary to constitute the offence, **and for which the maximum penalty in that country or state is death or imprisonment for a term of 12 months or more.**
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.
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
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 No MOU has been signed with any foreign counterpart	• The underlying restrictive condition of dual criminality should be addressed. • Provide mechanisms that will permit prompt and constructive exchange of information by competent authorities with non-counterparts	**See R37** In December 2008 St. Lucia implemented the Anti- Terrorism Act. The Cabinet of Saint Lucia has agreed to the ratification of the Palermo Convention and for it to be given the force of law. An MOU from FINCEN (Canada FIA) has been received for execution.
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.
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.
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.	• 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	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);

		The Anti-Terrorism law has not been enacted.	(domestic and international) 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.	- provides formal procedures for all requests made or received. 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.
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	See SRI. **See R13** **Further part IV of the Anti – Terrorism (Guidance Notes) Regulations highlights the terrorism financing red flags**.

			transaction.	
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**
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. No effective, proportionate and dissuasive sanctions in relation to	• 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 made subject to the AML & CFT regime. • St Lucia should ensure that MVT	The Money Services Business Act requires money transfer services to take measures to prevent the financing of terrorism.

		MVT service are set out	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.	
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	• 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 MLPA will require a risk based approach to dealing with wire transfers. Sanctions will be provided to ensure that minimum originator information is obtained and maintained for wire transfers.

		essential criteria under this recommendation.		
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**
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. 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	• 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 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	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, 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

		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.	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. • 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.	and Inland Revenue Departments under section 5.

			• 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.	